

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
JUDGE LEWIS T. BABCOCK  
COURTROOM MINUTES**

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Courtroom Deputy: Deborah Hansen  
Court Reporter: Gwen Daniel

Date: December 2, 2008  
Probation: Caryl Ricca

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Criminal Action No. 05-cr-00179-LTB

Counsel:

UNITED STATES OF AMERICA,  
  
Plaintiff,

Linda Kaufman  
Timothy Neff

v.

1. ARVIN WEISS,  
  
Defendant.

David Kaplan  
Pamela Mackey  
Jason Middleton

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**SENTENCING**

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08:30 a.m. Court in Session

Defendant is present and on bond.

On July 16, 2008, a jury found the defendant guilty of eight counts of mail fraud (18 U.S.C. § 1341 and 2(a)), five counts of wire fraud (18 U.S.C. § 1343 and 2(a)), and three counts of witness tampering (18 U.S.C. §§ 1512(b)(3) and 2(a)). The counts of the Indictment were renumbered for ease of reference at defendant's trial, but correspond to the following counts of the Unredacted Superseding Indictment:

Redacted and Renumbered Superseding Indictment presented to the Jury	Superseding Indictment
Mail Fraud Count 1	Count 1
Mail Fraud Count 2	Count 3
Mail Fraud Count 3	Count 5
Mail Fraud Count 4	Count 7
Mail Fraud Count 5	Count 8
Mail Fraud Count 6	Count 10
Mail Fraud Count 7	Count 11
Mail Fraud Count 8	Count 12
Wire Fraud Count 9	Count 13
Wire Fraud Count 10	Count 14
Wire Fraud Count 11	Count 15
Wire Fraud Count 12	Count 16
Wire Fraud Count 13	Count 17
Witness Tampering Count 14	Count 18
Witness Tampering Count 15	Count 23
Witness Tampering Count 16	Count 25

Court's comments

Argument by Mr. Kaplan and Ms. Kaufman

09:43 Court in Recess

09:57 Court in Session

Further Argument by Mr. Kaplan and Ms. Kaufman

Court's findings entered on the record.

10:02 Sentencing Statement by Ms. Kaufman

10:25 Sentencing Statement by Mr. Kaplan

10:49 The defendant did not make a statement.

**ORDERED: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the court that the defendant, Arvin Weiss, is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of 60 months on Counts 1, 3, 5, 7, 8 and 10 thru 17, and 84 months on each of Counts 18, 23 and 25, all counts to be served concurrently, for a total sentence of 84 months.**

The Court recommends that the Bureau of Prisons place the defendant at the Federal prison camp in Englewood, Colorado.

**ORDERED: Upon release from imprisonment, defendant shall be placed on supervised release for a term of three years on each count of conviction, to be served concurrently.**

**ORDERED: Conditions of Supervised Release:**

- (x) Within 72 hours of release from the custody of the Bureau of Prisons, defendant shall report in person to the probation office in the district to which the defendant is released.**
- (x) Defendant shall not commit another federal, state or local crime.**
- (x) Defendant shall not possess a firearm as defined in 18 U.S.C. § 921**
- (x) Defendant shall comply with standard conditions as adopted by the court.**
- (x) Mandatory drug testing provisions of 18 U.S.C. § 3583(d) are waived because the Presentence Report indicates a low risk of future substance abuse by defendant.**
- (x) Defendant will cooperate in the collection of DNA as directed by the probation officer.**

**ORDERED: Special Conditions of Supervised Release:**

- 1) Defendant shall not incur new credit charges or open additional lines of credit without the approval of the Probation Office unless defendant is in compliance with the periodic payment obligations imposed pursuant to this Court's Judgment and sentence.
- 2) Defendant shall not be employed as a real estate agent or broker and all employment must be approved in advance by the Court through the probation officer.

**ORDERED: Defendant shall pay a total of \$857,165.34 in restitution to the following victims:**

**Regions Bank  
Attn: Kimberly Townsley  
Legal Processing Section  
P.O. Box 11007  
Birmingham, Alabama, 35288**  
Amount: \$2,107.36

**Fifth Third Bank  
Attn: Brad Griffin  
Foreclosure & Bankruptcy Mgr.  
5050 Kinglsey Dr., MD IM0C20  
Cincinnati, Ohio 45227**  
Amount: \$3,136.32

**HUD Collections  
P.O. Box 277303  
Atlanta, Georgia, 30384-7303  
Re: Arvin Weiss/RM00-00661.**  
Amount: \$851,921.66

**ORDERED: Restitution is ordered joint and several with co-defendant Jesus Guevara and it is ordered due and payable immediately. Interest is waived.**

**ORDERED: Defendant shall pay the Special Assessment fee of \$1,600.00, to be paid immediately.**

**ORDERED: No fine is imposed.**

The defendant is advised of his right to appeal both his conviction and the sentence.

The Court finds and concludes that defendant is eligible for a voluntary surrender.

**ORDERED: Defendant shall surrender to the institution designated by the Bureau of Prisons within 15 days of the date of designation, as notified by the Probation Office.**

11:20 a.m. Court in Recess  
Hearing concluded  
Time: 2/36