

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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|---------------------------|---|-----------------------|
| United States of America, |) | |
| |) | No. 2:18-cr-00422-DJH |
| Plaintiff, |) | |
| |) | |
| vs. |) | Phoenix, Arizona |
| |) | August 28, 2024 |
| Michael Lacey, et al. |) | 9:34 a.m. |
| |) | |
| Defendants. |) | |
| |) | |

BEFORE: THE HONORABLE DIANE J. HUMETEWA, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SENTENCING - DAY 2

PAGES 130-249

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Proceedings Reported by Stenographic Court Reporter
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P R O C E E D I N G S

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(Proceedings commence at 9:34 a.m.)

THE COURT: All right. Please be seated.

COURTROOM DEPUTY: We're on the record in CR 18-422,
United States of America vs. Michael Lacey, Scott Spear and
John Brunst, before the Court for sentencing.

09:34:18

MR. RAPP: Good morning. Kevin Rapp, Austin Berry,
Peter Kozinets and Joe Bozdech and Margaret Perlmeter on behalf
of the United States.

09:34:41

THE COURT: Good morning.

MR. CAMBRIA: Paul Cambria, Erin Paris on behalf of
Mr. Lacey.

THE COURT: Good morning.

MR. LINCENBERG: Good morning, Your Honor,
Gary Lincenberg and Gopi Panchapakesan on behalf of Mr. Brunst,
who is present in court.

09:34:48

THE COURT: Good morning.

MR. KESSLER: Good morning, Your Honor, Eric Kessler
and Bruce Feder for Mr. Spear. Mr. Spear is sitting in front
of the bar.

09:34:58

THE COURT: And good morning, counsel. We will
proceed. Is the government ready to go forward?

MR. RAPP: Yes, Your Honor. Your Honor, counsel,
first, I want to express the same sentiments I think some of

09:35:19

1 counsel made yesterday in thanking the Court for their patience
2 and their attention to detail over this very lengthy case. In
3 particular, I want to thank the staff. Often the public
4 doesn't see the late hours and the early mornings it takes to
5 manage such a large case like this. 09:35:41

6 Last, I want to thank the probation office. This case
7 is a bit of an anomaly. It took a lot of work for them to get
8 it right and, of course, probation is not part of the executive
9 branch. It's not part of us, but it's part of the judiciary,
10 so they work very hard in speaking with the Sentencing 09:36:00
11 Commission and working diligently on the presentence reports.

12 In terms of how we intend to proceed today, I will
13 focus my arguments on the points raised by Mr. Cambria and
14 Mr. Lincenberg on behalf of their clients, Mr. Lacey and
15 Mr. Brunst, and my colleague Mr. Berry will address the points 09:36:21
16 Mr. Feder made on behalf of his client Mr. Spear, and also
17 address issues related to surrender and to release pending
18 appeal.

19 In terms of some of the points that Mr. Cambria made,
20 I believe when he started out, and this was just after a number 09:36:45
21 of the victims addressed the Court, he made a statement to the
22 effect of: Well, we don't really know what the background of
23 these people were and what led them. I took it to mean what
24 led them to be involved in a life of prostitution.

25 Unfortunately, many of the victims in this case were 09:37:14

1 led into prostitution because of a variety of factors,
2 socioeconomics, drug addiction, broken families. But with
3 respect to Ms. Ambrose and Ms. Svengard, they are something of
4 an exception. They have been a voice for their daughters from
5 the very beginning. And of course, Ms. Ambrose has been the
6 voice of her daughter who is no longer here since literally
7 Christmas of 2016, and Ms. Svengard shared with you all the
8 times that she has been there advocating for her daughter who
9 was trafficked on Backpage at the age of 15, and, of course,
10 remember that she testified.

09:37:45

09:38:11

11 So the sad truth about Backpage is that it was sort of
12 a de facto business model that they relied upon pimps having
13 the opportunity to prey upon victims so that they could post
14 multiple times a day. And these were children in many respects
15 who were runaways and who came from broken homes and, again,
16 lower socioeconomics across the spectrum and across the 450
17 cities that Backpage had a presence in.

09:38:43

18 And not only that, there was evidence at trial and, of
19 course, we heard this from Polaris, that there was not only
20 domestic trafficking, but there was an element of trafficking
21 from other countries into the United States. And we heard that
22 in terms of deplorable conditions in the Asian massage parlors
23 in the New York area, and so that's just the sad reality, and
24 that's what Backpage was built on, people who could take \$4 and
25 post an ad for people who could otherwise not defend

09:39:05

09:39:30

1 themselves.

2 And Mr. Lacey in particular was made aware of this at
3 NCMEC. He was told by numerous law enforcement agencies and
4 the Seattle P.D. in particular.

5 The next point Mr. Cambria made was that, and I think 09:39:50
6 that he stated that he, he himself, has six children and many
7 daughters, and that he expressed that the defendants felt
8 empathy and sympathy for them. You know, that seems to be at
9 odds with a lot of the evidence in this case. There doesn't
10 seem to be a lot of e-mails from Mr. Lacey in particular where 09:40:26
11 he's expressing a great deal of sympathy for many of these
12 victims.

13 One that sticks in my mind, and it's in our papers,
14 and certainly was during trial, was Exhibit 1911, and this was
15 an e-mail exchange, I believe, with a woman by the name of 09:40:45
16 Kathleen Ferris that was identified was his ex-wife. And this
17 is the one, if you remember, this is where he sort of says:
18 Look, Jim and I are in favor of legal prostitution. But this
19 is within -- this particular e-mail was in the context in
20 responding to one of Nicolas Kristof's many articles 09:41:08
21 criticizing Backpage in the New York Times about their -- the
22 proliferation of child sex trafficking, and just sex
23 trafficking in general on Backpage.

24 And for whatever reason, Mr. Lacey and the rest of the
25 management focused in on this one story of a woman who 09:41:29

1 Mr. Kristof wrote about. And not only there was a broadcast
2 with her and Mr. Kristof, and they were walking through parts
3 of Manhattan and she was pointing out where she had been
4 trafficked.

5 The one thing that is distinct about this woman is 09:41:49
6 that she had a distinctive scar on her face, and what she
7 related was that a pimp gouged out her face with a potato
8 peeler when they got into an argument on her being resistant to
9 engaging in tricks on a particular occasion. But in that
10 e-mail, Mr. Lacey refers to this young woman as a hooker. And 09:42:12
11 so I have to tell you, I really have a hard time believing that
12 Mr. Lacey -- what Mr. Cambria is saying about Mr. Lacey is at
13 odds with a lot of the facts.

14 In terms of the instances of underage trafficking,
15 Mr. Lacey was relentlessly confronted with this by law 09:42:41
16 enforcement, by politicians, and there was always this sort of
17 underlying argument that because of his investigative
18 journalism he sort of pushed back on these powers with
19 politicians on law enforcement, and that he was going to go his
20 own way in this. 09:43:10

21 But there was one instance where a particular
22 organization confronted him, and I think the Court remembers
23 this, this was the Auburn Theological Seminary, the witness was
24 Isaac Luria, and he recounted these meetings they had with
25 Mr. Lacey and the other Backpage management. And if you 09:43:29

1 recall, you may not know that much about this particular
2 organization because I'm not sure how much it was fleshed out
3 at trial. I know Mr. Luria talked a little bit about it. It
4 was a 205-year-old institution, ecumenical group, with leaders
5 of all faiths, Jewish, Christian, Catholic, Episcopalian, 09:43:56
6 Muslim and they had a particular mission to build a community
7 to bridge divides to pursue justice, and in their words, "heal
8 the world." And they were the ones that identified and, of
9 course, they are based in New York at Columbia University, and
10 they are the ones that identified the fact that there was child 09:44:20
11 sex trafficking proliferating on this site.

12 And if you recall, they posted in the New York Times a
13 letter, open letter, asking Backpage to shut down their site,
14 and part of that letter and the opening of the letter, and this
15 was Exhibit 689 during trial, that it was a basic moral fact of 09:44:46
16 the universe that children should not be sold for sex. And
17 they asked that Backpage shutter the site. And then they met
18 with Mr. Lacey and got his views on it. And by the way, just
19 like NCMEC, this wasn't a situation where they demanded these
20 leaders of all these diverse faiths. They didn't demand to 09:45:10
21 meet with Mr. Lacey. Mr. Lacey demanded to meet with them, and
22 they did, and they listened to him and they listened to their
23 rationale.

24 And if you recall what Carl Ferrer said, we showed
25 them this PowerPoint. This PowerPoint was misleading in that 09:45:30

1 it didn't include any of our internal prostitution marketing
2 strategies that had built Backpage, but after that meeting
3 where there was no introspection by Mr. Lacey and his
4 management, no thoughts of perhaps maybe we should shutter this
5 site, they sent him a letter. And they said to Mr. Lacey in 09:45:55
6 particular: Child sex trafficking is not just an issue for us,
7 but a matter of basic justice. We feel we need give voice to
8 the voiceless, and we are taking action on behalf of human
9 beings, our children.

10 And so this voice to the voiceless sort of resonated 09:46:16
11 with me in particular because I know that Mr. Lacey has spoken
12 publicly about this case in a number of different forums. He
13 was in an article by a magazine named Reason. Another magazine
14 by the name of Wired where he would assert his defense to this
15 case. And then recently he was in a podcast that was produced 09:46:43
16 by two of his own writers that not only chronicled his rise in
17 the alternative newspaper industry, but also this case. And
18 Mr. Lacey's public defense of this case, among others, is that
19 he was giving a voice to the people who didn't have a voice,
20 and what he meant was sex workers. 09:47:08

21 And when I listened and went back and read, I tried to
22 square what he was trying to say with what the Auburn
23 Theological Seminary, the point they were trying to make to him
24 in that they were trying to give a voice to the voiceless,
25 which were child sex trafficking victims. They went on to say: 09:47:27

1 Our commitment is rooted in a belief that all children are our
2 children, and that person that appears in a Backpage ad could
3 be any one of our daughters or sons.

4 They go on to tell Mr. Lacey and the other management
5 of Backpage, that there is very little moral wiggle room when
6 one is aware of the real possibility that a terrible crime may
7 occur. 09:47:48

8 And so even then in 2012 there was a series of
9 terrible crimes that implicated Backpage. And Backpage,
10 because they provided a platform that facilitated prostitution,
11 that they built that platform with internal prostitution
12 marketing strategies. They are the proximate cause of those
13 crimes. 09:48:13

14 We heard yesterday from Yvonne Ambrose who talked
15 about her own daughter, Desiree Robinson. 09:48:32

16 But within the four corners of the superseding
17 indictment is Crystal MacMartin, who was murdered posting on
18 Backpage in Scottsdale.

19 Alexis Garcia in Dallas, who was murdered not too far
20 from the headquarters of Backpage in Dallas. 09:48:48

21 In Louisiana, Jasilas Wright.

22 And importantly, and we laid this out in our papers,
23 is the four women in Detroit during Christmas of 2011. And so
24 their names are, for the record, Natascha Curtis, Demesha Hunt,
25 Renisha Landers, Vernithea McCrary. They all four were killed 09:49:13

1 within 72 hours by the same john which demonstrates the scale
2 that Backpage had achieved by 2011 in that somebody could order
3 four women off the website as if they were ordering a pizza to
4 their house, and he was able to kill them.

5 And we know, the Backpage management hired a public
6 relations team to try to spin the story on this. And we know
7 that Mr. Spear e-mailed after Detroit to Mr. Ferrer saying:
8 Hey, there is a lot of pent-up demand after Detroit, which just
9 goes to show you in journalist parlance that no publicity is
10 bad publicity, and that even a publicity of a quadruple murder
11 would draw people to this site. 09:49:42 09:50:10

12 So those are the crimes that the Auburn Theological
13 Seminary was trying to impress upon Mr. Lacey in 2012, and 2011
14 with the open statement, the open letter of the New York Times,
15 and then with the meeting and then the follow-up letter, but
16 nothing. No change. 09:50:35

17 And in 2015, within the four corners of our
18 indictment, Cynthia Worthy was killed in Detroit.

19 So what voice I would ask -- what voice did Mr. Lacey
20 give to these people by running this site? 09:50:53

21 The Auburn Theological Seminary, and this is
22 important, says, and this is directly focused on Mr. Lacey: We
23 understand from your statements that you made in our meeting
24 that your company takes it as a given that a certain number of
25 teens and children will be trafficked for sex in spite of the 09:51:18

1 safeguards that you put in place by those who pay your website
2 a fee, and that is unacceptable to us.

3 Now, this letter comes in 2012, but we know in
4 March 1st of 2011 Mr. Lacey sits in a room with the National
5 Center of Exploited and Missing Children and representatives 09:51:51
6 and he's shown a PowerPoint, a 23-slide PowerPoint, that
7 mentions "children" or "child" 22 times. And in that
8 PowerPoint they say: Look, there is this prostitution review
9 site that you have a relationship, or that you, unbeknownst to
10 you, is using your site called The Erotic Review. 09:52:17

11 And they knew full well that they had this strategic
12 relationship. What the Auburn Theological Seminary had
13 identified in 2012 that we for sure identified once we received
14 all the e-mails and, of course, once we sat down with the CEO,
15 is that it was a collateral damage that they had to deal with. 09:52:41
16 It was unfortunate collateral damage that was unavoidable, it
17 was uncomfortable, but in the end it was an acceptable cost of
18 doing business that made Mr. Lacey and his compatriots,
19 Mr. Spear and Mr. Brunst, millions.

20 As we know during this time period, the time period of 09:53:07
21 many of these murders and many of these instances of child sex
22 trafficking on his site, he made, between 2012 and 2014, \$100
23 million.

24 Now, does Mr. Lacey know about this even though Auburn
25 Theological Seminary confronted him about this? Well, he says 09:53:31

1 in his e-mail Exhibit 912 to Mr. Ferrer and Mr. Larkin for that
2 matter, even taking their new number, and this is referring to
3 child sex trafficking victims on the site, of 80 in 2010. If
4 you ran that out to America's 40 biggest cities, 40 times 80,
5 you have 3200 victims; not 100,000 or 300,000. It's a problem;
6 not an epidemic.

09:53:52

7 You know, they point out in this letter that Jewish
8 tradition teaches if you can save a single life, it's as if you
9 saved the whole world. And Mr. Lacey's response to this was,
10 and they call him out in this, is that the clergy's moral
11 commitment to our children amounts, in your words, Mr. Lacey,
12 to a simple bumper sticker. This position, in their words, is
13 at odds with Backpage's public statement.

09:54:21

14 And so when Mr. Cambria says on behalf of Mr. Lacey
15 that he feels some sorrow or some empathy for these, his
16 statements in his e-mails do not support that.

09:54:43

17 And with respect to the other defendants, and of
18 course, Mr. Lacey, there is, we received a lot of letters and
19 from family members, and many of them describing what a great
20 father and what a great inspiration day, and I don't dispute
21 them. They have highlighted their family in their character.
22 But so what the Auburn Theological Seminary says to Mr. Lacey
23 in this letter, that they would ask him to consider an ethical
24 test, and this is what they say: One of my colleagues has a
25 simple ethical test. Ask yourself, how would you feel telling

09:55:11

09:55:39

1 your family what happens on your website? What would you tell
2 your mother or your child about the 15 and 16-year-olds in
3 Memphis, Tennessee who were lured under the pretext of going to
4 a water park, but instead were sold for sex by pimps who placed
5 ads on Backpage.com?

09:56:01

6 And what would they say about the mentally handicapped
7 high school student in Camp Washington who was sold for sex
8 because she wanted to receive a Thanksgiving meal, or about the
9 13-year-old in Brooklyn, New York who was beaten, advertised
10 with photos on Backpage, and forced into prostitution who, when
11 she tried to escape, was tracked down and thrown down a flight
12 of stairs?

09:56:18

13 Well, what is Mr. Lacey's public response to the
14 urging of the Auburn Theological Seminary to their efforts to
15 try to get him to see the better nature of his angels? This is
16 his response. This is Exhibit 692b on October 30th of 2011,
17 quoted in the New York Times in an article entitled "Fighting
18 Over Online Sex Ads." "I'm beginning to like our odds," says
19 Mr. Lacey. "We have all these practicing politicians and
20 concerned clergy after us. We must be doing something right."
21 What did Mr. Lacey think that he was doing right?

09:56:45

09:57:14

22 Now, Mr. Cambria today and in previous hearings and at
23 trial makes the point that Mr. Lacey was a longtime journalist
24 and he was a journalist to the end, a defender of the First
25 Amendment, and for most of his career, but that actually isn't

09:57:45

1 entirely true because Mr. Lacey stopped being a journalist in
2 2012. And so Mr. Brunst and Mr. Spear were never really
3 journalists, but they gave up managing newspapers for Backpage.

4 And so I will tell you when we interviewed across the
5 country, the prosecution team interviewed many of the victims
6 in this case to try to get our handle around how they were
7 posted, and I will tell you that these interviews didn't take
8 place on the upper east side or in Beverly Hills or in Lake
9 Shore. They were in places where there wasn't a lot of

10 opportunity, and many of these people were forced into this
11 life. But the one thing they could tell us is they knew the
12 exact moment their life changed, and that moment was when they
13 were posted on Backpage.com. They knew that. They could
14 isolate that moment. From there they knew they were posted.

15 All they knew was the phone rang and that they were in an
16 unending, and unspeakable site pool of sex, and if they were
17 underage, with men decades older, sometimes four or five times
18 a day. They could isolate that second.

19 And so as I started thinking about this case, I
20 wondered if Mr. Lacey, as he sits here before a federal court
21 on the other side of a guilty verdict, when did his life
22 change? Well, it changed in 2012 for sure. And his own
23 writers, people who in large part owed their careers to him,
24 they call him out on this. And one of those writers was a
25 woman by the name of Jana Bommersbach, and we cite a quote from

1 her in our pleadings, but you should know that she was a
2 partner with Mr. Lacey and Mr. Larkin as well in 1990. She was
3 a writer, and she was a partner in the New Times, and she left
4 the New Times and she went out and she became a well-regarded
5 writer writing books predominantly on events that occur in the 10:00:08
6 State of Arizona. Her last book was called The Dead Girl in
7 the Vacant Lot, and it's a bit of a cautionary tale to her
8 friend Mr. Larkin -- Mr. Lacey.

9 In that book, and unfortunately Ms. Bommersbach passed
10 away this year, but she says in this book about Mr. Lacey, and 10:00:39
11 this book, the girl in the -- The Dead Girl in the Vacant Lot
12 is about a sex trafficking victim who was trafficked on
13 Backpage, and I think by the title you can tell how it ends up
14 for her, not unlike -- it was probably a composite of many of
15 the stories of real people that we talked about, but she says: 10:01:02
16 I was just naive about Backpage, and I was appalled to discover
17 that the men who had been my business partners, the men that I
18 admired, had become so reviled. Mike took a no holds bar to
19 journalism to other states until they owned the largest
20 alternative newspaper chain in the nation, including the 10:01:24
21 venerable Village Voice.

22 But in 2004 they started Backpage, and she notes that
23 the Village Voice conglomerate of papers start losing money
24 because of the protest of advertisers, and we heard some of
25 that during trial. 10:01:41

1 But instead of closing it down, Michael Lacey got out
2 of journalism. They sold the papers to their staff, they kept
3 Backpage, the money pot, for themselves. And the same
4 sentiment was expressed by John Dougherty, a writer who
5 seemingly was testifying for Mr. Lacey during trial and has 10:02:05
6 submitted a character letter for the Court to consider, but if
7 you recall Exhibit 3000 during his testimony where he says in
8 his Facebook post: Once upon a time they ran a great newspaper
9 chain, but the arrest of Lacey -- with the arrest of Lacey they
10 traded the legacy for a chase for gold derived from 10:02:28
11 prostitution.

12 I talked about this, you know, not surprising with
13 everything these days, there's a podcast on this case called,
14 not surprising, Hold Fast, and these are two writers,
15 Trevor Aaronson and Sam Eifling, and they also, two writers, 10:02:45
16 they, I think they would admit, they owe in part their careers
17 to Mr. Lacey, but they call him out on this. And they say in
18 the conclusion in part four of this podcast: Lacey fell victim
19 to Backpage's success. By the time he fought the government,
20 he was no longer a journalist. When he chose to split from 10:03:10
21 Backpage from Village Voice, he could have remained with the
22 newspapers. He could have remained a newspaper man, but he
23 chose Backpage. He chose the money, millions and millions, and
24 at that point he didn't have the public's goodwill.

25 That's what his own writers have said about the change 10:03:31

1 that Mr. Lacey made. And Mr. Lacey wasn't a journalist from
2 2012. Mr. Lacey was the head of a criminal organization that
3 was a prostitution website. End of story.

4 Mr. Cambria and I like to call these the greatest
5 hits, but they are really sort of these one-hit wonders that 10:04:01
6 quickly go to the basement. One is the false equivalencies.

7 This is an oldie but a goodie. Hey, Backpage is no different
8 than Fed-Ex, the phone or the Yellow Pages. Then Mr. Lacey

9 says this in some of his e-mails: Hey, we are just like
10 Fed-Ex. People are taking -- people are taking advantage of us 10:04:23
11 just like they could take, a drug dealer, I guess, could take
12 advantage of Fed-Ex or the phone.

13 Here's the problem with that argument. Backpage was
14 singly focused on prostitution revenue. And they can sit and
15 say, well, we had these other categories. We had home 10:04:43
16 furnishings and jobs and real estate. That was all nonsense.
17 That was just a veneer because you they didn't even charge in
18 many of those categories. The one category that made Mr. Lacey
19 a multi multimillionaire was the female escort section. That's
20 where the money came from. 10:05:08

21 None of these, none of these false equivalencies
22 Fed-Ex, the phone, Yellow Pages, none of them that I know of,
23 and I am old enough to remember Yellow Pages, but I don't
24 remember it having a strategic relationship with a prostitution
25 review site. It just didn't happen. 10:05:28

1 And he even underscores -- Mr. Lacey himself
2 underscores his false equivalency in Exhibit 1714a. Of course
3 kids get through the system, comparing to underage teenagers
4 using fake I.D.s to get into bars, as if an underage
5 trafficking victim who is being forced into prostitution, and 10:05:53
6 we heard all the stories how the pimps would take pictures of
7 them and post them on Backpage, and the phone would ring, as if
8 that is equivalent to a 17-year-old getting ahold of a fake
9 I.D. and getting into a bar to have a beer. So the false
10 equivalencies do not stand up. 10:06:15

11 Here's another oldie but goodie, the cooperation with
12 law enforcement. Here's the bottom line on that. Law
13 enforcement didn't know that they had these internal
14 prostitution marketing strategies. They just didn't know that.
15 They didn't know about the relationship with The Erotic Review 10:06:34
16 and all these other things. They didn't know that moderation
17 was a sham and was designed to increase prostitution postings
18 and not deter them. And the Senate subcommittee didn't know
19 that and the United States DOJ didn't know that. In fact, no
20 one knew about these internal strategies until the CEO came in 10:06:55
21 in April of 2018, and in a very lengthy session laid it out,
22 and in subsequent sessions was able to say: Here are the
23 e-mails that show what we were doing. No one knew. So they
24 weren't cooperating.

25 And neither, not these attorneys, the attorneys before 10:07:15

1 they were indicted, either they knew or they didn't know. It
2 doesn't matter. Law enforcement didn't know. This one is just
3 easily dispensed of. Well, Mr. Ferrer says, "We don't have
4 prostitution." Of course they had prostitution. Mr. Lacey
5 knows that they have prostitution. He's being confronted on a
6 daily basis, so you can't even take that sort of throwaway even
7 seriously.

10:07:42

8 Even their own person that supposedly they rely upon,
9 Mr. Moon, who meets with the Washington Attorney General, says,
10 "We are not going to deny the undeniable when confronted with
11 prostitution postings." Did they donate to charity and support
12 political candidates and some of the things that Mr. Cambria
13 was saying to show their good works? Well, yes, they were
14 making hundreds of millions of dollars running a criminal
15 enterprise called Backpage. So some of the money they doled
16 out was, you know, kind of a drop in the bucket, so they know,
17 and we know that many of these organizations gave them back,
18 gave the money back because of the taint to Backpage, or sent
19 it to trafficking shelters.

10:08:02

10:08:21

20 Well, the First Amendment, this is -- you talk about
21 ad nauseam, which the Judge, this court aptly characterizes
22 some of the arguments that seem to be just rehashed and
23 recycled over and over, and this one is particularly recycled.
24 Here's the bottom line. They were running a criminal
25 enterprise. Mr. Lacey is no different than the don of a

10:08:40

10:09:12

1 criminal family. He's no different than somebody who is at the
2 very top of a financial, vast financial fraud, or even a drug
3 kingpin. This was a criminal enterprise. Backpage was an
4 enterprise, it was criminal, and he was the primary financial
5 beneficiary of it. He didn't have a First Amendment right.

10:09:44

6 They keep making this argument. It is the definition, I think,
7 of legal insanity, not legal insanity to defense, to make the
8 same argument, citing the same cases on the same set of facts
9 and expecting some judge, and now we're on the fourth judge, if
10 you include Judge Campbell, where they made the same arguments
11 in the Grand Jury context. Nothing has changed.

10:10:06

12 The money wired to Hungary. Well, it puts a lot of
13 emphasis on this John Becker, who also testified that Mr. Lacey
14 withheld information from him, and this is the -- this is the
15 lawyer who didn't want to be hassled on Tuesdays, and that if
16 he had known some of these, he wouldn't have participated in
17 it.

10:10:31

18 Here's the bottom line. A jury convicted him of this,
19 and he was hiding that money overseas for two reasons. One, as
20 we said yesterday, he didn't want the government to get it. As
21 things would turn out, the government has seized quite a bit of
22 his money that is proceeds from Backpage, dirty money. And
23 importantly, he didn't want litigious parties to get that
24 money, and those litigious monies are the scores of underage
25 trafficking victims who have been suing him or who will be

10:11:10

1 testifying against him. And on January 3rd of 2017, as I noted
2 yesterday, he was spiraling towards trial in just one of those
3 cases.

4 Mr. Brunst. Mr. Brunst's attorney says there is only
5 one witness that testified against him. Mr. Ferrer. It turns 10:11:35
6 out that was all we needed because the best witness against
7 Mr. Brunst was Mr. Brunst in the scores of e-mails. You know,
8 it's just an objective fact that Mr. Brunst was convicted of
9 more counts, and this is the way the jury saw it, was convicted
10 of more counts than any of the defendants sitting over there. 10:12:05
11 That's the way they saw it.

12 Now, I know that changed slightly after the Court
13 reviewed the transactional money laundering counts, but the
14 jury, based on one witness and his scores of e-mails saw him as
15 more guilty in terms of the number of counts than Mr. Spear or 10:12:28
16 Mr. Lacey.

17 There is probably a lot of reasons for that too
18 because they viewed the CFO more so than perhaps anybody else
19 in an organization, they see the CFO as somebody who is
20 safeguarding the financial well-being and the integrity of the 10:12:50
21 enterprise they serve, and when they violate that trust they
22 are convicted by a jury. And so Mr. Brunst, he just joins a
23 long line of CFOs who violated their oath like Andrew Fastow,
24 the CFO of Enron; Allen Weisselberg, the CFO of a prominent
25 real estate company in New York; Frank DiPascali, the CFO of 10:13:14

1 Madoff's company. They didn't buy the fact that Mr. Brunst
2 didn't know what was going on. And you remember that we used
3 an analogy of the baseball team, and Mr. Brunst continues even
4 today to persist in this see no evil hear no evil mantra that
5 as by analogy, if he was the CFO of a baseball team he would 10:13:41
6 just sit in his office and look down and see this -- this green
7 field below and not know really what the players were doing
8 down there, or what that ball had to do with the ball they were
9 throwing around had to do or hitting, hitting the ball or
10 20,000 people showing up. He didn't know any of that. 10:14:04

11 But you know, Mr. Brunst, just like Mr. Spear for that
12 matter, they fall into the same category. Even today they make
13 this silly claim, "But why wouldn't the CFO on Backpage?" Well
14 come on, your own public PowerPoint, Exhibit 20, Management
15 Ownership, CFO of Backpage, they even continue with this 10:14:29
16 argument. But here's the bottom line. Mr. Brunst had the same
17 decision, he had the same life choice that Mr. Lacey had in
18 2012. He could have said, "You know what, I don't like what
19 I'm hearing about this. All I'm hearing is murders and child
20 sex trafficking in the New York Times, on CNN, on Anderson 10:14:50
21 Cooper, Nicholas Kristof, no thanks. I am going to stay with
22 the newspapers." But Mr. Brunst, he goes with Mr. Lacey and
23 Mr. Spear and becomes the CFO, the ultimate manager where the
24 buck stops of Backpage -- of Backpage.

25 Even before the sale of the alternatives he was the 10:15:19

1 ultimate decider at budget meetings in his capacity as the CFO.
2 He was alerted to the relationship of The Erotic Review. There
3 were decisions made regarding the commissions for super
4 posters. They knew about aggregation and they knew that they
5 were hiring scores of moderators in the U.S., India and the 10:15:43
6 Philippines all encouraging prostitution, all making sure that
7 thing were coded, but not deterring.

8 Well, Mr. -- the defense claims he is -- he shouldn't
9 be sentenced as a sex trafficker. Well, he should be sentenced
10 as to what he is. Mr. Brunst's legacy is being sentenced as 10:16:06
11 the minority owner of a website that promoted prostitution in
12 450 cities in the United States, and that prostitution included
13 child sex trafficking, and it resulted in a score of murders
14 and violent crimes. And from that, Mr. Brunst made between
15 2012 and 2014, \$20 million. 10:16:30

16 And so he, more than Mr. Spear and Brunst, had a lot
17 of very meaningful letters from his family members saying that
18 he was a great father. I do not dispute that. And this court
19 and myself have any number of cases from violent crimes to drug
20 trafficking, to financial fraud, and people come in and say, my 10:16:56
21 father, or my mother, they were a good parent, they were there
22 for me, and I don't think it's mutually exclusive that you can
23 be the CFO of a criminal organization and not be a good father.

24 But here's what I would suggest. That during this
25 time period in particular 2012 to 2018 when Mr. Brunst was 10:17:18

1 coordinating the international and domestic money laundering,
2 that the money goes for the same for Mr. Spear and Mr. Lacey,
3 the money that he was doling out to his family, Christmas gifts
4 and trips, college tuition, down payments, whatever it is, they
5 should know that that money came from people like Yvonne
6 Ambrose's daughter, the pimp, and Nacole Svengard, and the pimp
7 that posted. They should know that that was the source of the
8 money.

10:17:47

9 But Mr. Brunst cannot really plausibly say that he
10 didn't, and the jury found as much, that he didn't watch
11 Selling The Girl Next Door; that he didn't read the Kristof
12 series of articles; that he didn't watch Anderson Cooper
13 interview their attorney on AC 360 about the Detroit murder;
14 that he didn't read the Senate subcommittee report; that he
15 can't really plausibly say that, and that he didn't watch the
16 movie on Netflix, I Am Jane Doe, that featured some of the same
17 victims who testified in this trial.

10:18:07

10:18:30

18 And he was coordinating the payments for legal fees
19 with these plaintiffs in defense of these cases where underage
20 plaintiffs had sued Backpage, and in particular the J.S. case
21 which was Jessika at 15 and the two other plaintiffs were 13.

10:18:54

22 He also makes the point, well, he wasn't originally
23 charged in the first indictment, and then he was thrown into
24 the Travel Act conspiracy in the substantive counts in the
25 superseding indictment. We didn't lay eyes on Mr. Ferrer until

10:19:16

1 April of 2018 after the first indictment. It is only then that
2 he explained and was able to show us the e-mails, what they
3 were up to, not only, you know, facilitating prostitution
4 through these internal strategies, but also the very
5 complicated and layered money laundering.

10:19:40

6 Mr. Brunst, through his attorney, says in his
7 Sentencing Memorandum that he's highly ethical, and that people
8 viewed him as ethical. I am not sure who is saying that,
9 actually. It just seems to be coming from him. There was
10 never anybody in business with him who came forward either
11 during trial or at sentencing and said he was some paragon of
12 ethics. But I just have to ask you, what about all these
13 e-mails? Like Exhibit 173, "beginning this month, September,
14 Chase was no longer accepting transactions from Backpage.com
15 due to their involvement in human trafficking." What ethics
16 would it take when he was copied on that? Would that not
17 suggest something to him? And obviously he as the CFO,
18 Exhibit 23, where they talk about the strategic relation with
19 The Erotic Review, it makes you wonder about the ethics.

10:20:03

10:20:28

20 In Exhibit 500 where it talks about the upgrade
21 features of auto report, and move to the top, which was the
22 only way they could make money at one point, and this was in
23 the female escort section, and he knew that. What about the
24 ethics there?

10:20:50

25 In Exhibit 792 where he says to Ferrer: Didn't we go

10:21:08

1 down the Mauritius path once the banks had the same problems
2 with our content? Which suggests that he knew what the content
3 was. What about his ethics?

4 2042, Exhibit 2042, "the Backpage pressure has reached
5 red hot" in 2012 in the wake of the Detroit murders, in NCMEC, 10:21:27
6 and the Auburn Theological Seminary, all of that pressure, what
7 about his ethics?

8 Exhibit 120, it's an oldie but goodie, the plausible
9 deniability, that we have plausible deniability about the
10 content on our site. What about all the other things that Mr. 10:21:48
11 Brunst did to make sure that Backpage had the life blood to
12 keep it going and changing the descriptors to Payment Solutions
13 and Classified Solutions so banking wouldn't know that this
14 money was going, being processed for Backpage, or coming up
15 with Website Technology to fool the banks, and the use of gift 10:22:20
16 cards and cash and Bitcoins.

17 The bottom line with Mr. Brunst is he's guilty and the
18 jury found him that, and that ship has sailed.

19 So with respect to all three of these defendants, it
20 is a fantasy. It is magical thinking to believe that they 10:22:42
21 could run a prostitution website which would, by definition,
22 would be illegal, that prostitution would occur in private
23 places by two consenting adults in some type of cocoon of
24 safety and there never would be this predictable collateral
25 damage. There would never be homicidal johns or violent pimps 10:23:08

1 or child sex trafficking where unspeakable force and coercion,
2 and the social cost of that for every one of these communities
3 where they were a presence. It's just delusion. And the most
4 powerful delusion is self-delusion, and that's what these
5 defendants have had. But the jury has spoken. 10:23:36

6 And Mr. Berry will take up the issue of whether they
7 should be allowed to self-surrender, but what I will say is
8 they had no right to flout the law or make up their own law,
9 and these victims who have submitted victim impact statements,
10 who have testified at trial, who have appeared here today and 10:24:01
11 who appeared by phone, they have waited a long time. And to
12 quote Martin Luther King when he was actually in custody
13 waiting for the resolution of justice, "Justice too long
14 delayed is justice denied." And these people are entitled to
15 justice. They are entitled to leave this courthouse and leave 10:24:24
16 the phone call and get back to their lives, but these
17 defendants deserve to go to prison, not next week, not next
18 month, not next year, but today. Thank you.

19 THE COURT: Thank you, Mr. Rapp.

20 Mr. Berry. 10:24:52

21 MR. BERRY: Thank you, Your Honor. It's been a few
22 months. Good to see you. I want to echo what Mr. Rapp said.
23 A lot of what he said applies to Mr. Spear as well. I'm not
24 going to re-till that soil. I want to focus on a few specific
25 things that were raised in declarations attached to their 10:25:15

1 sentencing memo, and they emphasized in oral argument
2 yesterday.

3 I am sensitive to the fact that every federal Judge I
4 have ever talked to says a day like today is the most
5 challenging one where you have to decide how much time a person 10:25:32
6 is going to spend in prison. And so when they bring up things
7 like life expectancy is going to be reduced by one year for
8 every two years that you put them in prison, that's alarming.
9 That is a shocking number, and it's startling enough that I
10 thought, well, I think we need to address it. 10:25:51

11 And so what I want to point out about that is it's
12 just not true. The article that they cite, if Your Honor has
13 not had an opportunity to look at what they cited, is an
14 article from 2013, and it is by an author who looked at
15 administrative data from New York State parolees, and what she 10:26:12
16 looked at is was there, what she refers to as a dose-response
17 time. For however many years they spend in prison, did it
18 reduce or increase their mortality rate after they got out of
19 prison? She only looked at them on parole.

20 So this notion that if he spends two years in prison 10:26:34
21 he is going to die a year early and, therefore, with his life
22 expectancy, he is only going to live four years in prison is
23 just a complete false and misleading statement. That is not
24 what this research article says at all.

25 The author took data on this New York State parolees, 10:26:51

1 not federal inmates, and it was from 1989 to 2003 is the data
2 that she was looking at, and what she learned was -- and it's
3 kind of unsurprising, this is not news, that they have a high
4 risk of death in their first year on parole. Well, that's
5 really unsurprising when you think about the individuals coming 10:27:15
6 out of a New York State Prison and where they are ending up, so
7 you're going to have a high number of drug defendants either
8 traffickers or users that have been sentenced, you're going to
9 have a high number of violent offenders, and they are being
10 released into a community where they don't have a lot of 10:27:33
11 support sometimes; right? That is not these people; right?
12 These people have a ton of support look at this courtroom.
13 It's packed with support for these defendants. These are not
14 people without means, abilities and resources to sustain
15 themselves when they get out of prison. 10:27:53

16 But even more interesting is what they also don't
17 mention about what that article says or what that research
18 says. Of course, it says that the findings regarding
19 socioeconomic status went in the expected direction. Those who
20 were high school graduates had lower odds of death than did 10:28:09
21 those with less than a high school education. All of these
22 guys are educated, sophisticated individuals. It also showed
23 that whites had a lower death rate than other races. All of
24 these men are white. This is not news.

25 But what is really interesting is that study showed is 10:28:30

1 called a time to recovery, meaning that after a certain period
2 of time on parole a person's life expectancy returned to
3 normal; in other words, there was a discrete time period
4 immediately after release while on parole with certain types of
5 offenders where, yes, they are at risk of higher death, but 10:28:51
6 that does not mean that Your Honor putting these people in
7 prison for a certain number of years is going to cut their life
8 expectancy by a year for every two years. That is a grossly
9 misleading representation of that article.

10 And so I think what is a better thing to focus on 10:29:08
11 about that is there was a December 2021 report by the Bureau of
12 Justice Statistics that is available online, and it talks about
13 federal inmates and the mortality rates for federal inmates.
14 And what it pointed out and what it ultimately concluded, and I
15 won't get super into the weeds about this, it looked at the 10:29:34
16 U.S. adult population, every one of us out here in the free
17 world in the U.S. that are above the age of 18, and it bases
18 numbers on per 100,000, so instead of giving a percentage I
19 will give a per 100,000.

20 What they said is in the United States in 2019, that 10:29:50
21 was the most recent data, and this covered mortality rates from
22 2001 to 2019, in prison, state and federal, and in the U.S.
23 population and what they found was that in 2019 there were 1100
24 deaths in the United States per 100,000. Okay. So just keep
25 that number in mind. 1100 per 100,000. 10:30:12

1 And what they found is in federal prison there is 259
2 deaths per 100,000. Now, that is less, substantially less. In
3 fact, you are four times -- going to have a four times higher
4 mortality rate on the outside of a federal prison than you are
5 on the inside of a federal prison. This idea that this life
6 expectancy is going to go down dramatically by being in prison
7 is just false.

10:30:35

8 Now, if you're really, really clever and you really
9 understand statistics really well, wait a minute, Mr. Berry,
10 there is a whole lot of ways that you can die in the free world
11 that you can't die in prison. Car accidents, for example. So
12 the justice report takes that into consideration and says: All
13 right, we are going to adjust that number. Let's make sure we
14 are comparing apples to apples and not apples to oranges. What
15 they find, then, is if you adjust it and you take away those
16 certain type of things, then you find that the death rate in
17 the U.S. adult population adjusted so that it looks like the
18 same demographics of federal inmates is 435 per 100,000. So
19 that's substantially less. But remember, in prison it's 259.
20 So you still have a 60 percent higher chance -- 59 percent --
21 let me not engage in too much hyperbole -- 59 percent higher
22 chance of a mortality on the outside of prison than the inside
23 of prison.

10:30:50

10:31:07

10:31:26

24 Now, when we turn to the quality of the health care in
25 prison, so that was another issue that they brought up that

10:31:45

1 they are very concerned about, reasonable to be concerned about
2 the health care of that. There is an article in the National
3 Academy of Elder Law Journals in 2001 by Stacy Gavin called
4 "What Happens to the Correctional System When a Right to Health
5 care Meets Sentencing Reform?" That's seven, and the journal 10:32:04
6 name NAELA, stands for National Academy of Elder Law Attorneys,
7 journal, 249 pincite 256, fall of 2011.

8 And what that article says is, quote, "Surprisingly,
9 the growth in geriatric prisoners is also due to the health
10 care received behind bars. And note, prisoners are the only 10:32:31
11 population in the United States with a constitutionally
12 guaranteed right to medical care." Now, that comes from a 1976
13 Supreme Court case of *Estelle vs. Gamble* that established that.
14 They are the only population that is guaranteed that medical
15 care, and it is because of that guarantee and because of the 10:32:54
16 medical care that they are receiving in the Bureau of Prisons,
17 we are not talking about New York State Prison, we are not
18 talking about rough-and-tumble state prisons in other places,
19 the Bureau of Prisons, they are receiving very good medical
20 care to the degree that geriatric prisoners are becoming an 10:33:10
21 issue for the Bureau of Prisons because they are living so
22 long.

23 Similarly, there was an article in 2007 by Timothy
24 Curtin in the Elder Law Journal, citation is 15 Elder Law
25 Journal 473 pincite 476 in 2007, and it was titled "The 10:33:29

1 Continuing Problem of America's Aging Prison Population and the
2 Search for Cost-Effective and Socially Acceptable Means of
3 Addressing it." And he says, quote, "The success of prison
4 health care programs in reducing prison mortality," which is
5 the rates we just talked about, "has led to longer inmate 10:33:51
6 lifespans and ever higher health care costs." The prisons are
7 paying for that and it is happening. This notion that he is
8 going to have zero medical care and they are completely
9 incapable of taking care of different patients, different
10 inmates with different medical ailments is just false. 10:34:10

11 If you've talked to any U.S. Marshals in the recent
12 time, they can tell you time and again how many people they see
13 and get brought into prison that have way worse conditions than
14 any of these guys are talking about.

15 Next I want to turn my attention to this notion of the 10:34:27
16 sex offender status. That was something that was brought up
17 and that they are deeply concerned about being labeled as a sex
18 offender. First and foremost, I don't think that this Court
19 has the authority to label them a sex offender or not a sex
20 offender. States determine whether certain crimes qualify for 10:34:52
21 sex offender registration, SORNA is the federal law that it
22 implements that we decide that by. That is not to say Your
23 Honor couldn't make any kind of recommendation that you want
24 regarding that.

25 But here's what I would like to emphasize: In the 10:35:07

1 Bureau of Prisons there are two programs that sometimes get
2 mixed together. One is the Sex Offender Management Program and
3 one is the Sex Offender Treatment Program. The Sex Offender
4 Treatment Program is for inmates who choose to be part of that
5 program. They want to receive some kind of treatment. The Sex
6 Offender Management Program is something decided by folks at
7 the Bureau of Prisons and the designation and computation
8 center in Grand Prairie, Texas and individually at prison when
9 they are reevaluated annually.

10:35:25

10 As Your Honor knows, these are the kinds of cases I
11 do. The only defendants I have are sex offenders, so I am
12 familiar with this issue very well.

10:35:43

13 And the Sex Offender Management Program is something
14 that they look at and they decide whether an inmate should go
15 into that program, and it has nothing to do with the specific
16 offense for which they were convicted. So, for example,
17 someone could be convicted of a money laundering offense sent
18 to federal prison but they had a sex offense 10 years before,
19 they might get put into the Sex Offender Management Program
20 just because the Court has decided, or the Bureau of Prisons
21 has decided for their safety and protection they need to be.

10:35:56

10:36:12

22 But here's the important point. The Sex Offender
23 Management Program facilities, which there is about eight to 10
24 of those around the country, I think, they all maintain a
25 40 percent population of sex offenders. This is in BOP policy

10:36:30

1 guidelines that explain this about SOMP facilities. They have
2 found, of course, that if you maintain a certain critical mass
3 of sex offenders in a particular facility, that they are all
4 protected. It creates a protective factor kind of like a
5 strength in numbers idea so that they don't have to be isolated 10:36:53
6 in a shoe, as they alluded to. The only way he is going to be
7 able to make it through prison is to be stuck in a shoe
8 somewhere. Again, these are all management decisions that the
9 Bureau of Prisons should be doing. And frankly, I don't think
10 it's something that we should be spending a lot of time talking 10:37:08
11 about for purposes of deciding a sentence. That's why the
12 Bureau of Prisons is there.

13 But I want to give these facts to you because I am
14 sensitive to the fact that everyone in here is a human and
15 you're concerned about the weight of this decision and what 10:37:22
16 does that really mean. And I just want you to understand what
17 they are saying and what they are trying to scare you into
18 about this is just simply not true. The Sex Offender
19 Management Program is designed to protect people who might be
20 decided -- be determined to fit into that category. 10:37:38

21 So even if Your Honor were to say, "I recommend that
22 they not be labeled a sex offender," they have gladly courted
23 the media on this case, have had podcasts, have people
24 following them around giving interviews. And as they say,
25 somebody can Google their name and figure out what they are in 10:37:57

1 for separate and apart from any recommendation you make and
2 separate and apart from any judgement or their indictment or
3 their PSR for that matter.

4 And so there is a risk if you're the BOP looking at
5 them to say, well, maybe they should be in a Sex Offender
6 Management Program for that reason. And so I question the
7 reason, the logic behind saying to make sure he is not labeled
8 as such so that he doesn't get into a Sex Offender Management
9 Program. I actually would argue that it might be better for
10 them. But again, that's not really our place right now. That
11 is for BOP to decide.

12 Next I want to talk about, Mr. Feder argued that a
13 sentence of 10 years would result in him not being eligible for
14 a camp, which is really called low security -- minimum
15 security, excuse me, and automatically being designated to a
16 low security prison. Now, this is one of those that has a
17 kernel of truth, but it's still very misleading. So BOP policy
18 Statement 5100.08, which is available online, talks about in
19 Chapter 4, page 6, how they calculate an inmate's months to
20 release. That's the way they calculate it; right? So if Your
21 Honor sentences someone to 120 months, when they walk into
22 prison, let's say they didn't spend three days in jail
23 initially, but they were just on bond the entire time. So
24 let's deal with it in that scenario. Even though the day they
25 turn themselves into the marshals they get credit for one day.

10:38:15

10:38:31

10:38:52

10:39:22

10:39:41

1 Mr. Spear is going to get credit for three days. Let's just
2 say it's zero days. You sentence someone to 120 months, they
3 don't have 120 months left on their sentence the day they walk
4 into prison. They have 120 months less 15 percent. That's the
5 way the BOP calculates it. So the months to release is
6 calculated by automatically subtracting 15 percent.

10:39:57

7 So saying if you sentence him to 10 years he will
8 automatically go to a low. That's not true. It's just simply
9 not true.

10 In fact, you could sentence these defendants to
11 282 months, and 15 percent off of that would put them under 240
12 and would keep them in a low security classification, low
13 security prison classification. You could sentence them to
14 140 months and their months to release would automatically be
15 119 and they would be eligible for a minimum security.

10:40:10

10:40:30

16 So I just give those facts to you because it's
17 important to make sure that they were not misleading the Court,
18 which I feel like has been done a little bit here.

19 Similarly, the affidavit that they submitted by
20 Ms. Purdue attempted to place these defendants, or Mr. Spear at
21 least, in a high, like the highest security classification.
22 And that's, again, looking at that policy statement, that's not
23 correct. These are property offenses that are over 250,000, so
24 it was moderate security classification most likely, but that
25 doesn't mean they go to a medium security prison. That's why

10:40:46

10:41:11

1 we leave that to the BOP, and we shouldn't be spending a ton of
2 time dealing with that.

3 Finally, as to sentencing specifically, before I turn
4 my attention to detention, what I think is most galling is that
5 Mr. Spear's attorney has asked this Court to give grace to him 10:41:31
6 because he's physically frail and something bad might happen to
7 him in the future. But Mr. Spear and these other defendants
8 gave exactly zero grace to the young women and girls being
9 trafficked dozens of times a day on Backpage who were in fact
10 suffering real harms far worse than anything that might happen 10:41:57
11 to these defendants in a controlled prison environment. They
12 used the terms "violence," "aggression" and "drug use" that
13 they are worried about being exposed to in prison. That was
14 the words, I think, of Ms. Purdue. He's worried about being
15 exposed to, quote, "violence," "aggression" and "drug use" in 10:42:19
16 prison. Those are all the things that the victims of his
17 website were actually exposed to multiple times per day. And
18 he was aware of that actual harm occurring, not just the risk
19 of it, and they all laughed all the way to the bank.

20 For 14 years, as Mr. Rapp pointed out, NCMEC, the 10:42:40
21 Attorneys General, Polaris, Auburn Theological Seminary, and
22 countless others were begging these men to have compassion,
23 compassion for the plight of young women and girls who were
24 constantly being trafficked because they provided, the
25 defendants provided the most convenient marketplace for flesh 10:43:04

1 peddlers that buyers to gather.

2 Your Honor, I have no doubt, has more compassion than
3 these men. I am not asking you to abandon that compassionate
4 tendency in a situation like this. I'm asking you to direct it
5 at the victims, the survivors, and their family members. Show
6 them the compassion that these men refused by sentencing them
7 to a significant term of imprisonment.

10:43:23

10:43:45

10:44:06

10:44:29

10:44:45

8 Now, that compassion argument dovetails with our
9 detention argument, with our release pending bail. All of the
10 defendants have asked, obviously, for probationary sentences,
11 but if they are sentenced to prison they have asked for to be
12 able to be out. On the one end of the spectrum they want to be
13 out for the entirety of their appeal, on sort of a middle path
14 is that they want to be able to self-surrender. And, of
15 course, we are asking that they be remanded today.

16 All of the defendants have continued to enjoy all of
17 the freedoms of people who were not convicted of felonies, and
18 they have continued to enjoy that even after they have been
19 convicted. That was nine months ago.

20 As we pointed out, we did not ask for the remand at
21 that time because there were several motions pending before
22 Your Honor that we thought were more appropriate to make sure
23 that those are resolved. They have been resolved. The time
24 has come. The risk of flight at this stage after all these
25 years of litigation is too great. There are huge financial

1 incentives to avoiding the entry of judgement here.

2 Typically a sentencing court, and I don't know exactly
3 how Your Honor does it, but the judgment doesn't get entered
4 for sometimes a few days, and that gives these defendants an
5 opportunity to remain on bond, and if they leave or God forbid 10:45:05
6 they commit suicide, that judgment goes away and they are no
7 longer adjudged guilty. And that changes a huge number of
8 things, as we saw with Mr. Larkin.

9 All human life is valuable, Your Honor, and silence
10 upon self is just as much a danger to the community as to 10:45:27
11 another. We certainly don't want to see that. These folks
12 have a tremendous incentive. It's not a speculative thing to
13 say given the fact that one of the defendants did precisely
14 that in this case. And that, of course, is the ultimate risk
15 of nonappearance. And this is not just me postulating here. 10:45:48
16 The Tenth Circuit has held that in *United States vs. Workman*,
17 680 F. Appendix 699, Tenth Circuit 2017, recognizing the risk
18 of flight by suicide is a proper consideration by the Court in
19 assessing the defendants' risk of nonappearance.

20 The Sixth Circuit has said something similar 10:46:08
21 recognizing that it is logical to extend rules that treat
22 suicide as a form of flight. It's *United States vs. Cody*, 498
23 F.3d 582, pincite 591, Sixth Circuit 2007.

24 When thinking about detention or release under 3142,
25 the history and characteristics of the person, including their 10:46:32

1 mental condition, is important. Mr. Spear has had several
2 mental issues. I believe there was an ex parte letter that was
3 provided to the Court. I only became aware of it because it
4 was obliquely referenced in their response to our Sentencing
5 Memorandum. I have no idea if Your Honor has received more 10:46:58
6 than that one ex parte communication from the defense. I asked
7 Mr. Spear's attorneys for access to that because I believed
8 that that's not something that the Court should be considering
9 without our opportunity to review that, and ultimately
10 Mr. Feder brought it over to me yesterday and I have had a 10:47:18
11 chance to review that one ex parte letter. If there is more, I
12 don't know.

13 But in it, of course, we see things that give us
14 concern about Mr. Spear. And without going into too much
15 detail about those, because Your Honor has it and it's filed 10:47:37
16 under ex parte, and I haven't been told I could say something,
17 otherwise I would just point Your Honor to that and note that
18 there are psychiatric conditions that give us concern about
19 whether he is a good candidate to remain out or for
20 self-surrender. 10:47:56

21 So the same is similar, something similar for Mr.
22 Lacey who has expressed depressive episodes and has refused
23 medication.

24 All of the defendants are risk of flight in that
25 regard. They all have substantial means. The PSR makes clear 10:48:12

1 that they all still have quite a bit of money and access to
2 money at this time, and that is of deep concern to us as well
3 as the danger to the community in terms of the way that I spoke
4 about it just a moment ago.

5 So finally, to the extent that this Court is 10:48:31
6 disinclined to remand them today, we would ask that ankle
7 monitors be put back on them for the ones that have already had
8 it. And for the ones that haven't, put it on for the first
9 instance for precisely all the same reasons, to ensure that
10 these victims who have waited six and a half long years are not 10:48:54
11 denied the justice that they are owed at this point.

12 And for all those reasons, we ask that you sentence
13 these defendants to a significant term of imprisonment and that
14 they be remanded into custody today. Thank you.

15 THE COURT: Thank you. The Court will be on recess 10:49:13
16 for approximately 20 minutes.

17 (Recess was taken at 10:49 a.m.)

18 (Proceedings reconvened at 11:18 a.m.)

19 COURTROOM DEPUTY: Judge is going to recess until
20 12:30. 11:18:45

21 (A recess was taken at 11:20 a.m.)

22 (Proceedings reconvened at 12:33 p.m.)

23 COURTROOM DEPUTY: We're back on the record in CR
24 18-422, United States of America vs. Michael Lacey, Scott Spear
25 and John Brunst, before the Court for sentencing. 12:33:56

1 THE COURT: All right. I intend to proceed in the
2 following way: Each individual is entitled to an individual
3 sentence pronouncement. They are entitled to understand the
4 considerations of the Court, and so I will proceed in the
5 following way. I will proceed to the sentencing of Mr. Spear. 12:34:25
6 I will then move to Mr. Brunst, and finally Mr. Lacey.

7 It is true, I think one counsel or two or more
8 indicate that these are difficult responsibilities of a judge,
9 the balancing and weighing the arguments, looking at the case
10 law, and I think it is, in my circumstance, extraordinarily 12:35:00
11 difficult because the case has been so long. I have not before
12 presided over a criminal trial proceeding that lasted the
13 entirety of a season, nor do I ever hope to.

14 And so I will also remind counsel that I'm not the
15 first judge on this case. I think at least one judge on this 12:35:41
16 floor and two judges on the floor below me have handled issues
17 related to this. I have had colleagues who could not get near
18 the case because of Mr. Lacey's and others long status here in
19 Arizona. But nonetheless, the obligation falls to me, and I do
20 not impose sentence lightly. 12:36:32

21 As I stated at the outset, these are very difficult
22 statutes and they are unique circumstances. The circumstances
23 have to fit into the application of the statute, and this Court
24 has done the best it can to guide the process.

25 But here, what makes this more heavy is that we need 12:37:10

1 not lose sight of the jurors who were selected, specifically by
2 counsel and their clients and the government and who sat
3 through that season-long trial. I have to pay deference to
4 their findings by way of their verdicts.

5 I saw how diligently they worked everyday. At the end 12:37:56
6 of trial what you did not see was the emotional toll it took on
7 every single one of them, every one. It was as though they
8 didn't know what to do with their lives. And I think we in
9 this room need to recognize their work, the care and attention
10 that they took to sifting through the arguments, sifting 12:38:47
11 through the testimony, looking at the exhibits, listening to
12 your arguments, observing you and your clients in court. It is
13 our process, and so my responsibility is to follow what they
14 did.

15 With that, Mr. Spear, please come forward. Mr. Spear, 12:39:16
16 as we have discussed yesterday, there was --

17 MR. FEDER: Could I interrupt you for one moment? Is
18 the Court not going to hear -- your clerk indicated before we
19 took the recess, not hear further argument on release pending
20 appeal. 12:40:00

21 THE COURT: After my imposition was my instruction to
22 everyone.

23 MR. FEDER: Sure.

24 THE COURT: And I caution counsel, I don't want to
25 hear reiteration of argument made yesterday. I don't want to 12:40:12

1 hear reiteration of argument made in responsive or original
2 pleadings as to the issue. I've read that all. If there's
3 something in reply to what Mr. Berry stated, you can be heard
4 on the record, but I think these matters have been fully
5 briefed.

12:40:37

6 MR. FEDER: Thank you.

7 THE COURT: Mr. Spear, you have been convicted by a
8 trial jury of conspiracy to commit Travel Act violations in
9 Count 1 of the indictment; Counts 2 through 18, which are
10 specific Travel Act violations; Count 52, which charges you
11 with conspiracy to commit money laundering; and Count 53
12 through 62, concealment money laundering.

12:40:57

13 There was, as we have been discussing, a Presentence
14 Investigation Report that was prepared in your case. The
15 presentence report writer is here and present. Did you read
16 the entire presentence report, including the sentencing
17 recommendations made in it?

12:41:23

18 MR. SPEAR: I did.

19 THE COURT: Did you review the entirety of the report
20 with your counsel?

12:41:39

21 MR. SPEAR: I don't know the entirety, but we reviewed
22 it.

23 THE COURT: Your counsel, either Mr. Kessler or
24 Mr. Spear [sic], answered all of your questions about what is
25 written and recommended in that report; is that correct?

12:41:53

1 MR. SPEAR: That's right.

2 THE COURT: Now, having resolved all of the objections
3 in your presentence report, and upon jury's verdicts of guilt,
4 I must now impose sentence upon you on those counts of
5 conviction. 12:42:14

6 Now, as to -- let me just say that with regard to your
7 background and character, I'm going to at least refer generally
8 to all of the sentencing consideration that the Court must
9 review in imposing a sentence. I do this with every individual
10 that comes before me. They are the factors outlined in Title 12:42:40
11 18 United States Code Section 3553(a). Those factors include
12 the nature and circumstances of your convictions, your
13 background and character, if there's a sentence in need for
14 deterrence purposes, for rehabilitation purposes, if there's a
15 sentence necessary to promote respect for the law, and what 12:43:04
16 type of sentence would be sufficient but not greater than
17 necessary to achieve all of the sentencing factors in your
18 particular case.

19 Well, having reviewed your presentence report, I know
20 that you are about 73 years of age. I know that you have a 12:43:23
21 higher degree in sociology and anthropology. You arrived in
22 Arizona roughly about 1959, and you've lived here for the
23 duration thereafter. You have no prior criminal history. In
24 fact, I don't recall reading that you had any sort of
25 infraction with the law. 12:43:54

1 I note that you deny having any substance abuse
2 issues, and so the Court finds there is no need to impose a
3 sentence for rehabilitation purposes.

4 I have read the reports that your counsel have
5 attached to your Sentencing Memorandum. And as noted in your 12:44:14
6 presentence report, I do note all of the health conditions that
7 you have. I understand that these conditions are not only
8 mental health conditions, but you have physical health
9 conditions as well.

10 I also do not find, one of the other factors I have to 12:44:37
11 consider as to whether or not you present a danger to others,
12 and I do not find, based on all of the information before me,
13 that you impose a danger to others.

14 With respect to the nature and circumstances of the
15 offense, I do need to take some time to make -- make clear what 12:45:01
16 the basis of my sentence relies upon. And as I mentioned, this
17 is related to the jury verdict. As to Count 1, the conspiracy
18 to violate the Travel Act, in violation of Title 18 United
19 States Code Section 371, here, it relates to the specific
20 Travel Act postings on Backpage. 12:45:37

21 The government was charged and the jury necessarily
22 found that you used Backpage.com with the intent to facilitate
23 the promotion of a prostitution businesses, and that there was
24 an overt act in furtherance of that unlawful activity. For
25 example, by publishing the prostitution ad or editing the ad to 12:46:08

1 make it look less like an ad for prostitution.

2 Your role was that of the executive vice president of
3 Backpage's parent company Village Voice Media. There was
4 testimony that you were the immediate supervisor of your
5 codefendant, Mr. Ferrer, and he operated as the project manager
6 and sales marketer or director of Backpage. 12:46:36

7 There was ample evidence about your role in the
8 aggregation strategy. You directed the rollout of Backpage's
9 content aggregation; that is, you required staff to identify an
10 adult escort ad on Craigslist, this is at the beginning, and 12:47:14
11 repost it on Backpage in hopes that the original poster and any
12 user would start paying to post ads on Backpage instead of
13 Craigslist.

14 You obtained budget approval from Mr. Brunst, and then
15 you directed Mr. Ferrer to use the content aggregation strategy 12:47:36
16 in every metro market in the United States. That was the
17 testimony.

18 You also were involved with the relationship developed
19 with The Erotic Review. We heard ample testimony that the The
20 Erotic Review was a prostitution review site, rating site, if 12:48:05
21 you would.

22 You were the author of a 2008 budget plan that was
23 presented then to Mr. Brunst and Mr. Larkin outlining that TER
24 relationship. And in that plan it noted that Backpage had,
25 quote, "struck a deal with TheEroticReview.com, TER, with 12:48:34

1 reciprocal links. It created huge brand awareness in this
2 industry, and increased pageviews from TER by 120,000 per day."
3 You signed the checks for these payments, you closely tracked
4 the relationship with TER, and Mr. Ferrer testified that you
5 understood that the traffic from TER was very, very important
6 to Backpage's success. 12:49:11

7 You ignored recommendations to completely remove ads
8 visited from TER. This was even after the Amber Lyon CNN story
9 about Backpage offering a 12-year-old girl for sex. You
10 allowed TER identification numbers to remain on the site, but 12:49:49
11 you just removed the links to TER. That was an important
12 partner to Backpage's success.

13 Mr. Ferrer also testified that you and Mr. Brunst
14 regularly received those Google analytic reports showing that
15 TER was the number one source of non-search engine referrals to 12:50:17
16 Backpage.

17 You sent Mr. Ferrer, you and Mr. Larkin, to New York
18 to meet with bulk prostitution advertisers in person and
19 coordinate efforts to give what is known as super posters
20 preferential treatment on Backpage. 12:50:47

21 You also were involved deeply in the moderation
22 efforts. You prepared a PowerPoint that aimed at getting rid
23 of ad images depicting sex acts like a woman giving a man oral
24 sex. And according to Mr. Ferrer, you coined a standard of
25 between Hustler and Playboy, which meant sex act pictures need 12:51:19

1 to go, and you could still have full nudity but you couldn't
2 have extreme close-up of genitalia.

3 You directed Mr. Ferrer to scrub ads, to edit and
4 remove sex act images and sex act language. You wanted the ads
5 to be less escort-ish, meaning that if the ads looked like 12:51:50
6 prostitution, excuse me, less like prostitution then it could
7 maintain some credibility.

8 You are also responsible for Backpage's Terms of Use,
9 which continually changed, and we had ample evidence of that.

10 There was frustration growing at the time as the evidence and 12:52:23
11 testimony reflected that advertisers were being kicked off and
12 so there was an effort made to identify certain terms that need
13 to be thrown out only to have those advertisers modify that
14 language. You changed terms like "hooker" to "female escort."

15 You decided it was appropriate or okay to use the term "roses" 12:53:07
16 instead of "cash," and you were necessarily alerted to all of
17 this because you were Mr. Ferrer's boss, and you were the
18 person Mr. Ferrer went to to resolve conflicts when people
19 would raise concerns about being kicked off the page.

20 You decided to higher El Camino to assist with the 12:53:53
21 cleanup efforts. You also rejected Internet safety expert
22 suggestions to screen the ads purchased with prepaid cards
23 because they were concerned this was an indication of potential
24 trafficking and because it was identified and testified to that
25 up to 70 percent of your transactions came from prepaid cards, 12:54:21

1 so you didn't want to lose that business.

2 It was also testified to that you were involved in
3 what was described as the slow dance with the Attorney
4 Generals, and that essentially what that meant was, comply with
5 the subpoena requests, but don't change anything that we're
6 doing to make it look like we're helping law enforcement. 12:54:49
7 There was a directive not to throw the baby out with the bath
8 water, and make these changes gradually so that the revenue
9 loss would not be so great.

10 So essentially you and your direction and your 12:55:20
11 necessary approval, structured Backpage in a way to ensure that
12 the majority of its revenue that was derived from prostitution
13 ads would not cease.

14 As to each of the Travel Act counts that you have been
15 convicted of, Counts 2 through 18, Count 2 involves the 12:55:49
16 testimony that we heard from Sergeant Griffith of the North
17 Borough Police Department. He was alerted to, if you will
18 recall, the suspicious activity that was occurring in a near
19 motel room. There were two women that were seen loitering
20 around the area. Someone was concerned for them. Well, after 12:56:21
21 he watched the motel for a period of time, he decided to go on
22 Backpage.com and he found an ad that showed one of the
23 individuals that he had spotted outside of that motel. He
24 called the ad number, made an appointment, went to that motel
25 room. When he got there, much to his surprise, there was 12:56:59

1 another quote/unquote, john who was just leaving. This was
2 prostitution that had been illegal, made illegal in the state
3 of Massachusetts.

4 With regard to Counts 3, 6 through 11 and 18, these
5 are Travel Act violations, in violation of Washington state law 12:57:30
6 involving Ms. Robinson. And we heard the testimony that
7 Ms. Robinson used Backpage.com as her prostitution web page,
8 her advertisement page. She began to become concerned and
9 reached out to Mr. Ferrer because she was getting kicked off
10 the page, and she was concerned because she needed money. 12:58:07

11 So the multiple ways that Mr. Ferrer and the
12 aggregation and the moderation that was done to facilitate this
13 enabled Ms. Robinson to continue to advertise on Backpage over
14 and over and over again. Counts 3, 6 through 11 and 18 bear
15 that out. 12:58:51

16 Counts 4 and 5, again, relate to postings in
17 Massachusetts. In particular, we heard through government
18 counsel this victim's statement. She testified that she became
19 familiar with Backpage.com because she saw her pimp posting her
20 ads on that page. She testified that she would not create 12:59:30
21 these ad, but he would, and her testimony was, quote, she
22 understood that she was advertised for sex acts for money
23 because, quote, "so my pimps could make money off of me." She
24 also testified that she saw her pimps using vanilla cards from
25 a convenience store in order to post her ads. 13:00:00

1 There were multiple exhibits that came in through
2 Ms. Figueroa. We know the impact that these postings have had
3 on her.

4 Counts 12, 13, 14 and 15, are postings in California
5 and Arizona. The postings of Ms. Cervantes. And here
6 Ms. Cervantes, in her own words, said that she was being
7 trafficked -- being trafficked by a man she referred to as
8 L.G., and he, along with another woman, would post, create and
9 post her ads. They would buy her clothing, put her in certain
10 positions, and then post her ads.

11 She also testified that they decided to come here to
12 Arizona because of the Super Bowl, and perhaps, perhaps that
13 was to her benefit because when she was posted here in Arizona
14 the person she met responding to her ad was an undercover
15 officer, and at least at the time of trial she testified that
16 she didn't post -- she wasn't posted on Backpage thereafter.

17 Count 16 and 18 relate to ads posted in Colorado by
18 Ms. Leery. And here, though you may disagree with the jury
19 finding, the jury was given a particular instruction that said
20 that because of your knowledge or the knowledge of others and
21 the acts of others to develop Backpage in this way, you are
22 liable.

23 With regard to Count 52, the conspiracy to commit
24 money laundering, and all of this relates to around 2012, and
25 the evidence will show around that time this is when there was

1 pressure upon you and Mr. Lacey and Mr. Brunst and Mr. Larkin
2 and Mr. Ferrer from law enforcement and others, and so the
3 financial institutions began dropping Backpage business, and so
4 you had to find ways for users to continue to pay for ads.

5 There was testimony that Mr. Brunst and you and Mr. Larkin
6 worked closely to secure credit card processing from Europe,
7 you began identifying, identifying using Net Cash, cyberspace
8 credit cards. Mr. Ferrer exchanged e-mails with Mr. Brunst on
9 which you were copied about getting cc bill contract signed,

10 and there was some discussions about using JetPay. And in
11 November of 2013 Mr. Ferrer sent an e-mail on which you and

12 Mr. Brunst were copied relating to credit card transactions,
13 and those recommendations included using names, Internet
14 addresses and billing descriptions that would not include the
15 name Backpage.

16 At that time -- at the time that you decide to sell,
17 you and others decide to sell to Mr. Ferrer Backpage, from 2014
18 to 2015, it was yielding anywhere from 150 to \$160 million, and
19 the amount it cost to posted a single ad was sometimes \$4. You
20 only need to do the math, then, to think about the volume of
21 ads it took to generate that amount of income, and those Google
22 ads do not show furniture, automobiles, contributing this
23 amount to Backpage.com.

24 The money laundering counts really relate to what
25 occurs with the sale of Backpage. You and Mr. Brunst,

1 Mr. Lacey sold Backpage to Mr. Ferrer for \$6 million, and that
2 sale consisted of two loan agreements. One the U.S. portion of
3 Backpage and a smaller loan was the foreign portion of
4 Backpage. Now, Cereus Properties, which is the company owned
5 by Mr. Lacey, Mr. Brunst and you, collected the interest and 13:06:53
6 the debt payments from that \$6 million loan, and Mr. Ferrer
7 testified that the source of the money went to Cereus
8 Properties was the prostitution ads posted on Backpage. It was
9 all generated from that.

10 The transactional money laundering counts under 13:07:21
11 section 1956(a), which are Counts 53 through 62, were all
12 transfers made from Website Technologies bank account to branch
13 banking and trust to a bank account held by Cereus Properties.
14 And really, the requirements for this, these set of convictions
15 Counts 53 through 62 were that you knew that the proceeds 13:08:03
16 derived from unlawful activity, and that the proceeds in fact
17 derived from unlawful activity.

18 All of the information related to the conspiracy
19 supports this verdict. Indeed, by its verdict the jury found
20 that following the 2015 sale, the ultimate source of the monies 13:08:33
21 that were paid to Cereus Properties from Website Technologies
22 was the prostitution ads posted in Backpage. Those are the
23 nature and circumstances of the offense of conviction.

24 I have already iterated to you the statutory terms --
25 terms of imprisonment that apply, and you are aware of your 13:09:07

1 sentencing guideline calculation. I find the nature and
2 circumstances of the offense to be extremely serious. In
3 considering Mr. Spear, Mr. Brunst and Mr. Lacey, I've also
4 reviewed the multiple victim impact statements that have been
5 provided to the Court. I think that what we heard yesterday in 13:09:37
6 many ways encapsulates many of those statements, and many of
7 those statements include loss of home life, they include
8 suicidal ideation, they include depression, they include
9 anxiety, they include numerous visits to counselors,
10 psychologists. I reviewed letters from psychologists and 13:10:21
11 counselors who have provided services to those individuals who,
12 many of whom, and I will suggest the majority of whom did not
13 voluntarily do this. There were others that were involved.

14 Here, I think Ms. Ambrose's words resonated and serve
15 as a reminder of really what this was about. I will attempt to 13:10:59
16 quote from her, "Backpage and the owners continued teaching
17 pimps how to advertise these women." And I think, Mr. Spear,
18 the evidence bears that out.

19 With regard to deterrence, I'm troubled in one
20 respect. It appears that you refused to inform your probation 13:11:36
21 officer of your source of income today. I do note that you
22 were last employed as an executive vice president of Cereus
23 Properties up through 2018, and in 2013 you were earning
24 something in the neighborhood of \$30,000 per month, and at the
25 end of that 2018 period your W-2 showed that you earned 13:12:08

1 somewhere in the neighborhood of \$80,000 to \$2 million
2 annually.

3 With regard to promoting respect for the law, there's
4 ample evidence to show that there is a sentence necessary for
5 that. You and your codefendants were routinely put on notice 13:12:45
6 that Backpage was being used to post sex-for-money ads, in
7 violation of state prostitution laws. You received letters
8 from law enforcement officials, state Attorneys General, and
9 you were called before Congress to explain these activities,
10 and you knew of these allegations. 13:13:18

11 The testimony that also resonated with me, Mr. Spear,
12 is you were described at one point as a hands-on supervisor or
13 a micromanager on all aspects of the business from approving
14 payments to approving staffing, and so I find all these aspects
15 must be balanced and weighed. 13:13:56

16 I have considered all of the factors in 18 U.S.C.
17 3553(a), is there any legal cause as to why sentence should not
18 now be imposed, Mr. Rapp?

19 MR. RAPP: Not that the United States knows of.

20 THE COURT: Mr. Whoever -- 13:14:23

21 MR. FEDER: No.

22 THE COURT: Pursuant to the Sentencing Reform Act of
23 1984, it is the judgement of the Court that Scott Spear is
24 hereby committed to the Bureau of Prisons for a term of
25 imprisonment of 120 months. 13:14:39

1 This consists of 60 months on Count 1, conspiracy to
2 commit Travel Act offenses, 60 months on each Count 2 through
3 18, the Travel Act offenses. Those counts are to run
4 concurrently to Count 1. And 60 months on Count 52 to run
5 concurrently with a 60-month term on each count, 53 through 62,
6 which are the concealment money laundering counts, and which
7 are to run consecutively to Count 1 through 18.

13:15:09

8 You shall pay a special assessment fee of \$2,900 which
9 is due immediately. The Court finds that you do not have an
10 ability to pay a fine and orders that the fine be waived.

13:15:39

11 You shall pay your criminal monetary penalties during
12 imprisonment at a rate of not less than \$25 per quarter, and
13 payment shall be made through the Bureau of Prisons' Inmate
14 Financial Responsibility Program, and the Court does waive the
15 imposition of interest and penalties on any unpaid balance.

13:16:01

16 Now, on release from custody you shall be placed on
17 supervised release for 36 months, and this term consists of
18 36 months on Count 1 through 18, 52 through 62, 71 through 78.
19 That is an error. On all counts of conviction you will serve a
20 36-month term of supervised release, and those terms are to run
21 concurrently. Let's modify the language in that.

13:16:53

22 Now, while on supervised release, you shall comply
23 with the mandatory and standard conditions of supervision
24 adopted by this court this General Order 17-18. And of
25 particular importance, you shall not commit another federal,

13:17:12

1 state or local crime during the term of supervised release, and
2 the mandatory drug testing provision is suspended.

3 Within 72 hours of being released from custody, you
4 shall report in person to the probation office in the district
5 in which you are released.

13:17:32

6 Mr. Feder, have you reviewed the mandatory and
7 standard conditions of supervision with your client?

8 MR. FEDER: I don't know, Judge, but I will, but I
9 can -- I can't tell you that I have or haven't.

10 THE COURT: Mr. Kessler, have you?

13:17:47

11 MR. KESSLER: We have gone through them, yes.

12 THE COURT: Mr. Spear, do you recall reviewing the
13 mandatory and standard conditions of supervised release?

14 MR. SPEAR: Only in general terms. I don't remember
15 any of the specifics.

13:18:03

16 THE COURT: You will comply with the mandatory
17 conditions of supervised release as follows: You must not
18 commit another federal, state or local crime.

19 You must not unlawfully possess a controlled
20 substance. The use or possession of marijuana, even with a
21 physician certification, is not permitted.

13:18:17

22 You must refrain from any unlawful use of controlled
23 substances. Unless suspended by the Court, you must submit to
24 one drug test within 15 days from release from imprisonment and
25 at least two periodic drug tests thereafter as determined by

13:18:39

1 the Court.

2 You must comply with the following standard
3 conditions: You must report to the probation office in the
4 federal judicial district where you are authorized to reside
5 within 72 hours of sentencing or your release from imprisonment 13:18:53
6 unless the probation officer instructs you to report to a
7 different probation office or within a different time frame.

8 After initially reporting to the probation office, you
9 will receive instructions from the Court or the probation
10 officer about how and when you must report to the probation 13:19:15
11 officer, and you must report to the probation officer as
12 instructed.

13 You must not knowingly leave the federal judicial
14 district where you are authorized to reside without first
15 getting permission from the Court or the probation officer. 13:19:28

16 You must answer truthfully the questions asked by your
17 probation officer.

18 You must live at a place approved by the probation
19 officer. If you plan to change where you live or anything
20 about your living arrangements such as the people you live 13:19:43
21 with, you must notify the probation officer at least 10 days
22 before the change. If notifying the probation officer in
23 advance is not possible due to the unanticipated circumstances,
24 you must notify the probation officer within 72 hours of being
25 aware of a change or expected change. 13:20:02

1 You must allow the probation officer to visit you at
2 any time at your home or elsewhere, and you must permit the
3 probation officer to take any items prohibited by the
4 conditions of your supervision that he or she observes in plain
5 view.

13:20:22

6 You must work full-time at least 30 hours a week. Let
7 me change that because, and I will change that as to each
8 defendant that it applies to, because they are all retired.

9 You must not interact with someone that you know is engaged in
10 criminal activity. If you know someone has been convicted of a

13:20:46

11 felony, you must not knowingly communicate or interact with
12 that person without first getting the permission of the
13 probation officer.

14 If you are arrested or questioned by a law enforcement
15 officer, you must notify the probation officer within 72 hours.

13:20:59

16 You must not own, possess or have any access to a
17 firearm, ammunition, destructive device or dangerous weapon.

18 You must not act or make any agreement with a law
19 enforcement agency to act as a confidential human source or
20 informant without first getting the permission of the court.

13:21:21

21 If the probation officer determines that you pose a
22 risk to another person, including an organization, the
23 probation officer may require you to notify the person about
24 the risk, and you must comply with that instruction. The

25 probation officer may contact the person and confirm that you

13:21:40

1 have notified the person about the risk.

2 You must follow the instructions of the probation
3 officer related to the conditions of supervision. You must
4 abide by the following special conditions: You must submit
5 your person, property, house, residence, vehicle, papers or
6 office to a search conducted by a probation officer. Your
7 failure to submit to a search may be grounds for revocation of
8 your release, and you must warn any other occupant that the
9 premises may be subject to search under these conditions.

13:21:59

10 You must submit your computers as defined in 18 U.S.C.
11 1030(e)(1) or other electronic communication or data storage
12 device or media to a search.

13:22:16

13 You must warn any other people who use these computers
14 or devices capable of accessing the Internet that the devices
15 may be subject to search pursuant to this condition. Failure
16 to submit to a search may be grounds for revoking your release.
17 A probation officer may conduct a search pursuant to this
18 condition only when reasonable suspicion exists that there is a
19 violation of condition of supervision, and that the computer or
20 device contains evidence of this violation.

13:22:38

13:22:57

21 You must consent to and cooperate with the seizure and
22 removal of any hardware and/or data storage media for further
23 analysis by law enforcement or the probation officer with
24 reasonable suspicion concerning a violation of a condition of
25 supervision or unlawful conduct. Any search will be conducted

13:23:16

1 at a reasonable time and in a reasonable manner.

2 You must provide the probation officer with access to
3 any requested financial information and authorize the release
4 of any financial information, and the probation officer may
5 share that financial information with the U.S. Attorney's
6 Office. 13:23:35

7 You are prohibited from making major purchases,
8 incurring new financial obligations, or entering into any
9 financial contracts over \$500 without the prior approval of the
10 probation officer. 13:23:50

11 You must participate in a mental health assessment and
12 participate in outpatient mental health treatment as determined
13 to be necessary by a medical or mental health professional, and
14 follow any treatment direction by the treatment provider.

15 You must take medicine as prescribed by a medical
16 professional providing mental health treatment, unless you
17 object, in which event you must immediately notify the
18 probation officer. 13:24:06

19 You must contribute to the cost of treatment in an
20 amount to be determined by the probation officer. 13:24:20

21 You must not communicate or otherwise interact with
22 any of the co-conspirators without first obtaining approval
23 from the probation officer.

24 You must cooperate in the collection of DNA as
25 directed by the probation officer. 13:24:38

1 You must notify the Court of any material change in
2 your economic circumstance that might affect your ability to
3 pay restitution, fines or special assessments.

4 You must make restitution in accordance with 18 U.S.C.
5 Sections 2248, 2259, 2264, 2327, 3663, 3663A and 3664. The
6 Court has not at this juncture ordered restitution be paid, but
7 that matter will continue to be pending. 13:24:57

8 You must consent, at the direction of the probation
9 officer, to having installed on your computer, as defined at 18
10 U.S.C. 1030(e)(1), including Internet capable devices at your
11 own expense any hardware or software system to monitor your
12 computer use. 13:25:28

13 Now, Mr. Spear, having been convicted by a jury, you
14 do retain all of your rights of appeal. Now, that is with
15 regard to the jury's verdict and now with regard to the Court's
16 sentencing. However, if you do intend to appeal, you only have
17 14 days in which to notify the Court of your intention to do
18 so, and your counsel can advise you with regard to that. 13:25:53

19 You may resume your seats, and we will take up the
20 issue of release pending appeal upon the completion of the
21 sentence. 13:26:16

22 MR. FEDER: Would you like me to ask this Court right
23 now for the recommendation to the Bureau of Prisons that we
24 discussed earlier?

25 THE COURT: Well, I have reviewed a number of 13:26:30

1 statements that I asked the U.S. Probation Office to look at,
2 that coupled with Mr. Berry's statements, and as I inform every
3 individual that comes before me who is ordered to the Bureau of
4 Prisons custody, I will frankly tell Mr. Spear that I will make
5 a recommendation as to your placement here in Arizona. I will 13:27:00
6 make a recommendation that you be housed in a low level or less
7 than medium, if there is, secure facility; however, it is,
8 under the law, up to the discretion of the Bureau of Prisons to
9 determine, number one, where they have the facility that meets
10 all of your criteria based on the counts of conviction, as well 13:27:30
11 as other considerations. So while I may make the
12 recommendation, it ultimately will be their decision.

13 MR. FEDER: There are several other recommendations we
14 would ask, though. I am sorry.

15 THE COURT: I wanted to, before I forget, Mr. Spear, I 13:27:49
16 want to make sure that, I know that you asked yesterday that a
17 particular letter accompany the judgement and commitment order,
18 and I didn't recall, was that the letter of Dr. Bernstein or
19 somebody else?

20 MR. FEDER: The one that was filed under seal. 13:28:07

21 THE COURT: Yes, Mr. Spear, was there anything
22 further?

23 MR. FEDER: Yes. I am sorry. Mr. Feder, actually.
24 You said Mr. --

25 THE COURT: I'm sorry, Mr. Feder. 13:28:27

1 MR. FEDER: Forget it.

2 THE COURT: Mr. Feder.

3 MR. FEDER: Number one, that you recommend that this
4 is not to be deemed a sex offense in the order, but that's
5 something the government agreed to. 13:28:40

6 THE COURT: Well --

7 MR. RAPP: To be clear, we don't object to it.

8 MR. FEDER: Sorry, they don't object to it. As the
9 Court knows from reading Ms. Purdue's declaration, it would be
10 extremely helpful regarding Mr. Spear's service in the Bureau 13:28:54
11 of Prisons.

12 THE COURT: I hesitate to do so only because I feel
13 that it will call attention on any document to the issue. And
14 if it calls attention to the issue -- but if that's your
15 request -- and the problem becomes, I don't know where these 13:29:18
16 documents go or where they end up during an incarceration
17 period. And perhaps it raises a question in some fellow
18 inmate's mind, they start digging through the papers, I don't
19 know. But if you request it and there's no objection to it, I
20 can put it in the JNC. 13:29:46

21 MR. FEDER: If you would, please.

22 Second, judges are allowed to recommend specific
23 institutions in Arizona. And typically, as the Court knows,
24 the Bureau of Prisons tries to house people as close as
25 possible to their residence. The places in Arizona I would ask 13:30:05

1 the Court to recommend is the prison camp in Phoenix, second in
2 line would be the prison camp in Tucson, and third in line
3 would be the minimum security facility in Safford.

4 THE COURT: I decline to do that. I have already
5 stated that I will make a recommendation that he remain here in 13:30:30
6 Arizona. That's what I will do.

7 MR. FEDER: I think those are the recommendations,
8 Judge.

9 THE COURT: All right. You may be seated.

10 MR. BERRY: Your Honor, if I could, I believe during 13:31:01
11 your explanation of some of the facts of the case you referred
12 to the sale of Backpage as a \$6 million sale on two occasions.
13 We just wanted to correct that record that that was a
14 \$600 million sale.

15 THE COURT: You're correct. I misread my notes. 13:31:40

16 Mr. Brunst, please come forward.

17 Now, Mr. Brunst, the jury has convicted you of Count
18 1, conspiracy to commit Travel Act violations, in violation of
19 Title 18 United States Code Section 371. The jury also
20 convicted you of Count 2, conspiracy to commit money 13:32:29
21 laundering --

22 MR. LINCENBERG: Count 52.

23 THE COURT: Count 2, conspiracy -- I'm sorry, yes, I
24 keep leaving off the five. Count 52, conspiracy to commit
25 money laundering, in violation of Title 18 United States Code 13:32:46

1 Section 1956, and that relates to the money laundering counts
2 of which you were also convicted in Counts 53 through 62
3 charging you with concealment money laundering, in violation of
4 Title 18 United States Code Sections 1956(a) (1) (B) (i).

5 And you were also convicted of the counts listed in 64 13:33:14
6 through 68 involving international promotional money
7 laundering, in violation of Title 18 United States Code
8 Sections 1965(a) (2) (a).

9 Now, have you reviewed the Presentence Investigation
10 Report which includes the sentencing recommendations made in 13:33:42
11 it?

12 MR. BRUNST: Yes, Your Honor.

13 THE COURT: Did you go through the report with your
14 counsel?

15 MR. BRUNST: Yes, Your Honor. 13:33:51

16 THE COURT: Did they answer all of your questions
17 about what is written and recommended in that report?

18 MR. BRUNST: Yes.

19 THE COURT: And are you so far satisfied with the
20 services of your counsel? 13:34:00

21 MR. BRUNST: Yes.

22 THE COURT: Now, having resolved all the objections in
23 your presentence report, and upon the jury's verdicts of guilt,
24 I do now impose sentence on you.

25 As I have for Mr. Spear, I must consider each of the 13:34:18

1 18 U.S.C. 3553(a) sentencing factors. As mentioned, they
2 include the nature and circumstances of your convictions, your
3 background and character, if you're in need of a sentence to
4 deter you from future criminal conduct, if you are in need of a
5 sentence for rehabilitation purposes, if there's a sentence to 13:34:42
6 address whether you present a danger to others, if there's a
7 sentence necessary to promote respect for the law, and what is
8 a sufficient but not greater than necessary sentence to achieve
9 all of these factors.

10 Here I know that you're 72 years old and that you have 13:35:06
11 achieved a bachelor's degree as your highest level of
12 education.

13 Though you do not have any dependents, you obviously
14 have a very strong and large family who are present here today.
15 The information also indicates that you retired from Cereus 13:35:32
16 Properties as the Chief Financial Officer, and that you were
17 receiving a salary before you left at approximately \$500,000
18 per year.

19 With regard to your health, you don't have any real
20 urgent health issues, and I do know that you have a routine 13:35:57
21 checkup related to a prior issue of health.

22 I have read that you have no substance abuse issues.
23 The Court finds that you do not need a sentence for
24 rehabilitation purposes.

25 Other factors that I've considered are that it 13:36:19

1 appears, at least at present time, that you have a net worth of
2 over \$4 million. Now, I also find that you do not present a
3 danger to others.

4 Now, as to the nature and circumstances of your
5 conviction, with regard to the conspiracy to commit Travel Act 13:36:48
6 violations, you were the Chief Financial Officer of Village
7 Voice Media. You also supervised Mr. Ferrer, according to his
8 testimony. You also approved staffing and other budget issues
9 to execute the content aggregation strategy in the early years
10 of Backpage. There was evidence of you on an e-mail discussing 13:37:26
11 the plan to, quote, seed the site, the female escorts category,
12 with 200 independent escorts.

13 You were also aware of The Erotic Review relationship
14 and the importance of that relationship and the traffic between
15 the The Erotic Review and Backpage. There was ample testimony 13:38:00
16 about that.

17 With regard to the content moderation, you did approve
18 budget increases that were needed to bring on content
19 moderators. You reviewed the comparison and growth
20 presentation toward the end of 2012 that showed huge profit 13:38:22
21 growth in adult sections compared to the other sections on
22 Backpage.com. And this, Mr. Ferrer testified, attributed to
23 the Backpage's moderation strategy.

24 Contrary to what I heard yesterday from your counsel,
25 I find it very difficult to believe that you were in some 13:38:55

1 bubble as a CFO approving these decisions because you were on
2 notice of the allegations toward Backpage.com. You approved
3 the budget to hire staff to respond to the subpoenas from law
4 enforcement, after all. You were a participant in trying to
5 stop the rebroadcast of the Amber Lyon story.

13:39:30

6 You participated in the conspiracy by helping
7 structure Backpage to maintain its longevity and to maximize
8 profits from the sale of illegal prostitution ads.

9 As to Count 52, the conspiracy to commit money
10 laundering, again, here, when those financial institutions
11 started shutting down their business with Backpage because of
12 its reputation, you did -- you opened up a holding company with
13 those innocuous names like Classified Solutions, Payment
14 Solutions, general sounding business company names that did not
15 refer to that, did not reference Backpage.com. And Posting
16 Solutions, it was testified, was another shell company not
17 unlike Website Technologies, and you created Website
18 Technologies as a shell company for the purpose of opening bank
19 accounts under a name that was not affiliated with
20 Backpage.com.

13:40:03

13:40:36

13:41:06

21 There was testimony and evidence produced at trial,
22 and the testimony was of Mr. Ferrer, and he said: We need a
23 name other than Backpage, so Mr. Brunst asked me for names and
24 I suggested Website Technologies, and that's the name we ended
25 up using. And the testimony was that you set up Website

13:41:36

1 Technologies to handle the payroll, the 401(k) and to provide
2 for leases. And the whole idea here was to ensure that its
3 reputation was protected so that it would not show to be
4 affiliated with Backpage.

5 Now, when U.S. banks started giving notice in about 13:42:17
6 April of 2014 that they were starting to drop Backpage because
7 of all of these notices and the reputational risk, you informed
8 Mr. Spear and Mr. Ferrer that you would be moving all of your
9 banking under Website Technologies at BMO. You created the
10 PowerPoint presentation for potential buyers before you-all 13:42:48
11 decided to sell Backpage to Mr. Ferrer.

12 The PowerPoint included statements that stated, quote,
13 "Maintaining a vibrant general purpose classified site
14 strengthens Backpage's defensible market position in the adult
15 category, creates mainstream environment for site 13:43:17
16 participation, and allows," quote, "plausible deniability for
17 exposure." And there was indeed a discussion amongst you-all
18 to not share that information of prostitution ad marketing
19 activities with any potential buyer.

20 You were also deeply involved in that \$600 million 13:43:45
21 sale of Backpage in 2015 to Mr. Ferrer, and there was testimony
22 it was done to distance you and the other owners from
23 Backpage's business of selling prostitution ads.

24 And I mention there were those two loan agreements
25 that you helped to structure. And some of that money, again, 13:44:14

1 flowing through Cereus Properties and these other shell
2 accounts, were owned by Mr. Lacey, Mr. Spear and you, and all
3 of the money that Cereus Properties account collected the
4 interest and the debt payments for that 600 million dollar
5 loan, and Mr. Ferrer testified indeed that the source of the 13:44:47
6 money that went to Cereus Properties was the prostitution ads
7 posted on Backpage.

8 You stayed involved with the -- with Mr. Ferrer and
9 Backpage following the sale. There was evidence that
10 Mr. Ferrer or the CFO of Backpage contacted you, and the 13:45:19
11 testimony was at a minimum a few times a week after July 2015
12 going forward, and that you were involved in the financial
13 problems that the company was having, and you wanted to
14 understand the revenue that was coming in and what the options
15 were for banking, and how to bring in revenues from other 13:45:49
16 credit card processors.

17 You helped to find alternative methods for receiving
18 money from posters on Backpage, including receiving funds from
19 cryptocurrency. There is evidence that shows back in
20 January 2015 the revenues from cryptocurrency amounted to over 13:46:19
21 \$35 million.

22 With regard to the transactional concealment money
23 laundering counts, Counts 53 through 62, each of the transfers
24 were made from Website Technologies at Branch Banking and Trust
25 to the bank account held by Cereus Properties. 13:46:56

1 And the requirements under the Counts 53 through 62
2 were only that you knew the proceeds derived from unlawful
3 activity, and the proceeds in fact derived from unlawful
4 activity, and clearly the jury found that the proceeds derived
5 from unlawful activity.

13:47:35

6 You approved the budgeting. You helped structure the
7 ways the money left Backpage to avoid its detection. You were
8 also a part owner of it. In fact, there was a government
9 witness, along with Mr. Ferrer, that testified that Cereus
10 Properties collected the interest and debt payments from the
11 \$600 million loan from that sale, and that indeed you and
12 Mr. Spear and others were the owners of Cereus Properties. At
13 bottom, the source of the money paid to Cereus Properties from
14 Website Technology were derived from the prostitution ads on
15 Backpage.

13:48:12

13:48:48

16 As to the international promotional money laundering
17 under subsection 1956(a)(2)(A), here the jury was tasked with
18 determining whether there was an intent to promote the carrying
19 on of the specified unlawful activity, and they so found
20 because at trial it was also established that Ad Tech BV made
21 these transfers from the Netherlands bank account to Cereus
22 Properties in Arizona, and that those transfers totalled
23 approximately \$11.3 million.

13:49:14

24 And Ad Tech BV received revenue from Backpage
25 following the April 2015 sale of Backpage to Ferrer.

13:49:43

1 So the transfers that show Ad Tech BV sending funds to
2 Cereus Property funds that were almost immediately then
3 distributed to you and others supports the jury's
4 determination.

5 Now, I do find, Mr. Brunst, that as to deterrence, I 13:50:16
6 think, as to you, Mr. Brunst, your statement I found to be
7 sincere. And I do believe facing this day you have some
8 remorse. But I have to consider the totality of these
9 circumstances that led to the jury's determination. And I want
10 to say that the evidence and the jury's determination is wholly 13:50:58
11 contradictory to your Sentencing Memorandum or your counsel's
12 statement yesterday. I know they are advocating in your best
13 interest. All of the evidence shows that you knew and
14 participated in helping Backpage.com continue its operation.

15 You were aware of the allegations that minors were 13:51:28
16 being advertised for sex on that page. You were aware of
17 Mr. Larkin and Lacey's appearances before the NGOs, NCMEC, the
18 Auburn Theological Seminary, the U.S. Congress, and you knew
19 about the Amber Lyon expose', yet you and the others did
20 nothing to stop it. You did everything to protect it. You 13:52:10
21 found creative ways to enable it to survive and continue its
22 operation because it was what was lining your pockets and those
23 of your codefendants.

24 The jury could not have found that you were shielded
25 from all of this activity, and I don't find that. It's 13:52:42

1 implausible the number of times that you were on those e-mails,
2 the number of times you approved and developed financing, you
3 were deeply involved.

4 I have considered the entirety of the record, I have
5 considered counsel's statements, Mr. Brunst's statement, I have 13:53:16
6 also considered the multiple victim impact statements and the
7 oral statements made here yesterday, is there any legal cause
8 as to why sentence should not now be imposed?

9 MR. LINCENBERG: No, Your Honor.

10 MR. RAPP: Not that the United States knows of. 13:53:38

11 THE COURT: Pursuant to the Sentencing Reform Act of
12 1984, it is the judgement of the Court that John Brunst is
13 hereby committed to the Bureau of Prisons for a term of
14 120 months. This consists of 60 months on Count 1, the
15 conspiracy to commit Travel Act offenses; 60 months on Count 13:53:56
16 52, the conspiracy to commit money laundering offenses;
17 60 months each on Count 53 through 62, concealment money
18 laundering; 60 months each on Counts 24 through 68,
19 international promotional money laundering, and the sentences
20 for Counts 52, 53 through 62, and 64 through 68 are to run 13:54:26
21 concurrently, but they shall run consecutively to Count 1.

22 You shall pay a special assessment fee of \$1,700. You
23 shall pay a fine of \$50,000, which in total you will pay a
24 total fine of \$51,700 in criminal monetary penalties, and your
25 payment of criminal monetary penalties is due during 13:55:04

1 imprisonment at a rate of not less than \$25 per quarter, and
2 payment shall be made through the Bureau of Prisons' Inmate
3 Financial Responsibility Program, and the Court does waive the
4 imposition of interest and penalties on any unpaid balance.

5 On release from custody, you shall be placed on 13:55:22
6 supervised release for 36 months, and that term consists of
7 36 months on Counts 1, 52 through 62, 64 through 68, and all
8 such terms shall run concurrently.

9 While on supervised release, you shall comply with the
10 mandatory and standard conditions of supervision adopted by 13:55:48
11 this court in General Order 17-18.

12 And of particular importance, you shall not commit
13 another federal, state or local crime during the term of
14 supervision. The mandatory drug testing provision is
15 suspended. 13:56:06

16 Within 72 hours of being released from custody, you
17 shall report in person to the probation office in the district
18 in which you are released, and you shall comply with the
19 following conditions.

20 Mr. Lincenberg, have you reviewed the mandatory and 13:56:21
21 standard conditions of supervision with your client?

22 MR. LINCENBERG: Yes, we have, Your Honor. There was
23 the one change that the Court indicated with regard to work.

24 THE COURT: Do you waive reading?

25 MR. LINCENBERG: Yes. 13:56:37

1 THE COURT: Mr. Brunst, do you agree to waive reading?

2 MR. BRUNST: Yes.

3 THE COURT: You must follow the -- in addition to the
4 mandatory and standard conditions of supervision, you must
5 comply with the following special conditions: You must
6 cooperate in the collection of DNA as directed by the probation
7 officer. 13:56:50

8 You must submit your computer as defined in 18 U.S.C.
9 1030(e)(1) or other electronic communications or data storage
10 devices or media to a search, you must warn any other people
11 who use these computers or devices that are capable of
12 accessing the Internet that the device may be subject to search
13 under this condition. 13:57:07

14 Failure to submit to a search may be grounds for
15 revoking your release, and a probation officer may conduct a
16 search pursuant to this condition only when reasonable
17 suspicion exists that there is a violation of a condition of
18 supervision and that the computer or device contains evidence
19 of this violation. 13:57:24

20 You must consent to and cooperate with the seizure and
21 removal of any hardware and/or data storage media for further
22 analysis by law enforcement or the probation officer with
23 reasonable suspicion concerning a violation of a condition of
24 supervision or unlawful conduct. Any search will be conducted
25 at a reasonable time and in a reasonable manner. 13:58:02

1 You must submit your person, property, house,
2 residence, vehicle, papers or office to a search conducted by a
3 probation officer. Your failure to submit to a search may be
4 grounds for revoking your release.

5 You must warn any other occupant that the premises may 13:58:19
6 be subject to search under this condition.

7 You must provide the probation officer with access to
8 any requested financial information, and authorize the release
9 of any financial information.

10 The probation office may share financial information 13:58:35
11 with the U.S. Attorney's Office.

12 You are prohibited from making major purchases over
13 \$500, incurring new financial obligations, or entering into any
14 financial contracts without the prior approval of the probation
15 officer. 13:58:56

16 You must notify the Court of any material change in
17 your economic circumstances that might affect your ability to
18 pay restitution, fines or special assessment.

19 You must make restitution in accordance with Title 18
20 United States Code Sections 2248, 2259, 2264, 2327, 3663, 3663A 13:59:10
21 and 3664. And as indicated previously, a restitution hearing
22 will be held to determine what amount is owed.

23 You must not communicate or otherwise interact with
24 any of the co-conspirators without first obtaining permission
25 of the U.S. Probation Office. 13:59:43

1 And the Court, as indicated for Mr. Spear with regard
2 to the standard conditions, will remove standard condition
3 number seven requiring your employment.

4 Now, Mr. Brunst, here too, because you were convicted
5 by a jury, you do keep all of your appeal rights both with
6 regard to the jury's convictions and now with regard to the
7 Court's imposition of sentence. However, if you do intend to
8 appeal either of those two matters, you only have 14 days in
9 which to notify the Court of your intention to do so, and your
10 counsel can advise you with regard to that.

11 As I have done with Mr. Spear, unless you seek
12 otherwise, I will make a recommendation that he be housed in a
13 facility here in Arizona. I will also make the same
14 recommendation that he be housed in a facility that is not
15 deemed higher than medium security.

16 Were there any other particular requests?

17 MR. LINCENBERG: Your Honor, can I have just a moment?
18 Your Honor, I believe I just conferred with Mr. Feder, I
19 believe the Court's recommendation was not deemed higher than
20 minimum; in other words, below medium.

21 THE COURT: I don't recall saying that. I thought I
22 said no higher than medium. Well, nevertheless, that's what my
23 intention is, and I see Mr. Berry nodding in agreement.

24 MR. BERRY: My recollection of what you said is
25 nothing higher than medium security designation at BOP.

1 MR. LINCENBERG: Mr. Feder and I heard it differently.
2 The Court -- I guess I would ask the Court for a recommendation
3 of a prison camp here in Arizona. Sounds like the Court would
4 decline that, but at least no higher than minimum, Your Honor.

5 THE COURT: Well, I will maintain the same 14:02:07
6 recommendation as I did for Mr. Spear, not higher than medium.

7 MR. LINCENBERG: Okay. Second we would request the
8 same language that Mr. Feder requested about this not being
9 declared a sex offense.

10 THE COURT: I would suggest, because you're making 14:02:26
11 that specific recommendation, that you-all gather together and
12 come up with whatever that language is that you wish me to
13 include in the judgement and commitment order.

14 MR. LINCENBERG: Very well.

15 And then the verdict is -- we would request an order 14:02:40
16 that the Bureau of Prisons accept Mr. Brunst's medication, and
17 I can state for the record what his medication is.

18 THE COURT: I am not going to make that recommendation
19 in my judgement and commitment order. If you, similar to
20 Mr. Feder, can provide a letter from a physician as to required 14:03:01
21 medication, I suggest you get that to the Court right away, and
22 I can attach that to the judgement and commitment order.

23 MR. LINCENBERG: Okay.

24 THE COURT: Is there anything further?

25 MR. LINCENBERG: No, Your Honor. Thank you. 14:03:18

1 THE COURT: You may be seated.

2 Mr. Lacey, will you come forward with your counsel.

3 Mr. Lacey, the jury returned a guilty verdict as to
4 Count 100, which alleges a violation of international
5 concealment money laundering, in violation of Title 18 United
6 States Code Sections 1956(a)(2)(b)(1).

14:04:22

7 It is now my responsibility to impose sentence upon
8 you as to that jury's verdict. Have you reviewed the
9 Presentence Investigation Report which includes the sentencing
10 recommendations that are made in it?

14:04:47

11 MR. LACEY: I have.

12 THE COURT: Did you go through that report with your
13 counsel?

14 MR. LACEY: I did.

15 THE COURT: Did they answer all of your questions
16 about what is written and recommended in that report?

14:04:55

17 MR. LACEY: Yes, Your Honor.

18 THE COURT: Are you so far satisfied with the services
19 of your counsel?

20 MR. LACEY: Enormously.

14:05:04

21 THE COURT: Now, as I have done previously, I have
22 also considered the individual 3553(a) factors as to you,
23 Mr. Lacey. I have considered the nature and circumstances of
24 the offense of which you are convicted. I have also considered
25 your background and character. I have considered whether or

14:05:32

1 not you're in need of a sentence for rehabilitation purposes,
2 whether you present as a danger to others, if there's a
3 sentence that's necessary for protection and respect for the
4 law.

5 And with regard to your personal circumstances, I do 14:06:00
6 know that you're 76 years of age. You do also have a number of
7 health-related issues that Mr. Cambria discussed yesterday, as
8 well as are written in paragraphs in the presentence report,
9 but you otherwise appear to be a healthy individual.

10 I read where you require swimming, bike riding to 14:06:28
11 manage your weight in order to address some of your health
12 issues.

13 Though, you have in the last five years indicated
14 using marijuana on occasion, and you do have a prior driving
15 under the influence incident, I don't find the necessity to 14:06:49
16 impose a sentence related to rehabilitation for any sort of
17 substance abuse issues.

18 With regard to your employment status, you at least
19 until this morning I had an idea that you were fully retired,
20 but it sounds as though you are still engaged in some form of 14:07:15
21 journalism, podcast, if that can be called journalism. I don't
22 know what journalism is anymore. And your presentence report
23 and indeed the multiple letters that I've reviewed that have
24 been written on your behalf outline the additional background
25 of your employment and the various roles that you played not 14:07:43

1 only with Village Voice, but also New Times here. So in some
2 respects I guess I consider you semiretired.

3 I don't find that you present as a danger to others.
4 That's given your personal circumstance, in particular your age
5 and your health concerns. 14:08:11

6 As to the nature of conviction, and here, Mr. Lacey,
7 you have vigorous advocates on your side and they have ably
8 argued on your behalf, but this count of conviction,
9 international concealment, money laundering, prohibits the
10 transporting of funds internationally that are intended to 14:08:44
11 conceal the source of illegal proceeds. And here, the jury was
12 instructed to go back and look at the source of funds, and you
13 have sat through the trial and you sat here in my pronouncement
14 of sentence to your colleagues, Mr. Brunst and Mr. Spear. And
15 the jury found, and I agree with the determination, that the 14:09:19
16 funds derived from Backpage.com, which was launched back in
17 2004.

18 You owned Backpage, whether it was through Village
19 Voice or otherwise, you were a bona fide owner, along with
20 Mr. Larkin, Mr. Spear, Mr. Brunst, from its inception up 14:09:45
21 through the sale in 2015. You were the Chief Editorial Officer
22 in Village Voice Media, which was Backpage's parent company,
23 and you knew that Backpage published ads for illegal
24 prostitution. Indeed, you were shown Backpage ads from the
25 adult escort section that contained links to TER, and those 14:10:23

1 were presented to you, as indicated this morning by
2 government's counsel, in meetings with the National Center for
3 Missing and Exploited Children.

4 The testimony reflected that there was an exchange
5 between you and Mr. Spear where you asked whether there was 14:10:54
6 evidence of child trafficking on the site, and he essentially
7 replied, not in a direct way, but he essentially said, "We have
8 had subpoenas that deal with this exact issue. We get tons of
9 subpoenas that we comply with on a daily basis," meaning, yes,
10 we have been accused of having minors posted for sex ads on 14:11:29
11 Backpage. You had notice.

12 You wrote articles about Backpage, its business,
13 practices. You wrote, quote, "The oldest profession in the
14 world with transparency." That is what Backpage is providing.
15 And in that you also made a public statement that you believed 14:12:04
16 in legalized prostitution. I want to, again, because it
17 relates specifically to you, that you, Mr. Spear and Brunst,
18 the three of you, you tried to stop the redistribution of that
19 Amber Lyon story on CNN. And that story, again, specifically
20 spoke about a 12-year-old girl who was sold for sex on 14:12:35
21 Backpage. You watched it and you discussed it as early as
22 2011.

23 And you had knowledge that the majority of Backpage's
24 revenue came from the sale of these sex-for-money ads. Again,
25 the revenue just from 2014 through 2015 was around \$160 14:13:06

1 million, and that sale to Mr. Ferrer after there were too many
2 inquiries, too many people accusing you of hosting this
3 platform, you finally sold it again for \$600 million to
4 Mr. Ferrer. That was apparently your collective idea of the
5 value of Backpage, \$600 million.

14:13:42

6 With regard to the funds, I talked about the
7 structures of different accounts Mr. Brunst had a hand in, but
8 here on receiving your share of the loan payments that went to
9 Cereus Properties, you put your funds into five two-year
10 annuity trusts that you controlled. We've heard and I listened 14:14:19
11 to the testimony of Mr. Becker reluctantly here, and you asked
12 Mr. Becker in 2016 about whether or not he knew an attorney who
13 had expertise in offshore. And the letter stated, quote, "To
14 revisit for just a moment, I'm not interested in any tax
15 avoidance. I just want to put some assets in place where 14:14:54
16 litigious parties, including government parties, cannot access
17 my accounts." That supports the jury's verdict.

18 Sometime in around November of 2016 you met with
19 witness Lin Howard one time. I recall this testimony --
20 testimony vividly, because I never had a witness so short on 14:15:23
21 the witness stand with such powerful testimony. And in her
22 short testimony, she said she only met you the one time and
23 that meeting was extraordinarily uncomfortable for her because
24 you made it very clear that you wanted to move your assets
25 offshore to protect them from government seizure. 14:15:52

1 Now, the evidence showed that there were these five
2 wire transfers made on January the 29th of 2016, each in the
3 amount of \$3.3 million from your five annuity trust accounts at
4 Arizona Bank & Trust to an IOLTA account held by your
5 attorney's firm. And then on January 3rd of 2017, through your 14:16:23
6 counsel, you transferred -- not these counsel -- you
7 transferred \$16.5 million from the IOLTA account to a Primus
8 trust account, Primus Trust Company in Hungary for the benefit
9 of you, and that forms the basis of Count 1.

10 The jury needed to find that this transfer was 14:16:56
11 designed in whole or in part, in whole or in part to conceal.
12 And the other element of the statute is that it had to be
13 illegal proceeds. I've already run through the illegality of
14 the proceeds. All of those Travel Act violations that your
15 colleagues were convicted of were in violation of a number of 14:17:37
16 state prostitution laws, including Arizona.

17 And we've heard ample evidence about your attitudes
18 toward prostitution. And to be fair, during the jury selection
19 process there were several individuals that shared your view.
20 But what about the minors? 14:18:16

21 I -- Mr. Cambria has been probably one of the most
22 eloquent oratory lawyers that have come before me. And as I
23 mentioned, he has ably, more than ably, represented you, but I
24 have to take disagreement with him in his presentment to me
25 because, as argued in your Sentencing Memorandum, I don't agree 14:18:52

1 that you have been punished because you were only recently
2 convicted. Maybe the stress of being indicted, I certainly
3 think that would wear on anybody, and the seizure of your
4 assets contributes to your belief that you've been punished.

5 I don't think Ms. Ortiz, Ms. Svengard and her mother, 14:19:28
6 I don't think Ms. Ambrose or Ms. Figueroa or the others think
7 that there has been a reckoning or a punishment, and I have to
8 take into consideration their views because of the link, the
9 money.

10 I've read all of the letters. There were mounds of 14:20:08
11 letters. I have read through the letters of the people who you
12 mentored, who you tutored. There was one letter from a family
13 member, and I know it has taken its toll on them, it stated,
14 "I'd like to acknowledge just how truly devastating this whole
15 process has been for multiple families, not just our own, and 14:20:40
16 for some families this devastation has become irreversible."
17 And I do hope that she was referring to those individuals that
18 were posted on Backpage not of their own free will.

19 There's many people who wrote about your goodwill and
20 there are individuals who talked about how you came to their 14:21:12
21 aid when they needed someone. You donated money, as
22 Mr. Cambria indicated, to multiple causes. But I find somewhat
23 of an irony in some of those letters, unfortunately from your
24 own kin and friends, one of which states: Mr. Lacey wrote
25 stories about injustice inflicted on people no one knew about 14:21:46

1 until he told us about them in the papers. His story, I think,
2 made a difference. Because of Mr. Lacey's work, it became
3 harder for those in power to afflict the powerless. Harder for
4 those in power to afflict the powerless.

5 The powerless were those many, many individuals who
6 were posted on Backpage.com. 14:22:33

7 Mr. Lacey, to be sure, no one can take away your
8 legacy of journalism in the early days Village Voice, the New
9 Times, the fact that you hired, mentored, tutored multiple
10 writers, journalists. And I will tell you, you are fortunate 14:23:05
11 to have continuous, as Mr. Brunst is, family support. It is
12 true on a weekly basis I sentence individuals who are convicted
13 of homicides, of sex offenses, and they are often accompanied
14 by family. It is what we expect, unconditional love, and it is
15 something that you should be very happy to have at this 14:23:41
16 juncture.

17 They attest to your character, but here during this
18 process, during this trial, I think the other part of Mr. Lacey
19 has to be considered because one of those who thought so highly
20 of you, who you also mentored and tutored, appeared in this 14:24:10
21 courthouse and they testified, again, uncomfortably. They
22 didn't want to be here. That gentleman. And what stood out
23 with me is this unguarded moment of truth that he had when he
24 heard news that Mr. Ferrer had agreed to cooperate with the
25 government. He sent an e-mail, and he acknowledged sending 14:24:49

1 this e-mail in open court, and it says, "After finding out that
2 Backpage insider flips on Lacey and Larkin, bad news for this
3 duo who once ran a great newspaper chain that broke countless
4 stories. They traded that legacy in for a chase for gold
5 derived from prostitution." 14:25:23

6 It's concerning to me when I heard the testimony that
7 around 2016, after the sale had gone through, this same
8 individual and others, multiple others, I don't know how many,
9 then suddenly began receiving checks from you, \$5,000. And
10 simply put, these individuals had been so far removed from 14:25:57
11 working for New Times for years and suddenly they were
12 receiving thank you checks for a job well done.

13 The Court finds it difficult, Mr. Lacey, to impose a
14 sentence for deterrence. And while it is true that a person is
15 entitled to maintain their innocence, I think that you have 14:26:21
16 shown an inability to at least acknowledge what this is all
17 about. And had there perhaps been an instance of
18 acknowledgment of what Backpage was contributing to, perhaps we
19 wouldn't be here.

20 And what I mean by that, is that you too were on 14:27:00
21 notice. There was a draft letter that was introduced where you
22 write to the mayor of Seattle, Mayor McGinn, who became aware,
23 and you write: That he became aware of Backpage.com because of
24 this Twitter campaign this celebrity had developed.

25 And you write here: The mayor has since made the odd 14:27:43

1 claim that Backpage is, quote, accelerant for underage
2 prostitution. He has pulled the City's advertising from
3 Seattle Weekly, and he has said he will hold these funds
4 hostage unless Backpage, quote, steps up to the plate, unquote,
5 and works harder to prevent people from posting ads that might
6 involve underage prostitution. 14:28:07

7 You were put on notice. You were put on notice as
8 early as 2010 when multiple state Attorney Generals wrote to
9 you, multiple state Attorney Generals. And in that letter they
10 say, "We recognize that Backpage may lose the considerable 14:28:39
11 revenue generated by the adult services ads. Still, no amount
12 of money can justify the scourge of illegal prostitution and
13 the misery of the women and children who will continue to be
14 victimized in the marketplace provided by Backpage. We
15 sincerely hope Backpage, like Craigslist, will finally hear the 14:29:03
16 voices of the victims, women and children, who plead with it to
17 make this important change."

18 The point here, Mr. Lacey, is you did nothing in the
19 face of all of this. You held fast. You didn't do a thing.
20 There was not a week that you called a meeting of everyone and 14:29:40
21 said, "Hey, let's shut down for a week. Figure out what's
22 going on here." You didn't do it.

23 And so I don't think there's a sentence that can be
24 imposed to deter you with regard to your bona fide held belief
25 that what you were doing was not illegal, but the jury's 14:30:17

1 conclusion is otherwise.

2 And I have considered, then, all of these sentencing
3 factors. Again, I considered the statements that were made
4 here yesterday. Interestingly, I think Ms. Svengard has been
5 trying to find a way to address these illegalities just as long 14:30:57
6 as you've been in it. I have considered all of the factors in
7 18 U.S.C. 3553(a), is there any legal cause as to why sentence
8 shall not be imposed?

9 MR. RAPP: Not that the United States knows.

10 MR. CAMBRIA: No, Your Honor. 14:31:25

11 THE COURT: Pursuant to the Sentencing Reform Act of
12 1984, it is the judgement of the Court that Michael Lacey is
13 hereby committed to the Bureau of Prisons for a term of
14 60 months. You shall pay a special assessment fee of \$100
15 which is due immediately. And the Court finds that you -- the 14:31:40
16 Court orders you pay a fine of \$3 million.

17 Your payment of criminal monetary penalties is due
18 during imprisonment at a rate of not less than \$25 per quarter,
19 and the Court does waive the imposition of interest and
20 penalties on any unpaid balance. 14:32:08

21 Now, on release from custody, you shall be placed on
22 supervised release for 36 months. And while on supervised
23 release, you shall comply with the mandatory and standard
24 conditions of supervision adopted by this court in General
25 Order 17-18. 14:32:25

1 And of particular importance, you shall not commit
2 another federal, state or local crime during the term of
3 supervision.

4 Within 72 hours of being released from custody of the
5 Bureau of Prisons, you shall report in person to the U.S.
6 Probation Office in the district in which you will be released.

14:32:39

7 Mr. Cambria, have you reviewed the mandatory and
8 standard conditions of supervision with your client?

9 MR. CAMBRIA: Yes. Ms. Paris did, Your Honor.

10 THE COURT: Do you waive reading?

14:32:57

11 MR. CAMBRIA: I do.

12 THE COURT: In addition to the mandatory and standard
13 conditions of supervision, with the exception of standard
14 condition number seven, you shall comply with the following
15 special condition: You must cooperate in the collection of DNA
16 as directed by your probation officer.

14:33:11

17 You must submit your person, property, house,
18 residence, vehicle, papers or office to a search conducted by a
19 probation officer. Your failure to submit to a search may be
20 grounds for revoking your release, and you must warn any other
21 occupant that the premises may be subject to search under this
22 condition.

14:33:28

23 You must submit your computer as defined in 18 U.S.C.
24 1030(e)(1), or other electronic communication or data storage
25 device or media to a search.

14:33:44

1 You must warn any other people who use these computers
2 or devices capable of accessing the Internet that the device
3 may be subject to search under this condition. Your failure to
4 submit to a search may be grounds for revoking your release.

5 A probation officer may conduct a search pursuant to
6 this condition only when reasonable suspicion exists and that
7 there is a violation of a condition of supervision, and that
8 the computer or device contains evidence of this violation.

9 You must consent to and cooperate with the seizure and
10 removal of any hardware and/or data storage media for further
11 analysis by law enforcement or the probation officer with
12 reasonable suspicion concerning a violation of a condition of
13 supervision or unlawful conduct. Any search will be conducted
14 in a reasonable time and in a reasonable manner.

15 You must provide the probation officer with access to
16 any requested financial information and authorize the release
17 of any financial information. The probation officer may share
18 financial information with the U.S. Attorney's Office.

19 You are prohibited from making major purchases,
20 incurring new financial obligations, or entering into any
21 financial contracts over \$1,000 without the prior approval of
22 the probation officer.

23 You must notify the Court of any material change in
24 your economic circumstances that might affect your ability to
25 pay restitution, fines or special assessment.

1 You must not communicate or otherwise interact with
2 any of the indicted codefendants and co-conspirators without
3 first obtaining the permission of the probation office.

4 I have withheld imposing the special condition that
5 Mr. Lacey make restitution. I want to research that issue
6 further, and I will do that and make a final determination at
7 the, well, before any restitution hearing takes place. 14:35:49

8 PROBATION OFFICER: Your Honor, I apologize for
9 interrupting. Rochelle Collins with probation. Because the
10 sentence imposed is outside the guideline range, I just want to 14:36:09
11 make sure I correctly document the factors used to support that
12 sentence in the SOR, could you please restate them for the
13 record?

14 THE COURT: Want me to reiterate those? It's with
15 regard to his lack of deterrence. 14:36:46

16 Well, I think the observation that there is no
17 deterrence, and because of the gravity of harm related to the
18 proceeds, how the proceeds were derived from Backpage, the
19 nature and circumstances of the origination of the fees; in
20 particular, the knowledge Mr. Lacey had, the repeated and years 14:37:17
21 long knowledge he had as to the allegations that minors were
22 being offered on those advertisements, are egregious so as to
23 warrant an upward variance.

24 All right. Well, Mr. Lacey, because you were
25 convicted by a jury, you do retain all of your rights of appeal 14:37:49

1 both with regard to the jury's conviction and now with regard
2 to my imposition of sentence. If you do intend to appeal
3 either of those two matters, you only have 14 days in which to
4 notify the Court of your intention to do so, and Mr. Cambria
5 can advise you further as to that.

14:38:10

6 With regard to the recommendations to the Bureau of
7 Prisons, is it going to be the same as for Mr. Brunst and
8 Mr. Spear.

9 MR. CAMBRIA: Yes, Your Honor, it was, but they
10 recommend Terminal Island, Lompoc or Safford.

14:38:33

11 THE COURT: Well, I am not going to, as I did not do
12 for Mr. Spear or Brunst, I am not going to make a
13 recommendation to a specific facility. I will only make a
14 recommendation that he be housed in something below a medium
15 security facility.

14:38:59

16 MR. CAMBRIA: Fine, Your Honor. One other thing,
17 though, with regard -- do you want to take it? She knows more
18 than I do about that in Arizona.

19 MS. PARIS: We would ask for the same designation. We
20 would like to confer, as you mentioned earlier, counsel to come
21 up with that sentence about him not being designated a sex
22 offense here.

14:39:11

23 THE COURT: If that is your request, if you come up
24 with some agreed upon language and provide it to me by the end
25 of today, I will insert it into the judgement and commitment

14:39:26

1 order.

2 MS. PARIS: Thank you, Your Honor. The next issue,
3 and this is very minor, you did mention at one point in time
4 that this is Count 1, and it's Count 100. I wanted to clarify
5 it for the record. 14:39:41

6 Finally, it's our understanding that the financial
7 settlement in the civil forfeiture action in the Central
8 District of California, the government agreed not to seek fines
9 either here or in the retrial of Mr. Lacey, and in probation
10 assessment they indicated that he did not have the funds for 14:39:57
11 fines. So we just wanted to have an understanding if that had
12 been changed in the PSR or --

13 THE COURT: It's my consideration, and I guess I
14 should have made it very clear on the record, that there is a
15 hierarchy of how funds get distributed generally starting with 14:40:17
16 restitution if it's found that an individual is owing
17 restitution, special assessment, then fines. This particular
18 case against Mr. Lacey, as I did in terms of identifying a lack
19 of deterrence, and I should add promoting respect for the law,
20 Mr. Lacey has evidenced that his actions are also driven by 14:40:57
21 what is in his wallet, and so the imposition of the fine is
22 structured, in my view, as a punitive measure.

23 There have been years worth of investigations into
24 where all of this hundreds of millions of dollars annually have
25 gone, and I want to ensure that he does not have the benefit of 14:41:32

1 the illegally-gotten gains. That is the reason for my
2 imposition of that fine. Whatever agreement he has with the
3 government will continue to stand. This is, and you can make a
4 motion later on, to show he doesn't have the resources, and I
5 can always revisit it. So that is -- that was my intent. It
6 was not an error, and those are the reasons for it.

14:42:03

7 MS. PARIS: Is Your Honor amenable to hearing a
8 request from us to have that fund or have that fine be paid out
9 of the funds that have been forfeited?

10 THE COURT: I am not. You can ask the government, but
11 it's my imposition of fines.

14:42:25

12 MS. PARIS: Thank you, Your Honor.

13 MR. RAPP: Judge, can I interject for a moment? Can I
14 have just a minute with the probation officer? Can we hit
15 pause for a minute, 'cause I think she's asking you something
16 that, I think you're talking by each other, and I would just
17 like to talk to her for a second.

14:42:43

18 THE COURT: Well, let's take a 15-minute recess. I
19 will permit you to do so.

20 (Recess was taken at 2:43 p.m.)

14:44:32

21 (Proceedings reconvened at 3:00 p.m.)

22 THE COURT: Please be seated. We are back on the
23 record. The record will reflect the presence of counsel, the
24 defendants. Let me just make a couple of clarifying remarks.

25 I did not impose the government's requested sentence as to

15:00:36

1 Mr. Spear, Brunst, and the reason for that is, as the
2 government knows, there would be the potential for unwarranted
3 disparity in terms of the multiple money laundering
4 convictions. Though I did not consult with the sentencing
5 information that was provided, I do find it useful in making 15:01:18
6 those determinations and necessarily my determination that they
7 are not a danger; that there is no rehabilitation necessary.
8 And considering the statutory term of the conspiracy to commit
9 Travel Act, and the maximum statutory term for the individual
10 Travel Act offenses, I did find a downward variance is 15:01:48
11 necessary.

12 Likewise with Mr. Lacey, I misspoke. I imposed a
13 substantial downward variance. And in my mind, that was
14 warranted because he is not convicted of a Travel Act offense
15 or a conspiracy to commit Travel Act. And so that is the 15:02:08
16 reason for my imposition of sentence that was significantly a
17 downward variance as to each defendant, in particular
18 Mr. Lacey, because he's not convicted of those Counts 1 through
19 18.

20 I see Mr. Lacey's counsel standing present, is there 15:02:32
21 something with regard to sentencing you wish to be heard on?

22 MR. CAMBRIA: Yes, Your Honor. I just wanted to
23 correct, well, to supplement something that I said. When I
24 asked you to make recommendations as to facilities, I wanted to
25 put on the record the reason for that. I have recommended -- I 15:02:56

1 asked you to recommend Terminal Island and Lompock as they are
2 both in California, and that's where my client's sons reside,
3 so that was the reason for that, Your Honor.

4 THE COURT: I will make that recommendation in my
5 judgment and commitment that he be housed in a facility in
6 California. 15:03:14

7 MR. CAMBRIA: Thank you so much.

8 THE COURT: All right.

9 There were -- Mr. Berry has already spoken on behalf
10 of the government. Again, the matter has been already fully 15:03:28
11 briefed with regard to detention or release pending appeal, and
12 so who wishes to be heard in terms of a reply? Again, I don't
13 want a reiteration of the memorandum. I don't want a
14 reiteration of any oral statement that was made to me
15 yesterday. You may simply reply to Mr. Berry's argument. 15:03:58

16 MR. CAMBRIA: Thank you, Your Honor. First off, I
17 cite the Court to U.S. v -- trying to read the handwriting --
18 P-L-A-N-Y, and it's criminal 2012-1606, in that case Mr. Rapp
19 was the prosecutor, from what I understand, and there was a
20 failure to grant bail at the district level, but the Ninth 15:04:36
21 Circuit granted release pending appeal after it was an initial
22 denial, and then he was released per Judge Bolton.

23 With regard to release, our position is that as far as
24 bail pending appeal, I think we have checked all the boxes, if
25 you will. First of all, with regard to Mr. Lacey, there is 15:05:06

1 certainly no risk of flight or danger to the community. And
2 probation, from my recollection, even indicated that
3 self-surrender was an option for him. He's been out for over
4 six years, has made every appearance. The Court has even
5 decreased his conditions of release ordering removal of the 15:05:31
6 bracelet. He's been out post conviction for nine months. He's
7 been authorized to travel outside the state many times, most
8 recently for several weeks. And none of this would be
9 appropriate, of course, if he was a risk of, a flight risk.

10 There isn't any evidence here of any kind of 15:05:55
11 self-harm, suicide or anything like that with regard to him.
12 As far as we feel, the sentence that's been imposed is not
13 something that would cause him to flee the jurisdiction, if you
14 will, not at all.

15 The other things that are important to bail pending 15:06:19
16 appeal, if you will, are are there substantial issues for the
17 Ninth Circuit to resolve, would it make a difference? Well,
18 the answer to that is clear. I mean, the Court has pointed
19 some out in connection with the comments the Court has made
20 over the various proceedings that we've had. The government 15:06:38
21 has even conceded that there were substantial issues.

22 Our bail motion focused on a number of these. As
23 particularly as to my client in Count 100, there is no known
24 case that we could discover where there was an FBAR, for
25 example, filed which revealed as opposed to concealed offshore 15:07:03

1 investments that there was a finding of a violation of this
2 statute. Certainly there are a number of issues that were
3 raised during the course of the case involving the First
4 Amendment, invasion of the privilege, scope of the conspiracy.

5 So I think that when we look at the Ninth Circuit 15:07:28
6 cases with regard to bail pending appeal, we look for
7 substantial issues, and then we look for those issues so that
8 somebody couldn't say this is just some ruse to delay. It's
9 not that at all. We do have substantial issues. If they are
10 decided in our favor, it would make a huge difference in what 15:07:54
11 the outcome of the case would be.

12 So I think that we checked all the boxes, if you will,
13 Your Honor, as far as Ninth Circuit granting bail pending
14 appeal. For the prosecution to say there shouldn't be any bail
15 sort of cuts out the second stage of any criminal case, which 15:08:14
16 is an appeal, and says, well, let's just -- we're ahead so far
17 at the District Court level, so let's stop here, and it doesn't
18 really work that way.

19 There's a second leg that's not discretionary but
20 mandatory for somebody to have it all reviewed, and it seems to 15:08:36
21 me that since there is substantial issues, there is no evidence
22 here of any kind of fleeing by any of the defendants, that that
23 second leg should be meaningful. And certainly if we think
24 about it over the years how many Ninth Circuit cases have
25 changed what happens at the District Court level, if it only 15:09:00

1 stopped with the District Court, a lot of people would have
2 gone to jail that shouldn't have.

3 So it seems to me that we have, again, checked all of
4 those boxes and we're entitled to bail pending appeal. And
5 frankly, in all the cases that I've handled, when you can show 15:09:17
6 that there was a real issue and that there was no other indicia
7 of flight, stays of execution were granted. And so most
8 respectfully, we ask that they be granted here.

9 MR. LINCENBERG: Your Honor, I am not going to repeat
10 the issues we laid out in the papers between other counsel and 15:09:53
11 us. I think the Court is well aware of them. The Court has
12 openly recognized that there's tough calls the Court had to
13 make throughout the trial, and the Court did the Court's best
14 to do so.

15 The only thing I would add in light more of Mr. Rapp's 15:10:09
16 argument than Mr. Berry's, because there seems to be no dispute
17 that there is no danger. There seems to be no dispute that
18 there's substantial issues. And so if the Court is considering
19 the flight risk, the argument seems to simply be there's a
20 lengthy sentence and we're at this stage, and so people might 15:10:30
21 have an incentive to flee and so forth.

22 Probation analyzed these issues. And although they
23 gave a report that was fairly harsh for my client, they
24 nevertheless found that he's not a flight risk. He is not a
25 flight risk. The 25 or so people who are here, his community, 15:10:52

1 his family, are the very reason why he's fighting this. We
2 certainly recognized during trial when I lost some of my
3 arguments and Mr. Cambria lost some of the First Amendment
4 arguments we made, that there was a good chance this was going
5 to go to appeal. We knew that would be an important part of
6 the process for us.

15:11:13

7 I would highlight two things for the Court that came
8 up today. One was, you know, I had made the argument that
9 there was only one witness. There was also an argument I made
10 at my closing. It had some success and it didn't have success
11 perhaps with regard to the various verdicts against Mr. Brunst.
12 But it is relevant to the importance of these issues because,
13 for example, one of the issues we raised was when we had sought
14 to introduce certain impeachment evidence that the Court ruled
15 against us on, that with regard to Mr. Ferrer, were the Court
16 of Appeals to differ with Your Honor's view on that, that's the
17 one witness who, the only witness, who really testified about
18 Mr. Brunst. Didn't try to give some contest even to the
19 various e-mails that were consistent with the prosecution's
20 theory.

15:11:31

15:11:53

15:12:13

21 And so you know, it threads its way through a number
22 of those issues in addition to the invasion of the privilege
23 issue and the like where it's critically important and clear
24 that if we're able to prevail on those issues, that it's not
25 going to be harmless error. These are -- these are large

15:12:34

1 monumental issues.

2 The second thing I would bring to the Court's
3 attention in looking back at the six years of litigation is
4 that the Court noted that there were a number of different
5 judges who handled this, and in our view there were differences 15:12:48
6 in the gist of the rulings between some judges. One of them
7 was before Your Honor came to the case where we feel that when
8 Judge Logan ruled that the government could not invade the
9 privilege, that Mr. Ferrer could not waive certain aspects of
10 the privilege, and that at the same time the government was 15:13:10
11 invading that privilege in its interviews with Mr. Ferrer, we
12 feel Judge Logan and Judge Brnovich's rulings were very
13 different in their outcome.

14 And I raise that not just because I am here to argue,
15 again, that, you know, one is right and one is wrong, but it 15:13:26
16 just shows how tough these issues and certainly how fairly
17 debatable they are.

18 I believe that with regard to the sex trafficking
19 evidence, you know, we had a mistrial on the first trial. It's
20 certainly the defenses' view that the evidence that was allowed 15:13:48
21 in in the trial before Your Honor was akin to the evidence that
22 resulted in the mistrial --

23 THE COURT: I don't view it as that.

24 MR. LINCENBERG: I know. I know. It's -- we have a
25 difference of view, but I think it's certainly -- it was a 15:14:08

1 significant enough issue that resulted in a mistrial, and it's
2 certainly something that we want to present to the Court of
3 Appeals.

4 There were seem to be differences in, you know,
5 whether this was tried as a conspiracy for just the 50 ads or 15:14:24
6 whether it was broader, and what was permissible and not, all
7 calls that the Court -- the Court, you know, acted as referee,
8 made the calls --

9 THE COURT: And I think, Mr. Lincenberg, I have a 4:00
10 o'clock hearing. This has been fully briefed. I asked you to 15:14:40
11 reply to Mr. Berry.

12 MR. LINCENBERG: Okay.

13 THE COURT: So I don't want to have new argument that
14 you should have put into your pleading.

15 MR. LINCENBERG: Well -- 15:14:54

16 THE COURT: Move forward.

17 MR. LINCENBERG: Only relating it to some of the
18 arguments that came up at the sentencing and the arguments from
19 counsel.

20 But I guess what I would really focus on, Your Honor, 15:15:02
21 is that the strength of these issues, the amount of the number
22 of fairly debatable important issues, also negates the idea of
23 any flight risk because certainly all three of the defense
24 counsel in this case have had extensive discussions with our
25 client where we feel that we have very strong issues on appeal. 15:15:23

1 We had a financial settlement in this case for the, you know,
2 one of the big reasons why it was so that there would be money
3 freed up so that we could fight this on appeal. That is
4 Mr. Brunst's, his intention. And given that he's satisfied
5 every condition, he is not a flight risk. He would never do
6 that to his family, and his entire intention is to fight this
7 on appeal. We think that there's no flight risk here.

15:15:47

8 The last thing I would say, Your Honor, is that
9 Mr. Berry mentioned other things that the Court could do to
10 address some of their concerns, such as an ankle bracelet. And
11 to the extent that the government is of the view that the
12 current condition are insufficient, and we believe they are
13 sufficient, but that's obviously an option for the Court that
14 is imposed in cases to deal with the issue of any flight risk.

15:16:10

15 So given that there is no danger, there is no flight
16 risk, there are substantial issues, we would -- we would really
17 respectfully urge Your Honor to allow our client to be free to
18 assist us with dealing with the next stage of this case.

15:16:31

19 THE COURT: Thank you.

20 MR. LINCENBERG: Thank you.

15:16:50

21 MR. FEDER: Mr. Spear joins in the arguments already
22 made. I have to say Mr. Berry's discussion about suicide is
23 one of the most bizarre I have heard in 40-plus years of being
24 a lawyer. As the Court knows from the doctor's letter, that
25 was given to the Court under seal, and Mr. Berry too. The only

15:17:14

1 concern about suicide with Mr. Spear is if he doesn't get his
2 medication. And the only reason he's not going to get his
3 medication is if he is incarcerated pending appeal.

4 We submitted -- in Ms. Purdue's report she talked
5 about some various things. Mr. Berry brings up new studies 15:17:38
6 that for some reason they didn't put in their sentencing
7 response our Sentencing Memorandum, but the Inspector General
8 of the Department of Justice has talked about suicide being the
9 number one reason for death in prison. They've also, and this
10 is in 2024, they had hearings where a senator was castigating 15:18:00
11 the Department of Justice and the Bureau of Prisons for the
12 lack of improvement over at least 12 years of the Bureau of
13 Prisons because it's underfunded, overcrowded. I will read it
14 to you, Judge, it's from the -- it's from the declaration of
15 Ms. Purdue: I.G. Horowitz, Inspector General of the Department 15:18:29
16 of Justice, opening statement February 28, 20 --

17 MR. BERRY: Your Honor, I am going to object to this.
18 He is literally reading from a document that's before Your
19 Honor that Your Honor has just asked that we not do. He is
20 rehashing the arguments that are already briefed. 15:18:49

21 MR. FEDER: Mr. Berry argued to the contrary with
22 reports in cases that we haven't even been provided, Judge, but
23 here it is in Ms. Purdue's --

24 THE COURT: I don't want you to read to me an entire
25 document. Can you summarize it, Mr. Feder? 15:19:05

1 MR. FEDER: Deficiencies are understaffing, staffing
2 issues in health services departments directly impacts the
3 medical care and treatment of inmates, inappropriate mental
4 health designations, et cetera.

5 The only reason of a concern for suicide for Mr. Spear 15:19:26
6 is if he's incarcerated. That's number one.

7 Number two, Judge, you mentioned something during
8 sentencing, and I just want to clarify it, she recommended
9 self-surrender in her latest PSR and the other PSR that was
10 filed earlier in August. The idea that we didn't give her 15:19:58
11 financial information, I just want to make sure it's
12 understood. We didn't give it -- I mean, it was the lawyers'
13 decision, not Mr. Spear's, because of the information that we
14 had filed under seal with this Court in order for me to become
15 Knapp Counsel and Mr. Kessler to become appointed. That was 15:20:17
16 the stuff that we didn't want to give or given it was under
17 seal. We did ultimately give her that information and she
18 changed her recommendation from the original PSR that he was a
19 flight risk only because of not giving her financial
20 information to one where she said she was satisfied and that he 15:20:37
21 is not a flight risk.

22 As the Court knows, Mr. Spear has spent the
23 substantial majority of his life in Arizona. He has every
24 intention of appealing this to the highest level that he can.
25 He's retained appellate counsel. And I don't know, is the 15:20:51

1 Court considering flight risk or is the Court considering that
2 there are not substantial issues? Maybe I can address myself
3 specifically and quickly to those issues.

4 THE COURT: Substantial issues.

5 MR. FEDER: Well, obviously number one, Judge, is the 15:21:09
6 First Amendment. And as the Court knows, even though you
7 weren't the judge at that time, there was a Motion to Dismiss
8 based on the indictment violating the First Amendment. Many of
9 the First Amendment organizations in the country filed an
10 amicus brief at that time, the ACLU, Reason, et cetera. So 15:21:28
11 it's not an insubstantial issue when some of the biggest First
12 Amendment organizations in this country have lent at least
13 their authority to the fact that there has been a violation of
14 the First Amendment.

15 Obviously if there has been, the indictment is 15:21:46
16 dismissed, the case is reversed and everything goes away.
17 That's in the moving papers of myself and, I think,
18 Mr. Cambria.

19 So I mean, there's a number of other issues in there,
20 the list could go on and on and on. As the Court knows, this 15:22:02
21 has been, as you commented, a lengthy proceeding. There have
22 been many, many substantial issues that have been argued that
23 all of which, if reversed, would result in either a new trial
24 or dismissal of the charges, so I would ask the Court to
25 release these gentlemen on appeal. Failing at that, at the 15:22:21

1 very least, to allow them to self-surrender.

2 One other issue, Judge, if for some reason the Court
3 denies those requests, I would ask the Court to allow us to
4 give the marshals Mr. Spear's substantial medications. I have
5 talked to one of the marshals at the break and they indicated 15:22:48
6 if the Court ordered them to take it they would, as opposed to
7 putting him in a position where he's without medication. Thank
8 you.

9 THE COURT: Thank you. Thank you, counsel, for
10 briefing the issue that I asked you to brief. It has been a 15:23:04
11 question in my mind that I knew I would have to address on this
12 day. The factors that the statute requires a court to consider
13 under 3143(B) are whether each defendant has demonstrated by
14 clear and convincing evidence that he is not likely to flee or
15 pose a danger to the safety of others. I have already found in 15:23:32
16 my sentencing pronouncement that I find none of the defendants
17 pose a danger to self or others. I didn't necessarily make a
18 finding as to self, but it is nevertheless my finding that they
19 do not pose a danger.

20 The second factor is whether the appeal is not for 15:23:54
21 purposes of delay. I don't find that any appeal in this matter
22 would be for purposes of delay.

23 The two remaining factors are what caused the Court to
24 have to carefully consider the arguments of release pending
25 appeal. The third is whether the appeal raises a substantial 15:24:19

1 question of law or fact, and the other is if that substantial
2 question is determined favorably to the defendant on appeal
3 that the decision is likely to result in reversal or an order
4 for a new trial on all counts.

5 The substantial question has been also parsed out by a 15:24:46
6 number of various cases in not just the Ninth, but others. The
7 Ninth Circuit has held that a substantial question is one that
8 may be fairly debatable or fairly doubtful. And the other
9 guidance is for the court to determine whether there's a
10 likelihood of reversal or new trial, and that goes to the type 15:25:22
11 of question that's raised.

12 The Court must also find whether the question
13 presented to be, quote, so integral to the merits of the
14 conviction on which the defendant is to be imprisoned that a
15 contrary appellate holding is likely to require reversal of the 15:25:49
16 conviction or new trial.

17 I have focused in on with respect to Mr. Spear and
18 Mr. Brunst that they have been convicted of a conspiracy to
19 commit Travel Act violation. The Court is also mindful that
20 these were jury verdicts. The Court is mindful that the 15:26:20
21 circuit has an applicable review process in which a jury
22 conviction is viewed with deference. And having presided over
23 this trial, at a bare minimum, I don't think there is a fairly
24 debatable question as to those verdicts.

25 I also find that there is ample factual development of 15:26:55

1 the record to show as to the money laundering counts and the
2 concealment money laundering counts, that the proceeds are
3 traceable to the illegal conspiracy conduct. And in that way,
4 because of the multiple convictions, and in my view I don't
5 think that, at least with regard to the conspiracy conviction,
6 the conspiracy to commit money laundering, which necessarily
7 ties into Backpage's operation as a predominantly sex-for-money
8 operation, that Count 52 also in my view is firm.

15:27:32

9 And at least with respect to Mr. Brunst and Spear, in
10 my view the statute at least creates attention, but the burden
11 is on the defendant, and I don't think you make the -- you
12 don't meet the burden.

15:28:26

13 As to Mr. Lacey, there too, Count 100 was a jury-
14 rendered verdict. And as I mentioned in my sentencing, I don't
15 find Mr. Lacey a danger to others or to self. I don't know
16 what he meant when he talked to probation about his intent to
17 travel after the close of this case. That has a question mark
18 in my mind. It raised a flag. But here too, the statute
19 essentially reads, "making the transfer in whole or in part to
20 conceal." And in my view, the record evidence, the exhibits,
21 the testimony, all support the jury conviction.

15:29:01

15:29:34

22 And again, I don't think there is a fairly debatable
23 question there. And though I find that he does not appear as a
24 flight risk or a danger, well, I hesitate with regard to flight
25 risk, I don't find that he would be filing his appeal for

15:30:11

1 purposes of delay, but nevertheless, I am going to deny the
2 request as to each defendant for those reasons.

3 I will, however, order that each defendant turn
4 himself in to the U.S. Marshals Office in this building two
5 weeks from today. I am going to order -- I am going to
6 order -- well, I guess, Mr. Cambria, with respect to Mr. Lacey,
7 I can order that he turn himself in to the U.S. Marshals Office
8 in, what would be the appropriate District Court with the U.S.
9 Marshals Office in his vicinity?

10 MS. PARIS: Are you talking about in California?

11 THE COURT: Yes.

12 MS. PARIS: I am not sure, but we can get you an
13 answer to that one.

14 MR. CAMBRIA: One comment, Your Honor.

15 THE COURT: Well, I am not finished.

16 In any event, I will order that they turn themselves
17 in to a U.S. Marshals Office if not in this building by noon
18 two weeks from today.

19 Then I will have you, Ms. Paris, inform me by close of
20 business today, the Bureau of Prisons, excuse me, the U.S.
21 Marshals Office that would be most accessible to Mr. Lacey, and
22 I will have him turn himself in there.

23 I will, however, order in the interim period that they
24 be held on ankle monitoring devices.

25 PROBATION OFFICER: Your Honor, Rochelle Collins.

1 There is a pretrial officer in the courtroom if you have
2 questions.

3 THE COURT: The Court will order that the location
4 monitoring devices be affixed to the defendants before they
5 leave the building. And because I'm ordering that for the
6 period that you are on the location monitoring device, each
7 defendant shall participate in abiding by all of the program
8 requirements.

15:32:36

9 You shall pay all or part of the cost of the
10 participation in the Location Monitoring Program as directed by
11 the Pretrial Services office.

15:32:57

12 You are restricted to your residence as directed by
13 the Pretrial Services officer.

14 The defendants will be restricted to their homes
15 except for attending court proceedings, medical appointments or
16 religious services.

15:33:27

17 You shall submit to the location monitoring technology
18 at the officer's discretion.

19 Is there anything further from the government?

20 MR. BERRY: No, Your Honor. Thank you.

15:33:57

21 THE COURT: Anything further from you Mr. Cambria?
22 Ms. Paris.

23 MR. CAMBRIA: Both of us.

24 MS. PARIS: Your Honor, I wanted to clarify, you
25 expressed a concern with respect to the topic of travel in

15:34:09

1 Mr. Lacey's PSR report, and that came up in the context of, and
2 please, if I am misstating this, she asked a question like:
3 What are your plans when this is all done, all resolved, you
4 know, post having served a sentence, like what are you
5 interested in doing? And he basically said: I have always
6 enjoyed travel, and I would probably want to travel again with
7 my sons.

15:34:30

8 So that was the context of the comment. I wanted to
9 clarify that for the record.

10 THE COURT: Thank you, Mr. Lincenberg. Sorry,
11 Mr. Cambria, were you going to say something?

15:34:41

12 MR. CAMBRIA: What I wanted to say, Your Honor, when
13 you discussed a lack of substantial issue to be reviewed, in my
14 case of Count 100, the question is, in a case where multiple
15 FBARs have been filed, can there be concealment? That is a
16 discrete issue that we can find no case on, and it is a very
17 substantial issue because if we win on that issue, there is no
18 conviction. And here we have unrefuted evidence 'cause there
19 are in evidence FBARs filed by the attorneys with all the
20 details.

15:35:05

15:35:31

21 THE COURT: I understand, and that was in your moving
22 papers, so I considered the argument already.

23 MR. CAMBRIA: Well, I ask you to reconsider.

24 THE COURT: I am not going to super consider anything.

25 MR. CAMBRIA: I never knew "super consider." I like

15:35:42

1 that.

2 THE COURT: Well, it's beyond a motion, a response or
3 reply. I don't know what to call it after.

4 MR. CAMBRIA: Anyway, I think that satisfies the
5 element that you found lacking, with all due respect. 15:35:53

6 THE COURT: We agree to disagree.

7 Mr. Lincenberg.

8 MR. LINCENBERG: Your Honor, we have nothing further
9 today.

10 THE COURT: Mr. Feder. 15:36:03

11 MR. FEDER: Judge, would the Court entertain a little
12 bit of a discussion to extend the self-surrender date --

13 THE COURT: No, I will not.

14 MR. FEDER: Okay.

15 THE COURT: Thank you. This matter is adjourned. 15:36:13

16 (Proceedings concluded at 3:36 p.m.)

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C E R T I F I C A T E

I, HILDA E. LOPEZ, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 30th day of August, 2024.

s/Hilda E. Lopez
HILDA E. LOPEZ, RMR, FCRR