

# UNITED STATES DISTRICT COURT

District of COLORADO

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

V.

LINDA CARNAGIE

Case Number: 04-cr-00463-MSK-01

USM Number: 32505-013

David L. Owen, Jr., Appointed

Defendant's Attorney

## THE DEFENDANT:

- pleaded guilty to Counts \_\_\_\_\_
- pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- was found guilty on Counts 1, 25, 27, 34, 35, 36, 38, 39, and 41 through 53 of the Second Superseding Indictment  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 371	Conspiracy to Defraud the United States	12/31/02	1
18 U.S.C. §§ 1343 and 2(a)	Wire Fraud and Aiding and Abetting	06/23/00	25
18 U.S.C. §§ 1343 and 2(a)	Wire Fraud and Aiding and Abetting	09/05/00	27
18 U.S.C. §§ 1343 and 2(a)	Wire Fraud and Aiding and Abetting	04/03/00	34 and 35

The defendant is sentenced as provided in pages 2 through 11 of this judgment in accordance with the findings and conclusions made in open court, a transcript of which is attached hereto and incorporated herein by this reference. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on Count 54 of the Second Superseding Indictment
- Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

July 15, 2009

Date of Imposition of Judgment

/s/ Marcia S. Krieger

Signature of Judge

Marcia S. Krieger, U.S. District Judge

Name and Title of Judge

July 27, 2009

Date

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**ADDITIONAL COUNTS OF CONVICTION**

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1343 and 2(a)	Wire Fraud and Aiding and Abetting	04/25/00	36
18 U.S.C. §§ 1343 and 2(a)	Wire Fraud and Aiding and Abetting	08/14/00	38
18 U.S.C. §§ 1343 and 2(a)	Wire Fraud and Aiding and Abetting	08/22/00	39
18 U.S.C. § 1956(h) and (a)(1)(A)(i)	Money Laundering	12/30/02	41
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	02/10/00	42
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	03/29/00	43 and 44
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	03/30/00	45
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	04/07/00	46
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	04/21/00	47
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	06/02/00	48
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	06/30/00	49
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	08/07/00	50
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	08/17/00	51
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	08/29/00	52
18 U.S.C. §§ 1001(a)(3) and 2(b)	False Statement and Aiding and Abetting	09/05/00	53

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**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: forty-one (41) months on each of Counts 1, 25, 27, 34, 35, 36, 38, 39, and 41 through 53, to be served concurrently, for a total sentence of forty-one (41) months.

The court makes the following recommendations to the Bureau of Prisons:

The Court recommends that upon her arrival, the defendant be evaluated as soon as possible with regard to her medical and psychiatric needs to avoid interruption of her treatment. The Court also recommends the defendant be designated to a facility with the highest level of medical care consonant with her medical needs.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_ .

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 12 p.m. on August 31, 2009 .

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

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### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: three (3) years on each of Counts 1, 25, 27, 34, 35, 36, 38, 39, and 41 through 53, all terms to run concurrently

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- 14) the defendant shall provide access to any requested financial information.

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### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the periodic payment obligations imposed pursuant to the Court's judgment and sentence.
2. The defendant shall work with the probation officer in development of a monthly budget that shall be reviewed with the probation officer at least quarterly.
3. The defendant shall make payment on the restitution obligation that remains unpaid at the commencement of supervised release. Within 60 days of release from confinement, the defendant shall meet with the probation officer to develop a plan for the payment of restitution. This plan will be based upon the defendant's income and expenses. The plan will be forwarded to the Court for review and approval and will be modified if the defendant's financial circumstances change.
4. The defendant shall document all income or compensation generated or received from any source and provide such information to the probation officer as requested.
5. The defendant shall participate in a program of mental health treatment, as approved by the probation officer, until such time as the defendant is released from the program by the probation officer. The defendant shall pay the cost of treatment, if able, and as directed by the probation officer. The Court authorizes the probation officer to release to the treatment agency all psychological reports and/or the presentence report for continuity of treatment.
6. The defendant shall remain medication compliant and shall take all medications that are prescribed by her treating psychiatrist. The defendant shall cooperate with random blood tests as requested by her treating psychiatrist and/or supervising probation officer to ensure that a therapeutic level of her prescribed medications is maintained.

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### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 2,100.00	\$ 0.00	\$ 206,693.43

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
United States Department of Housing and Urban Development (HUD) HUD - FOC RE: Linda Carnagie/ 04-cr-00463-MSK-01 P.O. Box 979056 St. Louis, Missouri 63197	\$206,693.43	\$206,693.43	100%

<b>TOTALS</b>	\$ <u>206,693.43</u>	\$ <u>206,693.43</u>
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Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A  Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due
- not later than \_\_\_\_\_, or  
 in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:

Restitution shall be paid during the term of supervised release consistent with the payment plan approved by the Court. The \$2,100 special assessment fee is due in full immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Gail Henderson, 04-cr-00463-MSK-08, \$19,209.56  
Dwayne Vandyke, 04-cr-00463-MSK-09, \$30,477.92  
Odie Webster, III, 04-cr-00463-MSK-34, \$65,882.00  
Watik Aleem, 04-mj-01251-BNB-01, \$65,882.00  
Randal Jones, 04-cr-00463-MSK-13, \$37,193.27

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:  
\$41,205.49, pursuant to the Court's findings and order during the sentencing hearing.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

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## STATEMENT OF REASONS

### I COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT

A  **The court adopts the presentence investigation report without change.**

B  **The court adopts the presentence investigation report with the following changes.**

(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report, if applicable.)  
(Use page 4 if necessary.)

1  **Chapter Two of the U.S.S.G. Manual** determinations by court (including changes to base offense level, or specific offense characteristics):

2  **Chapter Three of the U.S.S.G. Manual** determinations by court (including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):

3  **Chapter Four of the U.S.S.G. Manual** determinations by court (including changes to criminal history category or scores, career offender, or criminal livelihood determinations):

4  **Additional Comments or Findings** (including comments or factual findings concerning certain information in the presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions):

C  **The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.**

### II COURT FINDING ON MANDATORY MINIMUM SENTENCE (Check all that apply.)

A  No count of conviction carries a mandatory minimum sentence.

B  Mandatory minimum sentence imposed.

C  One or more counts of conviction alleged in the indictment carry a mandatory minimum term of imprisonment, but the sentence imposed is below a mandatory minimum term because the court has determined that the mandatory minimum does not apply based on

findings of fact in this case

substantial assistance (18 U.S.C. § 3553(e))

the statutory safety valve (18 U.S.C. § 3553(f))

### III COURT DETERMINATION OF ADVISORY GUIDELINE RANGE (BEFORE DEPARTURES):

Total Offense Level: 20

Criminal History Category: III

Imprisonment Range: 41 to 51 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 7,500 to \$ 75,000

Fine waived or below the guideline range because of inability to pay.

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### STATEMENT OF REASONS

**IV ADVISORY GUIDELINE SENTENCING DETERMINATION** (Check only one.)

- A  The sentence is within an advisory guideline range that is not greater than 24 months, and the court finds no reason to depart.
- B  The sentence is within an advisory guideline range that is greater than 24 months, and the specific sentence is imposed for these reasons. (Use page 4 if necessary.)
- C  The court departs from the advisory guideline range for reasons authorized by the sentencing guidelines manual. (Also complete Section V.)
- D  The court imposed a sentence outside the advisory sentencing guideline system. (Also complete Section VI.)

**V DEPARTURES AUTHORIZED BY THE ADVISORY SENTENCING GUIDELINES** (If applicable.)

**A The sentence imposed departs** (Check only one.):

- below the advisory guideline range
- above the advisory guideline range

**B Departure based on** (Check all that apply.):

- 1 **Plea Agreement** (Check all that apply and check reason(s) below.):
  - 5K1.1 plea agreement based on the defendant’s substantial assistance
  - 5K3.1 plea agreement based on Early Disposition or “Fast-track” Program
  - binding plea agreement for departure accepted by the court
  - plea agreement for departure, which the court finds to be reasonable
  - plea agreement that states that the government will not oppose a defense departure motion.
- 2 **Motion Not Addressed in a Plea Agreement** (Check all that apply and check reason(s) below.):
  - 5K1.1 government motion based on the defendant’s substantial assistance
  - 5K3.1 government motion based on Early Disposition or “Fast-track” program
  - government motion for departure
  - defense motion for departure to which the government did not object
  - defense motion for departure to which the government objected
- 3 **Other**
  - Other than a plea agreement or motion by the parties for departure (Check reason(s) below.):

**C Reason(s) for Departure** (Check all that apply other than 5K1.1 or 5K3.1.)

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> 4A1.3 Criminal History Inadequacy                         | <input type="checkbox"/> 5K2.1 Death                             | <input type="checkbox"/> 5K2.11 Lesser Harm                             |
| <input type="checkbox"/> 5H1.1 Age   | <input type="checkbox"/> 5K2.2 Physical Injury                   | <input type="checkbox"/> 5K2.12 Coercion and Duress                     |
| <input type="checkbox"/> 5H1.2 Education and Vocational Skills                     | <input type="checkbox"/> 5K2.3 Extreme Psychological Injury      | <input type="checkbox"/> 5K2.13 Diminished Capacity                     |
| <input type="checkbox"/> 5H1.3 Mental and Emotional Condition                      | <input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint   | <input type="checkbox"/> 5K2.14 Public Welfare                          |
| <input type="checkbox"/> 5H1.4 Physical Condition                                  | <input type="checkbox"/> 5K2.5 Property Damage or Loss           | <input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense         |
| <input type="checkbox"/> 5H1.5 Employment Record                                   | <input type="checkbox"/> 5K2.6 Weapon or Dangerous Weapon        | <input type="checkbox"/> 5K2.17 High-Capacity, Semiautomatic Weapon     |
| <input type="checkbox"/> 5H1.6 Family Ties and Responsibilities                    | <input type="checkbox"/> 5K2.7 Disruption of Government Function | <input type="checkbox"/> 5K2.18 Violent Street Gang                     |
| <input type="checkbox"/> 5H1.11 Military Record, Charitable Service,<br>Good Works | <input type="checkbox"/> 5K2.8 Extreme Conduct                   | <input type="checkbox"/> 5K2.20 Aberrant Behavior                       |
| <input type="checkbox"/> 5K2.0 Aggravating or Mitigating Circumstances             | <input type="checkbox"/> 5K2.9 Criminal Purpose                  | <input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct         |
|  | <input type="checkbox"/> 5K2.10 Victim’s Conduct                 | <input type="checkbox"/> 5K2.22 Age or Health of Sex Offenders          |
|  |  | <input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment        |
|  |  | <input type="checkbox"/> Other guideline basis (e.g., 2B1.1 commentary) |

**D Explain the facts justifying the departure.** (Use page 4 if necessary.)

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## STATEMENT OF REASONS

### VI COURT DETERMINATION FOR SENTENCE OUTSIDE THE ADVISORY GUIDELINE SYSTEM

(Check all that apply.)

A **The sentence imposed is** (Check only one.):

- below the advisory guideline range  
 above the advisory guideline range

B **Sentence imposed pursuant to** (Check all that apply.):

1 **Plea Agreement** (Check all that apply and check reason(s) below.):

- binding plea agreement for a sentence outside the advisory guideline system accepted by the court  
 plea agreement for a sentence outside the advisory guideline system, which the court finds to be reasonable  
 plea agreement that states that the government will not oppose a defense motion to the court to sentence outside the advisory guideline system

2 **Motion Not Addressed in a Plea Agreement** (Check all that apply and check reason(s) below.):

- government motion for a sentence outside of the advisory guideline system  
 defense motion for a sentence outside of the advisory guideline system to which the government did not object  
 defense motion for a sentence outside of the advisory guideline system to which the government objected

3 **Other**

- Other than a plea agreement or motion by the parties for a sentence outside of the advisory guideline system (Check reason(s) below.):

C **Reason(s) for Sentence Outside the Advisory Guideline System** (Check all that apply.)

- the nature and circumstances of the offense and the history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1)  
 to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense (18 U.S.C. § 3553(a)(2)(A))  
 to afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))  
 to protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))  
 to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(D))  
 to avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6))  
 to provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))

D **Explain the facts justifying a sentence outside the advisory guideline system.** (Use page 4 if necessary.)

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## STATEMENT OF REASONS

### VII COURT DETERMINATIONS OF RESTITUTION

A  Restitution Not Applicable.

B Total Amount of Restitution: \$206,693.43

C Restitution not ordered (Check only one.):

- 1  For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
- 2  For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
- 3  For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
- 4  Restitution is not ordered for other reasons. (Explain.)

D  Partial restitution is ordered for these reasons (18 U.S.C. § 3553(c)):

**VIII ADDITIONAL FACTS JUSTIFYING THE SENTENCE IN THIS CASE** (The defendant is scheduled as provided in pages 2 through 11 of this judgment in accordance with the findings and conclusions made in open court, a transcript of which is attached hereto and incorporated herein by this reference. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.)

Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony cases.

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF COLORADO

3 Criminal Action No. 04-cr-00463-MSK

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

7 LINDA CARNAGIE,

8 Defendant.

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9 **REPORTER'S TRANSCRIPT**

10 (Sentencing Hearing: Order)

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11  
12 Proceedings before the HONORABLE MARCIA S. KRIEGER,  
13 Judge, United States District Court for the District of  
14 Colorado, occurring at 2:08 p.m., on the 15th day of July,  
15 2009, in Courtroom A901, United States Courthouse, Denver,  
16 Colorado.

17 **APPEARANCES**

18 PATRICIA DAVIES and MATTHEW KIRSCH, Assistant U.S.  
19 Attorneys, 1225 17th Street, Suite 700, Denver, Colorado,  
20 80202, appearing for the plaintiff.

21 DAVID OWEN, Attorney at Law, 3054 East Fall Lane,  
22 Highlands Ranch, Colorado, 80126, appearing for the defendant.

23  
24 Proceeding Recorded by Mechanical Stenography, Transcription  
25 Produced via Computer by Paul Zuckerman, 901 19th Street,  
Room A259, Denver, Colorado, 80294, (303) 629-9285

1 (The following proceedings were had and entered of record  
2 after the Court heard the arguments of counsel and statement of  
3 defendant:)

4 *THE COURT:* Then the Court will announce the sentence  
5 it intends to impose. Of course, Counsel, you'll have a final  
6 chance to make any legal objection before judgment is actually  
7 entered. If you believe that the sentence announced is  
8 premised upon error or it can -- includes a determination or a  
9 facet or an issue that you haven't had the opportunity to  
10 adequately consider and research and address, please request a  
11 continuance and I'll be happy to grant your motion.

12 Imposition of a sentence in a federal criminal case is  
13 governed by a number of statutes. The umbrella statute is 18  
14 U.S.C. Section 3553. In imposing sentence in this case, as in  
15 all criminal cases, the Court must consider the objectives and  
16 factors set forth in Section 3553(a). This provision requires  
17 the sentence be sufficient but not greater than necessary to  
18 satisfy a number of objectives, and those objectives are set  
19 forth in the statute. The sentence must reflect the  
20 seriousness of the offense, promote respect for the law,  
21 provide just punishment, adequately deter criminal conduct,  
22 protect the public from further crimes by Ms. Carnegie, and  
23 provide Ms. Carnegie with needed educational or vocational  
24 training, medical care, or other correctional treatment in the  
25 most effective manner.

1           In order to fashion a sentence that meets these  
2 objectives, the statute directs the Court to consider the  
3 nature and circumstances of the offense, the history and  
4 characteristics of the defendant, the kinds of sentences that  
5 are available, the sentence prescribed by the Federal  
6 Sentencing Guidelines, the need to avoid unwarranted sentence  
7 disparities among defendants with similar records found guilty  
8 of similar conduct, and in the appropriate case, such as this,  
9 the need for restitution.

10           In imposing sentence, the Court considers the contents  
11 of the presentence investigation report and its addenda.  
12 Attached to those are various documents, including the  
13 pleadings that the parties have filed.

14           At the beginning of this hearing I identified all of  
15 those documents for the record, and Counsel advised me that  
16 they and the defendant had had an adequate opportunity to  
17 review and consider all of those documents.

18           In addition, the Court considers all the evidence that  
19 is presented during the sentencing hearing and the arguments  
20 that are made by Counsel, as well as the statement that is made  
21 by the defendant.

22           Beginning with the presentence investigation report,  
23 the Court notes that although there were initially objections  
24 made by the defendant, those objections have now been  
25 withdrawn. And as a consequence, the contents of the

1 presentence investigation report are taken as true.

2           Here there are 21 counts of conviction. The parties  
3 have no dispute with regard to the calculation under the  
4 Federal Sentencing Guidelines as contained in the report.

5           The counts of conviction are grouped into a group of  
6 closely related counts. Pursuant to Section 3D1.2(d), Counts  
7 1, 25, 27, 34, 35, 36, 38, 42, and 53 are grouped together  
8 based on aggregate harm.

9           Pursuant to Sentencing Guidelines Section 3D1.2(c),  
10 Count 41, which is money laundering is then grouped with the  
11 fraud counts.

12           Pursuant to Section 3D1.2(c), the counts that involve  
13 the same harm are grouped together in a single count group when  
14 one of the counts embodies the conduct that is treated as a  
15 specific offense characteristic in or adjustment to the  
16 guideline to the other counts.

17           For the fraud counts, these are conspiracy to defraud  
18 the United States, wire fraud, and false statements, Counts, 1,  
19 25, 27, 34, 35, 36, 38, 39, and 42 through 53.

20           The base offense level is set by Section 2B1.1 at 6.  
21 The parties have agreed that the loss is between 120,000 and  
22 \$200,000; and as a consequence, Section 2B1.1(b)(1)(F)  
23 increases the offense level by 10 levels as a specific offense  
24 characteristic.

25           Then Section 2B1.1(b)(8)(c) provides for an additional

1 two-level increase because the offense involved sophisticated  
2 means. This results in an adjusted offense level of 18.

3 Then the Court turns to the money laundering count,  
4 which is Count 41. The base offense level for Count 41 is set  
5 by Section 2S1.1. The base offense level is the offense level  
6 for the underlying offense from which the laundered funds were  
7 derived if the offense level for that offense can be  
8 determined. Here the base offense level is 18.

9 There are specific offense characteristics set forth  
10 in Section 2S1.1(b)(2)(B), and that's an additional two-level  
11 increase because the defendant was convicted under 18 U.S.C.  
12 Section 1956. This results in an adjusted offense level of 20.

13 There are no victim-related adjustments, adjustments  
14 for role in the offense, or adjustments for obstruction of  
15 justice.

16 The combined adjusted offense level pursuant to  
17 Section 3D1.2(c) is 20. There is no adjustment for acceptance  
18 of responsibility, and the ultimate offense level here is 20.

19 We then turn to the defendant's criminal history.  
20 There are no juvenile adjudications. The adult criminal  
21 convictions are reflected in a felony theft conviction and a  
22 perjury conviction in 1993 for which the defendant receives one  
23 point.

24 In 2001, the defendant was convicted of criminal  
25 attempt to commit forgery, again a felony conviction; and that

1 receives a point.

2           The instant offense spanned from February, 1999, to  
3 December, 2002. And during part of the time the instant  
4 offense was committed, the defendant was on probation on prior  
5 convictions; and therefore, two more points are added. This  
6 results in a total tally of criminal history points of 4 and,  
7 pursuant to the Sentencing Guidelines, results in a criminal  
8 history category of III.

9           With an offense level of 20 and a criminal history  
10 category of III, the guidelines recommend on Counts 1, 25, 27,  
11 34, 35, 36, 38, 39, and 42 through 53, 41 to 51 months per  
12 Count. As to Count 41, the guidelines recommend an  
13 incarceration period of 41 to 51 months.

14           With regard to supervised release, the guidelines  
15 recommend a term of two to three years per count.

16           With regard to the component in the sentence for a  
17 fine, Counts 1, 25, 27, 34, 35, 36, 38, 39, and 42 through 53,  
18 the guidelines recommend a fine of 7500 to \$75,000 and on  
19 Count 41 again 7500 to \$75,000.

20           The statutes mandate a special assessment on all  
21 counts of \$100 per count of conviction.

22           Now, there are arguments that have been made with  
23 regard to departures from the calculations under the guidelines  
24 and then arguments with regard to imposition of a variant  
25 sentence. I'll deal with those as I work backwards through the

1 calculation on the sentence, beginning with the component  
2 starting with the special assessment.

3 As I said, the special assessment of \$100 per count is  
4 mandated by statute. The Court intends to impose that  
5 obligation, which is payment of \$2,100 due immediately.

6 With regard to the fine that can be imposed here, the  
7 Court finds that the defendant lacks the ability to pay a fine  
8 and therefore does not intend to impose a fine.

9 The Court notes that it will be imposing a restitution  
10 obligation and a forfeiture obligation; and therefore that is  
11 an additional reason that, given the limited resources that the  
12 defendant has, the fine will be waived.

13 With regard to supervised release, neither party has  
14 argued about either the recommended term or the recommended  
15 conditions. Here the probation officer has recommended a term  
16 of three years on each count to be served concurrently and has  
17 specified the terms of supervision.

18 There are both the standard conditions and then six  
19 recommended special conditions. No one has addressed those,  
20 and the Court intends to impose both the term of supervised  
21 release and the conditions that have been specified.

22 That takes us then to the custodial time period. The  
23 probation officer who prepared the report recommended a  
24 sentence at the bottom end of the guidelines, 41 months, for  
25 each count to run concurrently. That would result in a total

1 incarceration period of 41 months. That is what the Government  
2 has asked for.

3           The defendant has requested that the Court depart from  
4 the guideline calculation because the defendant contends that  
5 her criminal history score in Category III overrepresents the  
6 seriousness of her criminal history or her likelihood of  
7 recidivism. The argument is made pursuant to Section 4A1.3 of  
8 the Sentencing Guidelines. And it is Section 4A1.3(b)(1) that  
9 is applicable. That section provides that if reliable  
10 information indicates that the defendant's criminal history  
11 category substantially overrepresents the seriousness of the  
12 defendant's criminal history or the likelihood that the  
13 defendant will commit other crimes, a downward departure may be  
14 warranted.

15           Here the defendant has argued that her criminal  
16 history does not resemble what defense counsel's experience in  
17 representing other defendants would reveal, and that is she is  
18 in a Criminal History Category III even though she has no  
19 crimes of violence or drug offenses in her history.

20           The Court finds, looking at this criminal history,  
21 that there is a pattern of offense: theft, perjury, attempt to  
22 commit forgery; and these offenses, all involve deceit, all  
23 involve deceit for money. These are not drug offenses. These  
24 are not crimes of violence. But they nevertheless are a  
25 consistent form of violation of the law. They began in 1993,

1 continued through 2001, and now reflect 21 convictions in this  
2 case.

3 Under these circumstances, the Court does not find  
4 that the defendant's criminal history category substantially  
5 overrepresents the seriousness of the defendant's criminal  
6 history or the likelihood that she will commit other crimes;  
7 and as a consequence, the Court, having considered all the  
8 evidence before it, declines to depart.

9 The next question that is presented is whether a  
10 variant sentence should be imposed. The defense argues that  
11 the Court should impose a variant sentence, one lower than  
12 recommended by the guidelines, in order to serve the sentencing  
13 objectives and in particular to take into account the history  
14 and characteristics of this particular defendant, Ms. Carnegie.

15 The defense argues that Ms. Carnegie has suffered (1)  
16 a traumatic childhood and (2) currently suffers from a wide  
17 variety of medical and psychiatric problems that require her to  
18 take a large number of medications of varying type. She has  
19 over the years worked with a number of doctors in order to  
20 obtain the appropriate pharmaceutical combination to address  
21 her many physical and psychological problems. The most recent  
22 report of her doctor shows that by virtue of her prior motor  
23 vehicle accidents and other physical conditions, she suffers  
24 from posttraumatic cognitive impairments, posttraumatic stress  
25 disorders, multiple spinal pain complaints, posttraumatic

1 visual impairments, posttraumatic disequilibrium, and she has a  
2 history of depression, fibromyalgia, TMJ or -- TMJ disorder  
3 with her jaw, and a peptic ulcer. She also recently, within  
4 the last year, had a malignant colon polyp removed.

5 She currently has a large number of prescriptions,  
6 some of which she takes daily, some of which she takes as  
7 needed, to address a wide variety of conditions. Her counsel  
8 has argued that there should be a variance from the sentence  
9 imposed here and that a sentence of probation should be imposed  
10 instead because the Bureau of Prisons cannot provide her with  
11 adequate medical care.

12 The defendant argues that adequate medical care is  
13 identical medical care: all of the same prescriptions in the  
14 same combination that she currently receives. No case law or  
15 other authority for the proposition that adequate medical care  
16 is the same as identical medical care has been presented, and  
17 the Court in its own research has not been able to find case  
18 law addressing that particular issue.

19 The Government has argued that it is not sufficient  
20 for the defendant to simply argue that the Bureau of Prisons  
21 cannot give her appropriate or adequate medical care; that  
22 there has to be some greater showing than a fear that the  
23 medical care that she desires will not be forthcoming. And in  
24 considering that argument, the Court has requested and was  
25 supplied with evidence as to what the Bureau of Prisons can

1 provide with regard to care for Ms. Carnegie.

2           The Court does so because the law is largely  
3 undeveloped as to who has the burden, if there is a burden, and  
4 what the standard of proof is, if there is a standard of proof,  
5 with regard to variant sentences that involve the fundamental  
6 objectives under 3553(a).

7           Case law in this circuit indicates that a district  
8 court has to provide an evidentiary summary and basis that  
9 demonstrates it has considered the parties' arguments and has a  
10 reasoned basis for exercising its own legal decision-making  
11 authority. That standard is set out in *Rita vs. United States*  
12 at 551 U.S. 338, a 2007 Supreme Court decision, and it is  
13 iterated in *United States vs. Tindall*, at 519 F.3d 1057, a  
14 Tenth Circuit, 2008 decision. It is for that reason the  
15 Court's obligation to make an independent finding that the  
16 sentence that is imposed meets the statutory objectives; that  
17 it is necessary to have evidence to address the concerns raised  
18 by Ms. Carnegie.

19           The Court has considered those -- the testimony of  
20 Mr. Ken Brooks, the chief pharmacist at the Florence facility,  
21 who describes both the intake process and the prescription  
22 process as well as identifying the current medications that  
23 Ms. Carnegie is receiving or has been prescribed and whether  
24 they are in the Bureau of Prisons formulary or can be obtained  
25 outside the formulary upon request and direction by a

1 physician.

2           The only area where Mr. Brooks testifies that there is  
3 not a customary process -- customary treatment regimen is with  
4 regard to sleep disorders. And with regard to that, he  
5 acknowledges that although the Bureau of Prisons doesn't  
6 usually treat sleep disorders, that does not preclude a  
7 physician from prescribing sleep aids where that is required.

8           All of the other medications that she currently is  
9 taking are either parts of the formulary or can be obtained  
10 outside of the formulary if, indeed, a doctor prescribes those.  
11 And in making the decision as to whether those are prescribed,  
12 Mr. Brooks testified that the Bureau of Prisons begins its  
13 assessment before a convicted defendant reports to the Bureau  
14 of Prisons and in considering the prescriptions looks at all of  
15 the history of medications.

16           Here there is an extensive history that's been  
17 submitted to this court. It's now part of the presentence  
18 investigation report. It will go to the Bureau of Prisons  
19 along with the judgment, and the Bureau of Prisons will have  
20 the opportunity to review Ms. Carnegie's entire history with  
21 regard to her medical treatment in assessing whether or not  
22 continuing on these drugs or substitutes therefore is adequate  
23 treatment to address her many physical and psychiatric needs.

24           Therefore, the Court finds that the Bureau of Prisons  
25 can adequately treat Ms. Carnegie's needs and her physical and

1 psychiatric conditions.

2           We turn then to the question of her tragic life thus  
3 far, including her childhood abuse, problems in her marriage;  
4 and the Court does not find those to justify a variance,  
5 either.

6           Finally we turn to the question of similarly situated  
7 defendants. And here there are none that are precisely  
8 similarly situated. The statute, 3553(a), uses the language  
9 "the need to avoid unwarranted sentence disparities among  
10 defendants with similar records found guilty of similar  
11 conduct." Here in this case, no one has 21 convictions  
12 identical to Ms. Carnegie's and no one in this case has a  
13 criminal history category of III in conjunction with a similar  
14 combination of convictions. So there is no one in this case  
15 who is similarly situated.

16           We might speculate as to culpable conduct. But we  
17 don't determine the similarity of sentences based on a gestalt  
18 as to who is more culpable and who is less culpable because  
19 penalties for criminal conduct here are not based on a gestalt;  
20 they're based upon an offense of conviction. And it is these  
21 offenses of conviction for which the Court's obligated to  
22 sentence Ms. Carnegie, not based upon whether she is a good  
23 person or a bad person. Every person has the capacity to  
24 engage in good behavior and engage in bad behavior; and every  
25 person has meritorious aspects in their personality and

1 hopefully has family that loves them. That is not what is  
2 considered in the determining the appropriate or just sentence.

3           An appropriate or just sentence focuses on conduct.  
4 Conduct in this case involves the conduct involved in the 21  
5 convictions. That conduct was both numerous, over a long  
6 period of time, consistent with the prior crimes of conviction.  
7 And while the Court has great sympathy for Ms. Carnegie in the  
8 sense that this -- these convictions have been outstanding for  
9 a long period of time due to the appeal process and therefore  
10 have to some degree been hanging over her head for a long  
11 period of time and they hit her late in life, they nevertheless  
12 constitute conduct for which a sentence is appropriate.

13           Here the Court does not believe that a variant  
14 sentence is warranted in order to satisfy the sentencing  
15 objectives. In taking into account the nature and  
16 circumstances of the offenses and her history and  
17 characteristics, in order to serve all of the sentencing  
18 objectives, the Court believes that a sentence in accordance  
19 with the guideline calculation is appropriate. The Court  
20 intends to impose a sentence at the bottom end of the guideline  
21 range at 41 months per count to run concurrently with each  
22 other for a total period of incarceration of 41 months.

23           The Court intends to recommend to the Bureau of  
24 Prisons that the -- Ms. Carnegie be evaluated as soon as  
25 possible with regard to her medical and psychiatric needs and

1 that she be assigned to the highest level medical facility  
2 consonant with those needs. The Bureau of Prisons has four  
3 levels of facilities for treatment of medical needs, and the  
4 Court recommends that she be assigned to the highest level  
5 consonant with her needs.

6 The Court recommends -- or the Court intends to impose  
7 the restitution amount of \$206,693.43 as enumerated in the  
8 presentence investigation report.

9 And with regard to the issue presented on forfeiture,  
10 the Court finds that the applicable statute for purposes of  
11 determining forfeiture is 18 U.S.C. Section 982(a)(1), which is  
12 the criminal forfeiture statute. There was some mention in the  
13 briefing of 18 U.S.C. Section 981, which is the civil  
14 forfeiture statute; but as was clarified in the argument today  
15 before the Court, it is the criminal forfeiture statute that  
16 applies.

17 Application of the criminal forfeiture provision in 18  
18 U.S.C. Section 982(a)(1) requires that when an individual has  
19 been convicted of a violation of 18 U.S.C. Section 1956, as  
20 Ms. Carnegie has, that property with the requisite nexus to the  
21 offense underlying the conviction must be forfeited. The key  
22 inquiry is whether the -- with regard to whether the property  
23 is subject to forfeit is whether it is involved in or traceable  
24 to the offense. That's the standard adopted in the Tenth  
25 Circuit in *United States vs. Bornfield*, found at 145 F.3d 1123,

1 a Tenth Circuit, 1998 case; and it goes on to define property  
2 involved in an offense to include money or other property being  
3 laundered, the *corpus*, any commissions or fees paid to the  
4 launderer, and any property used to facilitate the laundering  
5 offense.

6 Here, contrary to the argument raised by the  
7 defendant, the amount of money to be forfeited is not limited  
8 to commissions or fees. It is instead the entirety of the  
9 *corpus* that was property involved in the offense. The parties  
10 agree that the sum of that total is \$41,205.49.

11 The Court recognizes that Ms. Carnagie is not  
12 employed, she does not have substantial assets by virtue of the  
13 restitution order and the forfeiture order, she will have  
14 substantial sums to repay; and as a consequence, with regard to  
15 the criminal sanctions here, the Court intends to waive any  
16 interest that would be borne on those sums.

17 Is there any need for clarification, further  
18 explanation, continuance, or further argument?

19 *MS. DAVIES:* Not from the Government.

20 *MR. OWEN:* No, your Honor.

21 *THE COURT:* Thank you.

22 Then having considered the provisions of 18 U.S.C.  
23 Section 3553(a) and consistent with the Court's prior findings,  
24 pursuant to the Sentencing Reform Act of 1984, it is judgment  
25 of the Court that the defendant, Linda Carnagie, be committed

1 to the custody of the Bureau of Prisons to be imprisoned for a  
2 term of 41 months on each of Counts 1, 25, 27, 34, 35, 36, 38,  
3 39, and 41 through 53, all to be served concurrently. The  
4 Court recommends in conjunction with the period of  
5 incarceration that an evaluation of Ms. Carnegie's physical and  
6 psychiatric needs be made as soon as possible in order to avoid  
7 interruption in her treatment for her various psychological and  
8 physical needs.

9 In addition, the Court recommends that after  
10 evaluation she be assigned to the highest level facility as  
11 necessary to treat those needs.

12 Upon release from imprisonment, she will be placed on  
13 supervised release for a term of three years. This term  
14 consists of three years on each of Counts 1, 25, 27, 34, 35,  
15 36, 38, 39, and 41 through 53, all such terms to run  
16 concurrently.

17 Within 72 hours of release from the custody of the  
18 Bureau of Prisons, she'll report in person to the probation  
19 office in the district to which she is released.

20 While on supervised release, she will not commit  
21 another federal, state, or local crime, she will not possess a  
22 firearm as defined in 18 U.S.C. Section 921, and she will  
23 comply with the standard conditions that have been adopted by  
24 this court.

25 Because this sentence imposes a restitution

1 obligation, it will be a condition of supervision that she pay  
2 in accordance with a schedule of payments that will be  
3 developed by her in conjunction with the probation officer  
4 after her release on supervised release based upon her income  
5 and her expenses.

6           The defendant will not unlawfully possess a controlled  
7 substance. She'll refrain from any unlawful use of a  
8 controlled substance. The Court waives the mandatory drug  
9 testing provisions of 18 U.S.C. Section 3583(d) because the  
10 presentence report indicates a low risk of future substance  
11 abuse by her.

12           The defendant will cooperate in the collection of DNA,  
13 however, as directed by the probation officer.

14           She will also comply with the following special  
15 conditions: She will not incur new credit charges or open  
16 additional lines of credit without the approval of the  
17 probation officer, and such approval will not be given unless  
18 she is in compliance with the periodic payment obligation  
19 schedule that she and the probation officer have developed.  
20 She will work with the probation officer in development of a  
21 monthly budget which shall be reviewed at least quarterly with  
22 the probation officer. She will make payment on the  
23 restitution obligation that remains unpaid at the commencement  
24 of supervised release. Within 60 days of release from her  
25 confinement, she'll meet with the probation officer; and she

1 will develop a plan for making periodic payments on the  
2 restitution obligation. The plan will be based upon her income  
3 and her expenses. The plan will be forwarded to the Court for  
4 review and approval, and the plan will be modified if her  
5 financial circumstances change. She will document all income  
6 or compensation generated or received from any source and will  
7 provide such information to the probation officer as requested.

8 She'll participate in a program for mental health  
9 treatment as approved by the probation officer until such time  
10 as she is released from the program by the probation officer;  
11 and if she is able to and directed to by the probation officer,  
12 she will pay for the cost of treatment.

13 The Court authorizes the probation officer to release  
14 to the treating agency or person all psychological reports and  
15 the presentence report for continuity of treatment.

16 She'll remain compliant and she'll take all  
17 medications that are prescribed by her treating psychiatrist.  
18 She'll cooperate with random blood tests if requested by her  
19 treating psychiatrist and/or supervising probation officer to  
20 ensure that a therapeutic level of the prescribed medications  
21 is maintained.

22 She will make restitution in the amount of  
23 \$206,693.43. That sum will be -- her restitution payments will  
24 be paid to the Clerk of the Court. That sum ultimately will be  
25 paid to the United States Department of Housing and Urban

1 Development at the address specified in the presentence report.

2           The restitution obligation will be joint and several  
3 as to a number of defendants: with regard to Gail Henderson,  
4 \$19,209.56, Dwayne VanDyke, \$30,477.92; Odie Webster III,  
5 \$65,882; Watik Aleem, \$65,882; Randal Jones, \$37,193.27.

6           The Court has determined that the defendant does not  
7 have the ability to pay a fine and therefore a fine is waived.

8           The Court also determines that the defendant does not  
9 have the ability to pay interest; and therefore, the interest  
10 requirement is waived on the restitution amount.

11           The special assessment of \$2,100 is due immediately,  
12 and the Court intends to issue a judgment of forfeiture in the  
13 amount of \$41,205.59. I assume that the Government will  
14 prepare the appropriate form of judgment and submit it to the  
15 Court.

16           *MR. KIRSCH:* We will, your Honor.

17           *THE COURT:* Thank you.

18           Ms. Carnegie, you've raised a good family. You have a  
19 family that loves you, and you will have the opportunity to  
20 complete this debt to society and go on and be with them. You  
21 will have the opportunity, I have no doubt, to teach from your  
22 lessons and to be the kind of grandmother that you want to be.

23           I advise you of your right to appeal this sentence.  
24 If you desire to appeal, a notice of appeal must be filed with  
25 the Clerk of the Court within 10 days. Ordinarily, Mr. Owen

1 would file that notice of appeal for you; but if he is unable  
2 or unwilling to do so and you request, I'll direct the Clerk of  
3 the Court to file a notice of appeal on your behalf.

4           Is there any objection to Ms. Carnagie's self-  
5 reporting?

6           *MS. DAVIES:* No, your Honor.

7           *MR. OWEN:* No, your Honor.

8           *THE COURT:* Then the Court finds that she is not  
9 likely to flee or pose a danger to the safety of any other  
10 person or the community; and she will surrender at the  
11 institution designated by the Bureau of Prisons before noon on  
12 August 31, 2009. Her bond will be exonerated at the time of  
13 her voluntary surrender to the institution designated by the  
14 Bureau of Prisons.

15           I will ask our probation officer to make sure that the  
16 medical information that has been included in the presentence  
17 investigation report and any other medical information that  
18 Ms. Carnagie would like the Bureau of Prisons to have reaches  
19 their hands so that they can, in accordance with my  
20 recommendation, begin the process of the evaluation in order to  
21 avoid an interruption in treatment.

22           *THE PROBATION OFFICER:* Yes, your Honor.

23           *THE COURT:* Is there anything further that you need  
24 for preparation of the judgment?

25           *THE PROBATION OFFICER:* No, your Honor. Thank you.

