



December 2, 2015

Board of Disciplinary Appeals

**BEFORE THE BOARD OF DISCIPLINARY APPEALS  
APPOINTED BY  
THE SUPREME COURT OF TEXAS**

IN THE MATTER OF	§	
ABRAHAM M. FISCH	§	CAUSE NO. <u>57005</u>
STATE BAR CARD NO. 07039900	§	

**PETITION FOR COMPULSORY DISCIPLINE**

**TO THE BOARD OF DISCIPLINARY APPEALS:**

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Abraham M. Fisch, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. Petitioner is providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent, Abraham M. Fisch, may be served with a true and correct copy of this Petition for Compulsory Discipline, its attachments, as well as a notice of hearing, at Abraham M. Fisch, Register #02040-379, Fort Bend County Jail, 1410 Williams Way Blvd. Richmond, TX 77469.

3. On or about October 19, 2011, Respondent was charged by Indictment (Exhibit 1) with Count One - Conspiracy, in violation of 18 U.S.C. §371, Count Two - Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Three - Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Four – Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Five – Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Six – Money Laundering Conspiracy, in violation of 18 U.S.C. §1956(h), Counts Seven through Fifteen – Money Laundering, in violation of 18 U.S.C. §§ 1957 and 2, and Counts Sixteen through Twenty – Failure

to File Tax Return, in violation of 26 U.S.C. §7203, in Cause No. H-11-722, styled *United States of America v. Abraham Moses Fisch aka Anthony Fisch (Counts 1-20), Lloyd Glen Williams (Counts 1-15, 21), Monica Bertman aka Marsha Zaluska Pavlovich aka Malkah Aliyah Bertman (Count 1, 2)* in the United States District Court for the Southern District of Texas, Houston Division.

4. On or about April 3, 2013, Respondent was charged by Superseding Indictment (Exhibit 2) with Count One - Conspiracy, in violation of 18 U.S.C. §371, Count Two - Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Three - Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Four - Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Five - Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Six - Obstruction of Justice, in violation of 18 U.S.C. §1503, Count Seven - Money Laundering Conspiracy, in violation of 18 U.S.C. §1956(h), Counts Eight through Sixteen - Money Laundering, in violation of 18 U.S.C. §§ 1957 and 2, Counts Seventeen through Twenty-One - Failure to Timely File Tax Return, in violation of 26 U.S.C. §7203, and Count Twenty-Two - Corrupt Endeavor to Impede the Due Administration of the Internal Revenue Code, in violation of 26 U.S.C. § 7212(a) in Cause No. H-11-722, styled *United States of America v. Abraham Moses Fisch aka Anthony Fisch (Counts 1-22), Monica Bertman aka Marsha Zaluska Pavlovich aka Malkah Aliyah Bertman (Count 1, 2)* in the United States District Court for the Southern District of Texas, Houston Division.

5. On or about November 10, 2015, a Judgment in a Criminal Case (Exhibit 3) was entered in Case No. 4:11CR00722-001, styled *United States of America v. Abraham Moses Fisch, aka Anthony Fisch*, in the United States District Court for the Southern District of Texas, Holding Session in Houston, wherein Respondent was found guilty of Count One S - Conspiracy to Commit Obstruction of Justice, Count Two S - Obstruction of Justice, Aiding and Abetting, Count Three S - Obstruction of Justice, Aiding and Abetting, Count Five S- Obstruction of Justice, Aiding and

Abetting, Count Six S - Obstruction of Justice, Aiding and Abetting, Count Seven S – Conspiracy to Commit Money Laundering, Counts Eight S through Thirteen S - Money Laundering, Aiding and Abetting, Count Sixteen S – Money Laundering, Aiding and Abetting, Counts Seventeen S through Twenty-One S - Failure to File Tax Return and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 180 months. This term consists of 53 months as to Count 1S; 120 months as to each of Counts 2S, 3S, 5S, 6S and 8S through 13S and 16S; 180 months as to Count 7S; and 12 months as each of Counts 17S through 21S; all terms to run concurrently for a total of 180 months. Respondent was ordered upon release from imprisonment to be on supervised release for 3 years on each of Counts 1S thorough 3S, 5S, 6S, 8S through 13S and 16S; 5 years as to Count 7S; and 1 year as to each of Counts 17S through 21S; all such terms to run concurrently for a total of 5 years, ordered to pay an assessment of \$1,425.00.

6. On or about November 25, 2015, an Amended Judgment in a Criminal Case (Exhibit 4) was entered in Case No. 4:11CR00722-001, styled *United States of America v. Abraham Moses Fisch, aka Anthony Fisch*, in the United States District Court for the Southern District of Texas, Holding Session in Houston, wherein Respondent was found guilty of Count One S - Conspiracy to Commit Obstruction of Justice, Count Two S - Obstruction of Justice, Aiding and Abetting, Count Three S - Obstruction of Justice, Aiding and Abetting, Count Five S- Obstruction of Justice, Aiding and Abetting, Count Six S - Obstruction of Justice, Aiding and Abetting, Count Seven S - Conspiracy to Commit Money Laundering, Counts Eight S through Thirteen S - Money Laundering, Aiding and Abetting, Count Sixteen S - Money Laundering, Aiding and Abetting, Counts Seventeen S through Twenty-One S - Failure to File Tax Return and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 180 months. This term consists of 53 months as to Count 1S; 120 months as to each of Counts 2S, 3S, 5S, 6S and 8S through 13S and 16S; 180 months as to Count 7S; and 12 months as to each

of Counts 17S through 21S; all terms to run concurrently for a total of 180 months. Respondent was ordered upon release from imprisonment to be on supervised release for 3 years as to each of Counts 1S thorough 3S, 5S, 6S, 8S through 13S and 16S; 5 years as to Count 7S; and 1 year as to each of Counts 17S through 21S; all such terms to run concurrently for a total of 5 years, ordered to pay an assessment of \$1,425.00. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, are true and correct copies of the following documents in the Fisch criminal case: Indictment (Exhibit 1), Superseding Indictment (Exhibit 2), Judgment in a Criminal Case (Exhibit 3) and an Amended Judgment in a Criminal Case (Exhibit 4). Petitioner expects to introduce certified copies of Exhibits 1 through 4 at the time of hearing of this cause.

7. Respondent, Abraham M. Fisch, whose bar card number is 07039900, is the same person as the Abraham Moses Fisch who is the subject of the Indictments and Judgments described above, true and correct copies of which are attached hereto as Exhibits 1 through 4.

8. Attached hereto as Exhibit 5 and made a part hereof for all intents and purposes as if the same were copied verbatim herein is a true and correct copy of an affidavit of Rebecca (Beth) Stevens, Attorney of Record for Petitioner herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Indictments and Judgments entered in the Fisch criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

9. The offenses of Conspiracy to Commit Obstruction of Justice, Obstruction of Justice, Aiding and Abetting, Conspiracy to Commit Money Laundering, and Money Laundering, Aiding and Abetting, for which Respondent was convicted are intentional crimes as defined by Rule 1.06(T), Texas Rules of Disciplinary Procedure. They are as well serious crimes as defined by Rule 1.06(Z), Texas Rules of Disciplinary Procedure.

10. Having been found guilty and having been convicted of intentional crimes and such conviction currently being appealed, Respondent should be suspended as an attorney licensed to practice law in Texas during the appeal of his conviction. Further, upon a showing by Petitioner that the conviction has become final after determination of the appeal, Respondent should be disbarred as provided by Rule 8.05, Texas Rules of Disciplinary Procedure.

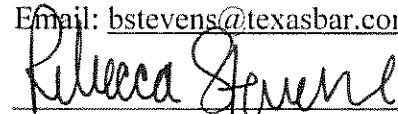
PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter its order suspending Respondent during the appeal of his conviction, and for such other and further relief to which Petitioner may be entitled to receive including costs of court and attorney's fees.

Respectfully submitted,

**Linda A. Acevedo**  
Chief Disciplinary Counsel

**Rebecca (Beth) Stevens**  
Assistant Disciplinary Counsel  
Office of the Chief Disciplinary Counsel  
STATE BAR OF TEXAS  
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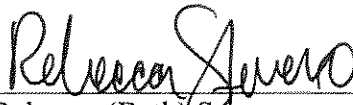


Rebecca (Beth) Stevens  
State Bar Card No. 24065381

ATTORNEYS FOR PETITIONER

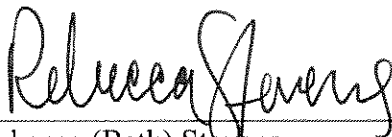
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been sent for personal service on Abraham M. Fisch, Register #02040-379, Fort Bend County Jail, 1410 Williams Way Blvd. Richmond, TX 77469 on this 2<sup>nd</sup> day of December 2015.

  
\_\_\_\_\_  
Rebecca (Beth) Stevens

**NOTICE OF HEARING**

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at **9:00 a.m. on the 29th day of January 2016.**

  
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Rebecca (Beth) Stevens

# INTERNAL PROCEDURAL RULES

## Board of Disciplinary Appeals

*Effective February 19, 2015*

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## **SECTION 1: GENERAL PROVISIONS**

### **Rule 1.01 Definitions**

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

### **Rule 1.02 General Powers**

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and

determining disciplinary proceedings. But TRDP 15.01 applies to the enforcement of a judgment of BODA.

### **Rule 1.03 Additional Rules in Disciplinary Matters**

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

### **Rule 1.04 Appointment of Panels**

- (a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.
- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

### **Rule 1.05 Filing of Pleadings, Motions, and Other Papers**

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.
  - (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.
  - (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA

for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.
- (4) **Exceptions.**
  - (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.
  - (ii) The following documents must not be filed electronically:
    - a) documents that are filed under seal or subject to a pending motion to seal; and
    - b) documents to which access is otherwise restricted by court order.
  - (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.
- (5) **Format.** An electronically filed document must:
  - (i) be in text-searchable portable

document format (PDF);

- (ii) be directly converted to PDF rather than scanned, if possible; and
  - (iii) not be locked.
- (b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).
  - (c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:
    - (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
    - (2) an electronic image or scanned image of the signature.
  - (d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.
  - (e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

## Rule 1.06 Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition may be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or

her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent's signature.

#### **Rule 1.07 Hearing Setting and Notice**

- (a) **Original Petitions.** In any kind of case initiated by the CDC's filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23, the hearing date must be at least 30 days from the date that the petition is served on the Respondent.
- (b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23, the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.
- (c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.
- (d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately

following the docket call, the Chair will set and announce the order of cases to be heard.

#### **Rule 1.08 Time to Answer**

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

#### **Rule 1.09 Pretrial Procedure**

- (a) **Motions.**
  - (1) **Generally.** To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.
  - (2) **For Extension of Time.** All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:
    - (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
    - (ii) if an appeal has been perfected, the date when the appeal was perfected;
    - (iii) the original deadline for filing the item in question;

- (iv) the length of time requested for the extension;
  - (v) the number of extensions of time that have been granted previously regarding the item in question; and
  - (vi) the facts relied on to reasonably explain the need for an extension.
- (b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.
- (c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.
- (d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:
  - (1) marked;
  - (2) indexed with the title or description of the item offered as an exhibit; and
  - (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

#### **Rule 1.10 Decisions**

- (a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

- (b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:
  - (1) as required by the TRDP; and
  - (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.
- (c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

#### **Rule 1.11 Board of Disciplinary Appeals Opinions**

- (a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.
- (b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.
- (c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

### **Rule 1.12 BODA Work Product and Drafts**

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

### **Rule 1.13 Record Retention**

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

### **Rule 1.14 Costs of Reproduction of Records**

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

### **Rule 1.15 Publication of These Rules**

These rules will be published as part of the TDRPC and TRDP.

## **SECTION 2: ETHICAL CONSIDERATIONS**

### **Rule 2.01 Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases**

- (a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

- (b) A current BODA member must not serve as an expert witness on the TDRPC.
- (c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

### **Rule 2.02 Confidentiality**

- (a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.
- (b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.
- (c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction.

### **Rule 2.03 Disqualification and Recusal of BODA Members**

- (a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.
- (b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.
- (c) These rules do not disqualify a lawyer who is a member of, or associated with,

the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him- or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

### **SECTION 3: CLASSIFICATION APPEALS**

#### **Rule 3.01 Notice of Right to Appeal**

- (a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.
- (b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

#### **Rule 3.02 Record on Appeal**

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

### **SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS**

#### **Rule 4.01 Perfecting Appeal**

- (a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the

appellate timetable under this section. To make TRDP 2.21 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.

- (b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21.

- (1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

- (2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

- (c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

- (d) **Time to File.** In accordance with TRDP 2.24, the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.
- (e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

#### **Rule 4.02 Record on Appeal**

- (a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.
- (b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.
- (c) **Responsibility for Filing Record.**
  - (1) Clerk's Record.
    - (i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.
    - (ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of

fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

- (iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

#### **(2) Reporter's Record.**

- (i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:
  - a) a notice of appeal has been filed;
  - b) a party has requested that all or part of the reporter's record be prepared; and
  - c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.
- (ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

#### **(d) Preparation of Clerk's Record.**

- (1) To prepare the clerk's record, the

evidentiary panel clerk must:

- (i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
  - (ii) start each document on a new page;
  - (iii) include the date of filing on each document;
  - (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
  - (v) number the pages of the clerk's record in the manner required by (d)(2);
  - (vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and
  - (vii) certify the clerk's record.
- (2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.
- (3) The table of contents must:
- (i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each

document begins;

- (ii) be double-spaced;
  - (iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;
  - (iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and
  - (v) if the record consists of multiple volumes, indicate the page on which each volume begins.
- (e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:
- (1) file each computer file in text-searchable Portable Document Format (PDF);
  - (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
  - (3) limit the size of each computer file to 100 MB or less, if possible; and
  - (4) directly convert, rather than scan, the record to PDF, if possible.
- (f) **Preparation of the Reporter's Record.**
- (1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The



reporter's record must be certified by the court reporter for the evidentiary panel.

- (2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.
- (3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.
- (4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise appear.
- (5) A court reporter or recorder must not lock any document that is part of the record.
- (6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.
- (g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.
- (h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record

that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

- (i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

#### **Rule 4.03 Time to File Record**

- (a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.
- (b) **If No Record Filed.**
  - (1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.
  - (2) If no reporter's record is filed due to appellant's fault, and if the clerk's

record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
  - (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.
- (c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.
- (d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

#### **Rule 4.04 Copies of the Record**

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

#### **Rule 4.05 Requisites of Briefs**

- (a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after

the clerk's record or the reporter's record is filed, whichever is later.

- (b) **Appellee's Filing Date.** Appellee's brief must be filed within 30 days after the appellant's brief is filed.
- (c) **Contents.** Briefs must contain:
- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
  - (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
  - (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
  - (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
  - (5) a statement, without argument, of the basis of BODA's jurisdiction;
  - (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
  - (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
  - (8) the argument and authorities;
  - (9) conclusion and prayer for relief;
  - (10) a certificate of service; and
  - (11) an appendix of record excerpts pertinent to the issues presented for review.
- (d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part

of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer-generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

- (e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.
- (f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:
  - (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
  - (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
  - (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

#### **Rule 4.06 Oral Argument**

- (a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to

timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

- (b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:
  - (1) the appeal is frivolous;
  - (2) the dispositive issue or issues have been authoritatively decided;
  - (3) the facts and legal arguments are adequately presented in the briefs and record; or
  - (4) the decisional process would not be significantly aided by oral argument.
- (c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

#### **Rule 4.07 Decision and Judgment**

- (a) **Decision.** BODA may do any of the following:
  - (1) affirm in whole or in part the decision of the evidentiary panel;
  - (2) modify the panel's findings and affirm the findings as modified;
  - (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
  - (4) reverse the panel's findings and

remand the cause for further proceedings to be conducted by:

- (i) the panel that entered the findings; or
  - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.
- (b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

#### **Rule 4.08 Appointment of Statewide Grievance Committee**

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

#### **Rule 4.09 Involuntary Dismissal**

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring

a response or other action within a specified time.

### **SECTION 5: PETITIONS TO REVOKE PROBATION**

#### **Rule 5.01 Initiation and Service**

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

#### **Rule 5.02 Hearing**

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

### **SECTION 6: COMPULSORY DISCIPLINE**

#### **Rule 6.01 Initiation of Proceeding**

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

#### **Rule 6.02 Interlocutory Suspension**

- (a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA may suspend the Respondent's license to

practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

- (b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

- (1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.
- (2) If the criminal sentence is not fully probated:
  - (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
  - (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.
- (c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court

attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

## **SECTION 7: RECIPROCAL DISCIPLINE**

### **Rule 7.01 Initiation of Proceeding**

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

### **Rule 7.02 Order to Show Cause**

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

### **Rule 7.03 Attorney's Response**

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

## **SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS**

### **Rule 8.01 Appointment of District Disability Committee**

- (a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2),

or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

- (b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.
- (c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.
- (d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.
- (e) Should any member of the District Disability Committee become unable to serve, the BODA Chair may appoint a substitute member.

## **Rule 8.02 Petition and Answer**

- (a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.
- (c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

## **Rule 8.03 Discovery**

- (a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.
- (b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam

ordered by the District Disability Committee.

- (1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.
- (c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

#### **Rule 8.04 Ability to Compel Attendance**

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

#### **Rule 8.05 Respondent's Right to Counsel**

- (a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.
- (b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk

within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

#### **Rule 8.06 Hearing**

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

#### **Rule 8.07 Notice of Decision**

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

#### **Rule 8.08 Confidentiality**

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

### **SECTION 9: DISABILITY REINSTATEMENTS**

#### **Rule 9.01 Petition for Reinstatement**

- (a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.
- (b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms

or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

- (c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

### **Rule 9.02 Discovery**

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

### **Rule 9.03 Physical or Mental Examinations**

- (a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.
- (b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

- (d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.
- (e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

### **Rule 9.04 Judgment**

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

## **SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS**

### **Rule 10.01 Appeals to the Supreme Court**

- (a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.
- (b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.
- (c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.





trafficking case pending in the United States District Court for the Southern District of Texas in which defendants Edilberto Portillo (“Portillo”) and his wife Elida Sanchez (“Sanchez”) hired FISCH and WILLIAMS.

5. *United States v. Joey Herrera, et al.*, Criminal Number H-07-038, was a drug trafficking case pending in the United States District Court for the Southern District of Texas in which defendant Joey Herrera (“Herrera”) hired FISCH and WILLIAMS.

6. *United States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426, was a health care fraud case pending in the United States District Court for the Southern District of Texas in which defendant Umawa Oke Imo (“Imo”) hired FISCH and WILLIAMS.

7. *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421 and *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-10-416, were health care fraud cases pending in the United States District Court for the Southern District of Texas in which defendants Clifford Ubani (“Ubani”) and his business partner Princewill Njoku (“Njoku”) hired FISCH and WILLIAMS.

8. A common and well-accepted law enforcement technique is for the government to offer a member of a criminal conspiracy the opportunity to cooperate with, and provide information to, the government, and this information is then used to investigate and prosecute other members of the conspiracy. No defendant must pay the government for the opportunity to cooperate. Rather, in exchange for a defendant’s cooperation and truthful information, the government often requests at the time of sentencing that the cooperating defendant receive a reduced sentence. Whether to follow the government’s recommendation and impose a reduced sentence is in the sole discretion of the sentencing judge.

**COUNT ONE**  
**(Conspiracy - 18 U.S.C. § 371)**

A. INTRODUCTION

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment.

B. THE CONSPIRACY AND ITS OBJECTS

2. From in or about August 2006, and continuing up to and including the date of this Indictment, in the Houston Division of the Southern District of Texas and elsewhere, the defendants,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch,  
**LLOYD GLEN WILLIAMS, and**  
**MONICA BERTMAN**  
aka Marsha Zaluska Pavlovich  
aka Malkah Aliyah Bertman,

did knowingly combine, conspire, confederate and agree with each other, and with others known and unknown to the Grand Jury, to commit the following offense against the United States: to corruptly endeavor to influence, obstruct and impede the due administration of justice, in violation of Title 18, United States Code, Section 1503 (obstruction of justice).

C. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

3. WILLIAMS would and did concoct a scheme to defraud individuals who were facing federal criminal charges. FISCH participated in the scheme with WILLIAMS.

4. WILLIAMS would and did solicit federal criminal defendants as clients under false pretenses. WILLIAMS claimed to the defendants that WILLIAMS had the power to cause their criminal charges to be dismissed if they would pay him a large sum of money and then provide him with information about their crimes. WILLIAMS claimed he would then pass that information along

to contacts in various federal agencies. In return, WILLIAMS claimed his contacts would cause the criminal charges against the defendants to be dismissed.

5. WILLIAMS would and did claim to defendants that his alleged contacts were high-level government officials within the Central Intelligence Agency, the Department of Justice, and the Department of Health and Human Services. In reality, however, WILLIAMS's supposed contacts were either retired government officials, were not in contact with WILLIAMS, or otherwise had no ability or willingness to influence the outcome of a defendant's case.

6. Both WILLIAMS and FISCH were necessary components of the scheme. WILLIAMS, as the holder of the supposed high-level government contacts with the power to dismiss charges, had the means to successfully market himself and FISCH to prospective clients. FISCH, as the licensed attorney, had the ability to represent the successfully recruited clients in federal court.

7. After being hired by federal criminal defendants, WILLIAMS and FISCH would and did continue to make misrepresentations to the defendants, including misrepresentations about: (1) the nature of the cooperation process with the government; (2) WILLIAMS's ability to affect the outcome of defendants' cases; (3) the nature and extent of WILLIAMS's alleged government contacts; (4) the intentions of various government agencies with respect to defendants' cases; (5) the alleged statements by government agents or attorneys with respect to defendants' cases; (6) whether WILLIAMS and FISCH had turned over information from defendants to the government; and (7) which government agencies had allegedly received defendants' information from WILLIAMS and FISCH.

8. In addition, WILLIAMS, FISCH and BERTMAN would and did falsely state to some defendants that government officials were being bribed on behalf of the defendants with the funds the defendants had paid to WILLIAMS and FISCH.

9. WILLIAMS and FISCH would and did undermine the functioning of the federal

justice system by: (1) interfering with defendants' cooperation with the government, including failing to pass information from a defendant to the government and depriving the defendant of the opportunity to earn a cooperation agreement with the government, which could benefit him at sentencing; (2) interfering with plea negotiations with the government by preventing defendants from timely entering guilty pleas because of the mistaken belief their case was going to be dismissed; (3) interfering with defendants' relationships with former and subsequent counsel, including communicating with represented defendants unbeknownst to their legitimate counsel, causing defendants to fire former counsel, causing defendants not to communicate fully and truthfully with their attorneys, and causing defendants not to assist their attorneys in preparing their defense or in negotiating guilty pleas; and (4) insisting that defendants keep the nature of WILLIAMS's so-called "assistance" secret from the court, the government, and other attorneys.

10. For WILLIAMS's illusory assistance, WILLIAMS and FISCH would and did collect substantial sums of money from multiple federal criminal defendants.

#### D. OVERT ACTS

11. In furtherance of the conspiracy, and to effect the objects of the conspiracy, the following overt acts, among others, were committed in the Southern District of Texas and elsewhere:

##### I. *United States v. Edilberto Portillo, et al., Criminal Number H-06-182*

(1) In or about the fall of 2006, FISCH met with Portillo in Houston.

(2) In or about the fall of 2006, FISCH told Portillo that for \$1 million dollars, FISCH could soon have Portillo released from prison.

(3) In or about the fall of 2006, FISCH told Portillo that WILLIAMS was assisting the Central Intelligence Agency (CIA) with investigations of high-level drug traffickers in Mexico and explained that if Portillo would assist WILLIAMS and the CIA with their drug trafficking investigations, Portillo's case would be dismissed.

(4) In or about the fall of 2006, FISCH and WILLIAMS met with Sanchez in Houston.

(5) In or about the fall of 2006, FISCH and WILLIAMS told Sanchez that Portillo must fire his current attorney and hire FISCH because WILLIAMS only works with FISCH.

(6) In or about October 2006, Sanchez and Portillo agreed to hire FISCH and WILLIAMS for \$1.1 million dollars.

(7) In or about October 2006, Sanchez paid FISCH approximately \$450,000 in cash.

(8) On or about November 1, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on the account of Canarios Promotion in the amount of \$325,000.

(9) On or about November 1, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on the account of Carnaval Night Club, Inc. in the amount of \$175,000.

(10) On or about November 13, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on the account of Carnaval Night Club, Inc. in the amount of \$100,000.

(11) On or about November 17, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on Bank of America account number xxxxxx3805 in the amount of \$50,000.

(12) On or about November 22, 2006, FISCH filed a motion to substitute as counsel for Portillo in *United States v. Edilberto Portillo, et al.*, Criminal Number H-06-182.

(13) On or about December 22, 2006, FISCH caused a check in the amount of \$25,000 to be made to WILLIAMS from First Bank Texas Equal Access for Justice Foundation,

IOLTA Account for Abraham M. Fisch.

(14) On or about January 2, 2007, FISCH caused a check in the amount of \$675,000 to be made to WILLIAMS from First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch.

(15) On or about April 11, 2007, FISCH caused a letter to be drafted on behalf of Sanchez to her attorney Mike DeGeurin, purporting to fire DeGeurin as her attorney.

(16) On or about April 17, 2007, FISCH failed to file a 2006 federal income tax return.

(17) On or about January 31, 2008, FISCH failed to file an IRS Form 1099 informing the Internal Revenue Service (IRS) that he had paid WILLIAMS \$675,000 in non-employee compensation in 2007.

(18) On or about April 15, 2008, WILLIAMS failed to declare any funds he received from Sanchez through FISCH on his 2007 federal income tax return.

(19) On or about December 14, 2009, during a recorded telephone call, WILLIAMS assured Sanchez that he was still handling his part of their agreement but reminded her, "Just don't be talking to anybody." When Sanchez asked WILLIAMS if the people in Washington, D.C. can still do something for her husband, WILLIAMS responded, "Absolutely, absolutely, I'm not concerned. . . . Everything is going to be like I told you, ok?"

(20) On or about December 17, 2009, WILLIAMS met with Sanchez in Houston.

(21) On or about December 17, 2009, in a recorded conversation, WILLIAMS told Sanchez that he made a call "to his people" in Washington, D.C. When Sanchez stated, "That was the deal, dismiss my husband's case and my case, and now everything is different," WILLIAMS responded, "No, nothing's different." When Sanchez asked WILLIAMS what he had done with the information Portillo had given him, WILLIAMS said, "I gave it to the Justice Department." When

Sanchez asked, "What department? Is this CIA?" WILLIAMS confirmed, "CIA, right." When Sanchez asked, "That's . . . the agent (sic) who you give the information?" WILLIAMS responded, "Right, that's the group that does your stuff. That's right." When Sanchez asked again who WILLIAMS had passed Portillo's information to, he confirmed, "CIA and the Justice Department." When Sanchez asked WILLIAMS where her money went, WILLIAMS responded, "Well, Mr. FISCH allocated the money in the right places, ok?"

(22) On or about January 27, 2010, FISCH and BERTMAN met with Sanchez in Houston.

(23) On or about January 27, 2010, in a recorded conversation, when Sanchez asked BERTMAN if FISCH would be returning the money Sanchez had paid, BERTMAN responded, "We don't have the money to give it back. It didn't stay with us. You gotta understand that. It went to these people who were supposed to . . . the CIA, whoever these people are that are doing this deal with Mr. WILLIAMS. The money's gone and they are supposed to be making this happen. . . . But Elida, I'm telling you now, he [FISCH] didn't keep the money . . . He was like a conduit . . . It went through him to these people in Washington." BERTMAN told Sanchez that she had asked FISCH, "If the game plan is still the same, if you're still working with Mr. WILLIAMS, with Washington, with the CIA people, . . . and he said, 'Yes. That is still what's planned. There's no change in that.'"

(24) On or about January 29, 2010, FISCH and WILLIAMS met with Sanchez in Houston.

(25) On or about January 29, 2010, in a recorded conversation, FISCH stated to Sanchez, "When you hired me, you hired me because you wanted Mr. WILLIAMS involved because of the people he knows. Beto [Portillo] was gonna cooperate for his case to get dismissed, right?" FISCH further stated, "Before I got taken off the case, ok, I met with your husband a lot Elida . . .



a lot. And he told me a lot of things. . . . He told me a lot of things, and then I turned it over. I turned it over to the Justice Department.”

(26) In or about August and September 2011, after the IRS had opened an investigation on FISCH for failing to file tax returns, FISCH belatedly caused to be filed federal income tax returns for a number of years, including 2006, 2007, 2008, 2009, 2010.

(27) On or about September 8, 2011, FISCH failed to declare any funds he received from Sanchez in his 2006 federal income tax return.

**II. *United States v. Joey Herrera, et al.*, Criminal Number H-07-038**

(28) In or about June 2007, FISCH met with Joey Herrera in Houston.

(29) In or about June 2007, FISCH told Herrera that Herrera should fire his current attorney and hire FISCH.

(30) In or about June 2007, FISCH told Herrera that WILLIAMS had the power to have Herrera released from prison.

(31) In or about June 2007, FISCH told Herrera that at the time of Herrera’s sentencing, a recommendation from WILLIAMS would be on the judge’s desk, requesting that Herrera be released.

(32) On or about July 3, 2007, FISCH caused Chase Bank Official Check number 596827005 from Socorro Herrera in the amount of \$80,000 to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch.

(33) In or about July 2007, FISCH gave Socorro Herrera a telephone number for WILLIAMS.

(34) In or about August 2007, Socorro Herrera met with WILLIAMS in Houston.

(35) In or about August 2007, WILLIAMS told Socorro Herrera that he would contact his friends in Washington, D.C. to see if they could help with her son’s case.

(36) On or about September 24, 2007, FISCH filed a motion to substitute as counsel for Herrera in *United States v. Joey Herrera, et al.*, Criminal Number H-07-038.

(37) On or about April 15, 2008, FISCH failed to file his 2007 federal income tax return.

**III. *United States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426**

(38) In or about November 2009, WILLIAMS met with attorney Uchechi Prince O. Nwakanma ("Prince") who was representing defendant Umawa Oke Imo.

(39) In or about November 2009, WILLIAMS told Prince that WILLIAMS had high-level contacts in Medicare who could cause Imo's case to be dismissed.

(40) In or about November 2009, WILLIAMS recommended that Prince hire FISCH to represent Imo.

(41) In or about November 2009, FISCH, WILLIAMS, and BERTMAN met with Prince in Houston.

(42) In or about November 2009, FISCH and WILLIAMS told Prince that it would cost \$2 million dollars in order to have Imo's case dismissed.

(43) On or about November 16, 2009, Prince caused Chase Bank Cashier's Check number 9817604592 in the amount of \$250,000 to be made to FISCH.

(44) On or about November 16, 2009, FISCH caused Chase Bank Cashier's Check number 9817604592 in the amount of \$250,000 to be deposited into Omni Bank Abraham M. Fisch Attorney At Law, Lawyer Trust IOLTA Account, account number xxxxxx3867.

(45) On or about December 9, 2009, FISCH appeared as attorney for Imo in *United States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426.

(46) On or about April 5, 2010, WILLIAMS and FISCH met with Prince in Houston to discuss payment of an additional \$1.5 million dollars by Imo to WILLIAMS and FISCH.

(47) On or about April 5, 2010, in a recorded conversation, FISCH stated to Prince, "He [WILLIAMS] doesn't want to go talk to his people 'till the money's in my trust account. . . . All he's saying is, put the money up and then he's gonna go approach them and say, 'Ok, we've got the money . . . let's do it,' and he will try and talk them into it. If he can't, the money goes back to you." WILLIAMS stated to Prince, "As far as the criminal part, I can get that handled." When asked who he is working with, WILLIAMS answered, "Medicare! Medicare! . . . Medicare is working with the Justice Department with my people in Washington. . . . Now, what is going to happen if I put on the full court press again and there's no money? . . . Prince, you don't understand the credibility that I have, ok?" When Prince asked WILLIAMS what he should tell Imo regarding who is being paid, and how much, WILLIAMS responded, "We don't lay anything out . . . all he know's is he's paying us . . . it's getting handled. . . . What difference does it make? None."

(48) On or about April 15, 2010, FISCH failed to file his 2009 federal income tax return.

**IV. *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421; *United State v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-10-416**

(49) In or about February 2010, WILLIAMS met with Ubani and Njoku in Houston.

(50) In or about February 2010, WILLIAMS told Ubani and Njoku that he had a contact inside Medicare who could assist in resolving their case.

(51) In or about February 2010, WILLIAMS told Njoku that WILLIAMS' contact at Medicare would call the prosecutor and say that Medicare did not want a prosecution because the case was simply a difference of opinion about what was owed to the government.

(52) In or about February 2010, WILLIAMS told Njoku that FISCH would represent Ubani and could not also represent Njoku because to do so would be a conflict of interest

but that Njoku should pay FISCH anyway because FISCH would have the case dismissed for Njoku as well.

(53) On or about March 8, 2010, Ubani caused a check in the amount of \$25,000 to be made to FISCH from an account in the name of Special Healthcare Inc.

(54) On or about March 8, 2010, Njoku caused a check in the amount of \$25,000 to be made to FISCH from an account in the name of Family Healthcare Group Inc.

(55) On or about March 10, 2010, FISCH filed a motion to substitute as counsel for Ubani in *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421.

(56) On or about March 12, 2010, FISCH caused Chase Bank Cashier's Check number 1308201341 in the amount of \$50,000 to be deposited into Omni Bank Abraham M. Fisch account number xxxxxx6830.

(57) On or about August 2, 2010, FISCH filed a motion to substitute as counsel for Ubani in *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-10-416.

(58) On or about April 15, 2011, FISCH failed to file his 2010 federal income tax return.

**COUNT TWO**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 1-27 from Count One.

2. On or about November 1, 2006, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**

aka Anthony Fisch,  
**LLOYD GLEN WILLIAMS**, and  
**MONICA BERTMAN**  
aka Marsha Zaluska Pavlovich  
aka Malkah Aliyah Bertman,

defendants herein, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Edilberto Portillo, et al.*, Criminal Number H-06-182, in the United States District Court for the Southern District of Texas, by promising defendants Edilberto Portillo and Elida Sanchez that if they hired FISCH and WILLIAMS, WILLIAMS would cause Portillo and Sanchez's criminal case to be dismissed through WILLIAMS's influence with government officials and through payments to government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT THREE**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 28-37 from Count One.

2. On or about July 3, 2007, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch and  
**LLOYD GLEN WILLIAMS**,

defendants herein, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Joey Herrera, et al.*, Criminal Number H-07-038, in the United States District Court for the Southern District of Texas, by promising defendant Joey Herrera that if he hired FISCH and WILLIAMS, WILLIAMS would cause Herrera to be released from prison through WILLIAMS's influence with government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT FOUR**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 38-48 from Count One.

2. On or about November 16, 2009, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch and  
**LLOYD GLEN WILLIAMS,**

defendants herein, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426, in the United States District Court for the Southern District of Texas, by promising Prince that if he hired FISCH and WILLIAMS on behalf of defendant Umawa Oke Imo, WILLIAMS would cause Imo's criminal case to be dismissed through WILLIAMS's influence with government officials and through payments to government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT FIVE**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 49-58 from Count One.

2. On or about March 8, 2010, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**

aka Anthony Fisch and  
**LLOYD GLEN WILLIAMS,**

defendants herein, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421 and *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-10-416, in the United States District Court for the Southern District of Texas, by promising defendants Clifford Ubani and Princewill Njoku that if they hired FISCH and WILLIAMS, WILLIAMS would cause their criminal cases to be dismissed through WILLIAMS's influence with government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT SIX**  
**(Money Laundering Conspiracy - 18 U.S.C. § 1956(h))**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and the Overt Acts Section of Count One.

2. From in or about August 2006, and continuing through and including the date of this Indictment, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch and  
**LLOYD GLEN WILLIAMS,**

defendants herein, did unlawfully, knowingly and intentionally combine, conspire, confederate and agree with each other and others known and unknown to the grand jury, to knowingly engage in and attempt to engage in monetary transactions within the United States in criminally derived property that is of a value greater than \$10,000 and is derived from specified unlawful activity, specifically, obstruction of justice, a violation of Title 18, United States Code, Section 1503. In violation of Title 18, United States Code, Section 1956(h).

**COUNTS SEVEN THROUGH FIFTEEN**  
**(Money Laundering - 18 U.S.C. §§ 1957 and 2)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and the Overt Acts Section of Count One.

2. On or about the dates set forth below, in the Southern District of Texas and elsewhere within the jurisdiction of the court, the defendants, each aided and abetted by the other, did knowingly engage and attempt to engage in the following monetary transactions by, through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is, the deposit of monetary instruments, such property having been derived from a specified unlawful activity, that is, obstruction of justice, a violation of Title 18, United States Code, Section 1503.

COUNT	DATE	DEFENDANT	FINANCIAL TRANSACTION
Seven	November 1, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	Check drawn on the account of Canarios Promotion in the amount of \$325,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Eight	November 1, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	Check drawn on the account of Carnival Night Club, Inc. in the amount of \$175,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584



Nine	November 13, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	Check drawn on the account of Carnival Night Club, Inc. in the amount of \$100,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Ten	November 17, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	Check drawn on Bank of America account number xxxxxx3805 in the amount of \$50,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Eleven	December 26, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	First Bank Official Check number 249755482 in the amount of \$25,000 deposited into First National Bank account number xxxxx0133 in the name of Virginia Williams
Twelve	January 5, 2007	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	First Bank Official Check number 249755488 in the amount of \$675,000 deposited into First National Bank account number xxxxx0133 in the name of Virginia Williams
Thirteen	July 3, 2007	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	Chase Bank Official Check number 596827005 in the amount of \$80,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Fourteen	November 16, 2009	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	Chase Bank Cashier's Check number 9817604592 in the amount of \$250,000 deposited into Omni Bank Abraham M. Fisch Attorney At Law, Lawyer Trust IOLTA Account, account number xxxxxx3867

Fifteen	March 12, 2010	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch and <b>LLOYD GLEN WILLIAMS</b>	Chase Bank Cashier's Check number 1308201341 in the amount of \$50,000 deposited into Omni Bank Abraham M. Fisch account number xxxxxx6830
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In violation of Title 18, United States Code, Sections 1957 and 2.

**COUNTS SIXTEEN THROUGH TWENTY**  
**(Failure to File Tax Return - 26 U.S.C. § 7203)**

1. That during the calendar years set forth below, **ABRAHAM MOSES FISCH**, aka Anthony Fisch, a resident of the Southern District of Texas, had and received net earnings from self-employment in excess of \$400 and gross income in excess of the amounts set forth below. By reason of such net earnings and gross income, he was required by law, following the close of the calendar years, and on or before the dates set forth below, to make an income tax return to the Internal Revenue Service Center in Austin, Texas, to a person assigned to receive returns at the local office of the Internal Revenue Service at Houston, Texas, or to another Internal Revenue Service office permitted by the Commissioner of Internal Revenue, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well-knowing and believing all of the foregoing, Defendant **ABRAHAM MOSES FISCH** did willfully fail to timely make an income tax return.

<u>Count</u>	<u>Calendar Year</u>	<u>Due Date</u>	<u>Gross Income Threshold</u>
16	2006	April 17, 2007	\$8,200
17	2007	April 15, 2008	\$8,450
18	2008	April 15, 2009	\$8,950
19	2009	April 15, 2010	\$9,350
20	2010	April 15, 2011	\$9,350

In violation of Title 26, United States Code, Section 7203.

**COUNT TWENTY-ONE**

**(Willfully Making and Subscribing to a False Return - 26 U.S.C. § 7206(1))**

1. On or about April 15, 2008, in the Houston Division of the Southern District Of Texas and elsewhere within the jurisdiction of the court,

**LLOYD GLEN WILLIAMS,**

defendant herein and resident of Houston Texas, did willfully make and subscribe a Joint 2007 U.S. Individual Income Tax Return, Internal Revenue Service (IRS) Form 1040, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the IRS, which tax return he did not believe to be true and correct as to every material matter in that the tax return reported income on Line 12 of the Form 1040 as a loss of \$30,908.17 whereas, as he then and there well knew and believed, the income was substantially greater.

In violation of Title 26, United States Code, Section 7206(1).

**NOTICE OF CRIMINAL FORFEITURE**

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH, WILLIAMS, and BERTMAN that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count One are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of Abraham M. Fisch;
- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and

- c. Money judgment payable to the United States of America in the approximate amount of \$1,480,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH, WILLIAMS, and BERTMAN that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Two are subject to forfeiture to the United States of America, including, but not limited to:

- a. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- b. Money judgment payable to the United States of America in the approximate amount of \$1,100,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH and WILLIAMS that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Three are subject to forfeiture to the United States of America, including, but not limited to:

- a. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- b. Money judgment payable to the United States of America in the approximate amount of \$80,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH and WILLIAMS that all property, real or personal, which constitutes or is derived from proceeds traceable

to a violation of the offense charged in Count Four are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of Abraham M. Fisch;
- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- c. Money judgment payable to the United States of America in the approximate amount of \$250,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH and WILLIAMS that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Five are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of Abraham M. Fisch;
- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- c. Money judgment payable to the United States of America in the approximate amount of \$50,000.00.

Pursuant to Title 18, United States Code, Sections 982(a)(1), 981(a)(1)(A), 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH and WILLIAMS that all property, real or personal, involved in a transaction or

attempted transaction in violation of Count Six or any property traceable to such property and, additionally, all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Six are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of Abraham M. Fisch;
- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- c. Money judgment payable to the United States of America in the approximate amount of \$1,480,000.00.

Pursuant to Title 18, United States Code, Sections 982(a)(1), 981(a)(1)(A), 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH and WILLIAMS that all property, real or personal, involved in a transaction or attempted transaction in violation of Counts Seven through Fifteen or any property traceable to such property and, additionally, all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offenses charged in Count Seven through Fifteen are subject to forfeiture to the United States of America, including, but not limited to:

- a. Money judgment payable to the United States of America in the approximate amount of \$325,000.00 (Count Seven);
- b. Money judgment payable to the United States of America in the approximate amount of \$175,000.00 (Count Eight);
- c. Money judgment payable to the United States of America in the approximate amount of \$100,000.00 (Count Nine);
- d. Money judgment payable to the United States of America in the approximate

amount of \$50,000.00 (Count Ten);

- e. Money judgment payable to the United States of America in the approximate amount of \$25,000.00 (Count Eleven);
- f. Money judgment payable to the United States of America in the approximate amount of \$675,000.00 (Count Twelve);
- g. Money judgment payable to the United States of America in the approximate amount of \$80,000.00 (Count Thirteen);
- h. Money judgment payable to the United States of America in the approximate amount of \$250,000.00 (Count Fourteen); and
- i. Money judgment payable to the United States of America in the approximate amount of \$50,000.00 (Count Fifteen).

**Substitute Property**

If any of the property described above, as a result of any act or omission of any of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461.

**A TRUE BILL:**

ORIGINAL SIGNATURE ON FILE

\_\_\_\_\_  
FOREMAN OF THE GRAND JURY

KENNETH MAGIDSON  
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read "Robert S. Johnson", written over a horizontal line.

Robert S. Johnson  
Assistant United States Attorney





which defendants Edilberto Portillo ("Portillo") and his wife Elida Sanchez ("Sanchez") hired FISCH and WILLIAMS.

5. *United States v. Hugo Barrera Cavazos*, Criminal Number H-06-422, was a drug trafficking case pending in the United States District Court for the Southern District of Texas in which defendant Hugo Barrera Cavazos ("Barrera") was solicited by FISCH and WILLIAMS as a client.

6. *United States v. Joey Herrera, et al.*, Criminal Number H-07-038, was a drug trafficking case pending in the United States District Court for the Southern District of Texas in which defendant Joey Herrera ("Herrera") hired FISCH and WILLIAMS.

7. *United States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426, was a health care fraud case pending in the United States District Court for the Southern District of Texas in which defendant Umawa Oke Imo ("Imo") hired FISCH and WILLIAMS.

8. *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421 and *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-10-416, were health care fraud cases pending in the United States District Court for the Southern District of Texas in which defendants Clifford Ubani ("Ubani") and his business partner Princewill Njoku ("Njoku") hired FISCH and WILLIAMS.

9. A common and well-accepted law enforcement technique is for the government to offer a member of a criminal conspiracy the opportunity to cooperate with, and provide information to, the government, and this information is then used to investigate and prosecute other members of the conspiracy. No defendant must pay the government for the opportunity to cooperate. Rather, in exchange for a defendant's cooperation and truthful information, the government often requests at the time of sentencing that the cooperating defendant receive a reduced sentence. Whether to follow the government's recommendation and impose a reduced sentence is in the sole discretion

of the sentencing judge.

**COUNT ONE**  
**(Conspiracy - 18 U.S.C. § 371)**

A. INTRODUCTION

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment.

B. THE CONSPIRACY AND ITS OBJECTS

2. From in or about August 2006, and continuing through in or about October 2011, in the Houston Division of the Southern District of Texas and elsewhere, the defendants,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch and  
**MONICA BERTMAN**  
aka Marsha Zaluska Pavlovich  
aka Malkah Aliyah Bertman,

did knowingly combine, conspire, confederate and agree with each other and with their coconspirator WILLIAMS and others known and unknown to the Grand Jury, to commit the following offense against the United States: to corruptly endeavor to influence, obstruct and impede the due administration of justice, in violation of Title 18, United States Code, Section 1503 (obstruction of justice).

C. MANNER AND MEANS OF THE CONSPIRACY

It was part of the conspiracy that:

3. WILLIAMS would and did concoct a scheme to defraud individuals who were facing federal criminal charges. FISCH participated in the scheme with WILLIAMS.

4. WILLIAMS would and did solicit federal criminal defendants as clients under false pretenses. WILLIAMS claimed to the defendants that WILLIAMS had the power to cause their

criminal charges to be dismissed if they would pay him a large sum of money and then provide him with information about their crimes. WILLIAMS claimed he would then pass that information along to contacts in various federal agencies. In return, WILLIAMS claimed his contacts would cause the criminal charges against the defendants to be dismissed.

5. WILLIAMS would and did claim to defendants that his alleged contacts were high-level government officials within the Central Intelligence Agency, the Department of Justice, and the Department of Health and Human Services. In reality, however, WILLIAMS's supposed contacts were either retired government officials, were not in contact with WILLIAMS, or otherwise had no ability or willingness to influence the outcome of a defendant's case.

6. Both WILLIAMS and FISCH were necessary components of the scheme. WILLIAMS, as the holder of the supposed high-level government contacts with the power to dismiss charges, had the means to successfully market himself and FISCH to prospective clients. FISCH, as the licensed attorney, had the ability to represent the successfully recruited clients in federal court.

7. After being hired by federal criminal defendants, WILLIAMS and FISCH would and did continue to make misrepresentations to the defendants, including misrepresentations about: (1) the nature of the cooperation process with the government; (2) WILLIAMS's ability to affect the outcome of defendants' cases; (3) the nature and extent of WILLIAMS's alleged government contacts; (4) the intentions of various government agencies with respect to defendants' cases; (5) the alleged statements by government agents or attorneys with respect to defendants' cases; (6) whether WILLIAMS and FISCH had turned over information from defendants to the government; and (7) which government agencies had allegedly received defendants' information from WILLIAMS and FISCH.

8. In addition, WILLIAMS, FISCH and BERTMAN would and did falsely state to some defendants that government officials were being bribed on behalf of the defendants with the funds

the defendants had paid to WILLIAMS and FISCH.

9. WILLIAMS and FISCH would and did undermine the functioning of the federal justice system by: (1) interfering with defendants' cooperation with the government, including failing to pass information from a defendant to the government and depriving the defendant of the opportunity to earn a cooperation agreement with the government, which could benefit him at sentencing; (2) interfering with plea negotiations with the government by preventing defendants from timely entering guilty pleas because of the mistaken belief their case was going to be dismissed; (3) interfering with defendants' relationships with former and subsequent counsel, including communicating with represented defendants unbeknownst to their legitimate counsel, causing defendants to fire former counsel, causing defendants not to communicate fully and truthfully with their attorneys, and causing defendants not to assist their attorneys in preparing their defense or in negotiating guilty pleas; and (4) insisting that defendants keep the nature of WILLIAMS's so-called "assistance" secret from the court, the government, and other attorneys.

10. For WILLIAMS's illusory assistance, WILLIAMS and FISCH would and did collect substantial sums of money from multiple federal criminal defendants.

#### D. OVERT ACTS

11. In furtherance of the conspiracy, and to effect the objects of the conspiracy, the following overt acts, among others, were committed in the Southern District of Texas and elsewhere:

##### I. *United States v. Edilberto Portillo, et al., Criminal Number H-06-182*

(1) In or about the fall of 2006, FISCH met with Portillo in Houston and told Portillo that for \$1 million dollars, FISCH could soon have Portillo released from prison.

(2) In or about the fall of 2006, FISCH told Portillo that WILLIAMS was assisting the Central Intelligence Agency (CIA) with investigations of high-level drug traffickers in Mexico and explained that if Portillo would assist WILLIAMS and the CIA with their drug

trafficking investigations, Portillo's case would be dismissed.

(3) In or about the fall of 2006, FISCH and WILLIAMS met with Sanchez in Houston and told her that Portillo must fire his current attorney and hire FISCH because WILLIAMS only works with FISCH.

(4) In or about October 2006, Sanchez and Portillo agreed to hire FISCH and WILLIAMS for \$1.1 million dollars.

(5) In or about October 2006, Sanchez paid FISCH approximately \$450,000 in cash.

(6) On or about November 1, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on the account of Canarios Promotion in the amount of \$325,000.

(7) On or about November 1, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on the account of Carnaval Night Club, Inc. in the amount of \$175,000.

(8) On or about November 13, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on the account of Carnaval Night Club, Inc. in the amount of \$100,000.

(9) On or about November 17, 2006, FISCH caused to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, a check from Sanchez drawn on Bank of America account number xxxxxx3805 in the amount of \$50,000.

(10) On or about November 22, 2006, FISCH filed a motion to substitute as counsel for Portillo in *United States v. Edilberto Portillo, et al.*, Criminal Number H-06-182.

(11) On or about December 22, 2006, FISCH caused a check in the amount of \$25,000 to be made to WILLIAMS from First Bank Texas Equal Access for Justice Foundation.

IOLTA Account for Abraham M. Fisch.

(12) On or about January 31, 2007, FISCH failed to file an IRS Form 1099 informing the Internal Revenue Service (IRS) that he had paid WILLIAMS \$25,000 in non-employee compensation in 2006.

(13) On or about January 2, 2007, FISCH caused a check in the amount of \$675,000 to be made to WILLIAMS from First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch.

(14) On or about January 31, 2008, FISCH failed to file an IRS Form 1099 informing the Internal Revenue Service (IRS) that he had paid WILLIAMS \$675,000 in non-employee compensation in 2007.

(15) In or about 2007, FISCH agreed to pay Michael Goodson ("Goodson"), an inmate at the federal detention center, a referral fee of ten percent of the fee in the Portillo case in return for Goodson having helped recruit Portillo as a client by telling Portillo that WILLIAMS's contacts would have Portillo's case dismissed.

(16) In or about 2007, FISCH hand delivered a portion of Goodson's referral fee, approximately \$4000 in cash, to Michael Goodson, Jr., Goodson's son.

(17) On or about April 11, 2007, FISCH caused a letter to be drafted on behalf of Sanchez to her attorney, purporting to fire her attorney.

(18) On or about April 17, 2007, FISCH failed to file a 2006 federal income tax return.

(19) On or about April 15, 2008, WILLIAMS failed to declare any funds he received from Sanchez through FISCH on his 2007 federal income tax return.

(20) On or about December 14, 2009, during a recorded telephone call, WILLIAMS assured Sanchez that he was still handling his part of their agreement but reminded her,

"Just don't be talking to anybody." When Sanchez asked WILLIAMS if the people in Washington, D.C. can still do something for her husband, WILLIAMS responded, "Absolutely, absolutely, I'm not concerned. . . . Everything is going to be like I told you, ok?"

(21) On or about December 17, 2009, WILLIAMS met with Sanchez in Houston.

(22) On or about December 17, 2009, in a recorded conversation, WILLIAMS told Sanchez that he made a call "to his people" in Washington, D.C. When Sanchez stated, "That was the deal, dismiss my husband's case and my case, and now everything is different," WILLIAMS responded, "No, nothing's different." When Sanchez asked WILLIAMS what he had done with the information Portillo had given him, WILLIAMS said, "I gave it to the Justice Department." When Sanchez asked, "What department? Is this CIA?" WILLIAMS confirmed, "CIA, right." When Sanchez asked, "That's . . . the agent (sic) who you give the information?" WILLIAMS responded, "Right, that's the group that does your stuff. That's right." When Sanchez asked again who WILLIAMS had passed Portillo's information to, he confirmed, "CIA and the Justice Department." When Sanchez asked WILLIAMS where her money went, WILLIAMS responded, "Well, Mr. FISCH allocated the money in the right places, ok?"

(23) On or about January 27, 2010, FISCH and BERTMAN met with Sanchez in Houston.

(24) On or about January 27, 2010, in a recorded conversation, when Sanchez asked BERTMAN if FISCH would be returning the money Sanchez had paid, BERTMAN responded, "We don't have the money to give it back. It didn't stay with us. You gotta understand that. It went to these people who were supposed to . . . the CIA, whoever these people are that are doing this deal with Mr. WILLIAMS. The money's gone and they are supposed to be making this happen. . . . But Elida, I'm telling you now, he [FISCH] didn't keep the money . . . He was like a conduit . . . It went through him to these people in Washington." BERTMAN told Sanchez that she



had asked FISCH, "If the game plan is still the same, if you're still working with Mr. WILLIAMS, with Washington, with the CIA people, . . . and he said, 'Yes. That is still what's planned. There's no change in that.'"

(25) On or about January 29, 2010, FISCH and WILLIAMS met with Sanchez in Houston.

(26) On or about January 29, 2010, in a recorded conversation, FISCH stated to Sanchez, "When you hired me, you hired me because you wanted Mr. WILLIAMS involved because of the people he knows. Beto [Portillo] was gonna cooperate for his case to get dismissed, right?" FISCH further stated, "Before I got taken off the case, ok, I met with your husband a lot Elida . . . a lot. And he told me a lot of things. . . . He told me a lot of things, and then I turned it over. I turned it over to the Justice Department."

(27) In or about August and September 2011, after the IRS had opened an investigation on FISCH for failing to file tax returns, FISCH belatedly caused to be filed federal income tax returns for a number of years, including 2006, 2007, 2008, 2009, 2010.

(28) On or about September 8, 2011, FISCH failed to declare any funds he received from Sanchez in his 2006 federal income tax return.

## **II. *United States v. Hugo Barrera Cavazos*, Criminal Number H-06-422**

(29) In or about January 2007, Goodson attempted to recruit Barrera as a client for FISCH and WILLIAMS by stating to Barrera that WILLIAMS's contacts at the CIA could have Barrera's case dismissed.

(30) In or about January 2007, FISCH told Barrera that for \$500,000, he and WILLIAMS could have Barrera's case dismissed.

(31) In or about January 2007, FISCH told Barrera that he needed the \$500,000 paid up front so that it could be given to WILLIAMS's contacts at the CIA in Washington, D.C.

(32) In or about January 2007, FISCH told Barrera that Barrera must fire his current attorney so the attorney would not learn of WILLIAMS's secret contacts at the CIA.

(33) In or about January 2007, FISCH told Barrera that Barrera would have to provide information to WILLIAMS so it would appear Barrera was cooperating with the Government but that the information did not have to be valuable to the Government or lead to an arrest.

(34) In or about January 2007, FISCH told Barrera's wife, Claudia Rodriguez Santos ("Rodriguez"), that it would cost \$500,000 to have Barrera's case dismissed.

(35) In or about January 2007, FISCH told Rodriguez that WILLIAMS's contacts in Washington, D.C. wanted to receive all of the money from Barrera up front.

### **III. *United States v. Joey Herrera, et al.*, Criminal Number H-07-038**

(36) In or about June 2007, FISCH met with Joey Herrera in Houston.

(37) In or about June 2007, FISCH told Herrera that Herrera should fire his current attorney and hire FISCH.

(38) In or about June 2007, FISCH told Herrera that WILLIAMS had the power to have Herrera released from prison.

(39) In or about June 2007, FISCH told Herrera that at the time of Herrera's sentencing, a recommendation from WILLIAMS would be on the judge's desk, requesting that Herrera be released.

(40) On or about July 3, 2007, FISCH caused Chase Bank Official Check number 596827005 from Socorro Herrera in the amount of \$80,000 to be deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch.

(41) In or about July 2007, FISCH gave Socorro Herrera a telephone number for WILLIAMS.

(42) In or about August 2007, Socorro Herrera met with WILLIAMS in Houston.

(43) In or about August 2007, WILLIAMS told Socorro Herrera that he would contact his friends in Washington, D.C. to see if they could help with her son's case.

(44) On or about September 24, 2007, FISCH filed a motion to substitute as counsel for Herrera in *United States v. Joey Herrera, et al.*, Criminal Number H-07-038.

(45) On or about April 15, 2008, FISCH failed to timely file his 2007 federal income tax return.

**IV. *United States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426**

(46) In or about November 2009, WILLIAMS met with attorney Uchechi Prince O. Nwakanma ("Prince") who was representing defendant Umawa Oke Imo.

(47) In or about November 2009, WILLIAMS told Prince that WILLIAMS had high-level contacts in Medicare who could cause Imo's case to be dismissed.

(48) In or about November 2009, WILLIAMS recommended that Prince hire FISCH to represent Imo.

(49) In or about November 2009, FISCH, WILLIAMS, and BERTMAN met with Prince in Houston.

(50) In or about November 2009, FISCH and WILLIAMS told Prince that it would cost \$2 million dollars in order to have Imo's case dismissed.

(51) On or about November 16, 2009, Prince caused Chase Bank Cashier's Check number 9817604592 in the amount of \$250,000 to be made to FISCH.

(52) On or about November 16, 2009, FISCH caused Chase Bank Cashier's Check number 9817604592 in the amount of \$250,000 to be deposited into Omni Bank Abraham M. Fisch Attorney At Law, Lawyer Trust IOLTA Account, account number xxxxxx3867.

(53) On or about December 9, 2009, FISCH appeared as attorney for Imo in *United*

*States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426.

(54) On or about April 5, 2010, WILLIAMS and FISCH met with Prince in Houston to discuss payment of an additional \$1.5 million dollars by Imo to WILLIAMS and FISCH.

(55) On or about April 5, 2010, in a recorded conversation, FISCH stated to Prince, "He [WILLIAMS] doesn't want to go talk to his people 'till the money's in my trust account. . . . All he's saying is, put the money up and then he's gonna go approach them and say, 'Ok, we've got the money . . . let's do it,' and he will try and talk them into it. If he can't, the money goes back to you." WILLIAMS stated to Prince, "As far as the criminal part, I can get that handled." When asked who he is working with, WILLIAMS answered, "Medicare! Medicare! . . . Medicare is working with the Justice Department with my people in Washington. . . . Now, what is going to happen if I put on the full court press again and there's no money? . . . Prince, you don't understand the credibility that I have, ok?" When Prince asked WILLIAMS what he should tell Imo regarding who is being paid, and how much, WILLIAMS responded, "We don't lay anything out . . . all he know's is he's paying us . . . it's getting handled. . . . What difference does it make? None."

(56) On or about April 15, 2010, FISCH failed to timely file his 2009 federal income tax return.

**V. *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421; *United State v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-10-416**

(57) In or about February 2010, WILLIAMS met with Ubani and Njoku in Houston.

(58) In or about February 2010, WILLIAMS told Ubani and Njoku that he had a contact inside Medicare who could assist in resolving their case.

(59) In or about February 2010, WILLIAMS told Njoku that WILLIAMS's contact at Medicare would call the prosecutor and say that Medicare did not want a prosecution because the

case was simply a difference of opinion about what was owed to the government.

(60) In or about February 2010, WILLIAMS told Njoku that FISCH would represent Ubani and could not also represent Njoku because to do so would be a conflict of interest but that Njoku should pay FISCH anyway because FISCH would have the case dismissed for Njoku as well.

(61) On or about March 8, 2010, Ubani caused a check in the amount of \$25,000 to be made to FISCH from an account in the name of Special Healthcare Inc.

(62) On or about March 8, 2010, Njoku caused a check in the amount of \$25,000 to be made to FISCH from an account in the name of Family Healthcare Group Inc.

(63) On or about March 10, 2010, FISCH filed a motion to substitute as counsel for Ubani in *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421.

(64) On or about March 12, 2010, FISCH caused Chase Bank Cashier's Check number 1308201341 in the amount of \$50,000 to be deposited into Omni Bank Abraham M. Fisch account number xxxxxx6830.

(65) On or about August 2, 2010, FISCH filed a motion to substitute as counsel for Ubani in *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-10-416.

(66) On or about April 15, 2011, FISCH failed to file his 2010 federal income tax return.

**COUNT TWO**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 1-28 from Count

One.

2. On or about November 1, 2006, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch and  
**MONICA BERTMAN**  
aka Marsha Zaluska Pavlovich  
aka Malkah Aliyah Bertman,

defendants herein, and WILLIAMS, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Edilberto Portillo, et al.*, Criminal Number H-06-182, in the United States District Court for the Southern District of Texas, by promising defendants Edilberto Portillo and Elida Sanchez that if they hired FISCH and WILLIAMS, WILLIAMS would cause Portillo and Sanchez's criminal case to be dismissed through WILLIAMS's influence with government officials and through payments to government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT THREE**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 29-35 from Count One.

2. In or about January 2007, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch,

defendant herein, and WILLIAMS, each aided and abetted by the other, did corruptly endeavor to

influence, obstruct and impede the due administration of justice in *United States v. Hugo Barrera Cavazos*, Criminal Number H-06-422, in the United States District Court for the Southern District of Texas, by promising defendant Hugo Barrera Cavazos that if he hired FISCH and WILLIAMS, WILLIAMS would cause Barrera's case to be dismissed through WILLIAMS's influence with government officials and through payments to government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT FOUR**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 36-45 from Count One.

2. On or about July 3, 2007, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch,

defendant herein, and WILLIAMS, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Joey Herrera, et al.*, Criminal Number H-07-038, in the United States District Court for the Southern District of Texas, by promising defendant Joey Herrera that if he hired FISCH and WILLIAMS, WILLIAMS would cause Herrera to be released from prison through WILLIAMS's influence with government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT FIVE**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section

of the Indictment, the Manner and Means Section of Count One, and Overt Acts 46-56 from Count One.

2. On or about November 16, 2009, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch,

defendant herein, and WILLIAMS, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Umawa Oke Imo, et al.*, Criminal Number H-09-426, in the United States District Court for the Southern District of Texas, by promising Prince that if he hired FISCH and WILLIAMS on behalf of defendant Umawa Oke Imo, WILLIAMS would cause Imo's criminal case to be dismissed through WILLIAMS's influence with government officials and through payments to government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT SIX**  
**(Obstruction of Justice - 18 U.S.C. § 1503)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and Overt Acts 57-66 from Count One.

2. On or about March 8, 2010, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch,

defendant herein, and WILLIAMS, each aided and abetted by the other, did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Clifford Ubani and Princewill Njoku, et al.*, Criminal Number H-09-421 and *United States v. Clifford Ubani and*



*Princewill Njoku, et al.*, Criminal Number H-10-416, in the United States District Court for the Southern District of Texas, by promising defendants Clifford Ubani and Princewill Njoku that if they hired FISCH and WILLIAMS, WILLIAMS would cause their criminal cases to be dismissed through WILLIAMS's influence with government officials.

In violation of Title 18, United States Code, Sections 1503 and 2.

**COUNT SEVEN**  
**(Money Laundering Conspiracy - 18 U.S.C. § 1956(h))**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and the Overt Acts Section of Count One.

2. From in or about August 2006, and continuing through in or about October 2011, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

**ABRAHAM MOSES FISCH**  
aka Anthony Fisch,

defendant herein, did unlawfully, knowingly and intentionally combine, conspire, confederate and agree with WILLIAMS and others known and unknown to the grand jury, to knowingly engage in and attempt to engage in monetary transactions within the United States in criminally derived property that is of a value greater than \$10,000 and is derived from specified unlawful activity, specifically, obstruction of justice, a violation of Title 18, United States Code, Section 1503.

In violation of Title 18, United States Code, Section 1956(h).

**COUNTS EIGHT THROUGH SIXTEEN**  
**(Money Laundering - 18 U.S.C. §§ 1957 and 2)**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction Section of the Indictment, the Manner and Means Section of Count One, and the Overt Acts Section of Count One.

2. On or about the dates set forth below, in the Southern District of Texas and elsewhere within the jurisdiction of the court, the defendant and WILLIAMS, each aided and abetted by the other, did knowingly engage and attempt to engage in the following monetary transactions by, through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is, the deposit of monetary instruments, such property having been derived from a specified unlawful activity, that is, obstruction of justice, a violation of Title 18, United States Code, Section 1503.

COUNT	DATE	DEFENDANT	FINANCIAL TRANSACTION
Eight	November 1, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	Check drawn on the account of Canarios Promotion in the amount of \$325,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Nine	November 1, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	Check drawn on the account of Carnival Night Club, Inc. in the amount of \$175,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Ten	November 13, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	Check drawn on the account of Carnival Night Club, Inc. in the amount of \$100,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584

Eleven	November 17, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	Check drawn on Bank of America account number xxxxxx3805 in the amount of \$50,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Twelve	December 26, 2006	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	First Bank Official Check number 249755482 in the amount of \$25,000 deposited into First National Bank account number xxxxx0133 in the name of Virginia Williams
Thirteen	January 5, 2007	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	First Bank Official Check number 249755488 in the amount of \$675,000 deposited into First National Bank account number xxxxx0133 in the name of Virginia Williams
Fourteen	July 3, 2007	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	Chase Bank Official Check number 596827005 in the amount of \$80,000 deposited into First Bank Texas Equal Access for Justice Foundation, IOLTA Account for Abraham M. Fisch, account number xxxxx2584
Fifteen	November 16, 2009	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	Chase Bank Cashier's Check number 9817604592 in the amount of \$250,000 deposited into Omni Bank Abraham M. Fisch Attorney At Law, Lawyer Trust IOLTA Account, account number xxxxxx3867
Sixteen	March 12, 2010	<b>ABRAHAM MOSES FISCH</b> aka Anthony Fisch	Chase Bank Cashier's Check number 1308201341 in the amount of \$50,000 deposited into Omni Bank Abraham M. Fisch account number xxxxxx6830

In violation of Title 18, United States Code, Sections 1957 and 2.

**COUNTS SEVENTEEN THROUGH TWENTY-ONE**  
**(Failure to Timely File Tax Return - 26 U.S.C. § 7203)**

1. That during the calendar years set forth below, **ABRAHAM MOSES FISCH**, aka Anthony Fisch, a resident of the Southern District of Texas, had and received net earnings from self-employment in excess of \$400 and gross income in excess of the amounts set forth below. By reason of such net earnings and gross income, he was required by law, following the close of the calendar years, and on or before the dates set forth below, to make an income tax return to the Internal Revenue Service Center in Austin, Texas, to a person assigned to receive returns at the local office of the Internal Revenue Service at Houston, Texas, or to another Internal Revenue Service office permitted by the Commissioner of Internal Revenue, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Well-knowing and believing all of the foregoing, Defendant **ABRAHAM MOSES FISCH** did willfully fail to timely make an income tax return.

<u>Count</u>	<u>Calendar Year</u>	<u>Due Date</u>	<u>Gross Income</u> <u>Threshold</u>
17	2006	April 17, 2007	\$8,200
18	2007	April 15, 2008	\$8,450
19	2008	April 15, 2009	\$8,950
20	2009	April 15, 2010	\$9,350
21	2010	April 15, 2011	\$9,350

In violation of Title 26, United States Code, Section 7203.

**COUNT TWENTY-TWO**  
**(Corrupt Endeavor to Impede the Due Administration of the Internal Revenue Code -**  
**26 U.S.C. § 7212(a))**

1. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment.

2. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States. Under these laws, individuals were required to report accurately income to the IRS on annual income tax

returns in order for the IRS to carry out its lawful function to ascertain income; compute, assess and collect income taxes; and audit tax returns and records.

3. From on or about December 22, 2006, up to and including on or about September 8, 2011, in the Houston Division of the Southern District of Texas and elsewhere within the jurisdiction of the court,

**ABRAHAM MOSES FISCH**

aka Anthony Fisch,

defendant herein, did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws of the United States concerning the ascertainment, computation, assessment and collection of federal taxes, by among other means:

(a) On or about January 31, 2007, FISCH failed to file an IRS Form 1099 informing the IRS that he had paid WILLIAMS \$25,000 in non-employee compensation in 2006;

(b) On or about January 31, 2008, FISCH failed to file an IRS Form 1099 informing the IRS that he had paid WILLIAMS \$675,000 in non-employee compensation in 2007;

(c) On or about September 8, 2008, FISCH filed a false IRS Form 1040, U.S. Individual Income Tax Return, for tax year 2006, which omitted approximately \$450,000 in income;

(d) FISCH failed to file timely personal income tax returns for tax years 2006 through 2010 by the following April 15 or other deadline calculated by the Commissioner if April 15 falls on a weekend or holiday.

In violation of Title 26, United States Code, Section 7212(a).

**NOTICE OF CRIMINAL FORFEITURE**

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH and

BERTMAN that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count One are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of Abraham M. Fisch;
- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- c. Money judgment payable to the United States of America in the approximate amount of \$1,480,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendants FISCH and BERTMAN that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Two are subject to forfeiture to the United States of America, including, but not limited to:

- a. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- b. Money judgment payable to the United States of America in the approximate amount of \$1,100,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendant FISCH that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Four are subject to forfeiture to the United States of America, including,

but not limited to:

- a. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- b. Money judgment payable to the United States of America in the approximate amount of \$80,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendant FISCH that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Five are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of Abraham M. Fisch;
- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- c. Money judgment payable to the United States of America in the approximate amount of \$250,000.00.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendant FISCH that all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Six are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of

Abraham M. Fisch;

- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- c. Money judgment payable to the United States of America in the approximate amount of \$50,000.00.

Pursuant to Title 18, United States Code, Sections 982(a)(1), 981(a)(1)(A), 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendant FISCH that all property, real or personal, involved in a transaction or attempted transaction in violation of Count Seven or any property traceable to such property and, additionally, all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense charged in Count Seven are subject to forfeiture to the United States of America, including, but not limited to:

- a. Certificate of Deposit Number 3028743 at OmniBank, N.A.- Greenspoint, 397 N. Sam Houston Parkway East, Houston, Texas 77060 in the name of Abraham M. Fisch;
- b. Real property located at 9202 Wickford Dr., Houston, Texas 77024, and more particularly described as Lot 14 of Bayou Woods, Section 3, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 22, Page 54 of the Map Records of Harris County, Texas; and
- c. Money judgment payable to the United States of America in the approximate amount of \$1,480,000.00.

Pursuant to Title 18, United States Code, Sections 982(a)(1), 981(a)(1)(A), 981(a)(1)(C) and Title 28, United States Code, Section 2461, the United States of America hereby gives notice to defendant FISCH that all property, real or personal, involved in a transaction or attempted transaction in violation of Counts Eight through Sixteen or any property traceable to such property and,



additionally, all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offenses charged in Count Eight through Sixteen are subject to forfeiture to the United States of America, including, but not limited to:

- a. Money judgment payable to the United States of America in the approximate amount of \$325,000.00 (Count Eight);
- b. Money judgment payable to the United States of America in the approximate amount of \$175,000.00 (Count Nine);
- c. Money judgment payable to the United States of America in the approximate amount of \$100,000.00 (Count Ten);
- d. Money judgment payable to the United States of America in the approximate amount of \$50,000.00 (Count Eleven);
- e. Money judgment payable to the United States of America in the approximate amount of \$25,000.00 (Count Twelve);
- f. Money judgment payable to the United States of America in the approximate amount of \$675,000.00 (Count Thirteen);
- g. Money judgment payable to the United States of America in the approximate amount of \$80,000.00 (Count Fourteen);
- h. Money judgment payable to the United States of America in the approximate amount of \$250,000.00 (Count Fifteen); and
- I. Money judgment payable to the United States of America in the approximate amount of \$50,000.00 (Count Sixteen).

**Substitute Property**

If any of the property described above, as a result of any act or omission of any of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;

- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;


the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461.

**A TRUE BILL:**

Original Signature on File

  
FOREMAN OF THE GRAND JURY

KENNETH MAGIDSON  
UNITED STATES ATTORNEY

  
Robert S. Johnson  
Assistant United States Attorney

**UNITED STATES DISTRICT COURT**  
**Southern District of Texas**  
**Holding Session in Houston**

**ENTERED**

November 10, 2015

David J. Bradley, Clerk

UNITED STATES OF AMERICA  
**V.**  
**ABRAHAM MOSES FISCH**  
**A/K/A ANTHONY FISCH**

**JUDGMENT IN A CRIMINAL CASE**CASE NUMBER: **4:11CR00722-001**

USM NUMBER: 02040-379

Jerome Godinich, Jr.

Defendant's Attorney

☐ See Additional Aliases.**THE DEFENDANT:**

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☒ was found guilty on count(s) 1S, 2S, 3S, 5S, 6S, 7S, 8S, 9S, 10S, 11S, 12S, 13S, 16S, 17S, 18S, 19S, 20S, and 21S on May 27, 2015.  
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 and 1503	Conspiracy to commit obstruction of justice	10/31/2011	1S
18 U.S.C. §§ 1503 and 2	Obstruction of justice, aiding and abetting	11/01/2006	2S
18 U.S.C. §§ 1503 and 2	Obstruction of justice, aiding and abetting	01/31/2007	3S
18 U.S.C. §§ 1503 and 2	Obstruction of justice, aiding and abetting	11/16/2009	5S

☒ See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☒ The defendant has been found not guilty on count(s) 22S.☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the .

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.

October 27, 2015

Date of Imposition of Judgment



Signature of Judge

**LEE H. ROSENTHAL**  
**UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

November 7, 2015

Date

**EXHIBIT**
**3** | MRO

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## 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. §§ 1503 and 2	Obstruction of justice, aiding and abetting	03/08/2010	6S
18 U.S.C. § 1956(h)	Conspiracy to commit money laundering	10/31/2011	7S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/01/2006	8S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/01/2006	9S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/13/2006	10S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/17/2006	11S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	12/26/2006	12S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	01/05/2007	13S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	03/12/2010	16S
26 U.S.C. § 7203	Failure to file a tax return	04/17/2007	17S
26 U.S.C. § 7203	Failure to file a tax return	04/15/2008	18S
26 U.S.C. § 7203	Failure to file a tax return	04/15/2009	19S
26 U.S.C. § 7203	Failure to file a tax return	04/15/2010	20S
26 U.S.C. § 7203	Failure to file a tax return	04/15/2011	21S

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 180 months.

This term consists of FIFTY-THREE (53) MONTHS as to Count 1S; ONE HUNDRED AND TWENTY (120) MONTHS as to each of Counts 2S, 3S, 5S, 6S, and 8S through 13S and 16S; ONE HUNDRED AND EIGHTY (180) MONTHS as to Count 7S; and TWELVE (12) MONTHS as to each of Counts 17S through 21S; all such terms to run concurrently, for a total of ONE HUNDRED AND EIGHTY (180) MONTHS.

☐ See Additional Imprisonment Terms.

☒ The court makes the following recommendations to the Bureau of Prisons:  
That the defendant be designated to a facility as close to Otisville, New York, as possible.

The defendant be evaluated for participation in the Comprehensive Residential Drug Abuse Treatment Program during incarceration.

☒ 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 2 p.m. on \_\_\_\_\_.

☐ 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

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 5 years.

This term consists of THREE (3) YEARS as to each of Counts 1S through 3S, 5S, 6S, 8S through 13S and 16S; FIVE (5) YEARS as to Count 7S; and ONE (1) YEAR as to each of Counts 17S through 21S; all such terms to run concurrently, for a total of FIVE (5) YEARS.

☐ See Additional Supervised Release Terms.

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. *(for offenses committed on or after September 13, 1994)*

☐ 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 registration 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

☒ See Special 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; and
- 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.

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## **SPECIAL CONDITIONS OF SUPERVISION**

The defendant shall submit to periodic urine surveillance and/or breath, saliva, and skin tests for the detection of drug abuse as directed by the probation officer. The defendant will incur costs associated with such detection efforts based on ability to pay as determined by the probation officer.

The defendant is prohibited from employment or acting in a legal, advisory, or consulting role during the term of supervision, with the exception of his immediate family (i.e., wife and children).

The defendant shall provide the probation officer access to any requested financial information. If a fine or restitution amount has been imposed, the defendant is prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation officer.

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## 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>	\$1,425.00		

A \$100 special assessment is ordered as to each of Counts 1S through 3S, 5S through 13S, and 16S; for a total of \$1,300. A special assessment of \$25 is ordered as to each of Counts 17S through 21S; for a total of \$125. A special assessment total of \$1,425.

- ☐ See Additional Terms for Criminal Monetary Penalties.
- ☐ 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 payees 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>
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- ☐ See Additional Restitution Payees.

<b>TOTALS</b>	<u>\$0.00</u>	<u>\$0.00</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:
- ☐ Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

\* 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.



DEFENDANT: **ABRAHAM MOSES FISCH**  
 CASE NUMBER: **4:11CR00722-001**

## SCHEDULE OF PAYMENTS

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

- A ☒ Lump sum payment of \$1,425.00 due immediately, balance due  
     ☐ not later than \_\_\_\_\_, or  
     ☒ in accordance with ☐ 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 \_\_\_\_\_ installments of \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ days after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ installments of \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ days after release from imprisonment to a term of supervision; or
- E ☒ Payment during the term of supervised release will commence within 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:

Payable to:

Clerk, U.S. District Court; Attn: Finance; P.O. Box 61010; Houston, TX 77208

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

### Case Number

**Defendant and Co-Defendant Names**  
(including defendant number)

Total Amount

**Joint and Several**  
Amount

**Corresponding Payee,**  
if appropriate

- ☐ See Additional Defendants and Co-Defendants Held Joint and Several.
- ☐ 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:
- ☐ See Additional Forfeited Property.

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.

**UNITED STATES DISTRICT COURT**  
**Southern District of Texas**  
**Holding Session in Houston**

**ENTERED**  
 November 25, 2015  
 David J. Bradley, Clerk

**UNITED STATES OF AMERICA**      **AMENDED JUDGMENT IN A CRIMINAL CASE**  
**V.**  
**ABRAHAM MOSES FISCH**  
**A/K/A ANTHONY FISCH**

CASE NUMBER: **4:11CR00722-001**

USM NUMBER: 02040-379

☐ See Additional Aliases.**Date of Original Judgment: October 27, 2015****(or Date of Last Amended Judgment)****Reason for Amendment**

- ☐ Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
- ☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
- ☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
- \*☒ Correction for Clerical Mistake (Fed. R. Crim. P. 36)

Jerome Godinich, Jr.

Defendant's Attorney

- ☐ Modification of Supervision Conditions (18 U.S.C. § 3563(c) or 3583(e))
- ☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- ☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- ☐ Direct Motion to District Court Pursuant to ☐ 28 U.S.C. § 2255 or ☐ 18 U.S.C. § 3559(c)(7)
- ☐ Modification of Restitution Order (18 U.S.C. § 3664)

**THE DEFENDANT:**

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.
- ☒ was found guilty on count(s) 1S, 2S, 3S, 5S, 6S, 7S, 8S, 9S, 10S, 11S, 12S, 13S, 16S, 17S, 18S, 19S, 20S, and 21S on May 27, 2015. 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 and 1503	Conspiracy to commit obstruction of justice	10/31/2011	1S

☒ See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☒ The defendant has been found not guilty on count(s) 22S.☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the .

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.

November 23, 2015

Date of Imposition of Judgment



Signature of Judge

**LEE H. ROSENTHAL**  
**UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

November 24, 2015

Date

**EXHIBIT****4**

JAG

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## 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. §§ 1503 and 2	Obstruction of justice, aiding and abetting	11/01/2006	2S
18 U.S.C. § 1956(h)	Obstruction of justice, aiding and abetting	01/31/2007	3S
18 U.S.C. §§ 1957 and 2	Obstruction of justice, aiding and abetting	11/16/2009	5S
18 U.S.C. §§ 1503 and 2	Obstruction of justice, aiding and abetting	03/08/2010	6S
18 U.S.C. § 1956(h)	Conspiracy to commit money laundering	10/31/2011	7S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/01/2006	8S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/01/2006	9S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/13/2006	10S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	11/17/2006	11S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	12/26/2006	12S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	01/05/2007	13S
18 U.S.C. §§ 1957 and 2	Money laundering, aiding and abetting	03/12/2010	16S
26 U.S.C. § 7203	Failure to file a tax return	04/17/2007	17S
26 U.S.C. § 7203	Failure to file a tax return	04/15/2008	18S
26 U.S.C. § 7203	Failure to file a tax return	04/15/2009	19S

DEFENDANT: ABRAHAM MOSES FISCH  
CASE NUMBER: 4:11CR00722-001

**ADDITIONAL COUNTS OF CONVICTION**

<b><u>Title &amp; Section</u></b>	<b><u>Nature of Offense</u></b>	<b><u>Offense Ended</u></b>	<b><u>Count</u></b>
26 U.S.C. § 7203	Failure to file tax return	04/15/2010	20S
26 U.S.C. § 7203	Failure to file tax return	04/15/2011	21S

DEFENDANT: **ABRAHAM MOSES FISCH**CASE NUMBER: **4:11CR00722-001****IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 180 months.

This term consists of FIFTY-THREE (53) MONTHS as to Count 1S; ONE HUNDRED AND TWENTY (120) MONTHS as to each of Counts 2S, 3S, 5S, 6S, and 8S through 13S and 16S; ONE HUNDRED AND EIGHTY (180) MONTHS as to Count 7S; and TWELVE (12) MONTHS as to each of Counts 17S through 21S; all such terms to run concurrently, for a total of ONE HUNDRED AND EIGHTY (180) MONTHS.

☐ See Additional Imprisonment Terms.

☒ The court makes the following recommendations to the Bureau of Prisons:  
That the defendant be designated to a facility as close to Otisville, New York, as possible.

The defendant be evaluated for participation in the Comprehensive Residential Drug Abuse Treatment Program during incarceration.

☒ 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 2 p.m. on \_\_\_\_\_.

☐ 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

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 5 years.

This term consists of THREE (3) YEARS as to each of Counts 1S through 3S, 5S, 6S, 8S through 13S and 16S; FIVE (5) YEARS as to Count 7S; and ONE (1) YEAR as to each of Counts 17S through 21S; all such terms to run concurrently, for a total of FIVE (5) YEARS.

☐ See Additional Supervised Release Terms.

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. (*for offenses committed on or after September 13, 1994*)

☐ 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 registration 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

☒ See Special 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; and
- 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.

DEFENDANT: **ABRAHAM MOSES FISCH**  
CASE NUMBER: **4:11CR00722-001**

## **SPECIAL CONDITIONS OF SUPERVISION**

The defendant shall submit to periodic urine surveillance and/or breath, saliva, and skin tests for the detection of drug abuse as directed by the probation officer. The defendant will incur costs associated with such detection efforts based on ability to pay as determined by the probation officer.

The defendant is prohibited from employment or acting in a legal, advisory, or consulting role during the term of supervision, with the exception of his immediate family (i.e., wife and children).

The defendant shall provide the probation officer access to any requested financial information. If a fine or restitution amount has been imposed, the defendant is prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation officer.

DEFENDANT: ABRAHAM MOSES FISCH

CASE NUMBER: 4:11CR00722-001

CRIMINAL MONETARY PENALTIES

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

Assessment

Fine

Restitution

TOTALS

\$1,425.00

A \$100 special assessment is ordered as to each of Counts 1S through 3S, 5S through 13S, and 16S; for a total of \$1,300. A special assessment of \$25 is ordered as to each of Counts 17S through 21S; for a total of \$125. A special assessment total of \$1,425.

- ☐ See Additional Terms for Criminal Monetary Penalties.
- ☐ 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 payees must be paid before the United States is paid.

Name of Payee

Total Loss\*

Restitution Ordered

Priority or Percentage

- ☐ See Additional Restitution Payees.

TOTALS

\$0.00

\$0.00

- ☐ 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:
- ☐ Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

\* 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.



DEFENDANT: **ABRAHAM MOSES FISCH**CASE NUMBER: **4:11CR00722-001****SCHEDULE OF PAYMENTS**

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

- A ☒ Lump sum payment of \$1,425.00 due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☒ in accordance with ☐ 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 \_\_\_\_\_ installments of \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ days after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ installments of \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ days after release from imprisonment to a term of supervision; or
- E ☒ Payment during the term of supervised release will commence within 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:

Payable to:

Clerk, U.S. District Court; Attn: Finance; P.O. Box 61010; Houston, TX 77208

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**Case Number**

**Defendant and Co-Defendant Names**  
**(including defendant number)**

**Total Amount**

**Joint and Several**  
**Amount**

**Corresponding Payee,**  
**if appropriate**

☐ See Additional Defendants and Co-Defendants Held Joint and Several.☐ 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:  
 As set forth in the Order of Forfeiture and Amended Order of Forfeiture signed on October 27, 2015.

☐ See Additional Forfeited Property.

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.

AFFIDAVIT


THE STATE OF TEXAS     §  
                                      §  
COUNTY OF TRAVIS     §

BEFORE ME, the undersigned authority, on this day personally appeared Rebecca (Beth) Stevens, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

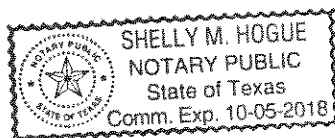
"My name is Rebecca (Beth) Stevens. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

Based upon information and belief, Abraham M. Fisch, whose Texas Bar Card Number is 07039900, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief, Abraham M. Fisch, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Abraham Moses Fisch who is the subject of the Amended Judgment in Criminal Case entered in Case No. 4:11CR00722-001, styled *United States of America v. Abraham Moses Fisch, aka Anthony Fisch*, in the United States District Court for the Southern District of Texas, Holding Session in Houston, wherein Respondent was found guilty of Count One S - Conspiracy to Commit Obstruction of Justice, Count Two S - Obstruction of Justice, Aiding and Abetting, Count Three S - Obstruction of Justice, Aiding and Abetting, Count Five S- Obstruction of Justice, Aiding and Abetting, Count Six S - Obstruction of Justice, Aiding and Abetting, Count Seven S - Conspiracy to Commit Money Laundering, Counts Eight S through Thirteen S - Money Laundering, Aiding and Abetting, Count Sixteen S - Money Laundering, Aiding and Abetting, Counts Seventeen S through Twenty-One S - Failure to File Tax Return and was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 180 months, ordered upon release from imprisonment to be on supervised release for a total term of 5 years, and ordered to pay an assessment of \$1,425.00."

FURTHER Affiant saith not.

  
\_\_\_\_\_  
Rebecca (Beth) Stevens

SWORN AND SUBSCRIBED before me on the 2 day of December 2015.



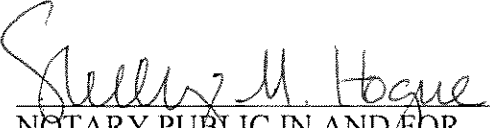
  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

Exhibit  
**5**