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

IN THE MATTER OF	§	
JAMES MORRIS BALAGIA	§	**CAUSE NO.** 65867
STATE BAR CARD NO. 00783589	§	

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, James Morris Balagia, (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, James Morris Balagia, 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 James Morris Balagia, Register Number 26998-078, Cimarron Correctional Facility, 3200 S. King Highway, Cushing, OK 74023.

3. On or about February 9, 2017, Respondent was charged by Superseding Indictment (Exhibit 1) in Cause No. 4:16CR176, styled *United States of America v. Charles Norman Morgan (1) a.k.a. "Chuck", Bibiana Correa Perea (2) a.k.a. "Bibi", James Morris Balagia (3) a.k.a. "DWI Dude",* in the United States District Court for the Eastern District of Texas, Sherman Division, with:

Count One
Violation: 18 U.S.C. § 1956(h)
(Conspiracy to Commit Money Laundering)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Superseding Indictment, in the Eastern District of Texas and elsewhere, Charles Norman Morgan, a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and James Morris Balagia a.k.a. "DWI Dude," the defendants herein, did knowingly, willfully and unlawfully conspire and agree together with other persons known and unknown to the Grand Jury, to:

(a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be the proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, with the intent to promote the carrying on of the specified unlawful activity and believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §1956(a)(3);

(b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances with the intent to promote the carrying on of the specified unlawful activity and knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(l)(A)(i), (a)(l)(B)(i) and (a)(2)(A), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two
Violation: 18 U.S.C. §§ 1503 and 2
(Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Superseding Indictment, in the Eastern District of Texas and elsewhere, Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and James Morris Balagia a.k.a. "DWI Dude," the defendants herein, aided and abetted by each other, did knowingly, intentionally and corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Segundo Villota-Segura and Aldemar Villota-Segura, et al.,* in the Eastern District of Texas by promising defendants they could influence government officials to help them in their case.

In violation of 18 U.S.C. §§ 1503 and 2.

4. On or about February 14, 2018, Respondent was charged by Second Superseding Indictment (Exhibit 2) in Cause No. 4:16CR176, styled *United States of America v. Bibiana Correa Perea (2) a.k.a. "Bibi", James Morris Balagia (3) a.k.a. "DWI Dude",* in the United States District Court for the Eastern District of Texas, Sherman Division, with:

Count One
Violation: 18 U.S.C. § 1956(h)
(Conspiracy to Commit Money Laundering)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Second Superseding Indictment, in the Eastern District of Texas and elsewhere, Bibiana Correa Perea a.k.a. "Bibi," and James Morris Balagia a.k.a. "DWI Dude," the defendants herein, did knowingly, willfully and unlawfully conspire and agree together with Charles Norman Morgan a.k.a. "Chuck", and other persons known and unknown to the Grand Jury, to:

(a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be the proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §1956(a)(3);

(b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(l)(B)(i), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two

Violation: 18 U.S.C. §§ 1503 and 2
(Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Second Superseding Indictment, in the Eastern District of Texas and elsewhere, Bibiana Correa Perea a.k.a. "Bibi," and James Morris Balagia a.k.a. "DWI Dude," defendants herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck," and others known and unknown to the Grand Jury, did knowingly and intentionally corruptly endeavor to influence, obstruct and impede the due administration of justice and did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron, "United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura* and all cases in the Eastern District of Texas by, among other acts, undermining the functioning of the federal justice system by informing Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and that the defendant(s) and others could corruptly influence government officials in relation to criminal charges, which conduct hampered further cooperation by said Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and also affected ongoing criminal investigations in the Eastern District of Texas and elsewhere.

In violation of 18 U.S.C. §§ 1503, 1512(h) and (i) and 2.

Count Three

Violation: 18 U.S.C. §§1512(b)(2)(D) and 2
(Attempting to Tamper with and Tampering with an Informant and Aiding and Abetting)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Second Superseding Indictment, in the Eastern District of Texas and elsewhere, Bibiana Correa Perea a.k.a. "Bibi," and James Morris Balagia a.k.a. "DWI Dude," defendants herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck," and others known and unknown to the Grand Jury, did knowingly and intentionally attempt to corruptly persuade and did corruptly persuade and attempt to engage and did engage in misleading conduct toward Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura by informing them that money would be paid to officials in the United States to obtain favorable outcomes in cases pending in the United States District Court in the Eastern District of Texas with the intent to cause and induce Hermes Casanova Ordonez, a.k.a.

"Megatron," Segundo Villota-Segura and Aldemar Villota-Segura to be absent from an official proceeding to which they had been summoned by legal process in the following cases: *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron,· "United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura.*

In violation of 18 U.S.C. §§1512(b)(2)(D), 1512(h) and (i) and 2.

Count Four

Violation: 21U.S.C. *§* 1904(c)(2)
(Conspiracy to Violate the Kingpin Act)

All prior allegations are re-alleged and incorporated by reference as though fully set forth herein.

Beginning in or about 2014, and continuing through on or about March 9, 2017, the exact dates being unknown to the Grand Jury, in the Eastern District of Texas and elsewhere, the defendant **James Morris Balagia** a.k.a. "DWI Dude," did knowingly and willfully combine, conspire, confederate and agree with others unknown to the Grand Jury, to commit violations of the Kingpin Act, in violation of Title 21, United States Code, Sections 1906(a), 1904(b)(4), (c)(1) and (c)(2).

5. On or about May 10, 2018, Respondent was charged by Third Superseding Indictment (Exhibit 3) in Cause No. 4:16CR176, styled *United States of America v. James Morris Balagia (3) a.k.a. "DWI Dude",* in the United States District Court for the Eastern District of Texas, Sherman Division, with:

Count One

Violation: 18 U.S.C. *§* 1956(h)
(Conspiracy to Commit Money Laundering)

Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," the defendant herein, did knowingly, willfully and unlawfully conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and with other persons known and unknown to the Grand Jury, to:

(a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be the

proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §1956(a)(3);

(b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(l)(B)(i), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two

Violation: 18 U.S.C. § 1503 and 2
(Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," defendant herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck,"

Bibiana Correa Perea a.k.a. "Bibi," and others known and unknown to the Grand Jury, did knowingly and intentionally corruptly endeavor to influence, obstruct and impede the due administration of justice and did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron," United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura* all cases in the Eastern District of Texas by, among other acts, undermining the functioning of the federal justice system by informing Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and that the defendant and others could corruptly influence government officials in relation to criminal charges, which conduct hampered further cooperation by said Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and - Aldemar Villota-Segura and also affected ongoing criminal investigations in the Eastern District of Texas and elsewhere.

In violation of 18 U.S.C. §§ 1503, 1512(h) and (i) and 2.

Count Three

Violation: 21 U.S.C. § 1904(c)(2)
(Conspire, Endeavor, and Attempt to Violate the Kingpin Act)

All prior allegations are re-alleged and incorporated by reference as though fully set forth herein.

Beginning in or about 2014, and continuing through on or about March 9, 2017, the exact dates being unknown to the Grand Jury, in the Eastern District of Texas and elsewhere, the defendant James Morris Balagia a.k.a. "DWI Dude," did knowingly and willfully endeavor, attempt, combine, conspire, confederate and agree with others unknown to the Grand Jury, to commit violations of the Kingpin Act, in violation of Title 21, United States Code, Sections 1906(a), 1904(b)(4), (c)(l) and (c)(2).

Count Four

Violation: 18U.S.C. § 1349
(Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. § 1343)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand

Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and with other persons known and unknown to the Grand Jury, to devise a scheme and artifice to defraud and to obtain money and funds from criminal defendants charged in the Eastern District of Texas and elsewhere by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme and a1tifice, caused writings, signs, and signals to be transmitted by means of wire communication in interstate and foreign commerce, a violation of 18 U.S.C. *§* 1343.

C. The Manner and Means of the Conspiracy and the Scheme and Artifice

It was a part of the conspiracy and the scheme and artifice that:

It was part of the conspiracy that Balagia and others concocted a scheme to defraud individuals who were facing federal criminal charges.

Balagia and others would solicit federal criminal defendants (including Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura) as clients under false pretenses. Balagia and others claimed to the defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others, in order to execute the scheme and artifice, caused writings, signs, and signals to be transmitted by means of wire communications in interstate and foreign commerce, to wit: phone calls, electronic mail transmissions and other wire communications in order to schedule meetings, discuss the scheme, transmit money, and file court documents.

D. Representative Acts of the Conspiracy

On or about the following dates, as acts representative of the conspiracy, the defendant and other co-conspirators caused the following acts to be committed:

On or about September 13, 2014, in advance of a September 18, 2014 meeting in Colombia which was scheduled in an effort to retain Hermes Casanova Alirio Ordonez ("Megatron") as a client for the Law Offices of Jamie Balagia and in furtherance of the conspiracy, Balagia placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 26, 2014, and in furtherance of the conspiracy, Balagia placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 28, 2014, and in furtherance of the conspiracy, Balagia placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 30, 2014, a deposit was made into Wells Fargo Bank account of Balagia. The deposit was made in New York City, New York and represented money received by Balagia as a result of the fraud conspiracy.

On or about December 12, 2014, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 12, 2014, Balagia and June Gonzales traveled to Houston, Texas to pick up cash which was payment for Megatron' s case. As a result of this cash pickup, Balagia deposited approximately $126,300 into the law office Wells Fargo Bank account and approximately $78,000 into the law office Independent Bank account.

On or about November 14, 2015, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 21, 2015, Balagia attended a meeting with Charles Norman Morgan, Adriana Morgan, Bibiana Correa Perea and Segundo Villota-Segura which took place at La Picota Prison in Bogota, Colombia.

On or about January 25, 2016, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about February 18, 2016, and in furtherance of the conspiracy, Charles Norman Morgan and Adriana Morgan, met with Segundo Villota-Segura at La Picota, Prison in Bogota, Colombia.

On or about April 25, 2016, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

In violation of 18 U.S.C. § 1349.

Count Five

Violation: 18 U.S.C. § 371 (Conspiracy to Obstruct Justice)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and with other persons 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 Balagia and others concocted schemes to defraud individuals who were involved in the criminal justice system and/or facing federal criminal charges.

Balagia and others made representations to law enforcement, government officials and others that resulted in seized funds being released to Balagia.

Balagia and others solicited federal criminal defendants as clients under false pretenses. Balagia and others claimed to the

defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others would and did undermine the functioning of the United States system of justice by, among other things, interfering with the rightful ownership and return of seized currency; interfering with defendants' cooperation with the government; interfering with plea negotiations with the government by preventing the defendant from timely entering pleas because of the mistaken belief their case was going to be dismissed; interfering with defendants' relationships with former and subsequent counsel.

D. Overt Acts

As examples, the following overt acts, among others, were committed in furtherance of the conspiracy and to effect the objects of the conspiracy:

On or about November 17, 2011, on United States Interstate 40, law enforcement officers seized $50,000 in United States Currency. This became DEA Case Number MB- 12-0012, Asset ID Number 12-DEA-556315. Balagia and others made misrepresentations and received a portion of the seized funds;

On or about December 21, 2015, **Balagia** and others met with Segundo Villota- Segura who was charged in *United States v. Segundo Villota-Segura,* Criminal Number 4:13cr38 which was a drug trafficking case pending in the United States District Court for the Eastern District of Texas. At this meeting, it was represented to Segundo Villota- Segura that four people in Washington, D.C. were paid (bribed) with Segundo Villota- Segura's money to assist him with the federal charges he had pending in the Eastern District of Texas. Segundo Villota-Segura was told that the names of the people would not be exposed. **Balagia** told Segundo Villota-Segura to deal with "Bibi and Chuck" because it gave **Balagia** the "ability to close my ears sometimes if I need to- and it protects- all of us."

6. On or about January 9, 2019, Respondent was charged by Fourth Superseding Indictment (Exhibit 4) in Cause No. 4:16CR176, styled *United States of America v. James Morris Balagia (3) a.k.a. "DWI Dude",* in the United States District Court for the Eastern District of Texas, Sherman Division, with:

Count One
Violation: 18 U.S.C. §1956(h)
(Conspiracy to Commit Money Laundering)

> Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Fourth Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," the defendant herein, did knowingly, willfully and unlawfully conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and with other persons known and unknown to the Grand Jury, to:
>
> (a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be the proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. § 1956(a)(3);
>
> (b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and

control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(l)(B)(i), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two

Violation: 18 U.S.C. § 1503 and 2
(Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Fom1h Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," defendant herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and others known and unknown to the Grand Jury, did knowingly and intentionally corruptly endeavor to influence, obstruct and impede the due administration of justice and did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron, " United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura* all cases in the Eastern District of Texas by, among other acts, undermining the functioning of the federal justice system by informing Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and that the defendant and others could corruptly influence government officials in relation to criminal charges, which conduct hampered further cooperation by said Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and also affected ongoing criminal investigations in the Eastern District of Texas and elsewhere.

In violation of 18 U.S.C. §§ 1503, 1512(h) and (i) and 2.

Count Three

Violation: 21 U.S.C. § 1904(c)(2)
(Violation, Endeavor, and Attempt to Violate the Kingpin Act)

All prior allegations are re-alleged and incorporated by reference as though fully set forth herein.

Beginning in or about 2014, and continuing through on or about March 9, 2017, the exact dates being unknown to the Grand Jury, in the Eastern District of Texas and elsewhere, the defendant James Morris Balagia a.k.a. "DWI Dude," a United States person, did engage in transactions and dealings, including dealings within the United States, which evaded, avoided, endeavored, and attempted to commit violations of the Kingpin Act, in violation of Title 21, United States Code, Sections 1906(a), 1904(b)(4), (c)(l) and (c)(2).

Count Four

Violation: 18 U.S.C. § 1349
(Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. § 1343)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Fourth Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and with other persons known and unknown to the Grand Jury, to devise a scheme and artifice to defraud and to obtain money and funds from criminal defendants charged in the Eastern District of Texas and elsewhere by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme and artifice, caused writings, signs, and signals to be transmitted by means of wire communication in interstate and foreign commerce, a violation of 18 U.S.C, § 1343.

C. The Manner and Means of the Conspiracy and the Scheme and Artifice

It was a part of the conspiracy and the scheme and artifice that:

It was part of the conspiracy that Balagia and others concocted a scheme to defraud individuals who were facing federal criminal charges.

It was part of the conspiracy that Balagia and others concocted a scheme to convince a prospective client that he had the ability to influence judges and prosecutors in her criminal case and, in the course of representing her, to fraudulently recover narcotics proceeds which had been seized by the Drug Enforcement Administration in her case.

Balagia and others would solicit federal criminal defendants (including Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura) as clients under false pretenses. Balagia and others claimed to the defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others, in order to execute the scheme and artifice, caused writings, signs, and signals to be transmitted by means of wire communications in interstate and foreign commerce, to wit: phone calls, electronic mail transmissions and other wire communications in order to schedule meetings, discuss the scheme, transmit money, and file court documents.

D. Representative Acts of the Conspiracy

On or about the following dates, as acts representative of the conspiracy, the defendant and other co-conspirators caused the following acts to be committed:

In or about November 2011, Balagia and HJP spoke with Balagia's client, JMM and convinced her that they had connections with judges and prosecutors which they could use to effect a favorable resolution of her case after she had been pulled over with approximately $50,000 which was being transported for the purpose of purchasing marijuana. On or about September 7, 2012, HJP, working in concert with Balagia, caused writings, signs, and signals to be transmitted by means of wire communications in interstate and foreign commerce, to *wit:* fax transmissions in order to discuss the scheme to fraudulently recover narcotics proceeds seized by the Drug Enforcement Administration.

On or about September 13, 2014, in advance of a September 18, 2014 meeting in Colombia which was scheduled in an effort to retain

Hermes Casanova Alirio Ordonez ("Megatron") as a client for the Law Offices of Jamie Balagia and in furtherance of the conspiracy, Balagia placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 26, 2014, and in furtherance of the conspiracy, Balagia placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 28, 2014, and in furtherance of the conspiracy, Balagia placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 30, 2014, a deposit was made into Wells Fargo Bank account of Balagia. The deposit was made in New York City, New York and represented money received by Balagia as a result of the fraud conspiracy.

On or about December 12, 2014, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 12, 2014, Balagia and June Gonzales traveled to Houston, Texas to pick up cash which was payment for Megatron's case. As a result of this cash pickup, Balagia deposited approximately $126,300 into the law office Wells Fargo Bank account and approximately $78,000 into the law office Independent Bank account.

On or about November 14, 2015, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 21, 2015, Balagia attended a meeting with Charles Norman Morgan, Adriana Morgan, Bibiana Correa Perea and Segundo Villota-Segura which took place at La Picota Prison in Bogota, Colombia.

On or about January 25, 2016, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about February 18, 2016, and in furtherance of the conspiracy, Charles Norman Morgan and Adriana Morgan, met with Segundo Villota-Segura at La Picota, Prison in Bogota, Colombia.

On or about April 25, 2016, and in furtherance of the conspiracy, Balagia placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

In violation of 18 U.S.C. § 1349.

Count Five
Violation: 18 U.S.C. § 371
(Conspiracy to Obstruct Justice)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up *to* and including the date of the filing of this Fourth Superseding Indictment, in the Eastern District of Texas and elsewhere, James Morris Balagia a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and with other persons 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:

It was part of the conspiracy that Balagia and others concocted a scheme to defraud individuals who were involved in the criminal justice system and/or facing federal criminal charges.

Balagia and others made representations *to* law enforcement, government officials and others that resulted in seized funds being released to Balagia.

Balagia and others solicited federal criminal defendants as clients under false pretenses. Balagia and others claimed to the defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others would and did undermine the functioning of the United States system of justice by, among other things, interfering with the rightful ownership and return of seized currency; interfering with defendants' cooperation with the government; interfering with plea negotiations with the government by preventing the defendant from timely entering pleas because of the mistaken belief their case was going to be dismissed; interfering with defendants' relationships with former and subsequent counsel.

D. Overt Acts

As examples, the following overt acts, among others, were committed in furtherance of the conspiracy and to effect the objects of the conspiracy:

On or about November 17, 2011, on United States Interstate 40, law enforcement officers seized $50,000 in United States Currency from JMM. This became DEA Case Number rvffi-12-0012, Asset ID Number 12-DEA-556315. Balagia and others told JMM that Balagia had connections with judges and prosecutors which he could use to influence the outcome of her case. In the course of his representation of JMM, Balagia knowingly sponsored JMM's misrepresentations to the Drug Enforcement Administration concerning the source and nature of the money and received a portion of the seized funds;

On or about February 10, 2012, Balagia transmitted to the Drug Enforcement Administration a sworn statement of his client, JMM, known by Balagia to be false, in an effort to recover the funds held by the Drug Enforcement Administration.

On or about December 21, 2015, Balagia and others met with Segundo Villota- Segura who was charged in *United States v. Segundo Villota-Segura,* Criminal Number 4:13cr38 which was a drug trafficking case pending in the United States District Court for the Eastern District of Texas. At this meeting, it was represented to Segundo Villota-Segura that four people in Washington, D.C. were paid (bribed) with Segundo Villota-Segura ' s money to assist him with the federal charges he had pending in the Eastern District of Texas. Segundo Villota-Segura was told that the names of the people would not be exposed. Balagia told Segundo Villota-Segura to deal with "Bibi and Chuck" because it gave Balagia the " ability to close my ears sometimes if I need to- and it protects- all of us."

7. On or about May 4, 2021, a Judgment in a Criminal Case (Exhibit 5) was entered in Cause No. 4:16-CR-00176-ALM-KPJ(3), styled *United States of America v. James Morris Balagia,* in the United States District Court for the Eastern District of Texas, Sherman Division, wherein Respondent was found guilty of count 1, 18:1956(h) and (a), Conspiracy to Commit Money Laundering; count 2, 18:1503, 1503(b)(3) Obstruction Of Justice and Aiding and Abetting; count 3, 21:1904(c)(2), 1906 Conspire, Endeavor, and Attempt To Violate The Kingpin Act; count 4, 18:1349, 1343 Conspiracy To Commit Wire Fraud; and count 5, 18:371 Conspiracy To Obstruct Justice. The defendant was committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 188 months as to counts 1, 3, and 4; 120 months as to count 2; 60 months as to count 5. All terms to run concurrently. Upon release from imprisonment, the defendant will be on supervised release for a term of three (3) years. This term consists of terms 3 years on each of Counts 1 through 5, all such terms to run concurrently. Respondent was further ordered to pay penalties of an assessment in the amount of $500.00.

8. Respondent, James Morris Balagia, whose bar card number is 00783589, is the same person as the James Morris Balagia a.k.a. "DWI Dude" who is the subject of the Second Superseding Indictment, Third Superseding Indictment, Fourth Superseding Indictment, and Judgment in a Criminal Case, described above, true and correct copies of which are attached hereto as Exhibits 1 through 5.

9. Attached hereto as Exhibit 6 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 Amanda M. Kates, 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 Second Superseding Indictment, Third Superseding Indictment, Fourth Superseding Indictment, and Judgment in a Criminal Case, entered in the

Balagia criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

10. 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 pendency of the appeal. Further, upon a showing by Petitioner that the order 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 his appeal, 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,

Seana Willing
Chief Disciplinary Counsel

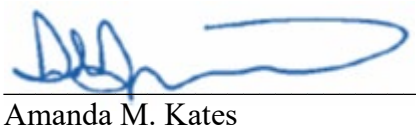
Amanda M. Kates
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
P.O. Box 12487, Capitol Station
Austin, Texas 78711-2487
Telephone: 512.427.1350
Facsimile: 512.427.4167
Email: akates@texasbar.com

Amanda M. Kates
State Bar Card No. 24075987

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 James Morris Balagia, Register Number 26998-078, Cimarron Correctional Facility, 3200 S. King Highway, Cushing, OK 74023, on this 10th day of September, 2021.



Amanda M. Kates

NOTICE OF REMOTE 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 on October 29, 2021, at 9:00 a.m. by remote appearance.

https://txcourts.zoom.us/j/95968888269

Meeting ID: 959 6888 8269
Topic: BODA En Banc Hearings
Time: October 29, 2021, 09:00 AM Central Time (US and Canada)

To join the Zoom trial by Video:	**To join the Zoom trial by Phone/Audio only:**
Go to: https://txcourts.zoom.us/j/95968888269 Join the meeting by typing in the Meeting ID: 959 6888 8269 To appear by video on Zoom, you will need to have an electronic device with an internet connection. You may use a smart phone, iPad/tablet, or webcam/built in camera with sound and video. You will also need to install the free Zoom App before the conference begins.	Dial by your location +1 346 248 7799 US (Houston) +1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 301 715 8592 US (Washington DC) +1 312 626 6799 US (Chicago) +1 929 205 6099 US (New York) Meeting ID: 959 6888 8269 Find your local number: https://txcourts.zoom.us/u/aAOh1IBMc Then type in the Meeting ID: 959 6888 8269

Amanda M. Kates

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	**SEALED**
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
CHARLES NORMAN MORGAN (1)	§	
a.k.a. "Chuck"	§	
BIBIANA CORREA PEREA (2)	§	
a.k.a. "Bibi"	§	
JAMES MORRIS BALAGIA (3)	§	
a.k.a. "DWI Dude"	§	

SUPERSEDING INDICTMENT

THE UNITED STATES GRAND JURY CHARGES:

Count One

Violation: 18 U.S.C. § 1956(h)
(Conspiracy to Commit Money Laundering)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Superseding Indictment, in the Eastern District of Texas and elsewhere, **Charles Norman Morgan** a.k.a. "Chuck," **Bibiana Correa Perea** a.k.a. "Bibi," and **James Morris Balagia** a.k.a. "DWI Dude," the defendants herein, did knowingly, willfully and unlawfully conspire and agree together with other persons known and unknown to the Grand Jury, to:

(a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be

EXHIBIT
1

the proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, with the intent to promote the carrying on of the specified unlawful activity and believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §1956(a)(3);

(b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances with the intent to promote the carrying on of the specified unlawful activity and knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United

States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(1)(A)(i), (a)(1)(B)(i) and (a)(2)(A), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two

Violation: 18 U.S.C. §§ 1503 and 2 (Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Superseding Indictment, in the Eastern District of Texas and elsewhere, **Charles Norman Morgan** a.k.a. "Chuck," **Bibiana Correa Perea** a.k.a. "Bibi," and **James Morris Balagia** a.k.a. "DWI Dude," the defendants herein, aided and abetted by each other, did knowingly, intentionally and corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Segundo Villota-Segura and Aldemar Villota-Segura, et al.*, in the Eastern District of Texas by promising defendants they could influence government officials to help them in their case.

In violation of 18 U.S.C. §§ 1503 and 2.

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE
Criminal Forfeiture Pursuant to 18 U.S.C. §§ 982(a)(1) and 981(a)(1)(c) by 28 U.S.C. § 2461

As a result of committing the offenses charged in this Superseding Indictment, the defendants shall forfeit to the United States any property, real or personal, involved in a violation of 18 U.S.C. § 1956(h), or any property traceable to such property, and any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 1503, including, but not limited to, the following:

Cash Proceeds:

Approximately $1,500,000.00 in proceeds in that such sum in aggregate is property constituting, or derived from, proceeds obtained directly or indirectly, as the result of the offenses alleged in this Superseding Indictment.

Real Property:

PROPERTY 1
Property Address: 15612 Littig Road, Manor, Texas 78653
Legal Description: Abstract 154, Survey 52, Caldwell A.C. Acres 1.59
County: Travis
Parcel Number: 442432

PROPERTY 2

Property Address: 310 Murray Avenue, Manor, Texas 78653
Legal Description: Lot 6 and 7, Block 2 A.E. Lane Addition to the City of Manor, Travis County, Texas

All such proceeds and/or instrumentalities are subject to forfeiture by the government.

Substitute Assets

Moreover, if, as a result of any act or omission of any defendant, any property subject to forfeiture:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with a third person;

(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 subdivided without difficulty;

The United States intends to seek forfeiture of any other property of each defendant up to the value of the forfeitable property, including but not limited to all property, both real and personal owned by each defendant. As a result of the commission of the offenses alleged in this Superseding Indictment, any and all interest that each defendant has in any such property is vested in and forfeited to the United States.

A TRUE BILL

DD

GRAND JURY FOREPERSON

BRIT FEATHERSTON
ACTING UNITED STATES ATTORNEY

HEATHER HARRIS RATTAN for
Assistant United States Attorney

2-9-17
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	**SEALED**
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
CHARLES NORMAN MORGAN (1)	§	
a.k.a. "Chuck"	§	
BIBIANA CORREA PEREA (2)	§	
a.k.a. "Bibi"	§	
JAMES MORRIS BALAGIA (3)	§	
a.k.a. "DWI Dude"	§	

NOTICE OF PENALTY

Count One

Violation: 18 U.S.C. § 1956(h)

Penalty: Imprisonment for not more than twenty (20) years, a fine not to exceed $500,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of at least three (3) years.

Special Assessment: $100.00

Count Two

Violation: 18 U.S.C. §§ 1503 and 2

Penalty: Imprisonment for not more than ten (10) years, a fine not to exceed $250,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
	§	
BIBIANA CORREA PEREA	§	
a.k.a. "Bibi" (2)	§	
JAMES MORRIS BALAGIA (3)	§	
a.k.a. "DWI Dude"	§	

SECOND SUPERSEDING INDICTMENT

THE UNITED STATES GRAND JURY CHARGES:

At all times material to this Second Superseding Indictment:

General Allegations

1. **James Morris Balagia aka "DWI Dude,"** was an attorney licensed in the State of Texas in 1992 and representing clients in criminal cases in state court and in the United States District Court for the Eastern District of Texas;

2. **Bibiana Correa Perea aka "Bibi"** was a Colombian attorney;

3. Charles Norman Morgan aka "Chuck" was a private investigator from Stuart, Florida;

4. *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron,"* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

5. *United States v. Segundo Villota-Segura,* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

6. *United States v. Aldemar Villota-Segura,* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

7. A common and well-accepted law enforcement technique is for the government to offer a member of a drug 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 may request that the cooperating defendant receive a reduced sentence. Whether to follow the government's recommendation and reduce the sentence is in the sole discretion of the federal sentencing judge.

Count One

Violation: 18 U.S.C. § 1956(h)
(Conspiracy to Commit Money Laundering)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Second Superseding Indictment, in the Eastern District of Texas and elsewhere, **Bibiana Correa Perea** a.k.a. "Bibi," and **James Morris Balagia** a.k.a. "DWI Dude," the defendants herein, did

knowingly, willfully and unlawfully conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," and with other persons known and unknown to the Grand Jury, to:

(a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be the proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §1956(a)(3);

(b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a

controlled substance or substances knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(1)(B)(i), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two

Violation: 18 U.S.C. § 1503 and 2
(Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Second Superseding Indictment, in the Eastern District of Texas and elsewhere, **Bibiana Correa Perea** a.k.a. "Bibi," and **James Morris Balagia** a.k.a. "DWI Dude," defendants herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck," and others known and unknown to the Grand Jury, did knowingly and intentionally corruptly endeavor to influence, obstruct and impede the due administration of justice and did corruptly endeavor to influence,

obstruct and impede the due administration of justice in *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron," United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura* and all cases in the Eastern District of Texas by, among other acts, undermining the functioning of the federal justice system by informing Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and that the defendant(s) and others could corruptly influence government officials in relation to criminal charges, which conduct hampered further cooperation by said Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and also affected ongoing criminal investigations in the Eastern District of Texas and elsewhere.

In violation of 18 U.S.C. §§ 1503, 1512(h) and (i) and 2.

Count Three

Violation: 18 U.S.C. §§1512(b)(2)(D) and 2 (Attempting to Tamper with and Tampering with an Informant and Aiding and Abetting)

Beginning in or about 2014, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Second Superseding Indictment, in the Eastern District of Texas and elsewhere, **Bibiana Correa Perea** a.k.a. "Bibi," and **James Morris Balagia** a.k.a. "DWI Dude," defendants herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck," and others known and unknown to the Grand Jury, did knowingly and intentionally attempt to corruptly persuade and did corruptly persuade and attempt to engage and did engage in misleading conduct toward

Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura by informing them that money would be paid to officials in the United States to obtain favorable outcomes in cases pending in the United States District Court in the Eastern District of Texas with the intent to cause and induce Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura to be absent from an official proceeding to which they had been summoned by legal process in the following cases: *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron;" United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura.*

In violation of 18 U.S.C. §§1512(b)(2)(D), 1512(h) and (i) and 2.

Count Four

Violation: 21 U.S.C. § 1904(c)(2)
(Conspiracy to Violate the
Kingpin Act)

All prior allegations are re-alleged and incorporated by reference as though fully set forth herein.

Beginning in or about 2014, and continuing through on or about March 9, 2017, the exact dates being unknown to the Grand Jury, in the Eastern District of Texas and elsewhere, the defendant **James Morris Balagia** a.k.a. "DWI Dude," did knowingly and willfully combine, conspire, confederate and agree with others unknown to the Grand Jury, to commit violations of the Kingpin Act, in violation of Title 21, United States Code, Sections 1906(a), 1904(b)(4), (c)(1) and (c)(2).

Purpose of the Conspiracy

It was the purpose of the conspiracy to willfully violate and circumvent the prohibitions of the Kingpin Act through the transfer, use, and dealing in property in which Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota Segura and Aldemar Villota Segura had an interest.

General Allegations

The Kingpin Act (21 U.S.C. §§ 1901-1908), provides authority for the application of sanctions to significant foreign narcotics traffickers and their organizations operating worldwide.

The Office of Foreign Assets Control (OFAC) of the United Stated Department of Treasury administers and enforces economic sanctions programs against narcotics traffickers. As a part of the sanctions program, the names of persons and entities designated pursuant to the Kingpin Act, whose property and interests in property are blocked, are published in the Federal Register and incorporated into a list of Specially Designated Nationals (SDN List) with the OFAC program tag "[SDNTK]" to designate Specially Designated Nationals who are narcotics traffickers. The SDN List is readily available through OFAC's web site: http://www.treasury.gov/sdn.

On February 19, 2014, OFAC designated the following foreign individuals as specially designated narcotics traffickers (using the program tag SDNTK) under the Kingpin Act: (1) Aldemar Villota Segura; (2) Segundo Villota Segura; and, (3) Hermes Casanova Ordonez, a.k.a. "Megatron." Aldemar Villota Segura, Segundo Villota Segura,

and Hermes Casanova Ordonez have appeared on the publicly available list from February 19, 2014 until the date of this Superseding Indictment.

Unless otherwise authorized or exempt, transactions by U.S. persons, or in or involving the United States, are prohibited if they involve transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of an entity or individual listed on the SDN List.

OFAC may authorize certain types of activities and transactions, which would otherwise be prohibited, by issuing a general license. General licenses may be published in the regulations, on OFAC's Web site, or both. For example, the provision of certain legal services to or on behalf of persons whose property and interests in property are blocked pursuant to the Kingpin Act is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

James Morris Balagia a.k.a. "DWI Dude," has never applied for or received an OFAC license necessary to receive property from any individual listed on the SDN List.

James Morris Balagia a.k.a. "DWI Dude," is an officer, director, and agent of the Law Offices of Jamie Balagia, which is an entity as defined in 21 U.S.C. § 1907(1).

Manner and Means of the Conspiracy

The manner and means by which the defendants sought to accomplish the purpose of the conspiracy included, among others, the following:

Defendant **James Morris Balagia** a.k.a. "DWI Dude," personally and working in conjunction with Bibiana Correa Perea a.k.a. "Bibi," and Charles Norman Morgan a.k.a.

"Chuck," and other co-conspirators both known and unknown to the United States Grand Jury, communicated to Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura that, in exchange for payments in United States Currency from Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura, payments would be made to corrupt officials in the United States in order to gain favorable action in pending federal indictments against Hermes Casanova Ordonez, Segundo Villota Segura and Aldemar Villota Segura.

Overt Acts

In furtherance of the conspiracy and to achieve the purpose thereof, at least one of the co-conspirators committed or caused to be committed, in the Eastern District of Texas and elsewhere, at least one of the following overt acts, among others:

In or about July 2014 Hermes Casanova Ordonez agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators approximately $700,000.00 for legal representation relating to a pending federal indictment against Hermes Casanova Ordonez in the Eastern District of Texas. Co-conspirators notified a representative of Hermes Casanova Ordonez that part of the "representation" would include bribing officials of the United States government in order to effect a favorable resolution of his case. In furtherance of this scheme, Hermes Casanova Ordonez transferred approximately $335,000.00 in United States currency to **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators.

In or about August 2014 Segundo Villota Segura agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators approximately $1,200,000.00 for legal representation relating to a pending federal indictment against Segundo Villota Segura in the Eastern District of Texas. Co-conspirators notified Segundo Villota Segura that part of the "representation" would include bribing officials of the United States government in order to effect a favorable resolution of his case. In furtherance of this scheme, Segundo Villota Segura transferred over $600,000.00 in United States currency to **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators.

In or about September 2016 Aldemar Villota Segura agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators approximately $1,200,000.00 for legal representation relating to a pending federal indictment against Aldemar Villota Segura in the Eastern District of Texas. Co-conspirators notified Aldemar Villota Segura that part of the "representation" would include bribing officials of the United States government in order to effect a favorable resolution of his case. In furtherance of this scheme, **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators met with an individual believed by them to be a corrupt accountant, money courier and money launderer for Aldemar Villota Segura and subsequently traveled to the Eastern District of Texas to receive a payment of $300,000.00 which were represented to be drug proceeds of Aldemar Villota Segura.

All in violation of Title 21, United States Code, Section 1904(c)(2).

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE

Criminal Forfeiture Pursuant to 18 U.S.C. §§ 982(a)(1) and 981(a)(1)(c) by 28 U.S.C. § 2461

As a result of committing the offenses charged in this Second Superseding Indictment, the defendants shall forfeit to the United States any property, real or personal, involved in a violation of 18 U.S.C. § 1956(h), or any property traceable to such property, and any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 1503, including, but not limited to, the following:

Cash Proceeds:

Approximately $1,500,000.00 in proceeds in that such sum in aggregate is property constituting, or derived from, proceeds obtained directly or indirectly, as the result of the offenses alleged in this Second Superseding Indictment.

Real Property:

PROPERTY 1
Property Address: 15612 Littig Road, Manor, Texas 78653
Legal Description: Abstract 154, Survey 52, Caldwell A.C. Acres 1.59
County: Travis
Parcel Number: 442432

PROPERTY 2

Property Address: 310 Murray Avenue, Manor, Texas 78653
Legal Description: Lot 6 and 7, Block 2 A.E. Lane Addition to the City of Manor, Travis County, Texas

Financial Instruments:

$18,486.09 in funds from bank account number xxxxx7167, in the name of Law Office of Jamie Balagia, P.C. at Wells Fargo Bank, Frisco, Texas;

$999.93 in funds from bank account number xxxxx6904, in the name of Warhorse Marketing Corp. at Wells Fargo Bank, Frisco, Texas;

$2,700.00 in funds from bank account number xxxxx3409, in the name of James M. Balagia at Wells Fargo Bank, Frisco, Texas;

$14,885.57 in funds from bank account number xxxxx1145 and $297.47 in funds from bank account number xxxxx6255, in the name of Law Office of Jamie Balagia, P.C at Independent Bank, McKinney, Texas; and

$1,602.87 in funds from bank account number xxxxx9093, in the name of Jamie Balagia Law Office, P.C. at Independent Bank, McKinney, Texas.

All such proceeds and/or instrumentalities are subject to forfeiture by the government.

Substitute Assets

Moreover, if, as a result of any act or omission of any defendant, any property subject to forfeiture:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with a third person;

(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 subdivided without difficulty;

The United States intends to seek forfeiture of any other property of each defendant up to the value of the forfeitable property, including but not limited to all property, both real and personal owned by each defendant. As a result of the commission of the offenses alleged in this Second Superseding Indictment, any and all interest that each defendant has in any such property is vested in and forfeited to the United States.

A TRUE BILL

GRAND JURY FOREPERSON

ALAN R. JACKSON
UNITED STATES ATTORNEY

HEATHER HARRIS RATTAN
Assistant United States Attorney

2.14.18
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
BIBIANA CORREA PEREA (2)	§	
a.k.a. "Bibi"	§	
JAMES MORRIS BALAGIA (3)	§	
a.k.a. "DWI Dude"	§	

NOTICE OF PENALTY

Count One

Violation: 18 U.S.C. § 1956(h)

Penalty: Imprisonment for not more than twenty (20) years, a fine not to exceed $500,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of at least three (3) years.

Special Assessment: $100.00

Count Two

Violation: 18 U.S.C. §§ 1503 and 2

Penalty: Imprisonment for not more than ten (10) years, a fine not to exceed $250,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

Count Three

Violation: 18 U.S.C. §§ 1512(b)(2)(D) and 2

Penalty:	Imprisonment for not more than twenty (20) years, a fine not to exceed $500,000.00. A term of supervised release of not more than three (3) years.
Special Assessment:	$100.00

Count Four

Violation:	21 U.S.C. § 1904(c)(2)
Penalty:	Imprisonment for up to ten (10) years, a fine up to $250,000.00. If the defendant is a corporate officer, up to 30 years of imprisonment, a fine up to $5,000,000.00. A term of supervised release of not more than three (3) years.
Special Assessment:	$100.00

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
	§	
JAMES MORRIS BALAGIA (3) a.k.a. "DWI Dude"	§ §	

THIRD SUPERSEDING INDICTMENT

THE UNITED STATES GRAND JURY CHARGES:

At all times material to this Third Superseding Indictment:

Introduction and General Allegations

1. **James Morris Balagia aka "DWI Dude,"** was an attorney licensed in the State of Texas in 1992 and representing clients in criminal cases in state court and in the United States District Court for the Eastern District of Texas;

2. Bibiana Correa Perea aka "Bibi" was a Colombian attorney;

3. Charles Norman Morgan aka "Chuck" was a private investigator from Stuart, Florida;

4. *Drug Enforcement Administration Seizure of $50,000 in United States Currency,* DEA Case Number MB-12-0012, Asset ID Number 12-DEA-556315 was an asset forfeiture matter related to seizure of suspected proceeds from narcotics trafficking on United States Interstate 40 on or about November 17, 2011;

EXHIBIT 3

5. *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron,"* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

6. *United States v. Segundo Villota-Segura,* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

7. *United States v. Aldemar Villota-Segura,* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

8. A common and well-accepted law enforcement technique is for the government to offer a member of a drug 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 may request that the cooperating defendant receive a reduced sentence. Whether to follow the government's recommendation and reduce the sentence is in the sole discretion of the federal sentencing judge.

Count One

Violation: 18 U.S.C. § 1956(h)
(Conspiracy to Commit Money Laundering)

Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," the defendant herein, did knowingly, willfully and unlawfully conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and with other persons known and unknown to the Grand Jury, to:

(a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be the proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §1956(a)(3);

(b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(1)(B)(i), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two

Violation: 18 U.S.C. § 1503 and 2
(Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," defendant herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and others known and unknown to the Grand Jury, did knowingly and intentionally corruptly endeavor to influence, obstruct and impede the due administration of justice and did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron," United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura* all cases in the Eastern District of Texas by, among other acts, undermining the functioning of the federal justice system by informing Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and that the defendant and others could corruptly influence government officials in relation to criminal charges, which conduct hampered further cooperation by said Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and also affected ongoing criminal investigations in the Eastern District of Texas and elsewhere.

In violation of 18 U.S.C. §§ 1503, 1512(h) and (i) and 2.

Count Three

Violation: 21 U.S.C. § 1904(c)(2)
(Conspire, Endeavor, and Attempt
to Violate the Kingpin Act)

All prior allegations are re-alleged and incorporated by reference as though fully set forth herein.

Beginning in or about 2014, and continuing through on or about March 9, 2017, the exact dates being unknown to the Grand Jury, in the Eastern District of Texas and elsewhere, the defendant **James Morris Balagia** a.k.a. "DWI Dude," did knowingly and willfully endeavor, attempt, combine, conspire, confederate and agree with others unknown to the Grand Jury, to commit violations of the Kingpin Act, in violation of Title 21, United States Code, Sections 1906(a), 1904(b)(4), (c)(1) and (c)(2).

Purpose of the Conspiracy

It was the purpose of the conspiracy to willfully violate and circumvent the prohibitions of the Kingpin Act through the transfer, use, and dealing in property in which Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota Segura and Aldemar Villota Segura had an interest.

General Allegations

The Kingpin Act (21 U.S.C. §§ 1901-1908), provides authority for the application of sanctions to significant foreign narcotics traffickers and their organizations operating worldwide.

The Office of Foreign Assets Control (OFAC) of the United Stated Department of Treasury administers and enforces economic sanctions programs against narcotics traffickers. As a part of the sanctions program, the names of persons and entities designated pursuant to the Kingpin Act, whose property and interests in property are blocked, are published in the Federal Register and incorporated into a list of Specially Designated Nationals (SDN List) with the OFAC program tag "[SDNTK]" to designate Specially Designated Nationals who are narcotics traffickers. The SDN List is readily available through OFAC's web site: http://www.treasury.gov/sdn.

On February 19, 2014, OFAC designated the following foreign individuals as specially designated narcotics traffickers (using the program tag SDNTK) under the Kingpin Act: (1) Aldemar Villota Segura; (2) Segundo Villota Segura; and, (3) Hermes Casanova Ordonez, a.k.a. "Megatron." Aldemar Villota Segura, Segundo Villota Segura, and Hermes Casanova Ordonez have appeared on the publicly available list from February 19, 2014 until the date of this Third Superseding Indictment.

Unless otherwise authorized or exempt, transactions by U.S. persons, or in or involving the United States, are prohibited if they involve transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of an entity or individual listed on the SDN List.

OFAC may authorize certain types of activities and transactions, which would otherwise be prohibited, by issuing a general license. General licenses may be published in the regulations, on OFAC's Web site, or both. For example, the provision of certain

legal services to or on behalf of persons whose property and interests in property are blocked pursuant to the Kingpin Act is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

James Morris Balagia a.k.a. "DWI Dude," has never applied for or received an OFAC license necessary to receive property from any individual listed on the SDN List.

James Morris Balagia a.k.a. "DWI Dude," is an officer, director, and agent of the Law Offices of Jamie Balagia, which is an entity as defined in 21 U.S.C. § 1907(1).

Manner and Means of the Conspiracy

The manner and means by which the defendants sought to accomplish the purpose of the conspiracy included, among others, the following:

Defendant **James Morris Balagia** a.k.a. "DWI Dude," personally and working in conjunction with Bibiana Correa Perea a.k.a. "Bibi," and Charles Norman Morgan a.k.a. "Chuck," and other co-conspirators both known and unknown to the United States Grand Jury, communicated to Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura that, in exchange for payments in United States Currency from Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura, payments would be made to corrupt officials in the United States in order to gain favorable action in pending federal indictments against Hermes Casanova Ordonez, Segundo Villota Segura and Aldemar Villota Segura.

Overt Acts

In furtherance of the endeavor, attempt, and conspiracy and to achieve the purpose thereof, at least one of the co-conspirators committed or caused to be committed, in the Eastern District of Texas and elsewhere, at least one of the following overt acts, among others:

In or about July 2014 Hermes Casanova Ordonez agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators approximately $700,000.00 for legal representation relating to a pending federal indictment against Hermes Casanova Ordonez in the Eastern District of Texas. Co-conspirators notified a representative of Hermes Casanova Ordonez that part of the "representation" would include bribing officials of the United States government in order to effect a favorable resolution of his case. In furtherance of this scheme, Hermes Casanova Ordonez transferred approximately $350,000.00 in United States currency to **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators.

In or about August 2014 Segundo Villota Segura agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators approximately $1,200,000.00 for legal representation relating to a pending federal indictment against Segundo Villota Segura in the Eastern District of Texas. Co-conspirators notified Segundo Villota Segura that part of the "representation" would include bribing officials of the United States government in order to effect a favorable resolution of his case. In furtherance of this

scheme, Segundo Villota Segura transferred over $900,000.00 in United States currency to **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators.

In or about September 2016 Aldemar Villota Segura agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," and other co-conspirators approximately $1,200,000.00 for legal representation relating to a pending federal indictment against Aldemar Villota Segura in the Eastern District of Texas so that the money could get "to the right people to get him off the charge."

All in violation of Title 21, United States Code, Section 1904(c)(2).

Count Four

Violation: 18 U.S.C. § 1349 (Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. § 1343)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and with other persons known and unknown to the Grand Jury, to devise a scheme and

artifice to defraud and to obtain money and funds from criminal defendants charged in the Eastern District of Texas and elsewhere by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme and artifice, caused writings, signs, and signals to be transmitted by means of wire communication in interstate and foreign commerce, a violation of 18 U.S.C. § 1343.

C. The Manner and Means of the Conspiracy and the Scheme and Artifice

It was a part of the conspiracy and the scheme and artifice that:

It was part of the conspiracy that **Balagia** and others concocted a scheme to defraud individuals who were facing federal criminal charges.

Balagia and others would solicit federal criminal defendants (including Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura) as clients under false pretenses. **Balagia** and others claimed to the defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others, in order to execute the scheme and artifice, caused writings, signs, and signals to be transmitted by means of wire communications in interstate and

foreign commerce, to wit: phone calls, electronic mail transmissions and other wire communications in order to schedule meetings, discuss the scheme, transmit money, and file court documents.

D. Representative Acts of the Conspiracy

On or about the following dates, as acts representative of the conspiracy, the defendant and other co-conspirators caused the following acts to be committed:

On or about September 13, 2014, in advance of a September 18, 2014 meeting in Colombia which was scheduled in an effort to retain Hermes Casanova Alirio Ordonez ("Megatron") as a client for the Law Offices of Jamie Balagia and in furtherance of the conspiracy, **Balagia** placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 26, 2014, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 28, 2014, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 30, 2014, a deposit was made into Wells Fargo Bank account of **Balagia**. The deposit was made in New York City, New York and represented money received by **Balagia** as a result of the fraud conspiracy.

On or about December 12, 2014, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 12, 2014, **Balagia** and June Gonzales traveled to Houston, Texas to pick up cash which was payment for Megatron's case. As a result of this cash pickup, **Balagia** deposited approximately $126,300 into the law office Wells Fargo Bank account and approximately $78,000 into the law office Independent Bank account.

On or about November 14, 2015, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 21, 2015, **Balagia** attended a meeting with Charles Norman Morgan, Adriana Morgan, Bibiana Correa Perea and Segundo Villota-Segura which took place at La Picota Prison in Bogota, Colombia.

On or about January 25, 2016, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about February 18, 2016, and in furtherance of the conspiracy, Charles Norman Morgan and Adriana Morgan, met with Segundo Villota-Segura at La Picota, Prison in Bogota, Colombia.

On or about April 25, 2016, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

In violation of 18 U.S.C. § 1349.

Count Five

Violation: 18 U.S.C. § 371
(Conspiracy to Obstruct Justice)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Third Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," and with other persons 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 **Balagia** and others concocted schemes to defraud individuals who were involved in the criminal justice system and/or facing federal criminal charges.

Balagia and others made representations to law enforcement, government officials and others that resulted in seized funds being released to **Balagia**.

Balagia and others solicited federal criminal defendants as clients under false pretenses. **Balagia** and others claimed to the defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others would and did undermine the functioning of the United States system of justice by, among other things, interfering with the rightful ownership and return of seized currency; interfering with defendants' cooperation with the government; interfering with plea negotiations with the government by preventing the defendant from timely entering pleas because of the mistaken belief their case was going to be dismissed; interfering with defendants' relationships with former and subsequent counsel.

D. Overt Acts

As examples, the following overt acts, among others, were committed in furtherance of the conspiracy and to effect the objects of the conspiracy:

On or about November 17, 2011, on United States Interstate 40, law enforcement officers seized $50,000 in United States Currency. This became DEA Case Number MB-12-0012, Asset ID Number 12-DEA-556315. Balagia and others made misrepresentations and received a portion of the seized funds;

On or about December 21, 2015, **Balagia** and others met with Segundo Villota-Segura who was charged in *United States v. Segundo Villota-Segura,* Criminal Number 4:13cr38 which was a drug trafficking case pending in the United States District Court for the Eastern District of Texas. At this meeting, it was represented to Segundo Villota-Segura that four people in Washington, D.C. were paid (bribed) with Segundo Villota-Segura's money to assist him with the federal charges he had pending in the Eastern District of Texas. Segundo Villota-Segura was told that the names of the people would not be exposed. **Balagia** told Segundo Villota-Segura to deal with "Bibi and Chuck" because it gave **Balagia** the "ability to close my ears sometimes if I need to- and it protects- all of us."

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE

Criminal Forfeiture Pursuant to 18 U.S.C. §§ 982(a)(1) and 981(a)(1)(c) by 28 U.S.C. § 2461

As a result of committing the offenses charged in this Third Superseding Indictment, the defendant shall forfeit to the United States any property, real or personal,

involved in a violation of 18 U.S.C. § 1956(h), or any property traceable to such property, and any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 1503, including, but not limited to, the following:

Cash Proceeds:

Approximately $1,500,000.00 in proceeds in that such sum in aggregate is property constituting, or derived from, proceeds obtained directly or indirectly, as the result of the offenses alleged in this Third Superseding Indictment.

Real Property:

PROPERTY 1
Property Address: 15612 Littig Road, Manor, Texas 78653
Legal Description: Abstract 154, Survey 52, Caldwell A.C. Acres 1.59
County: Travis
Parcel Number: 442432

PROPERTY 2

Property Address: 310 Murray Avenue, Manor, Texas 78653
Legal Description: Lot 6 and 7, Block 2 A.E. Lane Addition to the City of Manor, Travis County, Texas

Financial Instruments:

$18,486.09 in funds from bank account number xxxxx7167, in the name of Law Office of Jamie Balagia, P.C. at Wells Fargo Bank, Frisco, Texas;

$999.93 in funds from bank account number xxxxx6904, in the name of Warhorse Marketing Corp. at Wells Fargo Bank, Frisco, Texas;

$2,700.00 in funds from bank account number xxxxx3409, in the name of James M. Balagia at Wells Fargo Bank, Frisco, Texas;

$14,885.57 in funds from bank account number xxxxx1145 and $297.47 in funds from bank account number xxxxx6255, in the name of Law Office of Jamie Balagia, P.C at Independent Bank, McKinney, Texas; and

$1,602.87 in funds from bank account number xxxxx9093, in the name of Jamie Balagia Law Office, P.C. at Independent Bank, McKinney, Texas.

All such proceeds and/or instrumentalities are subject to forfeiture by the government.

Substitute Assets

Moreover, if, as a result of any act or omission of any defendant, any property subject to forfeiture:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with a third person;

(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 subdivided without difficulty;

The United States intends to seek forfeiture of any other property of the defendant up to the value of the forfeitable property, including but not limited to all property, both real and personal owned by the defendant. As a result of the commission of the offenses alleged in this Third Superseding Indictment, any and all interest that the defendant has in any such property is vested in and forfeited to the United States.

A TRUE BILL

GRAND JURY FOREPERSON

JOSEPH D. BROWN
UNITED STATES ATTORNEY

HEATHER HARRIS RATTAN
Assistant United States Attorney

5-10-18
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
	§	
JAMES MORRIS BALAGIA (3)	§	
a.k.a. "DWI Dude"	§	

NOTICE OF PENALTY

Count One

Violation: 18 U.S.C. § 1956(h)

Penalty: Imprisonment for not more than twenty (20) years, a fine not to exceed $500,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of at least three (3) years.

Special Assessment: $100.00

Count Two

Violation: 18 U.S.C. §§ 1503 and 2

Penalty: Imprisonment for not more than ten (10) years, a fine not to exceed $250,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

Count Three

Violation: 21 U.S.C. § 1904(c)(2)

Penalty: Imprisonment for up to ten (10) years, a fine up to $250,000.00. If the defendant is a corporate officer, up to 30

years of imprisonment, a fine up to $5,000,000.00. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

Count Four

Violation: 18 U.S.C. § 1349

Penalty: Imprisonment for not more than twenty (20) years, a fine not to exceed $250,000.00. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

Count Five

Violation: 18 U.S.C. § 371

Penalty: Imprisonment for a term of not more than five years; a fine not to exceed $250,000.00; and supervised release of not more than three years.

Special Assessment: $100.00

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
	§	
JAMES MORRIS BALAGIA (3)	§	
a.k.a. "DWI Dude"	§	

FOURTH SUPERSEDING INDICTMENT

THE UNITED STATES GRAND JURY CHARGES:

At all times material to this Fourth Superseding Indictment:

Introduction and General Allegations

1. **James Morris Balagia aka "DWI Dude,"** was an attorney licensed in the State of Texas in 1992 and representing clients in criminal cases in state court and in the United States District Courts for the Eastern, Western, and Southern Districts of Texas as well as the Northern District of Alabama. **Balagia** has represented defendants in approximately 84 federal criminal cases. Among these cases, **Balagia** has represented defendants in approximately 40 serious federal drug cases;

2. Bibiana Correa Perea aka "Bibi" was a Colombian attorney;

3. Charles Norman Morgan aka "Chuck" was a private investigator from Stuart, Florida;

4. *Drug Enforcement Administration Seizure of $50,000 in United States Currency,* DEA Case Number MB-12-0012, Asset ID Number 12-DEA-556315 was an

EXHIBIT 4

asset forfeiture matter related to seizure of suspected proceeds from narcotics trafficking on United States Interstate 40 on or about November 17, 2011;

5. *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron,"* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

6. *United States v. Segundo Villota-Segura,* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

7. *United States v. Aldemar Villota-Segura,* Criminal Number 4:13cr38 was a drug trafficking case pending in the United States District Court for the Eastern District of Texas;

8. A common and well-accepted law enforcement technique is for the government to offer a member of a drug 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 may request that the cooperating defendant receive a reduced sentence. Whether to follow the government's recommendation and reduce the sentence is in the sole discretion of the federal sentencing judge.

Count One

Violation: 18 U.S.C. § 1956(h)
(Conspiracy to Commit Money Laundering)

Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Fourth Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," the defendant herein, did knowingly, willfully and unlawfully conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and with other persons known and unknown to the Grand Jury, to:

(a) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds represented by a law enforcement officer to be the proceeds of a specified unlawful activity to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, believing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant believed that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §1956(a)(3);

(b) conduct and attempt to conduct financial transactions affecting interstate and foreign commerce and to transport, transmit, or transfer, or attempt to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States, which involved the proceeds of a specified unlawful activity, to wit: distribution or conspiracy to distribute or possess with the intent to distribute a controlled substance or substances knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership and control of the proceeds and that while conducting and attempting to conduct such financial transactions, the defendant knew that the property involved in the financial transactions, that is, United States currency, represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. §§1956(a)(1)(B)(i), (a)(2)(B)(i); and,

(c) engage, or attempt to engage, in a monetary transaction in an amount greater than $10,000 by, though, or to a financial institution with proceeds of a specified unlawful activity, that is, conspiracy to distribute or possess with the intent to distribute a controlled substance or substances in violation of 18 U.S.C. § 1957.

All in violation of 18 U.S.C. § 1956(h).

Count Two

Violation: 18 U.S.C. § 1503 and 2 (Obstruction of Justice and Aiding and Abetting)

Beginning in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Fourth Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," defendant herein, aided and abetted by Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and others known and unknown to the Grand Jury, did knowingly and intentionally corruptly endeavor to influence, obstruct and impede the due administration of justice and did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Hermes Casanova Ordonez, a.k.a. "Megatron," United States v. Segundo Villota-Segura* and *United States v. Aldemar Villota-Segura* all cases in the Eastern District of Texas by, among other acts, undermining the functioning of the federal justice system by informing Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and that the defendant and others could corruptly influence government officials in relation to criminal charges, which conduct hampered further cooperation by said Hermes Casanova Ordonez, a.k.a. "Megatron," Segundo Villota-Segura and Aldemar Villota-Segura and also affected ongoing criminal investigations in the Eastern District of Texas and elsewhere.

In violation of 18 U.S.C. §§ 1503, 1512(h) and (i) and 2.

Count Three

Violation: 21 U.S.C. § 1904(c)(2)
(Violation, Endeavor, and Attempt
to Violate the Kingpin Act)

All prior allegations are re-alleged and incorporated by reference as though fully set forth herein.

Beginning in or about 2014, and continuing through on or about March 9, 2017, the exact dates being unknown to the Grand Jury, in the Eastern District of Texas and elsewhere, the defendant **James Morris Balagia** a.k.a. "DWI Dude," a United States person, did engage in transactions and dealings, including dealings within the United States, which evaded, avoided, endeavored, and attempted to commit violations of the Kingpin Act, in violation of Title 21, United States Code, Sections 1906(a), 1904(b)(4), (c)(1) and (c)(2).

Allegations

The Kingpin Act (21 U.S.C. §§ 1901-1908), provides authority for the application of sanctions to significant foreign narcotics traffickers and their organizations operating worldwide.

The Office of Foreign Assets Control (OFAC) of the United Stated Department of Treasury administers and enforces economic sanctions programs against narcotics traffickers. As a part of the sanctions program, the names of persons and entities designated pursuant to the Kingpin Act, whose property and interests in property are blocked, are

published in the Federal Register and incorporated into a list of Specially Designated Nationals (SDN List) with the OFAC program tag "[SDNTK]" to designate Specially Designated Nationals who are narcotics traffickers. The SDN List is readily available through OFAC's web site: http://www.treasury.gov/sdn.

On February 19, 2014, OFAC designated the following foreign individuals as specially designated narcotics traffickers (using the program tag SDNTK) under the Kingpin Act: (1) Aldemar Villota Segura; (2) Segundo Villota Segura; and, (3) Hermes Casanova Ordonez, a.k.a. "Megatron." Aldemar Villota Segura, Segundo Villota Segura, and Hermes Casanova Ordonez have appeared on the publicly available list from February 19, 2014 until the date of this Fourth Superseding Indictment.

Unless otherwise authorized or exempt, transactions by U.S. persons, or in or involving the United States, are prohibited if they involve transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of an entity or individual listed on the SDN List.

OFAC may authorize certain types of activities and transactions, which would otherwise be prohibited, by issuing a general license. General licenses may be published in the regulations, on OFAC's Web site, or both. For example, the provision of certain legal services to or on behalf of persons whose property and interests in property are blocked pursuant to the Kingpin Act is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

James Morris Balagia a.k.a. "DWI Dude," has never applied for or received an OFAC license necessary to receive property from any individual listed on the SDN List.

James Morris Balagia a.k.a. "DWI Dude," is a United States person and was an officer, director, and agent of the Law Offices of Jamie Balagia, which is an entity as defined in 21 U.S.C. § 1907(1).

In or about July 2014 Hermes Casanova Ordonez agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," for legal representation relating to a pending federal indictment against Hermes Casanova Ordonez in the Eastern District of Texas. Hermes Casanova Ordonez working in concert with others, transferred United States currency to **James Morris Balagia** a.k.a. "DWI Dude," a United States person. Some part of the payments were made within the United States.. **James Morris Balagia** a.k.a. "DWI Dude," endeavored, attempted, and did engage in such transactions that evaded, avoided, and had the effect of evading and avoiding the prohibitions of the Kingpin Act.

In or about August 2014 Segundo Villota Segura agreed to pay **James Morris Balagia** a.k.a. "DWI Dude," for legal representation relating to a pending federal indictment against Segundo Villota Segura in the Eastern District of Texas. Segundo Villota Segura, working in concert with others, transferred United States currency to **James Morris Balagia** a.k.a. "DWI Dude," a United States Person. Some part of the payments were made within the United States. **James Morris Balagia** a.k.a. "DWI Dude," endeavored, attempted, and did engage in such transactions that evaded, avoided, and had the effect of evading and avoiding the prohibitions of the Kingpin Act.

In or about September 2016 **James Morris Balagia** a.k.a. "DWI Dude," agreed to accept payment from Aldemar Villota Segura for legal representation relating to a pending federal indictment against Aldemar Villota Segura in the Eastern District of Texas. James Morris Balagia a.k.a. "DWI Dude," endeavored, and attempted to engage in such transactions that evaded, avoided, and had the effect of evading and avoiding the prohibitions of the Kingpin Act.

All in violation of Title 21, United States Code, Section 1904(c)(2).

Count Four

Violation: 18 U.S.C. § 1349 (Conspiracy to Commit Wire Fraud in violation of 18 U.S.C. § 1343)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Fourth Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and with other persons known and unknown to the Grand Jury, to devise a scheme and artifice to defraud and to obtain money and funds from criminal defendants charged in the Eastern District of

Texas and elsewhere by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme and artifice, caused writings, signs, and signals to be transmitted by means of wire communication in interstate and foreign commerce, a violation of 18 U.S.C. § 1343.

C. The Manner and Means of the Conspiracy and the Scheme and Artifice

It was a part of the conspiracy and the scheme and artifice that:

It was part of the conspiracy that **Balagia** and others concocted a scheme to defraud individuals who were facing federal criminal charges.

It was part of the conspiracy that **Balagia** and others concocted a scheme to convince a prospective client that he had the ability to influence judges and prosecutors in her criminal case and, in the course of representing her, to fraudulently recover narcotics proceeds which had been seized by the Drug Enforcement Administration in her case.

Balagia and others would solicit federal criminal defendants (including Hermes Casanova Ordonez, Segundo Villota Segura, and Aldemar Villota Segura) as clients under false pretenses. **Balagia** and others claimed to the defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others, in order to execute the scheme and artifice, caused writings, signs, and signals to be transmitted by means of wire communications in interstate and foreign commerce, to wit: phone calls, electronic mail transmissions and other wire communications in order to schedule meetings, discuss the scheme, transmit money, and file court documents.

D. Representative Acts of the Conspiracy

On or about the following dates, as acts representative of the conspiracy, the defendant and other co-conspirators caused the following acts to be committed:

In or about November 2011, **Balagia** and HJP spoke with **Balagia**'s client, JMM and convinced her that they had connections with judges and prosecutors which they could use to effect a favorable resolution of her case after she had been pulled over with approximately $50,000 which was being transported for the purpose of purchasing marijuana. On or about September 7, 2012, HJP, working in concert with **Balagia**, caused writings, signs, and signals to be transmitted by means of wire communications in interstate and foreign commerce, to wit: fax transmissions in order to discuss the scheme to fraudulently recover narcotics proceeds seized by the Drug Enforcement Administration.

On or about September 13, 2014, in advance of a September 18, 2014 meeting in Colombia which was scheduled in an effort to retain Hermes Casanova Alirio Ordonez ("Megatron") as a client for the Law Offices of Jamie Balagia and in furtherance of the

conspiracy, **Balagia** placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 26, 2014, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 28, 2014, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the Stuart, Florida landline telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about September 30, 2014, a deposit was made into Wells Fargo Bank account of **Balagia**. The deposit was made in New York City, New York and represented money received by **Balagia** as a result of the fraud conspiracy.

On or about December 12, 2014, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 12, 2014, **Balagia** and June Gonzales traveled to Houston, Texas to pick up cash which was payment for Megatron's case. As a result of this cash pickup, **Balagia** deposited approximately $126,300 into the law office Wells Fargo Bank account and approximately $78,000 into the law office Independent Bank account.

On or about November 14, 2015, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about December 21, 2015, **Balagia** attended a meeting with Charles Norman Morgan, Adriana Morgan, Bibiana Correa Perea and Segundo Villota-Segura which took place at La Picota Prison in Bogota, Colombia.

On or about January 25, 2016, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

On or about February 18, 2016, and in furtherance of the conspiracy, Charles Norman Morgan and Adriana Morgan, met with Segundo Villota-Segura at La Picota, Prison in Bogota, Colombia.

On or about April 25, 2016, and in furtherance of the conspiracy, **Balagia** placed a telephone call to the cellular telephone of Charles Norman Morgan, in and affecting interstate commerce.

In violation of 18 U.S.C. § 1349.

Count Five

Violation: 18 U.S.C. § 371
(Conspiracy to Obstruct Justice)

A. Introduction

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

B. The Conspiracy

From in or about 2011, the exact date unknown to the Grand Jury, and continuing thereafter up to and including the date of the filing of this Fourth Superseding Indictment, in the Eastern District of Texas and elsewhere, **James Morris Balagia** a.k.a. "DWI Dude," the defendant herein, did knowingly combine, conspire and agree together and with Charles Norman Morgan a.k.a. "Chuck," Bibiana Correa Perea a.k.a. "Bibi," HJP, and with other persons 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 **Balagia** and others concocted schemes to defraud individuals who were involved in the criminal justice system and/or facing federal criminal charges.

Balagia and others made representations to law enforcement, government officials and others that resulted in seized funds being released to **Balagia**.

Balagia and others solicited federal criminal defendants as clients under false pretenses. **Balagia** and others claimed to the defendants that they had contacts who had the power to affect their criminal charges if the defendants would pay a large sum of money.

Balagia and others made misrepresentations to the defendants about their ability to affect the outcome of the defendants' cases and the nature and extent of their alleged government contacts.

Balagia and others did falsely state that government officials could be and were being bribed on behalf of the defendants with the funds the defendants would or did pay.

Balagia and others would and did undermine the functioning of the United States system of justice by, among other things, interfering with the rightful ownership and return of seized currency; interfering with defendants' cooperation with the government; interfering with plea negotiations with the government by preventing the defendant from timely entering pleas because of the mistaken belief their case was going to be dismissed; interfering with defendants' relationships with former and subsequent counsel.

D. Overt Acts

As examples, the following overt acts, among others, were committed in furtherance of the conspiracy and to effect the objects of the conspiracy:

On or about November 17, 2011, on United States Interstate 40, law enforcement officers seized $50,000 in United States Currency from JMM. This became DEA Case Number MB-12-0012, Asset ID Number 12-DEA-556315. **Balagia** and others told JMM that **Balagia** had connections with judges and prosecutors which he could use to influence the outcome of her case. In the course of his representation of JMM, **Balagia** knowingly sponsored JMM's misrepresentations to the Drug Enforcement Administration concerning the source and nature of the money and received a portion of the seized funds;

On or about February 10, 2012, **Balagia** transmitted to the Drug Enforcement Administration a sworn statement of his client, JMM, known by **Balagia** to be false, in an effort to recover the funds held by the Drug Enforcement Administration.

On or about December 21, 2015, **Balagia** and others met with Segundo Villota-Segura who was charged in *United States v. Segundo Villota-Segura,* Criminal Number 4:13cr38 which was a drug trafficking case pending in the United States District Court for the Eastern District of Texas. At this meeting, it was represented to Segundo Villota-Segura that four people in Washington, D.C. were paid (bribed) with Segundo Villota-Segura's money to assist him with the federal charges he had pending in the Eastern District of Texas. Segundo Villota-Segura was told that the names of the people would not be exposed. **Balagia** told Segundo Villota-Segura to deal with "Bibi and Chuck" because it gave **Balagia** the "ability to close my ears sometimes if I need to- and it protects- all of us."

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE

Criminal Forfeiture Pursuant to 18 U.S.C. §§ 982(a)(1) and 981(a)(1)(c) by 28 U.S.C. § 2461

As a result of committing the offenses charged in this Fourth Superseding Indictment, the defendant shall forfeit to the United States any property, real or personal, involved in a violation of 18 U.S.C. § 1956(h), or any property traceable to such property, and any property, real or personal, which constitutes or is derived from

proceeds traceable to a violation of 18 U.S.C. § 1503, including, but not limited to, the following:

Cash Proceeds:

Approximately $1,500,000.00 in proceeds in that such sum in aggregate is property constituting, or derived from, proceeds obtained directly or indirectly, as the result of the offenses alleged in this Fourth Superseding Indictment.

Real Property:

PROPERTY 1
Property Address: 15612 Littig Road, Manor, Texas 78653
Legal Description: Abstract 154, Survey 52, Caldwell A.C. Acres 1.59
County: Travis
Parcel Number: 442432

PROPERTY 2

Property Address: 310 Murray Avenue, Manor, Texas 78653
Legal Description: Lot 6 and 7, Block 2 A.E. Lane Addition to the City of Manor, Travis County, Texas

Financial Instruments:

$18,486.09 in funds from bank account number xxxxx7167, in the name of Law Office of Jamie Balagia, P.C. at Wells Fargo Bank, Frisco, Texas;

$999.93 in funds from bank account number xxxxx6904, in the name of Warhorse Marketing Corp. at Wells Fargo Bank, Frisco, Texas;

$2,700.00 in funds from bank account number xxxxx3409, in the name of James M. Balagia at Wells Fargo Bank, Frisco, Texas;

$14,885.57 in funds from bank account number xxxxx1145 and $297.47 in funds from bank account number xxxxx6255, in the name of Law Office of Jamie Balagia, P.C at Independent Bank, McKinney, Texas; and

$1,602.87 in funds from bank account number xxxxx9093, in the name of Jamie Balagia Law Office, P.C. at Independent Bank, McKinney, Texas.

All such proceeds and/or instrumentalities are subject to forfeiture by the government.

Substitute Assets

Moreover, if, as a result of any act or omission of any defendant, any property subject to forfeiture:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with a third person;

(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 subdivided without difficulty;

The United States intends to seek forfeiture of any other property of the defendant up to the value of the forfeitable property, including but not limited to all property, both real and personal owned by the defendant. As a result of the commission of the offenses alleged in this Fourth Superseding Indictment, any and all interest that the defendant has in any such property is vested in and forfeited to the United States.

A TRUE BILL

GRAND JURY FOREPERSON

JOSEPH D. BROWN
UNITED STATES ATTORNEY

HEATHER HARRIS RATTAN
Assistant United States Attorney

1-9-19
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:16CR176
	§	Judge Crone
	§	
JAMES MORRIS BALAGIA (3)	§	
a.k.a. "DWI Dude"	§	

NOTICE OF PENALTY

Count One

Violation: 18 U.S.C. § 1956(h)

Penalty: Imprisonment for not more than twenty (20) years, a fine not to exceed $500,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of at least three (3) years.

Special Assessment: $100.00

Count Two

Violation: 18 U.S.C. §§ 1503 and 2

Penalty: Imprisonment for not more than ten (10) years, a fine not to exceed $250,000.00 or twice the value of the property involved in the transaction, whichever is greater, or both. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

Count Three

Violation: 21 U.S.C. § 1904(c)(2)

Penalty: Imprisonment for up to ten (10) years, a fine up to $250,000.00. If the defendant is a corporate officer, up to 30

years of imprisonment, a fine up to $5,000,000.00. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

Count Four

Violation: 18 U.S.C. § 1349

Penalty: Imprisonment for not more than twenty (20) years, a fine not to exceed $250,000.00. A term of supervised release of not more than three (3) years.

Special Assessment: $100.00

Count Five

Violation: 18 U.S.C. § 371

Penalty: Imprisonment for a term of not more than five years; a fine not to exceed $250,000.00; and supervised release of not more than three years.

Special Assessment: $100.00

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS SHERMAN DIVISION

UNITED STATES OF AMERICA § **JUDGMENT IN A CRIMINAL CASE**
§
v. §
§ Case Number: **4:16-CR-00176-ALM-KPJ(3)**
JAMES MORRIS BALAGIA § USM Number: **26998-078**
§ **Gaylon Perry Riddels**
§ Defendant's Attorney

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☐	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☒	was found guilty on count(s) after a plea of not guilty	**1, 2, 3, 4, and 5 of the Fourth Superseding Indictment**

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense		Offense Ended	Count
18:1956(h) and (a)	Conspiracy To Commit Money Laundering	01/09/2019	1
18:1503, 1503(b)(3)	Obstruction Of Justice and Aiding and Abetting	01/09/2019	2
21:1904(c)(2), 1906	Conspire, Endeavor, and Attempt To Violate The Kingpin Act	01/09/2019	3
18:1349, 1343	Conspiracy To Commit Wire Fraud	01/09/2019	4
18:371	Conspiracy To Obstruct Justice	01/09/2019	5

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)

☒ Count(s) underlying Indictments ☐ is ☒ are dismissed on the motion of the United States

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

May 3, 2021
Date of Imposition of Judgment

Amos Mazzant
Signature of Judge

AMOS L. MAZZANT, III
UNITED STATES DISTRICT JUDGE
Name and Title of Judge

May 4, 2021
Date

EXHIBIT
5

A TRUE COPY I CERTIFY
DAVID A. O'TOOLE, CLERK
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
By: _____

DEFENDANT: JAMES MORRIS BALAGIA
CASE NUMBER: 4:16-CR-00176-ALM-KPJ(3)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 188 months as to counts 1, 3, and 4; 120 months as to count 2; 60 months as to Count 5. All terms to run concurrently.

☒ The court makes the following recommendations to the Bureau of Prisons: The Court recommends that Defendant be designated to a BOP facility in Bastrop Texas, if appropriate.

☒ 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: JAMES MORRIS BALAGIA
CASE NUMBER: 4:16-CR-00176-ALM-KPJ(3)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: three (3) years. This term consists of terms of 3 years on each of Counts 1 through 5, all such terms to run concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (*check if applicable*)
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. (*check if applicable*)
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)
7. ☐ You must participate in an approved program for domestic violence. (*check if applicable*)

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

DEFENDANT: JAMES MORRIS BALAGIA
CASE NUMBER: 4:16-CR-00176-ALM-KPJ(3)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: JAMES MORRIS BALAGIA
CASE NUMBER: 4:16-CR-00176-ALM-KPJ(3)

SPECIAL CONDITIONS OF SUPERVISION

You must provide the probation officer with access to any requested financial information for purposes of monitoring your efforts to obtain and maintain lawful employment.

DEFENDANT: JAMES MORRIS BALAGIA
CASE NUMBER: 4:16-CR-00176-ALM-KPJ(3)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$500.00	$.00	$.00	$.00	$.00

☐ The determination of restitution is deferred until ____. An *Amended Judgment in a Criminal Case (AO245C)* 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. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

☐ 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 the schedule of payments page 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:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22
*** 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: JAMES MORRIS BALAGIA
CASE NUMBER: 4:16-CR-00176-ALM-KPJ(3)

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 payments of $ 500.00 due immediately, balance due

☐ not later than , or

☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal 20 *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of $500.00 for Counts 1sss, 2sss, 3ss, 4sss and 5sss , which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

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
See above for Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.

☐ 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:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA Assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

DEFENDANT: JAMES MORRIS BALAGIA
CASE NUMBER: 4:16-CR-00176-ALM-KPJ(3)

ADDITIONAL FORFEITED PROPERTY

a. Approximately $1,500,000.00 in proceeds in that such sum in aggregate is property constituting, or derived from, proceeds obtained directly or indirectly, as the result of the offenses alleged in the Fourth Superseding Indictment;

b. Property Address: 310 Murray Avenue, Manor, Texas 78653; Legal Description: Lot 6 and 7, Block 2 A.E. Lane Addition to the City of Manor, Travis County, Texas;

c. $18,486.09 in funds from bank account number xxxxx7167, in the name of Law Office of Jamie Balagia, P.C. at Wells Fargo Bank, Frisco, Texas;

d. $14,885.57 in funds from bank account number xxxxx1145 and $297.47 in funds from bank account number xxxxx6255, in the name of Law Office of Jamie Balagia, P.C at Independent Bank, McKinney, Texas; and

e. $1,602.87 in funds from bank account number xxxxx9093, in the name of Jamie Balagia Law Office, P.C. at Independent Bank, McKinney, Texas.

f. Property Address: 15612 Littig Road, Manor, Texas 78653, Legal Description: Abstract 154, Survey 52, Caldwell A.C. Acres 1.59 County: Travis Parcel Number: 442432;

g. Legal Description: Abstract 154, Survey 52, Caldwell A.C. Acres 160.490 County: Travis Parcel Number: 500555;

h. $999.93 in funds from bank account number xxxxx6904, in the name of Warhorse Marketing Corp. at Wells Fargo Bank, Frisco, Texas; and

i. $2,700.00 in funds from bank account number xxxxx3409, in the name of James M. Balagia at Wells Fargo Bank, Frisco, Texas.

AFFIDAVIT

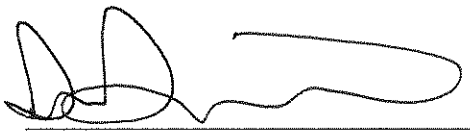
THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Amanda M. Kates, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

"My name is Amanda M. Kates. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

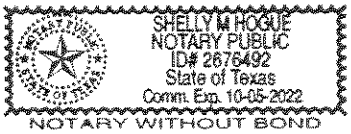
Based upon information and belief, James Morris Balagia, whose Texas Bar Card Number is 00783589, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief James Morris Balagia, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the James Morris Balagia who is the subject of the Judgment in a Criminal Case entered in Cause No. 4:16-CR-00176-ALM-KPJ(3), styled *United States of America v. James Morris Balagia,* in the United States District Court for the Eastern District of Texas, Sherman Division, wherein Respondent was found guilty of count one, 18:1956(h) and (a), Conspiracy to Commit Money Laundering; count 2, 18:1503, 1503(b)(3) Obstruction Of Justice and Aiding and Abetting; count 3, 21:1904:(c)(2), 1906 Conspire, Endeavor, and Attempt To Violate The Kingpin Act; count 4, 18:1349, 1343 Conspiracy To Commit Wire Fraud; and count 5, 18:371 Conspiracy To Obstruct Justice. The defendant was committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 188 months as to counts 1,3, and 4; 120 months as to count 2; 60 months as to count 5. All terms to run concurrently. Upon release from imprisonment, the defendant will be on supervised release for a term of three (3) years. This term consists of terms 3 years on each of Counts 1 through 5, all such terms to run concurrently."

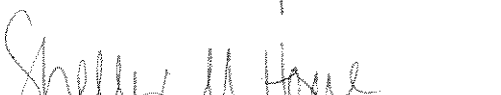
FURTHER Affiant saith not.



Amanda M. Kates

SWORN AND SUBSCRIBED before me on the 10 day of September 2021.





NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBIT
6

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

Contents

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through June 21, 2018

I. 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 [17.01] 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 must 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 [2.22], 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 [2.22], 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.

II. 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 himor 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.

III. 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.

IV. 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 [2.20] consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21 [2.20].

(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 [2.20].

(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 [2.23], 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

(6[1]) 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.

[1] So in original.

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 [2.26]. 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.

V. 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 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], 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.

VI. 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 must 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.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. 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.

VIII. 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 must 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 must comply with Rule 1.06.

(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.

IX. 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.

X. 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.