



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

**IN THE MATTER OF
RICHARD PLEZIA
STATE BAR CARD NO. 16072800**

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§

CAUSE NO. 68989

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Richard J. Plezia (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 also 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, Richard J. Plezia, 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 Richard J. Plezia, 2909 Hillcroft Street, Ste. 575, Houston, Texas 77057.

3. On or about August 6, 2019, Respondent was charged by Superseding Indictment (Exhibit 1) with Count One – Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371; Count Two – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Counts Three and Four – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Count Five – Willfully Filing a False Tax Return in violation of 26 U.S.C. § 7206(1); Counts Six through Eleven - Aiding and Assisting in the Preparation and Presentation of False Tax Return in violation of 26 U.S.C. § 7206(2); Counts Twelve through Fifteen – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Counts Sixteen through Eighteen – Willfully Filing False Tax

Return in violation of 26 U.S.C. § 7206(1); Count Nineteen – Witness Tampering in violation of 18 U.S.C. § 1512(b)(2)(B); County Twenty – Witness Tampering in violation of 18 U.S.C. § 1512(b)(2)(B); and Count Twenty-One – Obstruction of Justice in violation of 18 U.S.C. § 1503; in Cause No. 4:19-cr-00450 (Criminal No. H-19-450), styled *United States of America v. Jeffrey Stern, Frederick Morris, Lamont Ratcliff, Deborah Bradley, Richard Plezia, Defendants*, in the United States District Court Southern District of Texas, Houston Division.

4. On or about January 21, 2020, Respondent was charged by Second Superseding Indictment (Exhibit 2) with Count One – Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371; Count Two – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Counts Three and Four – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Count Five – Willfully Filing a False Tax Return in violation of 26 U.S.C. § 7206(1); Counts Six through Eleven - Aiding and Assisting in the Preparation and Presentation of False Tax Return in violation of 26 U.S.C. § 7206(2); Counts Twelve through Fifteen – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Counts Sixteen through Eighteen – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Count Nineteen – Witness Tampering in violation of 18 U.S.C. § 1512(b)(2)(B); County Twenty – Witness Tampering in violation of 18 U.S.C. § 1512(b)(2)(B); and Count Twenty-One – Obstruction of Justice in violation of 18 U.S.C. § 1503; in Cause No. 4:19-cr-00450 (Criminal No. H-19-450), styled *United States of America v. Jeffrey Stern, Lamont Ratcliff, Deborah Bradley, Richard Plezia, Defendants*, in the United States District Court Southern District of Texas, Houston Division.

5. On or about January 18, 2022, Respondent was charged by Third Superseding Indictment (Exhibit 3) with Count One – Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371; Counts Two through Four – Willfully Filing False Tax Return in violation of 26 U.S.C. § 7206(1); Count Five – False Statement in violation of 18 U.S.C. § 1001(a)(2); Count Six

- False Statement in violation of 18 U.S.C. § 1001(a)(2); and Count Seven – Falsification of Records in violation of 18 U.S.C. § 1519; in Cause No. 4:19-cr-00450 (Criminal No. H-19-450-S3), styled *United States of America v. Lamont Ratcliff, Richard Plezia, Defendants*, in the United States District Court Southern District of Texas, Houston Division.

6. On or about October 4, 2023, a Judgment in a Criminal Case (Exhibit 4) was entered in Cause No. 4:19-cr-00450-005, styled *United States of America v. Richard Plezia*, in the United States District Court Southern District of Texas, Houston Division, that states Respondent was found guilty of Count 1SS – Conspiracy to defraud the United States in violation of 18 U.S.C. § 371; Count 5SS – False Statement in violation of 18 U.S.C. § 1001(a)(2); Count 6SS – False Statement in violation of 18 U.S.C. § 1001(a)(2); and Count 7SS – Falsification of records in violation of 18 U.S.C. § 1519; on February 2, 2023. Respondent was ordered to be committed to the custody of the Federal Bureau of Prisons for a term of six months and one day with the term consisting of six (6) months and one (1) day as to each of Counts 1SS, 5SS, 6SS, and 7SS, to run concurrently, for a total term of six (6) months and one (1) day. Upon release from imprisonment, Respondent will be on supervised release for a term of 2 years. Respondent was further ordered to pay an assessment in the amount of \$400.00 and a fine in the amount of \$5,000.

7. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, are true and correct copies of the following documents in the Plezia criminal case: Superseding Indictment (Exhibit 1), Second Superseding Indictment (Exhibit 2), Third Superseding Indictment (Exhibit 3), and Judgment in a Criminal Case (Exhibit 4). Petitioner expects to introduce certified copies of Exhibits 1 through 4 at the time of hearing of this cause.

8. Respondent, Richard J. Plezia, whose bar card number is 16072800, is the same person as the Richard Plezia who is the subject of the Indictments and Judgment in a Criminal

Case described above, true and correct copies of which are attached hereto as Exhibits 1 through 4.

9. Attached hereto as Exhibit 5 and made a part hereof for all intents and purposes as if the same were copied verbatim herein is a true and correct copy of an affidavit of Richard Huntpalmer, 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 Judgment in a Criminal Case entered in the Plezia criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

10. The offenses for which Respondent was convicted are intentional crimes as defined by Rule 1.06(V), Texas Rules of Disciplinary Procedure. They are as well serious crimes as defined by Rule 1.06(GG), Texas Rules of Disciplinary Procedure.

11. Having been found guilty of intentional and serious 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 judgments have 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,

Office of the Chief Disciplinary Counsel

Richard Huntpalmer

Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel

STATE BAR OF TEXAS

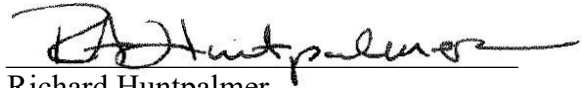
P.O. Box 12487, Capitol Station

Austin, Texas 78711-2487

Telephone: 512.427.1350

Facsimile: 512.427.4253

Email: richard.huntpalmer@texasbar.com



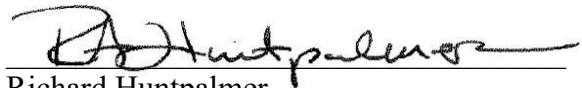
Richard Huntpalmer

State Bar Card No. 24097857

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

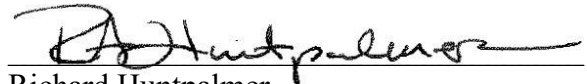
I hereby certify that a true and correct copy of the foregoing instrument has been sent for personal service on Richard J. Plezia, 2909 Hillcroft Street, Ste. 575, Houston, Texas 77057, on this 28th day of February, 2024.



Richard Huntpalmer

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, **at 9:00 a.m. on the 26th day of April, 2024**. The hearing location and format (in-person vs virtual) are subject to change based on conditions related to the COVID-19 pandemic. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format.


Richard Huntpalmer

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Sealed
Public and court staff access
to this instrument are
prohibited by court order.

United States Courts
Southern District of Texas
FILED

AUG 06 2019

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

v

**JEFFREY STERN
FREDERICK MORRIS
LAMONT RATCLIFF
DEBORAH BRADLEY
RICHARD PLEZIA**

DEFENDANTS

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CRIMINAL NO. H-19-450

(UNDER SEAL)

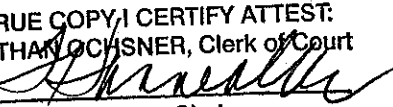
SUPERSEDING INDICTMENT

INTRODUCTION

At all times material to this indictment:

1. Personal injury law is an area of legal specialization. Personal injury cases are civil lawsuits brought by plaintiffs seeking compensation for harm caused by a defendant's actions. Once a plaintiff establishes liability of a defendant, through either trial or settlement, the defendant, or commonly the defendant's insurance carrier, must pay the plaintiff for the injuries caused by the defendant's actions. The cost of a plaintiff's injuries often includes the plaintiff's medical bills. Normally, the defendant or the insurance carrier pays the plaintiff's attorney who then distributes the funds from a trust account (the "IOLTA account") to, among others, the plaintiff, the medical providers, and himself and other attorneys for the

EXHIBIT
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TRUE COPY I CERTIFY ATTEST:
NATHAN OCHSNER, Clerk of Court
By 
Deputy Clerk

legal fee. Personal injury cases involving automobile accidents are potentially more lucrative if the accident involved a commercial vehicle (a “commercial case”) rather than a personal vehicle because of differences in insurance coverage.

2. Barratry, commonly known as “ambulance chasing,” is the practice of illegally soliciting clients who may be in need of a lawyer. Generally, attorneys in Texas may not personally solicit employment with potential clients who have not invited the contact. *See* Texas Penal Code § 38.12(a)(2); Texas Disciplinary Rule of Professional Conduct 7.03(a). In Texas, barratry is both a crime and a violation of the ethics rules that govern the practice of law. Attorneys in Texas have been prosecuted for barratry, and the State Bar of Texas, the organization that issues and administers the rules governing the conduct of attorneys licensed to practice law in Texas, seeks to prevent barratry through attorney disciplinary actions, education, and outreach.

3. Attorneys who commit barratry often do so indirectly by paying a “case runner.” A “case runner” or “runner” is a non-attorney who collects an illegal fee (a kickback) for referring clients to attorneys. Under Texas law, it is illegal to pay non-attorneys, such as case runners, for client referrals. *See* Texas Penal Code § 38.12(a)(4). Such payments also violate the ethics rules of the State Bar of Texas. *See* Texas Disciplinary Rule of Professional Conduct 7.03(b). Under the ethics rules, attorneys are also not permitted to split their fees with non-attorneys. *See* Texas Disciplinary Rule of Professional Conduct 5.04(a). Under limited

circumstances, an attorney may split a fee with a referring attorney. *See* Texas Disciplinary Rule of Professional Conduct 1.04(f).

4. The Internal Revenue Service (“IRS”) is an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States. Under these laws, individuals and corporations are required to accurately report income and deductions to the IRS on annual income tax returns in order for the IRS to carry out its lawful function to ascertain income; compute, assess and collect income taxes; and audit tax returns and records. Commonly used IRS forms include the following:

- Form 1040: individual tax return;
- Form 1120 or 1120S: corporate tax return;
- Form 656: application for an Offer in Compromise, an agreement between the taxpayer and the IRS that settles the taxpayer’s tax liabilities for less than the full amount owed;
- Form 1099: form disclosing Miscellaneous Income that is required to be sent to the IRS and the payee for payments above a certain amount made for contract labor;
- Form 4549: form containing Income Tax Examination Changes, which lists the IRS’s proposed changes to a tax return as a result of an IRS civil audit, including any penalties.

5. The federal tax code allows businesses to claim a tax deduction for “ordinary and necessary” expenses incurred in conducting the business. However, no deduction is allowed for kickbacks or other payments that are illegal under state law if that state law is generally enforced. *See* 26 U.S.C. § 162(c). Under the tax code, “a kickback includes a payment in consideration of the referral of a client, patient, or customer.” *Id.* Illegal kickbacks made in a barratry scheme in violation of Texas law are not deductible business expenses.

6. Financial institutions, including banks, are required to file a Currency Transaction Report (“CTR”) with the federal government for cash transactions made by their clients above \$10,000.

7. Defendant JEFFREY STERN (“STERN”) was an attorney in Houston, Texas who practiced personal injury law. STERN’s law firm was known at various times as Stern, Miller & Higdon, Jeffrey M. Stern, Attorney at Law, or the Stern Law Group.

8. Defendant FREDERICK MORRIS (“MORRIS”) was a case runner in Houston.

9. Defendant LAMONT RATCLIFF (“RATCLIFF”) was a case runner and clinic owner in Houston.

10. Marcus Esquivel (“Esquivel”), who has been charged separately, was a case runner in Houston. Esquivel operated as Le Reve Advertising Consultants d/b/a American Risk Management Consultants, Belmark International Inc.,

Injurylawyerforme.com, Horizon Advertising, Resource Medical Consultant, and American Business Risk Management.

11. Defendant DEBORAH BRADLEY (“BRADLEY”) was an attorney in Houston who worked for the STERN law firm and practiced personal injury law.

12. Defendant RICHARD PLEZIA (“PLEZIA”) was an attorney in Houston who practiced personal injury law.

13. Company 1 was a healthcare clinic in Houston that provided treatment for accident victims and was owned and operated by MORRIS’ wife.

14. Company 2 was a healthcare clinic in Houston that provided treatment for accident victims. RATCLIFF controlled and was the majority owner of Company 2.

15. Attorney 1 was an attorney in Houston who practiced personal injury law.

16. Attorney 2 was an attorney in Houston who practiced criminal law.

17. Attorney 3 was an attorney in Houston who practiced criminal law.

COUNT ONE
(Conspiracy to Defraud the United States -
18 U.S.C. § 371)

A. INTRODUCTION

18. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment as if set out fully herein.

B. THE CONSPIRACY AND ITS OBJECTS

19. From in or about 2006, and continuing through the date of the Superseding Indictment, in the Houston Division of the Southern District of Texas and elsewhere, the Defendants,

**JEFFREY STERN,
FREDERICK MORRIS,
LAMONT RATCLIFF,
DEBORAH BRADLEY, and
RICHARD PLEZIA,**

did unlawfully, voluntarily, intentionally, and knowingly combine, conspire, confederate and agree together, with each other and with others known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment and collection of revenue, to wit, individual and corporate income taxes.

C. PURPOSE OF THE CONSPIRACY

20. STERN and his coconspirators sought to enrich themselves by illegally recruiting clients through the payment and receipt of illegal kickbacks in order to generate personal injury cases and legal fees. They worked to conceal and disguise the illegal kickback payments from the IRS, and to hide their resulting income from the IRS, by filing false documents with the IRS, including tax returns, Forms 1099, and an Offer in Compromise, that falsely reported material information, including

amounts of income, expenses, and tax due and owing.

D. MANNER AND MEANS OF THE CONSPIRACY

It was a part of the conspiracy that:

The Scheme

21. For over ten years, defendant JEFFREY STERN and his coconspirators have engaged in a criminal scheme to evade taxes and, in the process, hide the fact that they obtain their personal injury cases through barratry by paying illegal kickbacks to case runners.

22. As part of the scheme, STERN hid business income from his tax preparer and the IRS by depositing business income to personal accounts and by cashing business checks with check cashers and not transferring those funds to his business account. STERN only reported to his tax preparer and the IRS the income that was deposited into his business account.

23. In addition, STERN took improper deductions on his tax returns for his illegal kickback payments to case runners. Both hiding income and taking illegal deductions resulted in the filing of false tax documents that under-reported to the IRS tax that was due.

Kickbacks Disguised as Referral Fees

24. STERN paid kickbacks to runners MORRIS, RATCLIFF, Esquivel, healthcare clinic owners, and others in exchange for referrals of personal injury cases to STERN's law firm. Typically, the kickback was a flat fee paid up-front, with a

larger fee paid on commercial cases. In addition, STERN shared a percentage of his attorney's fee with some runners after the case settled.

25. Beginning in approximately 2006, STERN sought to disguise his illegal kickback payments to runners as legitimate referral fee payments to attorneys. STERN told defendant FREDERICK MORRIS that if MORRIS wanted to continue to receive kickbacks, MORRIS would have to come up with the name of an attorney in whose name STERN could issue checks. In that way, STERN could hide the payments to MORRIS as seemingly legitimate referral fees paid to an attorney, and STERN could thereby deduct the illegal kickbacks on his tax returns as supposedly legitimate business expenses.

26. MORRIS suggested they use Attorney 1. STERN began paying kickbacks to MORRIS by writing checks payable in the name of Attorney 1, who agreed to allow STERN and MORRIS to use his name as the payee on the checks.

27. Later, STERN also started issuing checks in the names of Attorney 2 and Attorney 3 in order to pay kickbacks to MORRIS and others. Unlike Attorney 1, Attorney 2 and Attorney 3 knew nothing of the scheme and had not consented to their names being used in order to pay illegal kickbacks.

28. MORRIS took the checks from STERN that were made payable in the names of the three attorneys to check cashers where MORRIS cashed the checks, usually with forged endorsements. MORRIS kept a portion of the cash for himself and paid the rest to his sources who had referred cases to him for STERN, which

MORRIS often did by leaving envelopes of cash with the check cashers for his sources to pick up.

29. MORRIS caused his illegally obtained funds to be deposited into bank accounts in a manner that was designed to avoid triggering bank CTR reporting requirements by making multiple cash deposits on the same or consecutive days at different bank branches in Houston below the \$10,000 threshold.

30. In 2008, 2009, and 2010, STERN issued no Forms 1099 to Attorney 1, Attorney 2, or Attorney 3 for the checks made out in their names, which would have notified Attorney 2 and Attorney 3 of the scheme and would have notified the IRS that all three attorneys had allegedly received income from STERN and potentially owed taxes on that income.

Scheme Modified in Response to IRS Civil Audits

31. Beginning in 2010, the IRS conducted a series of civil audits of STERN. On approximately May 17, 2010, the IRS notified STERN that he was being audited. Also in 2010, the IRS notified STERN's representative that STERN was hiding income in personal accounts and was failing to issue Forms 1099. In response, STERN paid penalties to forestall further IRS civil inquiry of his tax avoidance scheme, and he modified the scheme to work around the audit findings and further conceal it from the IRS.

32. The IRS assessed a civil fraud penalty on STERN for hiding business income in personal accounts. STERN agreed to and paid the fraud penalty. For

a time, STERN stopped hiding income from the IRS, but later resumed.

33. The IRS assessed employment taxes for STERN failing to issue Forms 1099. STERN paid the taxes and ceased writing checks payable to Attorney 2 and Attorney 3, to whom he could not issue Forms 1099 since they were not aware of the scheme. Instead, STERN increased the number of checks he issued payable to Attorney 1, and he filed false Forms 1099 that falsely reported to the IRS that STERN had paid Attorney 1 for services. In fact, MORRIS and others had received most of the funds.

34. As a result of issuing false Forms 1099 to the IRS indicating payment to Attorney 1, STERN and MORRIS caused false tax returns to be prepared and filed for Attorney 1 that reported as income to Attorney 1 the illegal kickbacks STERN had paid to MORRIS and others. These returns also reported false expenses. STERN and MORRIS agreed to pay Attorney 1's falsely inflated taxes. Ultimately, to try to resolve Attorney 1's mounting tax debt, STERN and MORRIS caused a false Offer in Compromise to be prepared and filed with the IRS that continued to claim Attorney 1 owed taxes on the inflated income falsely reported in his prior returns.

35. At various times during the conspiracy, STERN provided funds to Attorney 1 to pay for his falsely inflated taxes. Occasionally, STERN issued checks to Attorney 1 that Attorney 1 deposited into his account. More often, STERN issued checks in the name of Attorney 1 or in another name, which MORRIS

cashed at a check casher. MORRIS would then deliver the cash to Attorney 1.

Scheme Diversified

36. After the civil audits, STERN diversified the ways he paid kickbacks to his runners that would both satisfy the Form 1099 filing requirement and generate false deductible business expenses for STERN.

37. In 2011 and at other times, STERN issued checks payable to Company 1, MORRIS' wife's company, with a corresponding Form 1099, allegedly for healthcare services. In reality, those payments were illegal kickbacks to MORRIS and others. MORRIS cashed the checks at a check casher, paid a portion of the cash to himself, and paid the rest to his sources who had referred him cases for STERN. STERN caused a false 2011 tax return to be filed with the IRS that falsely deducted those checks to Company 1 as legitimate "healthcare expenses," when in reality they were illegal, non-deductible kickbacks. Similarly, MORRIS caused a false 2011 tax return to be filed for Company 1 that falsely reported the illegal kickbacks he received from STERN as legitimate income to Company 1, and offset that income with false expenses.

38. STERN also hid payments to MORRIS by issuing checks in the name of STERN law firm clients. In June of 2017, the IRS served a notice of lien on STERN, indicating any checks written by STERN to Attorney 1 would be subject to levy by the IRS in order to pay Attorney 1's overdue tax liability. While the lien was in place and at other times, STERN paid MORRIS and others kickbacks by

writing checks in the name of STERN clients, which MORRIS would cash at a check casher and use the funds to pay kickbacks owed to himself and others. Once STERN confirmed the lien was removed, he resumed paying kickbacks to MORRIS and others by issuing checks in the name of Attorney 1 that MORRIS would cash.

Kickback Payments Funneled to RATCLIFF

39. In 2010, after learning of the IRS civil audits, STERN began funneling kickbacks to a second case runner, defendant LAMONT RATCLIFF, through an intermediary attorney, defendant DEBORAH BRADLEY. STERN issued checks payable to attorney BRADLEY with corresponding Forms 1099; BRADLEY deposited the checks; and, often on the same day and in the same amount, issued checks to RATCLIFF's company, Company 2. BRADLEY issued a Form 1099 at the end of each year reflecting her payments to Company 2. On his tax returns, STERN caused the kickback payments to be falsely classified as referral fees to an attorney and falsely deducted as business expenses. BRADLEY falsely reported the payments from STERN as income on her tax returns with corresponding false deductions for contract labor expenses.

40. RATCLIFF failed to pay taxes on a portion of the kickbacks from STERN, kickbacks from other attorneys, and other income Company 2 received. From approximately 2010 through 2014, RATCLIFF cashed checks representing Company 2 business income at check cashers and caused the income on Company 2's tax returns to be under-reported.

Kickback Payments Funneled to Esquivel

41. After learning of the IRS civil audits in 2010, STERN altered his method of paying kickbacks to a third runner, Marcus Esquivel. Before 2010, STERN paid illegal kickbacks to Esquivel in cash, and then later disguised his kickbacks to Esquivel as checks written for alleged payments for advertising, which he made to Esquivel's various business entities.

42. In 2010 during the audits, Esquivel and STERN suspended their barratry scheme. Esquivel began referring cases to defendant attorney RICHARD PLEZIA instead of STERN. PLEZIA, like STERN, paid Esquivel illegal kickbacks for case referrals. PLEZIA caused the filing of false tax returns that falsely reported the kickbacks as legitimate advertising expenses, which he falsely deducted as business expenses.

43. In 2011, Esquivel and STERN resumed their illegal kickback arrangement in a modified form. Because of the IRS civil audits, STERN now paid Esquivel through an intermediary attorney. STERN and Esquivel funneled the kickback payments through attorney PLEZIA. From approximately 2011 through 2013, STERN issued checks payable to PLEZIA's law firm with corresponding Forms 1099; PLEZIA deposited the checks to his business bank account; and, often on the same day and in the same amount, PLEZIA issued checks to one of Esquivel's companies. STERN caused false tax returns to be filed in which he falsely deducted those payments as referral fees to an attorney, when in reality they were

illegal kickbacks to Esquivel.

Obstruction and Cover-Up

44. On December 1, 2015, a federal grand jury began investigating and seeking evidence regarding STERN's activities. Once STERN learned of the federal grand jury investigation in 2016, he tried to obstruct the investigation and took steps to conceal the scheme. STERN ordered coconspirators to destroy subpoenaed documents. At meetings with coconspirators, he directed them not to cooperate in the investigation. He also caused additional false tax documents to be filed with the IRS on behalf of Attorney 1. He continued to make payments to the IRS on both Attorney 1's inflated and legitimate tax debt, in an attempt to keep the scheme from unraveling and being exposed to the IRS.

D. ACTS IN FURTHERANCE OF THE CONSPIRACY

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

Kickbacks—STERN/Attorneys 1, 2, 3/MORRIS

46. In or about 2006, STERN issued checks in the name of Attorney 1 in order to pay MORRIS and others illegal kickbacks for case referrals.

47. By at least December 31, 2008, STERN issued checks in the name of Attorney 2 in order to pay MORRIS and others illegal kickbacks for case referrals.

48. By at least December 22, 2009, STERN issued checks in the name of

Attorney 3 in order to pay MORRIS and others illegal kickbacks for case referrals.

49. During 2009, STERN issued checks payable to Attorney 1 totaling approximately \$7,500 in order to pay MORRIS and others illegal kickbacks for case referrals.

50. During 2009, STERN issued checks payable to Attorney 2 totaling approximately \$1,060,000 in order to pay MORRIS and others illegal kickbacks for case referrals.

51. During 2009, STERN issued checks payable to Attorney 3 totaling approximately \$19,800 in order to pay MORRIS and others illegal kickbacks for case referrals.

52. During 2010, STERN issued checks payable to Attorney 1 totaling approximately \$483,485 in order to pay MORRIS and others illegal kickbacks for case referrals.

53. During 2010, STERN issued checks payable to Attorney 2 totaling approximately \$378,240 in order to pay MORRIS and others illegal kickbacks for case referrals.

54. During 2010, STERN issued checks payable to Attorney 3 totaling approximately \$215,550 in order to pay MORRIS and others illegal kickbacks for case referrals.

Civil Audit Payments

55. On or about June 14, 2011, Stern signed IRS Form 4549, Income Tax Examination Changes, and consented to assessment and collection of \$1,111,937.72 by the IRS that included back taxes and interest and a fraud penalty of \$341,348.25 for his conduct of intentionally underreporting business receipts by depositing the amounts in his personal bank account.

56. On or about June 14, 2012, STERN agreed to pay withholding tax of \$49,866.82 for his misconduct of failing to issue Forms 1099 for tax year 2008. STERN agreed to pay additional withholding tax for his failure to issue Forms 1099 for tax years 2009 and 2010, which prevented the employment tax audit from being expanded to those tax years.

STERN/MORRIS Kickback Scheme Modified in Response to Audits

57. On or about May 27, 2010, shortly after having learned of the IRS civil audits on May 17, 2010, STERN caused the last alleged referral fee check to issue in the name of Attorney 3.

58. On or about December 16, 2010, STERN issued the last alleged referral fee check in the name of Attorney 2.

59. In or about 2012, STERN called a meeting with MORRIS and Attorney 1. STERN proposed that Attorney 1 falsely claim as income on Attorney 1's tax returns the supposed referral fees that had allegedly been paid to all three attorneys, but in reality had been paid as kickbacks to MORRIS and others.

60. STERN caused a false Form 1099 to be filed for \$456,771 in alleged referral fee payments made to Attorney 1 in 2011, which was received by the IRS on or before June 8, 2012.

61. STERN caused a false Form 1099 to be filed for \$613,654 in alleged referral fee payments made to Attorney 1 in 2012, which was received by the IRS on or before June 6, 2013.

62. STERN caused a false Form 1099 to be filed for \$1,539,451 in alleged referral fee payments made to Attorney 1 in 2013, which was received by the IRS on or before July 3, 2014.

63. On or about November 5, 2014, STERN issued a check to Attorney 1 for \$50,000 in partial payment of Attorney 1's falsely reported taxes due.

64. On or about November 7, 2014, STERN issued a check to Attorney 1 for \$35,000 in partial payment of Attorney 1's falsely reported taxes due.

65. On or about November 10, 2014, STERN and MORRIS caused Attorney 1 to file a false 2009 Form 1040 tax return with the IRS that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1, and reported false expenses.

66. On or about November 10, 2014, STERN and MORRIS caused Attorney 1 to file a false 2010 Form 1040 tax return with the IRS that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1, and reported false expenses.

67. On or about November 10, 2014, Attorney 1 made a \$15,000 payment to the IRS for taxes due, based on the false tax returns.

68. On or about November 10, 2014, Attorney 1 made a \$50,000 payment to the IRS for taxes due, based on the false tax returns.

69. On or about November 10, 2014, Attorney 1 made two separate \$10,000 payments to the IRS for taxes due, based on the false tax returns.

70. STERN caused a false Form 1099 to be filed for \$1,607,896 in alleged referral fee payments made to Attorney 1 in 2014, which was received by the IRS on or before June 12, 2015.

71. STERN caused a false Form 1099 to be filed for \$1,494,133 in alleged referral fee payments made to Attorney 1 in 2015, which was received by the IRS on or before June 16, 2016.

72. On or about February 24, 2015, STERN issued a check to Attorney 1 for \$20,125 in partial payment of Attorney 1's falsely reported taxes due.

73. On or about February 26, 2015, STERN issued a check to Attorney 1 for \$25,000 in partial payment of Attorney 1's falsely reported taxes due.

74. On or about February 26, 2015, Attorney 1 purchased a cashier's check for \$50,000 that was used to pay the IRS on or about March 2, 2015 for taxes due, based on the false tax returns.

75. From approximately 2006 to 2019, STERN maintained a ledger that tracked the illegal kickbacks he owed on certain cases. STERN provided to copy

of this ledger to MORRIS.

76. From in or about 2006 through in or about 2019, MORRIS delivered to STERN written requests for kickback checks that listed the kickbacks STERN owed to MORRIS and others by case name and case number.

77. In or about 2016, when STERN was out of town, MORRIS delivered in person, and sent by text message, requests for kickback checks to STERN's office manager. The requests listed the kickbacks STERN owed by case name and case number.

78. In or about 2016, in response to requests from MORRIS for kickback checks, STERN's office manager confirmed with STERN that the requested checks should issue.

79. In or about 2016, MORRIS texted STERN's office manager photos of accident scenes, accident victims, and wrecked cars related to clients MORRIS was recruiting for the STERN law firm.

80. On or about April 28, 2016, MORRIS texted STERN's office manager a written request for a kickback check for \$15,500 in order to pay kickbacks in six different STERN law firm cases that MORRIS listed by case name and number.

81. On or about April 28, 2016, STERN caused a kickback check to issue in the name of Attorney 1 for \$15,500, which MORRIS cashed at a check casher.

82. On or about May 25, 2016, MORRIS texted STERN's office manager a photo of a handwritten request for a kickback check for \$12,500 made out to

Attorney 1 in order to pay kickbacks in five different STERN law firm cases that MORRIS listed by case name and number.

83. On or about May 25, 2016, STERN caused a kickback check to issue in the name of Attorney 1 for \$12,500, which MORRIS cashed at a check casher.

84. On or about November 4, 2016, STERN and MORRIS caused Attorney 1 to file a false 2011 Form 1040 tax return that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1, and reported false expenses.

85. On or about November 7, 2016, STERN and MORRIS caused Attorney 1 to file a false 2012 Form 1040 tax return that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1, and reported false expenses.

86. On or about November 11, 2016, STERN and MORRIS caused Attorney 1 to file a false 2013 Form 1040 tax return that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1, and reported false expenses.

87. On or about November 11, 2016, STERN and MORRIS caused Attorney 1 to file a false 2014 Form 1040 tax return that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1 and reported false expenses.

88. On or about November 11, 2016, STERN and MORRIS caused

Attorney 1 to file a false 2015 Form 1040 tax return that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1, and reported false expenses.

89. On or about December 1, 2016, STERN issued a check to Attorney 1 for \$50,000 in partial payment of Attorney 1's falsely reported taxes due, which Attorney 1 deposited.

90. On or about December 1, 2016, STERN issued a check to Attorney 1 for \$10,000 in partial payment of Attorney 1's falsely reported taxes due, which Attorney 1 deposited.

91. On or about December 5, 2016, Attorney 1 made a \$60,000 payment to the IRS for taxes due, based on the false tax returns.

92. On or about March 15, 2017, STERN issued a check to Attorney 1 for \$84,542.67 in partial payment of Attorney 1's falsely reported taxes due, which Attorney 1 deposited.

93. On or about May 11, 2017, Attorney 1 made a \$75,000 payment to the IRS for taxes due, based on the false tax returns.

94. In or about June of 2017, STERN, MORRIS, and Attorney 1 met and agreed to file a false Offer in Compromise with the IRS to try to resolve Attorney 1's falsely reported tax debt.

95. STERN caused a false Form 1099 to be filed for \$1,351,636 in alleged referral fee payments made to Attorney 1 in 2016, which was received by the IRS

on or before June 1, 2017.

96. On or about June 7, 2017, STERN issued a check to Attorney 1 for \$60,000 for partial payment of the Offer in Compromise, which Attorney 1 deposited on June 9, 2017.

97. On or about June 9, 2017, Attorney 1 wrote a \$54,000 check to the IRS for partial payment of the Offer in Compromise, a copy of which was provided to a tax preparer, but was not sent to the IRS, which in the meantime had levied Attorney 1's account for the funds.

98. On or about June 9, 2017, STERN and MORRIS caused Attorney 1 to sign the Offer in Compromise with the IRS that reported Attorney 1 owed the taxes falsely reported in his prior returns.

99. On or about June 17, 2017, the IRS served a notice of lien on STERN in an effort to collect the outstanding taxes due that were falsely reported by Attorney 1's tax returns. As a result, to pay illegal kickbacks, STERN temporarily ceased issuing checks in the name of Attorney 1 and instead issued checks in the names of STERN law firm clients, which MORRIS cashed at a check casher.

100. After STERN confirmed the lien had been removed, he resumed paying MORRIS and others kickbacks by issuing checks in the name of Attorney 1, which MORRIS cashed at a check casher.

101. On or about June 30, 2017, in order to make a down payment on the Offer in Compromise, STERN signed a check for \$54,000 payable to Frost Bank

and used the proceeds of that check to purchase a cashier's check for \$54,000 made payable to the IRS with the notation, "Re: [Attorney 1]."

102. On or about June 30, 2017, in order to pay the filing fee of the Offer in Compromise, STERN purchased a cashier's check for \$184.00 made payable to the IRS with the notation, "Re: [Attorney 1]."

103. On or about June 30, 2017, both cashier's checks were redeposited to the same STERN account from which the \$54,000 was withdrawn, with the endorsement, "Not used for purpose intended."

104. On or about June 30, 2017, to make a partial payment on the Offer in Compromise, STERN caused a check to issue in the name of a STERN law firm client for \$60,000, which was cashed at a check casher.

105. On or about July 7, 2017, Attorney 1 sent the Offer in Compromise to the IRS.

106. On or about July 7, 2017, Attorney 1 made a \$54,000 payment to the IRS in partial payment of the Offer in Compromise.

107. STERN caused a false Form 1099 to be filed for \$977,443 in alleged referral fee payments made to Attorney 1 in 2017, which was received by the IRS on or before July 19, 2018.

108. On or about August 3, 2018, in a recorded meeting, Attorney 1 provided MORRIS a purported demand letter that Attorney 1 had received from the IRS. The letter demanded payment of \$248,102.66 that Attorney 1 allegedly owed under

the Offer in Compromise. MORRIS stated, "We're going to pay this, [Attorney 1]. We going to pay this. I told you." When Attorney 1 asked whether STERN would help pay, MORRIS stated "he going to kind of help me a little bit, you know what I'm trying to say, but mostly I'm going to be covering this right here." MORRIS added that STERN had paid him approximately \$1 million dollars in 2017. MORRIS told Attorney 1, "because of what you done, everything you helped me, I'm not coming to you not asking you for one dime. . . . As soon as I get back, I'm going to - - I'm going to rap with STERN Monday or Tuesday and we're going to work on this and we're going to start working on getting this shit off of you."

109. On or about August 16, 2018, MORRIS provided Attorney 1 a copy of a false 2017 Form 1040 tax return for Attorney 1 that STERN and MORRIS had caused to be prepared.

110. On or about August 17, 2018, in a recorded call, Attorney 1 stated, "I might need to put on something with you and STERN. This might - - this might be the last - - the last year we do, you know, STERN uses me to pay you, man. You know, because this stuff is just getting to be too much a headache, man." MORRIS replied, "Yeah, yeah." Attorney 1 stated, "You need to talk to him [STERN] about that, and see if you all can come up with another way." MORRIS replied in part, "I will bring that up to him."

111. On or about August 23, 2018, in a recorded call with Attorney 1, MORRIS confirmed that he filed Attorney 1's 2017 tax return, stating, "Yeah, it's

all done. It's a done deal. Yeah, we looking good. They're going to be writing you a letter. As soon as you get that letter, you bring it to me, and then . . . they're going to start the - - that Offer in Compromise." Discussing payment of the taxes Attorney 1 owed, MORRIS stated, "And then I already talked with STERN. I just told him I'm about to come down with about \$50,000 or something like that, but, you know, we ready." Attorney 1 asked, "So you think STERN is going to come through this time?" MORRIS responded, "Yeah."

112. On or about August 24, 2018, STERN and MORRIS caused a false 2017 Form 1040 tax return to be filed with the IRS on behalf of Attorney 1 that falsely reported income, which was earned by MORRIS and others, as income to Attorney 1, and reported false expenses.

113. On or about November 2, 2018, in a recorded meeting, Attorney 1 provided MORRIS with a purported demand letter from the IRS requiring payment of Attorney 1's 2017 taxes due and owing in the amount of \$19,188.07. MORRIS made a copy of the letter, and drove directly to STERN's office.

114. On or about November 6, 2018, to pay Attorney 1's falsely reported taxes owed for 2017, STERN issued a check for \$30,000 payable to Attorney 1, which MORRIS cashed at the check casher on November 8, 2018.

115. Later that same day, on November 8, 2018, in a recorded meeting between MORRIS and Attorney 1 at Chase Bank in Houston, MORRIS provided Attorney 1 with \$20,000 in cash, which Attorney 1 used to buy a cashier's check for

\$19,483.07 made payable to the U.S. Treasury, which was received by the IRS on November 15, 2018.

116. STERN caused a false Form 1099 to be filed with the IRS that reported \$1,099,666 in alleged payments made to Attorney 1 in 2018, which was received by the IRS on or before April 22, 2019.

Kickbacks—STERN/Company 1/MORRIS

117. From on or about July 7, 2011, until on or about November 17, 2011, STERN issued a series of checks totaling \$308,450, among others, to Company 1 in payment of illegal kickbacks to MORRIS and others for case referrals. MORRIS cashed the checks at a check casher and kept a portion of the funds as his kickbacks earned and paid a portion of the money to his sources who had referred cases to him for STERN.

118. In or about 2011, STERN caused the \$308,450 in checks to Company 1 that were in reality kickbacks to MORRIS to be classified as a business expense, specifically, “Office Expense” in his business books and records.

119. In 2012, after meeting with his accountant who questioned the clearly incorrect classification, STERN changed the business’s books and records to report the \$308,450 in checks as “Medical Expense,” still a deductible expense for the business.

120. STERN caused a false Form 1099 to issue to Company 1 that included the \$308,450 in checks to Company 1, which was received by the IRS on or before

June 8, 2012.

121. On or about September 21, 2012, MORRIS caused his wife to file a false 2011 Form 1120S tax return for Company 1 that falsely reported the \$308,450 in checks from STERN as income to Company 1 and that offset that false income by reporting false expenses of \$265,677, labeled as “outside services.”

Kickbacks—STERN/PLEZIA/Esquivel

122. Beginning in at least 2006, STERN paid Esquivel illegal kickbacks for case referrals in cash.

123. In or about 2007, STERN paid illegal kickbacks to Esquivel for case referrals by issuing checks payable to Esquivel’s business entities.

124. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to American Business Risk Management, totaling approximately \$31,564.95.

125. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to Belmark International, totaling approximately \$60,000.

126. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to Horizon Advertising, totaling approximately \$49,781.

127. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to LaReve Advertising, totaling approximately \$38,500.

128. On or about May 6, 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to Resource Medical Consultant for approximately \$20,000.

129. On or about April 28, 2010, to pay Esquivel illegal kickbacks, STERN issued checks payable to American Business Risk Management for \$9,800.

130. In or about May of 2010, Esquivel temporarily stopped his barratry scheme with STERN and instead began referring cases to PLEZIA in exchange for illegal kickbacks.

131. From in or about 2010 to in or about 2013, Esquivel maintained ledgers that tracked the illegal kickbacks owed to him by STERN, PLEZIA, and others, for specific case referrals.

132. In or about 2011, Esquivel resumed the illegal kickback arrangement with STERN; however, STERN and Esquivel agreed that the kickbacks to Esquivel would now be concealed by funneling the payments through PLEZIA's account.

133. In or about 2011, PLEZIA funneled through his account approximately \$176,000 in illegal kickbacks from STERN to Esquivel.

134. On or about September 10, 2012, PLEZIA caused a false 2011 Form 1120S tax return to be filed with the IRS that falsely reported the illegal kickbacks he had paid to Esquivel for case running as deductible business expenses in the form of alleged advertising expenses.

135. In or about 2012, PLEZIA funneled through his account approximately \$188,000 in kickbacks from STERN to Esquivel.

136. In or about 2013, STERN paid Esquivel kickbacks through PLEZIA's account and provided Esquivel with a loan, which together totaled approximately

\$143,000.

Kickbacks—STERN/BRADLEY/RATCLIFF

137. In or about 2012, BRADLEY funneled through her account approximately \$128,060 in illegal kickbacks from STERN to RATCLIFF.

138. In or about 2012, RATCLIFF negotiated at a check casher checks payable to Company 2 from BRADLEY and others.

139. In or about 2013, BRADLEY funneled through her account approximately \$102,505 in kickbacks from STERN to RATCLIFF.

140. In or about 2013, RATCLIFF negotiated at a check casher checks payable to Company 2 from BRADLEY and others.

141. On or about August 26, 2013, RATCLIFF caused a false 2012 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

142. In or about 2014, BRADLEY funneled through her account approximately \$72,990 in kickbacks from STERN to RATCLIFF.

143. In or about 2014, RATCLIFF negotiated at a check casher checks payable to Company 2 from BRADLEY and others.

144. On or about June 23, 2014, RATCLIFF caused a false 2013 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

145. On or about November 3, 2014, BRADLEY caused a false 2012 Form

1040 tax return to be filed with the IRS that falsely reported the kickbacks from STERN to RATCLIFF as income to her and offset that income with false expenses for “contract labor.”

146. On or about November 3, 2014, BRADLEY caused a false 2013 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from STERN to RATCLIFF as income to her and offset that income with false expenses for “contract labor.”

147. On or about February 11, 2015, BRADLEY caused a false 2014 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from STERN to RATCLIFF as income to her and offset that income with false expenses for “contract labor.”

148. On or about June 17, 2015, RATCLIFF caused a false 2014 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

149. In or about 2015, BRADLEY funneled through her account approximately \$26,400 in kickbacks from STERN to RATCLIFF.

150. On or about March 10, 2016, BRADLEY caused a false 2015 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from STERN to RATCLIFF as income to her and offset that income with false expenses for “contract labor.”

Hiding Income

151. In or about 2007, STERN deposited approximately \$873,700 in business income to personal accounts and failed to report that income to the IRS in his tax return.

152. In or about 2008, STERN deposited approximately \$326,487 in business income to personal accounts and failed to report that income to the IRS in his tax return.

153. In or about 2009, STERN negotiated at check cashers approximately \$188,431 in checks to the Stern law firm and failed to report that income to the IRS in his tax return.

154. In or about 2010, STERN negotiated at check cashers approximately \$24,294 in checks to the Stern law firm and failed to report that income to the IRS in his tax return.

155. On or about May 6, 2013, STERN negotiated at a check casher a check for \$26,585 in attorney's fees received from a collection agency and failed to report that income to the IRS in his tax return.

STERN Form 1040 Tax Returns

156. On or about October 12, 2012, STERN caused a false 2011 Form 1040 tax return to be filed with the IRS that falsely reported as expenses kickback payments, which he falsely disguised as "referral fees" and "medical expenses."

157. On or about June 27, 2013, STERN caused a false 2012 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments and a personal loan as “referral fee expenses” and an alleged “advertising expense” of \$30,000.

158. On or about August 14, 2014, STERN caused a false 2013 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments and a personal loan as “referral fee expenses,” and failed to report business checks that were cashed at a check casher.

159. On or about October 14, 2015, STERN caused a false 2014 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments as “referral fee expenses.”

160. On or about July 19, 2016, STERN caused a false 2015 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments as “referral fee expenses.”

Obstruction and Concealment

161. In or about 2016, after learning of the federal grand jury investigation, STERN instructed MORRIS not to cooperate in the investigation. In addition, STERN told MORRIS that, in order to communicate with STERN, MORRIS was to obtain a prepaid cell phone not registered in MORRIS’ name and to regularly replace the phone and erase any text conversations with STERN. MORRIS did so, but on

occasion continued to use his personal cell phone to communicate with individuals at the STERN law firm.

162. In or about 2016, after learning of the federal grand jury investigation but prior to Esquivel receiving a grand jury subpoena, STERN called Esquivel and asked Esquivel to meet him outside of STERN's office. During the meeting, STERN noted that federal agents had been questioning members of STERN's staff about Esquivel, and STERN asked Esquivel if agents had contacted him. Esquivel confirmed that they had not. STERN asked Esquivel to destroy any records Esquivel had related to their business transactions involving the kickback scheme.

163. In or about October of 2016, shortly after agents served a federal grand jury subpoena on Esquivel, Esquivel called STERN and informed him that most of the records sought by the subpoena involved STERN. STERN ordered Esquivel to destroy all records, paper or computer, reflecting Esquivel's referral of clients to STERN and the kickback scheme. As ordered, Esquivel burned his records, but he retained an electronic copy of some of his kickback ledgers.

164. In or about November of 2016, Esquivel met with STERN about the federal grand jury subpoena. STERN confirmed that Esquivel had destroyed his kickback and business documents. Esquivel told STERN that he would not cooperate in the investigation, and STERN promised to take care of Esquivel's

family if Esquivel were convicted.

165. In or about August of 2017, STERN ordered a meeting with Attorney 1 and MORRIS at STERN's office. At the meeting, STERN collected Attorney 1's and MORRIS' cell phones, and, once the phones were removed from the room, demanded to know whether Attorney 1 was cooperating with law enforcement. When Attorney 1 denied cooperating, STERN promised to give more money to Attorney 1, to pay Attorney 1's falsely inflated tax liability.

166. In or about September of 2017, STERN offered Attorney 1 concert tickets and football tickets.

167. In or about 2017, in a conversation with MORRIS, STERN discussed the federal criminal investigation and told MORRIS to shred records of MORRIS' dealings with STERN. MORRIS assured Stern that he would, but MORRIS retained some of his records.

168. On or about January 29, 2019, STERN ordered MORRIS to come to STERN's office immediately. When MORRIS arrived, STERN took possession of MORRIS' cell phone, and, once the phone was removed from the room, demanded to know if MORRIS had been speaking to federal agents and the substance of the conversation.

169. In or about July of 2019, STERN instructed MORRIS to come up with

a false explanation for the checks STERN had issued in the names of Attorney 1, Attorney 2, and Attorney 3. STERN also instructed MORRIS to try to find compromising information on Attorney 1 that they could use against Attorney 1 if he were to cooperate in the investigation.

In violation of Title 18, United States Code, Section 371.

COUNT TWO
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

170. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 135, 137, 145, 157, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

171. On or about the date shown below, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did willfully make and subscribe a U.S. Individual Income Tax Return, IRS Form 1040, and related Schedules, for the calendar year set forth below and filed with the Internal Revenue Service on or about the date indicated below, which return contained and was verified by a written declaration that it was made under the penalties of perjury, and which Defendant did not believe to be

true and correct as to every material matter in that Defendant: (a) reported that Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was substantially less; (b) reported that Other expenses, on Schedule C, Part II, Line 27a of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, on Schedule C, Part II, Line 27a of Form 1040, was substantially less; (c) reported that Expenses, Advertising, on Schedule C, Part II, Line 8, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Expenses, Advertising, on Schedule C, Part II, Line 8, was substantially less; (d) reported that Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was substantially greater; and (e) reported that Total tax, on Form 1040, Line 61, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Form 1040, Line 61, was substantially greater:

Count	Calendar Year	Approximate Date of Filing	Other expenses, REFERRAL FEES, reported on Schedule C, Part V	Other expenses, reported on Schedule C, Part II, Line 27a	Expenses, Advertising, reported on Schedule C, Part II, Line 8	Net profit reported on Schedule C, Line 31 and Business income, included on Form 1040, Line 12	Total tax, reported on Form 1040, Line 61
2	2012	June 27, 2013	\$2,333,421	\$11,528,470	\$999,371	\$3,212,038	\$1,192,095

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

COUNTS THREE AND FOUR
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

172. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 136, 139, 142, 146, 147, 155, 158, 159, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

173. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did willfully make and subscribe U.S. Individual Income Tax Returns, IRS Form 1040, and related Schedules, for the following calendar years

set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by a written declaration that they were made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Gross receipts or sales, on Schedule C, Part I, Line 1, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Gross receipts or sales, on Schedule C, Part I, Line 1, was substantially more; (b) reported that Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was substantially less; (c) reported that Other expenses, on Schedule C, Part II, Line 27a of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, on Schedule C, Part II, Line 27a of Form 1040, was substantially less; (d) reported that Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was substantially greater; and (e) reported that Total tax, on Form 1040, Line 61 for

calendar year 2013 or Line 63 for calendar year 2014, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Form 1040, Line 61 or Line 63, was substantially greater:

Count	Calendar Year	Approximate Date of filing	Gross receipts or sales reported on Schedule C, Part I, Line 1	Other expenses, REFERRAL FEES, reported on Schedule C, Part V	Other expenses reported on Schedule C, Part II, Line 27a	Net profit reported on Schedule C Line 31 and Business income included on Form 1040 Line 2	Total tax reported on Form 1040 Line 61 for 2013 or Line 63 for 2014
3	2013	Aug. 14, 2014	\$28,040,866	\$4,140,839	\$14,184,817	\$2,318,006	\$163,986
4	2014	Oct. 14, 2015	\$30,786,327	\$4,854,433	\$15,326,095	\$2,375,685	\$1,057,563

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

COUNT FIVE
**(Willfully Filing False Tax Return –
 26 U.S.C. § 7206(1))**

174. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 149, 150, 160, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

175. On or about the date shown below, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did willfully make and subscribe a U.S. Individual Income Tax Return, IRS Form 1040, and related Schedules, for the following calendar year set forth below and filed with the Internal Revenue Service on or about the date indicated below, which return contained and was verified by a written declaration that it was made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was substantially less; (b) reported that Other expenses on Schedule C, Part II, Line 27a of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses on Schedule C, Part II, Line 27a of Form 1040, was substantially less; (c) reported that Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was substantially greater; and (d) reported that Total tax, on Form 1040, Line 63, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Form 1040, Line 63, was

substantially greater:

Count	Calendar Year	Approximate Date of Filing	Other expenses, REFERRAL FEES, reported on Schedule C, Part V	Other expenses reported on Schedule C, Part II, line 27a	Net profit reported on Schedule C, line 31 and Business income included on Form 1040, line 12	Total tax reported on Form 1040, line 63
5	2015	July 18, 2016	\$4,095,877	\$15,954,352	\$1,138,031	\$534,991

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

COUNTS SIX THROUGH ELEVEN
**(Aiding and Assisting in the Preparation and Presentation of False Tax Return—
 26 U.S.C. § 7206(2))**

176. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 156-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

177. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

**JEFFREY STERN and
 FREDERICK MORRIS,**

Defendants herein, did willfully aid and assist in, and procure, counsel, and advise, the preparation and presentation to the Internal Revenue Service, an agency of the United States Treasury Department, of U.S. Individual Income Tax Returns, Forms

1040, either individual or joint, and related Schedules, prepared in the name of Attorney 1, for the following calendar years set forth below and filed with the Internal Revenue Service on or about the dates indicated below, and which Defendants knew to be false and fraudulent as to the following material matters:

(a) reported that Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was the amount indicated below, whereas, as they then and there knew and believed, the amount of Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was substantially less; (b) reported that Total expenses, on Schedule C, Line 28 of Form 1040, was the amount indicated below, whereas, as they then and there knew and believed, the amount of Total expenses, on Schedule C, Line 28 of Form 1040, was substantially less:

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales reported on Schedule C, Part I, Line 1	Total expenses reported on Schedule C, Part II, Line 28
6	2011	Nov. 4, 2016	\$503,374	\$339,310
7	2012	Nov. 7, 2016	\$745,648	\$533,097
8	2013	Nov. 11, 2016	\$1,707,545	\$1,357,471
9	2014	Nov. 11, 2016	\$1,974,217	\$1,593,445
10	2015	Nov. 11, 2016	\$2,287,196	\$1,864,379
11	2017	Aug. 24, 2018	\$1,644,090	\$1,576,859

In violation of Title 26, United States Code, Section 7206(2).

COUNTS TWELVE THROUGH FIFTEEN
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

178. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 55, 56, 137-150, 157-160 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

179. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

DEBORAH BRADLEY,

Defendant herein, did willfully make and subscribe U.S. Individual Income Tax Returns, IRS Form 1040, and related Schedules, for the following calendar years set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by a written declaration that they were made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was the amount indicated below, whereas, as she then and there knew and believed, the amount of Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was substantially less; (b) reported that Contract labor, on Schedule C, Line

11 of Form 1040, was the amount indicated below, whereas, as she then and there knew and believed, the amount of Contract labor, on Schedule C, Line 11 of Form 1040, was substantially less.

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales, reported on Schedule C, Part I, Line 1	Contract labor, reported on Schedule C, Part II, Line 11
12	2012	Nov. 3, 2014	\$185,227	\$123,459
13	2013	Nov. 3, 2014	\$160,890	\$105,005
14	2014	Feb. 11, 2015	\$119,919	\$72,990
15	2015	Mar. 10, 2016	\$50,262	\$26,400

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

COUNTS SIXTEEN THROUGH EIGHTEEN

**(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))**

180. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 55, 56, 137-150, 157-160 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

181. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

LAMONT RATCLIFF,

Defendant herein, did willfully make and subscribe U.S. Corporation Income Tax Returns, IRS Form 1120, and related Schedules, for the following calendar years

set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by a written declaration that they were made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Gross receipts or sales, on Line 1a of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Gross receipts or sales, on Line 1a of Form 1120, was substantially more; (b) reported that Taxable income, on Line 30 of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Taxable income, on Line 30 of Form 1120, was substantially more; and, (c) reported that Total tax, on Line 31 of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Line 31 of Form 1120, was substantially more:

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales reported on Form 1120, Line 1a	Taxable income reported on Form 1120, Line 30	Total tax reported on Form 1120, Line 31
16	2012	Aug. 26, 2013	\$717,801	\$13,690	\$2,054
17	2013	June 23, 2014	\$954,769	\$7,925	\$1,189
18	2014	June 17, 2015	\$1,004,035	\$29,295	\$4,394

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

COUNT NINETEEN
(Witness Tampering –
18 U.S.C. § 1512(b)(2)(B))

182. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 55, 56, 122-136, 156-158, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

183. In or about October of 2016, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did knowingly attempt to corruptly persuade Esquivel by meetings and demands with the intent to cause and induce Esquivel to destroy and conceal an object, Marcus Esquivel's kickback ledgers, with the intent to impair the object's integrity and availability for use in an official proceeding, a federal grand jury investigation in the Southern District of Texas.

In violation of 18 United States Code, Sections 1512(b)(2)(B) and 2.

COUNT TWENTY
(Witness Tampering –
18 U.S.C. § 1512(b)(2)(B))

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

of Count One, and paragraphs 46-121, 156-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

185. In or about 2016 in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did knowingly attempt to corruptly persuade MORRIS by meetings and demands with the intent to cause and induce MORRIS to destroy and conceal an object, a copy of STERN's case and kickback ledger maintained by MORRIS, with the intent to impair the object's integrity and availability for use in an official proceeding, a federal grand jury investigation in the Southern District of Texas.

In violation of 18 United States Code, Sections 1512(b)(2)(B) and 2.

COUNT TWENTY-ONE
(Obstruction of Justice –
18 U.S.C. § 1503)

186. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-136, 156-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

187. From in or about 2016 through the date of the Superseding Indictment,

in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

JEFFREY STERN,

defendant herein, did corruptly endeavor to influence, obstruct and impede the due administration of justice in a federal grand jury investigation by the grand jury impaneled in the Houston Division of the Southern District of Texas (the "investigation") by holding meetings with Esquivel, Attorney 1, and MORRIS to pressure them not to cooperate in the investigation, and, in the process, offering things of value to Attorney 1 and Esquivel: among other items, giving Attorney 1 money to make payments on Attorney 1's taxes, and causing a fraudulent Offer in Compromise to be filed for Attorney 1 to lessen his tax burden.

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

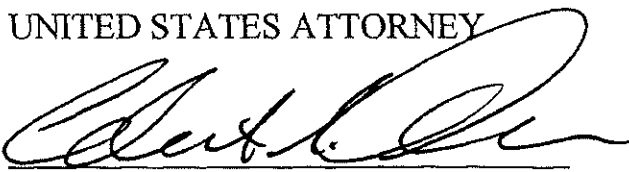
A TRUE BILL:

Original Signature on File

FOREPERSON OF THE GRAND JURY

RYAN K. PATRICK
UNITED STATES ATTORNEY

By:



Robert S. Johnson
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

United States Courts
Southern District of Texas
FILED
JAN 21 2020
David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

v

**JEFFREY STERN
LAMONT RATCLIFF
DEBORAH BRADLEY
RICHARD PLEZIA**

**CRIMINAL NO. H-19-450
(UNDER SEAL)**

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DEFENDANTS

SECOND SUPERSEDING INDICTMENT

INTRODUCTION

At all times material to this indictment:

1. Personal injury law is an area of legal specialization. Personal injury cases are civil lawsuits brought by plaintiffs seeking compensation for harm caused by a defendant's actions. Once a plaintiff establishes liability of a defendant, through either trial or settlement, the defendant, or commonly the defendant's insurance carrier, must pay the plaintiff for the injuries caused by the defendant's actions. The cost of a plaintiff's injuries often includes the plaintiff's medical bills. Normally, the defendant or the insurance carrier pays the plaintiff's attorney who then distributes the funds from a trust account (the "IOLTA account") to, among others, the plaintiff, the medical providers, and himself and other attorneys for the



TRUE COPY, CERTIFY ATTEST:
NATHAN CHASNER, Clerk of Court
By *[Signature]*
Deputy Clerk

legal fee. Personal injury cases involving automobile accidents are potentially more lucrative if the accident involved a commercial vehicle (a “commercial case”) rather than a personal vehicle because of differences in insurance coverage.

2. Barratry, commonly known as “ambulance chasing,” is the practice of illegally soliciting clients who may be in need of a lawyer. Generally, attorneys in Texas may not personally solicit employment with potential clients who have not invited the contact. *See* Texas Penal Code § 38.12(a)(2); Texas Disciplinary Rule of Professional Conduct 7.03(a). In Texas, barratry is both a crime and a violation of the ethics rules that govern the practice of law. Attorneys in Texas have been prosecuted for barratry, and the State Bar of Texas, the organization that issues and administers the rules governing the conduct of attorneys licensed to practice law in Texas, seeks to prevent barratry through attorney disciplinary actions, education, and outreach.

3. Attorneys who commit barratry often do so indirectly by paying a “case runner.” A “case runner” or “runner” is a non-attorney who collects an illegal fee (a kickback) for referring clients to attorneys. Under Texas law, it is illegal to pay non-attorneys, such as case runners, for client referrals. *See* Texas Penal Code § 38.12(a)(4). Such payments also violate the ethics rules of the State Bar of Texas. *See* Texas Disciplinary Rule of Professional Conduct 7.03(b). Under the ethics rules, attorneys are also not permitted to split their fees with non-attorneys. *See* Texas Disciplinary Rule of Professional Conduct 5.04(a). Under limited

circumstances, an attorney may split a fee with a referring attorney. *See* Texas Disciplinary Rule of Professional Conduct 1.04(f).

4. The Internal Revenue Service (“IRS”) is an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States. Under these laws, individuals and corporations are required to accurately report income and deductions to the IRS on annual income tax returns in order for the IRS to carry out its lawful function to ascertain income; compute, assess and collect income taxes; and audit tax returns and records. Commonly used IRS forms include the following:

- Form 1040: individual tax return;
- Form 1120 or 1120S: corporate tax return;
- Form 656: application for an Offer in Compromise, an agreement between the taxpayer and the IRS that settles the taxpayer’s tax liabilities for less than the full amount owed;
- Form 1099: form disclosing Miscellaneous Income that is required to be sent to the IRS and the payee for payments above a certain amount made for contract labor;
- Form 4549: form containing Income Tax Examination Changes, which lists the IRS’s proposed changes to a tax return as a result of an IRS civil audit, including any penalties.

5. The federal tax code allows businesses to claim a tax deduction for “ordinary and necessary” expenses incurred in conducting the business. However, no deduction is allowed for kickbacks or other payments that are illegal under state law if that state law is generally enforced. *See* 26 U.S.C. § 162(c). Under the tax code, “a kickback includes a payment in consideration of the referral of a client, patient, or customer.” *Id.* Illegal kickbacks made in a barratry scheme in violation of Texas law are not deductible business expenses.

6. Financial institutions, including banks, are required to file a Currency Transaction Report (“CTR”) with the federal government for cash transactions made by their clients above \$10,000.

7. Defendant JEFFREY STERN (“STERN”) was an attorney in Houston, Texas who practiced personal injury law. STERN’s law firm was known at various times as Stern, Miller & Higdon, Jeffrey M. Stern, Attorney at Law, or the Stern Law Group.

8. Frederick Morris (“Morris”), who has been previously charged, was a case runner in Houston.

9. Defendant LAMONT RATCLIFF (“RATCLIFF”) was a case runner and clinic owner in Houston.

10. Marcus Esquivel (“Esquivel”), who has been charged separately, was a case runner in Houston. Esquivel operated as Le Reve Advertising Consultants d/b/a American Risk Management Consultants, Belmark International Inc.,

Injurylawyerforme.com, Horizon Advertising, Resource Medical Consultant, and American Business Risk Management.

11. Defendant DEBORAH BRADLEY (“BRADLEY”) was an attorney in Houston who worked for the STERN law firm and practiced personal injury law.

12. Defendant RICHARD PLEZIA (“PLEZIA”) was an attorney in Houston who practiced personal injury law.

13. Company 1 was a healthcare clinic in Houston that provided treatment for accident victims and was owned and operated by Morris’ wife.

14. Company 2 was a healthcare clinic in Houston that provided treatment for accident victims. RATCLIFF controlled and was the majority owner of Company 2.

15. Attorney 1 was an attorney in Houston who practiced personal injury law.

16. Attorney 2 was an attorney in Houston who practiced criminal law.

17. Attorney 3 was an attorney in Houston who practiced criminal law.

COUNT ONE
(Conspiracy to Defraud the United States -
18 U.S.C. § 371)

A. INTRODUCTION

18. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment as if set out fully herein.

B. THE CONSPIRACY AND ITS OBJECTS

19. From in or about 2006, and continuing through the date of the Superseding Indictment, in the Houston Division of the Southern District of Texas and elsewhere, the Defendants,

**JEFFREY STERN,
LAMONT RATCLIFF,
DEBORAH BRADLEY, and
RICHARD PLEZIA,**

did unlawfully, voluntarily, intentionally, and knowingly combine, conspire, confederate and agree together, with each other and with Frederick Morris and others known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment and collection of revenue, to wit, individual and corporate income taxes.

C. PURPOSE OF THE CONSPIRACY

20. STERN and his coconspirators sought to enrich themselves by illegally recruiting clients through the payment and receipt of illegal kickbacks in order to generate personal injury cases and legal fees. They worked to conceal and disguise the illegal kickback payments from the IRS, and to hide their resulting income from the IRS, by filing false documents with the IRS, including tax returns, Forms 1099, and an Offer in Compromise, that falsely reported material information, including

amounts of income, expenses, and tax due and owing.

D. MANNER AND MEANS OF THE CONSPIRACY

It was a part of the conspiracy that:

The Scheme

21. For over ten years, defendant JEFFREY STERN and his coconspirators have engaged in a criminal scheme to evade taxes and, in the process, hide the fact that they obtain their personal injury cases through barratry by paying illegal kickbacks to case runners.

22. As part of the scheme, STERN hid business income from his tax preparer and the IRS by depositing business income to personal accounts and by cashing business checks with check cashers and not transferring those funds to his business account. STERN only reported to his tax preparer and the IRS the income that was deposited into his business account.

23. In addition, STERN took improper deductions on his tax returns for his illegal kickback payments to case runners. Both hiding income and taking illegal deductions resulted in the filing of false tax documents that under-reported to the IRS tax that was due.

Kickbacks Disguised as Referral Fees

24. STERN paid kickbacks to runners Morris, RATCLIFF, Esquivel, healthcare clinic owners, and others in exchange for referrals of personal injury cases to STERN's law firm. Typically, the kickback was a flat fee paid up-front, with a

larger fee paid on commercial cases. In addition, STERN shared a percentage of his attorney's fee with some runners after the case settled.

25. Beginning in approximately 2006, STERN sought to disguise his illegal kickback payments to runners as legitimate referral fee payments to attorneys. STERN told Morris that if Morris wanted to continue to receive kickbacks, Morris would have to come up with the name of an attorney in whose name STERN could issue checks. In that way, STERN could hide the payments to Morris as seemingly legitimate referral fees paid to an attorney, and STERN could thereby deduct the illegal kickbacks on his tax returns as supposedly legitimate business expenses.

26. Morris suggested they use Attorney 1. STERN began paying kickbacks to Morris by writing checks payable in the name of Attorney 1, who agreed to allow STERN and Morris to use his name as the payee on the checks.

27. Later, STERN also started issuing checks in the names of Attorney 2 and Attorney 3 in order to pay kickbacks to Morris and others. Unlike Attorney 1, Attorney 2 and Attorney 3 knew nothing of the scheme and had not consented to their names being used in order to pay illegal kickbacks.

28. Morris took the checks from STERN that were made payable in the names of the three attorneys to check cashers where Morris cashed the checks, usually with forged endorsements. Morris kept a portion of the cash for himself and paid the rest to his sources who had referred cases to him for STERN, which Morris often did by leaving envelopes of cash with the check cashers for his sources

to pick up.

29. Morris caused his illegally obtained funds to be deposited into bank accounts in a manner that was designed to avoid triggering bank CTR reporting requirements by making multiple cash deposits on the same or consecutive days at different bank branches in Houston below the \$10,000 threshold.

30. In 2008, 2009, and 2010, STERN issued no Forms 1099 to Attorney 1, Attorney 2, or Attorney 3 for the checks made out in their names, which would have notified Attorney 2 and Attorney 3 of the scheme and would have notified the IRS that all three attorneys had allegedly received income from STERN and potentially owed taxes on that income.

Scheme Modified in Response to IRS Civil Audits

31. Beginning in 2010, the IRS conducted a series of civil audits of STERN. On approximately May 17, 2010, the IRS notified STERN that he was being audited. Also in 2010, the IRS notified STERN's representative that STERN was hiding income in personal accounts and was failing to issue Forms 1099. In response, STERN paid penalties to forestall further IRS civil inquiry of his tax avoidance scheme, and he modified the scheme to work around the audit findings and further conceal it from the IRS.

32. The IRS assessed a civil fraud penalty on STERN for hiding business income in personal accounts. STERN agreed to and paid the fraud penalty. For a time, STERN stopped hiding income from the IRS, but later resumed.

33. The IRS assessed employment taxes for STERN failing to issue Forms 1099. STERN paid the taxes and ceased writing checks payable to Attorney 2 and Attorney 3, to whom he could not issue Forms 1099 since they were not aware of the scheme. Instead, STERN increased the number of checks he issued payable to Attorney 1, and he filed false Forms 1099 that falsely reported to the IRS that STERN had paid Attorney 1 for services. In fact, Morris and others had received most of the funds.

34. As a result of issuing false Forms 1099 to the IRS indicating payment to Attorney 1, STERN and Morris caused false tax returns to be prepared and filed for Attorney 1 that reported as income to Attorney 1 the illegal kickbacks STERN had paid to Morris and others. These returns also reported false expenses. STERN and Morris agreed to pay Attorney 1's falsely inflated taxes. Ultimately, to try to resolve Attorney 1's mounting tax debt, STERN and Morris caused a false Offer in Compromise to be prepared and filed with the IRS that continued to claim Attorney 1 owed taxes on the inflated income falsely reported in his prior returns.

35. At various times during the conspiracy, STERN provided funds to Attorney 1 to pay for his falsely inflated taxes. Occasionally, STERN issued checks to Attorney 1 that Attorney 1 deposited into his account. More often, STERN issued checks in the name of Attorney 1 or in another name, which Morris cashed at a check casher. Morris would then deliver the cash to Attorney 1.

Scheme Diversified

36. After the civil audits, STERN diversified the ways he paid kickbacks to his runners that would both satisfy the Form 1099 filing requirement and generate false deductible business expenses for STERN.

37. In 2011 and at other times, STERN issued checks payable to Company 1, Morris' wife's company, with a corresponding Form 1099, allegedly for healthcare services. In reality, those payments were illegal kickbacks to Morris and others. Morris cashed the checks at a check casher, paid a portion of the cash to himself, and paid the rest to his sources who had referred him cases for STERN. STERN caused a false 2011 tax return to be filed with the IRS that falsely deducted those checks to Company 1 as legitimate "healthcare expenses," when in reality they were illegal, non-deductible kickbacks. Similarly, Morris caused a false 2011 tax return to be filed for Company 1 that falsely reported the illegal kickbacks he received from STERN as legitimate income to Company 1, and offset that income with false expenses.

38. STERN also hid payments to Morris by issuing checks in the name of STERN law firm clients. In June of 2017, the IRS served a notice of lien on STERN, indicating any checks written by STERN to Attorney 1 would be subject to levy by the IRS in order to pay Attorney 1's overdue tax liability. While the lien was in place and at other times, STERN paid Morris and others kickbacks by writing checks in the name of STERN clients, which Morris would cash at a check casher

and use the funds to pay kickbacks owed to himself and others. Once STERN confirmed the lien was removed, he resumed paying kickbacks to Morris and others by issuing checks in the name of Attorney 1 that Morris would cash.

Kickback Payments Funneled to RATCLIFF

39. In 2010, after learning of the IRS civil audits, STERN began funneling kickbacks to a second case runner, defendant LAMONT RATCLIFF, through an intermediary attorney, defendant DEBORAH BRADLEY. STERN issued checks payable to attorney BRADLEY with corresponding Forms 1099; BRADLEY deposited the checks; and, often on the same day and in the same amount, issued checks to RATCLIFF's company, Company 2. BRADLEY issued a Form 1099 at the end of each year reflecting her payments to Company 2. On his tax returns, STERN caused the kickback payments to be falsely classified as referral fees to an attorney and falsely deducted as business expenses. BRADLEY falsely reported the payments from STERN as income on her tax returns with corresponding false deductions for contract labor expenses.

40. RATCLIFF failed to pay taxes on a portion of the kickbacks from STERN, kickbacks from other attorneys, and other income Company 2 received. From approximately 2010 through 2014, RATCLIFF cashed checks representing Company 2 business income at check cashers and caused the income on Company 2's tax returns to be under-reported.

Kickback Payments Funneled to Esquivel

41. After learning of the IRS civil audits in 2010, STERN altered his method of paying kickbacks to a third runner, Marcus Esquivel. Before 2010, STERN paid illegal kickbacks to Esquivel in cash, and then later disguised his kickbacks to Esquivel as checks written for alleged payments for advertising, which he made to Esquivel's various business entities.

42. In 2010 during the audits, Esquivel and STERN suspended their barratry scheme. Esquivel began referring cases to defendant attorney RICHARD PLEZIA instead of STERN. PLEZIA, like STERN, paid Esquivel illegal kickbacks for case referrals. PLEZIA caused the filing of false tax returns that falsely reported the kickbacks as legitimate advertising expenses, which he falsely deducted as business expenses.

43. In 2011, Esquivel and STERN resumed their illegal kickback arrangement in a modified form. Because of the IRS civil audits, STERN now paid Esquivel through an intermediary attorney. STERN and Esquivel funneled the kickback payments through attorney PLEZIA. From approximately 2011 through 2013, STERN issued checks payable to PLEZIA's law firm with corresponding Forms 1099; PLEZIA deposited the checks to his business bank account; and, often on the same day and in the same amount, PLEZIA issued checks to one of Esquivel's companies. STERN caused false tax returns to be filed in which he falsely deducted those payments as referral fees to an attorney, when in reality they were illegal

kickbacks to Esquivel.

Obstruction and Cover-Up

44. On December 1, 2015, a federal grand jury began investigating and seeking evidence regarding STERN's activities. Once STERN learned of the federal grand jury investigation in 2016, he tried to obstruct the investigation and took steps to conceal the scheme. STERN ordered coconspirators to destroy subpoenaed documents. At meetings with coconspirators, he directed them not to cooperate in the investigation. He also caused additional false tax documents to be filed with the IRS on behalf of Attorney 1. He continued to make payments to the IRS on both Attorney 1's inflated and legitimate tax debt, in an attempt to keep the scheme from unraveling and being exposed to the IRS.

D. ACTS IN FURTHERANCE OF THE CONSPIRACY

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

Kickbacks—STERN/Attorneys 1, 2, 3/Morris

46. In or about 2006, STERN issued checks in the name of Attorney 1 in order to pay Morris and others illegal kickbacks for case referrals.

47. By at least December 31, 2008, STERN issued checks in the name of Attorney 2 in order to pay Morris and others illegal kickbacks for case referrals.

48. By at least December 22, 2009, STERN issued checks in the name of

Attorney 3 in order to pay Morris and others illegal kickbacks for case referrals.

49. During 2009, STERN issued checks payable to Attorney 1 totaling approximately \$7,500 in order to pay Morris and others illegal kickbacks for case referrals.

50. During 2009, STERN issued checks payable to Attorney 2 totaling approximately \$1,044,310 in order to pay Morris and others illegal kickbacks for case referrals.

51. During 2009, STERN issued checks payable to Attorney 3 totaling approximately \$19,800 in order to pay Morris and others illegal kickbacks for case referrals.

52. During 2010, STERN issued checks payable to Attorney 1 totaling approximately \$483,485 in order to pay Morris and others illegal kickbacks for case referrals.

53. During 2010, STERN issued checks payable to Attorney 2 totaling approximately \$378,240 in order to pay Morris and others illegal kickbacks for case referrals.

54. During 2010, STERN issued checks payable to Attorney 3 totaling approximately \$215,550 in order to pay Morris and others illegal kickbacks for case referrals.

Civil Audit Payments

55. On or about June 14, 2011, Stern signed IRS Form 4549, Income Tax Examination Changes, and consented to assessment and collection of \$1,111,937.72 by the IRS that included back taxes and interest and a fraud penalty of \$341,348.25 for his conduct of intentionally underreporting business receipts by depositing the amounts in his personal bank account.

56. On or about June 14, 2012, STERN agreed to pay withholding tax of \$49,866.82 for his misconduct of failing to issue Forms 1099 for tax year 2008. STERN agreed to pay additional withholding tax for his failure to issue Forms 1099 for tax years 2009 and 2010, which prevented the employment tax audit from being expanded to those tax years.

STERN/Morris Kickback Scheme Modified in Response to Audits

57. On or about May 27, 2010, shortly after having learned of the IRS civil audits on May 17, 2010, STERN caused the last alleged referral fee check to issue in the name of Attorney 3.

58. On or about December 16, 2010, STERN issued the last alleged referral fee check in the name of Attorney 2.

59. In or about 2012, STERN called a meeting with Morris and Attorney 1. STERN proposed that Attorney 1 falsely claim as income on Attorney 1's tax returns the supposed referral fees that had allegedly been paid to all three attorneys, but in reality had been paid as kickbacks to Morris and others.

60. STERN caused a false Form 1099 to be filed for \$456,771 in alleged referral fee payments made to Attorney 1 in 2011, which was received by the IRS on or before June 8, 2012.

61. STERN caused a false Form 1099 to be filed for \$613,654 in alleged referral fee payments made to Attorney 1 in 2012, which was received by the IRS on or before June 6, 2013.

62. STERN caused a false Form 1099 to be filed for \$1,539,451 in alleged referral fee payments made to Attorney 1 in 2013, which was received by the IRS on or before July 3, 2014.

63. On or about November 5, 2014, STERN issued a check to Attorney 1 for \$50,000 in partial payment of Attorney 1's falsely reported taxes due.

64. On or about November 7, 2014, STERN issued a check to Attorney 1 for \$35,000 in partial payment of Attorney 1's falsely reported taxes due.

65. On or about November 10, 2014, STERN and Morris caused Attorney 1 to file a false 2009 Form 1040 tax return with the IRS that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

66. On or about November 10, 2014, STERN and Morris caused Attorney 1 to file a false 2010 Form 1040 tax return with the IRS that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

67. On or about November 10, 2014, Attorney 1 made a \$15,000 payment to the IRS for taxes due, based on the false tax returns.

68. On or about November 10, 2014, Attorney 1 made a \$50,000 payment to the IRS for taxes due, based on the false tax returns.

69. On or about November 10, 2014, Attorney 1 made two separate \$10,000 payments to the IRS for taxes due, based on the false tax returns.

70. STERN caused a false Form 1099 to be filed for \$1,607,896 in alleged referral fee payments made to Attorney 1 in 2014, which was received by the IRS on or before June 12, 2015.

71. STERN caused a false Form 1099 to be filed for \$1,494,133 in alleged referral fee payments made to Attorney 1 in 2015, which was received by the IRS on or before June 16, 2016.

72. On or about February 24, 2015, STERN issued a check to Attorney 1 for \$20,125 in partial payment of Attorney 1's falsely reported taxes due.

73. On or about February 26, 2015, STERN issued a check to Attorney 1 for \$25,000 in partial payment of Attorney 1's falsely reported taxes due.

74. On or about February 26, 2015, Attorney 1 purchased a cashier's check for \$50,000 that was used to pay the IRS on or about March 2, 2015 for taxes due, based on the false tax returns.

75. From approximately 2006 to 2019, STERN maintained a ledger that tracked the illegal kickbacks he owed on certain cases. STERN provided to copy

of this ledger to Morris.

76. From in or about 2006 through in or about 2019, Morris delivered to STERN written requests for kickback checks that listed the kickbacks STERN owed to Morris and others by case name and case number.

77. In or about 2016, when STERN was out of town, Morris delivered in person, and sent by text message, requests for kickback checks to STERN's office manager. The requests listed the kickbacks STERN owed by case name and case number.

78. In or about 2016, in response to requests from Morris for kickback checks, STERN's office manager confirmed with STERN that the requested checks should issue.

79. In or about 2016, Morris texted STERN's office manager photos of accident scenes, accident victims, and wrecked cars related to clients Morris was recruiting for the STERN law firm.

80. On or about April 28, 2016, Morris texted STERN's office manager a written request for a kickback check for \$15,500 in order to pay kickbacks in six different STERN law firm cases that Morris listed by case name and number.

81. On or about April 28, 2016, STERN caused a kickback check to issue in the name of Attorney 1 for \$15,500, which Morris cashed at a check casher.

82. On or about May 25, 2016, Morris texted STERN's office manager a photo of a handwritten request for a kickback check for \$12,500 made out to

Attorney 1 in order to pay kickbacks in five different STERN law firm cases that Morris listed by case name and number.

83. On or about May 25, 2016, STERN caused a kickback check to issue in the name of Attorney 1 for \$12,500, which Morris cashed at a check casher.

84. On or about November 4, 2016, STERN and Morris caused Attorney 1 to file a false 2011 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

85. On or about November 7, 2016, STERN and Morris caused Attorney 1 to file a false 2012 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

86. On or about November 11, 2016, STERN and Morris caused Attorney 1 to file a false 2013 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

87. On or about November 11, 2016, STERN and Morris caused Attorney 1 to file a false 2014 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1 and reported false expenses.

88. On or about November 11, 2016, STERN and Morris caused Attorney 1 to file a false 2015 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

89. On or about December 1, 2016, STERN issued a check to Attorney 1 for \$50,000 in partial payment of Attorney 1's falsely reported taxes due, which

Attorney 1 deposited.

90. On or about December 1, 2016, STERN issued a check to Attorney 1 for \$10,000 in partial payment of Attorney 1's falsely reported taxes due, which Attorney 1 deposited.

91. On or about December 5, 2016, Attorney 1 made a \$60,000 payment to the IRS for taxes due, based on the false tax returns.

92. On or about March 15, 2017, STERN issued a check to Attorney 1 for \$84,542.67 in partial payment of Attorney 1's falsely reported taxes due, which Attorney 1 deposited.

93. On or about May 11, 2017, Attorney 1 made a \$75,000 payment to the IRS for taxes due, based on the false tax returns.

94. In or about June of 2017, STERN, Morris, and Attorney 1 met and agreed to file a false Offer in Compromise with the IRS to try to resolve Attorney 1's falsely reported tax debt.

95. STERN caused a false Form 1099 to be filed for \$1,351,636 in alleged referral fee payments made to Attorney 1 in 2016, which was received by the IRS on or before June 1, 2017.

96. On or about June 7, 2017, STERN issued a check to Attorney 1 for \$60,000 for partial payment of the Offer in Compromise, which Attorney 1 deposited on June 9, 2017.

97. On or about June 9, 2017, Attorney 1 wrote a \$54,000 check to the IRS

for partial payment of the Offer in Compromise, a copy of which was provided to a tax preparer, but was not sent to the IRS, which in the meantime had levied Attorney 1's account for the funds.

98. On or about June 9, 2017, STERN and Morris caused Attorney 1 to sign the Offer in Compromise with the IRS that reported Attorney 1 owed the taxes falsely reported in his prior returns.

99. On or about June 17, 2017, the IRS served a notice of lien on STERN in an effort to collect the outstanding taxes due that were falsely reported by Attorney 1's tax returns. As a result, to pay illegal kickbacks, STERN temporarily ceased issuing checks in the name of Attorney 1 and instead issued checks in the names of STERN law firm clients, which Morris cashed at a check casher.

100. After STERN confirmed the lien had been removed, he resumed paying Morris and others kickbacks by issuing checks in the name of Attorney 1, which Morris cashed at a check casher.

101. On or about June 30, 2017, in order to make a down payment on the Offer in Compromise, STERN signed a check for \$54,000 payable to Frost Bank and used the proceeds of that check to purchase a cashier's check for \$54,000 made payable to the IRS with the notation, "Re: [Attorney 1]."

102. On or about June 30, 2017, in order to pay the filing fee of the Offer in Compromise, STERN purchased a cashier's check for \$184.00 made payable to the IRS with the notation, "Re: [Attorney 1]."

103. On or about June 30, 2017, both cashier's checks were redeposited to the same STERN account from which the \$54,000 was withdrawn, with the endorsement, "Not used for purpose intended."

104. On or about June 30, 2017, to make a partial payment on the Offer in Compromise, STERN caused a check to issue in the name of a STERN law firm client for \$60,000, which was cashed at a check casher.

105. On or about July 7, 2017, Attorney 1 sent the Offer in Compromise to the IRS.

106. On or about July 7, 2017, Attorney 1 made a \$54,000 payment to the IRS in partial payment of the Offer in Compromise.

107. STERN caused a false Form 1099 to be filed for \$977,443 in alleged referral fee payments made to Attorney 1 in 2017, which was received by the IRS on or before July 19, 2018.

108. On or about August 3, 2018, in a recorded meeting, Attorney 1 provided Morris a purported demand letter that Attorney 1 had received from the IRS. The letter demanded payment of \$248,102.66 that Attorney 1 allegedly owed under the Offer in Compromise. Morris stated, "We're going to pay this, [Attorney 1]. We going to pay this. I told you." When Attorney 1 asked whether STERN would help pay, Morris stated "he going to kind of help me a little bit, you know what I'm trying to say, but mostly I'm going to be covering this right here." Morris added that STERN had paid him approximately \$1 million dollars in 2017. Morris told

Attorney 1, "because of what you done, everything you helped me, I'm not coming to you not asking you for one dime. . . . As soon as I get back, I'm going to - - I'm going to rap with STERN Monday or Tuesday and we're going to work on this and we're going to start working on getting this shit off of you."

109. On or about August 16, 2018, Morris provided Attorney 1 a copy of a false 2017 Form 1040 tax return for Attorney 1 that STERN and Morris had caused to be prepared.

110. On or about August 17, 2018, in a recorded call, Attorney 1 stated, "I might need to put on something with you and STERN. This might - - this might be the last - - the last year we do, you know, STERN uses me to pay you, man. You know, because this stuff is just getting to be too much a headache, man." Morris replied, "Yeah, yeah." Attorney 1 stated, "You need to talk to him [STERN] about that, and see if you all can come up with another way." Morris replied in part, "I will bring that up to him."

111. On or about August 23, 2018, in a recorded call with Attorney 1, Morris confirmed that he filed Attorney 1's 2017 tax return, stating, "Yeah, it's all done. It's a done deal. Yeah, we looking good. They're going to be writing you a letter. As soon as you get that letter, you bring it to me, and then . . . they're going to start the - - that Offer in Compromise." Discussing payment of the taxes Attorney 1 owed, Morris stated, "And then I already talked with STERN. I just told him I'm about to come down with about \$50,000 or something like that, but, you know, we

ready.” Attorney 1 asked, “So you think STERN is going to come through this time?” Morris responded, “Yeah.”

112. On or about August 24, 2018, STERN and Morris caused a false 2017 Form 1040 tax return to be filed with the IRS on behalf of Attorney 1 that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

113. On or about November 2, 2018, in a recorded meeting, Attorney 1 provided Morris with a purported demand letter from the IRS requiring payment of Attorney 1’s 2017 taxes due and owing in the amount of \$19,188.07. Morris made a copy of the letter, and drove directly to STERN’s office.

114. On or about November 6, 2018, to pay Attorney 1’s falsely reported taxes owed for 2017, STERN issued a check for \$30,000 payable to Attorney 1, which Morris cashed at the check casher on November 8, 2018.

115. Later that same day, on November 8, 2018, in a recorded meeting between Morris and Attorney 1 at Chase Bank in Houston, Morris provided Attorney 1 with \$20,000 in cash, which Attorney 1 used to buy a cashier’s check for \$19,483.07 made payable to the U.S. Treasury, which was received by the IRS on November 15, 2018.

116. STERN caused a false Form 1099 to be filed with the IRS that reported \$1,099,666 in alleged payments made to Attorney 1 in 2018, which was received by the IRS on or before April 22, 2019.

Kickbacks—STERN/Company 1/Morris

117. From on or about July 7, 2011, until on or about November 17, 2011, STERN issued a series of checks totaling \$308,450, among others, to Company 1 in payment of illegal kickbacks to Morris and others for case referrals. Morris cashed the checks at a check casher and kept a portion of the funds as his kickbacks earned and paid a portion of the money to his sources who had referred cases to him for STERN.

118. In or about 2011, STERN caused the \$308,450 in checks to Company 1 that were in reality kickbacks to Morris to be classified as a business expense, specifically, "Office Expense" in his business books and records.

119. In 2012, after meeting with his accountant who questioned the clearly incorrect classification, STERN changed the business's books and records to report the \$308,450 in checks as "Medical Expense," still a deductible expense for the business.

120. STERN caused a false Form 1099 to issue to Company 1 that included the \$308,450 in checks to Company 1, which was received by the IRS on or before June 8, 2012.

121. On or about September 21, 2012, Morris caused his wife to file a false 2011 Form 1120S tax return for Company 1 that falsely reported the \$308,450 in checks from STERN as income to Company 1 and that offset that false income by reporting false expenses of \$265,677, labeled as "outside services."

Kickbacks—STERN/PLEZIA/Esquivel

122. Beginning in at least 2006, STERN paid Esquivel illegal kickbacks for case referrals in cash.

123. In or about 2007, STERN paid illegal kickbacks to Esquivel for case referrals by issuing checks payable to Esquivel's business entities.

124. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to American Business Risk Management, totaling approximately \$31,564.95.

125. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to Belmark International, totaling approximately \$40,000.

126. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to Horizon Advertising, totaling approximately \$49,781.

127. In or about 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to LaReve Advertising, totaling approximately \$38,500.

128. On or about May 6, 2009, to pay Esquivel illegal kickbacks, STERN issued checks payable to Resource Medical Consultant for approximately \$20,000.

129. On or about April 28, 2010, to pay Esquivel illegal kickbacks, STERN issued checks payable to American Business Risk Management for \$9,800.

130. In or about May of 2010, Esquivel temporarily stopped his barratry scheme with STERN and instead began referring cases to PLEZIA in exchange for illegal kickbacks.

131. From in or about 2010 to in or about 2013, Esquivel maintained ledgers that tracked the illegal kickbacks owed to him by STERN, PLEZIA, and others, for specific case referrals.

132. In or about 2011, Esquivel resumed the illegal kickback arrangement with STERN; however, STERN and Esquivel agreed that the kickbacks to Esquivel would now be concealed by funneling the payments through PLEZIA's account.

133. In or about 2011, PLEZIA funneled through his account approximately \$201,000 in illegal kickbacks from STERN to Esquivel.

134. On or about September 10, 2012, PLEZIA caused a false 2011 Form 1120S tax return to be filed with the IRS that falsely reported the illegal kickbacks he had paid to Esquivel for case running as deductible business expenses in the form of alleged advertising expenses.

135. In or about 2012, PLEZIA funneled through his account approximately \$163,000 in kickbacks from STERN to Esquivel.

136. In or about 2013, STERN paid Esquivel kickbacks through PLEZIA's account and provided Esquivel with a loan, which together totaled approximately \$143,000.

Kickbacks—STERN/BRADLEY/RATCLIFF

137. In or about 2012, BRADLEY funneled through her account approximately \$128,060 in illegal kickbacks from STERN to RATCLIFF.

138. In or about 2012, RATCLIFF negotiated at a check casher checks

payable to Company 2 from BRADLEY and others.

139. In or about 2013, BRADLEY funneled through her account approximately \$102,505 in kickbacks from STERN to RATCLIFF.

140. In or about 2013, RATCLIFF negotiated at a check casher checks payable to Company 2 from BRADLEY and others.

141. On or about August 26, 2013, RATCLIFF caused a false 2012 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

142. In or about 2014, BRADLEY funneled through her account approximately \$72,990 in kickbacks from STERN to RATCLIFF.

143. In or about 2014, RATCLIFF negotiated at a check casher checks payable to Company 2 from BRADLEY and others.

144. On or about June 23, 2014, RATCLIFF caused a false 2013 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

145. On or about November 3, 2014, BRADLEY caused a false 2012 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from STERN to RATCLIFF as income to her and offset that income with false expenses for "contract labor."

146. On or about November 3, 2014, BRADLEY caused a false 2013 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from

STERN to RATCLIFF as income to her and offset that income with false expenses for "contract labor."

147. On or about February 11, 2015, BRADLEY caused a false 2014 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from STERN to RATCLIFF as income to her and offset that income with false expenses for "contract labor."

148. On or about June 17, 2015, RATCLIFF caused a false 2014 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

149. In or about 2015, BRADLEY funneled through her account approximately \$26,400 in kickbacks from STERN to RATCLIFF.

150. On or about March 10, 2016, BRADLEY caused a false 2015 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from STERN to RATCLIFF as income to her and offset that income with false expenses for "contract labor."

Hiding Income

151. In or about 2007, STERN deposited approximately \$873,700 in business income to personal accounts and failed to report that income to the IRS in his tax return.

152. In or about 2008, STERN deposited approximately \$326,487 in business income to personal accounts and failed to report that income to the IRS in

his tax return.

153. In or about 2009, STERN negotiated at check cashers approximately \$200,213 in checks to the Stern law firm and failed to report that income to the IRS in his tax return.

154. In or about 2010, STERN negotiated at check cashers approximately \$24,294 in checks to the Stern law firm and failed to report that income to the IRS in his tax return.

155. On or about May 6, 2013, STERN negotiated at a check casher a check for \$26,585 in attorney's fees received from a collection agency and failed to report that income to the IRS in his tax return.

STERN Form 1040 Tax Returns

156. On or about October 12, 2012, STERN caused a false 2011 Form 1040 tax return to be filed with the IRS that falsely reported as expenses kickback payments, which he falsely disguised as "referral fees" and "medical expenses."

157. On or about June 27, 2013, STERN caused a false 2012 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments and a personal loan as "referral fee expenses" and an alleged "advertising expense" of \$30,000.

158. On or about August 14, 2014, STERN caused a false 2013 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments and a personal loan as "referral fee expenses," and failed to report business checks that

were cashed at a check casher.

159. On or about October 14, 2015, STERN caused a false 2014 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments as “referral fee expenses.”

160. On or about July 19, 2016, STERN caused a false 2015 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments as “referral fee expenses.”

Obstruction and Concealment

161. In or about 2016, after learning of the federal grand jury investigation, STERN instructed Morris not to cooperate in the investigation. In addition, STERN told Morris that, in order to communicate with STERN, Morris was to obtain a prepaid cell phone not registered in Morris’ name and to regularly replace the phone and erase any text conversations with STERN. Morris did so, but on occasion continued to use his personal cell phone to communicate with individuals at the STERN law firm.

162. In or about 2016, after learning of the federal grand jury investigation but prior to Esquivel receiving a grand jury subpoena, STERN called Esquivel and asked Esquivel to meet him outside of STERN’s office. During the meeting, STERN noted that federal agents had been questioning members of STERN’s staff

about Esquivel, and STERN asked Esquivel if agents had contacted him. Esquivel confirmed that they had not. STERN asked Esquivel to destroy any records Esquivel had related to their business transactions involving the kickback scheme.

163. In or about October of 2016, shortly after agents served a federal grand jury subpoena on Esquivel, Esquivel called STERN and informed him that most of the records sought by the subpoena involved STERN. STERN ordered Esquivel to destroy all records, paper or computer, reflecting Esquivel's referral of clients to STERN and the kickback scheme. As ordered, Esquivel burned his records, but he retained an electronic copy of some of his kickback ledgers.

164. In or about November of 2016, Esquivel met with STERN about the federal grand jury subpoena. STERN confirmed that Esquivel had destroyed his kickback and business documents. Esquivel told STERN that he would not cooperate in the investigation, and STERN promised to take care of Esquivel's family if Esquivel were convicted.

165. In or about August of 2017, STERN ordered a meeting with Attorney 1 and Morris at STERN's office. At the meeting, STERN collected Attorney 1's and Morris' cell phones, and, once the phones were removed from the room, demanded to know whether Attorney 1 was cooperating with law enforcement. When Attorney 1 denied cooperating, STERN promised to give more money to

Attorney 1, to pay Attorney 1's falsely inflated tax liability.

166. In or about September of 2017, STERN offered Attorney 1 concert tickets and football tickets.

167. In or about 2017, in a conversation with Morris, STERN discussed the federal criminal investigation and told Morris to shred records of Morris' dealings with STERN. Morris assured Stern that he would, but Morris retained some of his records.

168. On or about January 29, 2019, STERN ordered Morris to come to STERN's office immediately. When Morris arrived, STERN took possession of Morris' cell phone, and, once the phone was removed from the room, demanded to know if Morris had been speaking to federal agents and the substance of the conversation.

169. In or about July of 2019, STERN instructed Morris to come up with a false explanation for the checks STERN had issued in the names of Attorney 1, Attorney 2, and Attorney 3. STERN also instructed Morris to try to find compromising information on Attorney 1 that they could use against Attorney 1 if he were to cooperate in the investigation.

In violation of Title 18, United States Code, Section 371.

COUNT TWO
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

170. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 135, 137, 145, 157, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

171. On or about the date shown below, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did willfully make and subscribe a U.S. Individual Income Tax Return, IRS Form 1040, and related Schedules, for the calendar year set forth below and filed with the Internal Revenue Service on or about the date indicated below, which return contained and was verified by a written declaration that it was made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was substantially less; (b) reported that Other expenses, on Schedule C, Part

II, Line 27a of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, on Schedule C, Part II, Line 27a of Form 1040, was substantially less; (c) reported that Expenses, Advertising, on Schedule C, Part II, Line 8, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Expenses, Advertising, on Schedule C, Part II, Line 8, was substantially less; (d) reported that Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was substantially greater; and (e) reported that Total tax, on Form 1040, Line 61, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Form 1040, Line 61, was substantially greater:

Count	Calendar Year	Approximate Date of Filing	Other expenses, REFERRAL FEES, reported on Schedule C, Part V	Other expenses, reported on Schedule C, Part II, Line 27a	Expenses, Advertising, reported on Schedule C, Part II, Line 8	Net profit, reported on Schedule C, Line 31 and Business income, included on Form 1040, Line 12	Total tax, reported on Form 1040, Line 61
2	2012	June 27, 2013	\$2,333,421	\$11,528,470	\$999,371	\$3,212,038	\$1,192,095

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

COUNTS THREE AND FOUR
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

172. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 136, 139, 142, 146, 147, 155, 158, 159, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

173. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did willfully make and subscribe U.S. Individual Income Tax Returns, IRS Form 1040, and related Schedules, for the following calendar years set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by a written declaration that they were made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Gross receipts or sales, on Schedule C, Part I, Line 1, was the amount indicated below, whereas, as he then and there knew and believed,

the amount of Gross receipts or sales, on Schedule C, Part I, Line 1, was substantially more; (b) reported that Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was substantially less; (c) reported that Other expenses, on Schedule C, Part II, Line 27a of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, on Schedule C, Part II, Line 27a of Form 1040, was substantially less; (d) reported that Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was substantially greater; and (e) reported that Total tax, on Form 1040, Line 61 for calendar year 2013 or Line 63 for calendar year 2014, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Form 1040, Line 61 or Line 63, was substantially greater:

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales, reported on Schedule C, Part I, Line 1	Other expenses, REFERRAL FEES, reported on Schedule C, Part V	Other expenses, reported on Schedule C, Part II, Line 27a	Net profit, reported on Schedule C, Line 31 and Business income, included on Form 1040, Line 12	Total tax, reported on Form 1040, Line 61, for 2013, or Line 63 for 2014
3	2013	Aug. 14, 2014	\$28,040,866	\$4,140,839	\$14,184,817	\$2,318,006	\$163,986
4	2014	Oct. 14, 2015	\$30,786,327	\$4,854,433	\$15,326,095	\$2,375,685	\$1,057,563

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

COUNT FIVE

**(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))**

174. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 149, 150, 160, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

175. On or about the date shown below, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did willfully make and subscribe a U.S. Individual Income Tax Return, IRS Form 1040, and related Schedules, for the following calendar year set forth below and filed with the Internal Revenue Service on or about the date

indicated below, which return contained and was verified by a written declaration that it was made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses, REFERRAL FEES, on Schedule C, Part V of Form 1040, was substantially less; (b) reported that Other expenses on Schedule C, Part II, Line 27a of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Other expenses on Schedule C, Part II, Line 27a of Form 1040, was substantially less; (c) reported that Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Net profit, on Schedule C, Line 31, and Business income, on Form 1040, Line 12, was substantially greater; and (d) reported that Total tax, on Form 1040, Line 63, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Form 1040, Line 63, was substantially greater:

Count	Calendar Year	Approximate Date of Filing	Other expenses, REFERRAL FEES, reported on Schedule C, Part V	Other expenses, reported on Schedule C, Part II, Line 27a	Net profit, reported on Schedule C, Line 31 and Business income, included on Form 1040, Line 12	Total tax, reported on Form 1040, Line 63
5	2015	July 18, 2016	\$4,095,877	\$15,954,352	\$1,138,031	\$534,991

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

COUNTS SIX THROUGH ELEVEN
**(Aiding and Assisting in the Preparation and Presentation of False Tax Return—
 26 U.S.C. § 7206(2))**

176. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-116, 156-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

177. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did willfully aid and assist in, and procure, counsel, and advise, the preparation and presentation to the Internal Revenue Service, an agency of the United States Treasury Department, of U.S. Individual Income Tax Returns, Forms 1040, either individual or joint, and related Schedules, prepared in the name of

Attorney 1, for the following calendar years set forth below and filed with the Internal Revenue Service on or about the dates indicated below, and which Defendants knew to be false and fraudulent as to the following material matters:

(a) reported that Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was substantially less; (b) reported that Total expenses, on Schedule C, Line 28 of Form 1040, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total expenses, on Schedule C, Line 28 of Form 1040, was substantially less:

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales, reported on Schedule C, Part I, Line 1	Total expenses, reported on Schedule C, Part II, Line 28
6	2011	Nov. 4, 2016	\$503,374	\$339,310
7	2012	Nov. 7, 2016	\$745,648	\$533,097
8	2013	Nov. 11, 2016	\$1,707,545	\$1,357,471
9	2014	Nov. 11, 2016	\$1,974,217	\$1,593,445
10	2015	Nov. 11, 2016	\$2,287,196	\$1,864,379
11	2017	Aug. 24, 2018	\$1,644,090	\$1,576,859

In violation of Title 26, United States Code, Section 7206(2).

COUNTS TWELVE THROUGH FIFTEEN
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

178. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 55, 56, 137-150, 157-160 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

179. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

DEBORAH BRADLEY,

Defendant herein, did willfully make and subscribe U.S. Individual Income Tax Returns, IRS Form 1040, and related Schedules, for the following calendar years set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by a written declaration that they were made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was the amount indicated below, whereas, as she then and there knew and believed, the amount of Gross receipts or sales, on Schedule C, Line 1 of Form 1040, was substantially less; (b) reported that Contract labor, on Schedule C, Line

11 of Form 1040, was the amount indicated below, whereas, as she then and there knew and believed, the amount of Contract labor, on Schedule C, Line 11 of Form 1040, was substantially less.

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales, reported on Schedule C, Part I, Line 1	Contract labor, reported on Schedule C, Part II, Line 11
12	2012	Nov. 3, 2014	\$185,227	\$123,459
13	2013	Nov. 3, 2014	\$160,890	\$105,005
14	2014	Feb. 11, 2015	\$119,919	\$72,990
15	2015	Mar. 10, 2016	\$50,262	\$26,400

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

COUNTS SIXTEEN THROUGH EIGHTEEN
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

180. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 55, 56, 137-150, 157-160 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

181. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

LAMONT RATCLIFF,

Defendant herein, did willfully make and subscribe U.S. Corporation Income Tax Returns, IRS Form 1120, and related Schedules, for the following calendar years

set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by a written declaration that they were made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Gross receipts or sales, on Line 1a of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Gross receipts or sales, on Line 1a of Form 1120, was substantially more; (b) reported that Taxable income, on Line 30 of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Taxable income, on Line 30 of Form 1120, was substantially more; and, (c) reported that Total tax, on Line 31 of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Line 31 of Form 1120, was substantially more:

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales, reported on Form 1120, Line 1a	Taxable income, reported on Form 1120, Line 30	Total tax, reported on Form 1120, Line 31
16	2012	Aug. 26, 2013	\$717,801	\$13,690	\$2,054
17	2013	June 23, 2014	\$954,769	\$7,925	\$1,189
18	2014	June 17, 2015	\$1,004,035	\$29,295	\$4,394

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

COUNT NINETEEN
(Witness Tampering –
18 U.S.C. § 1512(b)(2)(B))

182. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 55, 56, 122-136, 156-158, 161-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

183. In or about October of 2016, in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did knowingly attempt to corruptly persuade Esquivel by meetings and demands with the intent to cause and induce Esquivel to destroy and conceal an object, Marcus Esquivel's kickback ledgers, with the intent to impair the object's integrity and availability for use in an official proceeding, a federal grand jury investigation in the Southern District of Texas.

In violation of 18 United States Code, Sections 1512(b)(2)(B) and 2.

COUNT TWENTY
(Witness Tampering –
18 U.S.C. § 1512(b)(2)(B))

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

of Count One, and paragraphs 46-121, 156-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

185. In or about 2016 in the Houston Division of the Southern District of Texas and elsewhere,

JEFFREY STERN,

Defendant herein, did knowingly attempt to corruptly persuade Morris by meetings and demands with the intent to cause and induce Morris to destroy and conceal an object, a copy of STERN's case and kickback ledger maintained by Morris, with the intent to impair the object's integrity and availability for use in an official proceeding, a federal grand jury investigation in the Southern District of Texas.

In violation of 18 United States Code, Sections 1512(b)(2)(B) and 2.

COUNT TWENTY-ONE
(Obstruction of Justice –
18 U.S.C. § 1503)

186. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Superseding Indictment, the Manner and Means section of Count One, and paragraphs 46-136, 156-169 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

187. From in or about 2016 through the date of the Superseding Indictment,

in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

JEFFREY STERN,

defendant herein, did corruptly endeavor to influence, obstruct and impede the due administration of justice in a federal grand jury investigation by the grand jury impaneled in the Houston Division of the Southern District of Texas (the "investigation") by holding meetings with Esquivel, Attorney 1, and Morris to pressure them not to cooperate in the investigation, and, in the process, offering things of value to Attorney 1 and Esquivel: among other items, giving Attorney 1 money to make payments on Attorney 1's taxes, and causing a fraudulent Offer in Compromise to be filed for Attorney 1 to lessen his tax burden.


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

A TRUE BILL:

Original Signature on file

RYAN K. PATRICK
UNITED STATES ATTORNEY

By:


Robert S. Johnson
Assistant United States Attorney

United States Courts
Southern District of Texas
FILED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

January 18, 2022

Nathan Ochsner, Clerk of Court

UNITED STATES OF AMERICA

v

**LAMONT RATCLIFF
RICHARD PLEZIA**

DEFENDANTS

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CRIMINAL NO. H-19-450-S3

THIRD SUPERSEDING INDICTMENT

INTRODUCTION

At all times material to this indictment:

1. Personal injury law is an area of legal specialization. Personal injury cases are civil lawsuits brought by plaintiffs seeking compensation for harm caused by a defendant's actions. Once a plaintiff establishes liability of a defendant, through either trial or settlement, the defendant, or commonly the defendant's insurance carrier, must pay the plaintiff for the injuries caused by the defendant's actions. The cost of a plaintiff's injuries often includes the plaintiff's medical bills. Normally, the defendant or the insurance carrier pays the plaintiff's attorney who then distributes the funds from a trust account (the "IOLTA account") to, among others, the plaintiff, the medical providers, and himself and other attorneys for the legal fee. Personal injury cases involving automobile accidents are potentially more lucrative if the accident involved a commercial vehicle (a "commercial case")



TRUE COPY I CERTIFY ATTEST:
NATHAN OCHSNER, Clerk of Court
By *Nathan Ochsner*
Deputy Clerk

rather than a personal vehicle because of differences in insurance coverage.

2. Barratry, commonly known as “ambulance chasing,” is the practice of illegally soliciting clients who may be in need of a lawyer. Generally, attorneys in Texas may not personally solicit employment with potential clients who have not invited the contact. *See* Texas Penal Code § 38.12(a)(2); Texas Disciplinary Rule of Professional Conduct 7.03(a). In Texas, barratry is both a crime and a violation of the ethics rules that govern the practice of law. Attorneys in Texas have been prosecuted for barratry, and the State Bar of Texas, the organization that issues and administers the rules governing the conduct of attorneys licensed to practice law in Texas, seeks to prevent barratry through attorney disciplinary actions, education, and outreach.

3. Attorneys who commit barratry often do so indirectly by paying a “case runner.” A “case runner” or “runner” is a non-attorney who collects an illegal fee (a kickback) for referring clients to attorneys. Under Texas law, it is illegal to pay non-attorneys, such as case runners, for client referrals. *See* Texas Penal Code § 38.12(a)(4). Such payments also violate the ethics rules of the State Bar of Texas. *See* Texas Disciplinary Rule of Professional Conduct 7.03(b). Under the ethics rules, attorneys are also not permitted to split their fees with non-attorneys. *See* Texas Disciplinary Rule of Professional Conduct 5.04(a). Under limited circumstances, an attorney may split a fee with a referring attorney. *See* Texas Disciplinary Rule of Professional Conduct 1.04(f).

4. The Internal Revenue Service (“IRS”) is an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States. Under these laws, individuals and corporations are required to accurately report income and deductions to the IRS on annual income tax returns in order for the IRS to carry out its lawful function to ascertain income; compute, assess and collect income taxes; and audit tax returns and records. Commonly used IRS forms include the following:

- Form 1040: individual tax return;
- Form 1120 or 1120S: corporate tax return;
- Form 656: application for an Offer in Compromise, an agreement between the taxpayer and the IRS that settles the taxpayer’s tax liabilities for less than the full amount owed;
- Form 1099: form disclosing Miscellaneous Income that is required to be sent to the IRS and the payee for payments above a certain amount made for contract labor;
- Form 4549: form containing Income Tax Examination Changes, which lists the IRS’s proposed changes to a tax return as a result of an IRS civil audit, including any penalties.

5. The federal tax code allows businesses to claim a tax deduction for “ordinary and necessary” expenses incurred in conducting the business. However,

no deduction is allowed for kickbacks or other payments that are illegal under state law if that state law is generally enforced. *See* 26 U.S.C. § 162(c). Under the tax code, “a kickback includes a payment in consideration of the referral of a client, patient, or customer.” *Id.* Illegal kickbacks made in a barratry scheme in violation of Texas law are not deductible business expenses.

6. Financial institutions, including banks, are required to file a Currency Transaction Report (“CTR”) with the federal government for cash transactions made by their clients above \$10,000.

7. Jeffrey Stern (“Stern”), who has been previously charged, was an attorney in Houston, Texas who practiced personal injury law. Stern’s law firm was known at various times as Stern, Miller & Higdon, Jeffrey M. Stern, Attorney at Law, or the Stern Law Group.

8. Frederick Morris (“Morris”), who has been previously charged, was a case runner in Houston.

9. Defendant LAMONT RATCLIFF (“RATCLIFF”) was a case runner and clinic owner in Houston.

10. Marcus Esquivel (“Esquivel”), who has been charged separately, was a case runner in Houston. Esquivel operated as Le Reve Advertising Consultants d/b/a American Risk Management Consultants, Belmark International Inc., Injurylawyerforme.com, Horizon Advertising, Resource Medical Consultant, and American Business Risk Management.

11. Deborah Bradley (“Bradley”), who has been previously charged and is now deceased, was an attorney in Houston who worked for the Stern law firm and practiced personal injury law.

12. Defendant RICHARD PLEZIA (“PLEZIA”) was an attorney in Houston who practiced personal injury law.

13. Company 1 was a healthcare clinic in Houston that provided treatment for accident victims and was owned and operated by Morris’ wife.

14. Company 2 was a healthcare clinic in Houston that provided treatment for accident victims. RATCLIFF controlled and was the majority owner of Company 2.

15. Attorney 1 was an attorney in Houston who practiced personal injury law.

16. Attorney 2 was an attorney in Houston who practiced criminal law.

17. Attorney 3 was an attorney in Houston who practiced criminal law.

COUNT ONE
(Conspiracy to Defraud the United States -
18 U.S.C. § 371)

A. INTRODUCTION

18. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment as if set out fully herein.

B. THE CONSPIRACY AND ITS OBJECTS

19. From in or about 2006, and continuing through on or about August 6, 2019, in the Houston Division of the Southern District of Texas and elsewhere, the Defendants,

**LAMONT RATCLIFF, and
RICHARD PLEZIA,**

did unlawfully, voluntarily, intentionally, and knowingly combine, conspire, confederate and agree together, with each other and with Jeffrey Stern, Frederick Morris, Deborah Bradley and others known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment and collection of revenue, to wit, individual and corporate income taxes.

C. PURPOSE OF THE CONSPIRACY

20. Stern and his coconspirators sought to enrich themselves by illegally recruiting clients through the payment and receipt of illegal kickbacks in order to generate personal injury cases and legal fees. They worked to conceal and disguise the illegal kickback payments from the IRS, and to hide their resulting income from the IRS, by filing false documents with the IRS, including tax returns, Forms 1099, and an Offer in Compromise, that falsely reported material information, including

amounts of income, expenses, and tax due and owing.

D. MANNER AND MEANS OF THE CONSPIRACY

It was a part of the conspiracy that:

The Scheme

21. For over ten years, Stern and his coconspirators have engaged in a criminal scheme to evade taxes and, in the process, hide the fact that they obtain their personal injury cases through barratry by paying illegal kickbacks to case runners.

22. As part of the scheme, Stern hid business income from his tax preparer and the IRS by depositing business income to personal accounts and by cashing business checks with check cashers and not transferring those funds to his business account. Stern only reported to his tax preparer and the IRS the income that was deposited into his business account.

23. In addition, Stern took improper deductions on his tax returns for his illegal kickback payments to case runners. Both hiding income and taking illegal deductions resulted in the filing of false tax documents that under-reported to the IRS tax that was due.

Kickbacks Disguised as Referral Fees

24. Stern paid kickbacks to runners Morris, RATCLIFF, Esquivel, healthcare clinic owners, and others in exchange for referrals of personal injury cases to Stern's law firm. Typically, the kickback was a flat fee paid up-front, with a

larger fee paid on commercial cases. In addition, Stern shared a percentage of his attorney's fee with some runners after the case settled.

25. Beginning in approximately 2006, Stern sought to disguise his illegal kickback payments to runners as legitimate referral fee payments to attorneys. Stern told Morris that if Morris wanted to continue to receive kickbacks, Morris would have to come up with the name of an attorney in whose name Stern could issue checks. In that way, Stern could hide the payments to Morris as seemingly legitimate referral fees paid to an attorney, and Stern could thereby deduct the illegal kickbacks on his tax returns as supposedly legitimate business expenses.

26. Morris suggested they use Attorney 1. Stern began paying kickbacks to Morris by writing checks payable in the name of Attorney 1, who agreed to allow Stern and Morris to use his name as the payee on the checks.

27. Later, Stern also started issuing checks in the names of Attorney 2 and Attorney 3 in order to pay kickbacks to Morris and others. Unlike Attorney 1, Attorney 2 and Attorney 3 knew nothing of the scheme and had not consented to their names being used in order to pay illegal kickbacks.

28. Morris took the checks from Stern that were made payable in the names of the three attorneys to check cashers where Morris cashed the checks, usually with forged endorsements. Morris kept a portion of the cash for himself and paid the rest to his sources who had referred cases to him for Stern, which Morris often did by leaving envelopes of cash with the check cashers for his sources to pick up.

29. Morris caused his illegally obtained funds to be deposited into bank accounts in a manner that was designed to avoid triggering bank CTR reporting requirements by making multiple cash deposits on the same or consecutive days at different bank branches in Houston below the \$10,000 threshold.

30. In 2008, 2009, and 2010, Stern issued no Forms 1099 to Attorney 1, Attorney 2, or Attorney 3 for the checks made out in their names, which would have notified Attorney 2 and Attorney 3 of the scheme and would have notified the IRS that all three attorneys had allegedly received income from Stern and potentially owed taxes on that income.

Scheme Modified in Response to IRS Civil Audits

31. Beginning in 2010, the IRS conducted a series of civil audits of Stern. On approximately May 17, 2010, the IRS notified Stern that he was being audited. Also in 2010, the IRS notified Stern's representative that Stern was hiding income in personal accounts and was failing to issue Forms 1099. In response, Stern paid penalties to forestall further IRS civil inquiry of his tax avoidance scheme, and he modified the scheme to work around the audit findings and further conceal it from the IRS.

32. The IRS assessed a civil fraud penalty on Stern for hiding business income in personal accounts. Stern agreed to and paid the fraud penalty. For a time, Stern stopped hiding income from the IRS, but later resumed.

33. The IRS assessed employment taxes for Stern failing to issue Forms

1099. Stern paid the taxes and ceased writing checks payable to Attorney 2 and Attorney 3, to whom he could not issue Forms 1099 since they were not aware of the scheme. Instead, Stern increased the number of checks he issued payable to Attorney 1, and he filed false Forms 1099 that falsely reported to the IRS that Stern had paid Attorney 1 for services. In fact, Morris and others had received most of the funds.

34. As a result of issuing false Forms 1099 to the IRS indicating payment to Attorney 1, Stern and Morris caused false tax returns to be prepared and filed for Attorney 1 that reported as income to Attorney 1 the illegal kickbacks Stern had paid to Morris and others. These returns also reported false expenses. Stern and Morris agreed to pay Attorney 1's falsely inflated taxes. Ultimately, to try to resolve Attorney 1's mounting tax debt, Stern and Morris caused a false Offer in Compromise to be prepared and filed with the IRS that continued to claim Attorney 1 owed taxes on the inflated income falsely reported in his prior returns.

35. At various times during the conspiracy, Stern provided funds to Attorney 1 to pay for his falsely inflated taxes. Occasionally, Stern issued checks to Attorney 1 that Attorney 1 deposited into his account. More often, Stern issued checks in the name of Attorney 1 or in another name, which Morris cashed at a check casher. Morris would then deliver the cash to Attorney 1.

Scheme Diversified

36. After the civil audits, Stern diversified the ways he paid kickbacks to his runners that would both satisfy the Form 1099 filing requirement and generate false deductible business expenses for Stern.

37. In 2011 and at other times, Stern issued checks payable to Company 1, Morris' wife's company, with a corresponding Form 1099, allegedly for healthcare services. In reality, those payments were illegal kickbacks to Morris and others. Morris cashed the checks at a check casher, paid a portion of the cash to himself, and paid the rest to his sources who had referred him cases for Stern. Stern caused a false 2011 tax return to be filed with the IRS that falsely deducted those checks to Company 1 as legitimate "healthcare expenses," when in reality they were illegal, non-deductible kickbacks. Similarly, Morris caused a false 2011 tax return to be filed for Company 1 that falsely reported the illegal kickbacks he received from STERN as legitimate income to Company 1, and offset that income with false expenses.

38. Stern also hid payments to Morris by issuing checks in the name of Stern law firm clients. In June of 2017, the IRS served a notice of lien on Stern, indicating any checks written by Stern to Attorney 1 would be subject to levy by the IRS in order to pay Attorney 1's overdue tax liability. While the lien was in place and at other times, Stern paid Morris and others kickbacks by writing checks in the name of Stern clients, which Morris would cash at a check casher and use the funds

to pay kickbacks owed to himself and others. Once Stern confirmed the lien was removed, he resumed paying kickbacks to Morris and others by issuing checks in the name of Attorney 1 that Morris would cash.

Kickback Payments Funneled to RATCLIFF

39. In 2010, after learning of the IRS civil audits, Stern began funneling kickbacks to a second case runner, defendant LAMONT RATCLIFF, through an intermediary attorney, Deborah Bradley. Stern issued checks payable to attorney Bradley with corresponding Forms 1099; Bradley deposited the checks; and, often on the same day and in the same amount, issued checks to RATCLIFF's company, Company 2. Bradley issued a Form 1099 at the end of each year reflecting her payments to Company 2. On his tax returns, Stern caused the kickback payments to be falsely classified as referral fees to an attorney and falsely deducted as business expenses. Bradley falsely reported the payments from Stern as income on her tax returns with corresponding false deductions for contract labor expenses.

40. RATCLIFF failed to pay taxes on a portion of the kickbacks from Stern, kickbacks from other attorneys, and other income Company 2 received. From approximately 2010 through 2014, RATCLIFF cashed checks representing Company 2 business income at check cashers and caused the income on Company 2's tax returns to be under-reported.

Kickback Payments Funneled to Esquivel

41. After learning of the IRS civil audits in 2010, Stern altered his method of paying kickbacks to a third runner, Marcus Esquivel. Before 2010, Stern paid illegal kickbacks to Esquivel in cash, and then later disguised his kickbacks to Esquivel as checks written for alleged payments for advertising, which he made to Esquivel's various business entities.

42. In 2010 during the audits, Esquivel and Stern suspended their barratry scheme. Esquivel began referring cases to defendant attorney RICHARD PLEZIA instead of Stern. PLEZIA, like Stern, paid Esquivel illegal kickbacks for case referrals. PLEZIA caused the filing of false tax returns that falsely reported the kickbacks as legitimate advertising expenses, which he falsely deducted as business expenses.

43. In 2011, Esquivel and Stern resumed their illegal kickback arrangement in a modified form. Because of the IRS civil audits, Stern now paid Esquivel through an intermediary attorney. Stern and Esquivel funneled the kickback payments through attorney PLEZIA. From approximately 2011 through 2013, Stern issued checks payable to PLEZIA's law firm with corresponding Forms 1099; PLEZIA deposited the checks to his business bank account; and, often on the same day and in the same amount, PLEZIA issued checks to one of Esquivel's companies. Stern caused false tax returns to be filed in which he falsely deducted those payments as referral fees to an attorney, when in reality they were illegal kickbacks to

Esquivel.

Obstruction and Cover-Up

44. On December 1, 2015, a federal grand jury began investigating and seeking evidence regarding Stern's activities. Once Stern learned of the federal grand jury investigation in 2016, he tried to obstruct the investigation and took steps to conceal the scheme. Stern ordered coconspirators to destroy subpoenaed documents. At meetings with coconspirators, he directed them not to cooperate in the investigation. He also caused additional false tax documents to be filed with the IRS on behalf of Attorney 1. He continued to make payments to the IRS on both Attorney 1's inflated and legitimate tax debt, in an attempt to keep the scheme from unraveling and being exposed to the IRS.

E. ACTS IN FURTHERANCE OF THE CONSPIRACY

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

Kickbacks— Stern /Attorneys 1, 2, 3/Morris

46. In or about 2006, Stern issued checks in the name of Attorney 1 in order to pay Morris and others illegal kickbacks for case referrals.

47. By at least December 31, 2008, Stern issued checks in the name of Attorney 2 in order to pay Morris and others illegal kickbacks for case referrals.

48. By at least December 22, 2009, Stern issued checks in the name of

Attorney 3 in order to pay Morris and others illegal kickbacks for case referrals.

49. During 2009, Stern issued checks payable to Attorney 1 totaling approximately \$7,500 in order to pay Morris and others illegal kickbacks for case referrals.

50. During 2009, Stern issued checks payable to Attorney 2 totaling approximately \$1,044,310 in order to pay Morris and others illegal kickbacks for case referrals.

51. During 2009, Stern issued checks payable to Attorney 3 totaling approximately \$19,800 in order to pay Morris and others illegal kickbacks for case referrals.

52. During 2010, Stern issued checks payable to Attorney 1 totaling approximately \$483,485 in order to pay Morris and others illegal kickbacks for case referrals.

53. During 2010, Stern issued checks payable to Attorney 2 totaling approximately \$378,240 in order to pay Morris and others illegal kickbacks for case referrals.

54. During 2010, Stern issued checks payable to Attorney 3 totaling approximately \$215,550 in order to pay Morris and others illegal kickbacks for case referrals.

Civil Audit Payments

55. On or about June 14, 2011, Stern signed IRS Form 4549, Income Tax Examination Changes, and consented to assessment and collection of \$1,111,937.72 by the IRS that included back taxes and interest and a fraud penalty of \$341,348.25 for his conduct of intentionally underreporting business receipts by depositing the amounts in his personal bank account.

56. On or about June 14, 2012, Stern agreed to pay withholding tax of \$49,866.82 for his misconduct of failing to issue Forms 1099 for tax year 2008. Stern agreed to pay additional withholding tax for his failure to issue Forms 1099 for tax years 2009 and 2010, which prevented the employment tax audit from being expanded to those tax years.

Stern/Morris Kickback Scheme Modified in Response to Audits

57. On or about May 27, 2010, shortly after having learned of the IRS civil audits on May 17, 2010, Stern caused the last alleged referral fee check to issue in the name of Attorney 3.

58. On or about December 16, 2010, Stern issued the last alleged referral fee check in the name of Attorney 2.

59. In or about 2012, Stern called a meeting with Morris and Attorney 1. Stern proposed that Attorney 1 falsely claim as income on Attorney 1's tax returns the supposed referral fees that had allegedly been paid to all three attorneys, but in reality had been paid as kickbacks to Morris and others.

60. Stern caused a false Form 1099 to be filed for \$456,771 in alleged referral fee payments made to Attorney 1 in 2011, which was received by the IRS on or before June 8, 2012.

61. Stern caused a false Form 1099 to be filed for \$613,654 in alleged referral fee payments made to Attorney 1 in 2012, which was received by the IRS on or before June 6, 2013.

62. Stern caused a false Form 1099 to be filed for \$1,539,451 in alleged referral fee payments made to Attorney 1 in 2013, which was received by the IRS on or before July 3, 2014.

63. On or about November 5, 2014, Stern issued a check to Attorney 1 for \$50,000 in partial payment of Attorney 1's falsely reported taxes due.

64. On or about November 7, 2014, Stern issued a check to Attorney 1 for \$35,000 in partial payment of Attorney 1's falsely reported taxes due.

65. On or about November 10, 2014, Stern and Morris caused Attorney 1 to file a false 2009 Form 1040 tax return with the IRS that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

66. On or about November 10, 2014, Stern and Morris caused Attorney 1 to file a false 2010 Form 1040 tax return with the IRS that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

67. On or about November 10, 2014, Attorney 1 made a \$15,000 payment to the IRS for taxes due, based on the false tax returns.

68. On or about November 10, 2014, Attorney 1 made a \$50,000 payment to the IRS for taxes due, based on the false tax returns.

69. On or about November 10, 2014, Attorney 1 made two separate \$10,000 payments to the IRS for taxes due, based on the false tax returns.

70. Stern caused a false Form 1099 to be filed for \$1,607,896 in alleged referral fee payments made to Attorney 1 in 2014, which was received by the IRS on or before June 12, 2015.

71. Stern caused a false Form 1099 to be filed for \$1,494,133 in alleged referral fee payments made to Attorney 1 in 2015, which was received by the IRS on or before June 16, 2016.

72. On or about February 24, 2015, Stern issued a check to Attorney 1 for \$20,125 in partial payment of Attorney 1's falsely reported taxes due.

73. On or about February 26, 2015, Stern issued a check to Attorney 1 for \$25,000 in partial payment of Attorney 1's falsely reported taxes due.

74. On or about February 26, 2015, Attorney 1 purchased a cashier's check for \$50,000 that was used to pay the IRS on or about March 2, 2015 for taxes due, based on the false tax returns.

75. From approximately 2006 to 2019, Stern maintained a ledger that tracked the illegal kickbacks he owed on certain cases. Stern provided to copy of

this ledger to Morris.

76. From in or about 2006 through in or about 2019, Morris delivered to Stern written requests for kickback checks that listed the kickbacks Stern owed to Morris and others by case name and case number.

77. In or about 2016, when Stern was out of town, Morris delivered in person, and sent by text message, requests for kickback checks to Stern's office manager. The requests listed the kickbacks Stern owed by case name and case number.

78. In or about 2016, in response to requests from Morris for kickback checks, Stern's office manager confirmed with Stern that the requested checks should issue.

79. In or about 2016, Morris texted Stern's office manager photos of accident scenes, accident victims, and wrecked cars related to clients Morris was recruiting for the Stern law firm.

80. On or about April 28, 2016, Morris texted Stern's office manager a written request for a kickback check for \$15,500 in order to pay kickbacks in six different Stern law firm cases that Morris listed by case name and number.

81. On or about April 28, 2016, Stern caused a kickback check to issue in the name of Attorney 1 for \$15,500, which Morris cashed at a check casher.

82. On or about May 25, 2016, Morris texted Stern's office manager a photo of a handwritten request for a kickback check for \$12,500 made out to

Attorney 1 in order to pay kickbacks in five different Stern law firm cases that Morris listed by case name and number.

83. On or about May 25, 2016, Stern caused a kickback check to issue in the name of Attorney 1 for \$12,500, which Morris cashed at a check casher.

84. On or about November 4, 2016, Stern and Morris caused Attorney 1 to file a false 2011 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

85. On or about November 7, 2016, Stern and Morris caused Attorney 1 to file a false 2012 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

86. On or about November 11, 2016, Stern and Morris caused Attorney 1 to file a false 2013 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

87. On or about November 11, 2016, Stern and Morris caused Attorney 1 to file a false 2014 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1 and reported false expenses.

88. On or about November 11, 2016, Stern and Morris caused Attorney 1 to file a false 2015 Form 1040 tax return that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

89. On or about December 1, 2016, Stern issued a check to Attorney 1 for \$50,000 in partial payment of Attorney 1's falsely reported taxes due, which

Attorney 1 deposited.

90. On or about December 1, 2016, Stern issued a check to Attorney 1 for \$10,000 in partial payment of Attorney 1's falsely reported taxes due, which Attorney 1 deposited.

91. On or about December 5, 2016, Attorney 1 made a \$60,000 payment to the IRS for taxes due, based on the false tax returns.

92. On or about March 15, 2017, Stern issued a check to Attorney 1 for \$84,542.67 in partial payment of Attorney 1's falsely reported taxes due, which Attorney 1 deposited.

93. On or about May 11, 2017, Attorney 1 made a \$75,000 payment to the IRS for taxes due, based on the false tax returns.

94. In or about June of 2017, Stern, Morris, and Attorney 1 met and agreed to file a false Offer in Compromise with the IRS to try to resolve Attorney 1's falsely reported tax debt.

95. Stern caused a false Form 1099 to be filed for \$1,351,636 in alleged referral fee payments made to Attorney 1 in 2016, which was received by the IRS on or before June 1, 2017.

96. On or about June 7, 2017, Stern issued a check to Attorney 1 for \$60,000 for partial payment of the Offer in Compromise, which Attorney 1 deposited on June 9, 2017.

97. On or about June 9, 2017, Attorney 1 wrote a \$54,000 check to the IRS

for partial payment of the Offer in Compromise, a copy of which was provided to a tax preparer, but was not sent to the IRS, which in the meantime had levied Attorney 1's account for the funds.

98. On or about June 9, 2017, Stern and Morris caused Attorney 1 to sign the Offer in Compromise with the IRS that reported Attorney 1 owed the taxes falsely reported in his prior returns.

99. On or about June 17, 2017, the IRS served a notice of lien on Stern in an effort to collect the outstanding taxes due that were falsely reported by Attorney 1's tax returns. As a result, to pay illegal kickbacks, Stern temporarily ceased issuing checks in the name of Attorney 1 and instead issued checks in the names of Stern law firm clients, which Morris cashed at a check casher.

100. After Stern confirmed the lien had been removed, he resumed paying Morris and others kickbacks by issuing checks in the name of Attorney 1, which Morris cashed at a check casher.

101. On or about June 30, 2017, in order to make a down payment on the Offer in Compromise, Stern signed a check for \$54,000 payable to Frost Bank and used the proceeds of that check to purchase a cashier's check for \$54,000 made payable to the IRS with the notation, "Re: [Attorney 1]."

102. On or about June 30, 2017, in order to pay the filing fee of the Offer in Compromise, Stern purchased a cashier's check for \$184.00 made payable to the IRS with the notation, "Re: [Attorney 1]."

103. On or about June 30, 2017, both cashier's checks were redeposited to the same Stern account from which the \$54,000 was withdrawn, with the endorsement, "Not used for purpose intended."

104. On or about June 30, 2017, to make a partial payment on the Offer in Compromise, Stern caused a check to issue in the name of a Stern law firm client for \$60,000, which was cashed at a check casher.

105. On or about July 7, 2017, Attorney 1 sent the Offer in Compromise to the IRS.

106. On or about July 7, 2017, Attorney 1 made a \$54,000 payment to the IRS in partial payment of the Offer in Compromise.

107. Stern caused a false Form 1099 to be filed for \$977,443 in alleged referral fee payments made to Attorney 1 in 2017, which was received by the IRS on or before July 19, 2018.

108. On or about August 3, 2018, in a recorded meeting, Attorney 1 provided Morris a purported demand letter that Attorney 1 had received from the IRS. The letter demanded payment of \$248,102.66 that Attorney 1 allegedly owed under the Offer in Compromise. Morris stated, "We're going to pay this, [Attorney 1]. We going to pay this. I told you." When Attorney 1 asked whether Stern would help pay, Morris stated "he going to kind of help me a little bit, you know what I'm trying to say, but mostly I'm going to be covering this right here." Morris added that Stern had paid him approximately \$1 million dollars in 2017. Morris told Attorney 1,

“because of what you done, everything you helped me, I’m not coming to you not asking you for one dime. . . . As soon as I get back, I’m going to - - I’m going to rap with Stern Monday or Tuesday and we’re going to work on this and we’re going to start working on getting this shit off of you.”

109. On or about August 16, 2018, Morris provided Attorney 1 a copy of a false 2017 Form 1040 tax return for Attorney 1 that Stern and Morris had caused to be prepared.

110. On or about August 17, 2018, in a recorded call, Attorney 1 stated, “I might need to put on something with you and Stern. This might - - this might be the last - - the last year we do, you know, Stern uses me to pay you, man. You know, because this stuff is just getting to be too much a headache, man.” Morris replied, “Yeah, yeah.” Attorney 1 stated, “You need to talk to him [Stern] about that, and see if you all can come up with another way.” Morris replied in part, “I will bring that up to him.”

111. On or about August 23, 2018, in a recorded call with Attorney 1, Morris confirmed that he filed Attorney 1’s 2017 tax return, stating, “Yeah, it’s all done. It’s a done deal. Yeah, we looking good. They’re going to be writing you a letter. As soon as you get that letter, you bring it to me, and then . . . they’re going to start the - - that Offer in Compromise.” Discussing payment of the taxes Attorney 1 owed, Morris stated, “And then I already talked with Stern. I just told him I’m about to come down with about \$50,000 or something like that, but, you know, we

ready.” Attorney 1 asked, “So you think Stern is going to come through this time?” Morris responded, “Yeah.”

112. On or about August 24, 2018, Stern and Morris caused a false 2017 Form 1040 tax return to be filed with the IRS on behalf of Attorney 1 that falsely reported income, which was earned by Morris and others, as income to Attorney 1, and reported false expenses.

113. On or about November 2, 2018, in a recorded meeting, Attorney 1 provided Morris with a purported demand letter from the IRS requiring payment of Attorney 1’s 2017 taxes due and owing in the amount of \$19,188.07. Morris made a copy of the letter, and drove directly to Stern’s office.

114. On or about November 6, 2018, to pay Attorney 1’s falsely reported taxes owed for 2017, Stern issued a check for \$30,000 payable to Attorney 1, which Morris cashed at the check casher on November 8, 2018.

115. Later that same day, on November 8, 2018, in a recorded meeting between Morris and Attorney 1 at Chase Bank in Houston, Morris provided Attorney 1 with \$20,000 in cash, which Attorney 1 used to buy a cashier’s check for \$19,483.07 made payable to the U.S. Treasury, which was received by the IRS on November 15, 2018.

116. Stern caused a false Form 1099 to be filed with the IRS that reported \$1,099,666 in alleged payments made to Attorney 1 in 2018, which was received by the IRS on or before April 22, 2019.

Kickbacks—Stern/Company 1/Morris

117. From on or about July 7, 2011, until on or about November 17, 2011, Stern issued a series of checks totaling \$308,450, among others, to Company 1 in payment of illegal kickbacks to Morris and others for case referrals. Morris cashed the checks at a check casher and kept a portion of the funds as his kickbacks earned and paid a portion of the money to his sources who had referred cases to him for STERN.

118. In or about 2011, Stern caused the \$308,450 in checks to Company 1 that were in reality kickbacks to Morris to be classified as a business expense, specifically, “Office Expense” in his business books and records.

119. In 2012, after meeting with his accountant who questioned the clearly incorrect classification, Stern changed the business’s books and records to report the \$308,450 in checks as “Medical Expense,” still a deductible expense for the business.

120. Stern caused a false Form 1099 to issue to Company 1 that included the \$308,450 in checks to Company 1, which was received by the IRS on or before June 8, 2012.

121. On or about September 21, 2012, Morris caused his wife to file a false 2011 Form 1120S tax return for Company 1 that falsely reported the \$308,450 in checks from Stern as income to Company 1 and that offset that false income by reporting false expenses of \$265,677, labeled as “outside services.”

Kickbacks—Stern/PLEZIA/Esquivel

122. Beginning in at least 2006, Stern paid Esquivel illegal kickbacks for case referrals in cash.

123. In or about 2007, Stern paid illegal kickbacks to Esquivel for case referrals by issuing checks payable to Esquivel's business entities.

124. In or about 2009, to pay Esquivel illegal kickbacks, Stern issued checks payable to American Business Risk Management, totaling approximately \$31,564.95.

125. In or about 2009, to pay Esquivel illegal kickbacks, Stern issued checks payable to Belmark International, totaling approximately \$40,000.

126. In or about 2009, to pay Esquivel illegal kickbacks, Stern issued checks payable to Horizon Advertising, totaling approximately \$49,781.

127. In or about 2009, to pay Esquivel illegal kickbacks, Stern issued checks payable to LaReve Advertising, totaling approximately \$38,500.

128. On or about May 6, 2009, to pay Esquivel illegal kickbacks, Stern issued checks payable to Resource Medical Consultant for approximately \$20,000.

129. On or about April 28, 2010, to pay Esquivel illegal kickbacks, Stern issued checks payable to American Business Risk Management for \$9,800.

130. In or about May of 2010, Esquivel temporarily stopped his barratry scheme with Stern and instead began referring cases to PLEZIA in exchange for illegal kickbacks.

131. From in or about 2010 to in or about 2013, Esquivel maintained ledgers that tracked the illegal kickbacks owed to him by Stern, PLEZIA, and others, for specific case referrals.

132. In or about 2011, Esquivel resumed the illegal kickback arrangement with Stern; however, Stern and Esquivel agreed that the kickbacks to Esquivel would now be concealed by funneling the payments through PLEZIA's account.

133. In or about 2011, PLEZIA funneled through his account approximately \$201,000 in illegal kickbacks from Stern to Esquivel.

134. On or about September 10, 2012, PLEZIA caused a false 2011 Form 1120S tax return to be filed with the IRS that falsely reported the illegal kickbacks he had paid to Esquivel for case running as deductible business expenses in the form of alleged advertising expenses.

135. In or about 2012, PLEZIA funneled through his account approximately \$163,000 in kickbacks from Stern to Esquivel.

136. In or about 2013, Stern paid Esquivel kickbacks through PLEZIA's account and provided Esquivel with a loan, which together totaled approximately \$143,000.

Kickbacks—Stern/Bradley/RATCLIFF

137. In or about 2012, Bradley funneled through her account approximately \$128,060 in illegal kickbacks from Stern to RATCLIFF.

138. In or about 2012, RATCLIFF negotiated at a check casher checks

payable to Company 2 from Bradley and others.

139. In or about 2013, Bradley funneled through her account approximately \$102,505 in kickbacks from Stern to RATCLIFF.

140. In or about 2013, RATCLIFF negotiated at a check casher checks payable to Company 2 from Bradley and others.

141. On or about August 26, 2013, RATCLIFF caused a false 2012 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

142. In or about 2014, Bradley funneled through her account approximately \$72,990 in kickbacks from Stern to RATCLIFF.

143. In or about 2014, RATCLIFF negotiated at a check casher checks payable to Company 2 from Bradley and others.

144. On or about June 23, 2014, RATCLIFF caused a false 2013 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

145. On or about November 3, 2014, Bradley caused a false 2012 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from Stern to RATCLIFF as income to her and offset that income with false expenses for "contract labor."

146. On or about November 3, 2014, Bradley caused a false 2013 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from

Stern to RATCLIFF as income to her and offset that income with false expenses for “contract labor.”

147. On or about February 11, 2015, Bradley caused a false 2014 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from Stern to RATCLIFF as income to her and offset that income with false expenses for “contract labor.”

148. On or about June 17, 2015, RATCLIFF caused a false 2014 Form 1120 tax return for Company 2 to be filed with the IRS that under-reported income to Company 2.

149. In or about 2015, Bradley funneled through her account approximately \$26,400 in kickbacks from Stern to RATCLIFF.

150. On or about March 10, 2016, Bradley caused a false 2015 Form 1040 tax return to be filed with the IRS that falsely reported the kickbacks from Stern to RATCLIFF as income to her and offset that income with false expenses for “contract labor.”

Hiding Income

151. In or about 2007, Stern deposited approximately \$873,700 in business income to personal accounts and failed to report that income to the IRS in his tax return.

152. In or about 2008, Stern deposited approximately \$326,487 in business income to personal accounts and failed to report that income to the IRS in his tax

return.

153. In or about 2009, Stern negotiated at check cashers approximately \$200,213 in checks to the Stern law firm and failed to report that income to the IRS in his tax return.

154. In or about 2010, Stern negotiated at check cashers approximately \$24,294 in checks to the Stern law firm and failed to report that income to the IRS in his tax return.

155. On or about May 6, 2013, Stern negotiated at a check casher a check for \$26,585 in attorney's fees received from a collection agency and failed to report that income to the IRS in his tax return.

Stern Form 1040 Tax Returns

156. On or about October 12, 2012, Stern caused a false 2011 Form 1040 tax return to be filed with the IRS that falsely reported as expenses kickback payments, which he falsely disguised as "referral fees" and "medical expenses."

157. On or about June 27, 2013, Stern caused a false 2012 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments and a personal loan as "referral fee expenses" and an alleged "advertising expense" of \$30,000.

158. On or about August 14, 2014, Stern caused a false 2013 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments and a personal loan as "referral fee expenses," and failed to report business checks that were cashed

at a check casher.

159. On or about October 14, 2015, Stern caused a false 2014 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments as “referral fee expenses.”

160. On or about July 19, 2016, Stern caused a false 2015 Form 1040 tax return to be filed with the IRS that falsely reported kickback payments as “referral fee expenses.”

Obstruction and Concealment

161. In or about 2016, after learning of the federal grand jury investigation, Stern instructed Morris not to cooperate in the investigation. In addition, Stern told Morris that, in order to communicate with Stern, Morris was to obtain a prepaid cell phone not registered in Morris’ name and to regularly replace the phone and erase any text conversations with Stern. Morris did so, but on occasion continued to use his personal cell phone to communicate with individuals at the Stern law firm.

162. In or about 2016, after learning of the federal grand jury investigation but prior to Esquivel receiving a grand jury subpoena, Stern called Esquivel and asked Esquivel to meet him outside of Stern’s office. During the meeting, Stern noted that federal agents had been questioning members of Stern’s staff about Esquivel, and Stern asked Esquivel if agents had contacted him. Esquivel

confirmed that they had not. Stern asked Esquivel to destroy any records Esquivel had related to their business transactions involving the kickback scheme.

163. In or about October of 2016, shortly after agents served a federal grand jury subpoena on Esquivel, Esquivel called Stern and informed him that most of the records sought by the subpoena involved Stern. Stern ordered Esquivel to destroy all records, paper or computer, reflecting Esquivel's referral of clients to Stern and the kickback scheme. As ordered, Esquivel burned his records, but he retained an electronic copy of some of his kickback ledgers.

164. In or about November of 2016, Esquivel met with Stern about the federal grand jury subpoena. Stern confirmed that Esquivel had destroyed his kickback and business documents. Esquivel told Stern that he would not cooperate in the investigation, and Stern promised to take care of Esquivel's family if Esquivel were convicted.

165. In or about August of 2017, Stern ordered a meeting with Attorney 1 and Morris at Stern's office. At the meeting, Stern collected Attorney 1's and Morris' cell phones, and, once the phones were removed from the room, demanded to know whether Attorney 1 was cooperating with law enforcement. When Attorney 1 denied cooperating, Stern promised to give more money to Attorney 1, to pay Attorney 1's falsely inflated tax liability.

166. In or about September of 2017, Stern offered Attorney 1 concert tickets and football tickets.

167. In or about 2017, in a conversation with Morris, Stern discussed the federal criminal investigation and told Morris to shred records of Morris' dealings with Stern. Morris assured Stern that he would, but Morris retained some of his records.

168. On or about January 29, 2019, Stern ordered Morris to come to Stern's office immediately. When Morris arrived, Stern took possession of Morris' cell phone, and, once the phone was removed from the room, demanded to know if Morris had been speaking to federal agents and the substance of the conversation.

169. In or about July of 2019, Stern instructed Morris to come up with a false explanation for the checks Stern had issued in the names of Attorney 1, Attorney 2, and Attorney 3. Stern also instructed Morris to try to find compromising information on Attorney 1 that they could use against Attorney 1 if he were to cooperate in the investigation.

In violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH FOUR
(Willfully Filing False Tax Return –
26 U.S.C. § 7206(1))

170. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment, the Manner and Means section of Count One, and paragraphs 55, 56, 137-150, 157-160 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

171. On or about the dates shown below, in the Houston Division of the Southern District of Texas and elsewhere,

LAMONT RATCLIFF,

Defendant herein, did willfully make and subscribe U.S. Corporation Income Tax Returns, IRS Form 1120, and related Schedules, for the following calendar years set forth below and filed with the Internal Revenue Service on or about the dates indicated below, which returns contained and were verified by a written declaration that they were made under the penalties of perjury, and which Defendant did not believe to be true and correct as to every material matter in that Defendant: (a) reported that Gross receipts or sales, on Line 1a of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Gross receipts or sales, on Line 1a of Form 1120, was substantially more; (b)

reported that Taxable income, on Line 30 of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Taxable income, on Line 30 of Form 1120, was substantially more; and, (c) reported that Total tax, on Line 31 of Form 1120, was the amount indicated below, whereas, as he then and there knew and believed, the amount of Total tax, on Line 31 of Form 1120, was substantially more:

Count	Calendar Year	Approximate Date of Filing	Gross receipts or sales, reported on Form 1120, Line 1a	Taxable income, reported on Form 1120, Line 30	Total tax, reported on Form 1120, Line 31
2	2012	Aug. 26, 2013	\$717,801	\$13,690	\$2,054
3	2013	June 23, 2014	\$954,769	\$7,925	\$1,189
4	2014	June 17, 2015	\$1,004,035	\$29,295	\$4,394

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

COUNT FIVE
(False Statement –
18 U.S.C. § 1001(a)(2))

172. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment, paragraph 42 of the Manner and Means section of Count One, and paragraphs 130 and 131 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

173. On or about December 7, 2016, in the Southern District of Texas, defendant,

RICHARD PLEZIA,

did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, by stating to Internal Revenue Service—Criminal Investigation Special Agents during an interview in Houston, Texas that he had never paid Marcus Esquivel for a specific case referral. The statement and representation was false because, as RICHARD PLEZIA then and there knew, he had on multiple occasions paid Marcus Esquivel through Esquivel's companies for referral of specific personal injury cases.

In violation of Title 18, United States Code, Section 1001(a)(2).

COUNT SIX
(False Statement –
18 U.S.C. § 1001(a)(2))

174. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment, paragraphs 41-43 of the Manner and Means section of Count One, and paragraphs 122-136 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

175. On or about September 28, 2018, in the Southern District of Texas, defendant,

RICHARD PLEZIA,

did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, by stating to Internal Revenue Service—Criminal Investigation Special Agents during an interview in Houston, Texas that PLEZIA had a deal with Jeffrey Stern and Marcus Esquivel, through Esquivel’s company Bel Mark International (Bel Mark), in which Stern would pay up-front expenses related to developing a tort case involving a benzene release at a British Petroleum (BP) refinery near Houston, Texas (the BP benzene case), in return for Stern receiving a percentage of any eventual settlement obtained by the case. PLEZIA further stated that a series of payments made from his account to Bel Mark were payments to Bel Mark for expenses incurred on the BP benzene case. PLEZIA further stated that a corresponding series of deposits to PLEZIA’s account from the Stern law firm were funds PLEZIA received for payment to Bel Mark for its expenses on the BP benzene case. These statements and representations were false because, as RICHARD PLEZIA then and there knew, he had no agreement with Stern and Esquivel for Stern to help finance Bel Mark’s work on the BP benzene case, and for Stern to do so by funneling payments to Bel Mark through PLEZIA’s account. Furthermore, as RICHARD PLEZIA then and there knew, the payments

from Stern through his account to Bel Mark were not related to the BP benzene case.

In violation of Title 18, United States Code, Section 1001(a)(2).

COUNT SEVEN
(Falsification of Records –
18 U.S.C. § 1519)

176. The Grand Jury adopts, realleges, and incorporates herein the Introduction section of the Indictment, paragraphs 41-43 of the Manner and Means section of Count One, and paragraphs 122-136 of the Acts in Furtherance of the Conspiracy section of Count One as if set out fully herein.

177. On or about September 28, 2018, in the Southern District of Texas, defendant,

RICHARD PLEZIA,

did knowingly falsify a document, specifically a purported August 24, 2010, proposal letter from PLEZIA to Jeffrey Stern related to a fee splitting and cost sharing arrangement on the BP benzene cases, with the intent to impede, obstruct, and influence the investigation and proper administration of a federal criminal investigation, a matter that the defendant knew and contemplated was within the jurisdiction of the Internal Revenue Service—Criminal Investigation, an agency of the United States.

In violation of Title 18, United States Code, Section 1519.

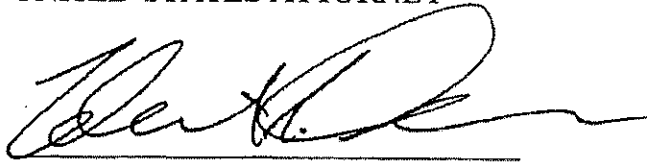
A TRUE BILL:

Original Signature on file

~~FOREPERSON OF THE GRAND JURY~~

JENNIFER B. LOWERY
UNITED STATES ATTORNEY

By:



Robert S. Johnson
Assistant United States Attorney

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS Holding Session in Houston

ENTERED

October 04, 2023

Nathan Ochsner, Clerk

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

RICHARD PLEZIA

CASE NUMBER: 4:19CR00450-005

USM NUMBER: 99027-479

Christopher L. Tritico

Brent Evan Newton

Defendant's Attorneys

THE DEFENDANT:

- pleaded guilty to count(s)
pleaded nolo contendere to count(s) which was accepted by the court.
was found guilty on count(s) 1SS, 5SS, 6SS and 7SS on February 2, 2023, after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Rows include 18 U.S.C. § 371, 18 U.S.C. § 1001(a)(2), and 18 U.S.C. § 1519.

See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 6 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) 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.

September 14, 2023

Date of Imposition of Judgment

Handwritten signature of Lee H. Rosenthal

Signature of Judge

LEE H. ROSENTHAL UNITED STATES DISTRICT JUDGE

Name and Title of Judge

October 4, 2023

Date

TRUE COPY I CERTIFY ATTEST: NATHAN OCHSNER, Clerk of Court By Deputy Clerk



DEFENDANT: **RICHARD PLEZIA**
CASE NUMBER: **4:19CR00450-005**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 6 months and 1 day.

This term consists of SIX (6) MONTHS and ONE (1) DAY as to each of Counts 1SS, 5SS, 6SS and 7SS, to run concurrently, for a total of SIX (6) MONTHS and ONE (1) DAY.

- See Additional Imprisonment Terms.
- The court makes the following recommendations to the Bureau of Prisons:
The defendant be designated to a facility in or near El Reno, Oklahoma.
- 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 _____ 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 1/19/2024
 - 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

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS Holding Session in Houston

ENTERED

October 04, 2023

Nathan Ochsner, Clerk

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

RICHARD PLEZIA

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Date of Imposition of Judgment

Handwritten signature of Lee H. Rosenthal

Signature of Judge

LEE H. ROSENTHAL UNITED STATES DISTRICT JUDGE

Name and Title of Judge

October 4, 2023

Date

TRUE COPY I CERTIFY ATTEST: NATHAN OCHSNER, Clerk of Court By Deputy Clerk

DEFENDANT: **RICHARD PLEZIA**
CASE NUMBER: **4:19CR00450-005**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 6 months and 1 day.

This term consists of SIX (6) MONTHS and ONE (1) DAY as to each of Counts 1SS, 5SS, 6SS and 7SS, to run concurrently, for a total of SIX (6) MONTHS and ONE (1) DAY.

- See Additional Imprisonment Terms.
- The court makes the following recommendations to the Bureau of Prisons:
The defendant be designated to a facility in or near El Reno, Oklahoma.
- 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 _____ 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 1/19/2024
 - 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: **RICHARD PLEZIA**
CASE NUMBER: **4:19CR00450-005**

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 2 years.
This term consists of TWO (2) YEARS as to each of Counts 1SS, 5SS, 6SS and 7SS, to run concurrently, for a total of TWO (2) YEARS.

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 the location where 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 other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- See Special 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.
14. If restitution is ordered, the defendant must make restitution as ordered by the Judge and in accordance with the applicable provisions of 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663A and/or 3664. The defendant must also pay the assessment imposed in accordance with 18 U.S.C. § 3013.
15. The defendant must notify the U.S. Probation Office of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

DEFENDANT: **RICHARD PLEZIA**
CASE NUMBER: **4:19CR00450-005**

SPECIAL CONDITIONS OF SUPERVISION

You will be monitored by the form of location monitoring technology indicated below for a period of SIX (6) months, and you must follow the rules and regulations of the location monitoring program. You must pay the costs of the program, if financially able.

- Location monitoring technology at the discretion of the probation officer. (The court emphasized the least restrictive monitoring possible.)
- Radio Frequency (RF) Monitoring
- GPS Monitoring (including hybrid GPS)
- Voice Recognition.

This form of location monitoring technology will be used to monitor the following restriction on your movement in the community:

- Curfew:** You are restricted to your residence every day from to .
- Home Detention:** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as preapproved by the officer.
- Home Incarceration:** You are restricted to your residence at all times except for medical necessities and court appearances or other activities specifically approved by the Court.
- You must comply with the following condition(s):

You must complete 200 hours of community service at a facility or organization that works with special needs children. The probation officer will supervise the participation in the program by approving the program (agency, location, frequency of participation, etc.). You must provide written verification of completed hours to the probation officer.

DEFENDANT: **RICHARD PLEZIA**
 CASE NUMBER: **4:19CR00450-005**

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment¹</u>	<u>JVTA Assessment²</u>
TOTALS	\$400.00	\$	\$5,000	\$	\$

A \$100 special assessment is ordered as to each of Counts 1SS, 5SS, 6SS and 7SS, for a total of \$400.

- See Additional Terms for Criminal Monetary Penalties.
- The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

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

<u>Name of Payee</u>	<u>Total Loss³</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
	\$	\$	
<input type="checkbox"/> See Additional Restitution Payees.			
TOTALS	\$	\$	

- Restitution amount ordered pursuant to plea agreement \$_____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:
- Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

¹ Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
² Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
³ 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: **RICHARD PLEZIA**
CASE NUMBER: **4:19CR00450-005**

SCHEDULE OF PAYMENTS

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

- A Lump sum payment of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after the date of this judgment; or
- D Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
Payable to: Clerk, U.S. District Court
Attn: Finance
P.O. Box 61010
Houston, TX 77208

No payment is ordered/required while in custody. Any balance remaining after release from imprisonment shall be paid in monthly installments of \$300. to commence 60 days after release to a term of supervision.

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

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

- Joint and Several

Case Number

Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
--	---------------------	-------------------------------------	--

- See Additional Defendants and Co-Defendants Held Joint and Several.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

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.

AFFIDAVIT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

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

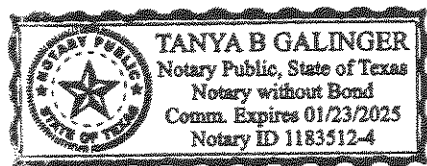
Based upon information and belief, Richard J. Plezia, whose Texas Bar Card Number is 16072800, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief, Richard J. Plezia, named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Richard Plezia who is the subject of the Judgment in a Criminal Case entered in Cause No. 4:19-cr-00450-S5, styled *United States of America v. Richard Plezia*, in the United States District Court Southern District of Texas, Houston Division, wherein Respondent was found guilty of Count 1SS – Conspiracy to defraud the United States in violation of 18 U.S.C. § 371; Count 5SS – False Statement in violation of 18 U.S.C. § 1001(a)(2); Count 6SS – False Statement in violation of 18 U.S.C. § 1001(a)(2); and Count 7SS – Falsification of records in violation of 18 U.S.C. § 1519; on February 2, 2023. Respondent was ordered to be committed to the custody of the Federal Bureau of Prisons for a term of six months and one day with the term consisting of six (6) months and one (1) day as to each of Counts 1SS, 5SS, 6SS, and 7SS, to run concurrently, for a total term of six (6) months and one (1) day. Upon release from imprisonment, Respondent will be on supervised release for a term of 2 years. Respondent was further ordered to pay an assessment in the amount of \$400.00 and a fine in the amount of \$5,000."

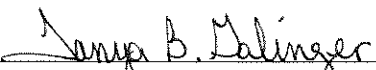
FURTHER Affiant saith not.



Richard Huntpalmer

SWORN AND SUBSCRIBED before me on the 26th day of February, 2024.





NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

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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 him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

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

(6¹) 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.