

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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| UNITED STATES OF AMERICA | : | Criminal No. 10-245 |
|                          | : |                     |
|                          | : |                     |
| v.                       | : | November 19, 2010   |
|                          | : |                     |
|                          | : |                     |
| STEPHANIE A. McCLOSKEY,  | : |                     |
|                          | : |                     |
| Defendant                | : | 10:35 a.m.          |
| .....                    | : | .....               |

TRANSCRIPT OF PLEA HEARING  
BEFORE THE HONORABLE PAUL L. FRIEDMAN  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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| For the United States: | SHERRI L. SCHORNSTEIN, AUSA<br>UNITED STATES ATTORNEY'S OFFICE<br>555 Fourth Street, NW<br>Washington, D.C. 20530 |
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| For the Defendant: | JAY ANDREW HEBERT<br>HEBERT LAW GROUP<br>5250 Ulmerton Road<br>Clearwater, FL 33760<br>(727) 573-2622 |
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| Court Reporter: | REBECCA STONESTREET, RPR, CRR<br>Official Court Reporter<br>Room 6511, U.S. Courthouse<br>Washington, D.C. 20001<br>(202) 354-3249 |
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Proceedings reported by machine shorthand, transcript produced  
by computer-aided transcription

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**P R O C E E D I N G S**

COURTROOM CLERK: This is criminal 10-245,  
United States of America versus Stephanie A. McCloskey. For the  
government, Ms. Schornstein; for the defendant, Mr. Hebert.

THE COURT: Good morning, everyone.

MS. SCHORNSTEIN: Good morning, Your Honor.

THE COURT: I understand we're here for a plea. Is  
there anything that anybody needs to say or put on the record  
before we go ahead?

MS. SCHORNSTEIN: Not from the government, Your Honor.

MR. HEBERT: Judge, there was one housekeeping matter.  
We had filed kind of a joint stipulation motion to change her  
address with the court --

THE COURT: I think I've taken care of that.

MR. HEBERT: Okay. We just wanted to make sure.

THE COURT: I signed an order. It was filed yesterday,  
so you probably haven't seen it yet. Are you on ECF?

MR. HEBERT: Yes, sir, we are. We were en route  
yesterday.

THE COURT: En route. So, yes, actually, I signed it  
the 17th, but it was filed the 18th granting her permission to  
move to the new address in Clearwater. And I just signed the  
proposed order that you...

MR. HEBERT: Thank you, sir. She was living in  
Mr. Wren, the co-defendant's, residence. We felt it was best

1 for her to move out, in an abundance of caution.

2 THE COURT: Yeah, I think that's good.

3 So if she's ready, why don't you-all come up and we'll  
4 proceed.

5 Good morning, Ms. McCloskey.

6 THE DEFENDANT: Good morning.

7 THE COURT: So why don't you stand in front of the  
8 microphone, Ms. McCloskey, and pull the microphone a little  
9 closer to you, if you want. And don't be nervous.

10 THE DEFENDANT: Okay.

11 THE COURT: I'm going to ask you some questions and you  
12 need to speak up so the court reporter can hear you. The  
13 purpose for these questions is to make sure that you understand  
14 your rights, and to make sure that the plea is voluntary. So if  
15 you don't understand anything that I ask you, please tell me and  
16 I'll try to explain myself. Okay?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And if you've got any questions for me, ask  
19 them. All right?

20 THE DEFENDANT: (Nodding.)

21 THE COURT: Now, if you have any questions for  
22 Mr. Hebert or if you want to stop at any time and go sit down  
23 and talk further privately with him, just tell me you want to  
24 talk to him privately. Okay?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Now I'm going to ask Ms. Moon to  
2 swear you in, so you're going to be under oath while you answer  
3 these questions.

4 THE DEFENDANT: Yes, sir.

5 (Oath administered by Courtroom Deputy.)

6 THE COURT: You're under oath, Ms. McCloskey. You need  
7 to answer these questions truthfully. If for any reason you  
8 didn't answer them truthfully, you could be prosecuted for  
9 perjury or making a false statement. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Mr. Hebert, do you have any question about  
12 Ms. McCloskey's competence to understand these proceedings and  
13 to enter a knowing, intelligent, and voluntary plea?

14 MR. HEBERT: None whatsoever, Your Honor.

15 THE COURT: Ms. Schornstein?

16 MS. SCHORNSTEIN: No, Your Honor.

17 THE COURT: I find that you're fully capable and  
18 competent of entering an informed plea, Ms. McCloskey.

19 Are you all right?

20 THE DEFENDANT: Yes. I'm sorry.

21 THE COURT: That's okay. I mean, this is -- you have  
22 reason to be nervous. This is a very important day. I'm sure  
23 you've thought long and hard about this --

24 THE DEFENDANT: Yes, sir.

25 THE COURT: -- and you've talked with Mr. Hebert about

1 it. But standing up here in court and actually going forward  
2 and pleading guilty to a serious felony is a big deal, and it's  
3 a big decision. So if you're emotional, we understand.

4 THE DEFENDANT: Thank you.

5 THE COURT: And if you want to stop, really, you want a  
6 glass of water, you want to stop, sit down, calm down a little  
7 bit, just tell me.

8 THE DEFENDANT: Okay. Thank you.

9 THE COURT: So Ms. McCloskey, I understand that the  
10 plea that you have agreed to enter is a plea of guilty to the  
11 first count of this indictment, which is a charge of conspiracy  
12 under Title 18 of the United States Code, Section 371. Is that  
13 what you understand you're pleading to, conspiracy?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And have you had sufficient time and  
16 opportunity to discuss this case and to discuss this plea with  
17 your lawyer?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And are you fully satisfied with  
20 Mr. Hebert's representation --

21 THE DEFENDANT: Yes, sir.

22 THE COURT: -- of you? Okay.

23 Now, do you understand that under the Constitution and  
24 laws of the United States, you are entitled to a trial by jury  
25 on the charges contained in this indictment?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand that if there were a  
3 trial, you would be presumed to be innocent, and the prosecutors  
4 would have to prove you guilty beyond a reasonable doubt in  
5 order for you to be found guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand that if there were a  
8 trial, the prosecutors would have to bring witnesses to this  
9 courtroom and they would have to testify in court in your  
10 presence?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand that if there were a  
13 trial, your lawyer would have the right to cross-examine those  
14 witnesses and to object to evidence offered by the prosecutors,  
15 and to offer evidence in your defense on your behalf?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand that if there were a  
18 trial, you would have the right to testify, but you would also  
19 have the absolute right, under the Constitution, to remain  
20 silent and not to testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand that if you chose to  
23 remain silent, I would tell the members of the jury that they  
24 could draw no inference or suggestion of your guilt from the  
25 fact that you remained silent and didn't testify?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand that if I accept your  
3 plea of guilty, you will be giving up all of these rights, there  
4 will be no trial, and I will enter a judgment of guilty?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that if you plead guilty,  
7 you will also be giving up your right not to incriminate  
8 yourself, because you will have to acknowledge your guilt in  
9 order for me to accept your plea?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Are you all right?

12 THE DEFENDANT: (Nodding.) I'm sorry.

13 THE COURT: It's okay. Do you understand that this  
14 offense is a felony offense?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you want to take a break?

17 THE DEFENDANT: No, sir.

18 THE COURT: You're more than welcome to.

19 THE DEFENDANT: It's okay.

20 THE COURT: Do you understand that this felony is  
21 subject to a term of prison of up to five years?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand that because it's a  
24 felony, you will also be deprived of certain valuable civil  
25 rights?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: It may be that you would lose your right to  
3 vote, your right to serve on a jury, the right to hold public  
4 office, possibly certain government jobs, possibly certain  
5 private sector jobs, and the right to possess any kind of a  
6 firearm. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Ms. McCloskey, where were you born?

9 THE DEFENDANT: St. Pete, Florida.

10 THE COURT: Now that I've discussed your rights with  
11 you, do you have any question about those rights?

12 THE DEFENDANT: No, sir.

13 THE COURT: Any question about what you're giving up by  
14 pleading guilty?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you still want to plead guilty?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Now, this is a very lengthy indictment.  
19 It's 38 pages. Have you read it?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have you discussed it with Mr. Hebert?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I'm not going to read the entire Count One,  
24 which is the conspiracy count, but the conspiracy count alone is  
25 27 pages, and it involves conspiracy -- the underlying charges

1 are trafficking counterfeit goods or services, and mail fraud.  
2 And this is a conspiracy alleged in this indictment between you  
3 and Mr. Wren and others to commit offenses against the  
4 United States, and specifically the offenses of trafficking  
5 counterfeit goods or services, and mail fraud, and to enrich  
6 yourselves and to enrich the businesses that you operated.

7 Do you understand generally what the conspiracy charge  
8 is all about?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And you've read those 27 pages which lays  
11 out the alleged conspiracy?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has Mr. Hebert discussed with you the  
14 possible sentence you could receive if I accept your plea?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And has he told you that the maximum  
17 sentence under the statute for conspiracy is up to five years in  
18 prison?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has he told you that there could be a fine  
21 of \$250,000, a special assessment of \$100, a three-year term of  
22 supervised release after any prison term, an order of  
23 restitution, and an order of forfeiture?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Have you and Mr. Hebert also discussed the

1 United States Federal Sentencing Guidelines, and how they might  
2 apply in this case?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Hebert, can you briefly summarize the  
5 guidelines as you understand how they might apply?

6 MR. HEBERT: Yes, Judge. The base offense is a  
7 Level 8, and she scores a total offense level of 31. There's an  
8 acceptance of responsibility two-level reduction and a criminal  
9 history reduction of one point. The adjusted guidelines is  
10 28 points, which, Your Honor, does exceed the 60 months maximum  
11 by statute. The range is 78 to 97 months, per the stipulated  
12 range.

13 THE COURT: All right. Let me just ask -- I have two  
14 questions, and maybe Ms. Schornstein can help me out on this.  
15 The relevant guideline is 2(b)5.3, and like a lot of the  
16 guidelines involving money and enrichment, the amount of loss is  
17 an important piece of it.

18 So we start with an 8, and then there's a level 16  
19 added because of the infringement level and the amount of loss,  
20 I guess, really, over \$1 million. And then, under 2(b)5.3, the  
21 offense involving the risk -- involved the manufacturing and  
22 importation of infringing items. I understand that part. And  
23 then there's also the aggravating role because Ms. McCloskey was  
24 a manager or supervisor of a criminal activity that involved  
25 five or more participants. Then there's this part under

1 2(b)5.3(B)5 which says that you add two levels if the offense  
2 involved the conscious or reckless risk of serious bodily harm.  
3 Could you explain?

4 MS. SCHORNSTEIN: Yes, Your Honor. In fact,  
5 Your Honor, there's some explanation of that provided in  
6 Footnote Number Two of the plea agreement, which is on  
7 page three.

8 What this indicates, Your Honor, is that these were  
9 high tech electrical devices that were sold by VisionTech to  
10 other companies who either were engaged in the manufacture or  
11 were providing things to other manufacturers that went into  
12 things such as weapons systems, and other things like glucose  
13 monitor detectors and things that could impact the public health  
14 and safety.

15 So the things that are specifically identified in the  
16 footnote are that some of the counterfeit devices in this case  
17 were destined for military applications. One was the  
18 identification friend-foe system, which is in a missile, and  
19 this is a system that -- I'm sorry, it's an air controller for  
20 an airplane. And what it tells the pilot is whether an  
21 approaching aircraft is a friendly aircraft, meaning no action  
22 would be taken, or is a foe, meaning that they would likely  
23 engage with them. So if that system is compromised, you could  
24 get misreadings and it might misinterpret whether it's a  
25 friendly aircraft or not.

1           Some of these devices were also destined for the  
2 controllers in high speed trains, for which the representative  
3 of the buyer of that company informed Mr. Wren specifically that  
4 they were for a life-critical application, and counterfeit goods  
5 were used in fulfillment of that order.

6           Some of these devices were also destined for  
7 incorporation into handheld nuclear detection equipment. In  
8 addition, a number of shipments that were stopped at the U.S.  
9 borders by customs/border protection, shipments coming in that  
10 were determined to be in fact counterfeit goods, the shipments  
11 which were destined for VisionTech components contained not only  
12 counterfeit devices but devices that were further marked as  
13 military grade items.

14           In addition, the VisionTech website, the opening page  
15 displays a fighter jet plane, so the inference is that this is  
16 clearly a target market for VisionTech. There was a tape  
17 recording that played if you called the phone line for  
18 VisionTech, while you were placed on hold, and that tape  
19 recording stated that VisionTech specializes in military  
20 components.

21           And in addition to these specific things identified,  
22 these devices are used across numerous industries. Essentially,  
23 Your Honor, anything that has a power switch has an integrated  
24 circuit. And so they are used in the medical device industry,  
25 home electronics, computer applications, automotive,

1 infrastructure, aerospace, and military. And that, Your Honor,  
2 is the basis.

3 THE COURT: So that's the basis for that two-point  
4 addition under that particular...

5 MS. SCHORNSTEIN: Yes. And Your Honor, while we're  
6 talking about this, obviously Ms. McCloskey is entering this  
7 guilty plea very early in the proceedings, so we have not had an  
8 opportunity to trace the transactions - which number in the  
9 thousands in this case - to see whether we can identify if  
10 anyone was actually injured or killed. But there is a specific  
11 provision in this plea agreement that indicates that this plea  
12 agreement would not cover that; that if in fact we determine  
13 that there has been an injury or death, while it might not be  
14 something the District of Columbia has jurisdiction over, that  
15 this plea agreement would not bar prosecution for such an  
16 incident arising out of that.

17 THE COURT: Okay. Now, here's my next question, which  
18 is much simpler: Just limiting ourselves to this plea  
19 agreement, Mr. Hebert indicated that based on these guideline  
20 calculations, and assuming she has no prior criminal history --

21 MS. SCHORNSTEIN: That's our understanding.

22 THE COURT: -- that the guideline range would be 78 to  
23 97 months. But just so we're all clear, and particularly so  
24 Ms. McCloskey is clear, because it's a conspiracy charge, even  
25 though the guidelines would come out 78 to 97 months, it is

1 true, is it not, that the maximum sentence I could impose would  
2 be five years?

3 MS. SCHORNSTEIN: Yes, Your Honor. And that's the  
4 parties' intention here.

5 THE COURT: Okay. Good. Thank you.

6 Now, Mr. Hebert, is there anything you want to say or  
7 add or comment on with respect to anything Ms. Schornstein just  
8 said?

9 MR. HEBERT: No, I think that's very accurate, Judge.

10 THE COURT: Okay, Ms. McCloskey, if you would come back  
11 to the microphone. Now that I fully understand the guidelines,  
12 the important thing is whether you understand the guidelines.

13 So do you understand, based on what Mr. Hebert has said  
14 and the conversation I've just had with Ms. Schornstein, that  
15 under these federal sentencing guidelines, when we go through  
16 these calculations and add all of these additional things based  
17 on the amount of money involved and the risk of serious bodily  
18 injury and the number of manufacture and importation of  
19 infringing items and your role in this operation, that we wind  
20 up with an offense level that would likely lead to a guideline  
21 range of 78 to 97 months? Do you understand that?

22 THE DEFENDANT: Yes, sir, I do.

23 THE COURT: But because you've agreed, and the  
24 government has agreed to let you agree, to a plea to a  
25 conspiracy, the absolute maximum that Congress has said I can

1 impose for this charge and for the plea in this case is  
2 five years, or 60 months. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: So do you have any questions about anything  
5 we've discussed with respect to sentencing?

6 THE DEFENDANT: No, sir, I think my attorney has been  
7 very clear with me and very helpful.

8 THE COURT: Good. Thank you.

9 Do you understand that if I impose a sentence which  
10 involves a period of incarceration in prison -- and I know we'll  
11 talk about substantial assistance later, but in view of the  
12 seriousness of the offense here --

13 THE DEFENDANT: Yes, sir.

14 THE COURT: -- you should assume that you'll probably  
15 go to prison.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You should start with that assumption, and  
18 don't let anybody tell you otherwise. And ultimately, I'm the  
19 person that's going to sentence you.

20 THE DEFENDANT: Yes, sir, I have been every day telling  
21 myself that that's probably what's going to be the outcome.

22 THE COURT: It probably is.

23 THE DEFENDANT: Yes.

24 THE COURT: If you are sentenced to prison, there's no  
25 such thing as parole in federal court, in the federal prison

1 system. So whatever number of months or years you're sentenced  
2 to, that's what you would serve. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, the only caveat is that the Bureau of  
5 Prisons - not the Court, but the Bureau of Prisons - has the  
6 authority to grant anybody up to 47 days a year for good  
7 behavior while in prison. And one would assume that you would  
8 behave yourself, and would probably be a good candidate for  
9 that. But that's not for me to say, it's for the Bureau of  
10 Prisons to say. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If I were to impose a sentence that was  
13 illegal or unconstitutional, you would have the right to appeal  
14 that sentence. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Any questions about sentencing?

17 THE DEFENDANT: No, sir.

18 THE COURT: Let me show you four documents. The first  
19 one - it's only a page - it's the waiver of your right to a jury  
20 trial. Have you read that document and discussed it with  
21 Mr. Hebert?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And is that your signature at the bottom of  
24 it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: The second one is I think the plea  
2 agreement letter. And have you read the plea agreement letter  
3 and discussed it with Mr. Hebert?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And is that your signature on, I guess it's  
6 the last page?

7 MR. HEBERT: Page 11.

8 THE DEFENDANT: Yes, sir, it is.

9 THE COURT: Is the third document the consent order of  
10 forfeiture?

11 MR. HEBERT: The consent order of forfeiture, yes, sir.

12 THE COURT: This is a consent order of forfeiture.

13 Have you read that document and discussed it --

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And have you discussed it with Mr. Hebert?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And is that your signature on the last  
18 page?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And then finally there's this statement of  
21 offense. Have you read that document and discussed it with  
22 Mr. Hebert?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And is that your signature at the end?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Thank you.

2 Mr. Hebert, if you would, for the record, briefly  
3 describe the terms of the plea agreement.

4 MR. HEBERT: Yes, Judge. We entered into the plea  
5 agreement yesterday with Assistant U.S. Attorney Schornstein  
6 here in the District of Columbia. The plea offer was extended  
7 to October 15th and was then extended to yesterday's date. We  
8 agreed to plead guilty to one count of the indictment, which is  
9 Count One, a violation of Title 18 U.S. Code, Section 371,  
10 conspiracy. The conspiracy carries a cap of up to five years  
11 incarceration, a fine of \$250,000, a \$100 special assessment, a  
12 three-year term of supervised release. It also included an  
13 order of restitution, an order of forfeiture.

14 So the Court has a clear understanding of the  
15 forfeiture matter, in this particular case, what the government  
16 has done is taken Ms. McCloskey's salary over the period of time  
17 in the indictment, and we have agreed to a money judgment of  
18 \$166,141.23. That number represents her pay period during the  
19 course of the indictment, which is approximately \$40,000 a year.  
20 And that's a stipulation between the parties that that would be  
21 the appropriate number.

22 In the original indictment, the number was in excess of  
23 \$15 million, which represented the gross sales by VisionTech,  
24 and through negotiations with the U.S. Attorney's Office, we've  
25 come to the conclusion that the judgment would be the money that

1 she received in pay. As you can see, she was an office manager  
2 who made about \$40,000 while this business was going on.

3 THE COURT: Ms. Schornstein, anything you want to add  
4 with respect to the terms in the plea agreement?

5 MS. SCHORNSTEIN: Yes, Your Honor. This plea agreement  
6 does call for Ms. McCloskey to cooperate with the United States  
7 in this investigation and of any other matters that they may  
8 seek her cooperation in, and it has been explained to her that  
9 it's very important that she be truthful and candid and so  
10 forth.

11 And that at the appropriate time, prior to the  
12 sentencing in her particular case, the government - meaning  
13 myself - all things being equal, will present information to the  
14 departure committee at the U.S. Attorney's Office informing them  
15 of the nature and extent of her cooperation, and the value of  
16 that cooperation in terms of whether it amounts to what I've  
17 explained to her and her attorney is a term of art, substantial  
18 assistance in the prosecution of another person or persons. And  
19 based upon that, I will make a recommendation to the departure  
20 committee whether they should depart, and if -- whether we  
21 should seek a departure, and, if so, how many levels that should  
22 be.

23 And then, once the departure committee makes that  
24 determination, I will file as part of the sentencing memorandum  
25 in this case representations to this court as to how the

1 government calculates her guideline range, whether we agree or  
2 disagree with what the probation department has calculated it  
3 as, and then whether there should be a further reduction in her  
4 sentence based upon her cooperation.

5 And, of course, she knows that there was already a  
6 break, somewhat, because the statutory cap of 60 months is less  
7 than the bottom of the guideline range under the calculations.

8 THE COURT: So is it fair to assume, given the fact  
9 that the guidelines actually are so much higher than the  
10 statutory maximum, that if the government were convinced that  
11 she had provided substantial assistance, that in doing your  
12 recommendation as to how many levels to depart or how far to  
13 depart, while you would have the guidelines in mind, in order to  
14 actually give her the benefit of her cooperation, your  
15 recommendation would be below the 60 months, not just below the  
16 78 months?

17 MS. SCHORNSTEIN: Yes. It would be rather disingenuous  
18 to make her a promise that we would seek a departure if we were  
19 not planning that it would be below what we're starting with in  
20 the plea agreement.

21 And she also understands - and I know she's discussed  
22 this with her attorney, and I've also discussed it with her  
23 attorney and her in meetings that we've had - that of course  
24 it's up to Your Honor, and that the guidelines are no longer  
25 mandatory, that they're advisory, and so it's completely up to

1 the Court. If I make a recommendation that the Court depart  
2 from the guidelines, even if I recommend two levels, the Court  
3 could take it down as far as the Court deems appropriate based  
4 on the facts and circumstances and the nature and extent of her  
5 cooperation, and other factors the Court takes into  
6 consideration in sentencing.

7 THE COURT: Thanks, Ms. Schornstein.

8 Ms. McCloskey, you've heard what Mr. Hebert has said  
9 with respect to the terms of the plea agreement, and you've  
10 heard what Ms. Schornstein has just said. Do you have any  
11 questions about the terms of the plea agreement?

12 THE DEFENDANT: No, sir.

13 THE COURT: Is that what you've agreed to and what you  
14 understand the government has agreed to?

15 THE DEFENDANT: Yes, sir.

16 MR. HEBERT: I will tell the Court, Your Honor, that we  
17 have already had two trips here to the District and have met  
18 with the government and proffered significant information to the  
19 agents in this case. We continued that yesterday in a brief  
20 proffer, and we'll make her available at any time. There are a  
21 lot of computers that are involved that she had control over,  
22 and we'll be back up here to help them sort through their  
23 computer data to find any pieces of evidence they need in the  
24 other case.

25 THE COURT: Thank you, Mr. Hebert.

1 MR. HEBERT: Yes, sir.

2 THE COURT: One of the documents I showed you a couple  
3 of minutes ago is the statement of offense. It is longer than  
4 most, but this matter was more complicated than a lot of cases.  
5 It's 14 pages long. Have you read it carefully?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And you've indicated that you -- that is  
8 your signature on the last page?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Is everything in that document true and  
11 accurate?

12 MR. HEBERT: Judge, if I can address that, because I  
13 think I know where her hesitation is. We went over this  
14 yesterday. This is probably our 30th draft of this document.  
15 Ms. Schornstein and I have worked diligently to get this  
16 resolved.

17 What we have done, Judge, the preliminary pages, up to  
18 page five, is basically background information that mirrors the  
19 indictment. Then, on page five, we come to the defendants and  
20 their counterfeiting activity paragraph. In essence, that  
21 series of paragraphs talks about what the government would prove  
22 in the case against Ms. McCloskey and what they would prove in  
23 the case against Mr. Wren. Ms. McCloskey has some difficulty  
24 with some of those words -- some of the wording in those  
25 paragraphs. The government has acknowledged that that's what

1 they would intend to prove.

2 So what we did in drafting more specifically the  
3 factual basis was in the manners and means, which is on  
4 page seven, and we go into great detail about the very specific  
5 information that Ms. McCloskey would testify to and would agree  
6 is factually correct.

7 It also contains within that series of paragraphs, in  
8 the overt acts, the willful blindness provisions that the  
9 government has allowed us to enter into on behalf of  
10 Ms. McCloskey. She was a 10-year employee of this company, in  
11 essence was the office manager of a very small - about 10  
12 employees - company in Clearwater. They imported microchips.  
13 And she has no formal training, no formal education - she has a  
14 high school degree - no background in engineering. And we've  
15 included some of those facts in these particular documents for  
16 the Court's consideration.

17 The government on page five has alleged what they would  
18 prove; we have some difficulty agreeing that all of that is  
19 factually correct. I can give you the specifics if you would  
20 like.

21 THE COURT: I guess my concern is this: The very last  
22 page says: "I declare under penalty of perjury that the  
23 foregoing is a true and accurate statement of facts, and  
24 accurately sets forth a portion of my conduct in connection with  
25 this case."

1           So if she is -- is she retreating at all from that  
2 statement, that the foregoing is a true and accurate statement  
3 of the facts? And it may be that it's a true and accurate  
4 statement of facts that the government can prove, it may be that  
5 it's a true and accurate statement of facts that she agrees that  
6 these events happens. And the language, "sets forth a portion  
7 of my conduct in this case," could even be read to mean that  
8 there's more that's not included here, or in some other way.

9           So my concern is to make sure that she sufficiently, in  
10 writing and here on the record, while under oath, is  
11 acknowledging enough to make out all of the elements of the  
12 offense to which she's pleading, and also to make sure that this  
13 document which is going to be filed under penalty of perjury is  
14 something that she attests to, as she appears to have done on  
15 the last page.

16           MR. HEBERT: I think I can clear that up, Judge.  
17 That's why we have the overt acts from page nine forward that we  
18 streamlined from the original indictment, and worked on for  
19 several weeks, to what she could swear to with regard to her  
20 specific involvement in the case, including the willful  
21 blindness.

22           What the government can prove is what's contained on  
23 page five, in the overt acts, which clearly will satisfy the  
24 conspiracy. That's why Ms. Schornstein and I went through that  
25 process, so that the elements of the conspiracy would be met by

1 the acts described in the overt acts section, including the  
2 jurisdictional issue that allows us to be here in the District,  
3 on page 10.

4 THE COURT: Well, I have two questions.

5 MR. HEBERT: Yes, sir.

6 THE COURT: One, which we'll come to in a minute, is  
7 whether that satisfies Ms. Schornstein and the government, and  
8 what she would like me to inquire further of Ms. McCloskey.

9 But I have another question for both of you, in light  
10 of what you just said. Would you-all look at page nine, that  
11 says "Overt Acts"? Do you see the introductory section that  
12 begins with the word, "Within"?

13 MR. HEBERT: Yes, sir.

14 THE COURT: It says: "Within the District of Columbia  
15 and elsewhere, in furtherance of the above-described conspiracy,  
16 and in order to carry out the objects thereof, Shannon L. Wren  
17 and others, known and unknown, committed the following overt  
18 acts, among others." It says nothing about Ms. McCloskey in  
19 that sentence.

20 MS. SCHORNSTEIN: Your Honor, could I have an  
21 opportunity to confer with counsel for a moment?

22 THE COURT: Yes.

23 (OFF THE RECORD.)

24 MS. SCHORNSTEIN: Your Honor, could we approach the  
25 bench?

1 THE COURT: Yes.

2 (BENCH CONFERENCE ON THE RECORD.)

3 MS. SCHORNSTEIN: Good morning, Your Honor.

4 Your Honor, the indictment actually charges in Count One  
5 conspiracy, aiding and abetting, so 371 and Section 2 of  
6 Title 18. The plea agreement only references Section 371. We  
7 were just inquiring if we could just amend the plea agreement to  
8 include Subsection 2.

9 THE COURT: Sure.

10 MS. SCHORNSTEIN: I'll hand write it in and everyone  
11 can initial it.

12 THE COURT: Sure.

13 MS. SCHORNSTEIN: And then I think that the Court  
14 probably will not have a problem in taking the conspiracy plea  
15 on the aiding and abetting theory.

16 THE COURT: I agree. That's fine. So I take it that  
17 this sentence beginning, "within the District of Columbia," you  
18 don't want it to say that, "I, Sharon (sic) McCloskey and Wren  
19 and others," or do you want it to have "I and others"?  
20 Because...

21 MS. SCHORNSTEIN: Well, it's not necessary in the  
22 conspiracy that she actually have committed the overt acts.

23 THE COURT: I understand. But there's certain of these  
24 things later on --

25 MS. SCHORNSTEIN: Well, there are. I can --

1 MR. HEBERT: Your Honor, I think you're right.

2 MS. SCHORNSTEIN: I think it should have her name in  
3 there.

4 MR. HEBERT: We removed it everywhere else because we  
5 didn't --

6 THE COURT: But here, if you go and look at the pages  
7 that follow -- and Mr. Hebert suggests that beginning at this  
8 point, that's where we're really talking about her acts. Now,  
9 it doesn't mean that she committed all of the acts, but even as  
10 you've written it, it's clear that she admits to some of the  
11 acts.

12 So it seems to me that what we ought to do is amend  
13 that sentence --

14 MS. SCHORNSTEIN: Yes.

15 THE COURT: -- and amend the other part --

16 MS. SCHORNSTEIN: Yes.

17 THE COURT: -- and then initial that.

18 MS. SCHORNSTEIN: Yes.

19 THE COURT: And then, if you want to add anything about  
20 aiding and abetting in the statement of offense, you can also,  
21 but certainly in the plea agreement. So once that theory is in  
22 place, fine.

23 Then the question is: Do you want to read this whole  
24 thing into the record?

25 MS. SCHORNSTEIN: Not really.

1 THE COURT: So maybe we could figure out something that  
2 she would be willing to say, not that you, Mister -- in other  
3 words, I want something coming out of her mouth while she's  
4 standing here under oath that acknowledges enough to make out  
5 the elements.

6 MS. SCHORNSTEIN: In fact, if she acknowledged the  
7 facts that are in the willful blindness section --

8 THE COURT: That will be sufficient.

9 MS. SCHORNSTEIN: Because a number of those things are  
10 also discussed in the indictment.

11 THE COURT: Should we take about five minutes and let  
12 you-all talk?

13 MS. SCHORNSTEIN: Yes. And can we have the originals  
14 back?

15 THE COURT: Yes. I'm sorry. And initial what you want  
16 to initial and sort it out.

17 MR. HEBERT: Right. Thank you for your patience.

18 THE COURT: No, I mean, look, this is a big deal. This  
19 is an emotional thing for her.

20 MR. HEBERT: Yes, it is.

21 THE COURT: And I'm sure you've spent a lot of time  
22 having discussions with her, and you said there have been about  
23 30 drafts of this, it's quite clear. But the last thing anybody  
24 wants is for her to rush in to anything or to admit anything she  
25 can't admit. I want her to feel comfortable when this is over

1 that she's been -- she understands everything and she's doing  
2 this totally voluntarily.

3 There's a lot of potential benefits for her, but it's  
4 still a huge deal and it's still probably almost -- I never  
5 prejudge anything, Ms. Schornstein knows that, but I guess my  
6 feeling is that no matter how much cooperation she provides,  
7 there's a very good chance she's going to prison. But you may  
8 be able to persuade me otherwise later. We'll see. That's why  
9 I said that to her.

10 MR. HEBERT: Oh, I know. She understands that.

11 MS. SCHORNSTEIN: Thank you, Your Honor.

12 (END BENCH CONFERENCE.)

13 THE COURT: We'll take a little break. And there are a  
14 few amendments to the documents, Ms. McCloskey, that we've  
15 talked about, and if you agree with them, they're going to write  
16 a few things in, if you agree, and you will all initial it, and  
17 then I'll come back and we'll finish up.

18 (Recess taken at 11:14 a.m.)

19 MS. SCHORNSTEIN: Your Honor, I'm sorry, we thought you  
20 were on a call, and Ms. McCloskey just went to the rest room.

21 THE DEFENDANT: I'm sorry.

22 THE COURT: That's all right.

23 MS. SCHORNSTEIN: Your Honor, if I could explain what  
24 the parties have done during the break. As we indicated to the  
25 judge at the bench, the indictment actually charges, for

1 Count One, a violation of Title 18 United States Code,  
2 Section 371, which is conspiracy on an aiding and abetting  
3 theory, which involves a violation of 18 U.S.C., Section 2. The  
4 plea agreement neglected to include Section 2. So we hand-wrote  
5 in, under paragraph number one, following where it says,  
6 "Section 371, conspiracy," "and Title 18 United States Code,  
7 Section 2, aiding and abetting." And all of the parties  
8 initialed that provision, and, Your Honor, we have passed up  
9 those originals to the Court.

10 THE COURT: I have them.

11 MS. SCHORNSTEIN: Then, in addition, in the statement  
12 of offense, under the section where it states "Overt Acts" on  
13 page nine, in the second sentence we have added at the end,  
14 after it says "Shannon L. Wren," comma, "Stephanie A.  
15 McCloskey," comma, "and others." So we have also initialed that  
16 provision as well.

17 We also have discussed with Ms. McCloskey the fact that  
18 the Court was going to ask her to make some representations  
19 today about what she did, and she's prepared to do that.

20 THE COURT: Okay. Is that the best way to proceed,  
21 then, is to ask her the open-ended question as to what her  
22 involvement was and what she did?

23 MR. HEBERT: I think so, Judge. For the Court's  
24 record, we're referring to the "Willful Blindness" section on  
25 page 11 of the statement of facts.

1 THE COURT: Okay. Ms. McCloskey? So the question is  
2 this, Ms. McCloskey: In order to accept your plea of guilty, I  
3 have to be satisfied that you actually engaged in some conduct  
4 and did some things that constitutes conspiracy and/or aiding  
5 and abetting a conspiracy to violate the trafficking in  
6 counterfeit goods and services and/or mail fraud statutes.

7 And you're under oath, so it's important that I am  
8 satisfied that you've done something that is a crime under the  
9 conspiracy and/or aiding and abetting statute, and it's also  
10 important for you to acknowledge that you did something and that  
11 you're guilty of committing a crime. Because I don't want to  
12 take a plea from somebody who isn't guilty of committing a  
13 crime.

14 So if you would, for the record, while under oath, tell  
15 me what your involvement was, or at least part of what you did.

16 THE DEFENDANT: Okay. "I was engaged in willful  
17 blindness to the truth of what was taking place at VisionTech  
18 Components; that is, trafficking in counterfeit goods. I  
19 deliberately closed my eyes to what would have otherwise been  
20 obvious to me while employed at VisionTech Components. I knew  
21 that among, other things, the following facts and circumstances  
22 took place:"

23 "That VisionTech Components was not an authorized  
24 distributor or reseller for any legitimate OEM" - Original  
25 Equipment Manufacturer - "including those companies listed on

1 the VisionTech Components website; that Shannon L. Wren  
2 instructed employees to tell customers and prospective customers  
3 that all integrated circuits that were procured were coming in  
4 from OEMs" - which is Original Equipment Manufacturers -  
5 "located in Europe, whereas I knew that approximately 95 percent  
6 of the companies from which VisionTech procured integrated  
7 circuits were all located in China and in Hong Kong."

8 "On each box that is shipped to a buyer of integrated  
9 circuits, there is a label on it. The label contains, among  
10 other things, the lot, trace, and country code for the devices  
11 in the box. The information on the label is supposed to match  
12 number sequences on the actual devices. On a few occasions,  
13 Shannon L. Wren would run his fingernail through the number  
14 sequence on the box label, therefore obliterating the number  
15 code, making it impossible for the buyer or recipient to discern  
16 if the code on the label matched the numbers on the devices  
17 contained in the box. I knew that a recipient or a buyer who  
18 would receive such a box would likely conclude that the label  
19 had been damaged during transit."

20 "On at least one occasion, Shannon L. Wren directed  
21 myself to send integrated circuits bearing multiple date codes  
22 to China to have all of the integrated circuits re-marked with  
23 the same date code. I, Mrs. McCloskey, did as was instructed."

24 "On numerous occasions, integrated circuits purchased  
25 by VisionTech Components from China and Hong Kong arrived in" --

1 THE COURT: Slow down just a little bit.

2 THE DEFENDANT: Okay. I'm sorry. Do you want me to  
3 repeat that, sir?

4 THE COURT: Just start with "on numerous occasions."

5 THE DEFENDANT: Okay. "On numerous occasions,  
6 integrated circuits purchased by VisionTech Components from  
7 China and Hong Kong arrived in dirty condition, and Shannon L.  
8 Wren directed employees to use large erasers to remove the  
9 debris and discoloration from the leads" -- it's hard to see  
10 because my eyes are tearing up. I'm sorry. "From the leads of  
11 the devices, and essentially polish the leads on the integrated  
12 circuits, making them appear to be in good condition."

13 "Shannon L. Wren directed employees to use a chemical  
14 acetone to test integrated circuits that had been purchased from  
15 China and Hong Kong to see if the marking came off when rubbed  
16 with the chemical. On certain occasions, the markings did come  
17 off or degrade, indicating that the markings had been stamped  
18 onto the devices."

19 "On numerous occasions during 2007 through 2009, at the  
20 direction of Shannon L. Wren, Ms. McCloskey mailed to the  
21 U.S. Customs and Border Protection a letter, which requested  
22 that CBP not assess fines and penalties against VisionTech  
23 stemming from the detention of counterfeit integrated circuits  
24 imported from China and Hong Kong which were destined for  
25 VisionTech Components. The letter included a number of false

1 statements, including, 'After receiving this notice of penalty,  
2 we worked closely with our attorney to review all applicable  
3 U.S. laws, and updated and improved our international purchasing  
4 and importation procedures. I want to express that we did not  
5 intend to order counterfeit product. We do our best to inspect  
6 every part for its authenticity, and would not purchase or ship  
7 counterfeit product intentionally.'"

8 "Ms. McCloskey knew that" --

9 THE COURT: That's you. Right?

10 THE DEFENDANT: I'm sorry. "I knew that other than  
11 consulting an attorney regarding a notice of penalty in  
12 approximately August 2007, that the attorney was not consulted  
13 subsequently, nor was she consulted each and every time a CBT  
14 notice" -- "CBP notice of penalty was sent to VisionTech  
15 Components, as the letter from Shannon L. Wren to CBP suggested.  
16 I also knew that VisionTech Components procured approximately  
17 95 percent of integrated circuits it purchased from one source  
18 in China, and did not change its business practices after  
19 receiving the CBP notices."

20 "The VisionTech Components standard invoice contained a  
21 provision headed, 'Invoice: Terms and Conditions,' and this  
22 provision stated that any product returned shall be subject to  
23 compliance with the sellers (sic) return merchandise  
24 authorization policies and procedures. Any claims on product  
25 must be made within 30 days of delivery; no returns will be

1 accepted due to electrical failure, unless accompanied by a test  
2 report from an independent lab.' In certain instances, samples  
3 of ICs purchased by VisionTech Components were sent to testing  
4 facilities for functional testing. Shannon L. Wren directed  
5 Ms. McCloskey" - myself - "that if the test results were  
6 inconclusive, to ship the devices to the buyers."

7 "Ms. McCloskey" -- I "was aware of customer complaints  
8 in which the customers represented that they had integrated  
9 circuits purchased from VisionTech tested, and that the devices  
10 were counterfeit. I was also aware of customer complaints in  
11 which customers reported that integrated circuits had been  
12 purchased from VisionTech and they did not function. Shannon L.  
13 Wren directed that for such customer complaints, the preferred  
14 response was to have the buyer return the ICs to VisionTech, and  
15 to replace the goods with other ICs. If the buyer did not want  
16 the replacement goods, Shannon L. Wren directed that a refund be  
17 issued to the buyer. During the approximate period January 1st,  
18 2007, through December 31st, 2009, VisionTech Components issued  
19 over \$1 million in customer refunds."

20 "The Vision Tech Components' standard Certificate of  
21 Conformance contained a provision, purportedly signed by a  
22 quality representative. I knew that VisionTech Components did  
23 not employ an engineer or other quality control expert. The  
24 document also stated: 'This is to certify that all items  
25 included in this shipment have been inspected and conform in

1 respects to the specification and requirements applicable to the  
2 above-referenced purchase order. The seller agrees (sic) all  
3 items supplied in the above-referenced purchase order for  
4 30 days for form, fit, and function.'" "

5 THE COURT: So is what you've just said and read an  
6 accurate statement of some of what happened in this case?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Is there anything else you want me to  
9 inquire, or anything you want to add, Ms. Schornstein?

10 MS. SCHORNSTEIN: Your Honor, I just also want to make  
11 clear that there are many other portions of the statement of  
12 offense to which the defendant agrees, including in particular  
13 the portion on page six that states that, "during her employment  
14 with Shannon Wren, Ms. McCloskey had significant managerial  
15 discretion, including the hiring and firing of employees,  
16 training new employees, and day-to-day supervision of  
17 operations. Ms. McCloskey, who did not finish high school but  
18 who did obtain her GED, has no formal training or expertise in  
19 the field of engineering. Ms. McCloskey's limited training  
20 while employed at VisionTech Components consisted of on-the-job  
21 training she received under the supervision of Mr. Wren."

22 THE COURT: Is all of what Ms. Schornstein said true  
23 and accurate?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Is there anything else we need to discuss?

1 MS. SCHORNSTEIN: I don't believe so, Your Honor.

2 MR. HEBERT: No, sir.

3 THE COURT: Is there anything else you want to tell me  
4 about what happened or about the facts in this case at this  
5 point?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you still want to go ahead with your  
8 plea?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Ms. McCloskey, has anybody threatened you  
11 or anybody close to you, or in any way forced you to decide to  
12 plead guilty in this case?

13 THE DEFENDANT: No, sir.

14 THE COURT: Has anybody made a promise to you as to  
15 what your sentence will be?

16 THE DEFENDANT: No, sir. I just want to be truthful.

17 THE COURT: You understand the sentence will be up to  
18 me?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you have any questions you want to ask  
21 me, or any questions you want to ask your lawyer, or any  
22 questions you want to ask Ms. Schornstein before I accept your  
23 plea?

24 THE DEFENDANT: I just want to know, like, where the  
25 prison -- when you do the sentencing for the prison time, will I

1 be here or will I be close to my home, by my son?

2 THE COURT: Basically, you won't be here. There's no  
3 federal prison in the District of Columbia. There is one --  
4 there are some in Maryland, Virginia, and Pennsylvania. I would  
5 recommend a prison close to your home, if that's what you want.

6 There are only certain prison facilities that  
7 accommodate women, so there are a couple of questions that  
8 the -- so we would start with -- and I can't decide. All I can  
9 do is recommend. The Bureau of Prisons decides. But you can  
10 talk and Mr. Hebert can talk, if you want, with the Bureau of  
11 Prisons officials, or with our people in our probation office,  
12 and they can first identify for you what prisons are for women  
13 and where they're located.

14 Then we have the question of what level security is  
15 involved. And normally -- again, I don't make these decisions.  
16 The Bureau of Prisons does. Normally I would say that given  
17 prior criminal history and no violence in the case, that it  
18 might be a low level facility. But on the other hand, as  
19 Ms. Schornstein explained earlier, some of what was done in this  
20 case could have had very dire consequences, death or serious  
21 bodily harm to some people, and I don't know how the Bureau of  
22 Prisons factors that in to their calculations, whether it would  
23 be -- maybe it wouldn't be a minimum security facility. I don't  
24 know.

25 But I think we certainly can identify the possible

1 facilities and where they're located, and if Mr. Hebert wants to  
2 check with probation or the Bureau of Prisons to figure that  
3 out, and then if you have a particular facility that you would  
4 like me to recommend at the time of sentencing, I would.

5 So it's not in the District of Columbia. There are a  
6 number of facilities in -- I'm sure there is in Florida, but I'm  
7 not sure whether there's women's facilities. There's facilities  
8 in Maryland, Pennsylvania, Virginia, and North Carolina. Those  
9 are the ones that I can think of on the East Coast at the  
10 moment. I may be missing some.

11 Do you have any other questions you would like to ask  
12 me?

13 THE DEFENDANT: Am I allowed to say something?

14 THE COURT: Do you want to talk to Mr. Hebert?

15 (OFF THE RECORD.)

16 THE DEFENDANT: Sir, I'm all done.

17 THE COURT: Okay. So the reason I ask you this  
18 question, "do you have any questions or concerns," if there's  
19 anything at all that you want clarification on, anything that  
20 you're not clear about, ask me or ask Mr. Hebert today and now.  
21 Because it's very unlikely that I would let you withdraw your  
22 plea after today.

23 THE DEFENDANT: Okay.

24 THE COURT: Any questions?

25 THE DEFENDANT: No, sir.

1           THE COURT: Do you still want to enter your plea of  
2 guilty?

3           THE DEFENDANT: Yes, sir.

4           THE COURT: And are you pleading voluntarily and  
5 because you are guilty?

6           THE DEFENDANT: Yes, sir.

7           THE COURT: In that case, Ms. McCloskey, I find that  
8 you know of your right to a trial by jury and you've chosen to  
9 waive that right; I find that since Mr. Hebert and  
10 Ms. Schornstein and I have all discussed with you the possible  
11 sentences you could receive in this case, we've discussed how  
12 the sentencing guidelines work, we've told you -- I've told you  
13 what the maximum possible punishment is, which is five years,  
14 and we've also discussed the possibility of a downward departure  
15 for substantial assistance, if the government requests it, and  
16 you can persuade them that you've provided substantial  
17 assistance; and because of your statement on the record while  
18 under oath; and because of your having signed the statement of  
19 offense while under oath, I find that your plea of guilty -- I  
20 accept your plea of guilty because I find that it is a knowing  
21 and voluntary plea supported by an independent basis in fact  
22 containing each of the essential elements of the offense.

23           So I will accept your plea of guilty to Count One of  
24 the indictment, which charges conspiracy, aiding and abetting,  
25 and causing an act to be done, in violation of Title 18 United

1 States Code, Section 371 and Section 2.

2 At some point the probation office will prepare a  
3 report. It's in your interest to talk with the probation office  
4 when they're ready to talk with you, and Mr. Hebert can be with  
5 you at any time that you want to -- that they want to talk to  
6 you.

7 In the meantime, you'll be on the same conditions of  
8 bond that we originally set. You need to report when you need  
9 to report, you need to call, you need to check in, you need to  
10 stay out of trouble. You need to do all the things you're  
11 supposed to do. The only thing that's changed from the original  
12 one is that the address has changed.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: If you've got any questions about what you  
15 can and cannot do, and what's okay and what isn't okay, call  
16 Mr. Hebert and ask him or call the probation office and ask  
17 them.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: So why don't you have a seat -- one other  
20 question. Am I to sign the forfeiture order today?

21 MS. SCHORNSTEIN: Yes, Your Honor, please.

22 THE COURT: Okay. So you can have a seat and I will  
23 sign that.

24 MS. SCHORNSTEIN: Your Honor, could I impose upon the  
25 Court to ask your deputy to please call Judge Kennedy and let

1 him know that I'm still before the Court? Because I had another  
2 disposition scheduled.

3 THE COURT: Certainly.

4 MS. SCHORNSTEIN: Thank you, Your Honor.

5 THE COURT: So what do you want to do as our next step  
6 in this case?

7 MS. SCHORNSTEIN: Well, Your Honor, I would suggest  
8 that we schedule a control status conference for approximately  
9 four months from now. And if it turns out that the case  
10 regarding Mr. Wren is resolved, then we -- of course we're going  
11 to seek to have Ms. McCloskey sentenced after Mr. Wren is  
12 sentenced, in any event, but maybe we can get some perspective  
13 on where we are. And if that case is going forward, then I will  
14 probably, conferring with counsel, file a motion just to  
15 continue whatever status conference we find until a reasonable  
16 and appropriate date.

17 THE COURT: Why don't we do two things. Let's set a  
18 status conference. If there's no purpose in having one, and  
19 assuming she's compliant with all of her conditions, then you  
20 can jointly suggest we move it.

21 On the other end of the spectrum, if the case should  
22 resolve against Mr. Wren sooner, then would one of you - I'll  
23 leave it to you, Ms. Schornstein - call Ms. Moon and say: We  
24 can now refer the matter to probation. Because it normally  
25 takes them about 70 days to do a report. They have to talk to a

1 lot of people, and because Ms. McCloskey is out of state, they  
2 need to talk to her. And at this point we're not even going to  
3 start that process.

4 But if we don't need to wait until our next status  
5 conference to start the process, Ms. Schornstein could then ask  
6 Ms. Moon to call probation, they could start the process; we  
7 could either come for the status conference or change it to a  
8 sentencing date, or move it and change it to a sentencing date,  
9 whatever you-all think is appropriate.

10 But let's set a date so we all know we need to be here  
11 unless other things happen in the interim.

12 MS. SCHORNSTEIN: Thank you, Your Honor.

13 MR. HEBERT: The only dates that I know are bad for me  
14 is I have a homicide trial starting in Hillsborough County, in  
15 Florida, in late March that's going to go about two weeks. But  
16 other than that, I'm completely open, Judge. We'll be back up.

17 THE COURT: So we could presumably do something in  
18 either early March or in early April.

19 MR. HEBERT: At the Court's convenience.

20 MS. SCHORNSTEIN: Whichever works better for the Court  
21 is fine.

22 THE COURT: Well, if you don't mind, how about the  
23 first week in April?

24 MR. HEBERT: Yes, sir.

25 THE COURT: Any day better for you and Ms. McCloskey to

1 come?

2 MR. HEBERT: Fridays are better, Judge, if that works  
3 for the Court. It seems to be a little easier getting up here.

4 THE COURT: April 8th? Do you prefer the morning or  
5 the afternoon, for travel purposes?

6 MR. HEBERT: Yeah, if we could do it at 1:30 or 2:00,  
7 we'll fly up in the morning and fly back that day.

8 THE COURT: Let's say April 8th at 1:45.

9 MR. HEBERT: Yes, sir.

10 THE COURT: Now, if things happen that you want to move  
11 it sooner or later, as long as you both agree and file  
12 something, as long as she's in compliance with all of her  
13 conditions...

14 MR. HEBERT: I believe we were scheduled for the end of  
15 this month currently. That will be removed from the docket, the  
16 29th?

17 THE COURT: Ms. Moon will take care of getting that off  
18 the calendar. Okay?

19 MR. HEBERT: Thank you, sir.

20 MS. SCHORNSTEIN: Thank you, Your Honor.

21 THE COURT: Thank you, Ms. McCloskey.

22 (Proceedings adjourned at 12:03 p.m.)

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**CERTIFICATE OF OFFICIAL COURT REPORTER**

I, Rebecca Stonestreet, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

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**SIGNATURE OF COURT REPORTER**

**DATE**