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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

: 10-CR-00459 (SJ)

Plaintiff, :

:

v. : 225 Cadman Plaza East

: Brooklyn, New York

GENNADIY BRONSHTEYN and :

ARKADI SHAPIRO, *et al.*, :

: June 7, 2011

Defendants. :

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TRANSCRIPT OF CRIMINAL CAUSES FOR PLEA
BEFORE THE HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: DANIEL D. BROWNELL, ESQ.
United States Attorney's Office
271 Cadman Plaza East
Brooklyn, New York 11201

For Defendant
Arkadi Shapiro: ANDREW J. FRISCH, ESQ.
Law Offices of Andrew J. Frisch
40 Fulton Street
23rd Floor
New York, New York 10038

For Defendant
Gennadiy Bronshteyn: SUSAN GAIL KELLMAN, ESQ.
Susan G. Kellman
25 Eighth Avenue
Brooklyn, New York 11217

Court Transcriber: RUTH ANN HAGER
TypeWrite Word Processing Service
211 N Milton Road
Saratoga Springs, New York 12866

Proceedings recorded by electronic sound recording, transcript
produced by transcription service

1 (Proceedings began at 10:48 a.m.)

2 COURT CLERK: Criminal cause for -- causes for
3 pleading, United States v. Gennadiy Bronshteyn, case number
4 10-CR-459-4, United States v. Arkadi Shapiro, docket number
5 10-CR-459-10. Please state your appearances for the record.

6 MR. BROWNELL: Daniel Brownell for the Government.
7 Good morning, Your Honor.

8 THE COURT: Good morning.

9 MR. FRISCH: For Mr. Shapiro, Andrew Frisch, Your
10 Honor. Good morning.

11 THE COURT: Good morning.

12 MS. KELLMAN: For Gennadiy Bronshteyn, Susan
13 Kellman. Good morning, Your Honor.

14 COURT CLERK: I'm going to start by swearing in the
15 interpreter.

16 (Interpreter sworn in.)

17 Now I'm going to swear in the two defendants.

18 (Gennadiy Bronshteyn, Arkadi Shapiro, Sworn.)

19 MS. KELLMAN: You know, we could probably just use
20 this in the middle.

21 COURT CLERK: Yeah.

22 MS. KELLMAN: And then we can leave that one right
23 there.

24 COURT CLERK: We'll leave this one in the middle.

25 THE COURT: Both of you are standing up. Feel free

1 to sit down.

2 All right. What are Mr. Shapiro and Mr. Bronshteyn
3 want to do today?

4 MS. KELLMAN: We are here, Your Honor, this morning
5 to plead guilty and withdraw the previously entered pleas of
6 not guilty and enter a plea to one count of the original
7 indictment, tendency [ph.] offer denied, and a second plea to
8 Count II of an information, which they've had read to them and
9 they haven't been arraigned and I don't know the Court's
10 procedures to arraign them on it first.

11 THE COURT: And I think they're waiving indictment
12 as well as to the -- part of the information.

13 MS. KELLMAN: They are waiving indictment.

14 THE COURT: And that's true for both defendants?

15 MR. FRISCH: Yes, it is. That's right.

16 THE COURT: Are counsel satisfied that the consent
17 to have a magistrate judge hear the guilty plea is knowing and
18 voluntary?

19 MR. FRISCH: For Mr. Shapiro, Yes.

20 MS. KELLMAN: For Mr. Bronshteyn, yes, Your Honor.
21 We had the waivers translated into Russian for them before
22 they executed them.

23 THE COURT: Good morning, Gentlemen. And I'm going
24 to ask you a lot of questions today. If there's anything you
25 do not understand just ask me. I'll be glad to explain it and

1 feel free to consult privately with your lawyers at any time.
2 You're under oath. You have to answer each question fully and
3 honestly. If not, you could be prosecuted for perjury. Do
4 you each understand?

5 DEFENDANT BRONSHTEYN: Yes.

6 DEFENDANT SHAPIRO: Yes.

7 THE COURT: All right. I have here a consent to
8 have a plea taken by a U.S. Magistrate Judge. Mr. Bronshteyn,
9 do you have any questions about what you're doing in
10 consenting to have me hear your guilty plea?

11 DEFENDANT BRONSHTEYN: No.

12 THE COURT: Are you making this decision
13 voluntarily?

14 DEFENDANT BRONSHTEYN: Yes.

15 THE COURT: Mr. Shapiro, the same question. Do you
16 have any questions about what it means to consent to have me
17 hear your guilty plea?

18 DEFENDANT SHAPIRO: No.

19 THE COURT: And are you making this decision
20 voluntarily?

21 DEFENDANT SHAPIRO: Yes.

22 THE COURT: I'll just advise you it's -- it's your
23 choice. If you'd prefer to have Judge Johnson hear your
24 guilty plea he would be perfectly happy to do that. It would
25 not prejudice you in any way.

1 DEFENDANT BRONSHTEYN: No, we don't.

2 DEFENDANT SHAPIRO: I don't.

3 THE COURT: Now I have a waiver of indictment form
4 that appears to have been signed by each of you. And again
5 I'm going to ask you if you understand that you are giving up
6 your right to have the charges in the information presented to
7 a Grand Jury for a determination of probable cause and instead
8 you are each agreeing to a -- to waive the indictment and to
9 proceed today by information. Mr. Bronshteyn, do you have any
10 questions about what you're doing?

11 DEFENDANT BRONSHTEYN: No.

12 THE COURT: And are you making the decision to waive
13 indictment voluntarily?

14 DEFENDANT BRONSHTEYN: Yes.

15 THE COURT: The same question for you, Mr. Shapiro.
16 Do you have any questions about what you're doing and waiving
17 indictment?

18 DEFENDANT SHAPIRO: No.

19 THE COURT: And are you making the decision to waive
20 indictment voluntarily?

21 DEFENDANT SHAPIRO: Yes.

22 THE COURT: Mr. Brownell, will you please explain
23 the charges again each of these defendants?

24 MR. BROWNELL: Judge, the two charges that each
25 defendant will be pleading to is conspiracy to commit health

1 care fraud and tax evasion. This particular case involves
2 retail durable medical equipment companies that these
3 particular defendants operated together along with other
4 people. The health care fraud was committed and I'll
5 summarize it for the Court in that they -- the bottom line is
6 what they did is they submitted fraudulent and false claims to
7 no-fault insurance companies that sought reimbursement at
8 prices for durable medical equipment that was grossly higher
9 and inflated than the actual price that they had paid for it.
10 They did that by dealing with wholesale DME suppliers who they
11 would essentially purchase bogus invoices for durable medical
12 equipment that listed particular items under greatly inflated
13 prices, usually anywhere from eight to 15 times the actual
14 price. Defendants would then use these invoices not only as
15 supporting documentation for the false claims but they also
16 used these invoices to evade taxes in that they decreased
17 their actual income that they declared to the IRS and they
18 also inflated the amount of their business deductions that
19 they claimed in their files.

20 THE COURT: The tax evasion charge is the charge
21 contained in the information?

22 MR. BROWNELL: That's correct, Your Honor.

23 THE COURT: Mr. Bronshteyn, do you understand the
24 charges against you?

25 DEFENDANT BRONSHTEYN: Yes.

1 THE COURT: Ms. Kellman, would you like me to read
2 the information publicly?

3 MS. KELLMAN: I will waive the reading at this time.
4 It's not [inaudible].

5 THE COURT: Mr. Frisch?

6 MR. FRISCH: The same.

7 THE COURT: All right. I am going to ask you all --
8 each of you the same questions essentially. We'll start with
9 Mr. Bronshteyn and then go to Mr. Shapiro for the answers. If
10 you have any questions just stop me and I'll repeat. What is
11 your full name, please?

12 DEFENDANT BRONSHTEYN: Gennadiy Bronshteyn.

13 DEFENDANT SHAPIRO: Arkadi Shapiro.

14 THE COURT: How old are you, sir, Mr. Bronshteyn?

15 DEFENDANT BRONSHTEYN: Fifty-two.

16 THE COURT: Mr. Shapiro?

17 DEFENDANT SHAPIRO: Fifty-one.

18 THE COURT: What is the last level of schooling that
19 you finished?

20 DEFENDANT BRONSHTEYN: College.

21 DEFENDANT SHAPIRO: College. Polytechnic college.

22 THE COURT: Do you speak any English?

23 DEFENDANT BRONSHTEYN: No good.

24 DEFENDANT SHAPIRO: I do.

25 THE COURT: How did you communicate with your

1 lawyer?

2 MS. KELLMAN: English and with a translator.

3 THE COURT: Ms. Kellman, are you satisfied that you
4 and your client understood each other?

5 MS. KELLMAN: Yes, Your Honor.

6 THE COURT: Mr. Bronshteyn, do you agree?

7 DEFENDANT BRONSHTEYN: Yes.

8 THE COURT: Do you think you understood everything
9 that your lawyer said to you?

10 DEFENDANT BRONSHTEYN: Absolutely everything.

11 THE COURT: And do you think she understood
12 everything you said to her?

13 DEFENDANT BRONSHTEYN: Yes.

14 THE COURT: Mr. Shapiro?

15 DEFENDANT SHAPIRO: Yes.

16 THE COURT: The same, Mr. Frisch?

17 MR. FRISCH: We had an interpreter present and I
18 believe he understood what we talked about.

19 DEFENDANT SHAPIRO: Yes.

20 THE COURT: Mr. Bronshteyn, are you now or have you
21 recently been under the care of a doctor or a psychiatrist?

22 DEFENDANT BRONSHTEYN: I do go to my doctor.

23 THE COURT: Do you have any medical condition that
24 requires you to take medicine at this time?

25 DEFENDANT BRONSHTEYN: No.

1 THE COURT: And do you have any medical condition
2 that affects your ability to think, to concentrate, to
3 understand what's happening here?

4 DEFENDANT BRONSHTEYN: Yes -- no. Nothing.

5 THE COURT: Mr. Shapiro?

6 DEFENDANT SHAPIRO: No.

7 THE COURT: To all those questions?

8 DEFENDANT SHAPIRO: Yes.

9 THE COURT: Mr. Bronshteyn, in the past 24 hours
10 have you taken any medicine or pills?

11 DEFENDANT BRONSHTEYN: No.

12 THE COURT: Mr. Shapiro?

13 DEFENDANT SHAPIRO: No.

14 THE COURT: In the past 24 hours have you taken any
15 narcotic drugs or drunk any alcoholic beverages?

16 DEFENDANT BRONSHTEYN: No.

17 DEFENDANT SHAPIRO: No.

18 THE COURT: Have you ever been hospitalized or
19 treated for drug addiction?

20 DEFENDANT BRONSHTEYN: No.

21 DEFENDANT SHAPIRO: No.

22 THE COURT: For alcoholism?

23 DEFENDANT BRONSHTEYN: No.

24 DEFENDANT SHAPIRO: No.

25 THE COURT: Or for a mental or emotional problem?

1 DEFENDANT BRONSHTEYN: No.

2 DEFENDANT SHAPIRO: No.

3 THE COURT: Is your mind clear now, Mr. Bronshteyn?

4 DEFENDANT BRONSHTEYN: Yes, completely.

5 THE COURT: Mr. Shapiro?

6 DEFENDANT SHAPIRO: Yes.

7 THE COURT: Do you understand why you're here and
8 what's happening here today?

9 DEFENDANT BRONSHTEYN: Of course.

10 DEFENDANT SHAPIRO: Yes.

11 THE COURT: We'll do the same with Ms. Kellman and
12 Mr. Frisch. Have you discussed this matter fully with your
13 client?

14 MS. KELLMAN: Yes, I have, Your Honor.

15 THE COURT: Does he understand the rights that he
16 would be waiving by pleading guilty?

17 MS. KELLMAN: Yes, Your Honor.

18 MR. FRISCH: I believe Mr. Shapiro does, Your Honor.

19 DEFENDANT BRONSHTEYN: Yes.

20 DEFENDANT SHAPIRO: Yes.

21 THE COURT: Is he capable of understanding the
22 nature of these proceedings?

23 MS. KELLMAN: I believe he is.

24 MR. FRISCH: Yes.

25 THE COURT: Do you have any doubt as to your

1 client's competence to plead at this time?

2 MS. KELLMAN: No, Your Honor.

3 MR. FRISCH: I have no doubt.

4 THE COURT: Have you advised him of the possible
5 maximum/minimum sentence and fine and other penalties that can
6 be imposed?

7 MS. KELLMAN: Yes, Your Honor.

8 MR. FRISCH: Yes.

9 THE COURT: Have you explained to him the affect of
10 the sentencing guidelines and the fact that there's no
11 guarantee at this time what his sentence will be?

12 MS. KELLMAN: Yes, Your Honor.

13 MR. FRISCH: Yes.

14 THE COURT: Do you think that Mr. Bronshteyn
15 understood all of your discussions?

16 MS. KELLMAN: Yes, Your Honor.

17 THE COURT: And Mr. Shapiro?

18 MR. FRISCH: Yes.

19 THE COURT: Mr. Bronshteyn, did you hear what your
20 lawyer said?

21 DEFENDANT BRONSHTEYN: Yes.

22 THE COURT: And do you agree with everything that he
23 said?

24 DEFENDANT BRONSHTEYN: Yes.

25 THE COURT: Have you discussed your case with him

1 fully?

2 DEFENDANT BRONSHTEYN: Yes.

3 THE COURT: Or I'm sorry. Are you satisfied to have
4 her represent you?

5 DEFENDANT BRONSHTEYN: Completely.

6 THE COURT: Mr. Shapiro, same question.

7 DEFENDANT SHAPIRO: The same.

8 THE COURT: Yes. To each one of those questions.

9 DEFENDANT SHAPIRO: I agree completely with
10 everything.

11 THE COURT: Okay. Now do you each understand that
12 you have a right to plead not guilty?

13 DEFENDANT BRONSHTEYN: I understand.

14 DEFENDANT SHAPIRO: Yes.

15 THE COURT: And if you continue to plead not guilty
16 you have a right under the Constitution and laws of this
17 country to a speedy public trial by jury with the help of your
18 lawyer on the charges contained in the indictment and the
19 information.

20 DEFENDANT BRONSHTEYN: I understand.

21 DEFENDANT SHAPIRO: Yes.

22 THE COURT: And do you understand that if you cannot
23 afford to retain an attorney the Court will appoint counsel to
24 advise and represent you at all stages of this case all the
25 way through trial and on appeal of any conviction at no cost

1 to you.

2 DEFENDANT BRONSHTEYN: I understand.

3 DEFENDANT SHAPIRO: Yes.

4 THE COURT: If you decide to go to trial you would
5 be presumed innocent. The Government would have to prove your
6 guilt beyond a reasonable doubt. You would not have to
7 present any evidence or prove your innocence. Do you
8 understand?

9 DEFENDANT BRONSHTEYN: Yes.

10 DEFENDANT SHAPIRO: Yes.

11 THE COURT: Even if you did everything the
12 Government has accused you of if the Government cannot
13 convince a jury beyond a reasonable doubt that you're guilty
14 then the jurors would have a duty to find you not guilty. Do
15 you understand?

16 DEFENDANT BRONSHTEYN: I understand.

17 DEFENDANT SHAPIRO: Yes.

18 THE COURT: During your trial the Government would
19 have to bring its witnesses to court. They would have to
20 testify in your presence. Your lawyer would have the right to
21 cross-examine the Government's witnesses, to object to the
22 Government's evidence, to present evidence in your defense and
23 to compel witnesses to appear on your behalf. Do you
24 understand?

25 DEFENDANT BRONSHTEYN: Yes.

1 DEFENDANT SHAPIRO: Yes.

2 THE COURT: If you go trial you would have a choice.
3 You could either testify in your own defense or you could
4 remain silent and decline to testify. No one could force you
5 to testify if you didn't wish to. You have a right under the
6 Fifth Amendment to the U.S. Constitution to remain silent and
7 not to incriminate yourself. And if you did that, Judge
8 Johnson would instruct the jurors that they could not hold
9 that against you or assume that you're guilty because you
10 didn't speak up in your own defense. Do you understand?

11 DEFENDANT BRONSHTEYN: Yes.

12 DEFENDANT SHAPIRO: Yes.

13 THE COURT: If you plead guilty today and the Court
14 accepts your guilty plea you will give up your Constitutional
15 rights to a trial, to remain silent, and the other rights I
16 just discussed. There will be no trial of any kind. You will
17 not have a right to appeal the judgment of guilty. The Court
18 will simply enter a judgment that you're guilty based on what
19 you say here today. Do you understand?

20 DEFENDANT BRONSHTEYN: Yes, I understand.

21 DEFENDANT SHAPIRO: Yes.

22 THE COURT: And if you plead guilty you'll have to
23 explain to me what you did and when you do that you give up
24 your right to remain silent and not to incriminate yourself.
25 Do you each understand?

1 DEFENDANT BRONSHTEYN: Yes.

2 DEFENDANT SHAPIRO: Yes.

3 THE COURT: All right. Does either of you have any
4 questions about anything I've said so far?

5 DEFENDANT BRONSHTEYN: No.

6 DEFENDANT SHAPIRO: No.

7 THE COURT: Now, Mr. Bronshteyn, are you willing to
8 give up your right to a trial and the other rights I just
9 discussed?

10 DEFENDANT BRONSHTEYN: Yes. Yes, I'm ready.

11 THE COURT: Mr. Shapiro?

12 DEFENDANT SHAPIRO: Yes.

13 THE COURT: I have in front of me plea agreements
14 that have been marked in each of your cases as Court Exhibit 1
15 and there are signatures above each of your names. Mr.
16 Bronshteyn, did you sign this plea agreement?

17 DEFENDANT BRONSHTEYN: Yes.

18 THE COURT: Mr. Shapiro?

19 DEFENDANT SHAPIRO: Yes.

20 THE COURT: And before you signed your plea
21 agreement, Mr. Bronshteyn, did you discuss it with your lawyer
22 and understand it?

23 DEFENDANT BRONSHTEYN: Yes.

24 DEFENDANT SHAPIRO: Yes.

25 THE COURT: And do you have any questions, either

1 one of you, about anything in there -- in the plea agreement
2 pertaining to each of you?

3 DEFENDANT BRONSHTEYN: I don't have it.

4 DEFENDANT SHAPIRO: No.

5 THE COURT: Are these agreements the only agreements
6 between the Government and the defendants at this time?

7 MR. BROWNELL: They are, Your Honor.

8 MR. FRISCH: Yes, they are.

9 MS. KELLMAN: Yes, Your Honor.

10 THE COURT: Are there any important differences
11 between the two agreements?

12 MR. BROWNELL: They're almost exactly the same in
13 terms of everything pretty much.

14 THE COURT: Okay. All right. Mr. Bronshteyn, if
15 you plead guilty to Count I in the information you're facing
16 penalties that are listed on pages 1 and 2 of your agreement.
17 Do you understand?

18 DEFENDANT BRONSHTEYN: Yes.

19 THE COURT: And the same for you, Mr. Shapiro. If
20 you plead guilty to Count I of the indictment and the
21 information the possible penalties are listed on pages 1 and 2
22 of the plea agreement.

23 DEFENDANT SHAPIRO: Yes.

24 MS. KELLMAN: Your Honor, I'm not sure the Court
25 may or may not have noticed this but the information actually

1 has three counts in it and they're listed on the chart on the
2 second page. They are three separate counts when they -- both
3 Mr. Shapiro and Mr. Bronshteyn have agreed to plead guilty to
4 Count II.

5 THE COURT: The Count II. Okay. Thank you.

6 [Pause in the proceedings.]

7 All right. Mr. Bronshteyn, if you plead guilty
8 you're facing the following penalty. For the charge contained
9 in Count I in the indictment you're facing from zero to ten
10 years in prison. Do you understand?

11 DEFENDANT BRONSHTEYN: Yes.

12 THE COURT: And, Mr. Shapiro, the same thing for you
13 for Count I in the indictment you're facing from zero to ten
14 years in prison. Do you understand that?

15 DEFENDANT SHAPIRO: Yes.

16 THE COURT: Mr. Bronshteyn, if you are sentenced to
17 prison when you are released you could be placed on supervised
18 release for up to three years.

19 DEFENDANT BRONSHTEYN: I understand.

20 THE COURT: You understand. And the penalty for a
21 violation of any condition of supervised release is up to two
22 years in prison separate and apart from whatever sentence you
23 get on the underlying charge. Do you understand?

24 DEFENDANT BRONSHTEYN: Yes, I understand.

25 THE COURT: Mr. Shapiro, the same provision applies

1 to you as well. Do you understand?

2 DEFENDANT SHAPIRO: Yes.

3 THE COURT: The maximum fine is \$250,000.00 or twice
4 the pecuniary gain, whichever is greater. Do you understand,
5 Mr. Bronshteyn?

6 DEFENDANT BRONSHTEYN: Yes.

7 THE COURT: Mr. Shapiro?

8 DEFENDANT SHAPIRO: Yes.

9 THE COURT: There is a penalty of restitution which
10 is mandatory and the amount will be determined by the Court.
11 Do you understand?

12 DEFENDANT BRONSHTEYN: Yes.

13 DEFENDANT SHAPIRO: Yes.

14 THE COURT: There's a fee called a special
15 assessment of \$100.00 which each of you has to pay at the time
16 of sentencing. Do you understand?

17 DEFENDANT BRONSHTEYN: I understand.

18 DEFENDANT SHAPIRO: Yes.

19 THE COURT: And finally there's a criminal
20 forfeiture provision that's explained later on in the plea
21 agreement.

22 DEFENDANT BRONSHTEYN: Yes.

23 DEFENDANT SHAPIRO: Yes.

24 THE COURT: All right. Any questions about the
25 possible penalties under Count I of the indictment? Mr.

1 Bronshteyn?

2 DEFENDANT BRONSHTEYN: No.

3 THE COURT: Mr. Shapiro?

4 DEFENDANT SHAPIRO: No.

5 THE COURT: All right. For Count II of the
6 information you're facing -- each facing from zero to five
7 years in prison. Do you understand?

8 DEFENDANT BRONSHTEYN: Yes.

9 DEFENDANT SHAPIRO: Yes.

10 THE COURT: If you're sentenced to prison each of
11 you faces up to three years of supervised release with a two-
12 year penalty for a violation of a condition of supervised
13 release as described earlier. Do you understand?

14 DEFENDANT BRONSHTEYN: I understand.

15 DEFENDANT SHAPIRO: Yes.

16 THE COURT: The maximum fine is \$100,000.00 or twice
17 the pecuniary gain, whichever is greater. Do you each
18 understand?

19 DEFENDANT BRONSHTEYN: Yes.

20 DEFENDANT SHAPIRO: Yes.

21 THE COURT: Restitution needs to be determined by
22 the Court at sentencing. Do you understand?

23 DEFENDANT BRONSHTEYN: Yes.

24 DEFENDANT SHAPIRO: Yes.

25 THE COURT: And there's another \$100.00 special

1 assessment.

2 DEFENDANT BRONSHTEYN: I understand.

3 DEFENDANT SHAPIRO: Yes.

4 THE COURT: All right. Any questions about the
5 possible sentence? Mr. Bronshteyn?

6 DEFENDANT BRONSHTEYN: No.

7 DEFENDANT SHAPIRO: No.

8 THE COURT: In sentencing you Judge Johnson will
9 calculate the sentencing guideline range. He will make a
10 separate calculation for each of you.

11 INTERPRETER: Would you say -- could you repeat that
12 question, please?

13 THE COURT: He will make a separate guideline
14 calculation for each one of you.

15 DEFENDANT BRONSHTEYN: All right.

16 THE COURT: Do you understand?

17 DEFENDANT BRONSHTEYN: Yes.

18 THE COURT: And then he will determine whether to
19 sentence you within the guidelines, above the guidelines or
20 below the guidelines, whatever is appropriate.

21 DEFENDANT BRONSHTEYN: Yes.

22 DEFENDANT SHAPIRO: Yes.

23 THE COURT: In determining what your sentence is the
24 Court will also consider other things such as the
25 circumstances of the offense, each of your background, each of

1 your respect for the law, what would be just punishment in
2 each case, what would constitute deterrence in each case, the
3 protection of the public from further crimes, and each of your
4 individual need for effective correctional treatment. Do you
5 each understand?

6 DEFENDANT BRONSHTEYN: Yes.

7 DEFENDANT SHAPIRO: Yes.

8 THE COURT: Now do you each understand that there's
9 no guarantee at this time what your sentence will be?

10 DEFENDANT BRONSHTEYN: Understand.

11 DEFENDANT SHAPIRO: Yes.

12 THE COURT: Ms. Kellman, is your client a citizen of
13 the United States?

14 MS. KELLMAN: Yes, Your Honor.

15 MR. FRISCH: Mr. Shapiro as well, Yes.

16 THE COURT: If you had not been citizens you could
17 be facing deportation after you serve your sentence.

18 DEFENDANT BRONSHTEYN: I understand.

19 THE COURT: All right. There are estimated
20 guideline ranges in each of your plea agreements. These are
21 just estimates. Judge Johnson will calculate each of your
22 guideline range at the time of sentencing. Do you each
23 understand?

24 DEFENDANT BRONSHTEYN: Yes.

25 DEFENDANT SHAPIRO: Yes.

1 THE COURT: Well, what's the Government's estimate
2 of the guideline range for each defendant?

3 MR. BROWNELL: Judge, we're three points off for
4 acceptance of responsibility and then an anticipated
5 additional global point the Government estimates that the
6 guideline level would be 22, which I believe has a sentencing
7 range from 41 to 51 months incarceration.

8 THE COURT: Ms. Kellman, anything you would add to
9 that?

10 MS. KELLMAN: [Inaudible]

11 THE COURT: Mr. Frisch?

12 MR. FRISCH: No, I don't.

13 THE COURT: In paragraph 2 you each stipulate to the
14 guidelines calculation and agree not to move for a downward
15 departure. Do you each understand?

16 DEFENDANT BRONSHTEYN: Yes.

17 DEFENDANT SHAPIRO: Yes.

18 THE COURT: In paragraph 4 each of you has agreed
19 not to file an appeal or otherwise challenge your conviction
20 or sentence if you receive a term of imprisonment of 63 months
21 or less. Do you understand, Mr. Bronshteyn?

22 DEFENDANT BRONSHTEYN: I understand.

23 THE COURT: Mr. Shapiro?

24 DEFENDANT SHAPIRO: Yes.

25 THE COURT: Is there anything else in the plea

1 agreement such as the forfeiture provisions that ought to be
2 placed on the record?

3 MR. BROWNELL: Judge, just as indicated I believe in
4 paragraph 5 the agreed upon forfeiture amount is 2.1 million
5 dollars.

6 THE COURT: And the defendants are jointly and
7 severally liable for that?

8 MR. BROWNELL: That is correct, Your Honor.

9 THE COURT: Ms. Kellman, anything to add?

10 MS. KELLMAN: No, not really.

11 THE COURT: Mr. Frisch?

12 MR. FRISCH: Nothing, Judge, here.

13 THE COURT: Mr. Bronshteyn and Mr. Shapiro, do you
14 understand how the forfeiture works?

15 DEFENDANT BRONSHTEYN: Yes.

16 DEFENDANT SHAPIRO: Yes.

17 THE COURT: Is there anything else that ought to be
18 placed on the record from the plea agreement or any other
19 aspect of this case at this time for each defendant?

20 MR. FRISCH: Judge, I can't think of anything.

21 MS. KELLMAN: I don't think there's anything.

22 MR. FRISCH: The only thing I would add I think on
23 behalf of both defendants there's a line in paragraph 6 about
24 payment of the forfeiture money judgment of the 2.1 million
25 dollars in the form of a check to be made payable to the civil

1 assistant at the time of sentencing. We've made no
2 representation that there will be a check forthcoming. In
3 fact, we understand that's standard language that is in the
4 plea agreement and we don't want Judge Johnson to think that
5 there's an anticipated check which the Government will be
6 getting at sentencing. We agreed to this language because we
7 understand it's standard but that is not a part of our -- that
8 is not a part of what the expectation is under the agreement
9 that the Government will be getting a check at the time of
10 sentencing.

11 MR. BROWNELL: Judge, the Government isn't
12 anticipating either that at that time they'll have the payment
13 for the full amount. It's expected that this is going to take
14 some time for them to pay the joint and several 2.1 million.

15 MS. KELLMAN: Actually the language in the
16 agreement, You Honor, makes it clear that that failure to pay
17 at the time of sentencing will not be given [inaudible]. I
18 think it's important to put it on the record at this time
19 because as the Court said one of the things that Judge Johnson
20 will take into consideration is these defendants' respect for
21 the law and the last thing we want him to think is that they
22 would be disrespectful by not showing up with this additional
23 check because nobody anticipates that they'll have that money
24 at that time but anticipates that the money will be paid back
25 over a amount of time.

1 THE COURT: Okay. Understood. Do you each
2 understand that there is no parole in federal court? If you
3 are sentenced to prison there will be no early release on
4 parole like there is in the state court.

5 DEFENDANT BRONSHTEYN: Yes.

6 DEFENDANT SHAPIRO: Yes.

7 THE COURT: Does either of you have any questions
8 you'd like to ask me or discuss privately with your lawyer
9 before you continue?

10 DEFENDANT BRONSHTEYN: No.

11 DEFENDANT SHAPIRO: No.

12 THE COURT: All right. Mr. Bronshteyn, are you
13 ready to plead?

14 DEFENDANT BRONSHTEYN: Yes.

15 THE COURT: Mr. Shapiro?

16 DEFENDANT SHAPIRO: Yes.

17 THE COURT: Ms. Kellman, is there any reason why Mr.
18 Bronshteyn should not plead guilty to Count I in the
19 indictment and Count II of the information?

20 MS. KELLMAN: No, Your Honor.

21 MR. FRISCH: Not for Mr. Shapiro, Your Honor.

22 THE COURT: All right. We'll start with Mr.
23 Bronshteyn. How do you plead to Count I in the indictment and
24 Count II in the information; guilty or not guilty?

25 DEFENDANT BRONSHTEYN: I plead guilty.

1 THE COURT: Are you pleading guilty voluntarily?

2 DEFENDANT BRONSHTEYN: Yes.

3 THE COURT: Has anyone forced you or threatened you
4 to make you agree to plead guilty?

5 DEFENDANT BRONSHTEYN: No.

6 THE COURT: Has anybody promised you anything that
7 is not in the plea agreement to make you agree to plead
8 guilty?

9 DEFENDANT BRONSHTEYN: Nobody promised me anything.

10 THE COURT: Has anyone promised you what your
11 sentence will be?

12 DEFENDANT BRONSHTEYN: No one.

13 THE COURT: All right. Can you tell me in your
14 words what it is that makes you guilty of Count I in the
15 indictment and Count II in the information?

16 DEFENDANT BRONSHTEYN: Between January 2004 and June
17 2010 together with others I was sending invoices to insurance
18 companies with inflated prices for merchandise. I
19 prepared -- I was preparing those invoices in my office in
20 Brooklyn.

21 THE COURT: That's Count I?

22 DEFENDANT BRONSHTEYN: I was working for a medical
23 supply office in Brooklyn. I was receiving cash which I never
24 declared on my tax return in 2009.

25 THE COURT: Anything else the Government would have?

1 MR. BROWNELL: [Inaudible]

2 THE COURT: All right. And I'm sure you understand
3 this, the -- in Count I where you were pleading to the
4 conspiracy charge a conspiracy is an agreement between two or
5 more people to do something illegal and you described the
6 conspiracy.

7 DEFENDANT BRONSHTEYN: Yes.

8 THE COURT: All right. So as to Mr. Bronshteyn I
9 find that you're acting voluntarily and you fully understand
10 your rights, the charges against you, the rights you're giving
11 up by pleading guilty, consequences of a guilty plea including
12 possible sentence, fine and other penalties. Do you
13 understand that there is no guarantee what your sentence will
14 be?

15 DEFENDANT BRONSHTEYN: Yes, I do.

16 THE COURT: Okay. And as a result I find that
17 there's a factual basis for your plea and therefore recommend
18 that the Court accept your plea of guilty on Count I of the
19 indictment and Count II of the information.

20 COURT CLERK: Sentencing is set for September 22,
21 2011, at 9:30 a.m. before Judge Johnson. That's just bail
22 [Ph.]. No. That's to Mr. Bronshteyn. There's a different
23 date for Mr. Shapiro.

24 THE COURT: All right. Now it's your turn, Mr.
25 Shapiro. I'm just going to ask you one more time. Are you

1 ready to plead?

2 DEFENDANT SHAPIRO: Yes.

3 THE COURT: Mr. Frisch, is there any reason why
4 your client should not plead guilty to these two charges?

5 MR. FRISCH: [Inaudible.]

6 THE COURT: As to Count I of the indictment and
7 Count II of the information, how do you plead, Mr. Shapiro,
8 guilty or not guilty?

9 DEFENDANT SHAPIRO: Yes. Yes. I plead guilty.

10 THE COURT: Are you pleading guilty voluntarily?

11 DEFENDANT SHAPIRO: Yes.

12 THE COURT: Has anyone forced you or threatened you
13 to make you agree to plead guilty?

14 DEFENDANT SHAPIRO: No.

15 THE COURT: Has anyone promised you anything that
16 was not in the plea agreement that made you agree to plead
17 guilty?

18 DEFENDANT SHAPIRO: No.

19 THE COURT: Has anyone promised you what your
20 sentence will be?

21 DEFENDANT SHAPIRO: No.

22 THE COURT: And can you tell me what it is that you
23 did that makes you guilty of these two charges?

24 DEFENDANT SHAPIRO: Yes. Since January 2004 until
25 July 2010 together with others I was sending inflated invoices

1 to the insurance companies for the medical boots and we were
2 making those invoices. We were preparing those invoices
3 ourselves. And with regard to the Count II I received cash
4 which I did not declare on my income tax in 2009.

5 THE COURT: And you did this in Brooklyn?

6 DEFENDANT SHAPIRO: Yes, in Brooklyn.

7 THE COURT: Mr. Brownell?

8 MR. BROWNELL: Acceptable.

9 THE COURT: Anything to add, Mr. Frisch?

10 MS. KELLMAN: I would just -- if I may just have one
11 brief thing. With respect to Count II and I think this
12 applies really to both defendants --

13 THE COURT: The specific.

14 MS. KELLMAN: The specific amount and I think the
15 Court will even note --

16 THE COURT: Um-hum. I think we should do it.

17 MS. KELLMAN: -- that it's approximate even in the
18 information.

19 THE COURT: Okay.

20 MS. KELLMAN: These are numbers that we didn't see
21 until this morning and I assumed that ultimately they were
22 numbers that would be worked out with the IRS but --

23 THE COURT: Right.

24 MS. KELLMAN: -- certainly the concept is correct
25 that they each have admitted that they received amounts of

1 cash in the course of their business that did not ultimately
2 make its way to a tax return and they withheld from the IRS.

3 THE COURT: I think you're correct. At page 2 of
4 the information as to each defendant states that the
5 approximate -- that the unreported total income is approximate
6 and the unreported tax due and owing is approximate.

7 MS. KELLMAN: All right. Thank you, Judge.

8 THE COURT: All right. Mr. Shapiro, I find that
9 you're acting voluntarily, you fully understand your rights,
10 the charges against you, the rights you're giving up by
11 pleading guilty, the consequences of a guilty plea including
12 the possible sentence, fine, criminal forfeiture and other
13 penalties. Do you understand that there's no guarantee what
14 your sentence will be?

15 DEFENDANT SHAPIRO: [Inaudible.]

16 THE COURT: And I find that there's a factual basis
17 for your plea. I therefore recommend that the Court accept
18 your plea of guilty to Count I in the indictment and Count II
19 of the information.

20 COURT CLERK: For Mr. Shapiro sentencing is set for
21 September 21, 2011 at 9:30 a.m. before Judge Johnson.

22 THE COURT: Anything else?

23 MR. FRISCH: No.

24 MS. KELLMAN: Nothing for Mr. Bronshteyn. Thank
25 you, Judge.

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MR. BROWNELL: Thank you.

MR. FRISCH: Thank you.

THE COURT: All right, Gentlemen. Good luck.

MS. KELLMAN: Thank you, Your Honor.

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I certify that the foregoing is a court transcript
from an electronic sound recording of the proceedings in the
above-entitled matter.



Ruth Ann Hager

Dated: July 7, 2011