

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF GEORGIA  
3 ATLANTA DIVISION

4 UNITED STATES OF AMERICA, )  
5 Plaintiff, )  
6 -vs- ) Docket No. 1:07-CR-182-TWT  
7 ADAM J. SHORR, ) January 30, 2009  
8 Defendant. ) Atlanta, Georgia  
9 ) 9:33 a.m.  
10 )

11 TRANSCRIPT OF THE SENTENCING PROCEEDINGS  
12 BEFORE THE HONORABLE THOMAS W. THRASH, JR.,  
13 U.S. DISTRICT COURT JUDGE

14 APPEARANCES OF COUNSEL:

15 On behalf of the Government: Jenny R. Turner  
16 Mark Campbell  
Office of the U.S. Attorney

17 On behalf of the Defendant: Steven H. Sadow  
18 Law Office of Steven H. Sadow

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20  
21 *Proceedings recorded by mechanical stenography  
22 and computer-aided transcript produced by*

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1                   (Proceedings held in Atlanta, Georgia, January 30,  
2 2009, 9:33 a.m., in open court, Defendant present.)

3                   THE COURT: All right. This is the case of United  
4 States of America versus Adam Shorr, Case Number 07-CR-182.

5                   First let me ask counsel for the parties to identify  
6 yourselves for the record and the parties you represent.

7                   MS. TURNER: Your Honor, Jenny Turner and Mark  
8 Campbell along with IRS Special Agent Ken Roberts. And  
9 Mr. Campbell and I represent the United States.

10                  THE COURT: Morning, counsel.

11                  MR. SADOW: Morning, Your Honor. Steve Sadow for  
12 Adam Shorr, the Defendant.

13                  THE COURT: Morning, Mr. Sadow.

14                  All right. This is a hearing on the Defendant's  
15 post-verdict motion for judgment of acquittal, motion for new  
16 trial, sentencing hearing, and the Government's motion for a  
17 preliminary order of forfeiture.

18                  Mr. Sadow, I think that your motion for judgment of  
19 acquittal on Counts 1, 7, 8 and 9 should be heard first, I  
20 think.

21                  MR. SADOW: Yes, Your Honor.

22                  THE COURT: And I will be glad to hear from you.

23                  MR. SADOW: Thank you.

24                  With the Court's permission, I actually will begin my  
25 argument by repeating to the Court what the Court said at the

1 sentencing of Co-Defendant Harris. The Court upon making a  
2 guideline determination as to William Harris then heard  
3 discussion on the motion for a reduction of sentence under  
4 5K1.1 and made the following comment:

5 "Well, Ms. Turner, if I was representing the  
6 Government, I wouldn't give Mr. Harris anything. He is a  
7 self-confessed liar, a thief, a con man, a cheat; and he came  
8 off that way when he testified."

9 "However, I have gone back and looked at his  
10 testimony very carefully. And unlike some of the witnesses  
11 that testified in this case" -- and I paraphrase here because  
12 all those witnesses are for the Government -- "there does not  
13 appear to me to be anything that just really seemed to be  
14 blatantly false in his testimony. That's how Mr. Sadow scored  
15 points, by Mr. Harris telling the truth. In fact, it was his  
16 testimony that prompted me in part at least to grant  
17 Mr. Shorr's motion for a directed verdict as to Count 10 of the  
18 indictment."

19 What I found telling there was the Court's reference  
20 to the fact that Mr. Harris, at least in the Court's opinion,  
21 told the truth insofar as he went when he testified for the  
22 Government based on the direct and cross-examination of him.  
23 And why that's important goes directly to Counts 7, 8 and 9.

24 The Government's entire theory of prosecution on  
25 those three counts is that the Jones Bridge Road property was a

1 means to launder Ashley House's money through the title to the  
2 property through the sale to Vasseghi and that the amount that  
3 was essentially House's part of that lease purchase on Jones  
4 Bridge was \$150,000.

5           The problem is Bill Harris who did the transaction  
6 didn't testify that he received a nickel from House on that  
7 property, not one dime. When he testified in court -- and we  
8 have his transcript; it's part of the record in this case --  
9 when he testified, he knew when House gave -- that is, when  
10 House gave Harris \$175,000 for the boat, he told us when,  
11 where, what form, everything basically but the weather  
12 conditions that day.

13           He then in speaking in terms of money that was given  
14 for Chelson Woods which is \$40,000, he remembered exactly how  
15 it took place. There was a car, a convertible, Ashley House.  
16 It was in the convertible top. He knew exactly how.

17           But when it came to any money for Jones Bridge Road,  
18 Harris remembered nothing, not a dollar. And when Harris was  
19 interviewed by the Government when he was first arrested, he  
20 said, I didn't get any money from House on Jones Bridge Road.  
21 I got money from Adam Shorr and Adam Shorr alone.

22           And we know that that is accurate because when House  
23 -- I'm sorry -- when Harris was on the stand I went through --  
24 and it's in the transcript -- we showed that \$40,000 went from  
25 Adam Shorr's account by wire transfer and 100,000 went by

1 check. The 100,000 came out of a home equity account. It was  
2 all documented. It's in Defense Exhibits I think it was 22.  
3 There's a promissory note, all of which shows that the Jones  
4 Bridge Road lease purchase agreement had nothing to do with  
5 House's money. Nothing. In everything the Government argues  
6 in its response and the indictment itself says it was House's  
7 \$150,000.

8 Now, House says that, but not another soul who backs  
9 it up, no corroboration, not from the man who did the  
10 transaction. If you go to the indictment -- and I know this  
11 Court has heard a lot about this case and probably has heard  
12 enough about this case; but it's all set out as being House's  
13 money went to Jones Bridge Road, House's interest in Jones  
14 Bridge Road. The transaction occurred to get House's interest  
15 and money out of Jones Bridge Road.

16 The problem is there's no facts that support that,  
17 none, no facts that are supported beyond a reasonable doubt in  
18 this record.

19 Assuming Harris is telling the truth on this which is  
20 what I want the Court to do, you had the sale of Jones Bridge  
21 Road to the Vasseghi/Khadem trust. So let's follow the  
22 transaction.

23 There is no drug money of House's in the property to  
24 start with. There's no showing of any drug money in that  
25 property at all. It is Adam Shorr's money and Harris's money,

1 not House's, not drug.

2           What happens is Harris wants to get his money out.  
3 He sells the property. The property is sold. It's not for  
4 purposes of concealing anything, and this is when we get back  
5 to what I argued before the Court before and in the motion.

6           The law in this circuit -- and I put it in the  
7 post-verdict motion for judgment of acquittal -- merely  
8 engaging in a transaction with money whose nature has been  
9 concealed through other means is not in itself a crime. If  
10 transactions are engaged in for present personal benefit and  
11 not to create the appearance of legitimate wealth, they do not  
12 violate the money laundering statute.

13           We don't have drug money in Jones Bridge Road. The  
14 drug money that we are talking about then would have to be  
15 Vasseghi's drug money in the purchase of Jones Bridge Road.

16           Vasseghi had laundered that money. And we are  
17 talking about the fall of 2002. Vasseghi had laundered that  
18 money for four years. It had gone through accounts of his  
19 sister, of his mother, stock accounts, bank accounts, in and  
20 out, back and forth. It had been laundered to the point where  
21 there was no more laundering that could take place. The idea  
22 that that was in some form a means to conceal any more about  
23 that property I suggest is not established by the record.

24           What you have at that point is the money is already  
25 coming from accounts from which it's been laundered. Vasseghi

1 is not trying to separate himself from this transaction.  
2 Vasseghi is in the midst of the transaction. He is the one  
3 that gets lawyers. He is the one that sets up the trust. He  
4 is part of the trust. He is at the closing. He makes sure all  
5 the funds go in. He makes sure all the funds go out. He is  
6 part and parcel of the entire aspect of the purchase.

7           There's no concealment element to that. It's as  
8 plain as it can be that Vasseghi's got something to do with it.  
9 If there's no concealment element, there's no money laundering  
10 on Count 7. If there's no money laundering on Count 7 in the  
11 title, it's not on Count 8.

12           Now we move to --

13           THE COURT: What about 9?

14           MR. SADOW: Huh?

15           THE COURT: What about 9?

16           MR. SADOW: Nine, to be honest, is the most  
17 interesting of all because the Government made no effort at  
18 trial, no effort to suggest that the 30,000-plus that  
19 ultimately went to Mr. Shorr's bank account, company bank  
20 account, made no effort to show that that was from tainted  
21 funds. And the law as established so far is in 1956  
22 prosecutions commingling taints everything. Unfortunately,  
23 that's just the way the law is. So in 1956 the Government  
24 wouldn't have to show that that 30,000 was, in fact, tainted  
25 funds.

1           But 1957 is not that clear. And there are  
2 circuits -- 11th Circuit has not addressed it. There are  
3 circuits, I mentioned the 9th Circuit specifically, that says  
4 there's got to be some proof that those funds are not  
5 untainted. That is, the Government's got to prove beyond a  
6 reasonable doubt that the money that more than \$10,000 was  
7 tainted funds.

8           Here we have nothing. The Government has clearly  
9 gone on the presumption that since we have a commingling, about  
10 50-50 actually of tainted and untainted money, that, therefore,  
11 of that 30,000 there must be at least 10,000 in tainted funds.  
12 But that presumption doesn't arise under the law, and there's  
13 no proof to substantiate it.

14           The Government makes mention of the fact that you  
15 gave an instruction that was unobjected to about that and in  
16 some form or fashion that supports its position. I suggest,  
17 strangely enough, it's just the opposite. When the Court gave  
18 the instruction -- and I'm referencing the Government's  
19 response, page 9, Footnote 4 -- the Court said, first element,  
20 the Defendant engaged or attempted to engage in a monetary  
21 transaction. That's not an issue.

22           That the Defendant knew the transaction involved  
23 criminally defrauded property. I would, of course, argue that  
24 Defendant Shorr did not know. But the key here is criminally  
25 derived property.

1           Third, that the property had a value of greater than  
2 10,000. I read that as saying that the criminally derived  
3 property had a value of more than \$10,000.

4           Fourth, that the property was, in fact, derived from  
5 the manufacture, importation, sale or distribution of a  
6 controlled substance. Now we are saying that the property of  
7 more than \$10,000, in fact, came from drugs.

8           Fifth, that the transaction occurred in the United  
9 States. No issue there.

10           And the Court goes on and on. And on page 10 it says  
11 the Government does not have to prove the Defendant knew the  
12 precise nature of the criminal offense and so forth. Not  
13 worried about that.

14           Then it says although the Government must prove that  
15 at least 10,000 of the property at issue was criminally derived  
16 funds the Government doesn't have to prove that all of the  
17 property at issue is criminally derived funds. Ours is very  
18 simple. You didn't prove that more than \$10,000 was criminally  
19 derived funds. Could have been, speculation might give rise to  
20 that, but not proof beyond a reasonable doubt.

21           They could have attempted to do that. They did not.  
22 It's their burden of proof. Your instruction was accurate.  
23 And there's no showing that of that 30,000 more than 10,000 was  
24 derived from drugs and criminally derived property. So the  
25 1957 count goes out on that basis.

1           So that deals with 7, 8 and 9.

2           To be perfectly candid, depending on the Court's  
3 ruling on 7, 8 and 9 would directly impact Count 1; so I will  
4 wait unless the Court wants me to go forward on Count 1 right  
5 now to see where we stand on 7, 8 and 9.

6           THE COURT: I think that makes sense, Mr. Sadow.

7           Ms. Turner?

8           MS. TURNER: Your Honor, I will only address Counts 7  
9 and 8 briefly. I think the Government's response appropriately  
10 captures the Government's points. I do want to point out,  
11 though, or respond to some of Mr. Sadow's contentions, most  
12 importantly that on Counts 7 and 8 the Government maintains  
13 that there were two sources of illegitimate funds, two sources  
14 of drug proceeds in this case, Ashley House and the \$150,000  
15 that Mr. House testified he gave Mr. Harris in exchange for the  
16 lease purchase option.

17           THE COURT: I don't believe anything Ashley House  
18 said. I think he is a liar.

19           MS. TURNER: And I appreciate the Court's conclusion  
20 on that issue, but the jury was entitled to believe Mr. House.

21           Second, Your Honor, that Mr. Vasseghi's criminally  
22 derived funds were used to acquire that title as well and that  
23 those criminally derived funds were tendered in exchange for  
24 the title linked directly to Mr. Shorr while Mr. Harris was  
25 present.

1           So we are not talking about just Mr. House's money,  
2 we are talking about Mr. Vasseghi's money as well, both of  
3 which are drug proceeds.

4           As to the allegation that there was no proof of  
5 intent to conceal, Your Honor, the evidence was replete -- or  
6 the record was replete with evidence from Mr. House and from  
7 Mr. Vasseghi that the transactions that they engaged in and the  
8 manner in which they engaged in those transactions was for the  
9 purpose of concealing not simply the nature or the source of  
10 the funds but also the location, ownership and control. And  
11 the evidence in the record that the jury was entitled to  
12 believe if it so chose is sufficient to support that  
13 conclusion.

14           I agree with Mr. Sadow's assessment as to Count 9  
15 that it is the most interesting one of all of them. In this  
16 case, the Government showed that the \$30,000 wire transferred  
17 out of the Friedman Dever trust account was, in fact, traceable  
18 to drug proceeds. And the only thing that's clear in the 11th  
19 Circuit is that at least \$10,000 -- or I'm sorry -- at least  
20 more than \$10,000 of the money involved in the transaction must  
21 be dirty in order to violate 1957.

22           Now, if you take a look at Government's Exhibit G to  
23 Mr. Sadow's response to the Government's motion, what you see  
24 is about \$214,000 in clean money being deposited into the  
25 Friedman Dever escrow account. You also have \$204,000, give or

1 take, being deposited into that same escrow account. And even  
2 the Defendant agrees that that money was dirty as the Defendant  
3 acknowledged in his motion, and the portion of his motion is  
4 quoted in the Government's brief.

5 With that information in mind, the question arises as  
6 to what rule the Court is going to apply in a circumstance  
7 where commingled funds are at issue. And as the Court will  
8 recall, commingled funds did come up a lot during the trial.

9 And when the Government wrote its response to the  
10 Defendant's motion, the Government cited a plethora of cases  
11 not for the purpose of annoying the Court but for the purpose  
12 of showing the Court that in other circuits besides the 11th  
13 Circuit the approaches that those courts take are really all  
14 over the map. There are representations in some of those cases  
15 that seem to suggest that there is a range of about four rules  
16 that things come down to. I have to tell you that from my  
17 review of those cases I am not convinced of that because they  
18 seem to turn on very fact-specific issues.

19 It is interesting, however, to note that even under  
20 the 9th Circuit rule that the Defendant cites it was still  
21 possible for the jury to conclude correctly and in compliance  
22 with the law that the \$30,000 wire transfer out of the Friedman  
23 Dever account was tainted by more than \$10,000 in drug proceeds  
24 because when you look at the Friedman Dever account what you  
25 have is you have 400,000, 414,000, give or take, coming into

1 that account. And then you have that same amount going out of  
2 the account.

3           The tainted funds have to be somewhere. And the 9th  
4 Circuit -- and even the 9th Circuit view recognizes that they  
5 have to be somewhere. And if all of those tainted funds come  
6 out of the escrow account like they did here, then under those  
7 circumstances the evidence is sufficient to enable a jury to  
8 conclude that more than \$10,000 in a given transaction was  
9 tainted.

10           So the interesting point about this, Your Honor, is  
11 that making the call as to exactly where the tainted money was  
12 when it came out of the Friedman Dever account necessarily  
13 requires a certain level of, for lack of a better term,  
14 arbitrariness. If we use the 9th Circuit rule, the one the  
15 Defendant is advocating for, then the jury could have said, for  
16 example, first you use an accounting principle. Right? And  
17 the first money that comes into the account is the last money  
18 out. And it could have reached the conclusion that it reached.

19           The jury could have said, Okay, we are going to use a  
20 different accounting principle. We are going to use first in,  
21 first out. Then the verdict would have been different.

22           There is a suggestion in the law that there is a  
23 presumption required when you have commingled funds. And there  
24 have been characterizations of the law in the 10th Circuit, 5th  
25 Circuit, 4th Circuit and the 3rd Circuit and one other that I

1 can't remember right now that a presumption is required and  
2 that that presumption says that when funds are commingled in an  
3 account that the presumption based on the rule of levity, the  
4 rule that favors the Defendant, is that the dirty money stays  
5 in the account so that when -- so that no crime occurs as long  
6 as the money is coming off of the top. And it is only when the  
7 money reaches bottom the crime actually occurs for a  
8 withdrawal.

9 I say this because it begins to make clear how when  
10 you are dealing with commingled funds you are ultimately  
11 dealing with difficult and semi-arbitrary decisions. And  
12 that's an interesting point when you look at the way that the  
13 Court handled this process when the Government requested a  
14 commingled funds instruction. The Court declined to give that  
15 instruction and effectively said this is a matter for the jury.

16 And the Government submits, Your Honor, that it makes  
17 sense to infer that the Court did that because there was  
18 sufficient circumstantial evidence in the record to enable the  
19 jury to reasonably conclude that more than \$10,000 of that  
20 original tainted \$204,000 was, in fact, contained in the  
21 \$30,000 wire transfer.

22 And for that reason, Your Honor, the Government  
23 respectfully requests that the Court deny the Defendant's  
24 motion for judgment of acquittal as to Counts 7, 8 and 9.

25 THE COURT: Mr. Sadow, I will give you the last word.

1           MR. SADOW: I point out simply one thing, Your Honor.  
2 You listened to the entire trial and all the transactions that  
3 occurred, had access to the bank accounts of the Defendant.  
4 They were all put into evidence. There was not one piece of  
5 evidence that showed that a single dollar went from Adam Shorr  
6 back to Ashley House as a result of any transaction alleged in  
7 the indictment or otherwise, no money from Shorr to House  
8 except two checks I think in 1997 or 1998 that specifically  
9 said on them return of money to Ashley House.

10           All of these alleged investments by Ashley House  
11 supposedly to the Defendant for all of these major schemes, for  
12 all of these major reasons, not one dollar ever showed to go  
13 from the Defendant back to House. And I would suggest that  
14 that proves what the Court said when the Government was on its  
15 feet which is Ashley House is a liar and you can't believe him.  
16 And you can't -- you can't sustain this verdict based on Ashley  
17 House.

18           THE COURT: Well, I agree with you mainly, Mr. Sadow.  
19 But on the motion for judgment of acquittal, I have to construe  
20 the evidence in favor of the Government and in favor of the  
21 verdict. If I deny at all any of your motions and sustain the  
22 convictions, then I will be free at sentencing to apply my own  
23 belief and my own judgment as to credibility of witnesses in  
24 this case. But on your motions, I have to construe the  
25 evidence in the light most favorable to the Government which in

1 this case means trying my best to believe anything that Ashley  
2 House testified to and setting aside my belief that he and  
3 Mr. Vasseghi are both just simply consummate liars and who  
4 perjured themselves repeatedly in the trial of this case.

5 But, again, as I say, that'll be for other decisions.

6 I am going to grant your motions as to Counts 7 and 8  
7 based on the cases of United States versus Johnson, 440 F.3d  
8 1286, United States versus Blankenship, 382 F.3d 1110, and  
9 United States versus Majors, 196 F.3d 1206, which all stand for  
10 the proposition that ordinary banking transactions where  
11 there's no evidence of intent to conceal are not money  
12 laundering transactions. And I believe that you are correct as  
13 to those counts.

14 I am going to deny the motion as to Count 9,  
15 construing the evidence in a light most favorable to the  
16 Government. There is some theory of law as to Title 18,  
17 Section 1957, which would authorize the jury to find the  
18 Defendant guilty as to Count 9. And I will let the 11th  
19 Circuit decide whether, in fact, such a theory is the law to be  
20 applied in money laundering prosecutions in this circuit.

21 So that's Counts 7, 8 and 9. You wish to be heard as  
22 to Count 1, Mr. Sadow?

23 MR. SADOW: Very briefly, Your Honor.

24 I would think we have two objectives of the  
25 conspiracy as alleged in Count 1. We have the objective of

1 1956, and we have the 1957 objective. In light of the Court's  
2 ruling on Counts 7 and 8, as well as Count 9, the 1957  
3 objective is still alive, per se. And, therefore, you would  
4 have, based on the way you have to look at the evidence in the  
5 light most favorable to the Government and Count 9, you'd be  
6 able to uphold the conspiracy verdict on Count 1 under a 1957  
7 theory.

8 I think as a matter of law the 1956 theory is  
9 insufficient in light of the Court's rulings on 7 and 8 and the  
10 other rulings that the Court had made during the trial itself  
11 throwing out the 1956 substantive count.

12 So I don't know whether -- you never had to make a  
13 determination, nor did the jury, whether it was actually  
14 convicting on 1956 or 1957 objective. But I will ask that for  
15 the record that the 1956 objective of the money laundering  
16 Count 1 conspiracy be found to be insufficient as a matter of  
17 law and we only move forward on the 1957. But, again, that may  
18 be something that the Court chooses to look at at sentencing as  
19 opposed to in a sense of a judgment of acquittal on Count 1.

20 THE COURT: So what are you asking me to do with  
21 Count 1?

22 MR. SADOW: I think that I would be asking the Court  
23 to make a determination as a matter of law there's insufficient  
24 evidence to convict on a conspiracy to violate 1956 but that  
25 there was sufficient evidence based on your ruling on Count 9

1 to convict for a conspiracy to violate 1957.

2 THE COURT: What do you say, Ms. Turner?

3 MS. TURNER: I say, Your Honor, that the essence of  
4 the conspiracy is the agreement and not the underlying  
5 substantive act; that a Defendant is appropriately held  
6 accountable under 1956 when he or she knows that the person who  
7 committed the underlying specified unlawful activity,  
8 underlying crime, intended to conceal and disguise; that there  
9 is sufficient evidence in this case to conclude that the  
10 Defendant knew that Ashley House and Ben Vasseghi's purposes  
11 were to conceal and disguise and that knowing that unlawful  
12 objective the Defendant joined in it.

13 Thank you, sir.

14 THE COURT: Well, again, I'm not sure how to address  
15 this. What I held is that the specific transactions set out in  
16 the indictment in Counts 2 through 6, 7, 8 and 10 were  
17 insufficient to -- or that the evidence was insufficient to  
18 show that those transactions were violations of Title 18,  
19 Section 1956. I think the jury could still have found -- in  
20 construing the verdict in a light most favorable to the  
21 Government I find that the jury could find that the Defendant  
22 did enter into a conspiracy with Mr. House even though the  
23 Government's theory as to the specific counts and the specific  
24 transaction was flawed and defective.

25 So I will deny your motion as to Count 1, Mr. Sadow.

1 MR. SADOW: Yes, Your Honor.

2 THE COURT: All right. Next is your motion for a new  
3 trial.

4 MR. SADOW: Your Honor, I premise my motion for a new  
5 trial on the basis that the jury would have been permitted by  
6 the prosecution's theory on Count 9 to convict on Count 1 which  
7 would basically be an invalid legal theory. Respectfully, the  
8 Court has disagreed as of this time with me as to Count 9 and  
9 that theory of prosecution if it's found that that which was  
10 submitted to the jury was not an invalid theory.

11 THE COURT: Well, let me make it clear why I ruled  
12 against you on Count 9, Mr. Sadow. I think there was evidence  
13 that Ben Vasseghi was a drug dealer. There was evidence that  
14 he accumulated money as a result of his drug dealing and that  
15 that money went into his purchase of the Jones Bridge property  
16 and that Mr. Shorr received \$30,000 of money from the sale of  
17 that property to Mr. Vasseghi. And under some conceivable  
18 legal theory of commingling and tainting, a jury could conclude  
19 that that was a 1957 violation.

20 Did I get that right?

21 MR. SADOW: I believe that's what the Court has made  
22 a determination on, yes.

23 THE COURT: Okay.

24 MR. SADOW: And as I said, my premise for a new trial  
25 which I sought on Count 1 only -- I didn't seek it on others --

1 was the idea that you had used an invalid -- or an invalid  
2 theory of prosecution had occurred on Count 9 and, therefore,  
3 would taint Count 1.

4           Interestingly enough, the Government talked in terms  
5 of response. They talked about that new trials are only  
6 warranted when the Government's case is marked by uncertainties  
7 and discrepancies and its key witnesses are impeached, which  
8 caused me to immediately think, That's my case.

9           So then I moved for a new trial and that the Court  
10 has the authority to do so under the circumstances on the basis  
11 of the case being marked by uncertainties and discrepancies and  
12 impeachment of witnesses. I think a new trial can still be  
13 granted on that basis, separate and apart from the invalidity  
14 of the Count 9 theory of prosecution on 1957. And we'd ask the  
15 Court to consider doing so on that basis.

16           THE COURT: Ms. Turner?

17           MS. TURNER: Your Honor, recognizing the Court's  
18 assessment of Mr. House's and Mr. Vasseghi's credibility, and  
19 recognizing that the Government has argued that grant of a new  
20 trial may sometimes be warranted when the credibility of the  
21 Government's witnesses are questioned, the Government contends  
22 that the Defendant has not shown that he was unable to receive  
23 a fair trial or that he suffered actual or compelling  
24 prejudice; that grant of a new trial based on credibility  
25 issues is closely scrutinized by the appellate courts; and that

1 if the evidence -- that the requirement that the appellate  
2 court sets out is that the review of the record must reveal  
3 that the evidence did not preponderate heavily against the  
4 jury's verdict.

5 So that's the finding the Court would have to make,  
6 and the Government submits that that finding is not supported  
7 in this case.

8 THE COURT: All right. I will deny the motion for  
9 new trial as to Count 1, Mr. Sadow.

10 All right. Are you ready to proceed as to  
11 sentencing, Mr. Sadow?

12 MR. SADOW: Yes, Your Honor.

13 THE COURT: All right. This is a sentencing hearing  
14 pursuant to the verdict of the jury finding the Defendant  
15 guilty as to Count 1 and Count 9.

16 Mr. Sadow, have you and your client had an  
17 opportunity to review the Pre-Sentence Report?

18 MR. SADOW: We have, Your Honor.

19 THE COURT: I have carefully reviewed the  
20 Pre-Sentence Report, and I will adopt the facts in paragraphs 1  
21 through 12 and 84 through 117 as the findings of the Court.

22 Mr. Sadow, I believe your first objection was to  
23 paragraph 76 regarding the value of laundered funds.

24 MR. SADOW: Correct, Your Honor.

25 Your Honor, I will acknowledge as I did in the

1 objections that based on what would be the conviction on Count  
2 9 and the receipt by the Defendant of \$30,129.97 in laundered  
3 funds in violation of 1957 that \$30,000 should be included in  
4 determining the value of the funds.

5           When I go through paragraph 76 of the Pre-Sentence  
6 Report looking at the other funds that have been included by  
7 the probation officer, I note in doing so quickly that every  
8 single other thing is based on what Vasseghi and/or House have  
9 said. I would suggest that as the Court has already made clear  
10 while it must respect the jury's verdict and consider the  
11 evidence in the light most favorable to the Government when it  
12 comes to the time of determining judgment of acquittal the  
13 Court does not have to give up its own opinion on credibility  
14 and the value of certain testimony when it makes the  
15 sentencing.

16           I would suggest that the Government has not proven to  
17 the satisfaction of the Court under the guidelines that any  
18 other amount should be considered other than that \$30,000 and  
19 that that \$30,000 is the sum that should be used in determining  
20 what should be added to the base offense level of eight.

21           THE COURT: Ms. Turner?

22           MS. TURNER: Your Honor, the Government has nothing  
23 to add other than what is in the Pre-Sentence Report. It  
24 recognizes that the Court's views on the credibility of its  
25 witnesses will be dispositive of this issue and that the Court

1 is entitled to make those determinations.

2 THE COURT: Well, I explicitly and affirmatively  
3 state my opinion as to the credibility of Ashley House and Ben  
4 Vasseghi by saying that in my opinion they are both consummate  
5 liars; and they lied repeatedly in the trial of this case in an  
6 attempt to get their sentences reduced.

7 I will mention just a couple of instances as to  
8 Mr. House which I think were particularly egregious. His  
9 testimony that he gave Mr. Shorr \$800,000 in cash and that then  
10 sometime in 1999 or 2000 Mr. Shorr flew up here from Tampa, met  
11 Mr. House and when Mr. House asked for his, I believe, \$600,000  
12 back Mr. Shorr told him, Well, it's gone. And they just  
13 merrily went on about their business.

14 That is just incredible to me that a drug dealer  
15 would behave in that fashion and continue to trust Mr. Shorr as  
16 his right-hand man to manage all of his affairs after being  
17 told that the man he had given \$800,000 to it was just gone and  
18 that was that. That struck me as being incredible.

19 His testimony about the Nextpath stock was so  
20 unbelievable, self-contradictory and incomprehensible that  
21 again I think it shows Mr. House just couldn't get his story  
22 straight and could not imagine enough facts to implicate  
23 Mr. Shorr so he could get a further reduction in his sentence.

24 Mr. Sadow, remind me what Mr. Horn said about  
25 Mr. Vasseghi at sentencing.

1           MR. SADOW: I wish I could quote it to you as well as  
2 I had in the transcript. But in a sense, it's that he was an  
3 abomination to the criminal justice system because he had  
4 attempted to manipulate the system both before, up to and  
5 including the sentencing, and that it was the very reason why  
6 -- I don't want to go any further than that.

7           It was the Government's idea was he was the kind of  
8 person that the Government would never want to give a deal to,  
9 would never want to have cooperate with him because he could  
10 never be trusted on anything.

11          THE COURT: I agree with Mr. Horn's assessment of  
12 Mr. Vasseghi and the testimony he gave at trial.

13          Over and above the credibility of those witnesses,  
14 the recommendation in the Pre-Sentence Report that Mr. House's  
15 investment with Roger Genter in the amount of \$300,000 in cash  
16 should be attributed to Mr. Shorr as relevant conduct, that the  
17 investment with Greg Moss by Mr. House of \$1,500,000 should be  
18 attributed to Mr. Shorr as relevant conduct, that the \$170,000  
19 in cash that Mr. House gave to Mr. Harris for the Fountain boat  
20 should be attributed to Mr. Shorr as relevant conduct just  
21 seems incredible to me. I mean, that's something out of Alice  
22 in Wonderland.

23          Mr. Shorr had nothing to do with any of that; am I  
24 correct about that, Mr. Sadow?

25          MR. SADOW: There's been absolutely no evidence

1       whatsoever that he was connected to those at all. In fact,  
2       Mr. Harris testified on the boat that Mr. Shorr absolutely had  
3       nothing to do with the boat.

4               THE COURT: Both legally and factually, the idea that  
5       that money is attributable to Mr. Shorr is just incredible to  
6       me. I find it incredible.

7               So I will find that the base offense level in this  
8       case is 8 plus 6 which would be 14, and I sustain the  
9       Defendant's objection to paragraph 76.

10              All right. Your next objection, Mr. Sadow, is  
11      paragraph 78.

12              MR. SADOW: Your Honor, the objection there, the  
13      probation office recommended that my client receive a  
14      four-level increase for being in the business of laundering  
15      money. I don't believe that that's shown by the evidence in  
16      this case, particularly in light of the Court's finding on  
17      Counts 7 and 8 today. The only conviction we have now is Count  
18      9 and Count 1.

19              I had indicated in my objection that he should  
20      receive a two-level increase because he presently stands  
21      convicted under 1956. I would now go back to the argument that  
22      I made before which is that he doesn't have a substantive 1956  
23      conviction. He has a 1957 conviction. And if the Court deems  
24      the conspiracy to cover 1957 and not 1956, that should be a  
25      one-level increase, not a two-level increase, under

1 2S1.1(b)(2).

2 So what I -- the position I take in light of the  
3 Court's ruling today and what I left open in the objection is  
4 there should be no four-level increase. Now there should be no  
5 two-level increase. There should be a one-level increase under  
6 1957.

7 THE COURT: What do you say, Ms. Turner?

8 MS. TURNER: Your Honor, the Government says -- the  
9 Government agrees, I believe, that the four-level enhancement  
10 is not appropriate given the facts as the Court has found them  
11 today. However, the 1956 two-level enhancement remains  
12 appropriate because the Court has found that 1956 was one of  
13 the objects of the conspiracy. And so the Government  
14 respectfully requests that the Court leave the two-level  
15 enhancement intact.

16 THE COURT: All right. Based on the fact that I did  
17 find that the Defendant was properly convicted under conspiracy  
18 to violate 1956, I am going to add two levels rather than one.  
19 And I specifically find that the Defendant's objection based on  
20 the recommendation that the Defendant was in the business of  
21 laundering funds is sustained. There was no evidence of that  
22 at trial. The evidence that's contained in paragraph 78, I  
23 believe, although -- well, I believe it's based entirely on the  
24 testimony of Ashley House which I discredit.

25 All right. Next, Mr. Sadow, is paragraph 79.

1           MR. SADOW: Your Honor, not to rehash, the Defendant  
2 stands convicted of one substantive 1957 count and the  
3 conspiracy to commit money laundering. The sophisticated money  
4 laundering as shown by Count 9 is a receipt of a check for  
5 \$30,000 at the tail end of a real estate transaction. I  
6 suggest that this does not prove sophisticated money laundering  
7 at all and that the only evidence of so-called sophistication  
8 in this case comes from Ashley House and what he claims Adam  
9 Shorr did, and the Court's already made its thoughts clear and  
10 its beliefs clear as to Ashley House.

11           So I believe that that sophisticated money laundering  
12 enhancement is ill-advised and my objection should be  
13 sustained.

14           THE COURT: Ms. Turner?

15           MS. TURNER: The Government disagrees, Your Honor.  
16 There is again a very significant amount of evidence in this  
17 case showing layered transactions involving shell corporations  
18 and multiple shell corporations used with the intent to conceal  
19 and disguise. That evidence is independent of anything that  
20 Ashley House or Ben Vasseghi says.

21           We have the evidence of Khadem Properties. We have  
22 evidence of the convoluted nature of the Jones Bridge Road  
23 transaction. We have the evidence that the \$30,112 that the  
24 Defendant received and the Court has found that the Defendant  
25 received was transferred into the Quest Marketing Group

1 account.

2 So, regardless of the Court's conclusions as to  
3 Mr. House or Mr. Vasseghi, the conclusion is warranted based on  
4 the evidence in the record independent of those two men that  
5 there was layering and that there was sophistication and use of  
6 shell entities in this case and that the Defendant should be  
7 held accountable for sophisticated money laundering.

8 THE COURT: Well, I think Mr. Vasseghi and Mr. House  
9 engaged in sophisticated money laundering; but the only  
10 evidence that I have found to be credible involving Mr. Shorr  
11 is he got a check for \$30,000. That's not sophisticated money  
12 laundering. It's just getting a check. So I will sustain your  
13 objection, Mr. Sadow.

14 All right. Your next objection, Mr. Sadow, is  
15 paragraph 81 regarding role in the offense.

16 MR. SADOW: I don't know any better way to say it  
17 than this. But in this cast of characters, of all the  
18 individuals that were involved with House and Vasseghi and  
19 Harris and so forth, to suggest that Adam Shorr is the least  
20 culpable isn't even a far stretch. I mean, it is just a fact.  
21 And the idea of culpability giving rise to when one is in a  
22 mitigating or aggravating role, I don't know how more  
23 mitigating it can be than having been involved in receiving one  
24 check for \$30,000 in light of everything that Harris did.

25 I mean, the record is replete with all the different

1 things that he did over a period of time for House in which he  
2 admitted what Vasseghi did in the laundering, what House did in  
3 the laundering. I think the culpability of Adam Shorr is  
4 minimal, minor at best, and receives some role reduction.  
5 Whether it is two, three or four I'll let the Court determine.  
6 But it certainly is mitigating in comparative culpability to  
7 all others allegedly involved.

8 THE COURT: Ms. Turner?

9 MS. TURNER: Your Honor, the record based on  
10 witnesses other than Mr. House and Mr. Vasseghi shows that not  
11 only did Mr. Shorr receive a check for \$30,000, he also wrote a  
12 \$72,000 check to Mr. Garner in exchange for Mr. Garner's checks  
13 at the 9 Acre closing.

14 THE COURT: That's another witness whose story was  
15 just incredible. He is sitting in his truck, and all of a  
16 sudden Adam Shorr runs up and throws an envelope with \$40,000  
17 in cash through the window of the truck. Mr. Garner is another  
18 liar, and I think everybody in this room knew he was lying.

19 Anyway, go ahead, Ms. Turner.

20 MS. TURNER: But, Your Honor, Mr. Garner couldn't  
21 have been lying about the \$72,000 check that he received from  
22 Mr. Shorr that remains unexplained.

23 So under those circumstances, Your Honor, what is  
24 clear is that Mr. Shorr was absolutely intimately involved in  
25 the 9 Acre transaction. But Mr. Shorr continued to pay the

1 property taxes out of his accounts after the 9 Acre transaction  
2 occurred, that he continued to pay the property taxes on that  
3 property once that property was in the name of Ashley House's  
4 parents.

5 Under those circumstances, even if the Court  
6 concludes that the only substantive count for which Mr. Shorr  
7 is appropriately responsible is the \$30,000 transaction, that  
8 is sufficient to show at a minimum that Mr. Shorr's conduct is  
9 neutral and that Mr. Shorr's conduct does not warrant a  
10 mitigating role reduction. So we ask you not to give one.

11 THE COURT: All right. I am going to sustain the  
12 Defendant's objection to paragraph 81. Ms. Turner, I just have  
13 to agree with Mr. Sadow that in this whole cast of characters  
14 it appears to me that Adam Shorr is the least culpable of any.  
15 I mean, Ashley House is Captain America. He is directly  
16 responsible for importing a million and a half pills of ecstasy  
17 into the United States. Best I can tell, Adam Shorr was his  
18 drinking buddy and engaged in some business arrangements with  
19 House for which he I'm sure is most regretful now.

20 But if anybody in this whole cast of characters is  
21 entitled to a role reduction, it appears to me it's Adam Shorr.  
22 And I will give him a four-level downward adjustment for  
23 minimal role.

24 All right. I believe those are all of your  
25 objections, Mr. Sadow.

1           MR. SADOW: I have what I guess you could call it an  
2 objection. It also potentially would be a question of  
3 departure on a criminal history. But for guideline  
4 calculations on its face, I don't know whether you want to deal  
5 with that as an objection or a departure issue.

6           THE COURT: I think that's a departure issue,  
7 Mr. Sadow; so let me go ahead and do the guideline calculations  
8 now.

9           The Pre-Sentence Report does the calculations just  
10 for Count 1. I believe it would be accurate to do the  
11 calculations for both Count 1 and Count 9. They are grouped, I  
12 believe.

13           MS. TURNER: The Government agrees.

14           MR. SADOW: Yes, Your Honor.

15           THE COURT: All right. Then the base offense level  
16 is 14 based upon what I previously stated sustaining the  
17 Defendant's objections to the laundered funds amount.

18           As set forth in paragraph 77, six levels are added  
19 because the laundered funds were proceeds of an offense  
20 involving a controlled substance. Two levels are added because  
21 the offense involved 18 U.S.C., Section 1956.

22           As previously stated, I'm sustaining the Defendant's  
23 objection to paragraph 79. There's no enhancement for  
24 sophisticated money laundering. There are no victim-related  
25 adjustments. I am giving the Defendant a four-level downward

1 adjustment for minimal role in the offense. There's no  
2 enhancement for obstruction of justice. Therefore, the  
3 adjusted offense level is 18?

4 PROBATION OFFICER: That's correct by my  
5 calculations.

6 THE COURT: All right. As set forth in paragraph 88,  
7 the Defendant receives one criminal history point for his  
8 conviction for battery in the State Court of Cobb County.

9 As set forth in paragraph 90, two points are added  
10 because the Defendant was on probation at the time of this  
11 offense. Three criminal history points puts him in a criminal  
12 history category of two.

13 Accordingly, the sentencing options are as follows:

14 With respect to Counts 1 and Count 9, with a total  
15 offense level of 18 and a criminal history category of two the  
16 custody guideline range is 30 to 37 months. The fine guideline  
17 range is \$6,000 to \$60,000 or twice the value of the funds  
18 involved which in this case would be approximately \$30,000.

19 There's no issue of restitution. There's a special  
20 assessment of \$200. The Court could impose cost of confinement  
21 of up to \$24,922 or cost of supervision of up to \$3,621.64  
22 annually or both. There's no probation option. There's a term  
23 of supervised release of two to three years.

24 Ms. Turner, any objections to the guideline  
25 calculations?

1 MS. TURNER: Only to the Court's resolution of the  
2 objections in paragraphs 76, 79 and 81, Your Honor.

3 THE COURT: Mr. Sadow, any objections to the  
4 guideline calculations?

5 MR. SADOW: No, Your Honor.

6 THE COURT: All right. Let's take a 15-minute break;  
7 and then I will hear you on the criminal history issue,  
8 Mr. Sadow.

9 Court's in recess for 15 minutes.

10 (A short recess was taken.)

11 THE COURT: I was able to locate the transcript of  
12 the sentencing in Mr. Vasseghi's case, and this is what  
13 Assistant U.S. Attorney John Horn had to say about  
14 Mr. Vasseghi:

15 "My final comments, Judge, what else does  
16 Mr. Vasseghi have to do in this case? He has violated the law  
17 by drug dealing in every way that we can possibly -- that he  
18 possibly could have with ecstasy, marijuana. He has been  
19 arrested. He has told agents when they came to see him, I'm  
20 not cooperating, go pound sand."

21 "He has been out there with before this case was  
22 indicted telling witnesses not to cooperate, offering them  
23 money. When he finally gets arrested and indicted, he is doing  
24 things in prison that are against the rules sending out our  
25 discovery so that people who we are investigating can be

1 alerted to that fact. I mean, what else possibly could this  
2 person do to thumb his nose at the Government, law enforcement  
3 and this Court?"

4 Is that the part that you read, Mr. Sadow?

5 MR. SADOW: That and another part; but, yes, Your  
6 Honor.

7 THE COURT: All right. I will hear from you on the  
8 criminal history issue.

9 MR. SADOW: As currently calculated, of course, the  
10 Defendant's criminal history category is two. Our position is  
11 that that overrepresents his criminal history and chances of  
12 him committing crimes in the future, and it should be a one.

13 I start off by pointing out, again without quibbling  
14 over what has already happened, what it would appear gives him  
15 a Criminal History Category 2 is the fact that he was placed on  
16 12 months probation for a simple battery conviction in Cobb  
17 County. The date referenced in the Pre-Sentence Report,  
18 paragraph 88, will be August the 20th of 1999. Assuming, of  
19 course, that that's correct, that would mean that his probation  
20 would run from August 20th of '99 to August 20th of 2000.

21 In light of what has been determined so far, the one  
22 thing that the Court has found to be supported by the evidence  
23 in the jury's verdict is an act of the Defendant that occurred  
24 in November of 2002. Now, the conspiracy as alleged in the  
25 indictment goes all the way back into the mid-'90s. But I'm

1 not sure that that has to necessarily mean that the jury  
2 convicted the Defendant or the Court has to find that the jury  
3 convicted the Defendant of being involved in a conspiracy  
4 during the period of August of '99 to September of '99.

5 I mean, as it stands now he could have been found  
6 guilty of the conspiracy based on what occurred in Count 9 in  
7 that action there which would have been after he was off  
8 probation. And that's why I asked the Court about whether it  
9 was a departure or whether or not it was a calculation. I had  
10 leveled it as potentially both.

11 In any event, what we are talking about is a  
12 Defendant that's got a battery conviction in 1999 who is being  
13 held out as an offense level -- Criminal History Category 2.  
14 And we are talking about a period of time that's gone by of  
15 almost a little less than ten years. I suggest that clearly  
16 overrepresents what Mr. Shorr has been involved in.

17 And I will just be as flat-out honest as I can be.  
18 The evidence in this case shows that Adam Shorr was involved as  
19 the Court has already noted as probably a drinking buddy of  
20 House, that on occasion, rare occasion they may have done  
21 ecstasy together according to the evidence here and that Adam  
22 Shorr has used steroids and that he has been a body builder.

23 I don't think that represents him as being a true  
24 criminal above and beyond a Category 1. And I think that,  
25 therefore, a Criminal History Category 2 does overrepresent.

1           The rest of this argument I will make when I talk in  
2 terms of a variance, but I think that's what applies to the  
3 departure area of criminal history.

4           THE COURT: Ms. Turner?

5           MS. TURNER: Your Honor, the guidelines set  
6 Mr. Shorr's criminal history score at the level that it is; and  
7 it's warranted. The Government recognizes that the underlying  
8 offense for which Mr. Shorr was on probation was a battery. It  
9 also wants to call the Court's attention, however, to the fact  
10 that I believe it was in 2000 and continuing past 2000 when  
11 Mr. Shorr was involved in a series of transactions related to  
12 the nine acres of real estate, the nine acres of real estate  
13 that Mr. Shorr continued to pay the property taxes on even when  
14 that real estate was transferred into the name of Ashley  
15 House's parents.

16           I also want to tell the Court that while at first  
17 blush it might look like a conspiracy that started in 1996 or  
18 1997, had this sort of hiccup that Mr. Sadow is describing  
19 during the period when Mr. Shorr was on probation, but the --  
20 some evidence that the Government has that relates to other  
21 criminal conduct by the Defendant suggests that the Defendant  
22 was involved in other financial crimes during that period.

23           Specifically, Your Honor, Mr. Shorr was associated  
24 with a company called Key Credit Solutions and an additional  
25 company that significant consumer complaints were levied about

1 the manner in which that Key Credit Solutions and that  
2 additional company, I believe it was -- it wasn't American Gold  
3 Card; the name escapes me right now -- but that those two  
4 companies were involved in significant telemarketing fraud.

5 And I'd like to tender for the Court's consideration  
6 Government's Exhibits 3 and 5 just to give the Court a sampling  
7 of the kinds of allegations that were made and that the  
8 Defendant's probation during that period did not seem to slow  
9 him down in terms of committing financial crimes.

10 I also want to tell the Court that my office up to  
11 2003 was entertaining a prosecution of Mr. Shorr based on that  
12 conduct, and my office assessed the evidence and concluded that  
13 because Mr. Shorr had voluntarily stopped his fraudulent  
14 activity and had repaid funds between 50 and 75 percent to the  
15 victims that we were not going to prosecute him. And so under  
16 those circumstances, Mr. Shorr got a huge benefit and the  
17 request that he go forward clean in the future.

18 Your Honor, that does not appear to have happened.  
19 And in that light, I'd like to submit Government's Exhibit 1  
20 for the Court's review. Government's Exhibit 1 is a printout  
21 off of the internet that I made this morning when I searched  
22 for Mr. Shorr's name, and it's from the Ripoff Report. And I  
23 have just given the Court the headings. There is additional  
24 information under these headings that the Court may want to  
25 look at or not that mentions consumer complaints against

1 companies associated with Mr. Shorr as late as December of  
2 2008.

3 In light of those circumstances, Your Honor, the  
4 Government contends that Mr. Shorr's criminal history score is  
5 appropriate and an appropriate measure of his danger of  
6 reoffending. And so under those circumstances, the Government  
7 asks the Court to leave that criminal history score where the  
8 guidelines find it as a matter of fact and a matter of the  
9 departure that the Defendant has requested.

10 THE COURT: Mr. Sadow?

11 MR. SADOW: I stand on the position that I took  
12 earlier and add to that that for the Government to come in, run  
13 something off the internet, hand it as if it's reliable and  
14 suggest that it's criminal conduct on behalf of the Defendant  
15 respectfully is appalling to me without any other basis than  
16 simply to take it off the internet. I dare say you can almost  
17 take anything, including things that would be wrongfully said  
18 about the Government, about myself, about anyone in the justice  
19 system. I don't think it has reliability.

20 If the Government has something against Adam Shorr  
21 for which he did wrong, I'm certain based on this case that  
22 they would have brought it forward. It has brought -- it  
23 brought it through Ashley House and Ben Vasseghi. Certainly if  
24 that was the best that they had, I think it gives the credence  
25 or the lack of credence to anything else. I suggest that it

1 overrepresents his criminal history category.

2 THE COURT: All right. If Mr. Shorr is committing  
3 additional criminal activity, I expect that he will be  
4 investigated and prosecuted by the Government and at a trial he  
5 will be given the right to confront his accusers and not be  
6 faced with some anonymous accusations downloaded off an  
7 internet site.

8 This case has many mysteries to me. I just do not  
9 understand what is going on here. And I am not going to make  
10 decisions affecting an individual's life based upon something  
11 that was downloaded off the internet this morning and that the  
12 Defendant has not been given a chance to confront or to  
13 investigate or to respond to it. That's just not fair. That's  
14 not the way the system is supposed to work. And I am not going  
15 to base a sentencing decision on something like that.

16 All right, Mr. Sadow, I am going to grant your motion  
17 for a downward departure as to criminal history. I think that  
18 Criminal History Category 2 overstates Mr. Shorr's danger to  
19 the community and likelihood of recidivism, and I am going to  
20 sentence him based on a criminal history category of one which  
21 results in a custody guideline range of 27 to 33 months.

22 All right, Ms. Turner, is the Government requesting a  
23 non-guidelines sentence?

24 MS. TURNER: It is not, Your Honor.

25 THE COURT: Mr. Sadow, are you requesting a

1 non-guidelines sentence?

2 MR. SADOW: I am, Your Honor.

3 THE COURT: All right. I will be glad to hear from  
4 you.

5 MR. SADOW: Again, being as candid as I can be with  
6 the Court, I take enough pride in the work that I do to pay  
7 attention to what judges, individual and collectively, do  
8 insofar as guideline determinations and sentencing  
9 determinations. With all the respect that I have for this  
10 Court, I know this Court's typical approach in dealing with  
11 guideline issues and variance issues; and I have done a lot of  
12 work trying to keep up with where this Court and other Courts  
13 have made those calls.

14 And, therefore, I know as I stand here that the Court  
15 will determine reasonableness, does not presume the guidelines  
16 to be reasonable, would do nothing that the law doesn't permit,  
17 at the same time has been a fairly strong proponent in the idea  
18 that the guidelines do serve a very valid, compelling purpose.  
19 I understand that. And I know that you have made guideline  
20 calculations in this case which have been favorable to  
21 Defendants across the board, and I respect that as well.

22 Having said all that, I go to 3553(a) and I look at  
23 the Court and say there's a parsimony clause here. Your Honor  
24 knows what I mean. It's supposed to be a sentence sufficient  
25 but not greater than necessary.

1           This offense at its worst happened in November of  
2 2002. We're six-plus years from that. This is a case that as  
3 the Court has pointed out has had many, many things that -- a  
4 myriad of things that I'm not quite sure I understand. I'm not  
5 quite sure I understand why we are actually before the Court in  
6 light of all the things that the witnesses for the Government  
7 intend to put its faith in. A Vasseghi and an Ashley House, to  
8 have given them benefits and credits for what they chose to do  
9 to someone like an Adam Shorr versus what they have done to  
10 society, none of that makes a whole lot of sense to me.

11           But looking at 3553(a), I say six-plus years  
12 post-criminal conduct we have based on what the Court has found  
13 an event that occurred that the Defendant received a check for  
14 30,000-plus dollars which originated from drug money. That's  
15 this case as it stands right now. If this Court deems  
16 27 months in jail being the bottom of the guideline to be  
17 appropriate punishment for that, I really can't quibble with  
18 it.

19           But I do say that here the nature and circumstances  
20 of what the Defendant did, his history, his own  
21 characteristics, the whole nature of the prosecution, what  
22 his -- that is, the Defendant's -- supposed benefit financially  
23 from this is, all of those, including the idea with respect for  
24 the law, just punishment for his offense don't demand and they  
25 don't cry out but they certainly suggest that something other

1 than 27 months in jail is appropriate.

2           Whether that is a sentence of some time in jail and  
3 some home confinement, whether it is just home confinement,  
4 this Court sentences people all the time and I think you  
5 understand much better than I do what would be appropriate.  
6 But I think if there's ever going to be a case where someone  
7 doesn't have to go to jail for this specific kind of conduct  
8 this might be it.

9           And I point this out, this is kind of a  
10 Kimbrough/Gall situation. He is at an 18 Criminal History  
11 Category 1. The real motivating or moving factor here is that  
12 six-plus levels that you get because drug money is involved.  
13 And that's built into the guidelines because obviously the  
14 Sentencing Commission determined that drugs and drug money was  
15 a particular evil that the guidelines needed to look at.

16           But absent that six levels -- and we're talking about  
17 a one-time check here -- absent that six levels, we are at 10  
18 to 16 months. I mean, the difference between going to jail  
19 potentially at all or going to jail for two years is that six  
20 levels. And I can see that when you have what I would call  
21 typical traditional money laundering, event after event after  
22 event. Here it's an event, a check, \$30,000 one time. And I  
23 think that that suggests that something other than a guidelines  
24 sentence might be appropriate and sufficient here as opposed to  
25 27 months in jail.

1 THE COURT: Ms. Turner?

2 MS. TURNER: Your Honor, in this case the Government  
3 is going to ask the Court to impose a guidelines sentence for  
4 the following reasons and that a guidelines sentence is a  
5 reasonable sentence under the circumstances.

6 3553 factors require the Court to consider the need  
7 for restitution which isn't applicable here, the need to avoid  
8 disparity that is unwarranted between Defendants convicted of  
9 similar offenses under similar circumstances, the policy set  
10 out in the guidelines, the available sentences.

11 I think that we can pretty much agree that there is  
12 not a lot of educational, vocational or medical health to deter  
13 the Defendant from going to prison. However, based on the  
14 information that the Government has already supplied to the  
15 Court about the Defendant's involvement in financial crime, not  
16 just this money laundering offense, a custodial sentence within  
17 the guideline range is necessary to protect the public from  
18 further crimes of the Defendant and to deter the Defendant's  
19 future conduct.

20 The Government takes issue with Mr. Sadow's  
21 representations that this was an isolated event. And it  
22 recognizes the Court's ruling as -- the Court's decisions as to  
23 Mr. Vasseghi and Mr. House. There are matters in the record,  
24 however, that do not depend on Mr. Vasseghi and Mr. House.  
25 Take, for instance, the safe deposit box, a safe deposit box

1 that the Defendant rented in 1997, a safe deposit box that the  
2 record shows the Defendant entered approximately 24 to 48 hours  
3 after he was released on bond for being arrested for having  
4 ecstasy and anabolic steroids in Cobb County.

5 Consider also, Your Honor, the comments that Mike  
6 Slater testified to that the Defendant made while he and the  
7 Defendant were in jail for that ecstasy offense and prior to  
8 them making bond. I do not have them verbatim, Your Honor; but  
9 the essence was that Mr. Shorr said at a time when he knew that  
10 agents had seized the key to that safe deposit box, I've got a  
11 lockbox, I've got to get there, how would it look if the police  
12 found the contents of that lockbox.

13 So whether there was \$200,000 in it or \$20,000 in it,  
14 what you have is evidence that in 1998 the Defendant had a safe  
15 deposit box, that he mentioned it to somebody other than  
16 Vasseghi and House, that he entered that safe deposit box right  
17 after being arrested for a drug offense.

18 In addition to that, Your Honor, you have his  
19 involvement in the Nextpath deals. And I recognize the Court's  
20 view on the Nextpath deals. But the record is clear that  
21 whatever the relationship between Vasseghi, House and Mr. Shorr  
22 there was one and that money did go back and forth between  
23 those people and that Mr. Shorr did know what House's  
24 occupation was and what Vasseghi's occupation was.

25 And then you move forward into 2000, and you have the

1 transactions that relate to the nine acres of real estate. And  
2 I have already pointed out to the Court the salient facts on  
3 that issue and the Defendant's continued payment of those real  
4 estate taxes. And then you have the Defendant in business with  
5 Bill Harris and allegedly with Mr. House. And then you have  
6 Mr. House fleeing from the United States and Mr. House  
7 testifying -- and I understand the Court's views -- that  
8 Mr. House left his other investments of drug money with the  
9 Defendant when he fled for Spain.

10 THE COURT: Well, Ms. Turner, I don't think it's just  
11 my views. I mean, you started out your opening statement as I  
12 recall telling the jury that they didn't have to believe  
13 anything that Mr. House or Mr. Vasseghi said, that the  
14 Government was going to rely entirely upon evidence and  
15 transactions that could be verified independent of Mr. House  
16 and Mr. Vasseghi.

17 MS. TURNER: And the Government respectfully suggests  
18 that it did that and appreciates that the Court disagrees.

19 THE COURT: No, I don't think the Government did that  
20 at all. I mean, your whole presentation as to the amount of  
21 funds laundered, as to all of the enhancements is all based on  
22 the testimony of Ashley House. The argument you are making  
23 right now is based on the testimony of Ashley House.

24 MS. TURNER: It is based on the testimony of Ashley  
25 House as corroborated by documentary evidence taken from bank

1 accounts, taken from real estate transactions, taken from  
2 brokerage records that --

3 THE COURT: Where is the evidence that Mr. Shorr  
4 deposited in any account or used in any transaction up to  
5 \$800,000 in cash that belonged to Ashley House?

6 I kept waiting for the Government to present that  
7 kind of evidence. You had Mr. Shorr's bank records.

8 MS. TURNER: We had some of them, Your Honor. We had  
9 all of the ones that we knew about and that we could find. We  
10 were still finding bank accounts as late as weeks before trial.

11 THE COURT: All right. Go ahead. Excuse the  
12 interruption.

13 MS. TURNER: No. I apologize, Your Honor.

14 In addition to that, Your Honor, it is accurate that  
15 Mr. House testified that he left his investments with the  
16 Defendant when he fled from the United States in 2002.  
17 Mr. House gave the Government information -- and I can't recall  
18 whether the Government presented it at trial or not -- that  
19 shortly before fleeing he and the Defendant met with Roger  
20 Genter, another person whose name has come up extensively in  
21 this case, and cashed out an investment of Mr. House's.

22 There is a check. I believe it's in the record. And  
23 it's a check that was supplied to Mr. Sadow during discovery.  
24 The Government has it here as Government's Exhibit 2 and would  
25 tender it, showing that on February 16th, 2002, Mr. Genter

1 wrote a \$179,000 check to Power Marketing Strategies,  
2 Mr. Shorr's company. And after that point, obviously  
3 Mr. Genter became an object of a lot of interest to the  
4 Government; and so the Government subpoenaed Mr. Genter to come  
5 to trial and testify and subpoenaed all the documents and  
6 records that Mr. Genter had that related to this check.

7           And one of the things that Mr. House said -- and,  
8 again, I understand the Court's view -- was that there was a  
9 promissory note that related to this check. Mr. Genter was  
10 unable to supply the promissory note, but he was able to supply  
11 a letter that was written by the Defendant. And this is also a  
12 letter that the Defendant has had since the trial. It's  
13 written in the Defendant's handwriting. And I would also  
14 tender that to the Court for its consideration in deciding  
15 whether to impose a guidelines sentence, that when the Court is  
16 assessing credibility it consider this letter that the  
17 Defendant wrote to Mr. Genter.

18           The date of the letter is none too clear. It was  
19 faxed to the Government in July. But it discusses an  
20 investment for \$179,000 and asks the Court -- or asks  
21 Mr. Genter to throw away the prior agreement because Mr. Shorr  
22 has done so. The Government contends that this letter shows  
23 Mr. Shorr's consciousness, that there were documents,  
24 additional documents in existence that supported the  
25 Government's case and that he had a desire for those documents

1 to no longer exist.

2           So when the Court is considering the history and the  
3 characteristics of the Defendant and the scope of the events --  
4 of the offense in this case, the Government respectfully  
5 requests that the Court consider this act as well.

6           In addition to that, Your Honor, the Government also  
7 asks that the Court take account of the need for the sentence  
8 in this case to reflect the seriousness of this kind of  
9 offense. Money laundering is an attack on the integrity of the  
10 financial system in this country, and in this day that is very  
11 real and very pressing and very urgent.

12           When the money laundering laws were enacted in 1986,  
13 they were enacted for the purpose of facing drug dealers with a  
14 Hobson's choice, either violate the law when you make efforts  
15 to integrate your illicitly derived proceeds into the stream of  
16 commerce or sit on piles of cash that are otherwise worthless.

17           In light of that reasoning that drives Congress's  
18 purpose in enacting these laws, it's very important to  
19 recognize that people like Mr. Shorr are precisely the people  
20 that Congress was trying to reach with these statutes. And  
21 there is a quote from Congressman Shaw in the Government's  
22 brief that speaks to that.

23           In light of those circumstances, Your Honor, the  
24 Government asks that the Court impose a guidelines sentence to  
25 appropriately reflect the seriousness of the offense, the

1 nature and circumstances of the offense, the need for  
2 deterrence not just of this Defendant but of all similarly  
3 situated parties, the need to protect the public from further  
4 crimes by the Defendant and the need to avoid sentencing  
5 disparity.

6 Thank you, sir.

7 MR. SADOW: May I respond very briefly?

8 THE COURT: Yes, sir.

9 MR. SADOW: My best response to anything the  
10 Government just said is to say Greg Moss. Greg Moss laundered  
11 \$1.5 million of Ashley House's money. He admitted that he  
12 laundered 1.5 million. Ashley House admitted he laundered 1.5  
13 million. But because Ashley House could convince Greg Moss to  
14 pay back the money to the Government, the Government didn't  
15 prosecute Greg Moss.

16 So anything the Government says to this Court about  
17 the idea of financial integrity of this country and the idea of  
18 how having to punish money launderers and drug dealers, Greg  
19 Moss. Why, oh, why the one person they could prove 150 percent  
20 was involved they don't prosecute simply because House is able  
21 to negotiate and manipulate a payback of money for which House  
22 gets a reduction in sentence.

23 And the Government stands here now and says we need  
24 to make sure that this is a deterrent to others. If they want  
25 deterrence, when you get a Greg Moss, an admitted money

1 launderer who got to keep some of the spoils, prosecute him,  
2 and then they can make these claims.

3 MS. TURNER: Your Honor, may I respond?

4 THE COURT: Yes, Ma'am.

5 MS. TURNER: Greg Moss has been a very interesting  
6 specter in this case. And while I recognize that he is  
7 completely irrelevant to what's going on in this court today  
8 because this proceeding is about Mr. Shorr, I do think that it  
9 is relevant for the Court to know that Mr. Moss may have  
10 admitted to laundering money. I believe he did. And other  
11 than his admission, the Government didn't have corroborating  
12 evidence. And as you can imagine, Mr. Moss was represented by  
13 counsel and did not make that admission freely.

14 So let there be no confusion today. Mr. Moss was  
15 absolutely a target of investigation. And had the Government  
16 had the ability to prosecute him, it most assuredly would have.  
17 That being said, he remains today as he was throughout the  
18 trial, wholly irrelevant to Mr. Shorr's conduct.

19 Thank you, sir.

20 THE COURT: Mr. Shorr, you have the right of  
21 allocution which is the right to make a statement before I  
22 impose sentence in your case. Whether or not I decide to give  
23 you a non-guidelines sentence or a guidelines sentence is  
24 really going to determine what your sentence in this case is  
25 going to be. So if you would like to make your statement now,

1 this would be the appropriate time to do it. Or you can just  
2 rely upon what your attorney has said in your behalf.

3 THE DEFENDANT: I'd like to make a statement.

4 THE COURT: All right. If you will come up to the  
5 podium, please.

6 (Defendant approached the podium.)

7 THE DEFENDANT: I just wanted to say that I really  
8 appreciate you being so fair with me with all your judgments  
9 since the beginning of the trial. And I think that I can make  
10 real, real positive strides in my personal life and in society.  
11 And the main thing I want you to know is ever since 2003 I have  
12 been really, really careful about my associations from who I do  
13 business with and who I associate with on a personal level.

14 Thank you.

15 (Defendant returned to the defense table.)

16 THE COURT: All right. I am going to grant the  
17 request for a non-guidelines sentence for these reasons:

18 In this case, I think that the six-level upward  
19 enhancement because the money involved in Count 9 was the  
20 proceeds of drug sales vastly overrepresents the seriousness of  
21 Mr. Shorr's criminal conduct. Mr. Vasseghi's drug money wasn't  
22 laundered by Mr. Shorr. It had already been laundered through  
23 multiple levels, multiple transactions, went into the  
24 attorney's escrow account for the purpose of purchasing the  
25 property. And Mr. Shorr's receipt of the \$30,000 check did

1 nothing to damage the financial system of this country or to  
2 make dirty money cleaner than it already was.

3           The Government has conceded in this case that the  
4 prosecution under the circumstances of this case under Section  
5 1957 may result -- and I think I'm quoting, Ms. Turner, with  
6 this -- result in difficult and semi-arbitrary decisions. The  
7 law in this area is extremely uncertain, and I think the  
8 argument could well be made that there's insufficient -- that  
9 Mr. Shorr if he didn't know that the \$30,000 specifically was  
10 drug money wasn't guilty of anything. And that's a mitigating  
11 circumstance in my opinion that is not taken into consideration  
12 in the calculation of the guideline range.

13           So I am going to depart down to a Level 12 which  
14 would result in a guideline range of 10 to 16 months.

15           All right. Ms. Turner, you wish to have a  
16 recommendation as to the sentence to be imposed?

17           MS. TURNER: Your Honor, the Government recommends a  
18 16-month sentence. It recommends the maximum fine, the maximum  
19 statutorily authorized term of supervised release, a forfeiture  
20 commensurate with the Court's findings, although it objects to  
21 the Court's findings, and nothing further.

22           THE COURT: Mr. Sadow?

23           MR. SADOW: Your Honor, I would ask for a  
24 non-confinement sentence which is still in and of itself  
25 another variance from where the Court has gone. Assuming the

1 Court does not do a non-confinement sentence, then using the  
2 guidelines you will approach ten months which would allow the  
3 Court to impose a sentence of five months incarceration and  
4 five months in either a halfway house or home detention -- I'm  
5 sorry -- home confinement.

6 So if you are going by the guidelines in determining  
7 sentence, I would ask for five months in jail and five months  
8 in home confinement, whatever the Court deems the appropriate  
9 fine to be. There will be the forfeiture. We haven't reached  
10 that yet. But I am assuming the forfeiture is going to be the  
11 amount of 30,000 and change, whatever that is. That will be  
12 our request.

13 THE COURT: All right, Mr. Shorr, if you will come up  
14 to the podium, please.

15 (Defendant approached the podium.)

16 THE COURT: Pursuant to the Sentencing Reform Act of  
17 1984, it is the judgment of the Court that the Defendant, Adam  
18 Shorr, is hereby committed to the custody of the Bureau of  
19 Prisons to be imprisoned for a term of five months on Counts 1  
20 and 9 to be served concurrently. It is further ordered that  
21 the Defendant shall pay to the United States a special  
22 assessment of \$200 which shall be due immediately.

23 It is further ordered that the Defendant shall pay a  
24 fine to the United States in the amount of \$30,000. I find  
25 that the Defendant does not have the ability to pay a fine and

1 cost of incarceration, and I will waive the cost of  
2 incarceration in this case.

3           Upon release from imprisonment, the Defendant shall  
4 be placed on supervised release for a term of three years on  
5 each of Counts 1 and 9 to run concurrently. Within 72 hours of  
6 release from the custody of the Bureau of Prisons, the  
7 Defendant shall report in person to the probation office in the  
8 district to which the Defendant is released.

9           While on supervised release, the Defendant shall not  
10 commit another federal, state or local crime, shall comply with  
11 the standard conditions that have been adopted by this Court  
12 and shall comply with the following additional conditions:

13           One, the Defendant shall submit to one drug  
14 urinalysis within 15 days after being placed on supervision and  
15 at least two periodic tests thereafter.

16           Two, the Defendant shall cooperate in the collection  
17 of DNA as directed by the probation officer.

18           Three, the Defendant shall not own, possess or have  
19 under his control any firearm, dangerous weapon or other  
20 destructive device.

21           Mr. Shorr, you understand that you have been  
22 convicted of a felony and it's now illegal for you to have in  
23 your possession a firearm?

24           THE DEFENDANT: Yes, sir.

25           THE COURT: And you understand that if you are found

1 in possession of a firearm and you are prosecuted in federal  
2 court in all likelihood you will be sent to prison for that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Four, the Defendant shall submit to a  
5 search of his person, property, residence, place of business or  
6 employment and vehicles at the request of the probation  
7 officer.

8 Five, the Defendant shall serve five months in home  
9 confinement with the standard conditions that have been adopted  
10 by this Court in its home confinement program.

11 Ms. Turner, you have any objections to the ultimate  
12 findings of the Court, the guideline calculations, or to the  
13 sentence or to the manner in which it has been pronounced?

14 MS. TURNER: Your Honor, other than the objections  
15 that the Court -- that the Government has already made on the  
16 record, the only one that the Government would add is that if  
17 the Court is going to impose a forfeiture it must pronounce  
18 that as part of the sentence and incorporate it in the  
19 judgment. The Government would respectfully request that it do  
20 so.

21 THE COURT: Well, again, I have reviewed your motion  
22 for a preliminary order of forfeiture; and I'm not going to  
23 sign it because I think it grossly overstates Mr. Shorr's  
24 liability for a civil judgment in this case. I will order  
25 forfeiture in the sum of \$30,000 which is the amount of

1 conviction.

2 Mr. Sadow, you have any objections to the ultimate  
3 findings of the Court, the guideline calculations, or to  
4 sentence or to the manner in which it has been pronounced?

5 MR. SADOW: I do not, Your Honor.

6 THE COURT: Mr. Shorr, you can appeal your conviction  
7 and your sentence. If you are unable to pay the cost of an  
8 appeal, you may apply for leave to appeal in forma pauperis.  
9 If you so request, the Clerk of the Court will prepare and file  
10 a notice of appeal on your behalf. And if you have any other  
11 questions about your rights to appeal, I'm sure that Mr. Sadow  
12 will be happy to discuss those with you.

13 MR. SADOW: Your Honor, may I raise one thing,  
14 please?

15 THE COURT: Yes, sir.

16 MR. SADOW: Would the Court consider bail pending  
17 appeal, specifically in connection with the legal issue that we  
18 now have on Count 9 and in turn on Count 1?

19 I raise that because obviously a five-month sentence  
20 of incarceration would certainly be served before any appeal  
21 would be determined by the 11th Circuit.

22 THE COURT: What do you say, Ms. Turner?

23 MS. TURNER: I believe that Mr. Sadow is correct.  
24 The Government does not oppose a bond pending appeal with  
25 appropriate conditions.

1           THE COURT: All right. I will grant Mr. Shorr an  
2 appeal bond. And do you have an amount in mind, Mr. Sadow?

3           MR. SADOW: I believe according to the Defendant's  
4 father, Mr. Mel Shorr, he has his condo which has the value of  
5 approximately \$250,000 up on the bond already. I think the  
6 face amount that we set out in the Middle District of Florida  
7 was like \$100,000. So the bond -- that's what the bond  
8 currently is. That would seem to be a significant amount to  
9 assure his presence.

10           THE COURT: Well, I will just continue Mr. Shorr on  
11 his current bond and other conditions of pretrial release  
12 pending appeal.

13           MR. SADOW: Thank you, Your Honor.

14           THE COURT: Anything else?

15           MR. SADOW: No, Your Honor.

16           MS. TURNER: Your Honor, I just want to make sure  
17 that the Government's objections to the variance and departure  
18 are on the record. And other than that, nothing.

19           THE COURT: All right. Court's in recess until  
20 further order.

21           (Proceedings adjourned at 11:53 a.m.)  
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UNITED STATES DISTRICT COURT:  
NORTHERN DISTRICT OF GEORGIA:

I hereby certify that the foregoing pages, 1 through 57, are a true and correct copy of the proceedings in the case aforesaid.

This the 4th day of February, 2009.

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Susan C. Baker, RMR, CRR  
Official Court Reporter  
United States District Court