

**UNITED STATES OF AMERICA
BEFORE THE SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
File No. 3- 20184**

In the Matter of

MUNISH SOOD,

Respondent.

**MUNISH SOOD'S RESPONSE IN OPPOSITION TO DIVISION OF ENFORCEMENT'S
MOTION FOR SUMMARY DISPOSITION – ORAL ARGUMENT REQUESTED**

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Pursuant to Rule 250 of the Securities and Exchange Commission's Rules of Practice, Respondent Munish Sood submits the following brief in opposition to the Division's Motion to Summary Disposition:

I. INTRODUCTION

Respondent Munish Sood ("Mr. Sood") agrees with the Division that Summary Disposition is appropriate, but strongly disagrees with the Division that barring Mr. Sood from the financial industry is appropriate or in the public's best interest. Barring Mr. Sood would be grossly disproportionate to his conduct, and inconsistent with the Commission's past rulings and the *Steadman* factors. The Division's motion paints a false picture of Mr. Sood's fitness to remain in the securities industry, and the conduct to which he pled guilty.

The Division's argument for an industry bar relies heavily on Mr. Sood's conviction, but applying all the factors the Commission must consider demonstrates that a bar is not warranted or in the public's interest.¹ The Division's attempt to characterize Mr. Sood's conduct as "egregious" is a complete stretch. The criminal prosecutors who relied on Mr. Sood's help to secure convictions of the more culpable individuals would not view Mr. Sood's conduct as egregious; nor would Mr. Sood's sentencing judge who gave Mr. Sood the lightest sentence of anyone involved with the conspiracy, declining even to impose supervised release. Moreover, Mr. Sood's conduct does not come close to reaching the severity of other advisors who have been given a permanent bar.

¹ Mr. Sood faced another legal challenge that was also based on his conviction in *Bowen v. Adidas*. However, after extensive discovery the judge dismissed the claims against Mr. Sood with prejudice noting "The Court extended Plaintiff latitude in permitting the opportunity to establish factual support for his allegations in discovery before entertaining [summary judgment arguments], but discovery has confirmed Plaintiff cannot make the required showing." Order Granting Summary Judgment, *Bowen v. Adidas America Inc et al*, 3:18-cv-03118 (D.S.C. May 26, 2021).

Mr. Sood's criminal conduct was regrettable. However, Mr. Sood's conduct did not harm even a single investor. The Division has failed to provide any case, nor have we found one, where an industry bar was deemed appropriate for an advisor when their conduct did not result in investor harm. Furthermore, several of Mr. Sood's clients who engaged Mr. Sood around the time of his criminal conduct have submitted declarations on his behalf to demonstrate that over the years Mr. Sood has been a helpful and honest advisor, and that they were not harmed by Mr. Sood in any way. Mr. Sood's clients strongly believe that it is in their best interest that he be allowed to continue to advise them.

It is not in the public's interest for this commission to take the extreme measure of barring Mr. Sood from his profession, which he has cultivated for over 20 years with no regulatory issues.

II. STATEMENT OF UNDISPUTED FACTS

A. Respondent

1. Mr. Sood is 48 years old and has worked in the securities industry since 1996. Mr. Sood has been associated with several Commission-registered investment advisers and, until September 2017, had been associated with multiple broker-dealers. *See Answer at ¶ 1.* For a portion of the time in which he engaged in the conduct underlying the criminal information described below, Mr. Sood was associated with Princeton Advisory Group, Inc. and Rosedale Asset Management, LLC f/k/a Princeton Advisory Wealth Management, LLC ("PWM"), both of which were Commission-registered investment advisers during that period. *Id.*

B. The Criminal Conviction

2. In September 2017, the Department of Justice brought two criminal complaints against Mr. Sood and nine other individuals, including an athletic-company executive, in the United States District Court for the Southern District of New York.

(Complaint, *United States v. Evans*, No. 17-mag-7119 (S.D.N.Y. Sept. 26, 2017); Complaint, *United States v. Gatto*, No. 17-mag-7120 (S.D.N.Y. Sept. 26, 2017).)

3. The charging document contains no allegations that Mr. Sood made material misrepresentations to clients or potential clients about investments, misappropriated funds belonging to clients or prospective clients, or in any way defrauded clients.

4. Mr. Sood cooperated with the Department of Justice throughout their investigation for these criminal matters and provided important testimony at trial to help secure the convictions of the ringleaders of the conspiracy. Mr. Sood has taken responsibility for his actions and pled guilty. (Guilty Plea, *United States v. Sood*, Case No. 18-cr-00620 (S.D.N.Y. Aug. 27, 2018) Ex. 1.)

5. The main co-defendants involved in the Department of Justice's investigation were given sentences ranging from probation to up to nine months. (Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (James Gatto received a nine-month sentence); Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (Lamont Evans was sentenced to three months).) Furthermore, all of the co-defendants have been given sentences far below the sentencing guideline range. (Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (the guidelines range for Lamont Evans was 18-24 months, and he given a three-month sentence); (Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (the guidelines range for James Gatto was three to four years and he was given a nine-month sentence).

6. On September 12, 2019, Mr. Sood's sentencing hearing was held before the Honorable Kimba Wood.

7. At the sentencing hearing, the Government admitted that Mr. Sood's "cooperation was extremely timely. He indicated very early on that he intended to cooperate. He came in and proffered with us quickly, and he was proffering and working with us well before any of the trials that occurred here took place, well before any guilty pleas." Sentencing Tr. 7:11-17 (Ex. 2).

8. The government further praised Mr. Sood for his cooperation: "With respect to his truthfulness and reliability, he was forthcoming in the proffer sessions. He told us not only about conduct that we already knew about from the wiretap of his phone and the other evidence but also additional conduct that we were not aware of before he informed us of it, and he was forthcoming and truthful during all phases of both the proffers and the trial preparation." Sentencing Tr. 7:18-24.

9. The Court noted that Mr. Sood "was not an instigator, he was not a major participant[,] and that "[w]ith respect to Mr. Sood's character, everything in his background suggests an upstanding, honest man. I believe that his [. . .] seduction by the prospect of having such high-profile clients was an aberration in an otherwise blameless life." Sentencing Tr. 9:4-10.

10. The Court further praised his invaluable assistance to the government: "His very prompt, very painstaking assistance to the government, which included crimes as to which the government was not yet aware and which was enormously useful to the government in light of the fact that with respect to the trial of Mr. Dawkins and Mr. Code, he was the only member of the conspiracy who testified, and his use to the government was, as the government said, as narrator to what happened in light of the cryptic nature of a number of the wiretaps – wiretapped conversations." Sentencing Tr. 9:11-19.

11. In light of this, the Court ultimately imposed a small fine of \$25,000, but no incarceration or supervised release, Sentencing Tr. 9:23-10:6 – a punishment far less severe than that received by any co-defendant.

C. The Administrative Proceeding

12. On December 21, 2017, the Commission entered an “Order Directing Private Investigation and Designating Officers to Take Testimony.” The Order stated that the Commission had information relating to potential violations of Section 206 of the Advisers Act—specifically, the provisions making it unlawful for an investment adviser to (1) to employ any device, scheme, or artifice to defraud any client or prospective client; or (2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. *Id.* (citing 15 U.S.C. § 80b-6(1, 2)).

13. Subsequently, Mr. Sood’s attorneys were informed that the investigation was based on the allegations in the Criminal Matter. Indeed, in a subpoena for documents and testimony dated June 14, 2018, the Division sought documents and information about the Criminal Matter, including topics and individuals discussed by Mr. Sood during his meetings with the Department of Justice (which has already summarized the meetings for the Division).

14. On April 29, 2019 the Division issued a subpoena for Mr. Sood to provide testimony. Recognizing potential Fifth Amendment rights at stake, Mr. Sood’s attorneys suggested that Mr. Sood’s testimony be rescheduled until the Criminal Matter was resolved and offered to produce Mr. Sood for a proffer. Instead of waiting a few months until the Criminal Matter was resolved or proffering Mr. Sood, which could elicit useful testimony from Mr. Sood in aid in the Division’s investigation, the Division decided to require Mr. Sood to provide testimony before the Criminal Matter was resolved, which caused Mr. Sood to assert his Fifth Amendment right during the testimony.

15. On June 19, 2019, the day after Mr. Sood traveled from New Jersey to Fort Worth, Texas to provide testimony, the Division issued two Wells Notices to Mr. Sood and PAWM.

16. On December 21, 2020, the Division filed an Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Section 15(b)(6) of the Securities Exchange Act of 1934. On January 11, 2021, Mr. Sood subsequently filed his Answer to the Order Instituting Administrative Proceedings, admitting all facts and asserting various affirmative defenses.

17. On April 29, 2021, the Division filed a Motion for Summary Disposition and Memorandum of Points of Authorities in Support (“Division’s Motion”). The Division maintains that an indefinite bar is warranted and in the public interest.

18. The Division’s Motion contains no allegations that Mr. Sood made material misrepresentations to clients or potential clients about investments, misappropriated funds belonging to clients or prospective clients, or in any way defrauded clients. Furthermore, the Division’s Motion contains no allegations that Mr. Sood profited from his conduct.²

III. ARGUMENT AND AUTHORITIES

A. Respondent Agrees that Summary Disposition is Appropriate.

Respondent agrees with the Division that summary disposition is appropriate in the instant matter. The parties disagree, however, about whether a bar should be imposed as part of such summary disposition.

² Other individuals involved in the conspiracy have profited from doing similar conduct in the past, while Mr. Sood did not profit.

B. The Public Interest Does Not Support Imposing a Bar Against Respondent.

Mr. Sood accepts responsibility for his actions and concedes liability. The only issue for the Commission to decide is whether, in light of Mr. Sood's actions, a bar is warranted. A collateral bar is "the severest of sanctions." *Khaled A. Eldaher*, Initial Dec. Rel. No. 857, 2015 SEC LEXIS 3360, *29 (Aug, 17, 2015). Such harsh sanction is only warranted when it serves the public interest. *Id.* at *25. To determine whether a sanction serves the public interest, the Commission should consider six factors:

[T]he egregiousness of the defendant's actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the defendant's assurances against future violations, the defendant's recognition of the wrongful nature of his conduct, and the likelihood that the defendant's occupation will present opportunities for future violations.

Steadman v. SEC, 603 F.2d 1126, 1140 (5th Cir. 1979). This inquiry is flexible, and no one factor is dispositive. *See Kornman v. SEC*, 592 F.3d 173, 180 (D.C. Cir. 2010). Additionally, "each case has its own particular facts and circumstances which determine the appropriate penalty to be imposed[.]" *ZPR Investment Management, Inc. and Max E. Zavanelli*, Initial Dec. Rel. No. 602, 2014 SEC LEXIS 1797, at *180 (May 27, 2014).

In cases with similar culpability levels as here, however, the Commission and administrative law judges ("ALJ") alike universally deny imposing permanent bars. For instance, in *Khaled A. Eldaher*, 2015 SEC LEXIS 3360, Eldaher was accused of knowingly violating Section 15(a)(1) of the Exchange Act and "acting as an unregistered broker because he received 'transaction-based' compensation for soliciting Facebook investors on Prima Capital's behalf." *Id.* at *13. The Division argued that a lifetime bar was appropriate, while Eldaher countered that such "sanctions are too extreme and not tailored to the facts in this proceeding[.] . . . [and] punitive and grossly disproportionate to the violation alleged." *Id.* at *24. The ALJ

agreed and imposed a six-month suspension from association and from participating in penny stock offerings. *Id.* at *31. In doing so, the ALJ reasoned that “all the investors were made whole, and no investor witnesses testified as to economic loss or misrepresentations by Eldaher. . .[and] Eldaher’s total compensation as a result of the violations was \$15,478.” *Id.* at *28-29. Additionally, despite an unclear duration of the conduct and recognition of wrongdoing, and a problematic disciplinary history, the ALJ believed “Eldaher expressed remorse and represented that he would ‘absolutely not’ repeat this breach” and that “[t]here is no question that he knows this is his last chance to remain in the industry.” *Id.* Following the ALJ’s ruling, the Commission adopted this decision as final. *Khaled A. Eldaher*, Rel. No. 76132 (Oct., 13, 2015).

Likewise, in *Clarke T. Blizzard and Rudolph Abel*, Initial Dec. Rel. No. 229, 2003 SEC LEXIS 3303 (June 13, 2003), *dismissed on other grounds at Clarke T. Blizzard and Rudolph Abel*, Rel. No. 3-10007 (June 23, 2004), the ALJ imposed a ninety-day suspension for conduct that could be compared to that of Mr. Sood’s. In *Blizzard*, “[t]he OIP allege[d] that Clarke T. Blizzard and Rudolph Abel aided and abetted and caused violations by Shawmut Investment Advisers, Inc., (Shawmut) of the antifraud provisions of the Advisers Act - Sections 206(1) and 206(2). Shawmut allegedly violated those provisions because it failed to disclose to its clients that it used brokerage commissions generated from client transactions, or soft dollars, to compensate brokers for client referrals.” *Id.* at *4-5. The Division requested “that Blizzard be barred from association with an investment adviser and be ordered to cease and desist from further violations and to pay disgorgement of \$ 2,026,006 and a civil penalty of \$200,000.” *Id.* at *6-7. The ALJ, however, disagreed. The ALJ analyzed the *Steadman* factors and found that a ninety-day suspension was appropriate. *Id.* at *84. The ALJ explained:

Blizzard’s aiding and abetting violation was serious, but not egregious. It was isolated in that it pertained to one client, but it

continued for many months. Blizzard did not have a high degree of scienter, but he was reckless Consistent with a vigorous defense of the charges against him, Blizzard has not affirmatively acknowledged the wrongful nature of his conduct. He is employed in the financial industry, and his occupation will present the opportunity for future violations. A ninety-day suspension, combined with the other sanctions ordered, is an appropriate remedy and deterrent and consistent with Commission precedent. Accordingly, a ninety-day suspension will be ordered.

Id. at *84; *see also John Jantzen*, Initial Dec. Rel. No. 472, 2012 SEC LEXIS 3446, *12-18 (Nov. 6, 2012) (imposing 5-year bar against investment advisor registered with the Commission who engaged in insider trading and profited \$26,813.58), *accepted as final at John Jantzen*, Exchange Act Rel. No. 68396 (Dec. 10, 2012); *Lawrence L. Labine*, Initial Dec. Rel. No. 973, 2016 SEC LEXIS 795, *112-13 (Mar. 2, 2016) (finding “two-year investment company bar, and bar from association with any investment adviser, broker, or dealer, with a right to reapply for association in two years, are appropriate and in the public interest” where conduct violated antifraud provisions but the Commission “d[id] not believe LaBine sought to harm clients; there is no allegation or evidence that he mishandled client assets; and . . . the harm caused to the investors was not great in proportion to their net worth[.]”), *accepted as final at Lawrence L. Labine*, Securities Exchange Act Rel. No. 77697 (Apr. 22, 2016); *United States SEC v. Johnston*, 368 F. Supp. 3d 247, 253 (D. Mass. 2019) (analyzing *Steadman* and *Patel* factors and imposing 2-year bar on CFO for misleading investors about pending FDA approval of drug); *SEC v. All. Transcription Servs.*, No. CV 08-1464-PHX-NVW, 2010 U.S. Dist. LEXIS 10646, at *7-9 (D. Ariz. Feb. 8, 2010) (considering various factors and affirming denial of penny-stock bar).

Here, the Commission should follow suit and decline to impose a permanent bar against Mr. Sood as the *Steadman Factors* and prior settlements and administrative proceedings clearly weigh against imposing such bar.

Factor one: *Mr. Sood's conduct was wrong, but not egregious.* Mr. Sood was a minor player, with a limited role, in a large conspiracy. *See* Sentencing Tr. 9:4-5, Testimony of the Sentencing Judge (“[W]ith respect to Mr. Sood, I agree [. . .] that he was not an instigator, he was not a major participant.”). He was “seduc[ed] by the prospect of having such high-profile clients . . . in an otherwise blameless life,” *id.*, and to date, has only received nominal monthly retainer payments from two professional athlete clients.

Specifically, in September 2017, the Department of Justice brought two criminal complaints against Mr. Sood and nine other individuals in the United States District Court for the Southern District of New York. *See* Complaint, *United States v. Evans*, No. 17-mag-7119 (S.D.N.Y. Sept. 26, 2017); *see* Complaint, *United States v. Gatto*, No. 17-mag-7120 (S.D.N.Y. Sept. 26, 2017). In the *Evans* complaint, Mr. Sood was charged with making, and conspiring to make payments to assistant coaches of NCAA basketball teams so that the coaches would encourage their players to hire Mr. Sood as an investment advisor if they became professionals.³ Notably, however, he declined to make payments on several occasions and only eventually made a \$2,000 payment by check to Mr. Evans in June 2017. Mr. Sood never secured a client through his relationship with or payment to Mr. Evans. In the *Gatto* complaint, Mr. Sood was charged with making, and conspiring to make, payments to the families and friends of NCAA basketball players for the same reasons. Again, in this scheme, Mr. Sood only made one payment to a high school player's father – a payment that was funded by an undercover FBI agent and not Mr. Sood himself. Mr. Sood similarly did not secure any clients through his limited involvement in

³ Being a financial advisor for professional basketball player is not lucrative until, and if, the client is successful enough to sign a second contract, because NBA rookie contracts do not typically provide enough funds for clients to invest. Mr. Sood's sentencing judge provided, “And the way the business works is until an athlete gets a second contract – and that's several years – at least four years into their NBA career – Mr. Sood didn't stand to really make money on that.” Sentencing Tr. 4: 8-11.

the *Gatto* matter. Notably absent from either of these complaints are any allegations Mr. Sood made material misrepresentations to clients or potential clients about investments or misappropriated funds belonging to clients or prospective clients – because he did not.

The sentencing judge recognized Mr. Sood’s conduct for what it was: “an aberration in an otherwise blameless life.” Sentencing Tr. 9:7-10. In light of this, Mr. Sood was given the least severe sanction of any co-defendant — a \$25,000 fine without incarceration or probation. In contrast, the main co-defendants involved in the Department of Justice’s investigation, most of whom are unquestionably more culpable than Mr. Sood, were given sentences ranging from probation to up to nine months in prison. *See, e.g.*, Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (James Gatto received a nine-month sentence); Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (Lamont Evans was sentenced to three months). Furthermore, all of the co-defendants have been given sentences far below the sentencing guideline range. *See, e.g.*, Sentencing, *U.S. v. Evans*, Case No. 17-cr-00684 (S.D.N.Y. June 7, 2019) (the guidelines range for Lamont Evans was 18-24 months and he given a three-month sentence); (Sentencing, *U.S. v. Gatto*, Case No. 17-cr-00686 (S.D.N.Y. Mar. 5, 2019) (the guidelines range for James Gatto was three to four years and he was given a nine-month sentence).

Mr. Sood’s cooperation led to the conviction of several more culpable individuals. In fact, his cooperation was so exemplary that his efforts were applauded by both the Judge and the Government. *See* Sentencing Tr. 2:19-24, Testimony of the Sentencing Judge (“I’d like to note that Mr. Sood’s assistance to the government has been enormously helpful[.]”); *id.* Testimony of the AUSA 7:11-8:14 (noting Mr. Sood’s cooperation was “extremely timely,” very forthcoming, and incredibly useful as he was a “crucial witness” and “acted as sort of the

narrator of what had happened for the jury and was an incredibly important witness.”). In addition to being open and honest with the Department of Justice and the Commission, Mr. Sood has been forthcoming with his clients about the actions that led to his guilty plea, and the public Criminal Matter ensures that all future clients will learn in great detail about his actions.

The Division cherry-picks portions from *Joseph P. Galluzzi*, Exchange Act Rel. No. 46405, 2002 WL 1941502 (Aug. 23, 2002) and *Sheryans Desai*, Exchange Act Rel. No. 80129, 2017 WL 782152 (Mar. 1, 2017) as if the cases are analogous to Mr. Sood’s conduct. They are not and any notion that they are is blatantly wrong. In both *Galluzzi* and *Sheryans Desai*, the respondents were sentenced to over a year in prison and made material representations to investors which caused them significant financial harm. *See Galluzzi*, 2002 WL 1941502 (“Galluzzi made material misstatements and omissions with scienter in connection with the purchase or sale of securities. As a result of his actions, Galluzzi was sentenced to several years in prison, ordered to pay over one half million dollars in disgorgement and restitution, and enjoined from future violations of antifraud provisions of the securities laws.”); *Sheryans Desai*, 2017 WL 782152 (“Desai engaged in a fraudulent scheme whereby he convinced individuals to invest over \$225,000 with SSC by making numerous material misrepresentations. . . . [A]fter accepting Desai’s guilty plea, the district court sentenced him to a prison term of 15 months followed by three years of supervised release and ordered him to pay \$121,260 in restitution.”). These egregious acts are not comparable to Mr. Sood’s minor role in the conspiracy schemes where he did not profit, no investors were harmed, and no probation, let alone incarceration, was awarded, and should be rejected outright.

Accordingly, imposing a permanent bar against Mr. Sood, who’s conduct was wrong, but not egregious would be excessive, against the weight of precedent, and should be

rejected by the Commission. *See, e.g., William Hutchens*, Rel. No. 2514 (May 9, 2006) (imposing three-month suspension for similar conduct that involved violations of the Advisers Act—paying for business—but did not result in tangible harm to the investors or others in the securities industry); *MedCap Management & Research LLC and Charles Frederick Toney, Jr.*, Rel. No. 2801 (Jan. 9, 2017) (imposing one-year bar for reporting misleading results to hedge fund investors and violating the Investment Advisors Act); *Lawrence M. Labine*, Initial Decision Rel. No. 973, 2016 SEC LEXIS 795, *1-2 (March 2, 2016) (imposing two-year bar for “violat[ions of] the antifraud provisions of the federal securities laws because he 1) did not disclose potential incentive compensation for the sales, 2) did not disclose his fundraising role and commitments to Domin-8 to sell the debentures, and 3) made material misrepresentations about the investment’s risks.”), *accepted as final at Lawrence L. Labine*, Securities Exchange Act Rel. No. 77697 (Apr. 22, 2016).

Factor Two: Mr. Sood’s conduct was isolated. Mr. Sood was a part of two conspiracy schemes for a short duration of approximately one year. In contrast, Mr. Sood has been working in the securities industry his entire career since 1997 without prior incident, and since being charged during 2017, Mr. Sood has not received a complaint from any of his clients. During these schemes, Mr. Sood played a very minor role. Such isolated indiscretions in the context of an otherwise exemplary career does not warrant a bar. *John Jantzen*, Initial Decisions Rel. No. 472, Exchange Act Rel. No. 68396, 2012 SEC LEXIS 3446, *4-6 (Nov. 6, 2012) (noting, “the isolated nature of Jantzen’s misconduct weighs in favor of imposing a more lenient sanction. The Commission has not alleged that Jantzen engaged in any other acts of insider trading, nor does Jantzen have a record of any securities violations during his prior twenty years

as a licensed securities professional.”), *accepted as final at John Jantzen*, Exchange Act Rel. No. 68396 (Dec. 10, 2012).

Factor Three: *Mr. Sood did not act with a high degree of scienter.* Admittedly Mr. Sood pleaded guilty to felony charges, but contrary to the Government’s contention, Mr. Sood was not motivated by profits and, in fact, did not anticipate profiting from his actions for many years (nor did he), if at all. Rather, Mr. Sood had a modest upbringing and wanted to assist athletes, who often received poor investment advice, reach their full financial potential. He also refused to participate in the scheme – declining to pay bribes on numerous occasions – before giving in to the pressures from his co-conspirators. Mr. Sood made a grave error in judgment, but he never intended to harm any athlete, or other investor, nor did he. *See also*, Sentencing Tr. 12:8-13, Testimony of Sentencing Judge (“I don’t think Mr. Sood . . . intended to harm a university.”)

Factor Four: *Mr. Sood deeply regrets his role in the bribery schemes.* He pleaded guilty to felony charges and has and will continue to pay the price for his misconduct. He has consistently taken responsibility for his misconduct and “[e]verything in his background suggests he is an upstanding and honest man.” *Id.* 9:6-7, Testimony of Sentencing Judge. Mr. Sood desires nothing more than to move forward honorably, serving his clients legally and honestly.

Factor five: *Mr. Sood has consistently recognized the wrongful nature of his conduct.* For example, at his sentencing hearing, Mr. Sood offered the following sincere words:

I would like to apologize to the Court and to the people that I hurt for the last few years. I’ve disappointed my friends, my family and myself. I have no one to blame but myself for these actions. I fully accept responsibility for my actions. I will continue to do what is necessary to rebuild the trust of my friends, my family, my clients, and everyone else I’ve disappointed.

Id. 6:3-10. Moreover, Mr. Sood provided instrumental assistance to the government in related criminal cases and, despite the Division’s contentions otherwise, both the AUSA and sentencing judge acknowledged this cooperation was extremely timely. *See id.* 7:12-17, Testimony of AUSA (“his cooperation was extremely timely. He indicated very early on that he intended to cooperate. He came in and proffered with us quickly, and he was proffering and working with us well before any of the trials that occurred here took place, well before any guilty pleas.”); *id.* 9:11, Testimony of Sentencing Judge (describing Mr. Sood’s cooperation as “very prompt” and “painstaking”). He served as a crucial witness for the government, testifying multiple days in multiple trials and “at bottom, acted as sort of the narrator of what had happened for the jury and was an incredibly important witness.” *Id.* 8:13-15, Testimony of AUSA.

This cooperation should not be underscored or minimized. Mr. Sood has done, and will continue to do, everything he can to rectify the wrongs he has committed and “rebuild the trust of [his] friends, [his] family, [his] clients, and everyone else he’s disappointed.” *Id.* . 6:7-10. Accordingly, factor five of the *Steadman* factors unequivocally weighs against imposing a bar on Mr. Sood.

Factor six: Lastly, Mr. Sood acknowledges that he works in the securities industry, which presents an opportunity for future violations. This factor, however, should not be held against Mr. Sood in light of his sincere assurances against future violations, painstaking assistance to the government in related criminal proceedings, blemish free history in the security industry prior to 2016, lack of investor harm for his indiscretions at issue, and no investor complaints about Mr. Sood in the over four years since he participated in the conspiracy. *See John Jantzen*, Initial Dec. Rel. No. 472, 2012 SEC LEXIS 3446, *2 (Nov. 6, 2012) (“While it is true that continued employment in the securities industry would provide Jantzen with the

opportunity for future violations, overall, a temporary associational bar will serve as a sufficient deterrent to any future misconduct.”), *accepted as final at John Jantzen*, Exchange Act Rel. No. 68396 (Dec. 10, 2012).

Thus, factors one through five of the *Steadman* factors weigh overwhelmingly against imposing any bar, let alone a permanent bar, against Mr. Sood. Mr. Sood is an honest man who made a mistake. He has consistently acknowledged his wrongdoing and has informed his friends, family, and clients of the same. Accordingly, the Commission should decline to impose a bar against Mr. Sood as such is excessive, punitive, and against the public interest.

C. Mr. Sood Did Not Harm Investors.

Mr. Sood’s conduct did not harm any investors, nor was it ever his intention to do so. Mr. Sood’s conduct, which was regrettable, was an attempt to gain traction in the competitive world of financial advising for professional athletes. Mr. Sood was misled to believe that the only way to be introduced to these types of prospective clients is to make payments to their family members and coaches. None of the criminal complaints involving Mr. Sood claim that Mr. Sood harmed any investors, nor has the Division made the claim.

Three professional athletes who have engaged Mr. Sood provided declarations that state that they were not harmed by Mr. Sood and did not feel pressure to retain Mr. Sood or continue to use Mr. Sood’s help. Furthermore, all three professional athletes state that after they learned of the criminal complaint and Mr. Sood pleading guilty, they would still want to retain Mr. Sood. They also state that had they learned about Mr. Sood’s legal issues at the time they first engaged him, it would not have affected their desire to retain Mr. Sood. *See Kuzma Decl.* (Ex. 3); *Reed Decl.* (Ex. 4); *Ayodele Decl.* (Ex. 5).

Not only were Mr. Sood’s clients not harmed by Mr. Sood’s conduct, but they have benefitted immensely from Mr. Sood’s work and advice. For instance, Mr. Sood met Kyle

Kuzma in 2017 through Christian Dawkins who was working at ASM Sports when Kuzma was an undrafted prospect. Kuzma Decl. at 2. Kuzma stated that Mr. Sood helped him: (i) raise his credit score, (ii) coordinate his family's relocation to Los Angeles, (iii) setup CDs and other investment vehicles, (iv) finance a car when he first relocated to Los Angeles, and (v) deal with certain complicated family matters. *Id.* at 5. Additionally, Mr. Sood assisted Kuzma in setting up a trust, which Kuzma appointed Mr. Sood as the Trustee. *Id.* at 7. Mr. Sood also serves as an unpaid board member of Kuzma's foundation that donated around \$150,000 to the YMCA in Kuzma's hometown and the Children's Institute in Los Angeles to help with food distribution efforts for families in need during the COVID-19 pandemic. *Id.* at 9.

Another professional athlete who engaged Mr. Sood in 2017, Davon Reed, was introduced to Mr. Sood through Steven Pina who was working at ASM Sports. Reed Decl. at 1. Reed stated that Mr. Sood has helped him: (i) "develop and increase my knowledge about business and various investments opportunities," (ii) create and manage Reed's LLC, (iii) setup CDs and other investment vehicles, (iv) create Reed's Foundation and raise money for projects that are important to Reed, and (v) helped Reed "deal with certain complicated family matters." *Id.* at 5.

Akin Ayodele, who played in the National Football League, provided another declaration about his positive experience engaging Mr. Sood and then later becoming a business partner of Mr. Sood. Ayodele Decl. at 1-3. Mr. Sood has helped Ayodele with: (i) managing his "investment portfolios while [he] was an active player in the NFL," (ii) providing "access to alternative investment opportunities such as real estate and direct investments where other advisors did not or refused to since they would potentially lose management fees," and (iii) allowing Ayodele to "leverage his experience so [he] was not taken advantage by other advisors

that were trying to sell him high risk investments not appropriate for [him].” *Id.* Ayodele also discussed how Mr. Sood was unlike other advisors who try to sell expensive investment products that mainly benefit the advisor and not the client. *Id.* at 3d. After Ayodele earned an MBA, he joined Mr. Sood as a business partner.

Given that Mr. Sood’s conduct did not harm any investors and, in fact, has made a very positive impact on his client’s lives, the Commission should not impose a bar on Mr. Sood.

IV. CONCLUSION

For the forgoing reasons, Mr. Sood respectfully requests that the Commission decline to bar Munish Sood from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; and from participating in any offering of a penny stock as such bar is not in the public interest. In the event that the Commission determines that a penalty should be imposed on Mr. Sood, Respondent respectfully requests that the Commission impose a suspension instead of a bar. Finally, Mr. Sood respectfully requests a hearing on this issue once this matter is fully briefed.

Dated: May 31, 2021

Respectfully submitted,

/s/ Jay A. Dubow

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**UNITED STATES OF AMERICA
BEFORE THE SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
File No. 3- 20184**

<p>In the Matter of</p> <p style="text-align:center">MUNISH SOOD,</p> <p>Respondent.</p>

**INDEX OF ATTACHMENTS IN SUPPORT OF MUNISH SOOD’S RESPONSE TO
MOTION FOR SUMMARY DISPOSITION AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

<u>Attachment</u>	<u>Description</u>
Exhibit 1	Sood Plea Transcript
Exhibit 2	Sood Sentencing Transcript
Exhibit 3	Kyle Kuzma Declaration
Exhibit 4	Davon Reed Declaration
Exhibit 5	Akin Ayodele Declaration

EXHIBIT 1

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Plea

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

18 SD 2439 (BCM)

5 MUNISH SOOD,

6 Defendant.

7 -----x
8 New York, N.Y.
9 August 27, 2018
11:00 a.m.

10 Before:

11 HON. BARBARA C. MOSES,

12 Magistrate Judge

13
14 APPEARANCES

15
16 GEOFFREY S. BERMAN
17 United States Attorney for the
18 Southern District of New York
19 NOAH SOLOWIEJEZYK
20 Assistant United States Attorney

21 RICHARD ZACK
22 Attorney for Defendant Sood

23 FRANK WEBER
24 Attorney for Defendant Sood
25

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1 (Case called)

2 MR. SOLOWIEJEZYK: Good morning, your Honor.

3 Noah Solowiejezyk, on behalf of the government.

4 THE COURT: Good morning, Mr. Solowiejezyk.

5 MR. ZACK: Good morning, your Honor.

6 Richard Zack, on behalf of defendant Munish Sood

7 MR. WEBER: Good morning, your Honor.

8 Francis Weber, for the defendant.

9 THE COURT: That makes you, Mr. Sood.

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: All right. Gentlemen, welcome. Be
12 seated.

13 Mr. Sood, I have to ask for the record, are you able
14 to speak and understand English?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: You don't have to stand up until I tell
17 you to.

18 Counsel, I understand that we are here for a change of
19 plea. Mr. Sood wishes to plead guilty to Counts One through
20 Three of an information which has been issued in this case.

21 Is that correct?

22 MR. SOLOWIEJEZYK: That is correct, your Honor.

23 MR. ZACK: Yes, your Honor.

24 THE COURT: All right. So let me begin by asking the
25 courtroom deputy to take the defendant's waiver of indictment.

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1 COURTROOM DEPUTY: You are Munish Sood?

2 THE DEFENDANT: Yes.

3 COURTROOM DEPUTY: Have you signed a waiver of
4 indictment?

5 THE DEFENDANT: Yes.

6 COURTROOM DEPUTY: Before you signed it did you
7 discuss it with your attorney?

8 THE DEFENDANT: Yes.

9 COURTROOM DEPUTY: Did your attorney explain it to
10 you?

11 THE DEFENDANT: Yes.

12 COURTROOM DEPUTY: Do you understand what you're
13 doing?

14 THE DEFENDANT: Yes.

15 COURTROOM DEPUTY: Do you understand that you are
16 under no obligation to waive indictment?

17 THE DEFENDANT: Yes.

18 COURTROOM DEPUTY: Do you understand that if you do
19 not waive indictment, if the government wants to prosecute you,
20 they would have to present this case to a grand jury which may
21 or may not indict you?

22 THE DEFENDANT: Yes.

23 COURTROOM DEPUTY: Do you understand that by signing
24 this waiver of indictment you have given up your right to have
25 to case presented to a grand jury?

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1 THE DEFENDANT: Yes.

2 COURTROOM DEPUTY: Do you understand what a grand jury
3 is?

4 THE DEFENDANT: Yes.

5 COURTROOM DEPUTY: Have you seen a copy of the
6 information?

7 THE DEFENDANT: Yes.

8 COURTROOM DEPUTY: Do you waive its public reading?

9 THE DEFENDANT: Yes.

10 THE COURT: Thank you, Mr. Snell.

11 Mr. Sood, let me formally introduce myself. I am
12 Magistrate Judge Moses.

13 I have a form here entitled Consent to Proceed Before
14 a United States Magistrate Judge on a Felony Plea Allocution
15 that appears to bear your signature.

16 Did you sign this form? I am holding it up.

17 THE DEFENDANT: Yes.

18 COURTROOM DEPUTY: Would that form says is that you
19 now you have the right to have your plea taken by a United
20 States district judge, but you are agreeing to have your plea
21 taken by a United States magistrate judge which is what I am.
22 As a magistrate judge I have the authority to take your plea
23 with your consent and you are entitled to all of the same
24 rights and protections as if you were before a district judge.
25 If you are found guilty you will be sentenced by a United

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1 States district judge.

2 So let me ask you, did you sign the Consent to Proceed
3 Before a United States Magistrate Judge voluntarily?

4 THE DEFENDANT: Yes, your Honor.

5 COURTROOM DEPUTY: Before you signed the form did your
6 lawyer explain it to you?

7 THE DEFENDANT: Yes.

8 COURTROOM DEPUTY: Do you wish to proceed with your
9 plea this morning before me?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Very well, I will accept your consent.

12 As I've previously discussed, counsel, I have been
13 informed that you wish to enter a plea of guilty to Counts One,
14 through Three of the information in this matter.

15 Is that correct?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Before deciding whether to accept your
18 guilty plea I need to ask you certain questions. It is
19 important that you answer these questions honestly and
20 completely. The purpose of these proceedings is to make sure
21 that you understand your rights to decide whether you are
22 pleading guilty of your own free will and to make sure that
23 you're pleading guilty because you are guilty and not for some
24 other reason.

25 Do you understand what I'm saying?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: If you don't understand any question that
3 I ask you or if you just want time to consult with your lawyer,
4 please say so. It is important that you understand ever
5 question before you answer.

6 Are you ready?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: I will ask Mr. Snell to swear the
9 defendant.

10 (Defendant Munish Sood sworn)

11 THE COURT: You may be seated.

12 Do you understand, sir, that you are now under oath?

13 THE DEFENDANT: What that means is if you
14 intentionally answer any of my questions falsely you could be
15 prosecuted for perjury. I'll begin with an easy question.

16 Please state your full name.

17 THE DEFENDANT: Munish Sood.

18 THE COURT: Do you have a middle name?

19 THE DEFENDANT: No.

20 THE COURT: How old are you?

21 THE DEFENDANT: 46 years old.

22 THE COURT: Are you a United States citizen?

23 THE DEFENDANT: Yes.

24 THE COURT: How far did you go in school?

25 THE DEFENDANT: College.

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1 THE COURT: Do you have a college degree?

2 THE DEFENDANT: Yes.

3 THE COURT: Is that a bachelors?

4 THE DEFENDANT: Yes.

5 THE COURT: When did you get your bachelor's degree?

6 THE DEFENDANT: 1992.

7 THE COURT: OK. Are you now or have you recently been
8 under the care of a doctor, a psychiatrist or psychologist for
9 any reason?

10 THE DEFENDANT: Just with a therapist.

11 THE COURT: Is that a psychologist?

12 THE DEFENDANT: I believe that is correct.

13 THE COURT: Is that talk therapy.

14 THE DEFENDANT: Yes.

15 THE COURT: Any medication that affects your mental
16 processes?

17 THE DEFENDANT: No.

18 THE COURT: OK. Do you have any condition that
19 affects your ability to see or to hear?

20 THE DEFENDANT: No.

21 THE COURT: Any condition that affects your ability to
22 think or to understand or to make judgments or decisions on
23 your own behalf?

24 THE DEFENDANT: No.

25 THE COURT: In the last 24 hours have you taken any

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1 drugs, medicine or pills whether or not prescribed by a doctor,
2 that affect your mental processes?

3 THE DEFENDANT: No.

4 THE COURT: In the last 24 hours have you consumed any
5 alcohol?

6 THE DEFENDANT: Just one glass of beer last night.

7 THE COURT: What time?

8 THE DEFENDANT: Around six p.m.

9 THE COURT: And it's now 11 o'clock in the morning.
10 Is your mind clear?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand what is happening in
13 this proceeding?

14 THE DEFENDANT: Yes.

15 THE COURT: Does either counsel have any objection to
16 this defendant's competence to plead at this time?

17 MR. SOLOWIEJEZYK: No, your Honor.

18 MR. ZACK: No, your Honor.

19 THE COURT: All right. Mr. Sood, have you received a
20 copy of the information? That's the document that contains the
21 written charges against you.

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Have you read it?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you want me to read it to you?

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1 THE DEFENDANT: No.

2 THE COURT: Do you understand what it says you did.

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Have you had time to talk with your
5 counsel about these charges and how you wish to plead?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Has your attorney explained the
8 consequences of pleading guilty?

9 THE DEFENDANT: Yes.

10 THE COURT: Are you satisfied with your attorney's
11 representations so far?

12 THE DEFENDANT: Yes.

13 THE COURT: I am going to begin now to explain certain
14 of your constitutional rights. These are rights that you will
15 be giving up if you enter a guilty plea. So please listen
16 carefully to what I am going to tell you. And again, if you
17 don't understand something or just wish to speak with your
18 counsel, stop me and either your attorney or I will explain the
19 issue more fully.

20 Under the Constitution and laws of the United States
21 you have a right to plead not guilty to all of the charges
22 contained in the information.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: If you plead not guilty you'll be entitled

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1 under the Constitution to a speedy and public trial by a jury
2 of those charges. At trial you would be presumed innocent.
3 The government would be required to prove you guilty beyond a
4 reasonable doubt before you could be found guilty. You could
5 not be convicted unless a jury of 12 people agreed unanimously
6 that you are guilty beyond a reasonable doubt.

7 Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: If you went to trial then at that trial
10 and at every stage of the case you would have the right to be
11 represented by an attorney. If you could not afford an
12 attorney, an attorney would be appointed to represent you at
13 the government's expense. Even if you began the case with
14 private defense counsel, if you ran out of money, an attorney
15 would be appointed to continue to represent you. You would be
16 entitled to an attorney all the way through trial, not just for
17 a guilty plea. So your decision to plead guilty should not
18 depend on whether you can afford to hire a lawyer.

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: During trial the witnesses for the
22 prosecution would have to come to Court and testify in your
23 presence where you could see them and hear them and a lawyer
24 could cross them. If you wanted, your lawyer could offer
25 evidence on your behalf as well. Your lawyer would be able to

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1 use the Court's power known as "subpoena power" to compel
2 witnesses to come to court to testify even if they didn't want
3 to come.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: At trial you would have the right to
7 testify in your own defense if you wanted to. You would also
8 have the right not to testify. If you chose not to testify
9 that couldn't be used against you in any way. No inference or
10 suggestion of guilt would be permitted from the fact that you
11 did not testify.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: If you were convicted at trial you would
15 have the right to appeal that verdict to a higher court.

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And as I said before, you have the right
19 to plead not guilty. Even today, although you came to court
20 for the purpose of entering a guilty plea, you have a right to
21 change your mind, to persist in your not guilty plea and to
22 proceed toward trial. But if you do plead guilty and the Court
23 accepts your plea, you will give up the right to a trial and
24 the other rights I've just described that go with it.

25 If you plead guilty there will be no trial. All that

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1 will be remain to be done will be to impose a sentence. Now
2 you and the government will have a chance to make arguments
3 about what that sentence should be but there will not be any
4 trial to determine whether you are guilty or not guilty of the
5 charges to which you plead guilty.

6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you also understand that the decision
9 as to the appropriate sentence in your case will be entirely up
10 to the sentencing judge?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Not me, not the U.S. Attorney, not your
13 attorney, the sentencing judge will be limited only by what the
14 law requires. This means that even if you are surprised or
15 disappointed by your sentence, you will still be bound by your
16 guilty plea.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: If you do plead guilty you are also giving
20 up the right not to incriminate yourself. I will ask you
21 questions later this morning about what you did in order to
22 satisfy myself that you are actually guilty and you will have
23 to answer those questions truthfully. So by pleading guilty
24 you will be admitting what lawyers call your factual guilt, as
25 well as legal guilt.

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1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: All right. Turning to, taking a look at
4 the information itself, I see that in Count One you are charged
5 with participating in a conspiracy from at least in or about
6 2016, up to and including in or about September 2017, to do the
7 following things:

8 To commit bribery in violation of Title 18 of U.S.C.
9 Section 666(A)(2).

10 Second, to commit honest services wire fraud in
11 violation of Title 18 of the U.S.C. Sections 1343 and 1346.

12 And third, to travel in interstate commerce and use
13 the mail and facilities in interstate and foreign commerce in
14 order to offer bribes in violation of Title 18 of U.S.C.
15 section 1952.

16 In Count Two of the information you are charged with
17 paying bribes to an agent of a federally funded organization
18 from at least 2016, up to and including in or about
19 September 2017, in violation of Title 18 of U.S.C. Sections
20 666(A)(2) and 2.

21 And in Count Three you are charged with participating
22 in a conspiracy to commit wire fraud from in or about 2016, up
23 to and including in or about September 2017, in violation of
24 Title 18 of the U.S.C. Section 1349.

25 I am now going to ask the Assistant U.S. Attorney to

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1 state the elements of these crimes. The elements are the
2 things that the government would have to prove beyond a
3 reasonable doubt if you went to trial.

4 Mr. Solowiejezyk.

5 MR. SOLOWIEJEZYK: Yes, your Honor.

6 Count One of the information charges conspiracy in
7 violation of Title 18 U.S.C. Section 371. That offense has the
8 following four elements:

9 First, that two or more persons entered into an
10 unlawful agreement as charged in the information.

11 Second, that the defendant knowingly and willfully
12 became a member of the conspiracy.

13 Third, that one of the members of the conspiracy
14 knowingly committed at least one of the overt acts that is
15 charged in the information or an overt act which is
16 substantially similar to the overt act charged in the
17 information and that the overt act which was committed by a
18 member of the conspiracy furthered some objective of the
19 conspiracy.

20 As your Honor noted, this first count contains three
21 objects of the conspiracy. The first object is offering bribes
22 to an agent of a federally funded organization in violation of
23 Title 18 U.S.C. 666(A)(2). That offense has the following
24 elements.

25 First, that the defendant gave an agent of a federally

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1 funded organization a thing of value.

2 Second, that was with the corrupt intent to influence
3 or reward the agent of the federally funned organization.

4 Third, that the payment was in connection with the
5 organization's business or transactions.

6 And fourth, that this transaction or business involved
7 anything of value greater than \$5,000.

8 The second object of conspiracy charged in Count One
9 is the offense of honors services wire fraud in violation of
10 Title 18 U.S.C. Sections 1343 and 1346. That offense has the
11 following elements:

12 First, that there was a scheme or artifice to defraud
13 an employer of the honors services of its employees. In this
14 case to defraud universities that employed coaches of certain
15 universities as to the right of their coaches honor services in
16 connection with the payment and receipt of bribes or kickbacks.

17 Second, that the defendant knowingly and willfully
18 participated in the scheme or artifice to defraud with
19 knowledge of its fraudulent nature and with the specific intent
20 to defraud or that he knowingly and intentionally aided and
21 abetted others in the same scheme.

22 And third, that in the execution of the scheme the
23 defendant used or caused the use of interstate foreign wires.

24 The third object of the conspiracy is violation of the
25 Travel Act in violation of Title 18 U.S.C. Section 1952(A)(3).

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1 That crime has three elements.

2 First, that the defendant traveled or caused someone
3 else to travel in interstate commerce or used or caused someone
4 else using interstate facility.

5 Second, that this travel or use of an interstate
6 facility was done with the intent to promote, manage, establish
7 or carry on an unlawful activity.

8 And third, after this interstate travel or use of an
9 interstate facility, the defendant performed or attempted to
10 perform an act in furtherance of or distributed the proceeds of
11 the same unlawful activity.

12 As alleged in the information, the unlawful activity
13 in this case is the violation of specific state commercial
14 bribery statutes. In particular, South Carolina's Commercial
15 Bribery Statute, South Carolina Code Section 16-17-540;
16 Oklahoma's Commercial Bribery Statute, 21 Oklahoma Statute,
17 Section 380; Arizona's Commercial Bribery Statute; Arizona's
18 Statute, Section 132605 (A)(2) and finally California's
19 Commercial Bribery Statute which is California Penal Code
20 Section 641.3.

21 Turning to Count Two, your Honor, which charges
22 violation of 18 U.S.C. 666(A)(2) offering bribes to an agent of
23 a federally funded organization, that offense has the same
24 elements that I described in the first object of the conspiracy
25 charged in Count One.

1 Finally, Count Three charges a conspiracy to commit
2 wire fraud in violation of Title 18 U.S.C. 1349. That offense
3 has the following elements:

4 First, that there was an agreement to commit wire
5 fraud.

6 Second, that the defendant knowingly and willfully
7 joined the conspiracy to commit wire fraud.

8 The object of the conspiracy is the offense of wire
9 fraud in violation of Title 18 U.S.C. Section 1343. That
10 offense's elements are:

11 First, that there was a scheme or artifice to defraud
12 or to obtain money or property by materially false and
13 fraudulent pretenses representations and promises.

14 Second, that the defendant acted knowingly and
15 willfully in participating in the scheme or artifice to defraud
16 with knowledge of its fraudulent nature and the specific intent
17 to defraud.

18 Third, that in the execution of the scheme, the
19 defendant used or caused the use of interstate or foreign
20 wires.

21 With respect to the all of the counts that I just
22 described, your Honor, the government would also have to prove
23 venue in the Southern District of New York by a preponderance
24 of the evidence.

25 THE COURT: Thank you.

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1 Mr. Sood, I am now going to tell you the maximum
2 possible penalty for the crimes which are charged in the
3 information and which you just heard the Assistant United
4 States Attorney describe in more detail.

5 The "maximum" means the most that could possibly be
6 imposed. It does not mean that this is what you will
7 necessarily receive. But by pleading guilty you are exposing
8 yourself to the possibility of receiving a punishment or a
9 combination of punishments up to the maximum that I am about to
10 describe.

11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: The maximum term of imprisonment for the
14 crime charged in Count One of the information is five years.
15 Five years in prison which could be followed by up to three
16 years of supervised release.

17 If you do get supervised release that means you will
18 be subject to supervision by the probation department after
19 you're released from prison. If you violate any condition of
20 that supervised release the Court could revoke the term of
21 supervised release previously imposed and return you to prison
22 without giving you credit for time previously served on
23 supervised release.

24 In addition to those restrictions on your liberty, the
25 maximum possible punishment for the crime charged in Count One

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1 includes financial penalties, a maximum allowable fine is
2 \$250,000 or twice the profits of the criminal activity or twice
3 what someone other than yourself lost because of the criminal
4 activity whichever is greater.

5 I am also required by law to tell you that there is an
6 additional special assessment, an extra fine of \$100 which is
7 required to be imposed on each count of conviction.

8 With regard to Count Two of the complaint, there is a
9 maximum sentence of ten years in prison which could be followed
10 by up to three years on supervised release. There is a maximum
11 fine of the greater of \$250,000 or twice the profits of
12 criminal activity or twice what someone other than yourself
13 lost because of the criminal activity and a \$100 special
14 assessment.

15 As for Count Three of the indictment, Count Three
16 carries a maximum sentence of 20 years of imprisonment, a
17 maximum term of three years of supervised release, a maximum
18 fine of \$250,000 or twice the profits of the criminal activity
19 or twice what someone other than yourself lost because of the
20 criminal activity, whichever is greater and a mandatory \$100
21 special assessment.

22 If the prison terms on these charges ran
23 consecutively, you would face a potential prison sentence of up
24 to 35 years in prison.

25 You will also be required to pay restitution to any

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1 victims of the crimes in an amount that the Court decides is
2 required to compensate them for their injuries.

3 In addition, by pleading guilty you will admit to the
4 forfeiture allegations in the information and agree to forfeit
5 any property within the scope of 18 U.S.C. Section 981(A)(1)(c)
6 and 28 U.S.C. Section 2461.

7 Now, you told me that you are a U.S. citizen, correct?

8 THE DEFENDANT: Yes.

9 THE COURT: The reason I ask that question is that if
10 you were not a citizen your guilty plea would likely have
11 adverse consequences or your ability to remain or return to the
12 United States which I am required to outline for you even
13 though you have told me that you are a citizen. Those
14 consequences could include removal, deportation, denial of
15 citizenship and denial of admission to the U.S. in the future.
16 Your removal or deportation could be mandatory. And if that
17 did happen you would still be bound by your guilty plea that is
18 you would not be able to withdraw it regardless of any advice
19 you received from your counsel or others regarding the
20 immigration consequences of your plea.

21 Do you understand that?

22 THE DEFENDANT: He your Honor.

23 THE COURT: Mr. Sood, has anyone threatened or coerced
24 you in any way in an effort to get you to plead guilty?

25 THE DEFENDANT: No, your Honor.

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1 THE COURT: I am told there is a written plea
2 agreement between you and the government. There it is. I am
3 holding it up for you to see. It is contained in a letter
4 dated August 9th, addressed to your counsel and it appears to
5 be signed on the back page which I am also holding up, by you.

6 Is that your signature, sir?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: All right. Did you read the plea
9 agreement before you signed it?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Did you discuss it with your attorney?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand its terms?

14 THE DEFENDANT: Yes.

15 THE COURT: Has anyone promised you or offered
16 anything other than what is in this written plea agreement in
17 after effort to get you to plead guilty?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: I note that your plea agreement refers to
20 the possibility that the government may advise the sentencing
21 judge by letter that you have given the government substantial
22 cooperation which could lead to a reduction in your potential
23 prison sentence.

24 Do you understand that the agreement does not
25 absolutely require the government to do this?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand that the government may
3 choose not to submit such a letter based on its own assessment
4 of your compliance with the plea agreement and the extent of
5 your cooperation?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Do you understand that under the terms of
8 your plea agreement even if you later learn that the government
9 withheld from your counsel certain information that would have
10 been helpful to you in defending yourself at trial you wouldn't
11 be able to complain about that or withdraw your guilty plea on
12 that basis?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: You do understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: OK. Do you understand that the terms of
17 the plea agreement including any recommendations that may be
18 made by the government related to sentencing will not be
19 binding on the sentencing judge?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: The sentencing judge as we briefly
22 discussed, may reject those recommendations and could impose a
23 more severe sentence than you expect without permitting you to
24 withdraw your plea of guilty. The sentencing judge will be
25 required to make his or her own independent calculation of the

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1 appropriate sentencing range for you under the sentencing
2 guidelines and will also have the discretion to give you a
3 sentence below or above that range up to the maximum that we
4 discussed earlier.

5 In addition to the guidelines and possible departures
6 from the guidelines, the sentencing judge will consider all of
7 the factors set forth at 18 U.S.C. Section 3553(A). In other
8 words, the sentencing judge will pronounce whatever sentence
9 she or he believes is the appropriate sentence for you even if
10 that sentence is different from the one recommended by the
11 government as a result of your cooperation.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: In addition, the Court will at the time of
15 sentencing consider a presentence report. It will be prepared
16 by the probation department in advance of your sentencing and
17 both you and the government will have the opportunity to
18 challenge the facts set forth in that report.

19 Mr. Sood, do you understand that there is no parole in
20 the federal system?

21 THE DEFENDANT: Yes.

22 THE COURT: If you are sentenced to prison you will
23 not be released early on parole.

24 Before I go on, let me ask both counsel if there are
25 any other provisions of the plea agreement that you would like

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1 me to go over with Mr. Sood?

2 MR. SOLOWIEJEZYK: Not from the government, your
3 Honor.

4 MR. ZACK: No, your Honor.

5 THE COURT: Thank you, counsel.

6 Mr. Sood, aside from what is in the plea agreement
7 itself, have any promises been made to you to influence you to
8 plead guilty?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: Have any promises been made to you
11 concerning the actual sentence you will ultimately receive?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Now that you have been advised of the
14 charges against you, the possible penalties you face and the
15 rights that you are giving up, is it still your intention to
16 plead guilty to Counts One through Three of the information in
17 this case?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Is your plea voluntary and made of your
20 own free will?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Please rise.

23 Mr. Sood, with respect to Count One how do you plead,
24 guilty or not guilty?

25 THE DEFENDANT: Guilty.

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1 THE COURT: With respect to the Count Two how do you
2 plead?

3 THE DEFENDANT: Guilty.

4 THE COURT: With respect to the Count Three, how do
5 you plead?

6 THE DEFENDANT: Guilty.

7 THE COURT: You may be seated.

8 Please tell me in your own words what you did that
9 makes you guilty of those crimes. You can use notes. That's
10 fine.

11 THE DEFENDANT: From 2016 to September 2017, in the
12 Southern District of New York, I agreed with others to make
13 payments to coaches at NCAA member universities and to families
14 of then current and prospective NCAA student-athletes in
15 exchange for the current and prospective student-athletes
16 retaining me as a financial adviser. On one occasion I made a
17 two thousand payment by check to a coach at an NCAA member
18 university in exchange --

19 THE COURT: I'm sorry. You made a two thousand
20 payment?

21 THE DEFENDANT: Two thousand dollars payment by check
22 to a coach at the NCAA member university in exchange for the
23 coach's recommending that players hire me as a financial
24 adviser. The overt acts in the information accurately describe
25 my conduct.

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1 I believed that NCAA rules prohibited current or
2 prospective NCAA student-athletes or their familiars from
3 receiving these types of payments. I believed that the players
4 would not disclose these payments to their universities and
5 that receipt of those payments by the players and/or their
6 families could make the players ineligible, causing harm to the
7 university. Some of this conduct took place over the phone and
8 by e-mail and by traveling interstate commerce.

9 THE COURT: At the time you engaged in this conduct,
10 Mr. Sood, did you know that the acts were wrong?

11 THE DEFENDANT: I did not. (Pause) Sorry. Yes, yes,
12 I did.

13 THE COURT: You knew what that you were doing was
14 wrong?

15 THE DEFENDANT: Yes.

16 THE COURT: Let me ask the government's counsel, do
17 you believe that is a sufficient factual predicate for a guilty
18 plea?

19 MR. SOLOWIEJEZYK: Yes, your Honor. And the
20 government would also proffer with respect to the venue that
21 the government would prove that there were meetings that
22 occurred in the Southern District of New York and telephone
23 calls that were made to and from the Southern District of New
24 York in furtherance of the crimes charged.

25 THE COURT: Mr. Sood, I do note that you were reading

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1 from notes when you told me what conduct you engaged in. Did
2 your attorney help prepare that statement?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you adopt those words as your own?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Is everything that you just told me true?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Thank you.

9 Does the government represent that it has sufficient
10 evidence to establish guilt beyond a reasonable doubt at trial
11 and would you like to make a proffer?

12 MR. SOLOWIEJEZYK: Yes, your Honor.

13 The government will represent that and briefly, the
14 evidence would consist of among other things, testimony from
15 other witnesses, wiretapped recorded calls, consensually
16 recorded calls and meetings and e-mail and other documentary
17 evidence including financial records.

18 THE COURT: Mr. Sood, on the basis of your responses
19 to my questions and my observation of your demeanor, I find
20 that you are competent to enter a guilty plea. I am satisfied
21 that you understand your rights including your right to have
22 your case considered by a grand jury and your right to go to
23 trial. I believe you are aware of the consequences of your
24 plea, including the sentence that may be imposed and I conclude
25 that you are voluntarily pleading guilty and that you have

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1 admitted that you are guilty as charged in Counts One through
2 Three of the information. For these reasons, I will recommend
3 that the Court accept your plea.

4 I will ask the government to order a copy of the
5 transcript in due course.

6 I will not schedule probation department interviews at
7 this time.

8 Are there any objections to continuing the present
9 bail and has it been modified in any way?

10 MR. SOLOWIEJEZYK: There are no objections, your
11 Honor. I believe defense counsel wanted to note one
12 modification as was made on the record which is not reflected
13 in the plea agreement.

14 THE COURT: Counsel.

15 MR. ZACK: Your Honor, since bail was originally
16 imposed bail's been modified to permit Mr. Sood to travel at
17 his discretion with just notice to Pretrial Services rather
18 than getting permission in advance.

19 THE COURT: And with that addendum you otherwise
20 believe that the plea agreement accurately sets out the
21 conditions of your client's bail?

22 MR. ZACK: Yes, your Honor.

23 THE COURT: All right. Mr. Sood, the conditions on
24 which you have been released up until now including the
25 modification that your attorney just advise the Court of,

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Plea

1 continue to apply. A violation those conditions could have
2 serious consequences including revocation of bail and
3 prosecution for bail jumping.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Anything further on this matter from the
7 government?

8 MR. SOLOWIEJEZYK: No, your Honor.

9 THE COURT: From defense?

10 MR. ZACK: No, your Honor.

11 THE COURT: We are adjourned.

12 Thank you, gentlemen.

13 (Adjourned)

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EXHIBIT 2

J9cdsoos

Sentence

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

18 Cr. 0620 (KMW)

5 MUNISH SOOD,

6 Defendant.

7 -----x

8
9 September 12, 2019
12:10 p.m.

10 Before:

11 HON. KIMBA M. WOOD,

12 District Judge

13
14 APPEARANCES

15 GEOFFREY S. BERMAN

United States Attorney for the
Southern District of New York

16 BY: NOAH SOLOWIEJCZYK

17 ROBERT BOONE

ELI MARK

18 Assistant United States Attorneys

19 PEPPER HAMILTON, LLP

Attorneys for Defendant

20 BY: RICHARD J. ZACK

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22
23
24
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1 THE COURT: At this point, I call U.S. v. Munish Sood,
2 and I'll ask counsel to identify themselves for the record.

3 MR. SOLOWIEJCZYK: Good afternoon, your Honor. Noah
4 Zolowiejczyk on behalf of the government. I'm joined at
5 counsel table by A.U.S.A.s Robert Boone and Eli Mark.

6 MR. ZACK: Good afternoon, your Honor. Richard Zack
7 for Munish Sood.

8 THE COURT: Good afternoon.

9 And good afternoon, Mr. Sued.

10 THE DEFENDANT: Good afternoon, your Honor.

11 THE COURT: We are here for the sentencing of
12 Mr. Sood.

13 And I'll begin by asking Mr. Zach, have you and your
14 client had an adequate opportunity to review the presentence
15 report?

16 MR. ZACK: We have, your Honor.

17 THE COURT: And do you wish any changes?

18 MR. ZACK: No, your Honor.

19 THE COURT: All right. Before I hear from counsel,
20 I'd like to note that Mr. Sood's assistance to the government
21 has been enormously helpful, to whom I note that he testified
22 at great length at two trials, one of them for three days of
23 testimony, and he worked with the government for many, many
24 hours on the case. Particularly in light of that, but also in
25 light of the light sentences received by the codefendants who

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1 have been sentenced to date, I will not impose an incarceratory
2 sentence on Mr. Sood. I am interested, however, in what was
3 his impetus for the crime. Was it financial or nonfinancial?

4 In any event, I am now ready to hear from defense
5 counsel and Mr. Sood, if he wishes to be heard.

6 MR. ZACK: Thank you, your Honor, and I'll speak
7 briefly and then Mr. Sood does wish to be heard.

8 And to answer your Honor's question, certainly there
9 was a financial motive for the crime here, but I would note
10 that Mr. Sood accepts full responsibility for what he did.

11 THE COURT: I'm sorry to interrupt you.

12 You say there was a financial motive, and that's what
13 puzzles me because he was earning 7 to \$8 million a year during
14 the time of the conspiracy, as I read the documents.

15 Is that wrong?

16 MR. ZACK: Your Honor, that's what the PSR reflects.
17 His income has significantly decreased since then.

18 THE COURT: Since the arrest.

19 MR. ZACK: And I have had many, many conversation with
20 Mr. Sood over the last two years.

21 As your Honor knows, this case involved him providing
22 services to very high-profile athletes and him being involved
23 in many aspects of the NBA. And so, you know, part of the
24 crime and part of the sort of seductiveness of the crime was
25 being involved with such a high-profile lifestyle. And while

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1 Mr. Sood did not certainly need additional money to support his
2 lifestyle, I think he was seduced by the fact that he would be
3 in close proximity to some of the most high-profile, popular
4 athletes on the planet.

5 And that's really borne out by the fact that the way
6 the business was set up, Mr. Sood didn't stand to make any
7 money at all for many, many years. He started the business in
8 2016. And the way the business works is until an athlete gets
9 a second contract -- and that's several years -- at least four
10 years into their NBA career -- Mr. Sood didn't stand to really
11 make any money on that. Now, there was a financial reward down
12 the road for him, absolutely, and certainly Mr. Sood
13 anticipated that, but I think, you know, his driving motive was
14 to be a part of, you know, an enterprise that had, you know,
15 literally tens of millions of people watching it during
16 basketball season. And, you know, I think that is the
17 overriding motive of him getting involved in this.

18 He was not -- the evidence showed he was not sort of
19 the mastermind behind this. He was following instructions from
20 others. That's not to diminish the fact that he's responsible
21 for his own conduct, but as the evidence shows, he was
22 certainly a person on the lower end of the culpability scale.

23 And, your Honor, if that answers your question, I am
24 happy to just highlight just a couple of brief things. As I
25 said --

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1 THE COURT: It does. Thank you. Go ahead.

2 MR. ZACK: Mr. Sood accepts full responsibility. As
3 your Honor knows, he met with the government shortly after his
4 arrest, and I know I was in talking to the government within a
5 couple of days of his arrest to let them know that he was ready
6 to cooperate.

7 As you know from our filings, he has lived an
8 exemplary life otherwise other than this. He has built a
9 business that has suffered significantly from, you know, his
10 own conduct here, which he doesn't deny, and has raised a
11 tremendous family. He has three kids and a wife that support
12 him, and he maintains significant confidence from the business
13 people that he has been working with over the years.

14 And we appreciate your Honor's advising us that
15 sentence will not include incarceration. We agree that
16 probation is certainly an appropriate sentence in this case.

17 Thank you, your Honor.

18 THE COURT: Thank you very much.

19 Mr. Sood, there is no requirement for you to speak,
20 but if you would like to speak, I would be glad to hear you
21 now.

22 THE DEFENDANT: Thank you, your Honor.

23 Can you hear me?

24 THE COURT: Yes. Thank you.

25 THE DEFENDANT: I'm just a bit nervous and I just put

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1 some notes on a piece of paper.

2 THE COURT: That is fine. Go ahead.

3 THE DEFENDANT: I would like to apologize to the Court
4 and to the people that I hurt for the last few years. I've
5 disappointed my friends, my family and myself. I have no one
6 to blame but myself for these actions.

7 I fully accept responsibility for my actions. I will
8 continue to do what is necessary to rebuild the trust of my
9 friends, my family, my clients, and everyone else I've
10 disappointed.

11 I am happy to answer any questions, but thank you
12 again.

13 THE COURT: Thank you for that statement. I have no
14 questions.

15 Before I turn to the government to see if they wish to
16 speak, I would like to note that I find the calculation of
17 restitution here to be to my mind conceptually problematic, and
18 I'll explain that in a while, but I also note that the
19 government has asked for three months. I think you have, or do
20 you just not need it any more?

21 MR. SOLOWIEJCZYK: Your Honor, as to restitution, we
22 are asking for additional time. We have -- we notice at least
23 as to one university, the amount of restitution they are
24 seeking -- that is the University of Louisville -- it is going
25 to be joint and several liability with the defendants who were

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1 before Judge Kaplan, but there are just two other universities
2 that we are still waiting to get final word from and I hope to
3 do that soon, and once we do, we will submit a proposed
4 restitution order to your Honor.

5 THE COURT: OK. Then I'll turn to you,
6 Mr. Zolowiejczyk, to tell me anything the government wishes to
7 add.

8 MR. SOLOWIEJCZYK: Your Honor, I'll keep this quite
9 brief in light of your Honor's informing us that a sentence of
10 incarceration -- there will not be a sentence of incarceration.

11 I would just state very briefly, under the 5K factors,
12 certainly Mr. Sood's sentencing -- his cooperation was
13 extremely timely. He indicated very early on that he intended
14 to cooperate. He came in and proffered with us quickly, and he
15 was proffering and working with us well before any of the
16 trials that occurred here took place, well before any guilty
17 pleas.

18 With respect to his truthfulness and reliability, he
19 was forthcoming in the proffer sessions. He told us not only
20 about conduct that we already knew about from the wiretap of
21 his phone and the other evidence but also additional conduct
22 that we were not aware of before he informed us of it, and he
23 was forthcoming and truthful during all phases of both the
24 proffers and the trial preparation.

25 With respect to significance and usefulness, which,

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1 you know, here it is a particularly important factor, Mr. Sood
2 was the only cooperating witness that testified at both the
3 Gatto trial in front of Judge Kaplan and the trial of Christian
4 Dawkins and Merl Code in front of Judge Ramos. And he was an
5 important witness in both trials, a crucial witness.

6 Particularly just focusing on the more recent trial of
7 Christian Dawkins and Merl Code, he was the only witness at
8 that trial who was a member of the conspiracy. And he was on
9 the stand, as your Honor noted, for testimony that spanned
10 three days, really covering all of the aspect of the scheme --
11 each of the coaches they had worked with, hours and hours of
12 recordings. At times these recordings were somewhat hard to
13 understand, cryptic. He really, at bottom, acted as sort of
14 the narrator of what had happened for the jury and was an
15 incredibly important witness.

16 So, for all of those reasons, your Honor, at this time
17 we would move under Section 5K1.1 for the appropriate
18 reduction.

19 THE COURT: All right. Thank you.

20 I begin, as I must, by noting the sentencing guideline
21 calculation. It's based on a total offense level of 21 and
22 Criminal History Category of I. If I were sentencing Mr. Sood
23 under the Sentencing Guidelines, I would depart downward based
24 on his substantial assistance to the government.

25 Moving to the factors under Section 3553, the

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1 co-conspirators' conduct was quite serious in ways that are not
2 measured by pecuniary loss, in particular, harm to the
3 reputations of the universities and their athletic programs.

4 With respect to Mr. Sood, I agree with Mr. Zach that
5 he was not an instigator, he was not a major participant.

6 With respect to Mr. Sood's character, everything in
7 his background suggests an upstanding, honest man. I believe
8 that his, as Mr. Zach put it, seduction by the prospect of
9 having such high-profile clients was an aberration in an
10 otherwise blameless life.

11 His very prompt, very painstaking assistance to the
12 government, which included crimes as to which the government
13 was not yet aware and which was enormously useful to the
14 government in light of the fact that with respect to the trial
15 of Mr. Dawkins and Mr. Code, he was the only member of the
16 conspiracy who testified, and his use to the government was, as
17 the government said, as narrator to what happened in light of
18 the cryptic nature of a number of the wiretaps -- wiretapped
19 conversations.

20 In my view, as I said before, no incarceration is
21 warranted.

22 Mr. Sood, could you please stand for sentencing.

23 With respect to all three counts, I sentence you to no
24 incarceration, to no supervised release, because you have
25 essentially been on such for the time you were cooperating.

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1 A fine of \$25,000 was recommended by Probation. Do
2 defense counsel or defendant have a problem with that?

3 MR. ZACK: Your Honor, I think we certainly don't
4 disagree with the recommendation. Just for the record, I don't
5 believe a \$25,000 fine is warranted, but that's all we have to
6 say on that issue.

7 THE COURT: Would the government like to be heard on
8 the fine?

9 MR. SOLOWIEJCZYK: Your Honor, we don't really take a
10 position as to the specific parameters of the sentence, but
11 obviously Probation does take into account, among other things,
12 the means to pay it and that sort of thing.

13 MR. ZACK: Your Honor, just given the prospect of
14 restitution, you know, I would suggest not imposing a fine
15 and --

16 THE COURT: With respect to the prospect of
17 restitution, I'm not so sure we have that prospect, as I'll lay
18 out in a few minutes.

19 MR. ZACK: Thank you, your Honor.

20 THE COURT: I will impose the fine of \$25,000 in light
21 of Mr. Sood's financial ability to pay it and the purposes
22 behind imposing a fine. I've taken into account all the
23 statutory factors that the statute requires in determining the
24 amount of the fine.

25 With respect to restitution, I'll deal with that in a

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1 minute.

2 I impose the special assessment of \$300, which is
3 mandatory.

4 You may sit down while I read to you the appeal
5 rights.

6 Are there any charges to be dismissed?

7 MR. SOLOWIEJCZYK: We don't think there are, your
8 Honor, but in an abundance of caution, to the extent there were
9 any, they are dismissed.

10 THE COURT: I grant the motion.

11 Is there anything further before I read Mr. Sood his
12 appeal rights, once I get to restitution?

13 MR. ZACK: Not from the defendant, your Honor.

14 THE COURT: OK.

15 MR. SOLOWIEJCZYK: Not from the government, your
16 Honor.

17 THE COURT: All right. I'll read your appeal rights
18 after I discuss restitution.

19 In considering who was harmed by the conspiracy, I
20 note that it was spearheaded by Adidas, and Adidas, I take it,
21 was motivated by hoping to receive a competitive advantage over
22 competitors by having high-profile athletes involved in its
23 programs.

24 I think it's possible -- no, I have to back up a
25 moment.

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1 I think the universities benefited from these
2 scholarship payments made to athletes because they got the
3 benefit of a good bargain. They had the star athlete for about
4 a year. So they had the benefit hoped for, a more brilliant
5 team, which leads to greater alumni contributions. I mean, if
6 you try to find something financial, you would have to go down
7 that rather circuitous route.

8 I don't think Mr. Sood or any of the defendants
9 intended to harm a university. As one of the university
10 defendants described in a letter to the Court, the harm was
11 reputation. I think the harm was that the university becomes
12 publicized as a participant in corruption, corruption of
13 college athletics.

14 The only harm I can see to a university would be by
15 analogy to honest services fraud. A university was unaveraged
16 coaches, not the other participants. The universities were
17 deprived of the honest services of their coaches.

18 I don't think that is properly quantified by the
19 amount of a bribe paid to a coach. But we have as precedent a
20 decision by Judge Cote in which she found that Morgan Stanley,
21 I think, or Morgan Guaranty had been deprived of the honest
22 services of one of its corrupt employees, and she imposed as
23 restitution the expenses and fees paid by Morgan Stanley in
24 connection with the government investigation and prosecution.
25 That's not what is charged here, but it strikes me as the only

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1 rationale I can conceive of for there being pecuniary harm to
2 the universities.

3 I'm not asking anyone to respond right away on this
4 because I don't think other courts have made a fuss about it,
5 and so you need some time to think about it?

6 MR. SOLOWIEJCZYK: Your Honor, I do think we probably
7 are going to want to write something briefly on this.

8 I would note, obviously, we respect what your Honor is
9 saying immensely. You know, a lot of the issues your Honor has
10 teed up were issues that were argued -- and this really only
11 relates to the Gatto case for trial.

12 THE COURT: Before Judge Kaplan.

13 MR. SOLOWIEJCZYK: They were argued to the jury, and,
14 you know, the jury ultimately concluded that when these
15 university witnesses took the stand and said that, you know,
16 that these representations were material to them, that the
17 universities did suffer harm as a result of this, that's
18 ultimately about something the jury has to consider.

19 I will also note just for your Honor's
20 consideration -- we're going to brief this more fully -- that
21 there are many, many talented student athletes out there, and
22 when these universities choose -- they have a limited number of
23 scholarships. There is sort of an opportunity cost to that,
24 and in particular when they have decided to issue a scholarship
25 to a student athlete who it turns out they later find is

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1 ineligible, they could have offered that scholarship to
2 somebody else instead and they lose that opportunity.

3 THE COURT: I think that's a very good point, and
4 what's lost is the ability to have the next best athlete for
5 years two, three, four. It is not about the first year.

6 MR. SOLOWIEJCZYK: One of the athletes never even
7 played that first year because the scheme was uncovered and
8 they had to send him out and, therefore -- and actually --

9 THE COURT: And he kept the money?

10 MR. SOLOWIEJCZYK: Well, yes.

11 THE COURT: He continued to go to school?

12 MR. SOLOWIEJCZYK: And the way the University of
13 Louisville calculated their number was it wasn't legal fees, it
14 wasn't the full amount of scholarship, it was they actually did
15 math on how much money they had spent up to that point on that
16 particular student.

17 But as I said, your Honor, we're happy to put --

18 THE COURT: I mean, that's very understandable.

19 MR. SOLOWIEJCZYK: -- something in on this.

20 As to the coach side of this, if any of those schools
21 do seek restitution, what we had in mind is exactly consistent
22 with what -- I don't remember the name of the decision but I
23 know the decision you are talking about from Judge Cote, it
24 would be consistent with that.

25 THE COURT: OK. With respect to what a jury found, I

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Sentence

1 would need to hear how they were instructed. I doubt that I'll
2 gain a lot of clarity from it, but I respect your view that it
3 is something to think about.

4 All right. In terms of briefing, perhaps we could set
5 a schedule, and I'll let the government go first on this.

6 MR. SOLOWIEJCZYK: Your Honor, we would -- I'm just
7 thinking in terms of timing. We want to find out whether the
8 other two universities are going to even seek restitution,
9 because that would be an issue we need to brief.

10 I wanted to check when the sentencings of the
11 codefendants are.

12 (Pause)

13 THE COURT: Is it just Mr. Gassnola?

14 MR. SOLOWIEJCZYK: No. Actually, Mr. Gassnola was
15 sentenced on Tuesday, your Honor, to time served by Judge
16 Kaplan. It is Mr. Code and Mr. Dawkins in the second trial.

17 If your Honor would give us 45 days, we would
18 appreciate it, but if not, 30 days would be what we would ask
19 for.

20 THE COURT: I don't need to decide this until 90 days
21 from now, so 45 is fine.

22 MR. SOLOWIEJCZYK: Great. Thank you, your Honor.

23 THE COURT: OK. I ask you if you have the transcript
24 of the argument before Judge Kaplan, I would like to read that,
25 the one you referenced. You said these points were argued to

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Sentence

1 Judge Kaplan. Perhaps they were argued in writing.

2 MR. SOLOWIEJCZYK: We can send you the sentencing
3 transcript, and I was actually referring also to sort of the
4 harm to the universities was an issue that was central to the
5 trial as well, not as to a specific restitution number but it
6 was sort of an essential component of the trial.

7 THE COURT: OK.

8 MR. SOLOWIEJCZYK: But I'm not sure -- I hear what
9 your Honor is saying in terms of -- you know, I'm not sure how
10 useful that will ultimately be to your Honor, so that is
11 something that we will consider.

12 THE COURT: All right. I was assuming that arguments
13 by counsel in a high-profile criminal case would be carefully
14 considered and that I should consider them, too.

15 MR. ZACK: Judge, just so the record is clear, we were
16 not a party to that, you know. So whatever was argued in that
17 case is not relevant to a restitution determination for this
18 defendant in our view.

19 THE COURT: It merely might educate me generally
20 rather than -- I understand it --

21 MR. ZACK: But we have no say in anything the Court
22 determines.

23 THE COURT: I know that.

24 MR. ZACK: Thank you, your Honor.

25 MR. SOLOWIEJCZYK: Your Honor, we'll provide you with

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1 anything we think would be relevant to your Honor's
2 consideration of this question in our submission.

3 THE COURT: Good. All right. If there is nothing
4 further, I'll read Mr. Sood his appeal rights.

5 Is there something further?

6 MR. ZACK: Nothing from the defendant.

7 THE COURT: Mr. Sood, it is my job -- you don't need
8 to stand. Thank you. It is my job to read every defendant his
9 appeal rights, and I'll read you yours now.

10 You can appeal your conviction if you believe that
11 your guilty plea was somehow unlawful or involuntary or if
12 there was some other fundamental defect in the proceedings that
13 was not waived by your guilty plea. You also have the
14 statutory right to appeal your sentence under certain
15 circumstances. You may have waived many of those rights.

16 With few exceptions, any Notice of Appeal must be
17 filed within 14 days of judgment being entered in this case.
18 Judgment is likely to be entered next week.

19 I understand this doesn't apply to you but, again, it
20 is my job to read it. If you are not able to pay the cost of
21 an appeal, you may apply for leave to appeal in forma pauperis.
22 If you request, the Clerk of the Court will prepare and file a
23 Notice of Appeal on your behalf.

24 I think your assistance was truly commendable.

25 We are adjourned.

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Sentence

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MR. SOLOWIEJCZYK: Thank you, your Honor.
(Adjourned)

EXHIBIT 3

Declaration of Kyle Kuzma

I, Kyle A. Kuzma, hereby depose and say:

1. I am a professional basketball player for the Los Angeles Lakers.
2. In 2017, I was introduced to Munish Sood and the firm Rosedale Asset Management, LLC (formerly known as Princeton Wealth Management) through Christian Dawkins who was working at ASM Sports.
3. When I met Mr. Sood I was undrafted. Once I was drafted, I decided to engage Mr. Sood and Rosedale to help with business management and concierge services.
4. I agreed to pay Rosedale \$1,000 per month for their services, which did not include investment management.
5. Mr. Sood and Rosedale have helped me with the following:
 - a. They helped raise my credit score.
 - b. They helped to coordinate my family's relocation to Los Angeles.
 - c. They assisted with helping me setup up CDs and other investment vehicles.
 - d. They assisted me in financing a car when I first relocated to Los Angeles.
 - e. They have helped me deal with certain complicated family matters.
6. Mr. Sood has been instrumental to my career and I have benefitted greatly from his advice over the years. Mr. Sood has consistently shown that he is completely devoted to my interests, which I am truly grateful for.
7. Recently, Mr. Sood assisted me in setting up a trust, which will be very important to my financial future. I made Mr. Sood the Trustee of the trust, because he has been my most reliable advisor.
8. Mr. Sood also serves as an unpaid board member of my foundation that he helped setup.
9. My foundation has donated around \$150,000 to the YMCA in my hometown, Flint, Michigan, and other organizations in Flint, MI and Los Angeles, CA. We have provided financial support for single mothers in both cities and he lead our efforts to provide meal distribution efforts for senior citizens and families in need during the COVID-19 pandemic.
10. Over the years, my relationship with Mr. Sood and Rosedale has remained consistent with paying nominal fees to them for their concierge services. However, recently I

with paying nominal fees to them for their concierge services. However, recently I began paying \$5,000 per month due to increased needs for business management.

11. Given Mr. Sood's track record over the years, I fully trust Mr. Sood to handle my most sensitive matters. He has been a huge help during the beginning of my career and I plan to continue to turn to Mr. Sood to help me with my most sensitive and critical issues I will face as my career continues to develop.
12. At no point during the four years that I have engaged Mr. Sood and Rosedale have I been harmed as an investor or in any other way. Furthermore, I never felt pressure to retain Mr. Sood or continue to use Mr. Sood's help.
13. I engaged Mr. Sood before his legal issues began.
14. Had I learned about Mr. Sood's legal issues at the time I first engaged him, it would not have affected my desire to retain Mr. Sood.
15. Mr. Sood informed me in detail that he took responsibility for his actions and pled guilty to federal criminal charges. I understand that this was in relation to working together with Christian Dawkins, Adidas, and others to pay college coaches for introductions to potential NBA prospects, such as myself.
16. After learning this information, I have decided to continue to engage Mr. Sood and Rosedale.

Executed by me this 19 day of May, 2021.



Kyle A. Kuzma

EXHIBIT 4

Declaration of Davon Reed

I, Davon Reed, hereby depose and say:

1. I am a currently professional basketball player.
2. In 2017, I was introduced to Munish Sood and the firm Rosedale Asset Management, LLC (formerly known as Princeton Wealth Management) through Steven Pina who was working at ASM Sports.
3. When I met Mr. Sood I was undrafted. Once I was drafted, I decided to engage Mr. Sood and Rosedale to help with business management and concierge services.
4. I agreed to pay Rosedale \$750.00 per month for their services, which did not include investment management.
5. Mr. Sood and Rosedale have helped me with the following:
 - a. He has helped me develop and increase my knowledge about business and various investments opportunities available to me.
 - b. They helped to create and manage my LLC.
 - c. They assisted with helping me setup up CDs and other investment vehicles.
 - d. They helped me create my Foundation and raise money for projects important to me.
 - e. They have helped me deal with certain complicated family matters.
6. Mr. Sood has been instrumental to my career and I have benefitted greatly from his advice over the years. Mr. Sood has consistently shown that he is completely devoted to my interests, which I am truly grateful for.
7. Mr. Sood also serves as an unpaid board member of my foundation that he helped setup.
8. Over the years, my relationship with Mr. Sood and Rosedale has remained consistent with paying nominal fees to them for their services. However, recently I was playing in a different country and with my reduction in income he volunteered to reduce my monthly fee to \$375.00.
9. Given Mr. Sood's track record over the years, I fully trust Mr. Sood to handle my most sensitive matters. He has been a huge help during the beginning of my career and I plan to continue to turn to Mr. Sood to help me with my most sensitive and critical issues I will face as my career continues to develop.
10. At no point during the four years that I have engaged Mr. Sood and Rosedale have I been

been harmed as an investor or in any other way. Furthermore, I never felt pressure to retain Mr. Sood or pressure to continue to use Mr. Sood's help.

11. I engaged Mr. Sood before his legal issues began.
12. Had I learned about Mr. Sood's legal issues at the time I engaged, it would not have affected my desire to retain Mr. Sood.
13. Mr. Sood informed me in detail that he took responsibility for his actions and pled guilty to federal criminal charges and only paid a fine of \$25,000. I understand that this was in relation to working together with Christian Dawkins, Adidas, and others to pay college coaches for introductions to potential NBA prospects, such as myself.
14. After learning this information, I have decided to continue to engage Mr. Sood and Rosedale. I also will refer him to other athletes that will benefit from his experience and commitment to helping others

Executed by me this 17 day of May, 2021.



EXHIBIT 5

Declaration of Akin Ayodele

I, Akin Ayodele, hereby depose and say:

1. Retired after 9 years in the National Football League.
2. In 2008, I was introduced to Munish Sood (at that time by Marty Blazer) and the firm Rosedale Asset Management, LLC (formerly known as Princeton Wealth Management).
3. Mr. Sood and Rosedale have helped me with the following:
 - a. He started by managing my investment portfolios while I was an active NFL player in the NFL.
 - b. Provided me access to alternative investment opportunities such as real estate and direct investments where other advisors did not or refused to since they would potentially lose management fees.
 - c. Educated me on different types of investments and pro/cons of investments. Helped me understand the fee structures and different way advisors make money. Helped me budget my expenses and importance of savings.
 - d. Allow me to leverage his experience so I was not taken advantage by other advisors that were trying to sell me high risk and investments not appropriate for me and my family. Such as Insurance products that were not appropriate and very expensive.
 - e. After my playing career and receiving my MBA I decided to join him as a partner and help grow the athlete investment and business management business. Based on my experience he has always put his clients first and leveraged his experience to position them for success in the court or filed. I have and will continue to refer him Professional athletes and coaches as clients.
4. At no point during the eight years that I have engaged Mr. Sood and Rosedale have I been harmed as an investor or in any other way. Furthermore, I never felt pressure to retain Mr. Sood or pressure to continue to use Mr. Sood's help.
5. I engaged Mr. Sood before his legal issues began. Had I learned about Mr. Sood's legal issues at the time I engaged him, it would not have affected my desire to retain Mr. Sood.
6. Mr. Sood informed me in detail that he took responsibility for his actions and pled guilty

to federal criminal charges. I understand that this was in relation to working together with Christian Dawkins, Adidas, and others to pay college coaches for introductions to potential NBA prospects, such as myself.

7. After learning this information, I have decided to continue to engage Mr. Sood and Rosedale.

Executed by me this 14 day of May, 2021.

Akin Ayodele

Akin

Akin Ayodele