

**ORIGINAL**

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OCT 17 2016

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

**APPEAL FROM PICKENS COUNTY**

**The Honorable J. Cordell Maddox, Jr., Circuit Court Judge**

**Appellate Case No. 2015-000211**

**THE STATE, ..... APPELLANT,**

**v.**

**FREDERICK SCOTT PFEIFFER, ..... RESPONDENT.**

**RECORD ON APPEAL**

ALAN WILSON  
Attorney General

S. CREIGHTON WATERS  
Assistant Deputy Attorney General

BRIAN T. PETRANO  
Assistant Attorney General

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**ATTORNEYS FOR RESPONDENT**

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<sup>1</sup> Appellant’s reply to Respondent’s Motion(s) for Reconsideration was originally designated. However, filed copies are presently unavailable as the records reflect that the arguments were presented at the hearing.

FILED

STATE OF SOUTH CAROLINA SEP 18 2013 IN THE COURT OF GENERAL SESSIONS  
COUNTY OF PICKENS JAMES R. PARKS  
STATE CLERK, STATE GRAND JURY INDICTMENT/CASE#: 2013-GS-47-09 (Count I)

VS.  
FREDRICK SCOTT PFEIFFER  
AKA: SCOTT PFEIFFER  
Race: w Sex: m Age:   
DOB: SS#:   
Address:   
City, State, Zip: Greenville, SC 29607  
DL# SID#  
\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

A/W#: Direct Presentment  
Date of Offense: Sept. 2001 through Feb. 2013  
S.C. Code §: 16-17-410  
CDR Code #: 0049

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS  
TO: Criminal Conspiracy  
In violation of § 16-17-410 of the S.C. Code of Laws, bearing CDR Code # 0049  
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45  
(CSC w/minor 1<sup>st</sup> or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)  
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.  
ATTEST: *[Signature]* 12155 *[Signature]* 0271  
Attorney General SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant committed to the ☐ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years  
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and or payment  
of \$ ; plus costs and assessments as applicable\*, the balance is suspended with probation for  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are  
incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 9/17/13 place  
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections.  
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED ☐

☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. ☐

Recipient: May serve W/E beginning  
Substance Abuse Counseling ☐

\*Fine: \$  
\$14-1-206 (Assessments 107.5%) \$  
\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00  
\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$  
\$56-5-2995 (DUI Assessment) \$12 \$  
\$56-1-286 (DUI Breath Test) \$25 \$  
Proviso 47.9 (Public Def/Prob) \$500 \$  
\$14-1-212 (Law Enforce. Funding) \$25 \$ 25.00  
\$14-1-213 (Drug Court Surcharge) \$150 \$  
\$50-21-114 (BUI Breath Test Fee) \$50 \$  
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$  
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00  
3% to County (if paid in installments) \$  
TOTAL \$ 3.90  
\$ 133.90

Other: May report 9/27/13  
at 5:00 p.m.

☐ Appointed PD or appointed other counsel,  
\$47.12 requires \$500 be paid to Clerk  
during probation

Clerk of Court/Deputy Clerk *[Signature]* [Parks, James R.]  
Court Reporter: [Cross, Vivian]

Presiding Judge [Maddox, J. Cordell]  
Judge Code: 2134  
Sentence Date: September 18, 2013

**FILED**

SEP 18 2013

STATE OF SOUTH CAROLINA

**JAMES R. PARKS**

IN THE COURT OF GENERAL SESSIONS

COUNTY OF PICKENS

**CLERK, STATE GRAND JURY**

STATE

VS.

**FREDRICK SCOTT PFEIFFER**AKA: **SCOTT PFEIFFER**Race: **W** Sex: **M** Age: **35**City, State, Zip: **Greenville, SC 29607**DL# **12155** SID# **69286**CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐INDICTMENT/CASE#: **2013-GS-47-09 (Count6)**A/W#: **Direct Presentment**Date of Offense: **September 2001 - February 15, 2013**S.C. Code §: **35-01-0501 & 35-01-0508(a)(1)**CDR Code #: **2615****SENTENCE SHEET**In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: **Securities / Violations of Uniform Securities Act resulting in loss of \$20,000 or more**In violation of § **35-01-0501 & 35-01-0508(a)(1)** of the S.C. Code of Laws, bearing CDR Code #: **2615**☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials):The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Attorney General

SC Bar #: **12155**

Defendant

Attorney for Defendant

SC Bar # **69286**WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of **10** days/months/years or ☐ under the Youthful Offender Act not to exceed **6** yearsand/or to pay a fine of \$ **0** provided that upon the service of **0** days/months/years and or paymentof \$ **0** plus costs and assessments as applicable; the balance is suspended with probation for **0** months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

**SPECIAL CONDITIONS:**☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ **0** plus 20% fee: \$ **0**

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS:Attend Voc. Rehab. Or Job Corp. ☐

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

\*Fine:

|                                        |         |                  |
|----------------------------------------|---------|------------------|
| \$14-1-208 (Assessments 107.5%)        | \$      | \$               |
| \$14-1-211 (A)(1)(Conv. Surcharge)     | \$100   | \$ <b>100.00</b> |
| \$14-1-211 (A)(2)(DUI Surcharge)       | \$100   | \$               |
| \$56-5-2995 (DUI Assessment)           | \$12    | \$               |
| \$56-1-286 (DUI Breath Test)           | \$25    | \$               |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$               |
| \$14-1-212 (Law Enforce. Funding)      | \$25    | \$ <b>25.00</b>  |
| \$14-1-213 (Drug Court Surcharge)      | \$150   | \$               |
| \$50-21-114 (BUI Breath Test Fee)      | \$50    | \$               |
| \$56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$               |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ <b>5.00</b>   |
| 3% to County (if paid in installments) | \$      | \$ <b>3.90</b>   |
| <b>TOTAL</b>                           | \$      | \$ <b>133.90</b> |

Clerk of Court/Deputy Clerk:  
Court Reporter:**James R. Parks**[Parks, James R.]  
[Cross, Vivian]Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ **0** Beginning\$ **0** Paid to Public Defender Fund

Other:

**Remainder 2 years  
of act. in past year  
be served public house  
incarceration**☐ Appointed PD or appointed other counsel,  
\$47.12 requires \$500 be paid to Clerk  
during probation.

Presiding Judge

[Maddox, J. Cordell]

Judge Code: **2131**Sentence Date: **September 18, 2013****May report 9/27/13  
by 5:00pm at  
ACDC**

**FILED**

SEP 18 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF PICKENS

**JAMES R. PARKS**  
CLERK, STATE GRAND JURY

STATE

VS.

**FREDRICK SCOTT PFEIFFER**

AKA: **SCOTT PFEIFFER**

Race: **W** Sex: **M** Age: **34**

DOB: **03/17/1979**

Address: **[REDACTED]**

City, State, Zip: **Greenville, SC 29607**

DL# **[REDACTED]**

SID# **[REDACTED]**

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: **2013-GS-47-09 (Count3)**

A/W#: **Direct Presentment**

Date of Offense: **March 17, 2003 - March 21, 2006**

S.C. Code §: **35-01-0501 & 35-01-0508(a)(1)**

CDR Code #: **2615**

**SENTENCE SHEET**

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: **Securities / Violations of Uniform Securities Act resulting in loss of \$20,000 or more**

In violation of § **35-01-0501 & 35-01-0508(a)(1)** of the S.C. Code of Laws, bearing CDR Code # **2615**

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation; ☐ Negotiated Sentence ☐ Recommendation by the State

ATTEST

*[Signature]*  
Attorney General

**12155**  
SC Bar #

*[Signature]*  
Defendant

*[Signature]*  
Attorney for Defendant

**69296**  
SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of **10** days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years, and/or to pay a fine of \$ \_\_\_\_\_ provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_ plus costs and assessments as applicable, the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole, and Pardon Services standard conditions of probation, which are elaborated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: **9/17/13**

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

**SPECIAL CONDITIONS:**

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Obtain GED: ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐

\*Fine:

|                                        |         |                   |
|----------------------------------------|---------|-------------------|
| \$14-1-208 (Assessments 107.5%)        | \$      |                   |
| \$14-1-211 (A)(1)(Conv. Surcharge)     | \$100   | \$ <b>100.00</b>  |
| \$14-1-211 (A)(2)(DUI Surcharge)       | \$100   | \$                |
| \$56-5-2995 (DUI Assessment)           | \$12    | \$                |
| \$56-1-288 (DUI Breath Test)           | \$25    | \$                |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$                |
| \$14-1-212 (Law Enforce. Funding)      | \$25    | \$ <b>25.00</b>   |
| \$14-1-213 (Drug Court Surcharge)      | \$150   | \$                |
| \$50-21-114 (BUI Breath Test Fee)      | \$50    | \$                |
| \$56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$                |
| Proviso 90.6 (SCJA Surcharge)          | \$5     | \$ <b>5.00</b>    |
| 3% to County (if paid in installments) |         | \$ <b>3.90</b>    |
| <b>TOTAL</b>                           |         | \$ <b>1339.00</b> |

Clerk of Court/Deputy Clerk  
Court Reporter:

*[Signature]*  
**James R. Parks**

**[Parks, James R.]**  
**[Cross, Vivian]**

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: *[Handwritten note]* **Must report 9/22/13 by 5:00 pm. at ADC**

☐ Appointed PD or appointed other counsel. \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

*[Signature]*  
**[Maddox, J. Cordell]**

Judge Code: **2134**

Sentence Date: **September 18, 2013**

FILED

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

OCT 08 2013

IN THE COURT OF GENERAL SESSIONS

AMENDED

STATE

VS.

JAMES R. PARKS  
CLERK, STATE GRAND JURY

INDICTMENT/CASE#: 2013-GS-47-09 (Count 3)

FREDRICK SCOTT PFEIFFER

Direct Presentment

AKA: SCOTT PFEIFFER

Race: W Sex: m Age: [redacted]

DOB: [redacted]

Address: [redacted]

City, State, Zip: Greenville, SC 29607

DL# [redacted] SID# [redacted]

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

Date of Offense: March 17, 2003 - March 21, 2006

S.C. Code §: 35-01-0501 &amp; 35-01-0508(a)(1)

CDR Code #: 2615

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Securities / Violations of Uniform Securities Act resulting in loss of \$20,000 or more

In violation of § 35-01-0501 &amp; 35-01-0508(a)(1) of the S.C. Code of Laws, bearing CDR Code # 2615

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Attorney General

12155

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years ☐ under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$ 100.00 provided that upon the service of 25.00 days/months/years and or payment of \$ 5.00 plus costs and assessments as applicable, the balance is suspended with probation for 3.90 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:  
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.  
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient:

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling: ☐

\*Fine:

|                                        |         |           |
|----------------------------------------|---------|-----------|
| \$14-1-206 (Assessments 107.5%)        | \$      | \$        |
| \$14-1-211 (A)(1)(Conv. Surcharge)     | \$100   | \$ 100.00 |
| \$14-1-211 (A)(2)(DUI Surcharge)       | \$100   | \$        |
| \$56-5-2965 (DUI Assessment)           | \$12    | \$        |
| \$56-1-286 (DUI Breath Test)           | \$25    | \$        |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$        |
| \$14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25.00  |
| \$14-1-213 (Drug Court Surcharge)      | \$150   | \$        |
| \$50-21-114 (BUI Breath Test Fee)      | \$50    | \$        |
| \$56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$        |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5.00   |
| 3% to County (if paid in installments) | \$      | \$ 3.90   |
| TOTAL                                  | \$      | \$ 133.90 |

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

[Maddox, J. Cordell]

Judge Code: 2131

Sentence Date September 18, 2013

Clerk of Court/Deputy Clerk

[Parks, James R.]

Court Reporter:

[Cross, Vivian]

Amended - October 08, 2013

SCCA/217 (03/2011)

FILED

STATE OF SOUTH CAROLINA

OCT 08 2013

IN THE COURT OF GENERAL SESSIONS

COUNTY OF PICKENS

JAMES R. PARKS

AMENDED

STATE

CLERK, STATE GRAND JURY

INVESTMENT/CASE# 2013-GS-47-09 (Count 1)

VS.

FREDRICK SCOTT PFEIFFER

AW#: Direct Presentment

AKA: SCOTT PFEIFFER

Date of Offense: Sept. 2001 through Feb. 2013

Race: W Sex: M Age: [redacted]

S.C. Code §: 16-17-410

DOB: [redacted] SS#: [redacted]

CDR Code #: 0049

Address: [redacted]

City, State, Zip: Greenville, SC 29607

DL# [redacted]

[redacted] Yes [redacted] No [redacted] CMV Yes [redacted] No [redacted] Hazmat Yes [redacted] No [redacted]

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  
TO: Criminal Conspiracy☐ CONVICTED OF or ☒ PLEADS

In violation of § 16-17-410

of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The charge is: ☒ As indicted, ☐ Lesser included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

[Signature]  
Attorney General12155  
SC Bar #

Defendant

[Signature]  
Attorney for Defendant00271  
60296  
SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,  
for a determinate term of 3 days/months/years, ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years,  
and/or to pay a fine of \$ \_\_\_\_\_ provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_ plus costs and assessments as applicable, the balance is suspended with probation for  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are  
incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:  
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State  
Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp: \_\_\_\_\_

Recipient: \_\_\_\_\_

May serve W/E beginning  
Substance Abuse Counseling ☐

\*Fine:

|                                        |         |           |
|----------------------------------------|---------|-----------|
| §14-1-206 (Assessments 107.5%)         | \$      |           |
| §14-1-211 (A)(1)(Conv. Surcharge)      | \$100   | \$ 100.00 |
| §14-1-211 (A)(2)(DUI Surcharge)        | \$100   | \$        |
| §56-5-2965 (DUI Assessment)            | \$12    | \$        |
| §56-1-286 (DUI Breath Test)            | \$25    | \$        |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$        |
| §14-1-212 (Law Enforce. Funding)       | \$25    | \$ 25.00  |
| §14-1-213 (Drug Court Surcharge)       | \$150   | \$        |
| §50-21-114 (BUI Breath Test Fee)       | \$50    | \$        |
| §56-5-2942(J) (Vehicle Assessment)     | \$40/ea | \$        |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$        |
| 3% to County (if paid in installments) |         | \$ 5.00   |
| TOTAL                                  |         | \$ 390    |
|                                        |         | \$ 133.90 |

Clerk of Court/Deputy Clerk  
Court Reporter:[Parks, James R.]  
[Cross, Vivian]

Random Drug/Alcohol Testing ☐  
Fine may be pd. in equal consecutive weekly/monthly  
pmts. of \$ \_\_\_\_\_ Beginning  
\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel,  
§47-12 requires \$500 be paid to Clerk  
during probation.

Presiding Judge [Maddox, J. Cordell]  
Judge Code: 2131

Sentence Date September 18, 2013

Amended - October 08, 2013

**FILED**

STATE OF SOUTH CAROLINA

OCT 08 2013

IN THE COURT OF GENERAL SESSIONS

COUNTY OF PICKENS

JAMES R. PARKS

**AMENDED**

STATE

CLERK, STATE GRAND JURY

INDICTMENT/CASE#: 2013-GS-47 -09 (Count6)

VS:

**FREDRICK SCOTT PFEIFFER**AW#: **Direct Presentment**AKA: **SCOTT PFEIFFER**Date of Offense: **September 2001 - February 15, 2013**Race: **W** Sex: **M** Age: **44**S.C. Code §: **35-01-0501 & 35-01-0508(a)(1)**DOB: **01/15/1969** SS#: **01-12-3456**CDR Code #: **2615**Address: **1234 Main St, Greenville, SC 29607**City, State, Zip: **Greenville, SC 29607**DL#: **01-12-3456** SID#: **01-12-3456****SENTENCE SHEET**\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was: ☐ CONVICTED OF or ☒ PLEADSTO: **Securities / Violations of Uniform Securities Act resulting in loss of \$20,000 or more**In violation of §: **35-01-0501 & 35-01-0508(a)(1)** of the S.C. Code of Laws, bearing CDR Code # **2615**☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45The charge is: ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury (def's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the StateATTEST: **[Signature]** 12155 **[Signature]** 0271 **[Signature]** 69296

Attorney General SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE the Defendant is committed to the State Department of Corrections ☐ County Detention Center,for a determinate term of **10** days/months/years or ☐ under the Youthful Offender Act not to exceed **6** yearsand/or to pay a fine of \$ **0** provided that upon the service of **6** days/months/years and or paymentof \$ **0** plus costs and assessments as applicable, the balance is suspended with probation for **3**

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State

Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

**SPECIAL CONDITIONS:**☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered **PTUP**Total: \$ **0** plus 20% fee: \$ **0** **0** days/hours Public Service EmploymentPayment Terms: **0** Obtain GED ☐☐ Set by SCDPPPS: **0** Attend Voc. Rehab. Or Job Corp. **0**Recipient: **0** May serve W/E beginning **0****0** Substance Abuse Counseling ☐**0** Random Drug/Alcohol Testing: ☐**0** Fine may be pd. in equal consecutive weekly/monthly**0** prmts. of \$ **0** Beginning: **0****0** \$ **0** Paid to Public Defender Fund**0** Other: **last 2 years of****0** Sentence to be served in**0** HTP or House Arrest **0**☐ Appointed PD or appointed other counsel**0** \$47.12 requires \$500 be paid to Clerk**0** during probation.**0** Presiding Judge **0** [Maddox, J. Cordell]**0** Judge Code: **2137****0** Sentence Date **September 18, 2013****0** Amended - October 08, 2013**0** Clerk of Court/Deputy Clerk **0** [Parks, James R.]**0** Court Reporter: **0** [Cross, Vivian]**0** SCCA/217 (03/2011)

**FILED**

OCT 08 2013

JAMES R. PARKS  
CLERK, STATE GRAND JURYSTATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF PICKENS ) FOR THE 13TH JUDICIAL CIRCUIT

State of South Carolina,

**Order of Restitution**

v.

FREDRICK SCOTT PFEIFFER,

Defendant.

|      |      |    |        |      |  |
|------|------|----|--------|------|--|
| 2013 | -GS- | 47 | -09(1) | -GS- |  |
| 2013 | -GS- | 47 | -09(3) | -GS- |  |
| 2013 | -GS- | 47 | -09(6) | -GS- |  |
|      | -GS- |    |        | -GS- |  |

Upon motion of the Attorney General's Office, it appears SC Code §17-25-322(A) provides "in addition to any other sentence which it may impose, the court shall order the defendant make restitution or compensate the victim..." unless the Court finds a substantial and compelling reason not to order restitution.

Therefore, this Court finds:

- ( ) Restitution should not be ordered for the following reasons:
- ( ) Restitution should be paid by the Defendant to the State Office of Victim Assistance, provided payment is made by SOVA on behalf of the listed victim(s) in any subrogated amounts paid.
- ( ) Restitution hearing is waived by Defendant, restitution agreed to as shown below.
- ( ) Restitution should be paid by the Defendant as a condition of his/her sentence to the designated victims in the Court-ordered amounts:

- |                                                                                                                                                                                                                                                       |                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1. VICTIM: <u>C/O Jerry Saad, CPA (Receiver)</u><br>Address: <u>1249 S. Pleasantburg Dr.</u><br><u>Greenville, SC 29605</u><br>Phone: <u>864-422-9616</u><br>Restitution: \$ <u>169,186.30</u><br><i>Has to be<br/>deferring at later<br/>hearing</i> | 3. VICTIM: _____<br>Address: _____<br>Phone: _____<br>Restitution: \$ _____ |
| 2. VICTIM: _____<br>Address: <u>Hearing 7/9/14</u><br>Phone: _____<br>Restitution: \$ <u>169,186.30</u>                                                                                                                                               | 4. VICTIM: _____<br>Address: _____<br>Phone: _____<br>Restitution: \$ _____ |

TOTAL AMOUNT OF RESTITUTION ORDERED: \$ 169,186.30

- ( ) Restitution is joint and several with the following co-defendant(s): \_\_\_\_\_

AND IT IS SO ORDERED this 10 day of Sept, 2013, Anderson South Carolina

I SO MOVE

Assistant Attorney General

Presiding Judge

I HAVE RECEIVED A COPY:

Defendant/Attorney for Defendant

**FILED**

## STATE GRAND JURY OF SOUTH CAROLINA

JAN 23 2015

THE STATE OF SOUTH  
CAROLINA,

Case No.: 2013-GS-47-09

JAMES R. PARKS  
CLERK, STATE GRAND JURY

v.

**ORDER GRANTING DEFENDANT'S  
2<sup>ND</sup> MOTION TO RECONSIDER**

FREDRICK SCOTT PFEIFFER,

DEFENDANT.

This Order follows a hearing before this Court in Anderson County on July 9, 2014 pursuant to Defendant's 2<sup>nd</sup> Motion for Reconsideration filed October 17, 2013. Having heard the arguments presented by Defendant and the objections made by the State this Court agrees with Defendant's arguments regarding a lack of relativity and a denial of fundamental fairness concerning the disparity between Defendant's sentence and that of his codefendant. Accordingly, this Court orders that Defendant's sentence be reduced.

**I. FACTUAL BACKGROUND**

On June 13, 2012, the State Grand Jury of South Carolina (the "State Grand Jury") returned a true billed indictment (the "Indictment") charging DEFENDANT and Arthur M. Field ("CO-DEFENDANT") with securities fraud and conspiracy. DEFENDANT was a lawyer licensed in South Carolina until this first indictment.<sup>1</sup> The indictment alleged that DEFENDANT and CODEFENDANT conspired to perpetrate a fraud upon South Carolina investors by concealing and misstating material information in connection with the offer and sale of notes by the now

<sup>1</sup> DEFENDANT's license to practice law was suspended on June 15, 2012. S.C. Judicial Department (Jan. 18, 2013, 16:00), <http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2012-06-15-01>.

defunct Capital Investment Funding, LLC ("CIF"). Defendant was again indicted by the South Carolina State Grand Jury; these indictments included commission of securities fraud and conspiracy with regard to the operations of Cosimo, LLC, which served as the major relender of investor funds provided to Capital Investment Funding, LLC. They also alleged forgery by use of a fictitious name to endorse a check from the South Carolina Department of Transportation for compensation in condemnation of property, and perjury and false swearing regarding this fictitious name in two depositions where Capital Investment Funding loans were involved, 2013GS4709, 2013GS4710.

Ultimately, DEFENDANT pled guilty before this Court on September 18, 2013 to three (3) of the counts of indictment 2013GS4709, under a plea agreement wherein it was within this Court's discretion to sentence PFEIFFER from 0-20 years in prison:

- Count I (Criminal Conspiracy CDR 0049);
- Count III (Securities Fraud, CDR 2615); and
- Count VI (Securities Fraud CDR 2615).

This Court sentenced Pfeiffer, with a lead active sentence of six (6) years, with four years of imprisonment followed by two years of home incarceration. DEFENDANT's restitution hearing was deferred following his plea and sentencing on September 18, 2013. DEFENDANT filed a timely (1<sup>st</sup>) motion for reconsideration on September 30, 2013. On October 8, 2013, this Court held a hearing on DEFENDANT's (1<sup>st</sup>) Motion for Reconsideration of sentence at the same time as the restitution hearing – this Court issued amended sentencing sheets the same day at DEFENDANT's request for a clarification regarding SCDC's calculation(s) methods.

Simultaneous to the October 8, 2013 amended sentence for DEFENDANT, co-defendant also appeared before this Court and was sentenced. Unbeknownst to this Court, co-defendant was to be released almost immediately after being processed by SCDC because co-defendant was being afforded both credit and *good-time* credit for the several months he spent prior to conviction on GPS monitoring.<sup>2</sup> Based on the disparate sentences between the two codefendants, DEFENDANT filed a 2<sup>nd</sup> motion for reconsideration – dated October 17, 2013.

The State argues that this Court lacks jurisdiction and cannot re-sentence Defendant because the 2<sup>nd</sup> motion to reconsider was filed beyond the ten (10) day window afforded by Rule 29, SCRCrimP.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

### a. Timeliness

The State's argument regarding timeliness neglects to include the fact that the codefendant's sentence was not known to Defendant until October 8, 2013 (in fact it was not until days later that even this Court learned of the way SCDC was going to calculate the codefendant's sentence and immediately release him – making the disparate sentence even worse). With the new codefendant sentencing information, Defendant did timely file this 2<sup>nd</sup> motion for reconsideration, dated October 17, 2013. The October 17, 2013 motion for reconsideration is timely and valid considering the date of the codefendant's sentencing.

### b. Sentence Reduction

Because of the unfair and unintended disparity in the sentences of Defendant

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<sup>2</sup> S.C. Code § 24-13-40.

compared to the co-defendant this Court agrees to reduce Defendant's sentence. In an effort to correct the disparate sentences and accelerate compensation to the victims, this Court's intent is to restructure/reduce Defendant's active incarceration period while increasing the suspended portion of his sentence to be used in the event he willfully fails to pay the restitution ordered by this Court.

### III. Conclusion

Accordingly, Defendant's sentence is further amended/reduced to the following:

- Count I (Criminal Conspiracy CDR 0049)
  - Three (3) years suspended on the service of five (5) years of probation.
- Count III (Securities Fraud, CDR 2615)
  - Ten (10) years suspended on the service of five (5) years in SCDC, with the last two (2) years of the sentence to be served on HIP or house arrest, followed by five (5) years of probation.
- Count VI (Securities Fraud CDR 2615)
  - Ten (10) years consecutive to Count III suspended on the service of five (5) years of probation.

To be perfectly clear, it is this Court's intent to restructure Defendant's sentence so that the final SCDC calculations result in a reduction of one (1) year active SCDC incarceration time compared to the October 8, 2013 "AMENDED" sentencing sheets.<sup>3</sup>

AND IT IS SO ORDERED.

This 13<sup>th</sup> day of January, 2014.

Agler, South Carolina

J. Cordell Maddox, Jr.  
The Honorable J. Cordell Maddox, Jr.  
Circuit Court Judge

<sup>3</sup> As of July 9, 2014, Defendant's projected release date is listed as "09/27/2015". <http://public.doc.state.sc.us/scdc-public/inmateDetails.do?id=%2000357233>

COUNTY OF PICKENS )

IN THE COURT OF GENERAL SESSIONS

v. )

FREDERICK SCOTT PFEIFFER )

MOTION TO RECONSIDER

DEFENDANT. )

INDICTMENT Nos. 2013-GS-47-09  
2013-GS-47-10

The Defendant, through his undersigned attorney, does respectfully move before this Honorable Court for a reconsideration hearing of his sentences in the above referenced matters. The reason for the reconsideration is that there are inconsistencies between the sentences handed down by the Court with what is reflected within the Sentencing Sheets, which are a part of the record and have been forwarded to the South Carolina Department of Corrections. At the reconsideration hearing, Defendant's Counsel will present the clerical errors for the Court to review. Defendant's Counsel has also forward this motion to the South Carolina Attorney General's Office.

Respectfully submitted,

  
William Glenn Yarborough III  
Attorney for the Defendant  
522 North Church Street  
Greenville, SC 29601  
(864) 331-1612  
SC Bar No.:10271

Greenville, SC  
September 30, 2013

**FILED**  
SEP 30 2013  
JAMES F. BREHM  
CLERK, STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

V.

FREDRICK SCOTT PFEIFFER

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS

MOTION TO RECONSIDERWARRANT NOS.: 2013-GS-47-09  
2013-GS-47-10

The Defendant, through his undersigned attorney, does respectfully move before this Honorable Court for a reconsideration hearing of his sentences in the above referenced matters. The reason for the reconsideration is that there are inconsistencies between the sentences handed down by the Court with regards to Arthur Field and Defendant Pfeiffer. The Defendant believes, and will argue, that Fields was the ring-leader kingpin of the conspiracy and was actually the one who was involved in an overwhelming amount of the crime which was committed. Yet, the Defendant Field's actual sentence was but one-half of the sentence handed down for Defendant Pfeiffer. Pfeiffer would further argue that the ends of justice can only be reached by a sentence reduction in his case from a period of incarceration of less than eighteen (18) months. Defense counsel has forwarded this motion to the South Carolina Attorney General's office for their review and would request a hearing accordingly.

Respectfully submitted,

  
 William G. Yarbrough  
 Attorney for the Defendant  
 522 North Church Street  
 Greenville, SC 29601  
 (864) 331-1612  
 SC Bar No.: 10271

Greenville, SC  
 October 17, 2013

|                          |   |                           |
|--------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA  | ) |                           |
|                          | ) | COURT OF GENERAL SESSIONS |
| COUNTY OF ANDERSON       | ) |                           |
| State of South Carolina, | ) |                           |
|                          | ) |                           |
| Plaintiff,               | ) |                           |
|                          | ) |                           |
| v.                       | ) | Case No. 13-GS-47-00009   |
|                          | ) |                           |
| Fredrick Scott Pfeiffer, | ) |                           |
|                          | ) |                           |
| Defendant                | ) |                           |

### TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on September 18, 2013, before The Honorable J. Cordell Mattox in the Court of General Sessions, Anderson, South Carolina; attended by counsel as follows:

#### APPEARANCES:

Brian T. Petrano, Esq.  
 S. Creighton Waters, Esq.  
 U.S. ATTORNEY GENERAL  
 .... Appearing for State of South Carolina

Bradley Bennett, Esq.  
 -and-  
 William G. Yarborough, Esq.  
 .... Appearing for Defendant

*TRANSCRIBED FROM AUDIO NOTES OF VIVIAN CROSS*

Deborah Garrison  
 Circuit Court Reporter – 9<sup>th</sup> Judicial Circuit  
 P O Box 901  
 Johns Island, South Carolina 29457  
[dgarrison@sccourts.org](mailto:dgarrison@sccourts.org)

1           THE COURT:     First, let me apologize to  
2     everyone for making you wait. I appreciate  
3     your patience. You've waited longer than you  
4     may have wanted to.. I am in the middle of  
5     another trial, just for those people who are  
6     not used to be in the courtroom, and I had to  
7     deal with some issues there. My law clerk,  
8     who is very good, this morning -- after she  
9     got here, suffered a pretty severe migraine,  
10    so we had to deal with that. Anyway, I do  
11    apologize.

12           All right. Yes, sir, you can call  
13    the case.

14           MR. WATERS:   Yes, Your Honor. The  
15    State calls Frederick Scott Pfeiffer. It's  
16    a State Grand Jury matter, 2013-GS-47-09.  
17    Uh, pursuant to a written plea agreement,  
18    Mr. Pfeiffer is here today pleading to three  
19    counts within that particular indictment.  
20    There will be two counts of securities fraud,  
21    one count of conspiracy. Those two  
22    securities fraud counts are ten years apiece,  
23    the conspiracy is obviously five; however, it  
24    is a negotiated term that the five-year  
25    conspiracy will run concurrent with any

1 sentence Your Honor decides to give, in your  
2 discretion, on the two securities fraud  
3 counts.

4 Along with that, once the plea is  
5 accepted, the State will *nol pross* all  
6 remaining counts in the 2012 indictments as  
7 well as in the 2013-10 indictments, the other  
8 State Grand Jury indictments that were  
9 issued.

10 Your Honor, along with this plea  
11 agreement we would request a colloquy on  
12 this. Mr. Pfeiffer has signed a waiver of  
13 any direct appeal, PCR, federal habeas  
14 collateral actions and things of that sort;  
15 with one exception, that Mr. Pfeiffer can  
16 appeal any restitution amount that is  
17 ordered, at his option.

18 And, finally, we are agreeing that  
19 this -- this indictment is from Pickens  
20 County. Obviously, Your Honor has statewide  
21 jurisdiction, because it is a statewide  
22 matter, but we are -- the defense is  
23 agreeable to waiving venue and having that  
24 plea accepted here today in Anderson. But  
25 there probably needs to be colloquy on that.

1                   Your Honor, at this time we have  
2                   marked as Court's 1 the plea agreement, which  
3                   I will hand up to Your Honor, (tendering).

4                   THE COURT:     All right. Before you go  
5                   on, I just wanted to say this, and this just  
6                   -- is just a matter of housekeeping. No  
7                   phones or computers are allowed in the  
8                   courtroom. Some members of the press,  
9                   because of their, uh, because of their system  
10                  have to use phones, that's just the platform  
11                  that they use. If you see somebody using a  
12                  phone, they are a member of the press.  
13                  Please don't pull out a phone and -- we have  
14                  had people blogging from the courtroom, which  
15                  is a huge problem..

16                  Before we start, also I just want  
17                  to put on the record that last evening and  
18                  yesterday afternoon, I went through and read  
19                  all of the documents that I have, including  
20                  the sentencing memorandum, the indictments,  
21                  and the plea agreement for Mr. Field. I read  
22                  every victim's impact statement and, in fact,  
23                  as you can see -- just so that you will know  
24                  that I really did, uh, I have tabbed many of  
25                  them because there were pertinent issues in

1       those that I wanted to deal with. I also  
2       read Mr. Pfeiffer's letter to me yesterday --  
3       that I assume everyone got?

4       CREIGHTON WATERS: Yes, sir, Your Honor.

5       THE COURT:     So I am well aware. Again,  
6       I took the Field plea sometime in the very  
7       recent past -- a month or so ago.

8       CREIGHTON WATERS:       May 5<sup>th</sup>.

9       THE COURT:     May 5<sup>th</sup>? Time flies. I  
10      took his plea but deferred sentencing, just  
11      so that we are all on the same page.

12      MR. YARBOROUGH:   Your Honor, if it may  
13      please the Court. I am Bill Yarborough, I am  
14      here on behalf of Mr. Pfeiffer. May we  
15      approach?

16      THE COURT:     Yes.

17      (OFF RECORD BENCH CONFERENCE)

18      THE COURT:     Do y'all have a sentencing  
19      sheet?

20      CREIGHTON WATERS: Yes, sir, we are all  
21      signed up.

22      (WHEREUPON DEFENDANT SWORN)

23      THE COURT:     All right. Mr. Pfeiffer,  
24      I need to ask you some questions -- but let  
25      me sign this first. I am not trying to delay

1           it or create tension by making you stand  
2           there.

3                     The way that I intend to proceed, as  
4           I told the parties in the back, I am going to  
5           accept Mr. Pfeiffer's -- go through my  
6           colloquy and accept his plea. Uh, then what  
7           I would like to do is hear from Mr. Pfeiffer  
8           and his attorneys. At that point, which is  
9           a little bit abnormal, I would then like to  
10          hear from the victims if anyone wants to  
11          speak.

12                    Now, I will also tell people in the  
13          courtroom that the acoustics in here are not  
14          good. Can everybody hear? No? That's what  
15          I was afraid of. When this courthouse was  
16          built, someone didn't think about the  
17          acoustics. I don't have a problem if you  
18          want to spread out and sit closer. I've got  
19          my mic ---

20                    BAILIFF:    If you want, I can put  
21          this on.

22                    THE COURT:   Can you hear me now?  
23          I have a cold, so you're going to have to  
24          hear me sniff too.

25                    All right, Mr. Pfeiffer, how old are you?

1           DEFENDANT:     Forty-seven (47), Your  
2           Honor.

3           THE COURT:     All right. And tell me a  
4           little bit about your educational background.  
5           I have read the sheet, but for the record, if  
6           you would.

7           DEFENDANT:     I graduated from Furman --  
8           I went to Spring Valley High School in  
9           Columbia, South Carolina. Then I went to  
10          Furman, graduated from Furman in 1988 with a  
11          degree in History. Then went to law school  
12          at the University of South Carolina,  
13          graduated in 1993.

14          THE COURT:     I understand from reading  
15          through your memorandum that you at one point  
16          had a top secret clearance?

17          DEFENDANT:     Yes, sir. I was in the  
18          Army for ten years as a military intelligence  
19          officer. I had a top secret SCI clearance.

20          THE COURT:     All right. And when did  
21          you matriculate out of the Army?

22          DEFENDANT:     1998.

23          THE COURT:     At that point did you begin  
24          practicing law in Greenville?

25          DEFENDANT:     Well, after law school and

1           until 1998, I was in the South Carolina Army  
2           National Guard, and practiced law.

3           THE COURT:     All right. Have you had  
4           any drugs or alcohol in the last twenty-four  
5           hours?

6           DEFENDANT:     I had a beer last night.  
7           That's all.

8           THE COURT:     Just one?

9           DEFENDANT:     Yes, sir.

10          THE COURT:     All right. Are you taking  
11          any kind of medication or prescription that  
12          might prevent you from knowing what is going  
13          on here today?

14          DEFENDANT:     I am not.

15          THE COURT:     All right. Do you under-  
16          stand that in South Carolina anyone pleading  
17          waives their Constitutional rights?

18          DEFENDANT:     I do understand that.

19          THE COURT:     In particular, you have to  
20          waive your right to a jury trial. Are you  
21          waiving that right?

22          DEFENDANT:     I am.

23          THE COURT:     Are you also waiving your  
24          right to remain silent?

25          DEFENDANT:     I am waiving my right.

1 THE COURT: Are you waiving your right  
2 to put up a defense to these charges?

3 DEFENDANT: I am waiving that right.

4 THE COURT: You also have a right under  
5 the Constitution of the State and the  
6 national Constitution to confront witnesses  
7 who come in and testify against you, that the  
8 prosecutor would bring in to testify from the  
9 stand, that you would have the right of  
10 confronting them. That is your right of  
11 confrontation. Are you waiving that right?

12 DEFENDANT: I am waiving that right.

13 THE COURT: And are you married?

14 DEFENDANT: I am married.

15 THE COURT: And do you have any  
16 children?

17 DEFENDANT: I have five.

18 THE COURT: All right. How old are  
19 they?

20 DEFENDANT: They are twenty (20),  
21 eighteen (18), seventeen (17), sixteen (16)  
22 and fifteen (15).

23 THE COURT: All right. Have you had  
24 plenty of time to speak with your lawyers?

25 DEFENDANT: I have.

1           THE COURT:     And are you satisfied with  
2     this service?

3           DEFENDANT:     I am satisfied with their  
4     services.

5           THE COURT:     Have they done everything  
6     that you have asked them to do?

7           DEFENDANT:     Yes, sir.

8           THE COURT:     Is there anything that you  
9     have asked them to do that they have refused  
10    to do?

11          DEFENDANT:     No, sir.

12          THE COURT:     All right. Do you under-  
13    stand -- you heard the Attorney General set  
14    forth the agreement, uh, -- it's a negotiated  
15    settlement, correct? Or is it a regular ---

16          CREIGHTON WATERS:     It is negotiated  
17    that any term on the conspiracy count will be  
18    concurrent to whatever Your Honor decides to  
19    give on the two securities fraud counts.  
20    Other than that, there is no negotiation or  
21    recommendation.

22          THE COURT:     Do you understand that  
23    based upon that, and I believe that I am  
24    correct but correct me if I am wrong, that  
25    you are facing today up to twenty years in

1           prison?

2           DEFENDANT:    I do understand that.

3           THE COURT:    And do you understand that  
4           a recommendation is just that on those  
5           charges? That it is a recommendation, and  
6           that I don't have to accept it; but that I  
7           could sentence you to the maximum allowed by  
8           law?

9           DEFENDANT:    I understand.

10          THE COURT:    And do you understand that  
11          the negotiation is that the conspiracy charge  
12          will run concurrent?

13          DEFENDANT:    I understand.

14          THE COURT:    But that the other two  
15          could run consecutive?

16          DEFENDANT:    I understand.

17          THE COURT:    I think that's how we get  
18          to the twenty years.

19          DEFENDANT:    Yes, sir.

20          THE COURT:    Okay. Have you had plenty  
21          of time to review all the documents in this  
22          case?

23          DEFENDANT:    Yes, sir.

24          THE COURT:    And you have read -- have  
25          you had a chance to read any of the victims'

1 statements?

2 DEFENDANT: I have.

3 THE COURT: Have you read all of them?

4 DEFENDANT: Yes, sir.

5 THE COURT: Okay. Do you understand  
6 that this case actually is a Pickens County  
7 case and that technically while you are  
8 waiving the venue in Pickens -- just so that  
9 the record is clear, are you waiving venue  
10 and jurisdiction in the Pickens County  
11 Courthouse -- or courtroom?

12 DEFENDANT: Yes, sir.

13 THE COURT: All right. And these are  
14 direct indictments?

15 CREIGHTON WATERS: Yes, sir.

16 THE COURT: All right. Do you under-  
17 stand that you have a right to have each one  
18 of these cases sent to the grand jury, a  
19 determination made there by the grand jury?

20 CREIGHTON WATERS: Well, Your Honor,  
21 the State grand jury did pass on all of  
22 these. There was just no prior warrant.  
23 My apologies.

24 THE COURT: That's okay. Do you have  
25 any questions about the grand jury process?

1           DEFENDANT:    No, sir, I don't.

2           THE COURT:   Do you have any questions  
3 of me now?

4           DEFENDANT:   No, sir.

5           THE COURT:   All right. And have you  
6 two had plenty of time to speak with your  
7 client? Do you feel like he understands the  
8 elements of these charges and his waiver of  
9 his Constitutional rights?

10          MR. YARBOROUGH: Yes, we do, Your  
11 Honor.

12          THE COURT:   And do you feel like he  
13 understands the various documents and agree-  
14 ment in this case?

15          MR. YARBOROUGH: He does, Your Honor.

16          THE COURT:   All right. Mr. Pfeiffer,  
17 do you want to plead guilty to these three  
18 charges?

19          DEFENDANT:   Yes, sir, I do.

20          THE COURT:   Are you guilty of these  
21 three charges?

22          DEFENDANT:   Yes, sir, I am.

23          THE COURT:   All right. Yes, sir?

24          CREIGHTON WATERS: Thank you, Your Honor.  
25 Also at the appropriate time, I would request

1 a colloquy on the waiver of appeal and  
2 collateral attack rights as well?

3 THE COURT: All right. Sir, do you  
4 understand that as a part of this plea today  
5 that you are waiving any right to a direct  
6 appeal, any right to pursue a habeas corpus  
7 in any court in this country? Do you  
8 understand that?

9 DEFENDANT: Yes, Your Honor, I do.

10 THE COURT: All right. And I  
11 understand that you are preserving the right  
12 to contest at some point, uh, the restitution  
13 amount?

14 DEFENDANT: That is in the agreement;  
15 yes, sir.

16 THE COURT: And basically that would be  
17 the only avenue of appeal for further action  
18 that you would have once we complete today?

19 DEFENDANT: Yes, sir.

20 THE COURT: All right. And is that the  
21 agreement as you understand it?

22 MR. YARBOROUGH: Yes, sir, Your Honor.

23 THE COURT: All right, so you want to  
24 plead guilty here, Mr. Pfeiffer?

25 DEFENDANT: Yes, sir.

1 THE COURT: And you are guilty?

2 DEFENDANT: Yes, sir.

3 THE COURT: All right. Yes, sir?

4 CREIGHTON WATERS: Thank you, Your  
5 Honor. This case obviously is arising out  
6 of the demise of an entity known as Capital  
7 Investment Funding. I know that Your Honor  
8 has heard the factual basis during Mr.  
9 Field's plea, so I will not go into too much  
10 detail as to the background facts, since you  
11 are familiar with those.

12 However, this case is more of a subtle  
13 case than one might see with securities  
14 fraud. This is not a case where someone gets  
15 an investment and they take it and just run  
16 off to Vegas with it, or something like that.  
17 This is a case that primarily boils down to  
18 an act, a practice, a course of business that  
19 had the effect of defrauding another  
20 individual. That is really the main focus of  
21 what we have here.

22 Ultimately with regard to the conspiracy  
23 charge -- of course, you've heard, of course,  
24 the factual basis, his involvement with Mr.  
25 Arthur Field, who he was partners with in

1       Cosimo, in which he served as counsel for CIF  
2       and -- and as I talk through these facts, you  
3       know, these were done in conjunction with Mr.  
4       Field as we go through it.

5               Ultimately when CIF ceased opera-  
6       tions and folded, there is presently about  
7       thirty-nine million (\$39 Million) dollars  
8       that is outstanding to the various note-  
9       holders. From what the Receiver tells me, it  
10      is, at best, less than four million (\$4  
11      Million) dollars that may be able to be  
12      recovered.    So there is a sizeable amount  
13      that is outstanding.

14             But the way that this started  
15      specifically with Mr. Pfeiffer is that --  
16      he was obviously practicing law here in  
17      Greenville -- not here but in Greenville.  
18      He meet Mr. Field who has CIF, who had CIF,  
19      who obviously has access to the investor  
20      money that he is collecting from the citizens  
21      of South Carolina.   That's how the two of  
22      them get involved.

23             Initially most of the money was  
24      being sent from CIF up to a company called  
25      LRI, which I've described at the prior

1 preceding before Your Honor. And, uh, Mr.  
2 Pfeiffer and Mr. Field formed a company known  
3 as Cosimo here in South Carolina to keep the  
4 lending here in South Carolina.

5 They were essentially half partners  
6 in that through various entities. Mr. Field  
7 had fifty percent of Cosimo and Mr. Pfeiffer  
8 had fifty percent of Cosimo.

9 As things went down along the way,  
10 ultimately Mr. Pfeiffer's half was shared  
11 with members of his firm; but that  
12 essentially was the arrangement, Arthur Field  
13 fifty percent and fifty Mr. Pfeiffer. So  
14 that's how he got involved in this particular  
15 entity.

16 With regard to the securities fraud  
17 charges, the first charge deals with the use  
18 of a fake person by the name of Henry Rex.  
19 Mr. Pfeiffer and Mr. Field created this  
20 individual, Henry Rex, who was the principal  
21 of a company called Bolingbroke, which is how  
22 Arthur Field held his half interest of  
23 Cosimo.

24 The State's position is that this,  
25 of course, was used to hide the identity of

1 the true owners and to cover up the fact that  
2 they were related-party transactions and --  
3 not only with regards to the investors in CIF  
4 but also with regards to the partners who had  
5 been involved in LRI from the securities  
6 division and all the rest.

7 Ultimately what we see is Mr. Rex's  
8 name being used on various documents. Legal  
9 and real estate documents that were prepared  
10 in Mr. Pfeiffer's offices would have this  
11 fictitious Mr. Rex signing that and be  
12 notarized and all the -- all the rest of it.

13 Again, the relevance of that, the  
14 importance of that, the materiality of that  
15 is that not only is it using a fake name to  
16 hide true ownership interests, but it covers  
17 up those related-party transactions. Those  
18 related-party transactions are important  
19 because, obviously, they are a huge red flag  
20 to auditors, to the securities division and  
21 ultimately to investors to understand the  
22 true nature of what's been going on. At this  
23 particular time, Mr. Field of course is  
24 telling investors that, 'I am minding the  
25 store, I am not lending to myself' and the

1       like.

2               The reason -- one of the reasons  
3       why it is important for those related-party  
4       transactions to be disclosed, and which was  
5       particularly relevant in this case, leads  
6       into the next count that Mr. Pfeiffer is  
7       pleading to today. That is with the  
8       operations of Cosimo, which again was the  
9       major re-lender of CIF once they stopped  
10      sending all of the money to LRI up in New  
11      Jersey.

12              Cosimo's business essentially had no  
13      other business than relending CIF money.  
14      They had that ready source of funds from the  
15      investors of South Carolina. CIF would loan  
16      it to Cosimo, Cosimo would, uh, relend it.

17              But that's where we have the rub  
18      here. Because of those related-party  
19      transactions, ultimately there was an act, a  
20      practice, a course of business that operated  
21      to create a fraud on the investors in South  
22      Carolina.

23              What we see with the operations of  
24      Cosimo, which Mr. Pfeiffer was a co-manager,  
25      he was a half owner, the records tell a story

1       here and reflect his involvement in the  
2       operations of Cosimo throughout it. But what  
3       we see with Cosimo is kind of like a movie  
4       set. From a distance it looks good. But as  
5       you get closer and you start to peel back the  
6       layers, ultimately inside it is a rotten --  
7       it is a rotten egg.

8               What we see is that throughout the  
9       operations of Cosimo that the entity  
10      continued to -- there is no better way to put  
11      it than to vomit out good money after bad.  
12      This would have the effect of sending out  
13      money to entities that were already behind on  
14      their loans. That money would go out, it  
15      would be used to pay off prior loans, to get  
16      everything current and then to repay CIF, to  
17      give the illusion of paying good loans that  
18      were ongoing. As this progressed, it got to  
19      the point where there really was no good  
20      economic viable reason for this money to  
21      continue to be sent out to these defaulting  
22      debtors other than to allow them to use that  
23      money -- to use that money to pay, to get  
24      everything current, to give the illusion that  
25      we have valid loans, paying loans.

1                   Of course, every time that happened,  
2                   every time one of these new loans went out,  
3                   there were fees, there were points, there  
4                   were manager fees, there were legal fees that  
5                   were taken. So it was very lucrative that  
6                   each time the money would go out, it would  
7                   just circle around, everybody would take a  
8                   cut and it would come back. As long as you  
9                   had that ready source of money from CIF that  
10                  was constantly there, you could keep doing  
11                  that; you could keep sending that money out,  
12                  everybody takes a cut, some of it circles  
13                  back enough to get everything current.

14                 But, eventually after a few months,  
15                 after a year or whatever, you're back in the  
16                 same boat and you have to do it again.

17                 Well, what happened is that in 2007,  
18                 the South Carolina Securities Division  
19                 started to take a look at the operations of  
20                 CIF, and in May of 2007 issued a notice of  
21                 intent to essentially prevent CIF from  
22                 gathering any further investor money. So  
23                 essentially they turned off the spigot.

24                 Obviously if that is the course of  
25                 business as it'd been going, it constantly

1       needed new money to come into the top to  
2       circle back around and get everybody current.  
3       That is really what brought the whole scheme  
4       down, is that once they lost their ability to  
5       gather more money.

6               They continued to, in 2007 -- in  
7       2007, the records really reflect a scrambling  
8       in an attempt to get -- continue to get in  
9       money through various means, whether it was  
10      by calling note renewals, and that's not the  
11      sale of new securities; by going through Reg  
12      D, they proposed a new entity; trying to get  
13      that spigot on. It was very evident that the  
14      minute that that spigot was off that every-  
15      thing would come to a -- would come to a, uh,  
16      crashing halt.

17             Similarly at the same time they sent  
18      out new money after these bad loans to all  
19      these related entities to get everybody  
20      current, so that ultimately when they  
21      declared the winding up, on its face  
22      everything looked good, everything looked  
23      like it was okay. But once people started  
24      to dig, once people started to look into what  
25      they had here, it became very clear that this

1        was a rotten egg on the inside and had been  
2        for years.

3                    Ultimately when everything came to  
4        an end, Cosimo is left owing CIF some  
5        thirteen million (\$13 Million) dollars.  
6        There were little, if any, assets that were  
7        left there. Much of that had to do with the  
8        failure to perfect collateral, with  
9        continuing to loan money to debtors without  
10       sufficient collateral, to disburse monies  
11       without due diligent and without proper  
12       controls and procedures in place to ensure  
13       that lender was protected. Again, every time  
14       one of those happened, there were fees,  
15       points, management fees accepted and that in  
16       a nutshell is the course of business, the  
17       act, the practice, the scheme to defraud that  
18       ultimately defrauded the investors of South  
19       Carolina.

20                   THE COURT:     All right. Do you  
21       have any idea how much Mr. Pfeiffer profited  
22       from this?

23                   CREIGHTON WATERS:    Yes, Your Honor.  
24       Like I said, this case is subtle inasmuch as  
25       this is not a case where Mr. Pfeiffer or Mr.

1 Field made off with thirty-eight million (\$38  
2 Million) dollars. That is not what happened  
3 here.

4 THE COURT: It was an incremental thing.

5 CREIGHTON WATERS: It was an incremental  
6 thing and the monies that they took were, on  
7 their face, valid monies to take: they were  
8 salaries, they were management fees, they  
9 were legal fees and that sort of thing. But  
10 it was the lack of controls and the manner  
11 in which the business was conducted, the  
12 illusion of solvent entities that were  
13 created is where the fraud exists.

14 With that being said, Your Honor,  
15 we -- in looking at the various books and  
16 various, uh, records we were able to deter-  
17 mine an amount that went into Mr. Pfeiffer's  
18 world, so to speak; whether it was fees to  
19 himself, management fees, legal fees, fees to  
20 his firm, various other sources of revenue  
21 from CIF and Cosimo. The figure that we came  
22 up with in that regard is one million nine  
23 thousand one hundred eighty-six dollars and  
24 thirty-eight cents (\$1,009,186.38).

25 THE COURT: One million, nine

1           thousand, one hundred --- ?

2           CREIGHTON WATERS:           One million nine  
3           thousand one hundred eighty-six dollars and  
4           thirty-eight cents (\$1,009,186.38).

5                   And, Your Honor, I don't know if you  
6           want to go further into restitution at this  
7           time. There is a provision in the plea  
8           agreement with regard to a malpractice  
9           settlement. I will be glad to do it now or  
10          we can ---

11          THE COURT:       Now's fine.

12          CREIGHTON WATERS: Okay.

13          THE COURT:       I mean, I want to get the  
14          status of it.

15          CREIGHTON WATERS: Yes, sir, Your Honor.  
16          Obviously as Your Honor is aware, there were  
17          a number of civil actions that have been  
18          filed with -- from the demise of CIF and all  
19          of its related entities. One of those was a  
20          malpractice action that was filed against Mr.  
21          Pfeiffer and his firm. Ultimately that  
22          malpractice action settled for an amount of  
23          eight hundred and forty thousand (\$840,000)  
24          dollars; which my understanding is has been  
25          paid to the class. Obviously attorneys' fees

1 and all the rest of it have to come out of  
2 that. As a negotiated term in the plea  
3 agreement, Mr. Pfeiffer is to be given a  
4 credit for that particular amount that came.  
5 However, if for any reason any of that amount  
6 is returned from the class, then he still is  
7 on the hook for the entire amount.

8 That is eight hundred forty thousand  
9 (\$840,000) dollars of credit from that mal-  
10 practice settlement.

11 Obviously there's a conceptual issue  
12 there, but that was a negotiated provision  
13 that we went back and forth on and came to  
14 that agreement. I obviously also had consul-  
15 tations with members on the civil side. They  
16 are present. Mr. Saad, Jerry Saad, is the  
17 Receiver. Mr. Stan Case is the class  
18 counsel. Mr. Curt Stodgehill is the counsel  
19 for Mr. Saad. And I would like to make part  
20 of the record the Order with regards to this  
21 settlement agreement that was entered. I  
22 will have those marked as Court's 2 and 3.

23 THE COURT: All right, that'll be fine.  
24 Any objection to that?

25 MR. YARBOROUGH: No objection to that,

1 Your Honor.

2 (SO ENTERED AS COURT'S EXHIBIT 2)

3 (SO ENTERED AS COURT'S EXHIBIT 3)

4 MR. YARBOROUGH: Your Honor, are far as  
5 the State's rendition of the facts, Mr.  
6 Pfeiffer does not agree with everything that  
7 was said; but we do believe that there is  
8 enough information there to make a basis for  
9 a guilty plea.

10 THE COURT: Sure.

11 MR. YARBOROUGH: As far as the way I --  
12 it looks to me like that with the  
13 negotiations of the monies paid in, assuming  
14 all that money stays in, it is a hundred and  
15 sixty-nine thousand that is what is really  
16 left (\$169,000) on the restitution figure.

17 THE COURT: Okay. All right. Mr.  
18 Pfeiffer you just heard the facts as given by  
19 the State. Your lawyer just said that there  
20 were obviously some details that you might  
21 not agree with. But do you agree with the  
22 majority of the details as given by the  
23 State?

24 DEFENDANT: Yes, Your Honor.

25 THE COURT: And do you believe that you

1       have committed violations of the Uniform  
2       Securities Act, in other words securities  
3       fraud, and committed other criminal  
4       conspiracy acts?

5               DEFENDANT:     Yes, sir.

6               THE COURT:     Do you admit to those  
7       facts?

8               DEFENDANT:     I admit to those facts.  
9       Yes, sir.

10              THE COURT:     All right.

11              CREIGHTON WATERS:   Thank you, Judge.

12              THE COURT:     All right. And, again,  
13       like you said, I am going to do this a little  
14       backwards. I will be glad to hear from Mr.  
15       Pfeiffer and then I will be glad to hear from  
16       any of the witnesses. Yes, sir?

17              MR. YARBOROUGH:   Your Honor, do you  
18       want to hear from Mr. Pfeiffer first or ---

19              THE COURT:     However you want to do it.  
20       It is your -- you've got it.

21              MR. YARBOROUGH:   Your Honor, I think  
22       that I will go and then, uh, Mr. Bennett will  
23       go and then Mr. Pfeiffer may have ---

24              THE COURT:     That will be fine.

25              MR. YARBOROUGH:   Your Honor, just a

1        little background. There are two stories to  
2        this thing. There are two sides to this  
3        man's life. I mean, you -- you read the  
4        brief that we filed.

5        THE COURT:        (Affirmative nod).

6        MR. YARBOROUGH:    I have been involved  
7        in a lot of these cases over the years and  
8        usually the lawyers have letters written, you  
9        get your cronies from the bar and you all get  
10       together and say, you know, -- here, there  
11       are people out there that he's made a big  
12       difference in his lives. There are people  
13       out there that he's made a big difference in  
14       their lives.

15       There are two sides to this man's life.  
16       It is a shame that this has culminated in his  
17       walking in here today. But that's what we  
18       are here for. You're in a tough position,  
19       having to craft a sentence that is both just  
20       to the State and just to the defendant.

21       I just wish that you would look at the  
22       fact that his man went to high school in  
23       South Carolina, he went to Furman University.  
24       The list of awards that he had at Furman go  
25       on and on. The list of awards that he had in

1 law school -- moot court. Ten years of  
2 military intelligence; you know, working for  
3 his country. You know, he -- that's  
4 impressive. Those are impressive  
5 credentials.

6 As a lawyer, he clerked for Ross  
7 Anderson. That's when I first met him. I  
8 was with the U.S. Attorney's Office, he was  
9 clerking for G. Ross Anderson. You know, he  
10 impressed me with his intelligence. He  
11 impressed me with his work ethic. My wife at  
12 the time also worked at Nelson Mullins where  
13 he went, she was -- they were both young  
14 lawyers. I will tell you that back in those  
15 days, those sweatshops, they worked hard. I  
16 knew Scott at that time. I knew my wife knew  
17 him and worked with him. He was well thought  
18 of. He was well thought of when he started  
19 his own firm. That was fifteen, sixteen  
20 years ago.

21 You know, at some point something  
22 happened. Lawyers sometimes make mistakes.  
23 I think a mistake was made when he got into  
24 this partnership with Field. You know,  
25 whether that was all Field's fault or whether

1       it was Pfeiffer/Field, it doesn't matter.  
2       He's pleading guilty today.

3               Since then he's lost his law license.  
4       His family has become -- I think destitute  
5       would be the wrong word, but they certainly  
6       don't live the way that they used to live.  
7       They're losing their house.

8               But he's trying to change around. I  
9       mean, a lot of times you get people who walk  
10      into court and they haven't done anything  
11      since the charges came down. This man has  
12      started a whole new career. He is building  
13      a new life. He's trying to make amends for  
14      the mistakes that he made.

15              Is he ever going to be able to tell his  
16      victims, "I am making you whole"? That's not  
17      going to happen. I'm sorry. I wish that was  
18      happening today. I know that you all do. I  
19      know that the judge does. I know that every-  
20      body does, but it is not. I know that the  
21      State wants you to.

22              I can tell you one thing, this man  
23      (indicating Mr. Pfeiffer) wants you to be  
24      made whole, but it's not happening right now.  
25      We're sorry. He will tell you how sorry that

1 he is.

2 Your Honor, I know you're in an awkward  
3 position. We will discuss the sentencing  
4 issues after the State, I guess, unless you  
5 want me to try to go into them now.

6 THE COURT: No, we will do that last.  
7 I just wanted to hear what you had to say on  
8 his behalf. Then I'd like to hear the  
9 victims. Then, quite frankly, I'd like to  
10 take a break to deal with the sentence.

11 MR. YARBOROUGH: Yes, sir. Mr.  
12 Bennett?

13 MR. BENNETT: May it please the  
14 court, Your Honor, Bradley Bennett on behalf  
15 of Scott Pfeiffer.

16 Your Honor, before you stands a broken  
17 man. He is not the way that I've known this  
18 man. He has -- he's lived an exemplary life.  
19 He's been an exemplary friend.

20 He was a military brat, grew up all over  
21 the world; from Texas to Thailand, from  
22 California to the Carolinas where he settled  
23 down in 1984 and went to Furman. He  
24 graduated, went on to law school, went into  
25 the military, came back to Greenville, worked

1 at Nelson Mullins, worked hard, raised a  
2 family.

3 He and his wife are seated here today.  
4 They have five children. They have had a  
5 wonderfully happy and hectic life. He was  
6 a active father, he was involved in his  
7 children's lives; whether it was his oldest  
8 son -- taking Taekwondo with him, -- or his  
9 youngest daughter, Clair, playing board  
10 strategy games with her. He gave of his time  
11 and his talent.

12 He gave to his community. Gave to his  
13 friends. He was an active member of his  
14 church, taught Sunday school, worked with the  
15 Youth. All of these friends that are here  
16 today are a demonstration of the kind of man  
17 Scott is. He had a strong shoulder to lean  
18 on when they had trouble, and a kind heart,  
19 the wisdom to counsel friends, to be there  
20 for others. That type of life is the life  
21 that he worked hard and grew.

22 But all of that has changed now, Your  
23 Honor. Over the last fifteen months, since  
24 the day that he was arrested, the confident  
25 and self-assured lawyer that I'd known for

1 approximately sixteen years stands before you  
2 humbled and scared. He is humiliated by the  
3 taunts that his children receive at school,  
4 his own personal fall from grace. He's  
5 scared for the family's financial health, in  
6 fact their house has gone into foreclosure,  
7 the fact that he has not been able to provide  
8 sufficiently and the fact that he's had to  
9 rely upon friends and family members for kind  
10 support and generosity. He's lost the  
11 profession that he fought so long and hard  
12 for and worked so diligently at. He's lost  
13 all of his investments, he's lost all of his  
14 savings. He and his family are now in debt  
15 and have credit cards bills that are accruing  
16 continuously.

17 In spite of all these problems, and all  
18 this difficulty over the past fifteen months,  
19 Scott has shown the true character of who he  
20 is by not laying down and giving up. But  
21 he's tried to make right and do well.

22 He's got basically three jobs, Your  
23 Honor, that he does in trying to pull as much  
24 money together as he can. He works for a  
25 company called Core Communications. He's a

1 billing agent for them. He works writing  
2 business proposals and ghost writing for a  
3 company out of California, who he was in  
4 contact with during his days at Furman. My  
5 ex-wife and I have several rental houses and  
6 he works for us cleaning those houses, moving  
7 tenants out and their belongings out when  
8 they're vacated and doing yard work. He is  
9 not ashamed of hard work. He is not ashamed  
10 of doing work that he hadn't done since he  
11 was a young man.

12 He is shamed however by the position that  
13 he is in by his own dealings. He's done all  
14 of this, trying to make amends and take care  
15 of his family with this day looming over his  
16 head.

17 These past fifteen months have taken a  
18 toll on my friend. He's lost all of his  
19 comforts. He's lost all of his career and  
20 he's lost all of his credibility with the  
21 public that he served. He's humiliated and  
22 humbled before both friends and family. Also  
23 Shakespearian-like in tragedy, last Friday,  
24 this past Friday, he lost his father who had  
25 a heart attack, unexpectantly. It was a

1 sudden loss. It has left Scott the patriarch  
2 of the family, a family that is in disarray.

3 Your Honor, we're here today asking this  
4 court to consider home incarceration for Mr.  
5 Pfeiffer. We ask that respectfully and we  
6 ask that with full knowledge and appreciation  
7 to the victims. We are sorry for their loss,  
8 but we feel as though home incarceration will  
9 allow Mr. Pfeiffer to continue on with the  
10 good work that he has done in trying to  
11 rebuild his life, trying to make amends,  
12 trying to provide for himself and others.

13 THE COURT: Would home incarceration  
14 allow him to continue to pay restitution?

15 MR. BENNETT: Yes, sir, Your Honor.  
16 Yes, sir. And taxes. And the ability to  
17 take care of a family that otherwise may not  
18 have anybody to take care of them. This man  
19 is now the head of the Pfeiffer family. His  
20 father was sixty-nine years old, who was in  
21 excellent health. His sudden death last  
22 Friday has left a void within the family.

23 No punishment is necessary for the  
24 deterrence of Mr. Pfeiffer. No more  
25 punishment benefits society, Your Honor.

1 Arguably, more punishment would only cost  
2 society. Respectfully, Your Honor, we  
3 believe that no more punishment would be  
4 just.

5 Before you stands a broken man, Your  
6 Honor. Please have mercy upon him and his  
7 family.. Thank you.

8 THE COURT: Thank you. Mr. Pfeiffer,  
9 anything else that you want to tell me?

10 DEFENDANT: Yes, sir.

11 THE COURT: Then I will hear from --  
12 if any victims want to speak to me, I'll be  
13 happy to hear anything that you want to tell  
14 me.

15 DEFENDANT: Your Honor, I am humbled  
16 and embarrassed to be standing here in front  
17 of you today. I've stood here many times  
18 counseling my clients through this difficult  
19 situation. I never dreamed that I would  
20 stand in this position before you.

21 My actions in representing Capital  
22 Investment Funding did not live up to the  
23 high standards that are expected of me by  
24 society, by the Bar or by myself. I  
25 dedicated my entire professional life to the

1 practice of law. I tried to be a good  
2 lawyer, do good for my clients. But because  
3 of my actions, and after this plea, certainly  
4 I will no longer have the honor of practicing  
5 law. Not now, not for years to come -- if  
6 ever again.

7 But in the year and a half since I've  
8 lost my license, I've begun to try to rebuild  
9 my life, a simpler, humbler life of teaching  
10 and service.

11 I stand here today to tell you, Your  
12 Honor, that I am wrong. To tell you and to  
13 tell all of you that I am deeply sorry for  
14 the actions of mine that contributed to the  
15 losses suffered by these investors.

16 I've made the restitution that I am  
17 financially able to make. I directed the  
18 settlement of the civil lawsuit as I could so  
19 that I could pay as much money, the policy  
20 limits, that were left to try to make amends.

21 I stand here today and ask you for mercy.  
22 Please consider a sentence that allows me to  
23 stay home, take care of my family, take care  
24 of my friends and continue to rebuild my  
25 life. Thank you, Your Honor.

1 THE COURT: Thank you. Yes, sir? I'll  
2 be happy to hear from any of the victims.

3 I am not sure if I said this but I find  
4 that this plea is freely, knowingly,  
5 intelligently and voluntarily made. Based on  
6 the advice of counsel, I find that this court  
7 has jurisdiction. I further find that the  
8 defendant has waived his Constitutional  
9 rights in making this plea knowingly and  
10 voluntarily based on the advice of very  
11 competent counsel.

12 Yes, sir?

13 CREIGHTON WATERS: Thank you, Your  
14 Honor. As Your Honor is, of course, aware,  
15 because of the large amount of victims in  
16 this particular case, some six hundred  
17 eighty-eight (688), we asked the victims if  
18 they would submit written statements to Your  
19 Honor; which of course you've been provided  
20 and noted on the record that you have  
21 reviewed.

22 A number of the victims, in fact  
23 most of them, are in their senior years.  
24 Many of them, I know that you saw from the  
25 letters that you received, were either too

1           Okay. All right. I've accepted the plea  
2           on Mr. Pfeiffer for obvious reasons.

3           I've been on the bench for twelve years  
4           and I have no idea how many pleas that I have  
5           taken, hundreds probably if not a thousand or  
6           maybe more. I've come to realize that there  
7           are two types of defendants in this world.  
8           There are those that are bad people, and my  
9           job is to put them somewhere where they can't  
10          continue to hurt people. Then there are the  
11          vast majority of defendants who are good  
12          people who, like all human being, made  
13          mistakes. Quite frankly, Mr. Pfeiffer, I  
14          think you're in the latter group.

15          I don't criticize you at all for your  
16          life's endeavors, your career. I think that  
17          you probably at some point can recover that.

18          And I understand that because of the  
19          circumstances there, in many ways your life  
20          has been ruined, devastated. The fact that  
21          your father passed away, to me, is just very  
22          sad. I know that whatever I do it will not  
23          lightened that load, but I want you to know  
24          that I give you my greatest sympathy. I am  
25          very close to my father, who of course is

1 still here.

2 What I kept thinking about as I was  
3 listening to all of this was the Bible verse  
4 of Luke 12:48, which is "to whom much is  
5 given, much is expected." A very interesting  
6 thing about that verse -- and I'm not going  
7 to give you a Sunday school lesson but the  
8 first part of it talks about punishing people  
9 who don't know what's going on as a crime, it  
10 says that to those people that aren't given  
11 much, you should give them mercy, treat them  
12 a little better. Quite frankly, you're one  
13 of those people to whom much has been given  
14 -- and much is expected.

15 Lawyers in this country are unfairly  
16 criticized. It makes me angry when I hear  
17 that. Their function is essential and trust  
18 in those lawyers is key. Quite frankly, you  
19 breached that trust.

20 I have an immense amount of sympathy for  
21 your family, for your children, for your wife  
22 and for all your friends. But on the other  
23 side there are people whose lives have been  
24 ruined. As I said, it is very much like  
25 dropping a pebble into a lake and watching

1       that wave ruin generations. There are people  
2       out there who have worked all their lives to  
3       leave something for their family, for their  
4       children, for their grandchildren. That's  
5       gone. We all know, in this courtroom, that  
6       some of it may come back but that most of it  
7       is not.

8               What I have been pondering back there is  
9       what is appropriate. As I said, and I'm not  
10      asking for any sympathy but it's very  
11      difficult to sentence you today.

12             But I accepted your plea and the sentence  
13      on Indictment 13-GS-47-0009, which is a six-  
14      count indictment, the sentence is ten (10)  
15      years, provided on the service of six (6)  
16      years the balance is suspended with probation  
17      for five (5) years. I am running that  
18      consecutive with Indictment 13-GS-47-0009  
19      (sic), which is a three-count indictment.  
20      That's a ten-year (10 year) sentence  
21      suspended to five (5) years probation.

22             Then on the conspiracy, which carries a  
23      maximum of five years, it is five (5) years  
24      to run concurrent.

25             This is a sixty-five (65) percent

1 sentence, right?

2 CREIGHTON WATERS: Yes, sir, Your Honor.

3 THE COURT: I'm sure that there are  
4 going to be people who will think that  
5 sentence is way too harsh. I am also  
6 completely certain that there will be more  
7 people that think that it is not anywhere  
8 near enough. It is the sentence after a lot  
9 of consideration, prayer and thought and  
10 review of this record that I came up with  
11 that sentence. Any questions about it?

12 MR. YARBOROUGH: No, sir, Your Honor.  
13 We would ask if a part of that six-year  
14 sentence confinement, if part of that  
15 sentence, say three years, could be home  
16 confinement.

17 THE COURT: I don't have a problem with  
18 modifying it so that there are two years of  
19 home incarceration, which is run through  
20 Probation, HIP. So he would do four and the  
21 remainder at home.

22 Home incarceration, to the victims, I  
23 know that sounds like home -- that home  
24 incarceration is something that is easy.  
25 Under our new HIP program, he wears a

1        monitor, he can't leave his house, he is  
2        under constant surveillance with a GPS  
3        monitor. So I will do that.

4            I will say that as attorneys that you all  
5        have done a great job. I would also say that  
6        the State -- that it's a complicated mess and  
7        I think that everybody has done a good job.  
8        Part of the problem is that punishment -- as  
9        you said in your memorandum, which I thought  
10      was very good, that there is a huge deterrent  
11      to punishment like this. When I read your  
12      letter, Mr. Pfeiffer, I realized that I could  
13      see myself in that position, working, making  
14      money and somebody comes along -- now, what  
15      I've got to do with Mr. Field, that is a  
16      whole different matter. Suddenly having the  
17      opportunity to make a whole lot of money.  
18      Unfortunately that's -- I'd hope everybody  
19      would be able to resist that.

20            Now, it's ten years amended to six and on  
21      the service of four years, the end of that --  
22      so can I just leave it at six and put down at  
23      the bottom he'll be monitored by HIP. For  
24      purposes of this, I will leave six years down  
25      as the sentence but then I will write down on

1       this form that the remaining two years of the  
2       active sentence may be served by home  
3       incarceration. I will do that for you.

4             MR. YARBOROUGH:   Thank you, Your Honor.

5             THE COURT:   All right. So it is ten  
6       (10) years suspended on service of six (6)  
7       years imprisonment with five (5) years  
8       probation, the remaining two (2) years of  
9       active service to be served on home  
10      incarceration.

11            The other sentence will remain the same:  
12      ten (10) years suspended on five (5) years  
13      probation and run that consecutive. So when  
14      he comes out, he's got fourteen years hanging  
15      over his head.

16            Then on the conspiracy, instead of five  
17      years -- ordinarily when I do this -- I'm  
18      just going to sentence him to three(3) years,  
19      concurrent. I think that solves everybody's  
20      problem.

21            MR. YARBOROUGH:   Your Honor, if I may,  
22      may Mr. Pfeiffer be allowed to self-report?

23            THE COURT:   Any objection to that?  
24      You got his passport?

25            CREIGHTON WATERS:   We do. I'd like to

1 know the details.

2 MR. YARBOROUGH: Sure. Your Honor, as  
3 I said, Mr. Pfeiffer's father died this past  
4 Friday. He's got family in town for the  
5 funeral. As you can imagine, since Friday  
6 of last week nothing has been done to get  
7 preparations made for a day such as today.

8 THE COURT: When is the funeral?

9 MR. YARBOROUGH: It's already taken  
10 place but, as I said, nothing else has really  
11 gotten done since that day. Could he have  
12 thirty days to ---

13 THE COURT: No, that's ---

14 CREIGHTON WATERS: We would object to  
15 thirty days.

16 THE COURT: I'll give him until next  
17 Friday, that's the most that I can do. Now,  
18 Mr. Pfeiffer, you know the law like I do. If  
19 you don't report, it's an escape charge and  
20 I'm going to bring you back and -- I don't  
21 mean to frighten you but it would not be  
22 good.

23 DEFENDANT: You don't have to worry  
24 about that. Thank you.

25 THE COURT: So report next Friday by --

1           what is the date, next Friday?

2           MR. YARBOROUGH:    The 27<sup>th</sup>, Your Honor.

3           THE COURT:       Report by September 27<sup>th</sup>,  
4           2013.

5           CREIGHTON WATERS:   Judge, before we  
6           conclude, I do have marked as Court's 4 the  
7           financial declarations that Mr. Pfeiffer had  
8           to submit and affirm under oath pursuant to  
9           the plea agreement. I have marked those as  
10          Court's 4, which I will hand to the clerk.  
11          I just wanted to make sure that got on the  
12          record.

13                               (SO ENTERED AS COURT'S EXHIBIT 4)

14          CREIGHTON WATERS:   And, also, there  
15          -- we have since prepared a blank restitution  
16          order as well.

17          THE COURT:       All right. Do you need for  
18          him to affirm that that is his financial ---

19          CREIGHTON WATERS:   That is what the plea  
20          agreement required him to do, to affirm under  
21          oath that these are correct and that he has  
22          not hidden or has not disclosed any assets,  
23          whether he holds those directly, indirectly,  
24          through an entity, whatever.

25          THE COURT:       Okay. Mr. Pfeiffer, have

1       you had a chance to look at the financial  
2       forms?

3               DEFENDANT:     Yes, sir.

4               THE COURT:     Are those correct?  You're  
5       under oath.  Are those correct?

6               DEFENDANT:     Yes, Your Honor.

7               THE COURT:     All right.  Is there  
8       anything else that you need from him?

9               CREIGHTON WATERS:  No, sir, Your Honor.  
10       Aside from the restitution Order.

11               THE COURT:     Thank you for your patience  
12       today.

13                               (HEARING CONCLUDED)

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STATE OF SOUTH CAROLINA       )  
                                          )     CERTIFICATE  
COUNTY OF CHARLESTON       )

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 9<sup>th</sup> Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the hearing held on September 18, 2013, before The Honorable Cordell Maddox, as prepared from the audio notes of Vivian Cross, Court Reporter;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

---

Deborah Garrison

Charleston, South Carolina  
January 5, 2013

STATE OF SOUTH CAROLINA )  
 ) COURT OF COMMON PLEAS  
 COUNTY OF ANDERSON )

STATE OF SOUTH CAROLINA )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No. 13-CP-47-08  
 )  
 Arthur Field and )  
 Frederick Scott Pfeiffer, )  
 )  
 Defendants. )

### TRANSCRIPT OF SENTENCING HEARING

The within Hearing in the above-captioned matter was held on October 8, 2013, before The Honorable Cordell Maddox in the Court of General Session, Anderson, South Carolina; attended by counsel as follows:

#### APPEARANCES:

Brian T. Petrano, Esq.  
 S. Creighton Waters, Esq.  
 U.S. ATTORNEY GENERAL  
 .... Appearing for State of South Carolina

J. Todd Rutherford, Esq.  
 .... Appearing for Arthur Field

Bradley Bennett, Esq.  
 William G. Yarborough, Esq.  
 .... Appearing for Defendant Pfeiffer

*TRANSCRIBED FROM AUDIO NOTES OF VIVIAN CROSS*

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1  
2 NOTE:

3 PRIOR HEARING FOR FIELD ON MAY 6, 2013

4 PRIOR HEARING PFIEFFER ON SEPTEMBER 18, 2013

5 (DEFENDANTS PRESENT)

6 THE COURT: Okay. We've got three  
7 things that we need to do today. We need to  
8 do the restitution issue with Mr. Pfeiffer.  
9 Then we've got the Motion to amend the  
10 sentencing sheets, which I will deal with.  
11 Then we've got Mr. Field's sentencing.

12 I believe that we will first deal with  
13 the amendment of the sentencing sheets.  
14 There was a question from the Department of  
15 Corrections about the previous sentence of  
16 Mr. Pfeiffer. The sentence was ten years  
17 suspended on the service of six years; the  
18 first four of that to be incarcerated, and  
19 the balance of two years to be home  
20 incarceration. The reason I did it that way  
21 was because that's the way that I've been  
22 told that you have to do it for probation  
23 purposes. Apparently the Department of  
24 Corrections didn't completely understand  
25 that. So I am going to redo the sentencing

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1           sheets on Mr. Pfeiffer to reflect that it  
2           was ten years suspended to six, the first  
3           four to be incarceration and the remaining  
4           two to be home incarceration; all of which is  
5           to run consecutive. Let me just double check  
6           -- yeah, all to run consecutive. Do you all  
7           agree with that?

8           MR. YARBOROUGH:     Your Honor, I think  
9           the first count of the Indictment 2013-GS-09,  
10          Count 1, the conspiracy count, ----

11          THE COURT:       Right, there was a second  
12          sentence -- and it won't affect his time  
13          served.

14          CREIGHTON WATERS:     That is correct,  
15          the conspiracy would be three years. Count  
16          six would be the six/four/two and five. And  
17          then count three would be consecutive, ten  
18          suspended to five probation.

19          MR. YARBOROUGH:     Your Honor, also on  
20          the record, because I went through this with  
21          the Department of Corrections. If there is a  
22          questioning about the sentencing, your Order  
23          was placed on the record. I can submit that.

24          THE COURT:       That is not required. Let  
25          me put it this way, if they've got a question

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1 then they need to call me. I don't have a  
2 clue what they've done.

3 MR. YARBOROUGH: Okay.

4 THE COURT: Well, I will deal with  
5 them. It's pretty clear what I ordered.  
6 This is not the first time they've needed  
7 clarification. Let me fill these out.

8 MR. YARBOROUGH: The first four years  
9 was incarceration and the second part, the  
10 last two years, would be home incarceration.  
11 Yes, sir.

12 THE COURT: That takes care of the  
13 amended sentencing sheets.

14 Now, what about Mr. Pfeiffer's  
15 restitution?

16 CREIGHTON WATERS: Your Honor, if I  
17 could interject just a minute. I could, of  
18 course, take those amended sentencing sheets  
19 and take them -- take them to the defense  
20 table for Mr. Pfeiffer to sign those?

21 THE COURT: Sure.

22 CREIGHTON WATERS: Thank you, Your  
23 Honor.

24 (AMENDED SENTENCING SHEETS SIGNED  
25 BY DEFENDANT PFIEFFER)

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1 CREIGHTON WATERS: Thank you, Judge.

2 With regard to the restitution on Mr.

3 Pfeiffer, as I told Your Honor at the prior

4 proceeding, this is obviously not a case

5 where they just took the money and ran.

6 This is a case where the point was to

7 keep the loans serviced, continue to generate

8 fees and owner withdrawals, uh, and, uh, that

9 sort of thing.

10 In doing this, the total amount of loss

11 from this particular operation was about

12 thirty-nine million dollars (\$39 Million).

13 Of that, I believe about thirteen million

14 (\$13 Million) of that was -- however, for

15 mitigation calculations it was determined how

16 much actually ended up in the hands of Mr.

17 Pfeiffer, through the various ways through

18 which he received compensation, during the

19 operation of this scheme. In doing that we

20 came up with the figure of one million nine

21 thousand one hundred eighty-six dollars and

22 thirty-eight cents (\$1,009,186.38). I have

23 that broken down and I'd like to mark this

24 as Court's Exhibit 5 for purposes of Mr.

25 Pfeiffer's hearing. I have provided those

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1 figures to the defense. So that's the amount  
2 that we have, put in his hands.

3 Now, the plea agreement that was signed  
4 of course gave Mr. Pfeiffer credit for the  
5 settlement agreement, the eight hundred and  
6 forty thousand dollars (\$840,000) that was  
7 recovered as a part of the malpractice action  
8 in the related civil action.

9 So if you look at that particular amount  
10 that Mr. Pfeiffer received minus that settle-  
11 ment, we're looking at a net amount of one  
12 hundred sixty-nine thousand, one hundred  
13 eight-six dollars and thirty cents  
14 (\$169,186.30).

15 So, those are -- Your Honor, those are  
16 sort of the facts that are in play as far as  
17 the restitution. It's my understanding that  
18 they're not wanting to dispute, neither do  
19 they -- they do have a reservation that they  
20 would like to present to Your Honor on the  
21 various factors under the statute.

22 THE COURT: All right. Yes, sir?

23 MR. YARBOROUGH: Your Honor, if the  
24 Court pleases, I'd call Mr. Pfeiffer to --  
25 do you want me to bring him around and swear

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1 him?

2 THE COURT: Yeah, just bring him up  
3 here so that everybody can hear him.

4 (WITNESS TAKES STAND)

5 FREDERICK SCOTT PFEIFFER, having  
6 been sworn to tell the truth, and nothing but  
7 the truth, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. YARBOROUGH:

10 Q. Mr. Pfeiffer, you are currently in  
11 the Department of Corrections?

12 A. Yes, I am.

13 Q. And did you enter a guilty plea  
14 several weeks ago before this judge?

15 A. Yes, I did.

16 Q. As part of that sentence, were you  
17 sentenced to incarceration?

18 A. I was.

19 Q. And also as part of that, you  
20 prepared financial declarations which out-  
21 lined how much money or assets that you  
22 presently have?

23 A. I did.

24 Q. And is that financial declaration  
25 fair and accurate as to your wherewithal or

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Hearing of October 8, 2013  
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8

1 ability to pay the restitution outside the  
2 malpractice insurance which you had?

3 A. Yes, it is.

4 Q. And do you have the ability to pay  
5 any restitution?

6 A. No, I do not.

7 Q. Do you have any assets?

8 A. No, other than as are listed on that  
9 form.

10 Q. Okay. Is there anything hidden,  
11 anything that is not on this form?

12 A. No.

13 Q. And the form fairly and accurately  
14 represents your financial ability to pay?

15 A. It does.

16 Q. And that ability is basically that  
17 you don't have any more money outside of your  
18 malpractice carrier?

19 A. I don't have and I am not earning  
20 any money currently, as I am incarcerated.

21 MR. YARBOROUGH: I would ask that you  
22 answer any questions that the attorney  
23 general may have for you.

24 THE COURT: Mr. Waters.

25 CROSS EXAMINATION

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1 BY CREIGHTON WATERS:

2 Q. Mr. Pfeiffer, just so that we are  
3 clear, you're affirming under oath that those  
4 financial statements, marked as a court's  
5 exhibit, fairly and completely represent your  
6 financial status right now; is that correct?

7 A. As of the date that I prepared them,  
8 that's correct.

9 Q. Okay. Has anything changed since  
10 then? Any material change?

11 A. No material change, no.

12 Q. Any increase in the assets?

13 A. Certainly not.

14 Q. Okay. Just so that we are clear, as  
15 well, do you have any interest in any asset,  
16 any property or any account(s) that could be  
17 obtained through conditional assignment of a  
18 membership interest?

19 A. No, I do not.

20 Q. Do you have any assets, any  
21 property, interest in account(s) or interest  
22 in any money that is not reflected on those  
23 forms; any interest, direct or indirect?

24 A. No, I do not.

25 Q. So there is no mechanism, whether it

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1 be through the various LLC's or the various  
2 entities through which you could get an  
3 interest in property or money by any sort  
4 of legal mechanism that is not reflected in  
5 this agreement.

6 A. That's correct, there are none.

7 CREIGHTON WATERS: Thank you very much,  
8 Mr. Pfeiffer.

9 THE COURT: Anything else?

10 REDIRECT EXAMINATION

11 BY MR. YARBOROUGH:

12 Q. Mr. Pfeiffer, you did have mal-  
13 practice insurance?

14 A. I did, yes.

15 Q. Do you know how much that mal-  
16 practice insurance paid out in this case?

17 A. Eight hundred forty thousand dollars  
18 (\$840,000).

19 Q. Is that the limit of your ability to  
20 pay restitution?

21 A. Yes, it is.

22 Q. All right. Thank you.

23 CREIGHTON WATERS: Nothing further, Your  
24 Honor.

25 THE COURT: All right. Mr. Pfeiffer,

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1 do you have a max-out date yet? The forms?

2 DEFENDANT PFEIFFER: Yes, I have.

3 THE COURT: What is that?

4 DEFENDANT PFEIFFER: It's June 3 --  
5 three years and nine months from now.

6 THE COURT: Three years and a few  
7 months?

8 DEFENDANT PFEIFFER: Yes, three years  
9 and nine months.

10 THE COURT: I gotcha. Thank you.

11 DEFENDANT PFEIFFER: Yes, sir.

12 THE COURT: You may step down.

13 (WITNESS STEPS DOWN)

14 THE COURT: What I am hearing is that  
15 basically you all agree on the amounts.  
16 Whether you are agreeing happily or whole-  
17 heartedly, that's the amount that we have  
18 come to agree that he can pay. The issue is  
19 whether or not he can pay now?

20 MR. WATERS: Yes, sir.

21 THE COURT: And for purposes that don't  
22 have anything to do with this plea or this  
23 situation, you want and need an Order that  
24 says that he has no present ability to pay?

25 MR. YARBOROUGH: That's correct, Your

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1 Honor.

2 THE COURT: Okay.

3 MR. YARBOROUGH: Your Honor, just so  
4 that the record is clear, there is no way  
5 that he can pay. I think the Order correctly  
6 reflects that Mr. Pfeiffer has no ability to  
7 pay restitution at this time. I am sure that  
8 he wishes that his malpractice carrier could  
9 have paid the entire amount, but it maxed out  
10 what they could pay.

11 MR. WATERS: Your Honor, I under-  
12 stand their position but we think that it is  
13 important that at least at some time Mr.  
14 Pfeiffer has to cut a check for restitution  
15 to the various noteholders and investors of  
16 the Capital Investment Fund.

17 THE COURT: Okay. I've got enough  
18 information to make a decision. As I said in  
19 the back, I am going to review this. I will  
20 let -- I am going to take it under advisement  
21 and let -- I'll issue an Order within the  
22 next day or two. I mean, I know the  
23 parameters of what I'm going to do, as I told  
24 you in the back.

25 The issue, quite frankly, is that I

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1 don't have any doubt that he cannot pay now.  
2 In fact, I have no doubt that he has the  
3 ability to pay now. My concern is issuing an  
4 Order that will bind him and anyone else in  
5 the foreseeable future in the event that he  
6 had an asset that could go back to these  
7 victims. So I've got to craft an Order that  
8 gives me a little bit of supervision there.  
9 I understand that y'all want to end it.  
10 Everybody wants to end it. I don't know how  
11 to do that without setting a date in the  
12 future that I can review everything, or my  
13 prede--, whoever follows behind me if I am  
14 not here. But I'll let you know something.  
15 I understand both of your issues there.

16 MR. WATERS: Thank you.

17 THE COURT: Okay. So that's all the  
18 matters up to Mr. Field's sentencing, right?

19 MR. WATERS: All right, let's do  
20 that then. Do we want to stand down briefly  
21 and let Mr. Pfeiffer ---

22 THE COURT: He may want to stay.  
23 Whatever you want to do.

24 MR. YARBOROUGH: Thank you, Your Honor.  
25 We will stay.



|                           |   |                           |
|---------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA   | ) |                           |
|                           | ) | COURT OF GENERAL SESSIONS |
| COUNTY OF ANDERSON        | ) |                           |
| State of South Carolina,  | ) |                           |
|                           | ) |                           |
| Plaintiff,                | ) |                           |
| v.                        | ) | Case No.                  |
|                           | ) | 2013-GS-47-00009          |
| Frederick Scott Pfeiffer, | ) |                           |
|                           | ) |                           |
| Defendant                 | ) |                           |
| State of South Carolina,  | ) |                           |
|                           | ) |                           |
| Plaintiff,                | ) |                           |
| v.                        | ) | Case No.                  |
|                           | ) | 2013-GS-74-00008          |
| Arthur M. Field,          | ) |                           |
|                           | ) |                           |
| Defendant.                | ) |                           |

## ORIGINAL TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on July 9, 2014, before The Honorable J. Cordell Maddox, Anderson County Courthouse, 100 South Main Street, Anderson, SC 29622; attended by counsel as follows:

### APPEARANCES:

S. Creighton Waters, Esq.,  
Brian T. Petrano, Esq.,  
Appearing for The State.

William G. Yarborough, III, Esq.,  
Joseph Bradley Bennett, Esq.,  
Appearing for Defendant Pfeiffer.

James Todd Rutherford, Esq.,  
Appearing for Defendant Field.

Vivian H. Cross  
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## I-N-D-E-X

*STATE OF SOUTH CAROLINA v. FREDERICK SCOTT PFEIFFER*

CASE NO. 2013-GS-47-00009

*STATE OF SOUTH CAROLINA v. ARTHUR M. FIELD*

CASE NO. 2013-GS-47-00008

JULY 9, 2014

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## E-X-H-I-B-I-T-S

IDENTIFICATION ENTERED

\*\*\*\*\*NO EXHIBITS OFFERED\*\*\*\*\*

P R O C E E D I N G S

(11:12 A.M)

**THE COURT:** Okay; we're on the record, uh -- we have dual hearings here. First, let me say this -- Louis, can you get somebody -- can you buzz Richard to come turn this mic up a little?

Can you-all hear -- everybody hear me?

**MR. RUTHERFORD:** Yes, sir.

**THE COURT:** We've got a little bit of a problem here because when the air conditioning turns on, you can't hear. And we've spent a lot of money to have speakers put in but for some reason they're not on. So, I'll talk as loud as I can. If you can't hear me, if you get to a point where you can't, if you raise your hand I'll yell if I have to. It probably won't be the only time I yell today.

Um, we're here for the, uh, joint matter of The State versus Pfeiffer and Field; is that correct?

**MR. WATERS:** Yes, sir; Your Honor.

**THE COURT:** All right, we've got numerous Motions. Let me just say this from the beginning, because I'm not sure exactly why, but this case has bothered me from the beginning. It is not

1 because of any actions taken by the parties or  
2 their lawyers, but obviously what I'm trying to do  
3 here is -- is two things. I'm trying to be fair  
4 to the Defendants and the victims and The State;  
5 and I'm also trying to work out a situation in  
6 which the victims can get as much money back  
7 during the probation period as, uh -- the most we  
8 can. I mean, there's obviously a limit to it.

9 And what happened here, just so everybody  
10 understands -- we got to get on the same page --  
11 is that when Mr. Pfeiffer was sentenced I gave him  
12 a substantial period of time followed by house  
13 arrest. Subsequent to that, I sentenced  
14 Mr. Fields (sic) to what, uh -- what I would  
15 assume The State thought was too little and the  
16 Defense thought was too much; that's just the way  
17 it goes.

18 And -- and the operation of the Statute  
19 regarding house arrest created a situation in  
20 which Mr. Field served basically thirty-three days  
21 in jail. And that struck me, quite frankly, as  
22 unfair.

23 It's not anything that anybody in here did;  
24 The State has done a great job presenting this,  
25 you-all have done a great job defending your

1 clients. But, it seems to me that that relative  
2 sentence of those two parties operated to be  
3 somewhat unfair to Mr. Pfeiffer. That bothered  
4 me. It didn't bother me from a legal perspective;  
5 what I did was exactly within the realm of, um,  
6 sentencing guidelines, such as they are. It  
7 bothered because when I got up in the morning and  
8 shaved I thought it was unfair. That's all it --  
9 the only thing that started this is that I created  
10 a situation in which I believed that it was  
11 relatively unfair to one of the parties.

12 So, with that said, that's what we're doing  
13 here today. And I had agonized over how to fix  
14 this because the victims are entitled both to a  
15 sentence that they feel punishes these parties  
16 because they plead guilty; they're also -- the  
17 victims are also entitled to a return of as much  
18 money as possible during probation.

19 Hold on just a second, I don't want to --  
20 this thing will scream when we turn it on.

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR  
22 MICROPHONE ADJUSTMENT.)

23 (WHEREUPON, PROCEEDINGS CONTINUED.)

24 **THE COURT:** There you go. All right, can you  
25 hear me better?

1 (ATTORNEYS AND GALLERY IN UNISON) Yes -- yes.

2 THE COURT: Okay; do I have to start over?  
3 Let me just tell you, the problem is I thought  
4 this was unfair. I have to look at myself in the  
5 mirror. I mean, I've done this job for thirteen  
6 year and I have spent less time sentencing people  
7 to thirty-five years in prison because it was a  
8 cut and dry situation, um, than I have on this  
9 case. This is amorphous moving target. And when  
10 you have two Defendants like this, you've got one  
11 Defendant who is less culpable in my mind --  
12 and that's Mr. Pfeiffer -- and you've got  
13 one Defendant who is more culpable -- that's  
14 Mr. Fields (sic), but the more culpable person who  
15 cooperates with The State and spends a good bit of  
16 time helping them, therefore his sentence is less,  
17 that seemed to me to operate in an unfair way for  
18 Mr. Pfeiffer.

19 That's what happened. You know, people can  
20 say other things happened; that's what happened.  
21 I'm concerned about the fairness.

22 So, with that said, I want to take up, um,  
23 Mr. Fields (sic) sentencing first. And let me  
24 again make sure that I understand what happened,  
25 because The State has filed a Motion asking me to

1 probably contrary to the way the statute is  
2 written, but it does need to be, uh -- greater  
3 detail needs to be set forth.

4 But -- so, I'm back in the situation where I  
5 look at myself and shave and know you're right but  
6 I basically can't do anything because of the way  
7 the statute -- the ambiguity -- ambiguity of the  
8 statute.

9 All right, so I'm gonna leave that the way it  
10 is -- I don't like it -- and then we're gonna deal  
11 with Mr. Field's probation last, because that,  
12 quite frankly, is what I'm trying to get to here.

13 All right, let me go to Mr. Pfeiffer. Here's  
14 the problem with Mr. Pfeiffer. Mr. Pfeiffer got a  
15 sentence that was fairly harsh and -- and again,  
16 the problem I have is the operation of the way  
17 this worked is that I had to look at Mr. Pfeiffer  
18 sitting there basically with his life ruined and  
19 in shambles, and his family in shambles, and then  
20 sentence Mr. Fields (sic) -- basically here's the  
21 problem. I'm trying to -- I'm trying to make --  
22 I'm trying to shorten this 'cause I don't think  
23 everybody wants to stay through it.

24 Mr. Fields (sic) got less time than I  
25 intended. The operation of the relative fairness

1 of this is that Mr. Pfeiffer probably got more  
2 time than he should. I mean, I'm sure that there  
3 are certain victims that would like me to take him  
4 out on I-85 and drag him behind a car; I can't do  
5 that. But, you know, again, I've got to be true  
6 to myself, and that's -- and the law, and that's  
7 what I'm trying to do.

8 Now, tell me exactly what Mr. Pfeiffer's  
9 sentence was, 'cause you-all have the records, I  
10 don't. They're spread over four counties.

11 **MR. WATERS:** Your Honor, he got, uh -- he  
12 got, uh, on count six, which was a securities  
13 fraud, he got ten years, uh, upon the service of  
14 six years, he would have five years' probation.  
15 And Your Honor, uh, had -- um, also allowed that  
16 the last two years of that six years could be---

17 **THE COURT:** House arrest.

18 **MR. WATERS:** ---house. Uh, he got a, uh, on  
19 count three, which is a securities fraud charge,  
20 he got ten years, uh, suspended on the service of  
21 five years' probation; that was consecutive.

22 All right, and then he got a concurrent three  
23 years on count one, which is a conspiracy. The  
24 way that, uh, that S-C-D-C is calculating that is  
25 they essentially have the actu- -- the active four

1 years' incarceration---

2 **THE COURT:** Okay.

3 **MR. WATERS:** ---for which he's been accruing  
4 good time. And I know there was a represent- --  
5 representation made that he had four years to go.  
6 He's actually got a max out in September of 2015;  
7 I just looked up on the web site. Additionally,  
8 he is a minimum security person.

9 **THE COURT:** Is that right, Mr. Pfeiffer? You  
10 would know more better (sic) than me. Is it 2015?

11 **MR. PFEIFFER:** Yes, sir; the -- when we came  
12 the first time, what he's talking about, my max  
13 out time was four years because S-C-D-C had put  
14 three years---

15 **THE COURT:** I got you.

16 **MR. PFEIFFER:** ---consecutive to the six and  
17 they thought I had nine years. But we fixed that.

18 **THE COURT:** Again, we're back to the way they  
19 calculate. So---

20 **MR. WATERS:** And Your Honor, we actually  
21 contacted S-C-D-C because they were doing the, uh,  
22 the conspiracy first and -- and then starting on  
23 securities fraud. And we said no, I don't think  
24 that's what the Judge intended. So, I mean, we  
25 were---

1           **THE COURT:** Yeah, and I appreciate that.

2           **MR. WATERS:** ---we were actually -- wanted to  
3 make sure that they had it accurate in -- in that  
4 regard. But---

5           **THE COURT:** So he got ten suspended to  
6 six/five and then ten suspended to five  
7 consecutive.

8           **MR. WATERS:** That's correct.

9           **MR. YARBOROUGH:** Your -- Your Honor, I think  
10 you could fix this pretty easy. I mean, you  
11 could -- you could give him the opp- -- the -- the  
12 fifteen months that it happened with Field and --  
13 and increase that on his house arrest. Let the  
14 Department, uh -- uh, determine how that spins out  
15 on his time. You're just increasing from that  
16 two year potential for a house arrest to, uh,  
17 thirty-seven months and -- and then -- and your --  
18 that -- that way -- you didn't -- you didn't know  
19 what was gonna happen with Field---

20           **THE COURT:** I didn't.

21           **MR. YARBOROUGH:** ---and -- and -- and -- and  
22 so with Pfeiffer you could do the same with him  
23 and it would be fair. We could walk away from  
24 this thing and I think every -- everybody -- you  
25 can look in the mirror and say you did something

1 that was -- that was -- was fair. I think  
2 Mr. Pfeiffer could live with that. I -- I --  
3 hopefully everybody can live with it and he can  
4 get out.

5 **THE COURT:** Well do you understand that when  
6 he gets out he's gonna have to start paying them?

7 **MR. YARBOROUGH:** He's gonna have to start  
8 paying money back.

9 **THE COURT:** And that's really where I am; I  
10 want these people paid back---

11 **MR. YARBOROUGH:** Right.

12 **THE COURT:** ---to the extent that we can make  
13 these two guys pay it back in five years.

14 What would be the maximum he could get on the  
15 securities fraud?

16 **MR. WATERS:** They were ten-year charges  
17 apiece. So he had -- he had ten and ten and five  
18 I believe. And so I think that -- I think it was  
19 twenty; he was facing twenty.

20 **THE COURT:** Yeah.

21 **MR. WATERS:** 'Cause we -- we agreed as a  
22 negotiated term that the conspiracy would be  
23 concurrent. So he was facing -- he -- he had ten  
24 and ten and then the five and---

25 **THE COURT:** All right, you-all -- you-all

1 approach a minute.

2 **MR. WATERS:** Yes, sir.

3 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR  
4 A BENCH CONFERENCE, OFF THE RECORD.)

5 (WHEREUPON, PROCEEDINGS CONTINUED.)

6 **THE COURT:** All right. All right, we're  
7 gonna take a break. They're gonna talk to their,  
8 uh, client and explain what I'm trying to do.  
9 Again, just so everybody understands, I am, with  
10 Mr. Pfeiffer, trying to work out a situation --  
11 and you-all can take him back there if you want to  
12 talk to him.

13 **MR. YARBOROUGH:** Thank you, Your Honor.

14 **THE COURT:** But look, before you go, I'm  
15 trying to work out a situation in which more time  
16 is hung over Mr. Pfeiffer's head if he violates  
17 his probation and then knock off a year of actual  
18 sentence because I want him out paying. I mean, I  
19 don't think that him being in jail helps get this  
20 money back.

21 But again, I don't want to also send a  
22 message that you can just, uh, take money and...

23 We'll work it out.

24 **MR. RUTHERFORD:** Your Honor, in addition to  
25 that, is there any way that Your Honor can order

1 restitution Mr. Pfeiffer makes and that  
2 Mr. Field makes go directly to the victims?

3 **THE COURT:** We're gonna deal with -- I'm  
4 gonna do the restitution, uh---

5 **MR. RUTHERFORD:** Okay.

6 **THE COURT:** ---as a part of the probation  
7 last. I mean, we got to get to that point. So,  
8 you-all can take five minutes. I won't start for  
9 five minutes, so if you need to go to the  
10 restroom, now is a good time.

11 (WHEREUPON, PROCEEDINGS RECESSED AT  
12 11:47 A.M.)

13 (WHEREUPON, PROCEEDINGS RESUMED AT  
14 12:00 P.M. WITH A BENCH CONFERENCE, OFF THE  
15 RECORD.)

16 (WHEREUPON, PROCEEDINGS CONTINUED.)

17 **THE COURT:** Okay, we're back on the record,  
18 uh, with Mr. Pfeiffer. We've had an off the  
19 record discussion about how best to resolve this  
20 problem and quite frankly what I'm trying to do is  
21 increase the amount of time hanging over his head  
22 in the event that he doesn't pay the amount owed,  
23 which is a-hundred-and-sixty-nine-something. Give  
24 him one year extra credit in the middle so that  
25 his max-out time -- in other words, he's out

1 earlier to start paying. At some point, punishing  
2 him is beating a dead horse! We got to get to an  
3 amount where we're paying.

4 So the only way I know to do that, because  
5 you-all's agreement -- and this is sort of a  
6 moving part situation -- because the agreement was  
7 that the conspiracy would be run consecutive -- I  
8 mean, uh, concurrent and not consecutive, and  
9 I think that was basically the only agreement  
10 you-all had, right?

11 **MR. WATERS:** That's correct, Your Honor.

12 **THE COURT:** Yeah. So, everything else is my  
13 decision. I think, in order to get to the point  
14 where I am hanging twenty-three years over his  
15 head instead of twenty and reducing his actual  
16 time served by one year, is to run the conspiracy  
17 consecutive but give him no time for it. In other  
18 words, what I'm looking at is doing ten suspended  
19 to three and then five years' probation,  
20 consecutive to ten suspended to two and five  
21 years' probation, consecutive to five sus- -- or,  
22 five, suspended to five years' probation. Run 'em  
23 all consecutive, give him credit for the time he's  
24 served, plus the two years that were on the back  
25 end of the house arrest.

1        Now, you-all can talk about it, but I mean,  
2 I'm trying to -- I'm trying to get to that point.

3        (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR  
4 A CONFERENCE, OFF THE RECORD.)

5        (WHEREUPON, PROCEEDINGS CONTINUED.)

6        **MR. YARBOROUGH:** No, sir, Your Honor.

7        **THE COURT:** What's you-all's concern? I  
8 mean, you -- might as well just---

9        **MR. YARBOROUGH:** He's just -- he's just  
10 trying, um, to figure out how much that actually  
11 is gonna cut off his -- you know, his sentence. I  
12 mean, that -- that---

13        **THE COURT:** And -- and that's the problem; I  
14 mean, that's where we all get in this problem. We  
15 send things out thinking they're gonna be A, they  
16 come back to us as C.

17        **MR YARBOROUGH:** It---

18        **THE COURT:** He's concerned that that's gonna  
19 actually increase the time that you serve?

20        **MR. YARBOROUGH:** Right; and -- and so I think  
21 that if -- if -- if The Court would -- would --  
22 would just cut the sentence from -- to four  
23 years -- six to four, and then with the last two  
24 being on house arrest, and then run the other  
25 stuff consecutive, then you -- you would be -- you

1 would -- you would accomplish the same thing  
2 you're trying to do now.

3 It's just -- but -- but by doing the two  
4 sentences---

5 **THE COURT:** All right, what about if I did  
6 ten suspended -- and this -- I mean, obviously  
7 we're not auctioning here, but I -- we're all  
8 trying to get to the same point. Ten suspended to  
9 five then five years' probation, run that  
10 consecutive to ten suspended to five years'  
11 probation, run that consecutive to three suspended  
12 to five years' probation. You got twenty-three  
13 years hanging over your head, you got five years  
14 actual service, the rest of it's probation and  
15 consecutive.

16 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR  
17 A CONFERENCE, OFF THE RECORD.)

18 (WHEREUPON, PROCEEDINGS CONTINUED.)

19 **MR YARBOROUGH:** And -- and two years on house  
20 arrest?

21 **THE COURT:** Right; that -- yeah, that's not  
22 gonna change. I'm trying to get to the point  
23 where he is out to pay this money back and that  
24 his sentence is more in line with Mr. Field's,  
25 which is what's bothering me. Mr. Fields (sic)

1 out, um---

2       **THE COURT:** Well, I understand that you-all  
3 don't think I should alter it downward, and I --  
4 and I -- again, I'm just trying, quite frankly, to  
5 be as completely fair to everybody -- including  
6 the victims -- as possible. But if I was you I  
7 wouldn't want me to do it either, and if I was  
8 Mr. Pfeiffer's attorneys I would expect more.  
9 So...

10       All right, if you-all will -- Mr. Pfeiffer,  
11 you-all come around and we'll do the colloquy and  
12 we'll just amend it.

13                       (DEFENDANT FORWARD.)

14       **MR. PARKS:** Mr. Pfeiffer, if you would, place  
15 your left hand on the Bible, raise your right  
16 hand.

17       (WHEREUPON, **FREDERICK SCOTT PFEIFFER** WAS DULY  
18 SWORN AND TESTIFIED AS FOLLOWS:)

19       **MR. PARKS:** State your full name.

20       **MR. PFEIFFER:** Frederick Scott Pfeiffer.

21       **MR. PARKS:** Thank you, sir.

22       **THE COURT:** All right, Mr. Pfeiffer, you've  
23 been, uh, here during all of these hearings;  
24 you've been here today watching us toward --  
25 toward -- go through these emaciations. Do you

1 understand what I'm trying to do here?

2 **MR. PFEIFFER:** I believe so.

3 **THE COURT:** What I'm trying to do is -- is I  
4 believe that your sentence, as compared to  
5 Mr. Field's, was too severe on the amount of time  
6 you serve. Um, I'm not sure that it's too severe  
7 in a vacuum, but it's just not fair in the way it  
8 worked out and I'm concerned about that.

9 So what I'm trying to do here is alter your  
10 sentence so that you have five years active time  
11 but you have -- basically you have twenty years  
12 hanging over your head; you'll have an additional  
13 three, which is significant quite frankly. So you  
14 understand what I'm trying to do?

15 **MR. PFEIFFER:** Yes, sir.

16 **THE COURT:** Do you have any objection to me  
17 doing that?

18 **MR. PFEIFFER:** No, sir.

19 **THE COURT:** Okay. Um, you have already plead  
20 guilty; all I'm doing, basically, is just altering  
21 the sentencing. Do you need for me to go through  
22 all of your waiver of Constitutional rights?

23 **MR. PFEIFFER:** No, sir.

24 **THE COURT:** And you understand that you have  
25 to waive any and all Constitutional rights that

1 you may have, including your right to remain  
2 silent, your right to put up a defense, your right  
3 to confront the witnesses who would testify  
4 against you, and your right to a jury trial if you  
5 want me to do this? Do you understand that?

6 **MR. PFEIFFER:** Yes, sir.

7 **THE COURT:** And you're not taking any kind of  
8 medication or a prescription medication now,  
9 right?

10 **MR. PFEIFFER:** I'm not.

11 **THE COURT:** And you haven't had any drugs or  
12 alcohol in the last twenty-four hours?

13 **MR. PFEIFFER:** Uh, no.

14 **THE COURT:** And have you had plenty of time  
15 to speak with your lawyer about this issue?

16 **MR. PFEIFFER:** I have.

17 **THE COURT:** And do you have any questions for  
18 them now or any questions for me?

19 **MR. PFEIFFER:** Um, no, I don't think so.

20 **THE COURT:** Okay. All right, and you will  
21 continue your position that you plead guilty to  
22 these three charges, is that correct?

23 **MR. PFEIFFER:** Correct.

24 **THE COURT:** So you want to plead guilty to  
25 those charges today?

1           **MR. PFEIFFER:** I -- I have so claimed.

2           **THE COURT:** Okay. And nothing has changed,  
3 is that correct?

4           **MR. PFEIFFER:** Nothing's changed, Your Honor.

5           **THE COURT:** All right, I'm gonna -- I'm gonna  
6 accept the plea again. I'm -- I'm bending over  
7 backwards to make sure that, uh, the waiver of  
8 Constitutional rights is in there. And again,  
9 Mr. Pfeiffer, I've got some concern about the way  
10 this fell out.

11           Um, and what I'm gonna do is I'm gonna amend  
12 your sentence so that on the first charge it's ten  
13 years suspended to five years' service, uh, and  
14 then five years' probation. And I'm backing off  
15 the five years with two years house arrest that I  
16 gave you originally. The net effect of this is it  
17 backs off one year of your active time.

18           And then the other two charges, um, one is  
19 ten years suspended to five years' probation; run  
20 that consecutive. And on the conspiracy it's  
21 three years suspended to five years' probation;  
22 run that consecutively.

23           I'm gonna retain jurisdiction of this --  
24 against my better judgment, but I'm gonna retain  
25 jurisdiction, uh, until Department of Corrections

1 has calculated this. Because, the worst case  
2 scenario is that he goes back and they've got some  
3 other way of calculating it.

4 So, um, I would ask them as quickly as  
5 possible to make sure that this -- the net effect  
6 on this is not that he does more time. That is  
7 not my intention. Okay?

8 All right now, the other thing is, we've had  
9 some discussions -- and again, I'm trying to wrap  
10 this into a ball so we all don't have to come  
11 back. We had discussions about your restitution,  
12 and the amount that, uh, I understand that The  
13 State believes you owe is a hundred-and-sixty-nine  
14 thousand some-odd dollars, and that's the total  
15 amount that they calculate in their, uh -- minus  
16 the malpractice payment of a-hundred-and -- eight  
17 hundred and forty. So, what is that -- do you  
18 have that exact amount?

19 **MR. WATERS:** Your Honor, uh, we did a  
20 calculation of the actual money that went to  
21 Mr. Pfeiffer by way of either direct money,  
22 manager fees, uh, legal fees, um, other personal  
23 expenses through all the various layer of entities  
24 that these two individuals constructed to defraud  
25 these people out of, uh, all this money.

1        Uh, the amount that Mr. Pfeiffer and his law  
2 firm put into their pocket was one million, nine  
3 thousand, one hundred and eighty-six dollars and  
4 thirty-eight cents. Uh, there was a recovery that  
5 was paid, uh, by the malpractice insurer to the,  
6 um, receiver of eight hundred and forty thousand  
7 dollars, and the remainder is one hundred and  
8 sixty-nine thousand, one hundred and eighty-six  
9 dollars and thirty cents.

10        **THE COURT:** All right, now I understand we --  
11 again, in trying to wrap this up, we've had some  
12 discussions off the record. There is some  
13 disagreement on Mr. Pfeiffer's part that that is  
14 the correct amount owed. I've given an indication  
15 that I believe that probably is the correct  
16 amount. Do you-all have any issue, other than  
17 what you've previously raised?

18        **MR. YARBOROUGH:** Not -- not oth- -- other  
19 than what we previously raised, Your Honor.  
20 And -- and I -- my understanding is that your  
21 ruling is based on that finding as you've looked  
22 at it and you think that -- that even with  
23 Mr. Pfeiffer -- Pfeiffer not having the ability to  
24 pay at this time and -- and based on what they  
25 paid out that it's a hundred and sixty-nine

1 thousand is what you're finding.

2       **THE COURT:**       A hundred and sixty-nine  
3 thousand, one hundred and eighty-six dollars and  
4 thirty-eight cents.

5       **MR. YARBOROUGH:** And that's your ruling.

6       **THE COURT:** That's my ruling.

7       **MR. YARBOROUGH:** Okay.

8       **THE COURT:** And then, once he gets out, we're  
9 gonna have to -- somebody, me or another judge --  
10 is gonna have to calculate what is the appropriate  
11 monthly amount so that if he fails to pay there's  
12 a willfulness there. But that's somewhere down  
13 the road.

14       I think what this does is gets him back a  
15 year early to his family and lets him start paying  
16 this money back. And if he has the ability to pay  
17 that back, I will feel better because then he has  
18 rid himself of this and can go on and live his  
19 life. And then I'm still dealing with the  
20 victims; that's what I'm trying to do.

21       **MR. YARBOROUGH:** I mean -- I mean, it --  
22 thank you, Your Honor.

23       **THE COURT:** Okay. All right, so I'm gonna  
24 rule that a hundred and sixty-nine thousand, one  
25 hundred and eighty-six dollars and thirty-eight

1 cents is owed in restitution and the payment of  
2 that will be dealt with once Mr. Pfeiffer is  
3 released. Okay?

4 **MR. YARBOROUGH:** Yep.

5 **THE COURT:** Now, I need you to find out, as  
6 soon as possible, how the Department of  
7 Corrections is gonna calculate this.

8 **MR. YARBOROUGH:** Okay, and -- and -- and we  
9 can come back to you with -- with some kind of --  
10 if we need to change something to what you just  
11 did we'll get it---

12 **THE COURT:** That's what I'm saying. I'm  
13 gonna retain jurisdiction because I don't want him  
14 to go back and then to come out with some out of  
15 the blue calculation. Quite frankly, I don't want  
16 another Field situation where they come back with  
17 tremendous amount of credit.

18 **MR. YARBOROUGH:** Okay.

19 **THE COURT:** Okay.

20 **MR. BENNETT:** Thank you, Judge.

21 **THE COURT:** All right; thank you, sir.

22 Okay, let's go to Mr. Field. I know that,  
23 uh, you all have just a couple of hearings. We've  
24 got to deal with Mr. Fields (sic) and the  
25 restitution amount. And this has to do with the

1 probation.

2 (TO DEFENDANT PFEIFFER LEAVING COURTROOM.)

3 **THE COURT:** Good luck to you.

4 **MR. BENNETT:** Thank you, Judge.

5 **THE COURT:** Um, and because time is short and  
6 obviously you all have other things you need to  
7 do, I'm gonna try to summarize this and you-all  
8 can tell me where I'm wrong.

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR  
10 A CONFERENCE, OFF THE RECORD.)

11 (WHEREUPON, PROCEEDINGS CONTINUED.)

12 **THE COURT:** All right, um, just for the  
13 record, on -- in regard to Arthur M. Field and his  
14 probation, what amount do you believe that  
15 Mr. Fields (sic) owes?

16 **MR. NETTLES:** I'm sorry, I couldn't hear.

17 **THE COURT:** What amount does he owe?  
18 Mr. Fields (sic)?

19 **MR. NETTLES:** According to our records when  
20 this report was issued, uh, the remaining balance  
21 due is three million, four hundred forty-eight  
22 thousand, one hundred and nineteen dollars and  
23 ninety cents.

24 **THE COURT:** All right, and how much has he  
25 paid toward that?

1 STATE OF SOUTH CAROLINA )

2 ) CERTIFICATE OF REPORTER

3 COUNTY OF ANDERSON )

4

5 I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT  
6 REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF  
7 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS  
8 A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THOSE  
9 PROCEEDINGS REQUESTED AND EVIDENCE INTRODUCED IN THE  
10 TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE  
11 COURT OF GENERAL SESSIONS FOR ANDERSON COUNTY, SOUTH  
12 CAROLINA, ON THE 9th DAY OF JULY 2014.

13 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,  
14 COUNSEL NOR INTEREST TO ANY PARTY HERETO.

15

16

17

18

19

20

21

22 VIVIAN H. CROSS, COURT REPORTER

23 TENTH CIRCUIT AT LARGE

24 AUGUST 10, 2015

25 (RESENT: FEBRUARY 1, 2016)

**FILED**

JUN 19 2013

JAMES R. PARKS  
CLERK, STATE GRAND JURY**STATE GRAND JURY OF SOUTH CAROLINA**

STATE OF SOUTH CAROLINA )

Case No. **2013GS 47 097**

v. )

**INDICTMENT FOR CONSPIRACY  
AND SECURITIES FRAUD**

FREDRICK SCOTT PFEIFFER, )

Defendants. )

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on June 19, 2013, the State Grand Jurors present upon their oath and charge as follows:

**COUNT ONE**  
**CRIMINAL CONSPIRACY**  
**(S.C. Code Ann. § 16-17-410)**

That FREDRICK SCOTT PFEIFFER, Arthur M. Field, and other persons both known and unknown to the Grand Jury, in Pickens County, from on or about some time in September 2001, to on or about some time in February 2013, did wilfully, unlawfully, and feloniously unite, combine, conspire, confederate, agree and have a tacit understanding or agreement between two or more persons, for the purpose of accomplishing an unlawful object or lawful object by unlawful means, including but not limited to securities fraud, forgery, and other crimes involving the business activities and actions of Capital Investment Funding, LLC ("CIF"), Cosimo, LLC, Monmouth Financial Group, Ltd, Bolingbroke United (England) Ltd. ("Bolingbroke"), and other related entities. All in violation of Section 16-

17-410, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

Against the peace and dignity of this State and contrary to the law in such case made and provided.

**COUNT TWO**  
**SECURITIES FRAUD**  
**(S.C. Code Ann. § 35-1-501 & § 35-1-508)**

That FREDRICK SCOTT PFEIFFER, in Pickens County, from on or about March 6, 2002 until on or about January 15, 2008, in connection with the offer, sale, or purchase of securities in Capital Investment Funding, LLC ("CIF"), directly or indirectly, did willfully make an untrue statement of a material fact or omit stating a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; to wit:

The CIF Prospectuses did not disclose to South Carolina investors that Elliot Salzman, the former President and CEO of CIF's parent company Lancaster Resources, Incorporated ("LRI"), and also the former Director and co-Manager of CIF, had been removed from those entities for improper financial transactions with LRI's money that came primarily from CIF, that as a result of Salzman's misconduct sizeable sums of LRI's money had been lost; and that CIF was continuing to do business with entities involving Elliot Salzman.

All in violation of Sections 35-1-501 and 35-1-508(a)(1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, resulting in a loss to investors of twenty thousand dollars (\$20,000) or more, and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

Against the peace and dignity of this State and contrary to the law in such case made and provided.

**COUNT THREE**  
**SECURITIES FRAUD**  
**(S.C. Code Ann. § 35-1-501 & § 35-1-508)**

That FREDRICK SCOTT PFEIFFER, in Pickens County, from on or about March 17, 2003 until on or about March 21, 2006, in connection with the offer, sale, or purchase of securities in Capital Investment Funding, LLC ("CIF"), directly or indirectly, did willfully make an untrue statement of a material fact or omit stating a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; to wit:

The CIF Prospectuses failed to adequately disclose the true nature of the interests in Cosimo and that the interest of Arthur M. Field, the principal of CIF and PFEIFFER's partner in Cosimo, was through the use of Bolingbroke and fictitious names such as "Henry Rex".

All in violation of Sections 35-1-501 and 35-1-508(a)(1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, resulting in a loss to investors of twenty

thousand dollars (\$20,000) or more, and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

Against the peace and dignity of this State and contrary to the law in such case made and provided.

**COUNT FOUR  
SECURITIES FRAUD  
(S.C. Code Ann. § 35-1-501 & § 35-1-508)**

That FREDRICK SCOTT PFEIFFER, in Pickens County, from on or about March 19, 2004 until on or about January 15, 2008, in connection with the offer, sale, or purchase of securities in Capital Investment Funding, LLC ("CIF") directly or indirectly, did willfully make an untrue statement of a material fact or omit stating a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; to wit:

The CIF Prospectus fails to adequately disclose the issue, as expressed by Arthur M. Field and PFEIFFER as well as opinion of counsel to the parent of CIF, that CIF potentially had significant civil and criminal liability contingent or otherwise for lack of compliance with the Intrastate Offering Exemption of the Federal securities laws.

All in violation of Sections 35-1-501 and 35-1-508(a)(1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, resulting in a loss to investors of twenty thousand dollars (\$20,000) or more, and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation

of the securities laws, and such conduct having not been authorized by law.

**COUNT FIVE**  
**SECURITIES FRAUD**  
**(S.C. Code Ann. § 35-1-501 & § 35-1-508)**

That FREDRICK SCOTT PFEIFFER, in Pickens County, from on or about November 6, 2006 until on or about January 15, 2008, in connection with the offer, sale, or purchase of securities in Capital Investment Funding, directly or indirectly, did willfully make an untrue statement of a material fact or omit stating a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; to wit:

PFEIFFER and Arthur M. Field concealed from investors CIF's true position with regard to its regulatory problems and Lancaster Resources, Incorporated's ("LRI") default by sending CIF funds to LRI and its president so that LRI could make its principal and interest payments.

All in violation of Sections 35-1-501 and 35-1-508(a)(1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, resulting in a loss to investors of twenty thousand dollars (\$20,000) or more, and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

**COUNT SIX**  
**SECURITIES FRAUD**  
**(S.C. Code Ann. § 35-1-501 & § 35-1-508)**

That FREDRICK SCOTT PFEIFFER, in Pickens County, from on or about some time in September 2001 until on or about February 15, 2013, in connection with the offer, sale, or purchase of securities in Capital Investment Funding, LLC, directly or indirectly, did willfully engage in an act, practice, or course of business which operated and would operate as a fraud and deceit upon any person, to wit:

As co-manager along with Arthur M. Field of Cosimo, LLC, the function of which was to make loans with investor funds provided to Capital Investment Funding, LLC ("CIF"), engaging in commercially unreasonable business practices and transactions in order to continue to generate profits, fees, and other monies for himself, his business entities, and his law firm, to the detriment of Cosimo's ability to repay the money it received from CIF.

All in violation of Sections 35-1-501 and 35-1-508(a)(1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, resulting in a loss to investors of twenty thousand dollars (\$20,000) or more, and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

Against the peace and dignity of this State and contrary to the law in such case made and provided.

A. TRUE Bill

*David F. Light*  
FOREPERSON

*Alan Wilson*  
ALAN WILSON (scw) by Jm.  
ATTORNEY GENERAL

**FILED**

JUN 19 2013

JAMES S. PARKS  
CLERK, STATE GRAND JURY**STATE GRAND JURY OF SOUTH CAROLINA**

STATE OF SOUTH CAROLINA )

VS. )

FREDRICK SCOTT PFEIFFER, )

DEFENDANT. )

CASE NO. SGJ2008-0189

**2013GS 47 09****VENUE ORDER**

The State Grand Jury of South Carolina returned a True Bill of Indictment in the above case on June 19, 2013. The Indictment is within the authority of the State Grand Jury and is otherwise in accordance with the provisions of the State Grand Jury Act, found in S.C. Code Ann. §§14-7-1600 to -1820 (Law. Co-op. 1976). Venue is appropriate under South Carolina law in the County of Pickens. Accordingly, it is hereby

ORDERED that the instant Indictment be returned to Pickens County for prosecution by the Attorney General or his designee.

  
 DEANDREA G. BENJAMIN  
 FIFTH JUDICIAL CIRCUIT  
 PRESIDING JUDGE  
 STATE GRAND JURY OF SOUTH CAROLINA

Columbia, South Carolina

June 19, 2013

**FILED**

JUN 19 2013

**STATE GRAND JURY OF SOUTH CAROLINA**JAMES G. PARKS  
CLERK, STATE GRAND JURY

STATE OF SOUTH CAROLINA

Case No. **2013GS 47 107**

v.

**INDICTMENT FOR FORGERY,  
PERJURY AND FALSE SWEARING**

FREDRICK SCOTT PFEIFFER,

Defendants.

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on June 19, 2013, the State Grand Jurors present upon their oath and charge as follows:

**COUNT ONE**  
**FORGERY**  
**(S.C. Code Ann. § 16-13-10)**

That FREDRICK SCOTT PFEIFFER, in Greenville County, on or about some time in March of 2003, did wilfully, unlawfully, and feloniously, cause and procure to be falsely made, forged, or counterfeited any writing or instrument of writing; with an intention to defraud any person; to wit: \

PFEIFFER caused a check for \$1,150,000, issued by the South Carolina Department of Transportation ("DOT") as compensation for condemnation of land owned by Credo Land Holdings, LP, to be endorsed with the fictitious name "Henry Rex" for Bolingbroke United (England) Ltd. as a mortgagee, for the purpose of hiding the interests in and control of in Bolingbroke.

All in violation of Section 16-13-10(A)(1) & (B)(1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, and involving an amount of the forgery ten thousand dollars or more; and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

Against the peace and dignity of this State and contrary to the law in such case made and provided.

**COUNT TWO**  
**PERJURY**  
**(S.C. Code Ann. § 16-9-10)**

That FREDRICK SCOTT PFEIFFER, in Greenville County, on or about September 1, 2004, did wilfully give false, misleading, and incomplete testimony under oath in a judicial proceeding in this State, to wit:

PFEIFFER testified that he did not know the owner of Bolingbroke United (England) Ltd ("Bolingbroke") personally, when in fact he did know the actual owner and beneficial owner personally, as well as that "Henry Rex" was a fictitious person created to hide the identity of interests in and control of Bolingbroke.

All in violation of Section 16-9-10(A)(1) & (B)(1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended; and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

Against the peace and dignity of this State and contrary to the law in such case

made and provided.

**COUNT THREE**  
**FALSE SWEARING**  
**(S.C. Code Ann. § 16-9-30)**

That FREDRICK SCOTT PFEIFFER, in Greenville County, on or about April 12, 2011, did wilfully and knowingly swear falsely in taking any oath required by law that is administered by a person directed or permitted by law to administer such oath, to wit:

PFEIFFER testified falsely when he stated "I don't know" when asked who "Henry Rex" is, when in fact he knew that "Henry Rex" was a fictitious person created to hide interests in and control of Bolingbroke United (England) Ltd ("Bolingbroke").

All in violation of Section 16-9-30, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended; and such conduct involving a violation of Chapter 1, Title 35 of the Uniform Securities Act, or a crime related to securities fraud or a violation of the securities laws, and such conduct having not been authorized by law.

Against the peace and dignity of this State and contrary to the law in such case made and provided.

A. T. R. V. E. Bill

[Signature]  
FOREPERSON

A. Dan Wilson  
ALAN WILSON (scw) by J. M. S.  
ATTORNEY GENERAL

FILED

JUN 19 2013

## STATE GRAND JURY OF SOUTH CAROLINA

JAMES H. PARKS  
CLERK, STATE GRAND JURY

STATE OF SOUTH CAROLINA )

VS. )

FREDRICK SCOTT PFEIFFER, )

DEFENDANT. )

CASE NO. SGJ2008-0189

2013GS 47 10<sup>th</sup>

## VENUE ORDER

The State Grand Jury of South Carolina returned a True Bill of Indictment in the above case on June 19, 2013. The Indictment is within the authority of the State Grand Jury and is otherwise in accordance with the provisions of the State Grand Jury Act, found in S.C. Code Ann. §§14-7-1600 to -1820 (Law, Co-op. 1976). Venue is appropriate under South Carolina law in the County of Greenville. Accordingly, it is hereby

ORDERED that the instant Indictment be returned to Greenville County for prosecution by the Attorney General or his designee.

  
DEANDREA G. BENJAMIN  
FIFTH JUDICIAL CIRCUIT  
PRESIDING JUDGE  
STATE GRAND JURY OF SOUTH CAROLINA

Columbia, South Carolina

June 19, 2013

**FILED**

SEP 18 2013

**PLEA AGREEMENT****JAMES R. PARKS  
CLERK, STATE GRAND JURY**

(1) **Plea:** Fredrick Scott Pfeiffer agrees to plead guilty to, and the State agrees to accept a plea of guilty to, Counts One (Conspiracy), Three (Securities Fraud \$20,000 or more), and Six (Securities Fraud \$20,000 or more), as set forth in Indictment 2013-GS-47-09. It is agreed as a negotiated term of this plea that the sentence given on Count One (Conspiracy) will be concurrent to the sentences given on the Securities Fraud Counts (Three and Six).

This plea agreement, if consummated through sentencing and restitution, will resolve Mr. Pfeiffer's criminal liability for South Carolina securities fraud crimes, and state crimes related to securities fraud, during and related to Mr. Pfeiffer's involvement with Capital Investment Funding, LLC ("CIF"), and Cosimo, LLC. It does not resolve any state or federal tax liability nor any criminal liability in jurisdictions other than the State of South Carolina. This Agreement in no way limits or affects Mr. Pfeiffer's potential exposure to further criminal prosecution by the South Carolina Attorney General's Office, any Solicitor's Office in the State of South Carolina, or the United States Attorney for conduct which is not a basis for his indictment and criminal prosecution by the State Grand Jury of South Carolina.

Upon Mr. Pfeiffer entering a plea as set forth above and herein and its acceptance by the trial court, and upon consummation of the plea through sentencing and restitution, the State within a reasonable time will dismiss the remaining counts in Indictments 2012-GS-47-08, 2013-GS-47-09, and 2013-GS-47-10.

(2) **Time:** It is the intent of the parties that time is of the essence, and the actual plea of guilty in this matter must be accomplished by September 30, 2013. Unless the parties agree in writing to extend this time limit, failure to consummate a plea of guilty by this time shall render this agreement null and void. Once the plea of guilty is entered by Mr. Pfeiffer, it may not be withdrawn for any reason.

(3) **Sentencing:** Sentencing is to occur the same day as the plea; however, it may be deferred by written agreement of both parties, or be deferred by Order of the trial court. The State retains the right to call the order of plea and/or sentencing for Mr. Pfeiffer and any codefendant.

(4) **Restitution:** Additionally, at or within a reasonable time of the sentencing proceeding, a restitution hearing will be held to determine the amount of any restitution Mr. Pfeiffer owes to the victims in this matter. Nothing in this provision prevents the parties from agreeing as to the restitution amount prior to or at any such hearing. Mr. Pfeiffer shall get credit for any amounts finally paid to the CIF Receiver through the settlement in CIF's civil malpractice action against Mr. Pfeiffer (2011-CP-23-7359). Mr. Pfeiffer agrees that he will agree to and facilitate the release of the remaining \$300,000 in settlement funds to the Receiver for CIF. Mr. Pfeiffer remains responsible for the entire

amount of restitution if for any reason the \$300,000 in settlement funds is not released or any amount of the \$840,000 settlement amount is ordered to be returned from the Receiver to the insurer.

Mr. Pfeiffer shall provide at least three (3) days prior to the restitution hearing a listing of all assets in which he has a direct, indirect, or beneficial interest, including all domestic and foreign assets or accounts. This submission of assets shall include a listing of all direct, indirect, or beneficial interests Mr. Pfeiffer has in any domestic or foreign business entity, including direct, indirect or beneficial interests in entities by a conditional assignment of membership interests. Mr. Pfeiffer shall provide a list of all assets in which he had a direct, indirect, or beneficial interest but disposed of that interest since April 6, 2012. Mr. Pfeiffer will also provide copies of his 2011 and 2012 federal tax returns. These submissions shall be made under penalty of perjury and adopted by Mr. Pfeiffer under oath at the hearing.

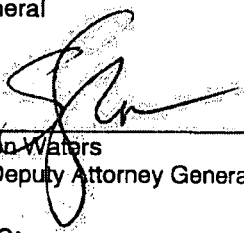
**(5) Presentations at Proceedings:** The Attorneys for the State reserve the right to present, summarize, and discuss all evidence, statements, and information they deem appropriate in establishing a factual basis for the plea, and for assessing in sentencing the nature, extent, and effect of Mr. Pfeiffer's culpability.

However, the parties also agree to discuss with each other in good faith, prior to the plea proceeding, their respective factual and sentencing presentations. Further, as a negotiated term the State agrees that it will not ask for any specific sentence and that any sentence will be in the discretion of the sentencing court. The State is permitted at the end of its presentation to ask the sentencing court to fashion an appropriate sentence given the State's presentation as to the nature, extent, and effect of Mr. Pfeiffer's crimes and any other relevant factors. Mr. Pfeiffer understands that the victims in this matter have a statutory right to speak at sentencing and this agreement in no way limits any presentation a victim wishes to make.

**(6) Waiver of direct appeals and collateral attacks:** Mr. Pfeiffer hereby waives any entitlement to and agrees never to pursue any and all direct appeals, post-conviction relief applications and appeals therefrom, state habeas corpus petitions and appeals therefrom, federal habeas corpus petitions and appeals therefrom, or any and all other methods of direct or collateral review of these convictions and sentences. Mr. Pfeiffer hereby acknowledges that he fully understands the nature and extent of the direct and collateral review he is waiving and is making the waiver in this provision freely, intelligently, and voluntarily. The **only exception** to this waiver of appellate and collateral attack actions is that Mr. Pfeiffer may at his option file a direct appeal only as to the amount of any restitution to the extent that such a direct appeal is permitted by law. Such an appeal will not affect the validity of the underlying convictions for conspiracy and securities fraud.

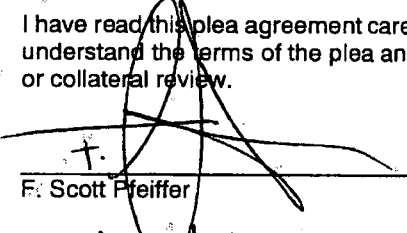
It is the intent of the parties that this agreement and the resulting pleas and sentences finally conclude any and all existing or possible legal proceedings related to indictment 2012-GS-47-0008, 2013-GS-47-0009, and 2013-GS-47-0010 whether direct or collateral, and that all that remains is for Mr. Pfeiffer to serve any sentence given by the Court in the manner provided for by state law.

ALAN WILSON  
Attorney General

By:   
S. Creighton Waters  
Assistant Deputy Attorney General

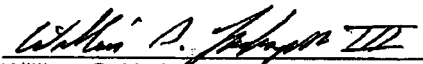
Date: 9/18/13

I have read this plea agreement carefully and reviewed each part of it with my attorney. I understand the terms of the plea and voluntarily agree to it, including the waiver of direct or collateral review.

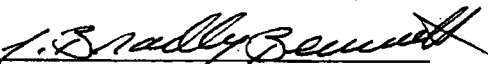
  
F. Scott Pfeiffer

Date: August 12, 2013

I represent Mr. Pfeiffer as legal counsel. I have carefully reviewed every part of this plea agreement with Mr. Pfeiffer. To my knowledge, the decision to make this plea agreement is informed and voluntary.

  
William G. Yarborough, III, Esquire

Date: 8/12/13

  
J. Bradley Bennett, Esquire

Date: 8/12/13

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SECRET

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

October 15, 2016

/s/ Brian T. Petrano  
 Brian T. Petrano  
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 S.C. Attorney General's Office  
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 Attorney for Appellant

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