

AO 245B (Rev. AO 11/16-CAN 04/18) Judgment in Criminal Case

UNITED STATES DISTRICT COURT Northern District of California

UNITED STATES OF AMERICA

v.

Joseph Giraudo

) **JUDGMENT IN A CRIMINAL CASE**

)

) USDC Case Number: CR-14-00534-001 CRB

) BOP Case Number: DCAN314CR00534-001

) USM Number: 20053-111

) Defendant's Attorney: Matthew Jacobs and Erica Connolly
(Retained)

Date of Original Judgment: 5/8/2018

(or Date of Last Amended Judgment)

- | | |
|--|---|
| <input type="checkbox"/> Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
<input type="checkbox"/> Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
<input type="checkbox"/> Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
<input type="checkbox"/> Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)
<input type="checkbox"/> Other: _____ | <input type="checkbox"/> Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
<input type="checkbox"/> Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
<input type="checkbox"/> Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3559(C)(7))
<input type="checkbox"/> Direct Motion to District Court Pursuant 28 U.S.C. § 2255 or G18 U.S.C. § 3559(C)(7)
<input checked="" type="checkbox"/> Modification of Restitution Order (18 U.S.C. § 3664) |
|--|---|

THE DEFENDANT:

- pleaded guilty to count(s): 1 and 6 of the Indictment
- pleaded nolo contendere to count(s): _____ which was accepted by the court.
- was found guilty on count(s): _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
15 U.S.C. § 1	Bid Rigging	January 11, 2011	1 and 6


The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s): _____
- Count(s) _____ is/are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

5/31/2018

Date of Imposition of Judgment


Signature of Judge

The Honorable Charles R. Breyer
Senior United States District Judge

Name & Title of Judge

6/4/2018

Date

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 15 months. This term consists of terms of 15 months on each of Counts 1 and 6, all counts to be served concurrently.

The appearance bond is hereby exonerated, or upon surrender of the defendant as noted below. Any cash bail plus interest shall be returned to the owner(s) listed on the Affidavit of Owner of Cash Security form on file in the Clerk's Office.

The Court makes the following recommendations to the Bureau of Prisons:
To be housed at a facility adequate to defendant's medical needs, and preferably at the facility in Lompoc.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ am/pm on _____ (no later than 2:00 pm).

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

on 7/9/2018 (no later than 2:00 pm).

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: Three years. This term consists of terms of three years on each of Counts 1 and 6, all such terms to run concurrently.

MANDATORY CONDITIONS OF SUPERVISION

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance.
- 3) You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
- 4) You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
- 5) You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
- 6) You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
- 7) You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court, and bring about improvements in your conduct and condition.

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of RELEASE, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must follow the instructions of the probation officer related to the conditions of supervision.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

If the probation officer determines that you pose a risk to a third party, the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk. *(check if applicable)*

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision upon a finding of a violation of probation or supervised release.

(Signed) _____
Defendant

Date

U.S. Probation Officer/Designated Witness

Date

SPECIAL CONDITIONS OF SUPERVISION

1. You shall pay any restitution, fine and special assessment that is imposed by this judgment and that remains unpaid at the commencement of the term of probation.
2. You shall not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons.
3. You shall perform 1,200 hours of community service at a homeless shelter, as directed by the probation officer.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200	N/A	\$ 2,000,000	\$206,466.11

- The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
Aegis Wholesale Corp	1,000.00	1,000.00	
Ally Bank	14,150.00	14,150.00	
Aurora Loan Services	2,500.00	2,500.00	
Bank of America, N.A.	10,416.66	10,416.66	
Burkholder, David	3,000.00	3,000.00	
Capital One Bank	7,000.00	7,000.00	
HSBC Mortgage Services	3,500.00	3,500.00	
CitiMortgage	15,333.32	15,333.32	
People's Choice Home Loan, Inc.	1,500.00	1,500.00	
JPMorgan Chase Bank, N.A.	60,658.32	60,658.32	
Deutsche Bank National Trust	7,083.33	7,083.33	
Morgan Stanley & Co. LLC	666.66	666.66	
Ocwen Loan Servicing, LLC	18,000.00	18,000.00	
OneWest Bank, a division of CIT Bank, N.A.	2,375.00	2,375.00	
Paul Financial LLC	1,000.00	1,000.00	
Provident Funding Associates, L.P.	2,166.00	2,166.00	
MTGE Investment Corp.	2,400.00	2,400.00	
SFG Bancorp dba PiggyBank Home Loans	3,333.33	3,333.33	
Residential Mortgage Capital	2,000.00	2,000.00	
U.S Bank Home Mortgage	2,000.00	2,000.00	
The Bank of New York Mellon Corporation	1,666.66	1,666.66	
GE Capital	2,500.00	2,500.00	
Suntrust Mortgage, Inc.	1,000.00	1,000.00	
Wells Fargo Bank, N.A.	32,216.83	32,216.83	
Walker, Burl	2,500.00	2,500.00	
Curley, David	4,500.00	4,500.00	
Northwest Trustee Services, Inc	2,000.00	2,000.00	
TOTALS	\$206,466.11	\$206,466.11	

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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DEFENDANT: Joseph J Giraudo

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- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine/restitution.
 - the interest requirement is waived for the fine/restitution is modified as follows:

SCHEDULE OF PAYMENTS

Having assessed the defendant’s ability to pay, payment of the total criminal monetary penalties is due as follows*:

- A Lump sum payment of _____\$2,206,666.11_____ due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, or E, and/or F below); or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant’s ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
 The fine and special assessment must be paid in one lump sum no later than 15 days from entry of judgment. Any established payment plan does not preclude enforcement efforts by the US Attorney’s Office if the defendant has the ability to pay more than the minimum due. Fine payments shall be made to the Clerk of U.S. District Court, Attention: Financial Unit, 450 Golden Gate Ave., Box 36060, San Francisco, CA 94102.
 Restitution must be paid in full no later than 15 days from the entry of the amended judgment. Any established payment plan does not preclude enforcement efforts by the Department of Justice if the defendant has the ability to pay more than the minimum due. The restitution payments shall be made to the Clerk of U.S. District Court, Attention: Financial Unit, 450 Golden Gate Ave, Box 36060, San Francisco, CA 94102.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s): _____
- The defendant shall forfeit the defendant’s interest in the following property to the United States:
- The Court gives notice that this case involves other defendants who may be held jointly and severally liable for payment of all or part of the restitution ordered herein and may order such payment in the future, but such future orders do not affect the defendant’s responsibility for the full amount of the restitution ordered.

* Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.