

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 v.

99-CR-00997 (JFK)

6 MARTIN A. ARMSTRONG,

7 Defendant.

8 New York, N.Y.
9 August 17, 2006
4:05 p.m.

10 Before:

11 HON. JOHN F. KEENAN,

12 District Judge

13 APPEARANCES

14 MICHAEL J. GARCIA

15 United States Attorney for the
16 Southern District of New York

17 ALEXANDER H. SOUTHWELL

Assistant United States Attorney

18 DAVID COOPER

19 STEVEN LEGON

Attorneys for Defendant

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1 (In open court)

2 (Case called)

3 THE COURT: And we have Mr. Cooper and Mr. Legon here.
4 How do you do? Mr. Armstrong, good afternoon to you. And we
5 have Mr. Southwell for the government. All right. Everybody
6 may be seated.

7 MR. SOUTHWELL: Good afternoon, your Honor.

8 THE COURT: Would you swear the defendant, please.

9 THE CLERK: Please rise, sir. And raise your right
10 hand.

11 (Defendant sworn)

12 THE COURT: All right. Mr. Armstrong, you can stay
13 seated if you wish. I'm going to suggest to our court reporter
14 that you move over a little to the right so that you're between
15 me and Mr. Armstrong and Mr. Cooper so that that way you can
16 hear everything.

17 All right. What is your full name, sir?

18 THE DEFENDANT: Martin A Armstrong.

19 THE COURT: Okay. And how old are you, Mr. Armstrong?

20 THE DEFENDANT: I think 57.

21 THE COURT: All right. And is English your native
22 language?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. And you can read, write and
25 speak and understand English, is that correct?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you waive the reading of the indictment
3 or do you require me to read it to you?

4 THE DEFENDANT: I waive the reading of the indictment.

5 THE COURT: All right. How far did you go in school,
6 sir?

7 THE DEFENDANT: To college. I didn't finish it,
8 though.

9 THE COURT: You didn't finish but you started college?

10 THE DEFENDANT: Yeah. Yes, your Honor.

11 THE COURT: When you were arrested, where were you
12 living? On these charges. I'm not talking anything about the
13 contempt. Where were you living when you were arrested on
14 these charges?

15 THE DEFENDANT: New Jersey, your Honor.

16 THE COURT: Okay. And are you married or single?

17 THE DEFENDANT: Single.

18 THE COURT: And I think I know, but I always ask.
19 Tell me what you did for a living.

20 THE DEFENDANT: Primarily I did economic analysis.

21 THE COURT: Okay. And have you ever been under the
22 care of a doctor or psychiatrist for mental or emotional
23 problems?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Have you ever been hospitalized or treated

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1 for alcoholism or narcotic addiction or any other kind of drug
2 abuse?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Other than maybe being a little nervous
5 because this is very serious business, are you feeling all
6 right this afternoon?

7 THE DEFENDANT: A little exhausted. I haven't had
8 much sleep. But...

9 THE COURT: Well, do you want to wait a day or two?

10 THE DEFENDANT: No, no, no.

11 THE COURT: Are you sure about that.

12 THE DEFENDANT: No. I'm alert, your Honor.

13 THE COURT: Okay. In your view, Mr. Cooper and
14 Mr. Legon, is the defendant competent and able to appropriately
15 plead guilty?

16 MR. COOPER: Yes, your Honor.

17 MR. LEGON: Yes, your Honor.

18 THE COURT: All right. Did you receive a copy of the
19 indictment and did you go over it with your lawyers?

20 THE DEFENDANT: You're talking about several years
21 ago.

22 THE COURT: Well, I'm talking about, did you receive
23 also a copy of the indictment and read particularly count 1 of
24 the indictment, which is what you want to plead to, I
25 understand?

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1 THE DEFENDANT: Yes, yes.

2 THE COURT: You did go over count 1.

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: All right. Did the lawyers explain to you
5 the charges in count 1 and do you understand the charges?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Okay. Did you tell your lawyers the whole
8 truth about the case?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Did you hold anything back from them?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Now as you are well aware, you have the
13 right to continue to plead not guilty, to persist in that plea
14 and to go to trial. Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: And if you were to continue to plead not
17 guilty, you have the right to a speedy -- it's been delayed for
18 several years, but you have the right to a speedy and a public
19 trial in front of a jury of 12 people; and you know I set a
20 trial date for October. Is that right?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Okay. Now you have the right to be
23 represented by a lawyer at trial and at every other stage of
24 the proceeding. Now I just appointed another new lawyer for
25 you. All together you have four lawyers. But if for some

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1 reason none of the four could represent you and you didn't have
2 a lawyer, a lawyer would still be appointed to represent you
3 free of charge. You understand that, right?

4 THE DEFENDANT: Yes, your Honor. I never met the
5 fourth lawyer who --

6 THE COURT: Well, he may not have come to see you, but
7 he's been appointed. I've appointed a man by the name of
8 Kartagener about three weeks ago.

9 Now if I accept your guilty plea, there will be no
10 further trial of any kind. Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And if you were to plead or to continue to
13 plead not guilty and if you went to trial, at trial you would
14 be presumed to be innocent unless and until the government
15 proves that you were guilty beyond a reasonable doubt to the
16 satisfaction of all 12 jurors. Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: At a trial you would have the right to
19 confront and cross-examine all the witnesses that were called
20 against you by the government. In other words, your lawyers
21 would have an absolute right to cross-examine the witnesses and
22 you would have the right to confront them. Do you understand
23 that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Okay. And if you wanted it, you could be

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1 tried by me without a jury, in which event the same things
2 would be true. That is, the burden would still be on the
3 government and you would still have all the constitutional
4 rights that I set forth for you, and I will raise one more
5 constitutional right that I didn't read you. Do you understand
6 that you would have all these rights and the government would
7 still have to prove you were guilty beyond a reasonable doubt?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right. At a trial you would have the
10 right to remain silent and no inference could be drawn against
11 you by reason of your silence. On the other hand, if you
12 wanted to, you could take the witness stand and testify in your
13 own defense. Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Okay. Now if I accept your offer to plead
16 guilty here this afternoon, you're giving up all these rights
17 that I just went through with respect to the charges against
18 you, there will be no further trial of any kind, and I could
19 sentence you just as if the jury had brought in a verdict of
20 guilty against you. Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Now before I get into the sentence, I want
23 to ask you three specific questions. I'm going to talk to you
24 about what the maximum sentence is, what can happen, but there
25 are three things I want to ask you first so that I want to make

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1 sure you understand me. And if you don't, I want you to confer
2 with your lawyer.

3 Do you understand that under the law, it is up to me
4 whether the sentence that you receive in this case will run
5 concurrently, that means at the same time as, or consecutively,
6 which means after, the incarceration you are now serving for
7 civil contempt imposed by Judge Owen? Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right. Do you understand that if I do
10 not rule that the sentence in this case should run
11 concurrently, then it will run consecutively? Do you
12 understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Do you understand that if your sentence in
15 this case runs consecutively, in other words, after the civil
16 contempt sentence, then your time under the sentence in this
17 case is not going to start to run until your period of
18 incarceration for the civil contempt is ended? Do you
19 understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Okay. Now I'm going ask you this again,
22 but I'm going to ask you right at the outset. Has anybody made
23 any promise to you about sentence in this case? Have I
24 promised you anything?

25 THE DEFENDANT: No, other than the --

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1 THE COURT: Well, we're going to get to what the
2 maximum is. Okay. You can't be sentenced to anything more
3 than the maximum. I understand that. So in that sense, you're
4 aware of what the maximum is, is that correct?

5 THE DEFENDANT: Yes, yes.

6 THE COURT: All right. But has anybody promised you
7 what the sentence will be within that range up to the maximum?
8 Has anybody promised you?

9 THE DEFENDANT: No.

10 THE COURT: Okay. Now so if I accept your plea to
11 count 1 of the indictment, the maximum sentence in count 1 is
12 five years in prison, do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: You have to answer verbally. And do me a
15 favor. Put your hands down because you're covering your mouth,
16 which makes it a little harder for the court reporter.

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Okay. Fine. So you understand that the
19 charge of conspiracy to commit securities fraud, commodities
20 fraud and wire fraud carries a maximum of up to five years, is
21 that right?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: And the maximum fine under count 1 is the
24 greatest of either a quarter of a million dollars or twice the
25 gross pecuniary gain that you derived from the offense or twice

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1 the gross pecuniary loss to people who suffered as a result of
2 the offense. Do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: All right. Do you understand that there
5 has to be a special assessment, a so-called mandatory special
6 assessment of a hundred dollars? Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: That, of course, is the least of your
9 worries.

10 Do you also understand that I am required to order
11 restitution in accordance with sections 3663, 3663(a) and 3664
12 of Title 18 of the United States Code, in other words, I have
13 to order restitution, again, I don't have any choice about
14 that? Do you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Okay. Now according to the government,
17 the Base Offense Level is 6. That's in this agreement that you
18 entered into with the government. And there's an 18-level
19 upward adjustment or increase in the level that takes you up to
20 24. And there are other increases, which gets you all the way
21 up to an offense level of 31. You know you have no criminal
22 record, right?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: But although the guideline range would be
25 108 to 135 months, that's nine years up to nine months less

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1 than 12 years, so that would I guess be 11 and three, that's
2 the guideline range, but I can't sentence you to that because
3 the maximum is five years. You understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. Also, according to the
6 guidelines, at a level 31, the applicable fine range -- you
7 know I can fine you as well as ordering the restitution, we
8 went over the fact it could be all the way up to a quarter of a
9 million or more even, the guideline range is 15,000 to
10 \$150,000. Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: All right. Do you understand that in
13 sentencing you, I have to consider the guidelines? I don't
14 have to follow them exactly anymore, they're advisory, they're
15 not binding, but I do have to consider them. I have to study
16 them before I sentence you. Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: All right. Do you understand you have the
19 right, as I understand it, to seek a sentence below the
20 guidelines sentence, which the maximum is below the
21 guideline -- and does he have the right to move for sentence
22 below the statutory maximum?

23 MR. SOUTHWELL: Yes, your Honor, under 3553(a)
24 factors.

25 THE COURT: Okay. So you understand you are reserving

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1 that right? In other words, you can apply for me to give you
2 less than the five years, do you understand that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And the likelihood, although they haven't
5 told me this, I don't think, the likelihood is the government's
6 going to oppose that, is that right?

7 MR. SOUTHWELL: That is, your Honor.

8 THE COURT: Okay. Fine. You understand all that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: All right. You understand that I'm the
11 one that fixes the sentence, nobody else?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand that if I sentence you
14 to 60 months or less, you have no right to file an appeal? Do
15 you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: You understand you have no right to bring
18 a habeas corpus application?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: You have no right to contest your plea
21 because the government withheld -- I'm not saying they are
22 withholding, but I'm saying that you could not argue that there
23 was a withholding of what is called exculpatory evidence, do
24 you understand that?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: And you're waiving any right to have DNA
2 testing, do you understand that, concerning any physical
3 evidence?

4 THE DEFENDANT: I don't think any exists in this case.

5 THE COURT: I didn't think it did either. But it's in
6 the plea agreement. Do you understand that?

7 THE DEFENDANT: They tell me that's standard language.
8 It's strange. But yes, your Honor.

9 THE COURT: All right. Whether they have standard
10 language or not, it's the last full paragraph of page 5 of the
11 plea agreement. Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Was the plea agreement explained to you by
14 Mr. Cooper and his colleague and your other lawyer Mr. Legon --

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: -- before you signed the plea agreement?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: And is this your signature on the line
19 where it reads Martin Armstrong agreed and consented to? Here,
20 I have the original. Mr. Ryan will bring it down to you, show
21 it to you. Is this your signature?

22 And under it, Mr. Cooper, would you acknowledge that
23 it is your signature also. Because neither of you write in a
24 fashion that I can read. You both look like you should be
25 doctors. It looks like a prescription.

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1 MR. COOPER: That's my scribble, your Honor.

2 THE COURT: Is that your signature, Mr. Cooper?

3 THE DEFENDANT: Yes.

4 MR. COOPER: That's my signature.

5 THE COURT: All right. So that's both Mr. Armstrong

6 and Mr. Cooper signed it and they both acknowledge it. And

7 Mr. Southwell writes like the two of you. Is this

8 Mr. Southwell's signature?

9 MR. SOUTHWELL: It is, your Honor.

10 THE COURT: All right.

11 MR. SOUTHWELL: And Mr. Johnson also signed.

12 THE COURT: WFJ something also signed it for the
13 government.

14 MR. SOUTHWELL: Yes, your Honor.

15 THE COURT: As the deputy chief of security.

16 Do you have any questions about the plea agreement?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: You're not married you told me, right?

19 THE DEFENDANT: (Nodding.)

20 THE COURT: Is that right?

21 THE DEFENDANT: Correct, your Honor.

22 THE COURT: Okay. You've been to weddings, though,
23 I'm sure. Remember the guy at the wedding says, the guy who
24 performs the ceremony, he says speak now or forever hold your
25 peace? Do you have any questions at all about the plea

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1 agreement?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Are you satisfied with the representation
4 that counsel has supplied to you?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: All right. Now it's possible -- I have no
7 idea what happened since I wasn't privy to any of this. First
8 I learned about any of it was I think Tuesday, somebody told me
9 you might be coming in. It is entirely possible that the
10 government, that is, Mr. Southwell and/or other people in his
11 office, met or talked with Mr. Cooper or Mr. Legon or both of
12 them in your absence or either they talked face to face or they
13 talked over the phone or both. Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And those conversations gave rise to this
16 plea agreement which you acknowledge that you signed. Correct?

17 THE DEFENDANT: Correct.

18 THE COURT: All right. The plea agreement is
19 acceptable to the Court. Are there any other questions,
20 Mr. Southwell, or Mr. Cooper, that you want me to ask about the
21 plea agreement? Because if there are, tell me.

22 MR. SOUTHWELL: Not related to the plea agreement
23 except with supervised release. I may have missed your Honor
24 explaining the supervised release provision, but --

25 THE COURT: I probably did. You're probably right. I

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1 don't remember saying it. Thank you. Thank you very much.

2 When you get out of prison, you're going to have to
3 serve a period of supervised release of three years. Do you
4 understand that? Of up -- I'm sorry, of up to three years. It
5 doesn't have to be three years, can be all the way up to three
6 years. Do you understand that?

7 THE DEFENDANT: Yes. That's also advisory now,
8 correct, with the guidelines.

9 THE COURT: Do you understand that what supervised
10 release means is that when I sentence you, I can set and will
11 set certain conditions relating to your release when you get
12 out of prison and you have to abide by those conditions and by
13 the rulings and regulations of the probation department? Do
14 you understand that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: All right. If you violate any of those
17 rules, regulations or conditions, I can have you brought back
18 before me and sentence you to the whole time of supervised
19 release. Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Thank you, Mr. Southwell. I did not ask
22 about supervised release. I should have. Thank you for
23 bringing it to my attention.

24 All right. Have you been induced to offer to plead
25 guilty by reason of any promise or statement by anybody to the

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1 effect that you would get leniency or special treatment or
2 consideration by pleading guilty instead of going to trial?

3 THE DEFENDANT: Other than what's in the plea
4 agreement, correct.

5 THE COURT: Well, what's in the plea agreement is in
6 the plea agreement. Do you understand that I can give you up
7 to five years?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. Do you understand that all the
10 fines and monetary things I talked about and the supervised
11 release I talked about you can be sentenced to, you understand
12 that?

13 THE DEFENDANT: Correct, I understand.

14 THE COURT: Have I made you any promise, other than I
15 won't give you more than five years?

16 THE DEFENDANT: Exactly.

17 THE COURT: 'Cause I can't give you more than five
18 years, you understand that?

19 THE DEFENDANT: Yes. That's the only --

20 THE COURT: All right.

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Anybody else promise you anything?

23 THE DEFENDANT: Pizza for lunch. That was about it.

24 THE COURT: What say?

25 THE DEFENDANT: Piece of pizza for lunch. That was

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1 about it.

2 THE COURT: I didn't really hear what you said, but --
3 what did he say?

4 MR. COOPER: He said he was promised a pizza for
5 lunch, which he received.

6 MR. SOUTHWELL: Which was provided by defense counsel.

7 THE COURT: There's nothing humorous or funny about
8 any of this. Nobody promised you anything.

9 THE DEFENDANT: No.

10 THE COURT: Are you offering to plead guilty of your
11 own free will?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Have you been induced to offer to plead
14 guilty by any fear or pressure or threat or force or anything
15 like that?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: Is there anything you want to ask me at
18 this time about the charges in count 1 of the indictment, or
19 the consequences of pleading guilty?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Are you offering to plead guilty because
22 in truth and in fact you are guilty?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Does the government represent that it has
25 sufficient evidence to establish a prima facie case?

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1 MR. SOUTHWELL: We do so represent, your Honor.

2 THE COURT: And Mr. Cooper, do you know of any valid,
3 legal reason why Mr. Armstrong should not plead guilty or do
4 you know of any valid legal defense that would likely prevail
5 if he went to trial?

6 MR. COOPER: No, your Honor.

7 THE COURT: All right. I suggested when I first heard
8 about the possibility of a disposition on Tuesday that an
9 allocution should be prepared for you to read to me --
10 remember, you're under oath and you have to tell me the
11 truth -- telling me what it is that you did wrong. Now read it
12 slowly and read it nice and loud, please.

13 THE DEFENDANT: Beginning in about 1992, I sold
14 promissory notes that were known generally as Princeton notes
15 to several investors, mostly who were corporations in Japan. I
16 continued to sell Princeton notes to customers in Japan until
17 approximately August 1999.

18 In connection with selling those notes, I informed the
19 investors that I would be investing money in various -- in a
20 variety of investments, including trading commodities futures,
21 and in fact I did -- I did conduct trading in commodities
22 futures contracts for the benefit of note holders generally.
23 And I conducted that trading and commodity trading accounts I
24 opened and which were maintained at Republic New York
25 Securities based in New York City.

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1 THE COURT: Some in Manhattan?

2 THE DEFENDANT: Pardon?

3 THE COURT: Some in Manhattan?

4 THE DEFENDANT: Well, the exchange is in Manhattan,
5 yes.

6 THE COURT: Okay, fine. Go ahead.

7 THE DEFENDANT: Among the things that were represented
8 to investors by my agents in Japan on my behalf and with my
9 knowledge when the investments were solicited was that
10 investor's money would be held in accounts at Republic New York
11 Securities, and my agents also told investors that their monies
12 in those accounts would be separate and segregated from
13 Republic's own accounts and would not be available to Republic
14 for its own benefit.

15 Over the course of time the trading I conducted in
16 commodity futures resulted in some millions of dollars of
17 trading losses. I agreed with other people who worked in my
18 office not to disclose to investors the fact that losses had --
19 substantial losses had been experienced in this trading of
20 futures. And we did not disclose it.

21 Among other things, I asked Republic to issue letters
22 were sent by my company to investors concerning how much money
23 was in fact in the accounts assigned to them. I and others who
24 worked with me in my company agreed to and did send out those
25 letters, even though they knew I knew the amounts in the

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1 accounts were less than the letters stated.

2 In addition, in about August 1999 Republic requested
3 that I merge the -- the investors' segregated accounts with
4 trading accounts in which I sustained a trading loss,
5 substantial trading losses. And Republic further requested
6 that monies in the investor accounts be used to offset trading
7 losses in trading accounts. I agreed to these requests, the
8 net effect of which was to substantially reduce the pool of
9 money available to repay the Princeton notes.

10 THE COURT: Keep your voice up. Go ahead.

11 THE DEFENDANT: This was contrary to the promises I
12 had made and the representations I and agents continued to make
13 to investors that the accounts pertaining to the Princeton
14 notes were and would not be accessible by Republic itself for
15 any purposes.

16 In August 1999 I did inform the investors that I had
17 agreed to -- I did not inform investors that I had agreed to
18 Republic's request to merge the funds in the investors'
19 accounts with my trading accounts, nor did I inform the
20 investors that that merger had in fact occurred, nor did people
21 who worked in my office take steps to disclose in fact to the
22 investors that the funds in their accounts had been used to pay
23 for the losses in the trading accounts in this way.

24 I knew at the time that my representations to
25 investors that the accounts would be kept separate was an

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1 important factor in the investors' decision to hold the
2 Princeton notes. I understand at that time that by falsely
3 representing the situation of Republic with respect to
4 segregation of investors' funds by falsely representing to the
5 investors that my trading performance was better than it
6 actually was was -- or what -- what I was doing was wrong and
7 improper.

8 THE COURT: What I was doing was wrong and improper,
9 is that what you said, sir?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay. Continue.

12 THE DEFENDANT: I knew that my false and misleading
13 representations and half truths in these respects were
14 important to investors in deciding to invest with me and in the
15 Princeton notes and deciding to keep their investments with me.
16 In taking these actions and agreeing with others to do so, I
17 knew at the time that I was deceiving the investors in
18 connection with the purchase of Princeton notes in connection
19 with trading of commodity investments.

20 In the course of and in furtherance of these
21 activities, I and others involved in these dealings with me
22 used the United States mails and commerce -- commercial
23 interstate and foreign carriers interstate and international
24 wires and other means of communication in interstate commerce.

25 During the course of and in furtherance of this

1 fraudulent conduct, I regularly communicated by telephone, fax
2 or mail with Republic personnel in New York City and also knew
3 that Republic employees in Philadelphia would regularly
4 communicate similarly with employees in Republic's New York
5 offices in furtherance of fraudulent conduct.

6 THE COURT: All right. Frankly, to me, the plea seems
7 more than adequate, but I will nevertheless ask counsel on both
8 sides, is the plea adequate for your purposes, Mr. Southwell?

9 MR. SOUTHWELL: Yes, your Honor.

10 THE COURT: Is the plea in your view adequate, does it
11 cover the crime charged in count 1 of the indictment?

12 MR. COOPER: Yes, your Honor.

13 THE COURT: And that question was addressed to
14 Mr. Cooper.

15 I agree with counsel. I accept the plea. I direct
16 that the plea be entered upon the minutes of the Court.

17 I direct that the probation department prepare a
18 presentence report for the Court in this case, and I set
19 sentence down for Wednesday, January 3rd at 9:30 in the
20 morning.

21 I would suggest that you supply a copy of the
22 allocution to the court reporter because she's going to have to
23 type the minutes up. I think it might help her. If you do
24 that, we'll arrange to have it xeroxed for her immediately and
25 brought right back up to you.

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Thank you very much. All right.

MR. SOUTHWELL: Thank you, your Honor.

MR. COOPER: Thank you, your Honor.

MR. LEGON: Thank you, your Honor.

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