

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

1 UNITED STATES OF AMERICA .
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4
5 vs. . DOCKET 08-0512
6 JACK W. SNYDER . FEBRUARY 9, 2009
7 . GREENBELT, MARYLAND
8

9 TRANSCRIPT OF SENTENCING
10 BEFORE THE HONORABLE DEBORAH K. CHASANOW
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

13 FOR THE GOVERNMENT: STACY DAWSON BELF, ESQ.
14 ANNALOU TIROL, ESQ.
ASSISTANT U.S. ATTORNEYS

15 FOR THE DEFENDANT: DAVID SCHERTLER, ESQ.
16 VERONICA JENNINGS, ESQ.

17 Court Reporter: Sharon O'Neill, RMR
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1 THE COURT: Good afternoon.

2 VOICES: Good afternoon, Your Honor.

3 THE COURT: Please be seated. Miss Belf.

4 MS. BELF: Good afternoon, Your Honor. The matter
5 now before the court is DKC 08-0512, United States vs. Jack W.
6 Snyder. Stacy Belf on behalf on behalf of the United States.
7 Joining me at counsel table is trial attorney AnnaLou Tirol
8 from the Department of Justice. We're here for sentencing.

9 MR. SCHERTLER: Your Honor, good afternoon. David
10 Schertler and my colleague, Veronica Jennings, and we're here
11 on behalf of Dr. Jack Snyder and, of course, Dr. Snyder is
12 present.

13 THE COURT: Very good. Good afternoon. Let me make
14 sure I have all the papers that I should have, and everyone has
15 had an opportunity to review them. The Presentence Report was
16 prepared and sent to us with a cover memo of January 14, 2009.
17 I think on the same day I received the Government's letter
18 dated January 26th, and the Defendant's Memorandum in Aid Of
19 Sentencing. That's what I have. Is that everything?

20 MS. BELF: Everything from the Government, Your
21 Honor.

22 MR. SCHERTLER: Yes, Your Honor.

23 THE COURT: Okay. And I assume you have all seen
24 each other's papers as well.

25 Mr. Schertler, have you had a full opportunity to

1 review the presentence report with Dr. Snyder?

2 MR. SCHERTLER: Yes, Your Honor, we have.

3 THE COURT: And I don't think I noticed any issues
4 with regard to the contents. Are there any from your
5 perspective?

6 MR. SCHERTLER: There were none, Your Honor.

7 THE COURT: The proposed guideline findings are as
8 had been contemplated, I believe, by the parties, and there has
9 been no exception taken, so I will adopt them and we will
10 proceed with an offense level of four, criminal history
11 category of one. I also have not been notified that anyone
12 contemplates witnesses today, is that right?

13 MS. BELF: That's correct, Your Honor.

14 MR. SCHERTLER: Yes, Your Honor, that's correct. And
15 our presentation will be brief.

16 THE COURT: Well, take what time you need, but I'll
17 start and ask the Government for its position on sentencing.

18 MS. BELF: Thank you, Your Honor. At first glance
19 this case is somewhat atypical. It's rarely that we're looking
20 at this guideline range when we're at sentencing, but we wanted
21 to talk about the importance of this case regardless of the
22 guidelines.

23 Taking a step back, as the Court knows, the
24 guidelines in this case are driven by loss, and an alternative
25 means of calculating loss can always be the gain, in this case

1 well over \$500,000.

2 Now, the parties have reached an agreement that we
3 are not seeking to, for the Court to find that amount, or the
4 corresponding criminal history -- I'm sorry, corresponding
5 offense level, it should be 20. But we talk about that only to
6 show the importance of this case and the importance of the
7 conduct that went on here.

8 We'll come back in a moment as to why the Government,
9 or some reasons why the Government is not recommending that to
10 the Court, or seeking that in front of the Court. But focusing
11 on the crime, it is one of the false statements, not once, but
12 over and over and over again, as the Court knows from the
13 extensive plea agreement and the extensive statement of facts
14 contained in there.

15 The defendant avoided reporting his outside
16 activities despite submitting several approval forms for, I
17 suppose, less benign, I'm sorry, more benign endeavors that he
18 was involved in. It was despite repeated discussions, both in
19 person and on email, about his outside activities, including at
20 the time of his hiring. And then it was, despite a massive
21 effort that was ongoing at the National Institutes of Health to
22 try to discover the types of conflicts that are being discussed
23 here.

24 In the wake of a scandal and congressional hearings
25 that were held, they attempted to reach out to their employees

1 to try to start to heal from the damage that had been caused by
2 the public's perception of those conflicts of interest amongst
3 their employees, and despite that massive effort, repeated
4 emails and repeated attempts of the NIH to find out about these
5 activities, Dr. Snyder nonetheless never disclosed, up until
6 the point, as the Court knows from the plea agreement, during a
7 deposition when he lied about his current status with the NIH
8 and was ultimately discovered.

9 These are not reporting requirements without reason.
10 As I alluded to, the NIH was is still very concerned with
11 managing conflicts of interest and insuring the public's trust
12 in them as a governmental agency, insuring that there is not a
13 belief that their employees have been compromised and are
14 working with alternative purposes, other than serving the
15 public community.

16 And, really, inimitable to that goal were Dr.
17 Snyder's conflicts, which were substantial, not only in quality
18 but quantity. As we submitted just to the Court, the
19 Government submitted a spreadsheet that laid out just some of
20 what was available, both in the public record and work found on
21 Dr. Snyder's computer, shows just a sampling of his extensive
22 outside work. And, as the Court knows, just from the income
23 that's reported there versus what was ultimately reported on
24 his tax forms, that is not by any means an exhaustive list. It
25 can't even, it doesn't even account for half of the work that

1 he did over the three years that he was with the NIH.

2 But it also gives a flavor of the type of work that
3 Dr. Snyder was doing. He was generally being retained by large
4 corporations as a defense expert, generally giving opinions on
5 toxicology and other such matters for tort cases, and this is
6 really in contrast to his position being held at the NIH at
7 that time.

8 His work in the Nation Libraries of Medicine is one
9 of neutrality in which there would be no positions taken, and
10 yet, opposite to the intent of that position, Dr. Snyder was
11 taking a position, representing himself as someone speaking, to
12 some extent, on behalf of the NIH, or certainly employed by the
13 NIH to some capacity, and drawing upon the credibility of the
14 NIH and bringing that into these various cases in which he was
15 being hired as an expert witness.

16 Exactly what the NIH was trying to avoid, the types
17 of conflicts of interest that would damage the public's trust
18 of them as an organization, or be attributing to them certain
19 beliefs or certain roles in various civil cases.

20 In sum, the crime we're talking about here is really
21 one of greed, that the NIH was paying a premium to Dr. Snyder
22 well outside of the GS scale, well over, I think it was a half
23 million dollars in the three years, half a million of
24 taxpayer's money over three years, to have his undivided
25 attention as an employee. And that was part of his

1 compensation. The reason he was paid on that executive
2 compensation scale is because they realized that they're asking
3 people who have substantial expertise to not engender or
4 maintain those conflicts of interest.

5 And these activities could have been disclosed.
6 There was a process through which Dr. Snyder could have sought
7 approval, if he wanted to try to continue to do these things
8 while during his employment with NIH, but he chose not to do
9 so. He chose not to do so because he didn't want to lose the
10 income.

11 As the Court knows from looking at the Presentence
12 Report, this is not someone living hand to mouth or in
13 desperate need of the money. This is someone who had
14 substantial means at his disposal, but what we really believe
15 is an issue strictly of greed. Dr. Snyder continued to work
16 and draw from both sources at the same time, creating the
17 conflict of interest that shows up in these false statements.

18 And the greed shows up right down to the end, when
19 Dr. Snyder is paid \$20,000 in various days of leave that were
20 not taken during his employment and, as the Court knows from
21 the statement of facts, he had claimed very little leave,
22 despite his extensive outside employment. The Government cites
23 a couple of examples, in it's Statement of Facts alludes to a
24 couple of examples in which Dr. Snyder did not take days off,
25 but despite that he was off doing other activities, testifying

1 in court, reviewing documents in cases, things that were not
2 NIH work, yet he took no leave of his salaried employment
3 there.

4 And, Your Honor, this greed that was going on was at
5 the expense of the agency and the expense of the Government,
6 trust in the Government.

7 So, all that is to say why the Government at this
8 point is requesting from the Court an imposition of a \$200,000
9 fine. We believe that it gets to the heart of this matter,
10 which is the greed and the real goal of Dr. Snyder in
11 conducting these offenses. And by doing that it reaches the
12 goals of 3553, which is deterrence and respect for the law,
13 amongst others, but those two specific goals are square on with
14 a substantial fine in this case, so that those who would seek
15 to make money at the expense of the agency would know that
16 there is no money to be gained, and that they ultimately have
17 to pay it back. Beyond respect for the law, that these laws
18 have meaning, that these conflicts must be disclosed.

19 In addition, the Government is requesting the
20 imposition of community service. It's obvious that Dr. Snyder
21 has substantial resources, or substantial offerings to offer to
22 the community, and we believe that the community, and
23 specifically we would recommend something to deal with an
24 underprivileged population, we believe could gain a great deal
25 and perhaps also, again, mitigate the greed that was really

1 going on here, seeing that those who are suffering and in need,
2 as opposed to strictly seeking the bottom dollar, which we
3 believe to be going on here.

4 As the Court knows, Dr. Snyder has a substantial
5 educational background and we believe has a lot to offer the
6 community there. We know defense counsel argues the collateral
7 consequences that will come of it, but there can also be some
8 good as well in terms of serving the community through that
9 type of community service.

10 We will defer to the Court with regards to
11 incarceration. We believe that the Court knows the conduct
12 that has gone on here and how best to address that, but we do
13 believe the other two conditions that we discussed would get at
14 the factors of 3553, and the Court should consider those.

15 Thank you.

16 THE COURT: Mr. Schertler.

17 MR. SCHERTLER: Your Honor, thank you. I don't think
18 I disagree with Ms. Belf's kind of final recommendations on the
19 sentence. I'll try to be brief. I don't want to repeat
20 everything that we said in our sentencing memorandum, but I do
21 have a few minutes of things I'd like to say to the Court.

22 First, I would like to acknowledge that Dr. Snyder's
23 wife, Michelle, is here. They've been married for well in
24 excess of 25 years and the two adult daughters, one of whom is
25 at Penn State University right now.

1 I recognize the Government's insistence in this case
2 on Dr. Snyder accepting a felon false statements plea, and that
3 felony false statements plea, as this Court well knows, has a
4 lot of collateral consequence for somebody in Dr. Snyder's
5 position that it doesn't in many, many other cases. And if the
6 Court is aware of the history of the, what Ms. Belf was talking
7 about, the scandal at NIH, initially the doctors who had not
8 reported outside employment were given misdemeanor pleas, and I
9 think a large number of physicians were actually given
10 essentially just, there was no penalty, there was no
11 investigation. They were allowed to self-report, based on the
12 fact that they had not reported their outside employment before
13 that.

14 Dr. Snyder's error in judgment is that even under
15 those circumstances, he did not report his outside employment
16 as an expert consultant.

17 We are here, as you know, asking that you sentence
18 Dr. Snyder to probation, and while I fully realize that this is
19 in the -- it's the Court that makes the final decision in this
20 regard, there seems to be a consensus that a probationary
21 sentence is appropriate.

22 First, Dr. Snyder's offense level is a level four.
23 It's a very low level, which makes him not only eligible for
24 probation but, in fact, for a first time offender would seem to
25 suggest a probationary sentence.

1 The Government graciously does not appear to object
2 to a probationary sentence provided that Dr. Snyder perform
3 community service, which we are in agreement with, and provided
4 that Dr. Snyder does pay the \$200,000 fine that the parties
5 have agreed to. Of course, that will be something that's
6 imposed by the Court, but Dr. Snyder is prepared to pay that
7 fine today to the United States Treasury.

8 Your Honor, I with like to address just a few brief
9 matters. As you know, this crime arises out of the fact that
10 Dr. Snyder failed to report his outside expert consulting
11 income to his Government employer, the NIH, as he was required
12 to do. And we do fully understand that his failure to report
13 that to his Government employer, and to a Government agency,
14 constitutes the crime of false statements.

15 But there are three points I would like to make in
16 that regard. First, I think everybody would agree that there
17 was nothing illegal or improper about Dr. Snyder's outside
18 consulting work. It was a business that he had been engaged in
19 long before he entered the Government and began working for
20 NIH, and it was something that he continued to do after he
21 began his Government employment with NIH.

22 Obviously, as Ms. Belf pointed out, one of the
23 reasons that we have this reporting requirement is to make sure
24 there are no conflicts of interest between Dr. Snyder's duties
25 and responsibility with NIH and what he's doing on the outside.

1 While I don't think, I don't necessarily want to get
2 into this debate with Ms. Belf, I don't think that anybody ever
3 determined that there was any kind of conflict, even after the
4 fact, even after this was known, that there was an actual
5 conflict between what Dr. Snyder was doing in his outside
6 consulting work as an expert in the pharmacology and toxicology
7 areas and his duties and responsibilities with NIH.

8 Based upon my reading of the media reports, the
9 bigger concern at NIH is that many doctors were working for
10 large companies, such as pharmaceutical companies like Pfizer,
11 that had Government contracts with NIH, and that created an
12 inherent conflict of interest in that outside work.

13 Finally, in the letter that it sent to the Court the
14 Government expresses its concern that just based upon the
15 amount of time that Dr. Snyder had to devote to his outside
16 employment operated to the detriment of NIH, and that NIH
17 failed to receive I think "full time dedication" from Dr.
18 Snyder. And, again, we respectfully disagree with the
19 Government in that regard.

20 Dr. Snyder, as you might be able to glean from the
21 Presentence Report and from the filings that you received, is
22 nothing short of a workaholic. This is a man who for the 40
23 years of his adult life, whether it's in school or work, is one
24 of those persons who spends most of his waking hours working,
25 whether it's in the evening after the normal business day,

1 whether it's extended hours on week-ends or holidays, Dr.
2 Snyder is the kind of person that always did work those hours
3 and continued to work those hours while he was employed with
4 NIH.

5 He devoted substantial time outside of the regular
6 workday, in the evenings, on weekends, on holidays, not only
7 doing the work of his consulting business, but also carrying
8 out the responsibilities and duties that he had at NIH. He
9 consistently received positive reviews, not only from his
10 supervisors at NIH, but as well from his colleagues and peers.

11 We respectfully disagree with the Government when it
12 claims that NIH didn't get its money's worth from Dr. Snyder.
13 The fact is that Dr. Snyder, just as with every single
14 endeavor, from the time he was a high school student up until
15 the present time, took a tremendous amount of pride in the work
16 that he did with NIH and strove to do the best job possible in
17 carrying out his responsibilities for NIH.

18 If I could just spend a few more minutes talking
19 about Dr. Snyder. Your Honor, I have represented many people
20 in a similar situation, professionals who have committed a
21 crime and who suffer greatly from the collateral consequences
22 of that crime, both in terms of their professions, their
23 careers, their public reputations and probably most
24 significantly, Your Honor, I think in their own self-image and
25 their own self-esteem, and I have never seen a person or client

1 of mine take their offense as much to heart as Dr. Snyder has.

2 While he recognizes and he acknowledges that he alone
3 is responsible for his actions, he alone is responsible for the
4 consequences that those actions have had for him and for his
5 family, he is personally devastated by what he's done. This is
6 a man who spent 40 years building up, through accomplishment
7 after accomplishment and achievement after achievement, a
8 tremendous reputation, and his whole self-image, his whole
9 self-identity is wrapped up in what he has been able to
10 accomplish, and this is nothing short of devastating for him.

11 I know for the last two years while this
12 investigation's been going on, he has tortured himself and not
13 completely understanding why he did something that would put at
14 risk everything that he had worked for during his entire adult
15 life.

16 I am convinced and confident that his remorse for
17 what he's done is sincere and I think that it's clear that his
18 conduct has been an aberration in what otherwise has been an
19 exemplary life in terms of achievement and accomplishment in
20 being a productive and law abiding citizen. I noticed that on
21 his Presentence Report that he doesn't even have any points on
22 his traffic record.

23 As you have seen, he's got a law degree. He's got a
24 medical degree. He has all sorts of advance study. He's
25 always excelled in that. He's got a Masters of Forensic

1 Science from GW, a Masters of Public Health from Johns Hopkins,
2 a PhD in pharmacology and toxicology from the Virginia Medical
3 College. Again, this is a man who before this and before this
4 tremendous error in judgment, lived an exemplary, law abiding
5 life.

6 Again, in closing, I would ask that you impose a
7 probationary sentence. After you look at the guidelines, after
8 you look at all the factors under section 3553A, we think that
9 a probationary sentence is appropriate and just and nothing
10 more that's necessary to accomplish all the goals of sentencing
11 set forth in section 3553. Specifically, we would ask the
12 following, we would ask that you impose one year of probation.
13 We ask that you impose the \$200,000 fine that we have agreed
14 to, even though the guideline range calls for a fine, I
15 believe, of a maximum of \$5,000 for this offense.

16 We would ask that you impose 160 hours, that's a
17 month's worth of community service, as Ms. Belf said, doing
18 something that would be very productive and things in which Dr.
19 Snyder has significant experience. We will certainly structure
20 this with the Probation Department, but Dr. Snyder can work
21 teaching adults and senior citizens about current information
22 that's related to drugs and medical conditions. This is
23 something that he's had a lot of experience with, and I agree
24 with Ms. Belf, that he could do it to people in our community
25 who don't have that kind of information, or don't have that

1 kind of service available to them.

2 He can also work with social workers or counselors to
3 teach teenagers and young adults about the risks of abusing and
4 misusing alcohol and tobacco and drugs. He's had experience in
5 doing that in the past.

6 Again, Your Honor, given the advisory guideline
7 range, given all the other factors that are set out in 3553, we
8 believe that that kind of probationary sentence, with those
9 kinds of conditions, is appropriate, is reasonable under these
10 circumstances, and that that kind of sentence can accomplish a
11 lot more good and allow Dr. Snyder to, as Ms. Belf said, make
12 up for the crime that he has committed in a productive way.
13 Thank you, very much.

14 THE COURT: Dr. Snyder, you now have an opportunity
15 yourself to tell me anything that you want me to know.

16 THE DEFENDANT: Your Honor, I want to express regret
17 and sorrow for the mistake that I have made. I do assume full
18 responsibility for my action, and I do apologize to the
19 Government and to this Court. I also want to publicly
20 apologize to my wife, as well as to my friends and colleagues
21 for the pain that I have put them through, and I would just ask
22 the Court to give me an opportunity to prove that I can be a
23 consistently productive and a consistently law abiding citizen.
24 Thank you.

25 THE COURT: The defendant is before the Court for

1 sentencing on the charge in the information, which is false
2 statements.

3 The offense took place over a period of time while
4 the defendant was employed at the National Library of Medicine.
5 National Institutes of Health, and the false statements related
6 to the omissions or the failure to report outside employment
7 and income.

8 The defendant and the Government entered into a plea
9 agreement that does not ascribe any loss value to these false
10 statements, although the Government and the statement of facts
11 indicates that some level of income that was obtained and
12 possible cost to the Government in terms of leave not take,
13 that is salary paid to the defendant.

14 Because of the negotiations and the statement of
15 facts and the structure of the plea, the guidelines as
16 anticipated by the parties, result in the lowest of sentencing
17 ranges that it's possible to have on the table. The parties
18 agree that under the circumstances the goals of sentencing
19 would not be served by the imposition of any sentence of
20 imprisonment, and instead probation with community service and
21 a fine adequately serve the goals of sentencing, and I agree
22 under these circumstances with the proposal.

23 I guess I struggle a little bit with the notion that
24 because one is in such a high station that a felony conviction
25 has more collateral consequences than it does on other people

1 in terms of how that fits or plays out in these considerations,
2 but it is certainly a reality that it does, but it's, in my
3 mind perhaps, should have been easier for Dr. Snyder to
4 recognize that being law abiding when one has all of these
5 types of licenses that depend on character, that it would have
6 prompted him to obey the law rather than otherwise, but I
7 recognize there are real consequences in terms of ability to
8 practice one's profession that one had held dear.

9 This is not, the felon conviction itself is not a
10 mere slap on the wrist under these circumstances and
11 constitutes punishment. He will be required to report this
12 forever to licensing authorities and in a variety of contexts.

13 It would not, I don't think, add to the punishment
14 for this offense to send him to prison. Probation is also not
15 a free ride. There are real reporting requirements and
16 restrictions on one's ability to perhaps leave the country,
17 that is requiring permission before anything like that can
18 happen. So, it is not a completely empty requirement.

19 The fine range is also guided by the offense level,
20 and in this case that makes it quite low, but I agree that the
21 reality of the conduct here means that there had to have been
22 some pecuniary loss in some sense to the Government, whether
23 it's annual leave that should have been taken or distraction in
24 doing one's full work, and that \$200,000 is an appropriate
25 measure of that.

1 There is in addition the \$100 special assessment.
2 This is money that goes into a fund to help people who are
3 victims of crime and for that reason have financial problems
4 that they didn't have.

5 Deterring others from committing this offense, I
6 suppose that's become, and unfortunately what was going on
7 before with the self-report and misdemeanor pleas didn't
8 completely work. If the news get out about this, and I assume
9 it will, at least around NIH, it is my hope that everybody will
10 understand that reporting is far better than the alternative.

11 I am not worried about Dr. Snyder. I certainly think
12 that this has taught him the lesson that is a goal of
13 sentencing. No programming is required for Dr. Snyder, so that
14 goal of sentencing is really not applicable. And restitution
15 in the sense of the fine is going to be satisfied today and so
16 it is, again, not particularly important in determining what
17 kind of sentence.

18 The parties suggest, and I think probation will be
19 happy to accept the offer of service that community service
20 will help in a variety of ways, in part to repay the community
21 and as recognition that, to the extent there were divided
22 loyalties, he can repay by giving back.

23 Again, I will agree that the 160 hours that is
24 proposed, or one full month over the course of probation is
25 adequate. The length of probation I'm going to set at a year.

1 If the community service is done sooner and there is no other
2 transgressions, I don't know what the policy is of the
3 Probation Department as to whether less than a year they can
4 recommend termination, but I'll place the defendant on
5 probation for one year at this time.

6 I am going to suspend the drug testing requirement
7 that otherwise applies. The defendant is obviously a low risk,
8 but I do impose all the other normal and ordinary other
9 conditions of probation and, in addition, the 160 hours of
10 community service, the fine of \$200,000 and the special
11 assessment of \$100.

12 I hear Mr. Schertler suggest that Dr. Snyder was a
13 workaholic. I haven't done the calculations, but the absence
14 of annual leave at some of these times, combined with the
15 amount of income that was received, would strain anybody, any
16 human being, I think, from working quite those number of hours.
17 So it is pretty clear to me that at least in some fashion the
18 Government was deprived of a certain amount of toil on Dr.
19 Snyder's behalf if, indeed, the outside efforts were getting
20 priority.

21 As he understands, it was not his choice to decide
22 whether there was a conflict. That was the NIH role to play.
23 We don't often left people make their own decisions under these
24 circumstances, and that was the reason for the need for
25 reporting, to make sure that the proper checks and balances

1 were in place.

2 It's no empty requirement and it is appropriate that
3 there be a prosecution in this case, but I don't expect any
4 judge will see Dr. Snyder again in the context of a criminal
5 prosecution, and so I am not worried about that happening.

6 I am going to prepare and enter the judgment in
7 writing. I will get copies out to everyone. You waived, I
8 believe, your appeal right as part of your plea agreement, but
9 let me just notify you that if you want to appeal and don't
10 believe you've given up the right to do so, you need to talk
11 that over very promptly with Mr. Schertler, because he would
12 help you by filing the appeal, if that's what you want to do.

13 Is there anything else? Mr. Lambert, anything from
14 Probation.

15 PROBATION OFFICER: Nothing else, Your Honor.

16 THE COURT: Ms. Belf.

17 MS. BELF: I'm just wondering, and I believe they
18 were going to do this, whether Dr. Snyder needs to check in
19 with probation on his way out or whether that's satisfied
20 later. On that I'm not certain of.

21 THE COURT: I don't know how they work that. Believe
22 me, this is not usual that we put people right immediately on
23 probation, at least not here.

24 PROBATION OFFICER: I'll met with him and explain the
25 requirements.

1 THE COURT: Okay. Well, you're here and that's one
2 of functions. Okay, Mr. Schertler, anything further?

3 MR. SCHERTLER: No, Your Honor. Thank you.

4 THE COURT: Ms. Derro, nothing else? All right.
5 Then that will complete today's proceedings. As I said, I'll
6 get copies of the order out, but it should happen, if not later
7 today, then first thing tomorrow morning. Thank you.

8 MR. SCHERTLER: Thank you, Your Honor.

9 MS. BELF: Thank you, Your Honor.

10
11 COURT REPORTER'S CERTIFICATE

12 I certify that the foregoing is a correct transcript
13 from the record of proceedings in the above matter.

14
15 Date: 4\21\09

16 /s/

17 Sharon O'Neill
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