

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

File Nos. 1:08-CR-282
1:09-CR-150

MICHAEL BRUCE VORCE,

Defendant.

Plea

Before

THE HONORABLE ROBERT HOLMES BELL
United States District Judge
June 18, 2009

APPEARANCES

TIMOTHY P. VERHEY
Assistant U.S. Attorney
P.O. Box 208
Grand Rapids, MI 49501
Attorney for Plaintiff

LARRY C. WILLEY
940 Trust Building
40 Pearl St., NW
Grand Rapids, MI 49503
Attorney for Defendant

Kevin W. Gaugier, CSR-3065
U.S. District Court Reporter

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Grand Rapids, Michigan
June 18, 2009
4:17 p.m.

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P R O C E E D I N G S

THE COURT: Good afternoon. We're ready for our next matter that's been set for the afternoon, the matter of United States v. Michael Bruce Vorce. In this matter Mr. Vorce is represented here by Mr. Willey as retained counsel. The government is here represented by Mr. VerHey.

This Court has been informed by virtue of a plea agreement that this matter involves three distinct issues. One coming from this court is the 1:08-CR-282 indictment that's a many-count indictment. It was filed on November 6th of 2008. And then there's a case 1:09-CR-150 which comes to this Court on a felony information of which there has been a waiver had, and then this matter comes to the Court on -- I believe there's a Rule 20. I guess the Rule 20 is the CR-150, is it not?

MR. WILLEY: Yes.

MR. VERHEY: That's correct.

THE COURT: That's the matter that comes from Wisconsin, okay.

1 This plea agreement before this Court is a ten-page
2 document. Mr. Willey, you've signed on the 4th of June to
3 this plea agreement indicating that you represent Mr. Vorce,
4 that you've carefully discussed this agreement with your
5 client, you've fully advised him of his rights, defenses, the
6 sentence guidelines provisions, and the consequences of
7 entering into this agreement, and you believe your client's
8 decision to enter this agreement is an informed and voluntary
9 one. Is that correct?

10 MR. WILLEY: That is correct, Your Honor.

11 THE COURT: Okay. If you could come forward with
12 your client, please.

13 Are you Michael Bruce Vorce?

14 DEFENDANT VORCE: I am, Your Honor.

15 THE COURT: If you'd raise your right hand, please.
16 (Defendant Vorce was sworn by the Court.)

17 THE COURT: Are you under the care of a doctor or
18 is there anything mentally or physically that would affect or
19 in any way impair your ability to participate in these
20 proceedings?

21 DEFENDANT VORCE: No, Your Honor.

22 THE COURT: Is this your signature on the last page
23 of this plea agreement about in the middle of the page?

24 DEFENDANT VORCE: Yes, it is, Your Honor.

25 THE COURT: And above your signature it says: "I

1 have read this agreement and carefully discussed every part of
2 it with my attorney." Is that correct?

3 DEFENDANT VORCE: That's correct, Your Honor.

4 THE COURT: And in Paragraph 1 on the front page it
5 indicates that you have been charged with a number of counts,
6 and in Paragraph 2 it indicates that you've agreed to plead
7 guilty to Count 6 and Count 13 of the indictment 1:08-CR-282
8 from this Court involving Macatawa Bank and that you have
9 agreed to plead guilty to a criminal information charging you
10 with willfully failing to file an income tax return in the
11 year 2006, and you've agreed to waive indictment and plead
12 guilty to a federal bank charge filed in the Eastern District
13 of Wisconsin that relates to a bank fraud matter. Do you
14 understand this plea agreement?

15 DEFENDANT VORCE: Yes, I do, Your Honor.

16 THE COURT: Do you understand and have you been
17 advised of your defenses and your rights to this matter and
18 the sentence guideline provisions and the consequences of
19 entering into this agreement?

20 DEFENDANT VORCE: Yes, I have.

21 THE COURT: Has anyone made any promises to you to
22 induce you to enter this agreement or any threats to you to
23 get you to agree to this matter?

24 DEFENDANT VORCE: No, Your Honor.

25 THE COURT: Are you satisfied with the

1 representations provided here by Mr. Willey on your behalf?

2 DEFENDANT VORCE: Yes, I am.

3 THE COURT: Have you had an ample opportunity to
4 thoroughly discuss this matter with him?

5 DEFENDANT VORCE: Yes, I have.

6 THE COURT: Do you understand that you have the
7 right to counsel throughout any proceedings that are had in
8 this court?

9 DEFENDANT VORCE: I understand.

10 THE COURT: Do you understand that where this plea
11 agreement in its completeness, and it's well drafted,
12 obviously, where it contains certain recommendations to this
13 Court, those are recommendations; this Court is not bound by
14 those recommendations, but must give serious consideration to
15 them? Do you understand that?

16 DEFENDANT VORCE: I understand that.

17 THE COURT: Okay. Let's turn our attention in this
18 matter to the indictment 1:09-CR-150, and I believe if you
19 could read and/or summarize Counts 6 and 13, Mr. VerHey.

20 MR. VERHEY: Yes, Your Honor. Count 6 is just over
21 one page in length, so perhaps I should just read it.

22 THE COURT: Okay.

23 MR. VERHEY: It states: From in or about October
24 2004 to December 6, 2006, in the Southern Division of the
25 Western District of Michigan and elsewhere, Michael Bruce

1 Vorce did knowingly execute a scheme and artifice to defraud a
2 federally insured financial institution, specifically Macatawa
3 Bank.

4 The defendant, operating under the business names
5 West Michigan Yachts and Barrett Bruce Holdings, LLC,
6 accomplished this scheme by obtaining a series of loans
7 totaling over \$9,200,000 from Macatawa Bank. The bank made
8 these loans after considering personal financial information
9 and other documents supplied by the defendant. The
10 information supplied by the defendant was false and he knew it
11 to be false. The defendant supplied the bank with false
12 income tax returns indicating falsely inflated income earned
13 by the defendant in past years. The income tax returns
14 indicated that they had been prepared by a tax preparer when
15 in fact the tax preparer had never prepared such documents.
16 The defendant also supplied false financial documents as
17 support for his loans.

18 The bank also relied upon false information,
19 supplied by the defendant, relating to collateral in making
20 loans to the defendant. The defendant represented that many
21 of the loans he requested were to buy boats. As part of the
22 loan process, the bank requested information about the boats
23 so that they could be listed as collateral. The defendant
24 supplied the bank with information about 26 boats to be used
25 as collateral for the loans. However, 22 of the boats

1 identified did not exist, as the defendant well knew. The
2 bank relied upon this false information to its detriment, in
3 violation of 18 U.S.C. Subsection 1344.

4 Count 13 states: On or about February 11, 2005, in
5 the Southern Division of the Western District of Michigan and
6 elsewhere, Michael Bruce Vorce did knowingly engage in a
7 monetary transaction by, through or to a financial institution
8 affecting interstate commerce, in criminally derived property,
9 of a value greater than \$10,000 derived from the proceeds of a
10 specified unlawful activity. Specifically, the defendant
11 defrauded Macatawa Bank of \$225,000 in the manner described in
12 Count 6 of this indictment, incorporated here by reference.
13 The defendant deposited the proceeds of this loan into
14 Macatawa Bank Account No. 415001401. Later that same day, the
15 defendant wrote a check for \$20,276.01 to A.K. Rikks Menswear
16 to purchase clothing, in violation of 18 U.S.C., Subsection
17 1957.

18 THE COURT: Okay. What pleas would you wish to
19 enter to these two counts on 1:08-CR-282?

20 DEFENDANT VORCE: Guilty, Your Honor.

21 THE COURT: Do you understand that by entering this
22 guilty plea, you would be giving up your right to a trial or
23 waiving your right to a trial and that right to a trial before
24 a judge or a jury?

25 DEFENDANT VORCE: I do.

1 THE COURT: Do you understand that you are now
2 presumed innocent, but you would be giving up that presumption
3 of innocence and requirement that the government go forward in
4 an attempt to prove you guilty beyond a reasonable doubt?

5 DEFENDANT VORCE: I understand, Your Honor.

6 THE COURT: Do you understand that you would give up
7 the rights you would have at a trial to cross-examine the
8 witnesses that might be called against you, to call witnesses
9 on your own behalf, subpoena witnesses on your own behalf, and
10 present evidence on your own behalf, including your own
11 testimony, that you'd be giving this up by entering these
12 guilty pleas?

13 DEFENDANT VORCE: I understand, Your Honor.

14 THE COURT: Do you understand that your own
15 testimony could not be compelled nor could anyone comment if
16 you did not take the witness stand?

17 DEFENDANT VORCE: I understand, Your Honor.

18 THE COURT: Importantly, do you understand in this
19 matter that you would be giving up your right to a trial in
20 this matter?

21 DEFENDANT VORCE: Yes, I do.

22 THE COURT: And that your guilty plea, if accepted,
23 would result in your conviction and eventually in your
24 sentence?

25 DEFENDANT VORCE: I understand, Your Honor.

1 THE COURT: Do you understand that as to this
2 financial institutional fraud matter that is alleged to have
3 occurred in late 2006 involving Macatawa Bank and the
4 collateral that was alleged of a number of boats, that this
5 matter carries a maximum penalty of not more than 30 years nor
6 more than \$1,000,000 as a fine with a supervised release
7 period of up to five years following the same? Do you
8 understand that?

9 DEFENDANT VORCE: I understand, Your Honor.

10 THE COURT: As to the money laundering count that is
11 alleged to have occurred in February of '05, that the maximum
12 penalty is up to ten years in prison and/or up to a \$250,000
13 fine with a period of supervised release of not more than
14 three years. Do you understand that?

15 DEFENDANT VORCE: I understand, Your Honor.

16 THE COURT: Relating back to the financial
17 institution fraud of late 2006, tell me in your own words what
18 you did that you believe makes you guilty.

19 DEFENDANT VORCE: Your Honor, I misrepresented
20 financial and collateral information to the bank to give the
21 appearance that I was a creditworthy borrower, as well as to
22 give the appearance that the collateral existed when in fact
23 most of the collateral did not. I did this by providing
24 falsified records and information forged at my own hand.

25 The bank trusted me. They trusted the information

1 that I provided them. This trust spanned over a lengthy
2 period of time, and I continued to lie and deceive them in
3 providing continuous information and continuous statements to
4 them to support the appearance.

5 THE COURT: Which bank was this?

6 DEFENDANT VORCE: Macatawa Bank.

7 THE COURT: Did you have a relationship there with a
8 banker that you went back to every time or was this just
9 entire bank personnel?

10 DEFENDANT VORCE: No, Your Honor, there was a --
11 there was a banker that was assigned to me that I dealt with
12 almost exclusively.

13 THE COURT: And you developed a rapport and a
14 reputation with him, presumably, of your honesty and
15 integrity?

16 DEFENDANT VORCE: I did, Your Honor. In fact, I --

17 THE COURT: Did you attempt to cultivate that?

18 DEFENDANT VORCE: I'm sorry?

19 THE COURT: Did you attempt to cultivate that by the
20 representations that you made?

21 DEFENDANT VORCE: Absolutely I did, Your Honor.

22 THE COURT: Were they made under oath?

23 (Defendant Vorce conferred with Mr. Willey.)

24 DEFENDANT VORCE: Yes, I signed sworn statements.

25 THE COURT: At the time you made those sworn

1 statements under oath as collateral to secure the loan, did
2 you know that you were lying?

3 DEFENDANT VORCE: Yes, I did, Your Honor.

4 THE COURT: Had this taken a period of time to
5 assemble this loan?

6 DEFENDANT VORCE: There was a significant amount of
7 work that went into creating the information and perpetuating
8 the scheme, Your Honor.

9 THE COURT: Now, how did you create information?

10 DEFENDANT VORCE: Through the use of a computer.

11 THE COURT: Tell me how you did it.

12 DEFENDANT VORCE: Your Honor, I -- with regards to
13 tax records, I acquired tax software and created my own false
14 tax returns. With regards to the other information, I used
15 various software programs from Adobe Photo Shop to Microsoft
16 Word and Office Products to create false surveys and other
17 information to support the claims that I was making.

18 THE COURT: Did anyone help you or were you just
19 doing this on your own?

20 DEFENDANT VORCE: For Macatawa Bank I was acting
21 alone, Your Honor.

22 THE COURT: So were you ultimately able to persuade,
23 then, the bank that in fact you were worthy of the credit
24 which they gave to you?

25 DEFENDANT VORCE: I did so, Your Honor.

1 THE COURT: And how much was the credit that they
2 gave to you or the consideration they gave to you?

3 DEFENDANT VORCE: Your Honor, the credit that they
4 extended to me was on a loan-by-loan basis. However, they
5 over a period of time granted me credit approval for certain
6 dollar amounts. Initially that dollar amount was \$1,000,000,
7 and over time as the relationship progressed and they felt
8 that I was a trustworthy client, they increased that credit
9 limit ultimately to an amount of approximately four and a half
10 million dollars.

11 THE COURT: Did you do that by paying off part of
12 the loan that you had secured in order to build a
13 creditworthiness with them?

14 DEFENDANT VORCE: I did, Your Honor.

15 THE COURT: Where did you get the consideration to
16 pay off the initial loans to create an appearance that you
17 were worthy of credit later?

18 DEFENDANT VORCE: Your Honor, this bank fraud was
19 part of a larger Ponzi scheme that involved another series of
20 banks in the same type of -- in the same type of scheme.
21 Oftentimes I would use proceeds from newly funded loans that
22 Macatawa had just funded to pay down existing debt, pay off
23 those loans. Other times I would pay down those loans with
24 proceeds from other fraudulently derived loans from other
25 institutions.

1 THE COURT: Were you representing to them that you
2 had a business going on?

3 DEFENDANT VORCE: I was, Your Honor.

4 THE COURT: What was your representation?

5 DEFENDANT VORCE: I represented that I was operating
6 West Michigan Yachts and that I was a full-time boat broker
7 specializing in an area of buying distressed boats at a
8 wholesale cost and then I would turn around and sell them at a
9 retail rate.

10 THE COURT: Did you do so by the use of hull numbers
11 and surveys that you were representing was what you were
12 purchasing and what you were selling?

13 DEFENDANT VORCE: I did, Your Honor.

14 THE COURT: Was the giving of credit and loan, was
15 it tied to a particular boat with a particular serial number
16 and survey or was it tied to you and what you represented you
17 were doing as you sold one and bought another?

18 DEFENDANT VORCE: The loans were made on a condition
19 of both, Your Honor. On one aspect they were granting the
20 loans based on my personal assets and my creditworthiness, but
21 they were also making the loans based on a conservative
22 loan-to-value that I was able to essentially manipulate and
23 control through the use of those surveys.

24 THE COURT: So in addition to your creditworthiness,
25 you were making a representation at any one point in time that

1 you were the owner of X number of boats having a value of Y?

2 DEFENDANT VORCE: That's correct, Your Honor.

3 THE COURT: And based upon X number of boats having
4 a value of Y, monies were given to you -- or not given to you,
5 they were loaned to you; is that correct?

6 DEFENDANT VORCE: That's correct. The loans were
7 made individually according to individual boats, but they
8 were, you know, considered on an aggregate as well.

9 THE COURT: The aggregate being that you represented
10 you were doing more than one boat at a time?

11 DEFENDANT VORCE: That's right, Your Honor.

12 THE COURT: How many boats did you misrepresent you
13 had at the largest points in time? How many were you
14 balancing at the largest point in time in this?

15 DEFENDANT VORCE: Over the course of the entire
16 relationship there were approximately 30 loans, so 30 separate
17 boats. At any number of times during the climax, I maintained
18 that I had held an inventory of approximately 10 to 12 boats
19 financed by Macatawa.

20 THE COURT: But as a matter of fact you had none?

21 DEFENDANT VORCE: Your Honor, there were I believe
22 four real boats over the course of the entire relationship.

23 THE COURT: Had you in fact acquired them, renovated
24 them, cleaned them up, and sold those four boats in the course
25 of this relationship?

1 DEFENDANT VORCE: No, Your Honor.

2 THE COURT: They were just four boats that you owned
3 that were somewhere where you could show them that this was
4 part of your inventory; is that right?

5 DEFENDANT VORCE: That's correct, Your Honor.

6 THE COURT: Okay. Okay. As pertains to Count 6 do
7 you have any additional questions, Mr. VerHey, that you wish
8 to ask to establish the factual basis for Count 6?

9 MR. VERHEY: Your Honor, I can represent to the
10 Court that Macatawa Bank at the time was FDIC-insured.

11 THE COURT: Yes.

12 MR. VERHEY: And they have told the investigators
13 that had they known the true state of affairs, they wouldn't
14 have made these loans, so it was material in their opinion in
15 making these transactions.

16 THE COURT: Those two things, I think they're both
17 easily gone through. You understand that Macatawa Bank is a
18 Federal Deposit Insurance Corporation bank?

19 DEFENDANT VORCE: I do, Your Honor.

20 THE COURT: Okay. Would you agree for purposes of
21 this plea that these were material loans for purposes of
22 Macatawa?

23 DEFENDANT VORCE: No question, Your Honor.

24 THE COURT: Okay. Anything else?

25 MR. VERHEY: No, thank you, Your Honor.

1 THE COURT: As to Count 6, Mr. Willey?

2 MR. WILLEY: I have nothing further to add, Your
3 Honor.

4 THE COURT: Very well. Let's proceed on to Count
5 13, the money laundering. Would you wish to address the Court
6 on -- yeah, I guess you already did. You already did tell me
7 this.

8 Do you understand this charge of the monetary
9 transaction on February 11 of '05 which is of criminally
10 derived property of \$225,000 into an account at Macatawa
11 Bank? Do you understand that charge?

12 DEFENDANT VORCE: Yes, I do, Your Honor.

13 THE COURT: And what plea are you wishing to enter
14 to that count?

15 DEFENDANT VORCE: Guilty.

16 THE COURT: Okay. Tell me in your own words what
17 you did that you believe makes you guilty.

18 DEFENDANT VORCE: I obtained proceeds from a loan,
19 from a fraudulent loan, and then I converted those proceeds
20 into personal expenses, using the money for unintended
21 purposes, not the purpose that I represented to the bank when
22 they made the loan to me, Your Honor. Specifically, I used
23 proceeds immediately to pay on an account that I had at A.K.
24 Rikks Menswear.

25 THE COURT: Which was not related to the boats or

1 the boat acquisitions or the boat sales?

2 DEFENDANT VORCE: No, Your Honor.

3 THE COURT: That was personal to you?

4 DEFENDANT VORCE: Yes, it was, Your Honor.

5 THE COURT: Personal clothes?

6 DEFENDANT VORCE: Yes, it was.

7 THE COURT: How much money was involved in this
8 conversion of criminally derived proceeds into your own
9 personal gain in this matter?

10 DEFENDANT VORCE: The entire loan proceeds, Your
11 Honor.

12 THE COURT: Which were?

13 DEFENDANT VORCE: \$225,000.

14 THE COURT: And that was on what date?

15 DEFENDANT VORCE: Your Honor, on February 11 of
16 2005.

17 THE COURT: Where was this taking place?

18 DEFENDANT VORCE: I personally deposited the funds
19 derived from the loan and then I personally traveled to A.K.
20 Rikks Menswear to issue a check drawn on that bank in that
21 amount.

22 THE COURT: Here in Grand Rapids or in Kent County?

23 DEFENDANT VORCE: Yes, Your Honor.

24 THE COURT: Was your relationship with Macatawa Bank
25 one that was entered into and sustained here in the Western

1 District of Michigan?

2 DEFENDANT VORCE: Yes, it was, Your Honor.

3 THE COURT: Any additional questions as to this
4 Count 13, Mr. VerHey?

5 MR. VERHEY: Your Honor, again a jurisdictional
6 issue that the Court may want to address is I would have to
7 show at trial that Macatawa Bank was engaged in interstate
8 commerce, and we can represent to the Court that it is in fact
9 engaged in interstate commerce and the money traveling through
10 that account therefore constitutes a, quote, "financial
11 transaction" for purposes of the statute.

12 THE COURT: You understand here again the FDIC
13 representation of insurance company as it pertains to Macatawa
14 Bank?

15 DEFENDANT VORCE: I do, Your Honor.

16 THE COURT: Do you understand the allegation here is
17 that the posting of the proceeds into an account of yours in
18 the bank and that transaction through by wire, however it
19 might be, however it may go is part of the stream of commerce
20 which the government is relying upon to establish the federal
21 jurisdiction here? Do you understand that?

22 DEFENDANT VORCE: I understand that, Your Honor.

23 THE COURT: Okay. Anything else?

24 MR. VERHEY: I perhaps missed this, Your Honor, but
25 we would also have to show that the particular transaction was

1 over \$10,000, and here it was in excess of \$20,000. So to the
2 extent that hasn't been stated, I'd like that on the record.

3 THE COURT: The \$225,000, you mean?

4 MR. VERHEY: It was a payment of \$20,276 for this
5 bill to A.K. Rikks, and I'd have to show it was at least
6 \$10,000 in a single transaction.

7 THE COURT: Okay. How much was that A.K. Rikks
8 bill?

9 DEFENDANT VORCE: \$20,276.01, Your Honor.

10 THE COURT: Very well. Very well. Okay.

11 On behalf of the defense in this matter, Mr. Willey,
12 any questions to establish Count 13?

13 MR. WILLEY: No, Your Honor.

14 THE COURT: Okay. Let's turn to our attention next
15 to this criminal information, 1:08-CR-282. That is the matter
16 that relates to failure to file an income tax return. I
17 believe there's been a waiver of the information that's
18 already in the file -- a waiver of indictment in this matter.
19 No. Is there?

20 MR. VERHEY: Your Honor, this is a misdemeanor
21 offense even though it's erroneously titled a felony, and so
22 there was no need to do that.

23 THE COURT: Okay.

24 MR. VERHEY: He has been arraigned on this charge,
25 however.

1 THE COURT: All right. All right. Do you
2 understand this charge, Mr. Vorce?

3 DEFENDANT VORCE: I do, Your Honor.

4 THE COURT: You understand the charge is during the
5 calendar year 2006 and on or before April 16 of 2007, that you
6 did willfully fail to make an income tax return to the
7 Internal Revenue Service based upon your gross receipts of
8 income of approximately \$11,311,491.65?

9 DEFENDANT VORCE: I understand, Your Honor.

10 THE COURT: And your plea to that is?

11 DEFENDANT VORCE: Guilty.

12 THE COURT: Do you understand the maximum penalty on
13 this particular charge is up to one year and/or up to a
14 \$100,000 fine with a following supervised release of not more
15 than one year?

16 DEFENDANT VORCE: I understand, Your Honor.

17 THE COURT: Okay. Tell me what you did in this
18 matter that you believe makes you guilty.

19 DEFENDANT VORCE: Your Honor, the false tax returns
20 that I supplied to the banks were crucial to obtaining credit
21 with those banks and to thereby deriving loan proceeds.
22 Because I had provided false tax returns, I feared that filing
23 a truthful return would jeopardize the Ponzi scheme and not
24 allow me to perpetuate it, so therefore, I willfully did not
25 file tax returns for that year.

1 THE COURT: And where were you residing during that
2 time?

3 DEFENDANT VORCE: I was residing in Alpine Township
4 in Kent County.

5 THE COURT: Okay. And you were a resident then of
6 the Western District of Michigan at the time?

7 DEFENDANT VORCE: Yes, I was, Your Honor.

8 THE COURT: You knew you had a duty and you failed
9 to perform that duty?

10 DEFENDANT VORCE: I did, Your Honor.

11 THE COURT: For the calendar year 2006?

12 DEFENDANT VORCE: Yes, Your Honor.

13 THE COURT: Okay. Any additional questions that
14 should be asked in this matter, Mr. MacDonald -- or excuse me.
15 I get you two mixed up here in this matter. I see you both
16 here. In this matter on behalf of the government?

17 MR. VERHEY: No, Your Honor.

18 THE COURT: Okay. Thank you, Mr. VerHey.

19 Mr. Willey?

20 MR. WILLEY: Your Honor, the only thing I would add
21 is that while this count is limited to one year, Mr. Vorce's
22 comments should not be taken that he'd filed tax returns in
23 the other years. He also did not file tax returns from the
24 period, my recollection, 2002 on. So there was no tax returns
25 for the whole period, and I didn't want the Court to infer

1 that we were just saying we didn't file in '06, but we filed
2 in the other years. We didn't file -- Mr. Vorce didn't file
3 from 2002 on.

4 THE COURT: Is that correct, Mr. Vorce?

5 DEFENDANT VORCE: That's correct, Your Honor.

6 THE COURT: Now, I think you said something about
7 because -- you started in your recitation, I'm trying to get
8 this all down here for my records, because of the fraud that
9 you had engaged in with the banks in this, as you called it, a
10 giant Ponzi scheme, that was the reason that you'd failed to
11 file an income tax return?

12 DEFENDANT VORCE: That's right, Your Honor. I felt
13 it would -- I felt it would jeopardize the overall scheme.

14 THE COURT: And it would have, yes. Okay. Okay.

15 Let's turn our attention next to the matter of
16 CR-150 here. This is the matter that was transferred from the
17 Eastern Division of the United States District Court for the
18 Eastern District of Wisconsin, and this comes to the Court on
19 a waiver of indictment entered -- the waiver of indictment
20 entered June 4th, 2009, as to the -- yes, 4th, 2009, and comes
21 to the Court on an information. This matter has an
22 information that charges in this matter a scheme to defraud a
23 federally insured financial institution, otherwise called bank
24 fraud, contrary to 18 United States Code 1344.

25 Have you had an opportunity to review this

1 particular information with your counsel and do you understand
2 this particular allegation?

3 DEFENDANT VORCE: I have and I do, Your Honor.

4 THE COURT: This allegation alleges that between
5 October 30th, 2007, and August 26th, 2008, in the Eastern
6 District of Wisconsin, that you in participation with James C.
7 Jett participated in a scheme to defraud the financial -- an
8 insured financial federal institution to obtain money and
9 credit and control over certain monies. Do you understand
10 this charge?

11 DEFENDANT VORCE: I do, Your Honor.

12 THE COURT: Do you understand the maximum penalty
13 for this particular statute violated is up to 30 years and/or
14 up to a \$1,000,000 fine in this matter followed by not more
15 than five years of supervised release?

16 DEFENDANT VORCE: I understand, Your Honor.

17 THE COURT: Tell me what you did that you believe
18 makes you guilty.

19 DEFENDANT VORCE: Your Honor, when my scheme and
20 fraud was detected in West Michigan, I -- at that point in
21 time I measured my life according to money and possessions,
22 and when the fraud was detected and I lost everything, I tried
23 to satisfy my selfish need to be significant by engaging in
24 other bank fraud, and so I conspired with Mr. Jett to obtain
25 funds through fraudulent loans through the course of Internet

1 loans through various banks. Those loans were, as I said,
2 perpetuated through the Internet, and again the experience and
3 activities that I had used in my West Michigan fraud in terms
4 of providing forged documents and fraudulent information was
5 used in this scheme as well.

6 THE COURT: Tell me how you did it.

7 DEFENDANT VORCE: Your Honor, Mr. Jett and I would
8 submit an application for a loan online through one of the
9 institutions. We would misrepresent who the borrower was. In
10 fact, the borrower was typically a stolen identity, and we
11 provided fictitious information to again give the appearance
12 that this identity, this borrower identity was well-qualified
13 for the loan.

14 We also created a fictitious identity for the
15 seller, in this case the seller of a boat, so that we could
16 control both the buyer and the seller, both sides of the loan
17 from borrowing the money to receiving the funds. We through
18 the course of the loan would provide the bank with various
19 forms of information, again tax returns, surveys to provide
20 the value and to ascertain the collateral. And we would also
21 provide banking information for the seller so that when the
22 loan was funded, the bank making the loan would fund those
23 proceeds directly to the seller, which of course was
24 fictitious and through an account that we controlled on our
25 own.

1 THE COURT: You created both ends of it, then. You
2 created the buyer, you created the seller, and it was all done
3 through the Internet?

4 DEFENDANT VORCE: Yes, Your Honor.

5 THE COURT: There was a real person who would be the
6 denominated seller?

7 DEFENDANT VORCE: Yes, sir.

8 THE COURT: Real person's identity, and you would
9 create a real person's identity who would be the buyer?

10 DEFENDANT VORCE: That's right, Your Honor.

11 THE COURT: And you would have through the Internet
12 investigated their creditworthiness of both ends of this?

13 DEFENDANT VORCE: That's correct, Your Honor.

14 THE COURT: Unbeknownst to a real person who's
15 driving their car down the street and living somewhere, they
16 are the seller with a new address to you, I presume?

17 DEFENDANT VORCE: That's correct, Your Honor.

18 THE COURT: And the buyer who's minding their own
19 business, mowing their lawn or whatever they're doing, they
20 are suddenly buying a boat, but the address is coming to you?

21 DEFENDANT VORCE: That's correct, Your Honor.

22 THE COURT: And you're doing this all over the
23 Internet?

24 DEFENDANT VORCE: Yes, Your Honor.

25 THE COURT: No face-to-face with the bank?

1 DEFENDANT VORCE: No, Your Honor.

2 THE COURT: How much are you asking for for a loan
3 on these matters?

4 DEFENDANT VORCE: When Mr. Jett and I began, we
5 started out the loans were in the neighborhood of \$200,000,
6 the first one a little less. Then the following loan was a
7 little more. Then after what we deemed was success by
8 receiving funded loans, we immediately increased value to
9 \$700,000 to \$800,000 and in one case a \$900,000 loan.

10 THE COURT: Without meeting anybody from the bank?

11 DEFENDANT VORCE: Without meeting a single person,
12 Your Honor.

13 THE COURT: Without any contact, done solely through
14 the Internet?

15 DEFENDANT VORCE: That's correct, Your Honor.
16 Excuse me. There was some communication over a phone, Your
17 Honor.

18 THE COURT: No in-person?

19 DEFENDANT VORCE: Pardon me?

20 THE COURT: No in-person contact with the bank?

21 DEFENDANT VORCE: None whatsoever, Your Honor.

22 THE COURT: And based upon that, the bank was
23 willing to loan four, five, six, seven, eight hundred thousand
24 dollars?

25 DEFENDANT VORCE: They were, Your Honor.

1 THE COURT: And they did it?

2 DEFENDANT VORCE: They did, Your Honor.

3 THE COURT: Tell me who the banks were that did
4 this.

5 DEFENDANT VORCE: The lenders were Key Bank, Bank of
6 America --

7 THE COURT: Bank of America?

8 DEFENDANT VORCE: Correct.

9 THE COURT: The one that's bailed out by the
10 government, that one?

11 DEFENDANT VORCE: Correct.

12 THE COURT: Okay.

13 DEFENDANT VORCE: Wachovia Bank.

14 THE COURT: Oh, there's another one, okay.

15 DEFENDANT VORCE: And Bank of the West, Your Honor,
16 which has an online interface known as Essex Credit, which is
17 essentially Bank of the West.

18 THE COURT: Did you have an inside track with any of
19 these banks about knowing anybody before you started this that
20 you could rely on to make representations for you?

21 DEFENDANT VORCE: No, Your Honor, I did not.

22 THE COURT: And where were you doing this from now?
23 Physically where were you?

24 DEFENDANT VORCE: Most of the activity and
25 communication occurred from West Michigan, from -- not my

1 residence and not Mr. Jett's residence, but various areas
2 where we could receive an Internet connection and get online,
3 Your Honor.

4 THE COURT: From a car or a library or --

5 DEFENDANT VORCE: Significantly --

6 THE COURT: Panera's Bread, someplace like that?

7 DEFENDANT VORCE: Yes, actually Panera Bread was a
8 spot that we used frequently.

9 THE COURT: What would you use as a mailing address
10 for these places?

11 DEFENDANT VORCE: To support the scheme, Mr. Jett
12 and I would contract with a virtual office, and typically that
13 virtual office was in the city of Chicago. And what that
14 virtual office did was for a monthly fee it gave us a mailbox
15 and an address, and so we alleged or asserted to these banks
16 that these addresses were actually the home addresses for both
17 the borrower and the seller. Then we would, when necessary,
18 we would travel to Chicago to those virtual offices to receive
19 any important communication that might be necessary to
20 completing these fraudulent loans.

21 THE COURT: In order to do it you had two virtual
22 offices, then, one of the buyer and one of the seller?

23 DEFENDANT VORCE: That's correct, Your Honor.

24 THE COURT: Okay. What happened then with this?

25 DEFENDANT VORCE: Mr. Jett and I were successful in

1 receiving a large amount of money in a short period of time,
2 over \$3,000,000. It's probably important to note to the
3 Court, Your Honor, that once we received the loan proceeds
4 there was another element, and that element involved
5 transferring the money out of that seller account because
6 there was a paper trail that led to that money, and that money
7 was used to purchase gold coins which were expensive but
8 untraceable. They were not a -- they didn't have any serial
9 numbers or identification numbers on them. Once we purchased
10 the gold and we had the gold in our possession, we were then
11 free to sell the gold to any number of dealers to then receive
12 the final loan proceeds which were essentially free from that
13 paper trail, free from the money trail.

14 THE COURT: And it was in cash, the selling of the
15 gold? You got cash back?

16 DEFENDANT VORCE: We received cash, yes, Your Honor,
17 via large amounts of cash wired to another bank account from
18 the -- from the gold distributor that purchased the coins.

19 THE COURT: Which you had set up; is that right?
20 You had set it up to be wired in?

21 DEFENDANT VORCE: Yes, Your Honor.

22 THE COURT: To an account that you had created?

23 DEFENDANT VORCE: Yes, Your Honor.

24 THE COURT: Okay. Sounds like you went a while,
25 then. What happened? What happened? What was the string

1 that untied this?

2 DEFENDANT VORCE: Your Honor, to answer -- to add to
3 that last question, the scheme came to an end when Mr. Jett
4 and I were -- getting back again, you had asked about no
5 face-to-face contact. The risk in this scheme was when we had
6 to go pick up loan documents. The banks before finalizing and
7 funding the loans would obviously send a large packet that
8 included the promissory note, security agreement, and various
9 things, so those documents had to be signed. Fictitiously we
10 did that on behalf of these alleged borrowers, and so that
11 meant going to these virtual offices and actually taking
12 possession of the documents, then to another location, sign
13 them, and sending them back to the bank.

14 That process, that requirement of having to go pick
15 up those loan documents was the exposure that we risked in
16 terms of being caught. And the scheme came to an end when in
17 our final attempt, we went to do exactly that, to pick up loan
18 documents to yet fund another loan, and at that point the bank
19 had detected the fraud and the FBI arrested us.

20 THE COURT: At your virtual office?

21 DEFENDANT VORCE: No, Your Honor. We were -- we
22 actually had contracted with a messenger service, a courier
23 service to go pick up the documents, and that wasn't
24 necessarily to avoid that face-to-face meeting. We were
25 simply running behind on our timeline and we thought it would

1 speed us up because that particular virtual office was located
2 in Milwaukee and we were coming to Chicago. So we hired a
3 Chicago courier to go pick them up and we could meet them in
4 Chicago simply to avoid the drive time.

5 But again, I want to address the Court in terms of
6 your question about this second scheme and falling back into
7 this criminal activity. I was living according to a bankrupt
8 set of priorities. My life was a duality, and I was trying to
9 maintain one with the other. Again, when -- everything that I
10 had known in terms of my life was money and possessions. When
11 those things went away, I fell back into the selfish need to
12 pursue money and the activity, and it was simply my attempt to
13 again satisfy what I thought was important and that had just
14 been -- that had just -- that the banks had just taken away
15 from me, so to speak, Your Honor. I lost it, obviously, and
16 it was never mine, but at the time I was so morally corrupt,
17 so misguided, and trying to maintain this duality, this image
18 of what I thought was important and what I thought was
19 meaningful in life.

20 THE COURT: So you've had, I take it, some time to
21 think about this while you were waiting for today. How long
22 have you been in custody wearing an orange suit?

23 DEFENDANT VORCE: Ten months next week.

24 THE COURT: Ten months next week, okay. Okay.

25 Has anyone threatened you or coerced you to get you

1 to plead guilty to these matters?

2 DEFENDANT VORCE: No, Your Honor.

3 THE COURT: Has anyone promised you any leniency or
4 told you they know what Judge Bell's sentence is going to be?

5 DEFENDANT VORCE: No, Your Honor.

6 THE COURT: You have been articulate through this
7 entire matter. May I presume -- you have the representations
8 of a very fine lawyer here. May I presume, then, that this
9 matter is freely and voluntarily made at this time?

10 DEFENDANT VORCE: Absolutely, Your Honor.

11 THE COURT: Are there any matters that I've left out
12 here that we should take up before making a final ruling on
13 this case?

14 MR. VERHEY: I would ask the defense to the extent
15 it hasn't been addressed that these banks from Wisconsin were
16 FDIC-insured once again.

17 THE COURT: Yes. The Key Bank, Bank of America,
18 Wachovia Bank, and Bank of the West, which was Essex Credit,
19 you understand these were FDIC banks?

20 DEFENDANT VORCE: I understand, Your Honor.

21 THE COURT: You understand that the transactions
22 both in application and the use of the Internet was obviously
23 over the Internet, and by virtue of over the Internet, it was
24 over interstate commerce?

25 DEFENDANT VORCE: I understand, Your Honor.

1 THE COURT: The free flow of commerce. Anything
2 else, Mr. Willey, to establish the factual basis that we
3 should --

4 MR. WILLEY: No, Your Honor.

5 THE COURT: Okay. You understand that this Court as
6 part of its sentencing is permitted to enter restitution
7 orders and forfeiture orders as it may pertain to property and
8 to losses as part of your sentence agreement or plea agreement
9 in this matter?

10 DEFENDANT VORCE: Yes, Your Honor.

11 THE COURT: Okay. And you understand that as to the
12 felony counts, it's \$100 per felony for purposes of a special
13 assessment, and \$25 for a misdemeanor. I believe that makes
14 it \$325, I believe, as a final amount on the special
15 assessment.

16 The following, then, are the matters. The Court
17 having conferred with counsel, having listened to a very
18 straightforward recitation of these four matters from Mr.
19 Vorce, is satisfied that these findings may be had: that
20 these pleas are freely and voluntarily entered without
21 promises of leniency or coercion; that the indictments as it
22 pertains to both the formal charges and Mr. Vorce's recitation
23 of his activities in them makes them factually accurate
24 pertaining to this case; and the defendant therefore finds
25 himself actually guilty, and the Court does so adjudicate, of

1 these three felonies and this misdemeanor, and therefore, Mr.
2 Vorce at this time stands convicted.

3 A presentence report will be ordered to be prepared
4 preparatory for sentencing in this matter. Mr. Willey, I have
5 a sentence date of first thing in the morning on September
6 18th, which would be about almost exactly three months from
7 now, if that's a good date for you.

8 MR. WILLEY: It is, Your Honor.

9 THE COURT: Okay. And there's a detention order in
10 this matter entered by the magistrate judges, so those will be
11 maintained until sentencing.

12 Mr. Vorce, you're a thoughtful person, I can tell.
13 I can tell in the last ten months you've done a considerable
14 amount of thought about who you are, what you became, and what
15 happened on this matter.

16 I want you to as part of sentencing write that out.
17 Write that out. Think that through. I want to find out what
18 your thought process is now, what it was then, where we got
19 off track, why we got off track, why we remained off track,
20 why we went back the second time. There are some -- a lot of
21 questions that I'm having and I think you have, and I want to
22 see if I can get a handle on that.

23 We will have a very experienced presentence writer
24 who is assigned to prepare a presentence report for me in this
25 matter. That presentence report will be rather critical,

1 critical in the sense of giving me a picture, very important
2 for you in giving me a picture of not only what he or she
3 finds from the evidence in this matter and your background and
4 the accountability which has to be built into a sentence, and
5 that sentence has to do a number of things, as your lawyer
6 will talk about. It has to send a signal to the community as
7 well as dealing with you and what's going to happen to you and
8 how you can be restored through this process. So I think you
9 have a very fine lawyer who will be talking with you over
10 this, who will be working on this, and I will look forward to
11 seeing you then on September 18th for purposes of sentencing.

12 Anything else, Mr. Willey, we should take up?

13 MR. WILLEY: No, Your Honor, thank you.

14 THE COURT: Anything else, Mr. VerHey?

15 MR. VERHEY: No, thank you, Your Honor.

16 THE COURT: That's all for the record. Thank you,
17 gentlemen.

18 (Proceedings concluded at 5:05 p.m.)

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CERTIFICATE OF REPORTER

I, Kevin W. Gaugier, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the within-entitled and numbered cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript was prepared by me.

/s/ Kevin W. Gaugier

Kevin W. Gaugier, CSR-3065
U.S. District Court Reporter
110 Michigan N.W.
622 Federal Building
Grand Rapids, MI 49503