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## **I. Introduction**

This Sentencing Memorandum is respectfully submitted for the Court's consideration to assist in the sentencing of Steven E. Schleifer, who pled guilty on September 1, 2009, to one count of corruptly obstructing and impeding the due administration of the Internal Revenue laws, in violation of 26 U.S.C. § 7212(a).

This Memorandum reflects Mr. Schleifer's unequivocal acceptance of responsibility for his offense. Further, we respectfully submit that Mr. Schleifer's role as a model father, grandfather, husband, son, brother, son-in-law, friend, employee, and mentor qualifies him for a significant reduction from the United States Sentencing Guidelines ("Guidelines") under the sentencing considerations set forth in 18 U.S.C. § 3553(a).

The fundamental principle of sentencing is that a court "shall impose a sentence sufficient, but not greater than necessary" to comply with the purposes of sentencing. 18 U.S.C. § 3553(a). The standard of reasonableness in sentencing, as articulated in *United States v. Booker*, 543 U.S. 220 (2005), calls for "avoid[ing] 'unwarranted sentencing disparities' [while] maintain[ing] flexibility to permit individualized sentences when warranted." *Id.* at 224 (citation omitted). We respectfully submit that these fundamental principles, as well as Mr. Schleifer's overall background, extraordinary character, acceptance of responsibility, and his extensive and valuable contribution to his family and community, provide the basis for a non-incarcerative sentence.

## **II. Personal and Professional Background of Steven E. Schleifer**

### **A. The Early Years**

Mr. Schleifer was born in Brooklyn, New York, in 1956, the youngest of four, born to Max and Gertrude Schleifer. Mr. Schleifer is married to Rena Schleifer. The couple has six children (David, twenty-nine; Sharon, twenty-seven; Alan, twenty-four; T.S., eighteen; J.S.,

sixteen; and R.S., thirteen) and four grandchildren (age four, an eighteen- and a nineteen-month old, and a newborn). The Schleifers' three youngest children still live at home with their parents in Monsey, New York.

Mr. Schleifer's parents, now deceased, were born in Poland and came to the United States in the mid-1920s. They opened a butcher shop, which unfortunately never enjoyed much success, in part, because they would not charge their poorest customers. Max and Gertrude ran their business in this manner even though they themselves had no money or furnishings; unable to afford rising rents, they moved several times during Mr. Schleifer's youth. Mr. Schleifer describes his early life as pleasant and simple. He was blessed with older siblings who cared for him. For example, his older sisters worked, and with their extra money, they purchased food and other items for him. This environment, however, did not affect the closeness between Mr. Schleifer and his parents and siblings. In fact, later Mrs. Schleifer would cite this closeness and caring nature as one of the reasons she married Mr. Schleifer.

As a boy, work ethic was also an important value instilled in Mr. Schleifer. At age ten he held his first job delivering newspapers. Up until about thirteen years of age, he delivered groceries and fast food. Throughout high school and into college he worked as a waiter. Mrs. Schleifer recalled that this job allowed Mr. Schleifer to obtain some financial stability. He bought his clothes, books for school, and first car for \$300. Still living at home with his parents, he also contributed any extra money to the household. Mr. Schleifer's work ethic served him well; he was the first and only member of his family to graduate from college.

Like many college graduates, Mr. Schleifer interviewed for many jobs after graduation. But during this interview process, Mr. Schleifer considered cancelling one interview for a position he truly sought because he was running late. His wife, however, encouraged him to attend, telling him that he would have no chance at the position if he did not give the interview

his best. To this day Mr. Schleifer recalls receiving the job offer for this position. He began as an assistant comptroller, worked extremely hard, and in 1992 became the company's controller. This year Mr. Schleifer will have been employed at this same company for twenty-five years.

**B. Father, Husband, Grandfather, Brother, and Son-In-law**

In the early years the Schleifers lived near Mr. Schleifer's place of work. Thus, Mr. Schleifer played an active role in his children's lives, while at the same time dedicating the significant time at work expected of a junior employee. He was able to make it home for a number of activities with the children, such as playing ball, eating dinner, and doing homework. Letter from David Schleifer to the Honorable Janet Bond Arterton (Oct. 23, 2009) ("David Schleifer Letter"), Ex. 1. Today, as his oldest son recounts, Mr. Schleifer also plays an important role in his grandchildren's lives: "Even now that some of us are married and have our own children, our father plays ball with the grandchildren, reads them stories, and always has a warm hug and a kiss for them. All the grandchildren adore him." *Id.*

As the Schleifers' children reached high school-age, Mr. and Mrs. Schleifer decided that the family should move to an area with better schools. Thus, the family moved to Monsey, New York. And even though Mr. Schleifer's commute increased to about an hour-and-a-half each way, at night he made it a point to continue his involvement in his children's lives. For example, within the Jewish tradition the father is obligated to review his sons' Bible studies. So each evening Mr. Schleifer reviewed his sons' daily Bible studies. Further, in preparation for their Bar Mitzvahs, young Jewish boys are required to undergo intense training and study to learn to read from the Torah and lead the Bar Mitzvah ceremony. Although a teacher generally trains the young men, Mr. Schleifer prepared his three boys for the ceremony. This required a significant time commitment on Mr. Schleifer's part, studying with his boys each night after a long car ride home.

Throughout his life Mr. Schleifer has also attempted to serve as a religious role model to his children and family. Every week on the Sabbath the Schleifers attend synagogue, and each day Mr. Schleifer makes time for his morning, afternoon, and evening prayers. The Jewish tradition also requires a continuous review and study of the Bible. Therefore, since the family's move to Monsey, every evening Mr. Schleifer attends a Bible study group. Letter from Rabbi B. Twersky to the Honorable Janet Bond Arterton (Oct. 27, 2009) ("Rabbi Twersky Letter"), Ex. 2. Mr. Schleifer's rabbi explains that Mr. Schleifer's dedication to this group is "a[n] obvious reflection of a . . . devoted person." *Id.* For the Schleifers, they believe that their faith compels them to lead a pious life, and they have done all they can to ensure their children carry on this tradition.

Not only is Mr. Schleifer the sole provider for his wife and three children who live at home, but he also provides financial assistance to his adult children as well. His oldest son, David, for example, is not currently employed because of full-time enrollment in Rabbinical School; David's wife teaches Hebrew and English. The couple has two young children and is expecting their third child. Each month Mr. Schleifer provides David and his family with necessary financial assistance. In her letter to this Court, David's wife explains that "[her in-laws] have been dedicated to helping us . . . build our own home and life." Letter from Devorah Schleifer to the Honorable Janet Bond Arterton (Oct. 23, 2009), Ex. 3.

Mr. Schleifer's oldest daughter's husband is likewise not employed because of his full-time commitment to school. Within the Jewish tradition the parents of the husband and wife pledge support to young couples in their early years. Thus, Mr. Schleifer has contributed financial assistance, when possible, to his oldest daughter's family, for example, to cover rent, monthly bills, and other expenses. The Schleifers' third oldest son is currently studying abroad in Israel and up until recently, the Schleifers had been able to assist him with certain expenses.



The Schleifers have been married for almost thirty years. “In that time [they] have been blessed with a wonderful family and many special moments.” Letter from Rena Schleifer to the Honorable Janet Bond Arterton (Nov. 1, 2009) (“Rena Schleifer Letter”), Ex. 4. Mrs. Schleifer describes her husband as a kind, caring, and devoted person, and the “mainstay of [their] family.” *Id.* Although Mr. Schleifer works long hours together with an almost three-hour daily commute, Mrs. Schleifer is thankful for his additional contributions to their household, such as mopping the floors every Friday after the cooking, gardening, and other household work. She is also grateful for their loving relationship that has been evident throughout the years. Mrs. Schleifer recalled one incident with her husband that symbolizes their marriage. While Mrs. Schleifer recuperated at home after the birth of one of their children she left her bed to prepare herself a meal. Mr. Schleifer, who had stayed home the week of the birth, was surprised to see her out of bed. She explained that she was hungry and that Mr. Schleifer was not the best cook. This incident inspired Mr. Schleifer to learn how to cook. Since then, he prepared meals for his wife during her recoveries after birth.

In addition to the loss Mrs. Schleifer would face if her husband were to receive a custodial sentence, Mrs. Schleifer has also reflected on the impact any incarceration would have on her parents. After Mr. Schleifer’s father and mother passed away he grew closer to his in-laws so much so that they consider him a son. The three speak more than once a week.

Mr. Schleifer is the youngest of four children: Rhoda, sixty-six; Beverly, sixty-four; and Barry, fifty-five; the three siblings live in Baltimore, Maryland with their families (Barry’s children currently reside in Israel). Although they are geographically apart, Mr. Schleifer wanted his children and his sisters’ children to experience the closeness he felt as a child with his family. Accordingly, over the years, the Schleifers have traveled to Baltimore so that the children could

grow up together. Following in his footsteps, at times Mr. Schleifer's oldest children visit their extended family in Baltimore on their own.

**C. Friend**

In addition to being a loving husband, grandfather, and husband, Mr. Schleifer is a valued friend within his community. Joseph Geretz, who has known Mr. Schleifer for almost thirteen years, has stated that Mr. Schleifer "is an asset to [their] community." Letter from Joseph Geretz to the Honorable Janet Bond Arterton (Oct. 20, 2009), Ex. 5. In his letter to this Court, Mr. Geretz wrote that

[Mr. Schleifer] is known and trusted as an individual who can be counted on, whether it be for a personal favor, or participation in a community, school or synagogue endeavor. He is well liked, and well respected by all of his neighbors. . . . I am proud and privileged to have Steven Schleifer as a close personal friend.

*Id.* Likewise, Rabbi Yeruchem Cohen, who has known Mr. Schleifer, for over twenty-five years, noted that "Steve has always given himself to our community." Letter from Rabbi Yeruchem Cohen to the Honorable Janet Bond Arterton (Oct. 22, 2009), Ex. 6. Another friend of Mr. Schleifer's describes him as a "rare find," citing Mr. Schleifer's sincerity, caring nature, warmth, and dedication to their community and synagogue. Letter from Michael Kirshner to the Honorable Janet Bond Arterton (Oct. 20, 2009) ("Michael Kirshner Letter"), Ex. 7. Writing about his long-time friend, Rabbi Cohen reflected on Mr. Schleifer's character:

I have always found [Steve] to be a highly principled and moral individual always very concerned that his children grow up to personify the high standards of behavior that our faith demands of us. Our studies quite often covered topics of morality and ethics and with Steve these topics were not just words on a page. He lived them every day both at home and on his job . . . . I was always impressed with Steve's empathy and consideration for others—his family, friends, colleagues and employees. He rejoiced with them on good occasions and was always there with a helping hand when needed.

*Id.*

**D. Generosity and Contributions to the Community**

The Schleifers are devout Jews who take their religious duties seriously. These duties include various acts of generosity for those who are in need. For instance, before moving to Monsey, New York, Mrs. Schleifer and a friend created an informal organization for expectant mothers in their community. If a mother was expecting, Mrs. Schleifer would contact her neighbors to request contributions, such as preparing or providing food for a meal or donating gifts for the newborn. Even after a long day of work, Mr. Schleifer was active in his wife's organization by picking up donated food and cribs for the expectant mothers. In her letter to this Court, Mrs. Schleifer reflected on her husband's charitable acts: "It is not unusual to find a visitor [in our home] who is seeking advice in rewriting his résumé, or discussing a difficulty in raising one of his children." Rena Schleifer Letter, Ex. 4. The Executive Director of a local Jewish school is also grateful of the "many times [Mr. Schleifer has] offered his services to our student body at no charge to assist them in issues of finance or personal guidance." Letter from Rabbi Naftali Reich to the Honorable Janet Bond Arterton (Nov. 2, 2009) ("Rabbi Reich Letter"), Ex. 8.

It has also been important to Mr. Schleifer to instill generosity in his children. After services on Saturday night there is generally a gathering among Mr. Schleifer's congregation. For many years now, Mr. Schleifer has volunteered to take out the garbage and clean the floors and tables after the gathering. Michael Kirshner Letter, Ex. 7. His boys would stay with him afterwards to assist in the clean up. Further, each year Mr. Schleifer donates at least ten percent of his income to charity. His children have carried on this tradition. Over the years when his children received any birthday or holiday money, they also gave ten percent of that money to a charity of their choosing. The children also witnessed Mr. Schleifer welcome his home for those in need of support or a meal. David Schleifer Letter, Ex. 1.

Mr. Schleifer has also had a positive effect on his congregation. A rabbi from Mr. Schleifer's synagogue, who has known Mr. Schleifer for thirteen years, describes him as a "compassionate, charitable person." Rabbi Twersky Letter, Ex. 2. In his letter to this Court, Rabbi Twersky notes the contributions Mr. Schleifer has made to his community:

[Mr. Schleifer] has [a] special trait, unusual for these times. He is a modest person, who has no airs about him. Without being asked, he regularly helps in taking care of the sanctuary of our synagogue. He does so without looking for any recognition for the service he has done.

*Id.*

#### **E. Conduct Since the Offense**

As discussed below, the subject conduct took place between in and about January or February of 2004 and April 2005. On January 2, 2006, Mr. Schleifer became aware of the investigation regarding his conduct. Since that time Mr. Schleifer has suffered greatly, living with the fact that he faces prison. Mrs. Schleifer has recounted the pain and stress caused by this threat of significant jail time. She noted that, for Mr. Schleifer, this has resulted in sleepless night after sleepless night. According to Mrs. Schleifer, "[her] husband's gentle disposition and well-being has been pressured greatly during these . . . years. The great remorse and shame he has experienced has taken an effect on him." Rena Schleifer Letter, Ex. 4. Another member of Mr. Schleifer's religious community expressed the same sentiment: "Steven is deeply remorseful over his poor judgment and behavior . . . and has borne great shame from the suffering he has inflicted upon family and community." Rabbi Reich Letter, Ex. 8.

Since the offense, Mr. Schleifer has been reflecting on his conduct and has taken full responsibility for his actions. He has apologized for his actions and for the harm it has caused to his family. Mr. Schleifer deeply regrets his actions in the instant offense and is striving to rebuild his reputation. But despite his emotional turmoil, he remains strong for his family and has relied on his faith to see him through this unfortunate time in his life. Mrs. Schleifer frankly

admits that this ordeal has strengthened the relationship with her husband. She explains that Mr. Schleifer has forever been her support and that, because of her faith, she has had the strength to support her husband in his time of need.

### **III. The Instant Offense**

New Haven Savings Bank (“NHSB”) was organized in 1838 as a Connecticut-chartered mutual savings bank. In 2003 NHSB was headquartered in New Haven, Connecticut, with offices located in the Connecticut counties of New Haven and Middlesex. In 2003 NHSB adopted a plan of conversion, completed in 2004, pursuant to which NHSB converted from a Connecticut-chartered mutual savings bank to a Connecticut-chartered capital stock savings bank, and became a wholly-owned subsidiary of NewAlliance Bancshares, Inc. (“NABC”).

Under the terms of the NABC initial public offering detailed in the prospectus that was distributed through mailings to those eligible to subscribe in the subscription offering, the shares of common stock of NABC (the “Shares”) were offered for sale at a price of \$10.00 per share in a “subscription offering,” pursuant to which, rights to subscribe for the Shares were granted to potential purchasers with first priority being given to “eligible account holders.” The offering further provided that eligible account holders who sought to exercise their subscription rights were required to submit a stock order form setting out the number of Shares they sought to purchase and include full payment for the Shares requested. Additionally, account holders were required to affirm that they were purchasing the Shares for their own account and that there was no agreement or understanding regarding the sale or transfer of the Shares or the right to subscribe for the Shares.

Mr. Schleifer’s associate (the “Associate”) was an eligible account holder and was issued first-tier subscription rights that were non-transferable. In connection with the purchase of Shares, the Associate was required to sign a stock order form affirming that she was

purchasing the Shares for her own account and that there was no agreement or understanding regarding the sale or transfer of the Shares or the right to subscribe for the Shares. But in or about January or February of 2004, Mr. Schleifer and his Associate agreed to buy shares of NABC together. They agreed that he would provide funds to her to use her subscription rights to buy shares of NABC, and that they would share the profits from the subsequent sale of the Shares of NABC. In or about January or February of 2004, Mr. Schleifer had discussions with his Associate and instructed her that in order to execute the sale of the Shares she should open an account at Oppenheimer through which she could sell the Shares and share the profits with him.

On or about March 3, 2004, the Associate executed two stock order forms, each requesting 700,000 shares of NABC and each attesting, falsely, that she was purchasing the Shares solely for her own account and that there was no agreement or understanding regarding the sale or transfer of the Shares. Mr. Schleifer then transferred funds to his Associate's bank account to fund the checks and stock purchase. He also sent the checks and two stock order forms to the NHSB stock conversion center for the purchase of Shares to be issued to and in the name of his Associate.

On or about April 1, 2004, based on the falsely executed stock order forms submitted in the name of the Associate, NABC issued 61,694 Shares of NABC stock to the Associate and 682 Shares of NABC stock to the Associate in the name of her corporate entity. Between on or about April 20, 2004 and May 3, 2004, Mr. Schleifer directed the sale of the Shares of NABC stock from the Oppenheimer account, which was sold on four different days and involved seven transactions with total proceeds of \$137,911.73, and thereafter caused the Associate to retain a portion of the profits for acting as the straw buyer and to cover any potential tax liability reported to the Internal Revenue Service by virtue of the sales discussed above and thus conceal the fact

that Mr. Schleifer was in reality the beneficial owner of the 39,376 Shares of NABC. Mr. Schleifer personally profited \$73,605.

On or before May 6, 2004, during their discussions regarding the allocation and distribution of the profits earned on the NABC stock purchase and sale, Mr. Schleifer told the Associate that she should “gift” the profits to him and that she should describe the profits as “gifts.” Mr. Schleifer told the Associate that gifts of \$11,000.00 and under were not taxable; therefore after the stock was sold, but before May 11, 2004, Mr. Schleifer provided the Associate with a list of individuals to whom the checks were to be written, as well as the dollar amounts that the checks should be made out for. On or about May 11, 2004, the Associate wrote nine checks drawn on her Oppenheimer account that were made payable to Mr. Schleifer and his relatives. On or about April 14, 2005, Mr. Schleifer prepared and filed his personal tax returns on Form 1040, U.S. Individual Income Tax Return, and failed to declare any of the profit made from the purchase and subsequent sale of NABC stock purchased, even though the taxes were paid by the Associate.

#### **IV. Acceptance of Responsibility**

Mr. Schleifer pled guilty to the information on September 1, 2009. Mr. Schleifer has expressed deep regret for his actions. Additionally, in his handwritten statement to this Court in connection with his Petition To Enter a Guilty Plea, Mr. Schleifer wrote: “On or about April 14, 2005, I prepared and filed my personal tax return . . . , and failed to declare any of the \$137,911.73 in profit, which included \$73,605.76 that I and my family received . . . . I knew at the time that this was wrong and that the income should have been reported to the Internal Revenue Service.” *United States v. Schleifer*, No. 09-CR-197, Docket No. 4. Further, due to his timely notification of his intention to plead guilty, he has allowed the Government to allocate its resources more efficiently. Mr. Schleifer blames no one but himself for his crime and for his

current position. He intends to face the consequences of his actions, to see them through, and to move on to a productive, law-abiding life for his family and for himself.

**V. The Court Should Sentence Mr. Schleifer to a Non-Custodial Sentence Pursuant to the Considerations Under 18 U.S.C. § 3553(a)**

The Supreme Court of the United States had held that the Guidelines are advisory rather than mandatory. *United States v. Booker*, 543 U.S. 220, 259 (2005). In *Booker*, the Supreme Court held that 18 U.S.C. § 3553(b)(1), the provision of the federal sentencing statute, which makes the Guidelines mandatory, was unconstitutional, and excised it from the statute. But “[w]ithout the ‘mandatory’ provision, the [Sentencing] Act nonetheless requires judges to take account of the Guidelines together with other sentencing goals.” *Id.* at 260. These sentencing goals include the considerations set out in 18 U.S.C. § 3553(a), and while sentencing judges are statutorily required to give “respectful consideration” to the Guidelines, they are nonetheless permitted to tailor a sentence “in light of other statutory concerns” relevant to the particular circumstances of the case. *Kimbrough v. United States*, 128 S. Ct. 558, 569 (2007); *United States v. Crosby*, 397 F.3d 103, 112 (2d Cir. 2005) (“[T]he sentencing judge will be entitled to find all of the facts that the Guidelines make relevant to the determination of a Guidelines sentence and all of the facts relevant to the determination of a non-Guidelines sentence.”). Most significantly, the Supreme Court in *Gall v. United States*, 128 S. Ct. 586 (2007), expanded the sentencing court’s discretionary authority even further by holding that there is no rule requiring “extraordinary circumstances” to justify a sentence outside the Guidelines. The factors, relevant to Mr. Schleifer’s case, to be considered in imposing a sentence include:

- “the nature and circumstances of the offense and the history and characteristics of the defendant,” 18 U.S.C. § 3553(a)(1);
- the need for the sentence imposed to “provide just punishment for the offense,” *id.* § 3553(a)(2)(A); and



- the need for the sentence imposed to be an “adequate” deterrent, *id.* § 3553(a)(2)(B).

“These factors incorporate the goals of consistency, rehabilitation, retribution and deterrence, and the principle that the punishment be ‘not greater than necessary.’” *United States v. Guiro*, 887 F. Supp. 66, 68 (E.D.N.Y. 1995). In order to achieve these goals, courts may depart from the Guidelines. *United States v. Concepcion*, 795 F. Supp. 1262, 1271 (E.D.N.Y. 1992). “Departures, under the statute, are concerned with the sentence that ‘should result,’ not with the *offense level* that should apply.” *United States v. Jackson*, 351 F. Supp. 2d 108, 119 (S.D.N.Y. 2004). “Because they are based primarily on statistical averages of sentences imposed in the past, the Guidelines are of limited help where the crime and those who participate in it present special issues not normally faced in other cases.” *Concepcion*, 755 F. Supp. at 1271.

#### **A. Nature of the Offense and Mr. Schleifer’s Characteristics**

In determining a “reasonable” sentence, a judge must consider “the nature and circumstances of the offense” as well as “the history and characteristics of the defendant” 18 U.S.C. § 3553(a)(1). “Section 3553(a)(1), in particular, is worded broadly, and it contains no express limitations as to what ‘history and characteristics of the defendant’ are relevant.” *United States v. Fernandez*, 443 F.3d 19, 33 (2d Cir. 2006). “In the Sentencing Reform Act, Congress insisted that the character of the defendant be a significant factor in the determination of the appropriate sentence.” *United States v. Merritt*, 988 F.2d 1298, 1306 (2d Cir. 1993).

Indeed, federal courts have relied, in part, on the characteristics of the defendant and the impact incarceration would have on his family when sentencing defendants to non-custodial sentences. *See, e.g., United States v. Toback*, No. 01 Cr. 410, 2005 U.S. Dist. LEXIS 6778 (S.D.N.Y. Apr. 14, 2005); *United States v. Galante*, 111 F.3d 1029 (2d Cir. 1997) (affirming downward departure based on impact incarceration of the principle breadwinner would have on family). The defendant in *Toback*, 2005 U.S. Dist. LEXIS 6778, pled guilty to one count of

distribution and possession with intent to distribute a controlled substance. The court found that a non-Guidelines sentence was warranted based on the consideration of several 18 U.S.C. § 3553(a) factors, including the defendant's acceptance of responsibility, his timely guilty plea, and lack of criminal history. *Id.* at \*12. The court also noted that the defendant was thirty-nine years old with a family to support and large business to maintain. Furthermore, the court relied on the "abundance of letters" from the defendant's family, colleagues, and friends which spoke "to his outstanding and reliable character, his devotion to his family, and his dedication to his business." *Id.* In addition, the court recognized that the defendant's criminal activity, which consisted of ordering and selling a controlled substance<sup>1</sup> at his health food store, was of short duration and involved minimal planning. *Id.*

Although a large part of the court's deviation was based on the defendant's position as sole operator of a large health food store, many of the other reasons for the court's non-Guidelines sentence are shared by Mr. Schleifer. After agreeing to tolling agreements with the U.S. Attorney's Office, Mr. Schleifer, who has no criminal history, entered into a timely guilty plea, and accepted responsibility for his actions. To be sure, immediately after his guilty plea Mr. Schleifer paid his federal and state tax deficiency and federal tax penalties.<sup>2</sup> Additionally, he has no criminal history, and is the sole financial provider for three of his children and his wife. He also provides financial assistance to his three other children and four grandchildren. As in *Toback*, his letters from family, friends, and rabbis attest to his "outstanding and reliable character [and] his devotion to his family." *Id.* Finally, Mr. Schleifer's criminal activity spanned a short period of time and constituted a single incident.

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<sup>1</sup> The defendant maintained that he possessed no actual knowledge of the product's illegality.

<sup>2</sup> Mr. Schleifer paid the outstanding interest, once the U.S. Attorney's Office confirmed the amount.

Mr. Schleifer gravely appreciates the seriousness of his offense. His reputation has been severely tarnished, the financial burden of his crime has been high, and the emotional toll on him and his family has been almost unbearable. As Mr. Schleifer maintains and many of his friends and family attest, his entire life is revolves around his family and his faith. He deeply regrets his actions and he has already paid dearly for his crime.

**B. Seriousness of the Offense, Respect for the Law, and Just Punishment**

Under 18 U.S.C. § 3553(a)(2)(A), a court is required to impose a sentence that reflects the seriousness of the offense, promotes respect for the law, and provides just punishment. “A sentencing court must impose a sentence ‘sufficient, but not greater than necessary’ to comply with the purposes of sentencing.” *United States v. Fisher*, No. S3 03 Cr. 1501, 2005 U.S. Dist. LEXIS 23184, at \*31 (S.D.N.Y. Oct. 11, 2005); *see also United States v. Serrano*, No. 04 Cr. 424-19, 2005 U.S. Dist. LEXIS 9782 (S.D.N.Y. May 19, 2005) (“Section 3553(a)(2)(A) demands that the penalty “provide just punishment for the offense.”). Placing Mr. Schleifer in a non-incarcerative setting of probation will be “sufficient, but not greater than necessary” punishment for his offense.

A just punishment in this case should also take into consideration the sentences other defendants have received by this Court for their involvement in the NABC bank conversion. In *United States v. Kundrat*, No. 3:05-CR-172 (JBA), the defendant apparently profited \$485,010 through his illegal participation in the NABC bank conversion and pled guilty to one count of conspiracy to commit mail fraud, wire fraud, and securities fraud. Press Release, U.S. Attorney’s Office District of Connecticut, New Jersey Man Involved in Bank IPO Scheme Is Sentenced, <http://newhaven.fbi.gov/dojpressrel/2007/nh071007.htm> (July 10, 2007) (“Kundrat Press Release”), Ex. 9. His initial Guideline calculation ranged from twenty-four to thirty months of imprisonment, however, this Court imposed a sentence of three years of probation, a

\$10,000 fine, and 300 hours of community service. *United States v. Kundrat*, No. 3:05-CR-172 (JBA), Judgment in a Criminal Case, Ex. 10. Although this Court's reasoning for the non-custodial sentence is unavailable, based on the record in that case it appears the defendant's sentence was due, in part, to his timely guilty plea and acceptance of responsibility. Kundrat Press Release, Ex. 9; *United States v. Kundrat*, No. 3:05-CR-172 (JBA), Government's Motion Pursuant to U.S.S.G. § 3E1.19(b) (July 10, 2007), Ex. 11. Furthermore, the defendant in *Kundrat* pled guilty to a conspiracy count and apparently profited almost half a million dollars, whereas here, Mr. Schleifer has pled guilty to a tax count and the ill-gotten gain attributed to Mr. Schleifer is \$73,605. *United States v. Schleifer*, 09-CR-197, Docket No. 3, Plea Agreement Between the U.S. Attorney's Office and Steven E. Schleifer 3-4 (Sept. 1, 2009).

Similarly, in *United States v. Vought*, No. 3:05-CR-268 (JBA), the defendant pled guilty to one count of securities fraud for his participation in the NABC bank conversion. Press Release, U.S. Attorney's Office District of Connecticut, New York Man Sentenced for Role in NHSB/New Alliance Bank IPO Conversion Scheme, <http://www.usdoj.gov/usao/ct/Press2006/20061011-3.html> (Oct. 11, 2006), Ex. 12. In that case the defendant agreed to pay \$315,799 to the Securities and Exchange Commission to resolve civil litigation. *Id.* This Court sentenced that defendant to one day of imprisonment followed by three years of supervised release and a \$5,000 fine. *Id.*

### **C. Adequate Deterrence**

Although the criminal prosecution of improper conduct in connection with bank conversion cases is a recent phenomenon, the U.S. Attorney's Office for the District of Connecticut's prosecution of Mr. Schleifer and the individuals discussed above, has indeed had a deterrent effect on those considering to improperly engage in bank conversions. To be sure, the U.S. Attorney's Office has itself recognized the deterrent effect of non-custodial sentences in

these types of cases: “‘By all accounts, [the] prosecution [in *Kundrat*] has sent a strong deterrent message to the investor community that individuals who participate in this type of stock conversion scheme run the risk of earning a federal felony conviction.’” Kundrat Press Release, Ex. 9. In fact, most likely because of the unique nature of these prosecutions, the media continues to report on bank conversion convictions. Most recently, Mr. Schleifer’s friends and family came across local Jewish publications reporting his conviction in Connecticut. *See, e.g.*, Monsey Man Pleads Guilty to Federal Tax Charge Stemming from Bank IPO Scheme, Jewish Breaking News, <http://jewishbreakingnews.wordpress.com/2009/09/02/> (Sept. 2, 2009), Ex. 13.

We also submit that in Mr. Schleifer’s case, the needs of individual deterrence were met before his case came before this Court for sentencing—Mr. Schleifer has acknowledged his crime to his wife and most of his children, friends, and rabbis as well as in his guilty plea before the Court. As noted, friends and colleagues of Mr. Schleifer actually read about his conviction in the media. Incarceration will serve no greater deterrence than probation. The personal suffering Mr. and Mrs. Schleifer have suffered will serve as deterrence for Mr. Schleifer and others.

## **VI. Sentencing Recommendations**

The Guidelines are advisory and not mandatory, and the Court must consider the factors set out in 18 U.S.C. § 3553(a) to ensure Mr. Schleifer’s sentence is sufficient, but not greater than necessary. For the foregoing reasons, further rehabilitation or punishment is unnecessary in this case. By all accounts Mr. Schleifer’s “brief meander into criminal activity” has shamed himself and his family beyond comprehension and stands in stark contrast to his religious life of honesty and integrity. He has suffered great financial loss. His present situation is a powerful deterrent to others who might be tempted to engage in violative conduct. Mr. Schleifer’s stellar character, prior life as a model citizen, position as sole breadwinner, and total and utter remorse for his actions, warrant a sentence outside and significantly below that of the

suggested Guidelines. We respectfully submit that society would be better served with Mr. Schleifer home providing for his family, rather than in prison leaving an unemployed wife left to provide for three children.

### CONCLUSION

In light of the arguments presented above, it is respectfully requested that the Court impose a sentence of probation.

Dated: New York, New York  
November 10, 2009

Respectfully submitted,

By: s/Ira Lee Sorkin  
Ira Lee Sorkin (PHV03587)  
Daniel K. Roque  
DICKSTEIN SHAPIRO LLP  
1633 Broadway  
New York, New York 10019  
Telephone: (212) 277 6500  
Facsimile: (212) 277 6501  
Attorneys for Steven E. Schleifer

**Certificate of Service**

I hereby certify that on November 10, 2009, a copy of the foregoing Sentencing Memorandum on behalf of Steven E. Schleifer was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/System.

s/ Ira Lee Sorkin  
Ira Lee Sorkin (PHV03587)  
DICKSTEIN SHAPIRO LLP  
1633 Broadway  
New York, New York 10019  
Telephone: (212) 277 6500  
Facsimile: (212) 277 6501  
sorkini@dicksteinshapiro.com

October 23, 2009

The Honorable Janet Bond Arterton  
United States District Judge  
Richard C. Lee United States Court House  
141 Church Street  
New Haven, Connecticut 06510

Dear Judge Arterton:

With utmost respect to you and to the court of law, we respectfully ask you to think of this letter before you issue a judgment to our father. Our father grew up in a poor hardworking family. Our Daddy always did his best to make sure we were never deprived or lacking. He worked long hours in not always the best working conditions to provide for us. He wanted us to have socks and shoes without holes and decent clothing. He wanted us to grow up feeling respectable. Even when money was tight, he would hire tutors to help us get to the next level in our learning. He also did homework with us and energized us.

He always spent money very carefully in order to save money for us, which he used and continues to use to pay for our higher education and help us pay for a down payment for our house. All of us children have the valuable ability and self control not to spend on what we cannot afford and to save money.

Although our father was a careful spender, he always gave thousands of dollars generously every year to worthy causes and to people who had less than us. We frequently had people who had hard lives come to us for a meal and support. People always thought of my father as a good person and he always had a way to make them feel comfortable. Even now that some of us are married and have our own children, our father plays ball with the grandchildren, reads them stories, and always has a warm hug and a kiss for them. All the grandchildren adore him. He especially loves babies and



when he sees a baby, even if he does not know the family, he will always give a wink or a smile to the baby.

It is impossible to sum up our father in one letter, but we hope that the little that we wrote can give you a peek behind the unassuming person that he is. He is regarded by all who know him as a loyal and good person, and someone you can count on. We hope that you can render a decision in perspective of the honorable life that he leads.

Sincerely,

A handwritten signature in black ink that reads "David Schleifer". The signature is written in a cursive, slightly slanted style.

David Schleifer

Twenty eight years old, father of two

Son of Steven Schleifer

בית המדרש בית אהרן  
 CONG. BAIS AHARON

62 Forshay Road • Monsey, New York 10952

הרב ברוך בן ציון טווערסקי

Rabbi Boruch B. Twersky

Oct. 27, 2009

Dear Judge Artenton,

I have the privilege of knowing Steven Schleifer for the past thirteen years, since he moved to our neighborhood and joined our congregation. He is a very special, responsible and caring human being. These qualities are evident in his relationship with his family, friends and community.

He has a beautiful family of six children, three of whom are married. He and his wife have a wonderful marriage and have a warm loving home in which they are very focused on raising their children to be fine responsible members of society.

Steven is a very dedicated and caring parent and grandparent (as is his wife). They joyfully open their home for their married children to come visit and are very excited when they can go and visit them. In fact, the youngest of the married Schleifer children just had a first-born child in Israel. Steve was so overcome with emotion that he couldn't imagine not sharing in this joyous occasion and so he went to Israel to participate in the celebration of the circumcision of his new grandson.

בית המדרש בית אהרן  
 CONG. BAIS AHARON

62 Forshay Road • Monsey, New York 10952

Rabbi Boruch B. Twersky

הרב ברוך בן ציון טווערסקי

The Schliefers open their home to others as well. Steven has a cousin who is a bachelor and lives alone in Brooklyn, N.Y. He is often invited to open the Sabbath and Holidays with them.

Steven is a very friendly and warm person. He gets along very well with his neighbors and associates. Last spring, he and his wife flew to Seattle, Washington to participate in the wedding of one of their neighbors children.

He is very close to the other members of our congregation. His sincere and pleasant personality is appreciated by all who know him and he is respected as a responsible, no-nonsense person.

He has another special trait, unusual for these times. He is a modest person, who has no airs about him. Without being asked, he regularly helps in taking care of the sanctuary of our synagogue. He does so without looking for any recognition for the service he has done.

Steven is a compassionate, charitable person. When appeals are made, to help worthy organizations or needy individuals, he is amongst the first both to respond with a pledge and actually make the contribution.

בית המדרש בית אהרן  
CONG. BAIS AHARON

62 Forshay Road • Monsey, New York 10952

Rabbi Boruch B. Twersky

הרב ברוך בן ציון טווערסקי

Every evening, after a long hard day at work, he joins me, with several others, for a class on Talmud. This class is so important to him that he has actually left weddings and dinners before the main course so as not to miss the lecture. An obvious reflection of a seriously devoted person.

Regarding the matter of Steven Schleifer that is now before you, I cannot help but be reminded of the words of the wisest of men - "For there is no man so wholly righteous on earth that he always does good and never sins." (Ecclesiastes vii, 20).

I hope and pray that your appreciation of Steven as such a man - as I know him to be - will guide you in your decision.

Thank you.

Sincerely,  
Boruch B. Twersky

October 23, 2009

The Honorable Janet Bond Arterton  
United States District Judge  
Richard C. Lee United States Court House  
141 Church Street  
New Haven, Connecticut 06510

Dear Judge Arterton:

Please allow me to give you a glimpse of my father-in-law, Steven Schleifer, as a man I have gotten to know well over the past five years. I married into the Schleifer family on June 14, 2004. From the day I walked into my in-laws house, both my mother-in-law and father-in-law have been welcoming, warm, and tremendously proud to gain a new member to the family. They have been dedicated to helping us, their son and daughter-in-law, to build our own home and life. They have an open invitation to their home and constantly re-invite us to spend weekends with them or just to give us extra help with the children when we may need a breather. My in-laws have made it easy for me to really feel like I have gained another set of parents. I am close with them and love them dearly.

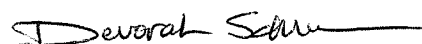
My father-in-law, especially, is an extremely gentle and compassionate person. He is greatly loved and respected by his two sisters and brother as well as all of their children and grandchildren. Once in a while, during a holiday or special occasion, they like to come over to him to chat and laugh and enjoy his laid back and relaxed personality. His children and especially his grandchildren are always happy and eager to be in his presence. He only has a good word, a positive response, and a calm enjoyable demeanor that makes him such a well liked person in the family and throughout the community at large. My children, ages four and one and a half, talk about him all the

time and wait to get together with him on occasional weekends. When they run into my in-laws house, they are excited, eager, and confident to hug him and tell him about everything going on in their little heads. In their grandfather's eyes, they know, they can do no wrong. He will sit on the floor and patiently play with them. He will rub them and calm them to sleep. He will take them outside to play in the playground.

He is very giving of himself for others. I know of many individuals who come to my in-laws house regularly. Some are people who need a warm place to go to and are not accepted in many other homes. My in-laws embrace them and have them for weekends and reignite their spirits. My father-in-law is also a thought out, sensible, and smart man. He makes logical decisions with out jumping into things or getting pressured. He is extremely calm and pleasant to be around. I am very grateful to my in-laws for raising my husband in a calm, secure, extremely loving home. My husband is a "carbon copy" of my father-in-law. He is warm, sensitive, and smart. He is a very good husband to me and a very special loving father to our adorable children.

I am aware that my father-in-law has made a mistake that he is very regretful about. I hope that your honor will be merciful with him as he is kind and forgiving of others.

Sincerely,



Devorah Schleifer

Wife of David Schleifer and

Daughter-in-law of Steven Schleifer

The Honorable Janet Bond Arterton  
United States District Judge  
Richard C. Lee United States Court  
141 Church Street  
New Haven, Ct. 06510

November 1, 2009

Dear Judge Arterton,

My husband Steven Schleifer and I have been married close to 30 years. In that time we have been blessed with a wonderful family and many special moments. My husband has always been the mainstay of our family in addition to being a wonderful son/son-in-law and brother, uncle and friend to so many.

In addition to always being available to his family he also extends himself to those in the community. It is not unusual to find a visitor over who is seeking his advice in rewriting his resume, or discussing a difficulty in raising one of his children, etc. The type of kindness and care my husband shows is one of respect and consideration for all. He is always upbeat and inspiring, encouraging, hardworking and consistent.

My husband's gentle disposition and well being has been pressured greatly during these past four year. The great remorse and shame he has experience has taken an effect on him. He has always acted in an honest and sincere manner both at home and at his place of employment for twenty five years. He is a role model and terrific dad, grandfather, and husband to myself and our six children, three in-law children, three grandchildren and now, newborn grandson.

I respectfully request that Your Honor please treat my husband with compassion and justice and extend any possible consideration to him.

Thank you.

Sincerely,

  
Rena Schleifer

October 20, 2009

The Honorable Janet Bond Arterton  
United States District Judge  
District of Connecticut  
United States Court House  
141 Church Street  
New Haven, CT 06510

Dear Judge Arterton,

My name is Joseph Geretz. I have lived in Monsey, New York for the past twenty years. I am a software developer, working for a firm which specializes in clinical workflow automation for healthcare providers.

I would like to take this opportunity to tell you a bit about my good friend Steven Schleifer. I have known Steven since he moved to our community and joined our neighborhood synagogue approximately ten years ago. Since then, I have come to know Steven quite well, and we have formed a close friendship.


Steven is an asset to our community in general. With his pleasant personality, and willingness to extend a favor, he is known and trusted as an individual who can be counted on, whether it be for a personal favor, or participation in a community, school or synagogue endeavor. He is well liked, and well respected by all of his neighbors.

Steven is a warm, caring and responsible parent who, together with his wife Rena, has raised a lovely family. My wife and I have participated in many of the Schleifer family milestones over the past decade; births, bar mitzvahs, and weddings. It is a pleasure spending time with Steven, Rena and their children.

It is difficult to summarize a decade-long friendship, or to represent in writing, the emotions and experiences shared between friends. Suffice it to say that Steven is a warm and loving husband and father to his wife and children. He is a well liked and respected neighbor in our community. I am proud and privileged to have Steven Schleifer as a close personal friend.

Steven and I have discussed the general details of his present difficulty. (I am not knowledgeable regarding the legal aspects; our conversations have been framed by the context of our friendship.) Steven has expressed remorse and a willingness to cooperate in order to pay his debt and settle this affair so that he can put this all behind him and return to his life as an ordinary and productive citizen.

Thank you for your consideration.

  
Joseph Geretz



Rabbi Yeruchem Cohen  
5 Crestview Terrace  
Monsey, N.Y. 10952  
October 22, 2009

The Honorable Janet Bond Arterton  
United States District Judge  
Richard C. Lee United States Court House  
New Haven, Connecticut 06510

Dear Judge Arterton,

I have known Steve Schleifer for over 25 years. We met when our children attended a play group together and quickly developed a close and lasting friendship. We were living in Teaneck, New Jersey at that time and even when I moved to Chicago several years later we maintained a relationship for the seven years I lived there. When I moved back east to Monsey, New York, Steve and his family moved to Monsey as well. Both of us were looking for a strong religious community where we could ensure that our children would have access to a good Jewish education and a supportive environment.

Steve and I are both observant Jews and over the years have many times attended the same synagogues and religious study sessions. We have over the years on a number of occasions been study partners delving into topics of Jewish Law as well as Chassidic Philosophy. Even while I was living in Chicago we continued these sessions when I would travel to NY on business and we currently get together to study weekly.

Clearly, I know Steve quite well. He is a considerate and supportive husband to his wife Rena and a loving father and grandfather to his 6 children and 4 grandchildren. I have always found him to be a highly principled and moral individual always very concerned that his children grow up to personify the high standards of behavior that our faith demands of us. Our studies quite often covered topics of morality and ethics and with Steve these topics were not just words on a page. He lived them every day both at home and on his job as the accountant for an electronics business. I was always impressed with Steve's empathy and consideration for others - his family, friends, colleagues and employees. He rejoiced with them on good occasions and was always there with a helping hand when needed.

Steve has always given of himself to our community, playing an active role in the synagogue and has over the years actively supported Bris ben Avraham, an organization that extends a hand to Russian Jewish immigrants helping them to settle in the USA and become productive citizens. He has also been a strong supporter of Chabad Lubavitch institutions that are well known for the religious and social services they provide to Jewish communities around the world.

I only recently became aware of Steve's legal problem. As he described his situation to me I could sense his anguish, embarrassment and regret. As I know the kind of person he is, I really believe that this was an isolated incident. He is as mentioned a loving family man and a giving and productive member of our community. A harsh sentence would I believe not serve the interests of society and I hope and trust that your honor will take all the above into consideration during the sentencing process.

Sincerely,

  
Rabbi Yeruchem Cohen

Michael Kirshner  
19 Cortland Road  
Monsey, New York 10952

October 20, 2009

Honorable Janet Bond-Arterton  
United States District Judge  
District of Connecticut  
United States Court House  
141 Church Street  
New Haven, Connecticut 06510

Dear Honorable Janet Bond-Arterton,

I have been a good friend of Steven Schleifer since he & his family moved into our community and became members of our synagogue. Steven is a rare find these days which explains why we became such good friends. He is not in any way a fake. He, as well as his wife, are sincere caring and warm people. They invite my family, as well as many friends, often for Sabbath and holiday meals and make us feel as part of their family. Their married children and grandchildren often come and spend many weekend and holidays with them. Since Steven and his wife are experts in living a healthy lifestyle, they often offer their expertise to friends when an organic or holistic approach can be used in curing an ailment to even a more severe chronic condition.

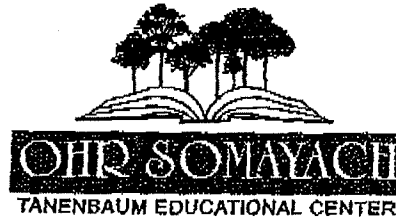
Steven gives much time to the synagogue to which we belong and not only prays, studies and attends classes on a daily basis, but even stays every Saturday night and cleans up the mess left from the Sabbath festivities in order that Sunday morning when everyone arrives the synagogue will be ready and in order for the morning services. He also has his landscaper on an annual basis plant flowers outside the synagogue, in order to beatify the building's exterior. He is involved in many charitable organizations, most of the time done in a non-assuming anonymous way.

In conclusion, I am asking Her Honor to please show judicial compassion and mercy on my good friend Steven Schleifer.

Sincerely,



Michael Kirshner



November 2, 2009

The Honorable Janet Bond Arterton  
United States District Judge  
Richard C. Lee United States Courthouse  
141 Church Street  
New Haven, CT 06510

Dear Judge Arterton

I the undersigned, Rabbi Naftali Reich, executive director of Ohr Somayach have been a close personal acquaintance and confident of Steven and Rena Schleifer for over ten years and I have traveled with them along the road of their lives; through joyous and difficult times. Over the years I have come to deeply respect Steven as a man of fine character and sound judgment.

Steven is deeply remorseful over his poor judgment and behavior as regards the New Haven Savings Bank and has borne great shame from the suffering he has inflicted upon family and community. However, I wish to assure your honor that his actions were an aberration and anomaly and do not reflect Steven's character or personality. He is in no way an underhand operator that is looking to capitalize on legal loopholes or people's weaknesses. He is a straight, honest, family man with good character. He is charitable and companionate and has many times offered his services to our student body at no charge to assist them in issues of finance or personal guidance.

I beseech your honor to view Stevens's case against the backdrop of his family life and previous sterling character record. Steven has learned the hard way, that there are no short cuts when it comes to the law and he is looking forward to speedily restore his good name to his family and friends.

With respect and appreciation.

Sincerely yours

A handwritten signature in dark ink, appearing to read "N. Reich", written in a cursive style.

Rabbi Naftali Reich  
Executive Director



United States Attorney's Office District of Connecticut

Press Release

### **July 10, 2007 NEW JERSEY MAN INVOLVED IN BANK IPO SCHEME IS SENTENCED**

Kevin J. O'Connor, United States Attorney for the District of Connecticut, announced that GEORGE J. KUNDRAT, age 52, of Warren, New Jersey, was sentenced today by United States District Judge Janet Bond Arterton in New Haven to three years of probation, the first five months of which he must serve in home confinement. KUNDRAT also must pay a fine in the amount of \$10,000 and perform 300 hours of community service. On July 7, 2005, KUNDRAT waived indictment and pleaded guilty to one count of conspiracy to commit mail fraud, wire fraud and securities fraud in connection with the New Haven Savings Bank/NewAlliance Bancshares, Inc. initial public offering.

"This is an appropriate sentence for an individual who quickly admitted his guilt and assisted the Government's investigation and prosecution of this unique case," U.S. Attorney O'Connor stated. "By all accounts, this prosecution has sent a strong deterrent message to the investor community that individuals who participate in this type of stock conversion scheme run the risk of earning a federal felony conviction."

According to documents filed with the Court and statements made in court, in 2003, New Haven Savings Bank ("NHSB") adopted a conversion plan to convert from a privately held mutual savings bank to a public capital stock savings bank and as such became a subsidiary of NewAlliance Bancshares, Inc. ("NAB"). As a component of its conversion plan, NHSB offered to sell its shares through a "subscription offering" in which five tiers of buyers would be offered the stock through an IPO. Shares were first offered to current NHSB depositors who maintained a predetermined minimum balance on a preset "record date." These eligible depositors held "subscription rights." The maximum number of shares that could be purchased at the initial public offering price of 10 dollars per share, by exercising the subscription rights of one qualified account, was 70,000 shares.

The number of shares requested by "first-tier" depositors was more than the total number of shares offered, thus the IPO was "oversubscribed" and shares were not sold beyond the first-tier level. NHSB depositors were prohibited, by both regulations and the terms of the offering, from selling or transferring their subscription rights or entering into agreements or understandings to sell or transfer the shares prior to the offering.

KUNDRAT participated in a scheme to illegally purchase 140,000 shares of NAB stock during the NHSB conversion and IPO, and then resold the shares for his own personal profit. In early 2004, KUNDRAT and several associates, none of whom were eligible to buy the stock during the IPO, participated in a scheme to buy NAB stock using the subscription rights of eligible depositors and to resell those shares at a profit.

As part of a civil settlement with the Securities and Exchange Commission, KUNDRAT has disgorged \$485,010 in profits gained from the scheme. KUNDRAT has also paid to the SEC a civil monetary penalty of \$120,000.

The Government believes that while no NHSB depositor who requested shares during the IPO was shut-out of the IPO entirely as a result of this scheme, more than 2100 depositors who requested shares received fewer shares than they otherwise would have as a result of the illegal conduct.

This was the first federal criminal prosecution of its type in which criminal charges for securities fraud have been brought in the context of an IPO in connection with the conversion of a mutual savings bank to a capital stock savings bank.

This matter has been investigated by the Federal Bureau of Investigation, the Securities and Exchange Commission, and the Internal Revenue Service – Criminal Investigation Division, with the assistance of the Federal Deposit Insurance Corporation, the United States Department of the Treasury Office of Thrift Supervision, and the Connecticut Department of Banking Securities and Business Investment Division. The case is being prosecuted by Assistant United States Attorneys Michael S. McGarry and David A. Ring.

CONTACT:

U.S. ATTORNEY'S OFFICE  
Tom Carson  
(203) 821-3722  
thomas.carson@usdoj.gov

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UNITED STATES DISTRICT COURT  
 District of Connecticut

Page 1

**UNITED STATES OF AMERICA**

**JUDGMENT IN A CRIMINAL CASE**

v.

**CASE NO. 3:05CR172 JBA**  
**USM NO: 15686-014**

**GEORGE J. KUNDRAT**

**MICHAEL S. McGARRY**  
**Assistant United States Attorney**

**ROBERT T. NORTON**  
**Defendant's Attorney**

**THE DEFENDANT:** pleaded guilty to count one of the information after waiving indictment.

Accordingly the defendant is adjudicated guilty of the following offense:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Concluded</u>	<u>Count</u>
18 U.S.C. §§ 371	CONSPIRACY	9/2004	ONE

The following sentence is imposed pursuant to the Sentencing Reform Act of 1984.

**PROBATION**

The defendant shall be placed on probation for a total term of **36 MONTHS**.

The sentence imposed is a departure pursuant to Fed.R.Crim.P.32.

The Mandatory and Standard Conditions of Probation as attached, are imposed. In addition, the following Special Conditions are imposed:

1. Defendant shall be placed on home confinement with electronic monitoring for the first five months of probation.  
 Defendant shall pay the cost of electronic monitoring at the rate of \$3.26 per day. Defendant shall make all provisions for the appropriate installation of the electronic monitoring equipment. Defendant shall comply with all conditions of electronic monitoring as required by United States Probation Office (USPO).
2. Defendant shall participate in a mental health treatment program either in patient or out patient as approved by the (USPO).  
 Defendant shall pay all, or a portion of the costs associated with treatment, based on the defendant's ability to pay as determined by USPO.
3. Defendant shall pay a fine of \$10,000.00, due immediately.
4. Defendant shall not possess a firearm or other dangerous weapons.
5. Drug testing waived.
6. Defendant shall perform 300 hours of community service as approved by USPO.
7. Defendant shall not incur new credit card charges or open additional lines of credit without permission of USPO until defendant's criminal debt obligation is paid.
8. Defendant shall provide USPO with access to requested financial information.

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments (as follows) or (as noted on the restitution order).

<b>Special Assessment:</b>	\$100.00	DUE IMMEDIATELY
<b>Fine:</b>	\$10,000.00	DUE IMMEDIATELY
<b>Restitution:</b>	\$0.00	

It is further ordered that the defendant will notify the United States Attorney for this district within 30 days of any change of name, residence or mailing address until all fines, restitution, costs and special assessments imposed by this judgment, are paid.

**JULY 10, 2007**

\_\_\_\_\_ Date of Imposition of Sentence

\_\_\_\_\_/s/\_\_\_\_\_  
 Janet Bond Arterton  
 United States District Judge  
 Date: JULY 13 ,2007

Judgment received by U.S. Marshal at \_\_\_\_\_ on \_\_\_\_\_.

Print name \_\_\_\_\_

Signature \_\_\_\_\_  
Deputy Marshal

**CERTIFIED AS A TRUE COPY  
ON THIS DATE \_\_\_\_\_**

**Kevin F. Rowe, Clerk**

**BY: \_\_\_\_\_  
Deputy Clerk**

**CONDITIONS OF PROBATION**

In addition to the Standard Conditions listed below, the following indicated (■) Mandatory Conditions are imposed:

**MANDATORY CONDITIONS**

- (1) The defendant shall not commit another federal, state or local offense;
- (2) For a felony, the defendant shall (A) make restitution, (B) give notice to victims of the offense pursuant to 18 U.S.C. section 3555, or © reside or refrain from residing, in a specified place or area, unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the discretionary conditions set forth under 18 U.S.C. section 3563(b);
- (3) The defendant shall not unlawfully possess a controlled substance;
- (4) For a domestic violence crime as defined in 18 U.S.C. section 3561(b) by a defendant convicted of such an offense for the first time, the defendant shall attend a public, private, or non-profit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is available within a 50-mile radius of the legal residence of the defendant;
- (5) The defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least two periodic drug tests thereafter for use of a controlled substance;
- (6) The defendant shall (A) make restitution in accordance with 18 U.S.C. sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and (B) pay the assessment imposed in accordance with 18 U.S.C. section 3013;
- (7) The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments;
- (8) If the court has imposed a fine, the defendant shall pay the fine or adhere to a court-established payment schedule;
- (9) A defendant convicted of a sexual offense as described in 18 U.S.C. sections 4042(c)(4) shall report the address where the defendant will reside and any subsequent change of residence to the probation officer responsible for supervision, and shall register as a sex offender in any State where the person resides, is employed, carries on a vocation, or is a student.
- (10) The defendant shall cooperate in the collection of a DNA sample from the defendant.

While on probation, the defendant also shall comply with all of the following Standard Conditions:

**STANDARD CONDITIONS**

- (1) The defendant shall not leave the judicial district or other specified geographic area without the permission of the court or probation officer;
- (2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- (3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) The defendant shall support the defendant's dependents and meet other family responsibilities (including, but not limited to, complying with the terms of any court order or administrative process pursuant to the law of a state, the District of Columbia, or any other possession or territory of the United States requiring payments by the defendant for the support and maintenance of any child or of a child and the parent with whom the child is living);
- (5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- (6) The defendant shall notify the probation officer at least ten days prior to any change of residence or employment;
- (7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substance, except as prescribed by a physician;
- (8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered, or other places specified by the court;
- (9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- (10) The defendant shall permit a probation officer to visit the defendant at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- (11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- (12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- (13) The defendant shall pay the special assessment imposed or adhere to a court-ordered installment schedule for the payment of the special assessment.

**Upon a finding of a violation of probation, I understand that the court may (1) revoke supervision and impose a term of imprisonment, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.**

**These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.**

(Signed) \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Probation Officer/Designated Witness

\_\_\_\_\_  
Date



**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

**UNITED STATES OF AMERICA**

**CRIMINAL NO. 3:05CR-172(JBA)**

**v.**

**July 10, 2007**

**GEORGE J. KUNDRAT**

**GOVERNMENT'S MOTION PURSUANT TO U.S.S.G. § 3E1.1(b)**

The United States of America respectfully requests that the Court accord the defendant, George J. Kundrat, an additional one-level adjustment for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(b). In support of this motion, the United States states as follows:

1. On July 7, 2005, Kundrat pled guilty to one count information charging him with conspiracy to commit securities fraud, mail fraud and wire fraud in violation of 18 U.S.C. § 371.
2. Pursuant to the plea agreement in this matter, the United States has recommended that defendant receive a downward adjustment for acceptance of responsibility pursuant to § 3E1.1(a) because defendant has demonstrated an acceptance of responsibility for his offense.
3. The defendant's adjusted offense level is 16 or greater and the defendant has assisted authorities in the prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the United States to avoid preparing for

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**ORAL ARGUMENT NOT REQUESTED.**

trial and permitting the United States and the Court to allocate their resources efficiently.

Respectfully submitted,

KEVIN J. O'CONNOR  
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read "Michael S. McGarry". The signature is fluid and cursive, with a large, sweeping flourish at the end.

MICHAEL S. MCGARRY  
ASSISTANT U.S. ATTORNEY  
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157 Church Street, 23rd Floor  
New Haven, CT 06510  
Tel.: (203) 821-3751  
Fax: (203) 773-5378  
michael.mcgarry@usdoj.gov

**CERTIFICATION**

I hereby certify that on July 10, 2007, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

A handwritten signature in black ink, appearing to read "Michael S. McGarry". The signature is fluid and cursive, with a large loop at the end.

MICHAEL S. MCGARRY  
ASSISTANT U.S. ATTORNEY



**United States Attorney's Office District of  
Connecticut  
Press Release**

**October 11,  
2006**

**NEW YORK MAN SENTENCED FOR ROLE IN NHSB/NEWALLIANCE  
BANK IPO CONVERSION SCHEME**

Kevin J. O'Connor, United States Attorney for the District of Connecticut, announced that CHANCE M. VOUGHT, age 57, of Quogue, New York, was sentenced today by United States District Judge Janet Bond Arterton in New Haven to one day of imprisonment and three years of supervised release for his involvement in the *New Haven Savings Bank/NewAlliance Bancshares, Inc.* Initial Public Offering (IPO) conversion scheme. Judge Arterton also ordered VOUGHT to pay a fine in the amount of \$5000. On June 29, 2006, VOUGHT pleaded guilty to one count of securities fraud.

"The U.S. Attorney's Office and our federal law enforcement partners are committed to targeting individuals and organizations who violate our nation's securities laws," U.S. Attorney O'Connor stated. "Those who illegally profit from stock schemes will be prosecuted to the fullest extent of the law."

According to documents filed with the Court and statements made in court, in 2004, *New Haven Savings Bank* (NHSB) converted from a mutual savings bank to a capital stock savings bank named *NewAlliance*. As part of the conversion, persons who were depositors at NHSB were able to participate in the IPO of *NewAlliance's* stock. If they qualified, such depositors could buy as many as 70,000 shares at the offering price of \$10 per share. Pursuant to the terms of the conversion established by NHSB, and in accordance with state regulations, a depositor could not enter into an agreement to transfer an interest in the stock in advance of the purchase. In addition, the bank required each depositor purchasing stock to certify that he or she was purchasing the stock solely for his or her own account, and that there was no agreement or understanding regarding the sale or transfer of the shares or the right to subscribe for the shares.

Robert Ross of Fairfield, and others, entered into an agreement with each other to purchase *NewAlliance* stock through eligible bank depositors. Their plan, in short, was to find depositors who appeared eligible to buy a full allotment of stock (70,000 shares); to provide these depositors with \$700,000 to purchase the stock; to enter agreements with the depositors by which the depositors would provide their stock certificates to Ross and his associates as soon as the certificates became available; and to pay the depositors 20 percent of the profits that would have been obtained if the *NewAlliance* stock had been sold on the first day of trading. Ross understood and agreed that, for the depositors to obtain the stock, the depositors would have to falsely and fraudulently represent to the bank that they were buying the stock with their own money, and that they had no pre-existing agreement to transfer it. When pursuing this scheme, Ross acted with the intent to interfere with the bank's right to control its own property, that is, its

ability to sell and distribute *NewAlliance* stock in the manner that it intended to, and in compliance with state banking laws.

During the time of the NHSB conversion, VOUGHT shared an office with Ross. VOUGHT was aware that Ross was seeking to purchase shares of *NewAlliance* stock by finding bank depositors to purchase the stock. Ross offered VOUGHT the opportunity to buy shares of *NewAlliance* stock and VOUGHT agreed to buy 70,000 shares. VOUGHT believed that the bank's stock would be available at the initial offering price only to bank depositors, and that, therefore, only depositors could participate in the offering. VOUGHT also knew that Ross had arranged to participate in the offering (i.e., to obtain shares at the initial offering price) by means of funding such depositors, and that VOUGHT's money would be used to purchase stock in this manner.

Based on VOUGHT's knowledge that only depositors could purchase stock at the offering price, as well as his specific knowledge that Ross was proposing to get the stock from the depositors, VOUGHT nonetheless acted with deliberate disregard for whether the stock was being obtained lawfully and he intentionally failed to inquire further into the matter. Against this background, VOUGHT agreed to provide Ross with \$700,000 knowing that Ross, in turn, would use that money to purchase *NewAlliance* stock from a depositor who was willing to obtain the stock and transfer it to Ross and VOUGHT, without inquiring further into the legality of the transaction.

On March 1, 2004, VOUGHT wired \$700,000 from one of his bank accounts to Ross's personal account, for the purpose of funding the purchase of 70,000 shares of *NewAlliance* stock through a bank depositor. And, on April 2, 2004, VOUGHT wired \$58,000 from his account to Ross, so that Ross could pay a depositor for the shares of *NewAlliance* stock.

During today's sentencing proceeding, Judge Arterton noted that VOUGHT has agreed to pay \$315,799 to the Securities and Exchange Commission to resolve civil litigation related to this matter.

Ross has pleaded guilty to his involvement in this bank conversion scheme and he awaits sentencing.

U.S. Attorney O'Connor encouraged individuals who believe they are victims in this matter to contact the United States Attorney's Office by e-mail at [usa-ct-vns@usdoj.gov](mailto:usa-ct-vns@usdoj.gov), or through the Office's [website](#).

This case is being investigated by the Federal Bureau of Investigation and the Internal Revenue Service – Criminal Investigation Division, with the assistance of the Securities and Exchange Commission. The Federal Deposit Insurance Corporation, the United States Department of the Treasury Office of Thrift Supervision, and the Connecticut Department of Banking Securities and Business Investment Division have also assisted in the investigation.

The case is being prosecuted by Assistant United States Attorney Michael S. McGarry and David A. Ring.

**CONTACT: U.S. ATTORNEY'S OFFICE**  
Tom Carson  
(203) 821-3722  
[thomas.carson@usdoj.gov](mailto:thomas.carson@usdoj.gov)

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## **Jewish Breaking News**

Jewish, Hasidic, Yeshiva, Chasidic, Ultra Orthodox, Haredi, Jerusalem, Williamsburg, Bnei Brak, Borc Monsey, Kiryas Joel, Lakewood News

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### **Archive for September 2nd, 2009**

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#### **Monsey Man Pleads Guilty To Federal Tax Charge Stemming From Bank IPO Scheme**

September 2, 2009

Nora R. Dannehy, United States Attorney for the District of Connecticut, today announced that STEVEN E. SCHLEIFER, 53, of Monsey, New York, pleaded guilty yesterday, September 1, before United States District Judge Janet Bond Arterton in New Haven to one count of corruptly obstructing and impeding the due administration of the Internal Revenue laws. The charge stems from SCHLEIFER's participation in a scheme to illegally invest in and profit from the New Haven Savings Bank conversion to a publicly traded entity.

According to documents filed with the Court and statements made in court, in 2003, the New Haven Savings Bank ("NHSB") adopted a conversion plan to convert from a privately held mutual savings bank to a public capital stock savings bank and, through this conversion, became a subsidiary of NewAlliance Bancshares, Inc. ("NAB"). As a component of its conversion plan, NHSB offered to sell its shares through a "subscription offering" in which five tiers of buyers would be offered the stock through an IPO. Shares were first offered to current NHSB depositors who maintained a predetermined minimum balance on a preset "record date." These eligible depositors held "subscription rights." The maximum number of shares that could be purchased at the initial public offering price of 10 dollars per share, by exercising the subscription rights of one qualified account, was 70,000 shares.

The number of shares requested by "first-tier" depositors was more than the total number of shares offered, thus the IPO was "oversubscribed" and shares were not sold beyond the first-tier level. NHSB depositors were prohibited, by both regulations and the terms of the offering, from selling or transferring their subscription rights or entering into agreements or understandings to sell or transfer the shares prior to the offering.

An associate of SCHLEIFER's controlled accounts in her own name and in the name of a business entity at NHSB. During the NHSB/NAB conversion, SCHLEIFER's associate was issued first-tier subscription rights. In early 2004, SCHLEIFER and his associate agreed to buy shares of NAB together. SCHLEIFER and his associate agreed that SCHLEIFER would provide funds to the associate using the associate's subscription rights, and the two would share the profit from the subsequent sale of the NAB shares.

On March 9, 2004, SCHLEIFER wired approximately \$1.17 million to his associate's account at Citizens Bank. Because the associate had both a personal account and a business account at NHSB, she attempted to purchase 134,500 shares of NAB stock. On April 1, 2004, NAB issued 61,694 shares of

stock to the associate and another 682 shares to her business entity, and refunded a total of \$776,508 for the shares that were not allocated. Shortly thereafter, SCHLEIFER's associate wired \$776,500 from her Citizens Bank account to SCHLEIFER's account at Bank of America.

Between April 20 and May 3, 2004, SCHLEIFER directed the sale of the NAB shares that had been allocated through this scheme and profited \$137,911.73. As part of the scheme, and in order to disguise the nature of the profits and to avoid the payment of federal taxes, SCHLEIFER instructed his associate to write several checks, not only to him, but also to his family members, in amounts of \$11,000 or less in order for the payments to appear as "gifts."

In April 2005, SCHLEIFER failed to declare any of the \$137,911.73. in profit made from the purchase and subsequent sale of the NAB stock on his federal income tax return.

Judge Arterton has scheduled sentencing for November 11, 2009, at which time SCHLEIFER faces a maximum term of imprisonment of three years and a fine of up to \$250,000. SCHLEIFER also has agreed to forfeit \$73,605, and to pay back taxes in the amount of \$48,762, plus penalties and interest.

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