No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOSEPH A. CAMMARATA,
Applicant,
v.
UNITED STATES SECURITIES AND EXCHANGE COMMISSION
and UNITED STATES OF AMERICA,
Respondents.

EMERGENCY APPLICATION FOR A STAY PENDING DISPOSITION OF APPLICANT'S RELATED PETITIONS FOR CERTIORARI

TO THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE THIRD CIRCUIT

Joseph A. Cammarata
Reg. No. 02555-506
FPC Montgomery
Maxwell AFB
Montgomery, AL 36112
Applicant, pro se

INTRODUCTION AND RELIEF REQUESTED

This is an emergency application, and it presents a question this Court has never had occasion to confront. It presents a case in which both the trial court that entered every order under review, and the only court of appeals empowered to review those orders, are disqualified by statute. That disqualification is not a matter of opinion, of appearance, or of alleged bias. It is established by the record and by 28 U.S.C. Section 455, under which disqualification follows from the fact of the interest or the relationship, "however small." Section 455(d). The trial judge held, and admitted from the bench, a financial interest in the very settlement-recovery mechanism at the heart of the case. The court of appeals employs, within its own Executive Office and as an attorney, the spouse of the Commission lawyer who prosecuted the civil action against Applicant. Each defect, standing alone, would require relief. Their combination means that there is no court below that can lawfully adjudicate Applicant's claims, and that this Court is the only forum able to restore the integrity of the proceeding.

Applicant has now spent nearly five years imprisoned on a conviction for conduct that was not a crime, after being stripped of more than one hundred million dollars in assets against an alleged loss a fraction of that size, leaving him without the means to retain counsel or to defend himself. The harm is ongoing and, with each passing day, irreversible. The Government continues to enforce the judgments under review, continues to liquidate and disburse the frozen assets, and is now prosecuting Applicant a second time, in United States v. Cammarata, No. 2:26-cr-00238-CFK (E.D. Pa.), on the very

orders whose validity is squarely before this Court. Absent a stay, this Court's review of the related matters will come too late to matter: the liberty lost cannot be restored, the assets liquidated cannot be recovered, and the resources consumed by a second trial cannot be undone. Emergency relief from the Circuit Justice is the only means of preserving the status quo so that this Court's eventual decision is not rendered a nullity.

This application rests not on disputed allegations but on a documented record the Government has never contested. The facts set out below are drawn from the dockets and transcripts of the proceedings themselves. Each is a matter of record, and not one has ever been denied. Together they establish that there was never a crime, and that the proceedings used to convict Applicant and to seize his property were conducted by judges disqualified as a matter of law.

The following facts appear on the record and stand uncontested:

- On October 28, 2021, a grand jury returned a sealed indictment charging Applicant with wire fraud. The entire theory of guilt, set out at paragraph 11 of the indictment, was that a claimant to a securities class-action settlement must personally have executed the trade and personally have suffered the loss. That theory is foreclosed by this Court's decision in Sprint Communications Co. v. APCC Services, Inc., 554 U.S. 269 (2008).

- The same day the indictment was unsealed, the Securities and Exchange Commission filed a parallel civil action, requested assignment to the same district

judge, and applied for a temporary restraining order freezing Applicant's assets. SEC v. Cammarata, No. 2:21-cv-04845-CFK (E.D. Pa.).

- On November 4, 2021, the district court granted the temporary restraining order, on an application exceeding nine hundred pages, in less than twenty-four hours, with no valuation and no showing of the irreparable harm required by Federal Rule of Civil Procedure 65(b)(1)(A), yet froze more than seventy-eight million dollars of Applicant's assets.

- The court set the show-cause hearing for 9:00 a.m. on November 9, 2021, in its Philadelphia courtroom. That was the same date and hour Applicant was ordered to appear, and did appear, for his criminal detention hearing roughly 1,200 miles away in Miami. United States v. Cammarata, No. 21-MJ-04176-EGT (S.D. Fla.). Applicant was neither noticed for, present at, nor represented at the Philadelphia hearing, and the court's own order records that no one appeared on his behalf.

- The temporary restraining order was extended beyond the fourteen-day limit of Rule 65(b)(2) without a further hearing and without Applicant's consent, and expired by operation of law no later than November 24, 2021. It has nonetheless been enforced against assets exceeding seventy-eight million dollars for nearly five years, and those assets are being liquidated and disbursed.

- At the June 6, 2023 sentencing, the district judge stated on the record that he had personally invested in, and filed claims within, the same securities-settlement

recovery mechanism at the heart of the case. His financial-disclosure reports confirm the holdings. The same judge denied a legally sufficient 28 U.S.C. Section 144 affidavit of bias himself, rather than referring it to another judge as the statute requires.

- The United States Court of Appeals for the Third Circuit, the only court positioned to review any of this, employs the spouse of the prosecuting Commission attorney as an attorney in the Executive Office that serves its judges.

- That court has not decided Applicant's appeal in No. 24-1381 in more than thirty-two months, has never compelled the Government to file a merits brief, and has never contested any of the facts above.

Not one of these facts is in dispute. The Government has had years, and multiple forums, in which to contest them, and has not. The full record is set out in the matters Applicant now has pending before this Court. Three are already docketed here and remain undecided: a petition for a writ of certiorari in Cammarata v. United States, No. 26-528 (from Third Circuit No. 23-2110); a petition for a writ of certiorari in Cammarata v. United States, No. 26-456 (from Third Circuit No. 24-1983); and a petition for a writ of mandamus in In re Cammarata, No. 26-544, which raises the disqualification of the district judge and of the Third Circuit directly. The orders that are the immediate subject of this application remain pending, undecided, before the Third Circuit in SEC v. Cammarata, No. 24-1381, where they have sat for more than thirty-two months without a

merits brief ever having been compelled from the Government. While those matters are pending, the same prosecutors and the same district judge are proceeding with a new criminal indictment, United States v. Cammarata, No. 2:26-cr-00238-CFK (E.D. Pa.), and the Government continues to enforce, and to compound, the very judgments and orders under review.

Applicant therefore respectfully applies to the Circuit Justice, under 28 U.S.C. Section 2101(f), 28 U.S.C. Section 1651(a), and this Court's Rules 22 and 23, for a stay, pending this Court's disposition of the related matters now before it (Nos. 26-528, 26-456, and 26-544), of:

(a) the execution and enforcement of the Judgment and Commitment order in United States v. Cammarata, No. 2:21-cr-00427-CFK (E.D. Pa.); and

(b) the continued enforcement, liquidation, and disbursement of assets under the asset freeze in SEC v. Cammarata, No. 2:21-cv-04845-CFK (E.D. Pa.).

If the Circuit Justice concludes that complete relief is not warranted at this stage, Applicant respectfully requests, at a minimum, a stay of any further liquidation or disbursement of frozen assets, so that this Court's eventual review is not rendered meaningless by the irreversible and continued loss of Applicant's property in the interim.

JURISDICTION

This application is addressed to the Honorable Samuel A. Alito, Jr., as Circuit Justice for the Third Circuit, under this Court's Rules 22 and 23. The authority to grant

the stay derives from 28 U.S.C. Section 2101(f), which authorizes a Justice of this Court to stay the enforcement of a judgment that is subject to review on certiorari, from the All Writs Act, 28 U.S.C. Section 1651(a), and from this Court's inherent power to preserve the status quo and the efficacy of its own eventual judgment. A stay pending review is governed by the factors set out in Hilton v. Braunskill, 481 U.S. 770 (1987), and Nken v. Holder, 556 U.S. 418 (2009).

THE GOVERNING STANDARD

A stay pending review turns on four considerations: (1) whether the applicant has made a strong showing that he is likely to succeed on the merits, or that the matters present a fair prospect that a majority of the Court will grant relief; (2) whether the applicant will be irreparably injured absent a stay; (3) whether a stay will substantially injure other interested parties; and (4) where the public interest lies. Hilton, 481 U.S. at 776; Nken, 556 U.S. at 426. Where, as here, the harm is the irretrievable loss of liberty and the irreversible liquidation of property, and the underlying proceedings were conducted by disqualified courts, each factor favors a stay.

ARGUMENT

I. This Case Presents a Question of First Impression: Both the Trial Court and the Only Court of Appeals Empowered to Review It Are Disqualified by Statute, as a Matter of Documented Fact.

Disqualification under 28 U.S.C. Section 455 does not depend on proof of actual bias. It follows from the existence of a disqualifying interest or relationship, and it applies

"however small" that interest may be. Section 455(d). The two disqualifications set out below are each established by the public record. Neither is a matter of inference or of appearance alone. Taken together, they present a situation this Court has had no prior occasion to address: a litigant for whom there is no untainted forum below, because the trial court that entered every order and the appellate court that alone could review those orders are both disqualified.

A. The Court of Appeals Is Disqualified Under Section 455(a).

The United States Court of Appeals for the Third Circuit is the only court empowered to review the orders at issue. It is disqualified. The attorney who prosecuted the Commission's civil action against Applicant, John V. Donnelly III, is married to Jeanne T. Donnelly, who is employed by the Third Circuit as an Assistant Circuit Executive, an attorney in the Executive Office that serves its judges. The conflict is not merely that a prosecuting lawyer's spouse is on the court's staff. It is that she is herself an attorney within the office that supports the very judges who sit in judgment of her husband's cases. Section 455(a) requires disqualification whenever a court's "impartiality might reasonably be questioned." A reasonable observer, knowing that the prosecuting attorney's spouse serves as a lawyer in the Executive Office of the court deciding the prosecution's appeals, would question that court's impartiality. See Williams v. Pennsylvania, 579 U.S. 1 (2016). Under Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988), the consequence does not depend on a showing that the relationship actually influenced any ruling. Nor is the relationship a matter of history. Mr. Donnelly

remains the Commission’s attorney in the case and filed its opposition to Applicant’s pending Rule 59(e) motion on September 24, 2026 (ECF No. 430, No. 2:21-cv-04845). The conflict, and the harm it causes, are ongoing, and the Government has never denied the relationship.

B. The Trial Court Is Disqualified Under Section 455(b)(4), Section 455(a), and Section 455(b)(1).

The district judge who entered every order in both the civil and the criminal proceedings held a documented financial interest in the very securities-settlement recovery mechanism that was the subject of the prosecution. He admitted that interest from the bench at the June 6, 2023 sentencing, stating that he had personally invested in, and filed claims within, that mechanism, and his financial-disclosure reports confirm the holdings. Section 455(b)(4) requires disqualification where a judge "has a financial interest in the subject matter in controversy," and that requirement applies "however small" the interest. Section 455(b)(4), (d). The interest here was not merely in the subject matter; it was an interest in the outcome, because the legal theory on which Applicant was convicted, if correct, would govern the judge’s own claims within the same mechanism. The same judge also denied, himself, a legally sufficient affidavit of bias under 28 U.S.C. Section 144, rather than referring it to another judge as the statute requires, and the record documents prejudgment of the case before any evidence was taken. He is therefore disqualified under Section 455(b)(4) (financial interest), and independently under Section 455(a) and Section 455(b)(1) (impartiality reasonably

questioned and personal bias). Because he entered every order across the related proceedings, his disqualification, under Liljeberg, unwinds all of them.

C. The Combination Is Why Only This Court Can Act.

Each disqualification, standing alone, would require relief. But their combination is what makes this application necessary and what makes the case one of first impression. When the trial court is disqualified, the ordinary remedy is review by the court of appeals. Here, the court of appeals is itself disqualified, and it has, for more than thirty-two months, neither decided the appeal nor compelled the Government to respond to it. There is thus no court below that can lawfully cure the defect, because the only court positioned to do so is the one whose own disqualification is part of the defect. That is precisely the circumstance in which a Circuit Justice, and ultimately this Court, must act to preserve the integrity of the federal judicial process.

II. There Is a Fair Prospect This Court Will Grant Relief, Because the Conduct Charged Was Held Lawful by This Court.

The merits are developed at length in the three pending matters and are summarized here only to show the strength of the showing. The theory of prosecution, set out at paragraph 11 of the indictment, was that a claimant to a securities class-action settlement must personally have traded the security and personally have lost money. This Court held the opposite in Sprint: an assignee "has standing to pursue that claim in federal court," and does so "in [its] own name." 554 U.S. at 271, 286. Applicant did exactly what Sprint holds lawful, as the trial evidence established and as the prosecutor

acknowledged on the record before moving to strike his own words. No court has ever applied Sprint to this case, despite its being raised at trial, in post-trial motions, and on appeal. A conviction for conduct this Court has held lawful, entered by a disqualified judge and left unreviewed by a disqualified court of appeals, presents a fair prospect that this Court will grant relief.

APPLICANT HAS SOUGHT RELIEF IN THE LOWER COURTS, AS RULE 23.3 REQUIRES

This Court's Rule 23.3 provides that, except in the most extraordinary circumstances, an application for a stay will not be entertained unless the relief requested was first sought in the appropriate court or courts below. Applicant has sought this relief, repeatedly, in both the district court and the court of appeals, and has been refused at every level. The orders of refusal are attached to this application. As Rule 23.3 also requires, the judgments sought to be reviewed, with the opinions of the court of appeals, and the orders sought to be stayed are appended as well (Exhibits H through N).

In the district court, in SEC v. Cammarata, No. 2:21-cv-04845-CFK (E.D. Pa.), Applicant moved for relief from the void judgment and orders under Federal Rule of Civil Procedure 60(b)(4) and Rule 12(h)(3) (ECF No. 421). The court denied that motion and closed the case on September 9, 2026 (ECF Nos. 425, 426). Applicant moved to alter or amend that judgment under Rule 59(e) (ECF No. 427). The Commission opposed (ECF No. 430), Applicant replied (ECF No. 431), and the motion has been fully briefed since September 28, 2026 without a ruling.

In the criminal case, United States v. Cammarata, No. 2:21-cr-00427-CFK (E.D. Pa.), Applicant moved on March 23, 2026 for an emergency stay of the forfeiture orders "pending resolution of appeal and application to Circuit Justice" (ECF No. 480), and renewed his motion to dismiss for lack of subject-matter jurisdiction (ECF No. 481). The district court denied both on March 27, 2026 (ECF Nos. 483, 484). On August 7, 2026, Applicant moved to vacate the order authorizing disbursement of seized funds and to stay all disbursement "pending resolution of Defendant's active collateral and Supreme Court matters" (ECF No. 506). The district court denied that motion on September 24, 2026 (ECF No. 510).

In the court of appeals, in SEC v. Cammarata, No. 24-1381, Applicant sought the same relief and was refused three times, by name:

(1) By order entered May 19, 2025, a panel of the Third Circuit (Phipps and Chung, JJ.) DENIED Applicant's motion to lift the stay (ECF No. 62) and his emergency motion for the immediate release of improperly frozen assets (ECF No. 68).

(2) By order entered August 20, 2025, the Third Circuit (Smith, J.) DENIED Applicant's Emergency Motion to lift the stay and for a change of venue to the United States Supreme Court.

(3) By order entered August 27, 2025, the en banc Third Circuit (Chagares, C.J., and eleven Circuit Judges) denied Applicant's requests "to disqualify the entire Third Circuit in this matter and to certify the case for immediate review by the Supreme Court of the United States."

Applicant has thus done precisely what Rule 23.3 requires. He asked the district court, in both the civil and the criminal case, to set aside the void orders and to stay their enforcement pending review, including pending an application to the Circuit Justice, and was denied. He asked the court of appeals to lift the stay, to send the matter to this Court, and to address the disqualification of the Circuit itself, and was denied each time, including by the full court sitting en banc. The one court that could have granted relief below is the same court whose disqualification is at the heart of this application, and it has refused, by name, to disqualify itself or to send the matter here. No further resort to the courts below is available or could be adequate.

APPLICANT RESPECTFULLY REQUESTS THAT THE CIRCUIT JUSTICE REFER THIS APPLICATION TO THE FULL COURT

This Court's Rule 23.3 expressly provides that a Circuit Justice may refer an application for a stay to the full Court for determination. Applicant respectfully requests that the Circuit Justice do so here. The request is not made lightly, and it is grounded in the unusual nature of what this application presents. The question is not the ordinary one of whether a single ruling below was correct. It is whether a citizen can be imprisoned and stripped of his property through proceedings conducted by a disqualified trial judge and left unreviewed by a disqualified court of appeals, with no court below able to cure the defect. That question implicates the structural integrity of the federal judiciary itself, including the integrity of one of its courts of appeals. A matter of that character is appropriately placed before the full Court, both because of its importance and because the related certiorari and mandamus matters (Nos. 26-528, 26-456, and 26-544) are already

pending before the full Court and raise the same questions. Referral would allow the Court to preserve the status quo and to consider these related matters together, rather than permitting the irreversible loss of liberty and property to proceed while they are decided.

Absent a Stay, Applicant Will Suffer Irreparable Harm That This Court's Later Judgment Cannot Undo.

The irreparable harm here is not speculative; it is occurring now. Applicant has already been imprisoned for nearly five years under judgments that rest on conduct this Court held lawful. The incarceration of the applicant during review is itself the paradigm of irreparable injury. Hilton, 481 U.S. at 776. Every additional day of imprisonment under a void judgment is a day that cannot be returned.

The property harm is equally irreversible. The asset freeze, entered without any finding of irreparable harm and expired by operation of law years ago, continues to be enforced, and assets exceeding seventy-eight million dollars are being liquidated and disbursed. Once liquidated and paid out, those assets cannot be restored if this Court later holds, as the record compels, that the freeze was void from the outset. Cedar Point Nursery v. Hassid, 594 U.S. 139 (2021).

And the harm is actively compounding. A new criminal prosecution, United States v. Cammarata, No. 2:26-cr-00238-CFK (E.D. Pa.), is proceeding before the same disqualified judge, predicated on the very orders under review. On September 24, 2026, that judge denied Applicant's motion to dismiss the new indictment (ECF Nos. 50, 51), and trial is set for January 19, 2027. The new prosecution threatens Applicant with a new

conviction and further imprisonment before this Court can rule. If it proceeds to judgment, this Court's review of the orders on which it rests will come too late to prevent the harm. Preserving the status quo is the only way to keep this Court's eventual judgment meaningful.

A Stay Will Not Substantially Injure the Government, and the Public Interest Strongly Favors One.

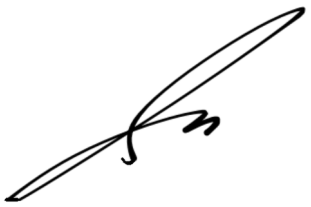
The Government cannot be heard to claim urgency. It has never filed a merits response brief in the appeal, has left every operative fact uncontested for years, and obtained a stay of the appeal at its own request. A party that has treated these proceedings with such indifference to time cannot suffer substantial injury from a stay that simply preserves the status quo while this Court reviews the matter. The only assets at issue are Applicant's own, and a stay merely prevents their irreversible dissipation.

The public interest lies entirely with a stay. The fairness, integrity, and public reputation of judicial proceedings, United States v. Olano, 507 U.S. 725, 736 (1993), are not served by executing judgments, liquidating a citizen's life savings, and commencing new prosecutions while serious, uncontested, and documented questions about the lawfulness of the entire proceeding, and the disqualification of the judges who conducted it, remain pending before this Court. The public interest is never served by the continued enforcement of a conviction for conduct this Court has held lawful.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Circuit Justice refer this application to the full Court, and enter a stay, pending this Court's disposition of the related matters identified above (Nos. 26-528, 26-456, and 26-544), of the execution and enforcement of the Judgment and Commitment order in No. 21-cr-427, and of the continued enforcement, liquidation, and disbursement of assets in No. 21-cv-04845; or, if complete relief is not warranted at this stage, then, at a minimum, a stay of any further liquidation or disbursement of frozen assets; and such further relief as justice requires.

Respectfully submitted,



_____

Joseph A. Cammarata
Applicant, pro se
Reg. No. 02555-506
FPC Montgomery
Maxwell AFB
Montgomery, AL 36112

Dated: November 6, 2026

INDEX OF ATTACHED ORDERS (RULE 23.3)

Exhibit A Memorandum and Order denying Rule 60(b)(4) and 12(h)(3) motion, SEC v. Cammarata, No. 2:21-cv-04845 (E.D. Pa.), ECF No. 426

Exhibit B Order of May 19, 2025, SEC v. Cammarata, No. 24-1381 (3d Cir.), ECF No. 71 (denying motion to lift stay and motion for release of frozen assets)

Exhibit C Order of August 20, 2025, No. 24-1381 (3d Cir.), ECF No. 79 (denying emergency motion to lift stay and to change venue to the Supreme Court)

Exhibit D Order of August 27, 2025, No. 24-1381 (3d Cir.) (en banc), ECF No. 83 (denying requests to disqualify the Third Circuit and to certify the case to this Court)

Exhibit E Order of March 27, 2026, United States v. Cammarata, No. 2:21-cr-00427 (E.D. Pa.), ECF No. 483 (denying emergency motion to stay pending appeal and application to Circuit Justice)

Exhibit F Order of March 27, 2026, No. 2:21-cr-00427 (E.D. Pa.), ECF No. 484 (denying renewed motion to dismiss for lack of subject-matter jurisdiction)

Exhibit G Order of September 24, 2026, No. 2:21-cr-00427 (E.D. Pa.), ECF No. 510 (denying motion to vacate and stay disbursement pending Supreme Court matters)

Exhibit H	Amended Opinion of July 22, 2025, United States v. Cammarata, No. 23-2110 (3d Cir.), ECF No. 77 (judgment sought to be reviewed in No. 26-528)
Exhibit I	Order of August 12, 2025, No. 23-2110 (3d Cir.), ECF No. 83 (denying rehearing)
Exhibit J	Opinion of April 7, 2026, United States v. Cammarata, No. 24-1983 (3d Cir.), ECF No. 80 (judgment sought to be reviewed in No. 26-456)
Exhibit K	Notice of Entry of Judgment and Judgment of April 7, 2026, No. 24-1983 (3d Cir.), ECF Nos. 81-1, 81-2
Exhibit L	Order of May 7, 2026, No. 24-1983 (3d Cir.), ECF No. 86 (denying rehearing)
Exhibit M	Judgment in a Criminal Case, United States v. Cammarata, No. 2:21-cr-00427 (E.D. Pa.), ECF No. 307 (order sought to be stayed)
Exhibit N	Stipulated Preliminary Injunction and asset-freeze order, SEC v. Cammarata, No. 2:21-cv-04845 (E.D. Pa.), ECF No. 66 (order sought to be stayed)

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	**CIVIL ACTION**
v.	:	
JOSEPH A. CAMMARATA, et al.,	:	
Defendants.	:	**NO. 21-cv-4845**

ORDER

AND NOW, this **9th** day of **September 2026**, upon consideration of Defendant Joseph A. Cammarata's *pro se* Motion for Relief from a Void Judgment and Void Orders Pursuant to Federal Rules of Civil Procedure 60(b)(4) and 12(h)(3) (ECF No. 421), Plaintiff Securities and Exchange Commission ("SEC")'s Opposition to Defendant's Motion for Relief from a Void Judgment and Void Orders (ECF No. 423), Defendant's Reply in Support of His Motion for Relief from a Void Judgment and Void Orders (ECF No. 424), and the docket, and for the reasons stated in the accompanying memorandum, it is hereby **ORDERED** that the Motion (ECF No. 421) is **DENIED**.

BY THE COURT:

/s/ Chad F. Kenney

CHAD F. KENNEY, JUDGE

Exhibit B

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

DCO-086

No. 24-1381

SECURITIES AND EXCHANGE COMMISSION

v.

JOSEPH A. CAMMARATA,
Appellant

(E.D. Pa. No. 2:21-cv-04845)

Present: PHIPPS and CHUNG, Circuit Judges

1. Motion by Appellant to Include Appellant's Pro Se Filings at ECF Nos. 22 and 23 as Appendix to Brief Filed January 27, 2025 (ECF No. 44);

2. Response by Appellee to (2) Motion to Include Appellant's Pro Se Filings at ECF Nos. 22 and 23 as Appendix to Brief Filed January 27, 2025 (ECF No. 44);

3. Motion by Appellant to Lift Stay;

4. Appellee's Combined (1) Opposition to Motion to Lift Stay and, (2) in the alternative, Motion for Limited Remand;

5. Letter dated March 12, 2025 pursuant to Rule 28(j) from counsel for Appellee, advising Court that Appellant was granted an extension of time to file petition for rehearing in Appeal No. 23-2110;

6. Letter dated March 28, 2025, pursuant to Rule 28(j) from counsel for Appellee, advising Court that Appellant filed petition for rehearing in Appeal No. 23-2110;

7. Appellant's Pro Se Notice of Counsel Being Discharged from Case, treated as Motion to Proceed Pro Se filed by Appellant Joseph Cammarata;

8. Motion filed by Appellant Joseph Cammarata filed by Attorney Jack J. McMahon, Jr., Esq. for Appellant Joseph Cammarata to withdraw as counsel;

9. EMERGENCY MOTION filed by Appellant Joseph Cammarata for the Immediate Release of Improperly Frozen Asset;

10. Response filed by Appellee SEC to Motion to Release of Frozen Asset; and

11. Reply to Response by Appellant Joseph Cammarata to SEC to Motion to Release of Frozen Asset.

Respectfully,
Clerk/amr

_____ORDER_____

The foregoing are considered. The motions by Appellant to include pro se filings at ECF Nos. 22 and 23 as an appendix to the brief filed January 27, 2025 (ECF No. 57), and to proceed pro se (ECF No. 66) are GRANTED. The motion to withdraw as counsel filed by Jack J. McMahon, Jr., Esquire (ECF No. 67) is GRANTED. The Appellant's motions to lift stay (ECF No. 62) and for the immediate release of improperly frozen assets (ECF No. 68) are DENIED.

By the Court,

s/ Cindy K. Chung
Circuit Judge

Dated: May 19, 2025
Amr/cc: All counsel of record

Exhibit C

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

DCO-142

No. 24-1381

SECURITIES AND EXCHANGE COMMISSION

v.

JOSEPH A. CAMMARATA; ERIK COHEN; DAVID H. PUNTURIERI; ALPHAPLUS PORTFOLIO RECOVERY CORP.; ALPHA PLUS RECOVERY LLC

Joseph Cammarata,
Appellant

(E.D. Pa. No. 2:21-cv-04845)

Present: PHIPPS, CHUNG and SMITH, Circuit Judges

1. EMERGENCY MOTION filed by Appellant Joseph Cammarata to lift stay and for change of venue to the United States Supreme Court. "Which the Court may wish to treat as a motion for partial reconsideration of the Court's order entered May 19, 2025."

2. Response filed by Appellee SEC to motion to lift stay and for change of venue to the United States Supreme Court.

Respectfully,
Clerk/amr

_____ORDER_____

The foregoing Motion to Lift Stay and to Change Venue to the United States Supreme Court is DENIED.

By the Court,

s/D. Brooks Smith
Circuit Judge

Dated: August 20, 2025
CJG/cc: David D. Lisitza, Esq.
John R. Rady, Esq.
Joseph Cammarata

Exhibit D

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 24-1381

SECURITIES AND EXCHANGE COMMISSION

v.

JOSEPH A. CAMMARATA; ERIK COHEN; DAVID H. PUNTURIERI; ALPHAPLUS PORTFOLIO RECOVERY CORP.; ALPHA PLUS RECOVERY LLC

Joseph A. Cammarata,
Appellant

(E.D. Pa. No. 2:21-cv-04845

Present: CHAGARES, Chief Judge, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, and CHUNG, Circuit Judges

ORDER

Appellant's requests to disqualify the entire Third Circuit in this matter and to certify the case for immediate review by the Supreme Court of the United States are hereby denied.

By the Court,

s/ Michael A. Chagares
Chief Judge

Dated: August 27, 2025
Amr/cc: All counsel of record

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	**NO. 21-cr-00427-CFK-01**
	:	
JOSEPH A. CAMMARATA	:	

ORDER

AND NOW, this **27th** day of **March 2026**, upon consideration of Defendant's Emergency Motion to Stay Forfeiture Orders (ECF Nos. 478, 479) Pending Resolution of Appeal and Application to Circuit Justice, (ECF No. 480), it is hereby **ORDERED** that the Emergency Motion (ECF No. 480) is **DENIED**. The resolution of Defendant's appeal pending before the Third Circuit in USCA No. 24-1381 has no bearing on this Court's Forfeiture Orders (ECF Nos. 478, 479) in the above-captioned criminal action because USCA No. 24-1381 is Defendant's appeal of the Securities and Exchange Commission's civil enforcement action against him, whereas the Third Circuit has already affirmed Defendant's convictions in the United States' criminal action against him in USCA No. 23-2110. *See U.S. v. Cammarata*, 145 F.4th 345, 383 (3d Cir. 2025). Indeed, the Third Circuit explicitly allowed the Government to move to amend its forfeiture order under Fed. R. Crim. P. 32.2(e) to reflect that certain property is forfeitable as a substitute asset, *id.*, which the Government did in ECF No. 474, and which this Court subsequently granted in ECF No. 478 in the above-captioned action.

BY THE COURT:

/s/ Chad F. Kenney

CHAD F. KENNEY, JUDGE

Exhibit F

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	**NO. 21-cr-00427-CFK-01**
	:	
JOSEPH A. CAMMARATA	:	

ORDER

AND NOW, this **27th** day of **March 2026**, upon review of Defendant's Renewed Motion to Dismiss for Lack of Subject Matter Jurisdiction (ECF No. 481) and the docket, it is hereby **ORDERED** that the Motion (ECF No. 481) is **DENIED**. The Court notes that the issue raised in the Motion (ECF No. 481) is the same issue raised in Defendant's *pro se* Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2255 (ECF No. 477), and so, the Court will incorporate the arguments set forth in the Motion (ECF No. 481) as part of Defendant's § 2255 Petition (ECF No. 477).

BY THE COURT:

/s/ Chad F. Kenney

CHAD F. KENNEY, JUDGE

Exhibit G

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	**CRIMINAL NO. 21-00427-CFK-01**
	:	
JOSEPH A. CAMMARATA	:	

ORDER

AND NOW, this **24th** day of **September 2026**, upon consideration of the Defendant's *pro se* Motion to Vacate Order (ECF No. 505) and Stay All Disbursement of $44,269.49 in Funds Held by USMS (the "Defendant's Motion") (ECF No. 506), and the docket, it is hereby **ORDERED** that the Defendant's Motion is **DENIED**.[1]

BY THE COURT:

/s/ Chad F. Kenney

CHAD F. KENNEY, JUDGE

[1] The Court interprets Defendant's Motion as a Motion for Reconsideration, the granting of which requires the moving party to demonstrate: (1) the availability of new evidence which was not available at the time the court granted the motion; (2) an intervening change in the controlling law; or (3) the need to correct a clear error of law or prevent manifest injustice. *Max's Seafood Cafe v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999). The Defendant has not met this standard because no new evidence has become available, there have been no changes to the controlling law, and Defendant's arguments do not demonstrate that this Court's Order (ECF No. 505) constituted a clear error of law or led to manifest injustice.

Exhibit H

PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2110

UNITED STATES OF AMERICA

v.

JOSEPH CAMMARATA,
Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(District Court No. 2:21-cr-00427-001)
District Judge: Honorable Chad F. Kenney

Argued September 19, 2024

Before: RESTREPO, McKEE, and SMITH,
Circuit Judges

(Filed: July 22, 2025)

Peter Goldberger [**Argued**]
Law Office of Peter Goldberger
P.O. Box 645

Ardmore, PA 19003
Counsel for Appellant

David J. Ignall
Paul G. Shapiro [**Argued**]
Office of United States Attorney
615 Chestnut Street
Suite 1250
Philadelphia, PA 19106
Counsel for Appellee

OPINION OF THE COURT

SMITH, *Circuit Judge.*

"The class action is an ingenious procedural innovation[,]" wrote Judge Richard Posner in *Eubank v. Pella Corp.*, 753 F.3d 718, 719 (7th Cir. 2014). As he explained, it "enables persons who have suffered a wrongful injury, but are too numerous for joinder of their claims alleging the same wrong committed by the same defendant or defendants to be feasible, to obtain relief as a group, a class as it is called." *Id.*

Yet no matter how inspired a concept the class action device may be, it is not entirely resistant to the designs of fraudsters bent on abusing it—in this case, by imposters claiming settlement proceeds to which they had no lawful right.

This appeal presents us with issues arising out of a unique intersection of federal sentencing principles and class action settlement practice. Joseph Cammarata and two confederates developed an elaborate scheme by which they submitted fraudulent claims to administrators of securities class action settlement funds. None of the three were class members, yet their efforts yielded them over $40 million. Two of the men entered guilty pleas pursuant to agreements. Cammarata, though, proceeded to trial and was found guilty by a jury of all charges filed against him.

In addressing the issues raised by Cammarata's appeal, we uphold all but one of the District Court's rulings, remanding for the District Court to allow the Government to move to amend the Court's forfeiture order.

I. BACKGROUND

Joseph Cammarata and his business partners, Eric Cohen and David Punturieri (collectively "Defendants"), joined forces to create Alpha Plus Recovery, LLC ("Alpha Plus") in 2014. Alpha Plus was a claims aggregator,[1] with a

[1] An extensive search for a formal definition of a class action "claims aggregator" yielded only a definition from a treatise which cites the complaint filed against Cammarata by the Securities and Exchange Commission in a parallel civil case. It explains that claims aggregators "are companies that solicit absent class members to provide services, including (i) filing settlement claims on their behalf, (ii) compiling, where necessary, documentation or information to support those claims, and (iii) communicating with the claims administrator

business model that revolved around securities class action settlements. Class actions generally involve hundreds, if not thousands, of class members. When a class action settles, some class members may conclude that the time and effort required to submit a small or modest claim outweigh any potential for obtaining a meaningful award from the settlement fund. Claims aggregators seek to remedy that dilemma. In exchange for a percentage of a client's monetary recovery, claims aggregators complete necessary paperwork and then submit aggregated claims to a settlement administrator on behalf of numerous class-member clients.

An administrator of a settlement reviews each claim—whether filed by an individual class member or by an aggregator—to ensure that the claimant fits within the definition of a class as set forth in the court order certifying the class.[2] Those who qualify as class members thereby become

---

to perfect, cure, supplement, or otherwise oversee the claims filing process through inception to distribution of funds." *Class Actions and Other Complex Litig.: Ethics* § 4.01 (2024) (citing Compl. ¶¶ 37–38, *SEC v. Cammarata, et al.*, No. 21-cv-4845, ECF No. 1 (E.D. Pa. Nov. 11, 2021)). While the term "claims aggregator" may not be generally known in legal practice, a class action claims administrator who testified at trial in this case confirmed that claims aggregators are "part of the industry[.]" App. 547.

[2] Federal Rule of Civil Procedure 23, which governs class actions filed in the federal court system, requires the presiding district judge to "define the class[.]" Fed. R. Civ. P.

entitled to payment from the settlement fund. In a securities class action, a qualified member is typically a person or entity who purchased or owned shares of a security issued by an entity which has been sued under federal securities laws at a time, or during a period, specified in the class definition. When aggregators submit claims on behalf of their clients, it becomes the administrator's responsibility to investigate whether the clients satisfy the definitional criteria.

From 2014 to 2021, Alpha Plus submitted hundreds of claims to administrators who were overseeing nearly 400 securities class action settlements filed in both federal and state courts. The company did so primarily on behalf of three clients: Nimello Holding LLC ("Nimello"), Quartis Trade and Investment LLC ("Quartis"), and Inversiones Invergasa SAS ("Invergasa"). In its submissions to claims administrators,

---

23(c)(1)(B). Accordingly, a court's order certifying a class must include "a readily discernible, clear, and precise statement of the parameters defining the class[.]" *Wachtel ex rel. Jesse v. Guardian Life Ins. Co. of Am.*, 453 F.3d 179, 187 (3d Cir. 2006). Class definitions in securities class actions ordinarily resemble the following: All persons who purchased or owned shares of the defendant entity's stock during a particular timeframe and who suffered damages as a result of that purchase or ownership. *See, e.g.*, App. 1979 (defining the class as "[a]ll Persons who purchased shares of EndoChoice common stock pursuant or traceable to EndoChoice's [IPO] Offering Materials on or before August 3, 2016, and who were damaged thereby").

Alpha Plus represented that Nimello was a hedge fund located in Gibraltar, that Quartis was a hedge fund located in the Bahamas, and that Invergasa was an entity located in Colombia. Those submissions contained a number of misrepresentations.

Nimello, Quartis, and Invergasa were not hedge funds—they were defunct foreign shell companies acquired by the Defendants. The directors of Nimello and Quartis, along with Invergasa's president, were associated with Joseph Cammarata.[3] David Punturieri had incorporated a separate "Nimello" entity in New Jersey in 2015, named Nimello Holding LLC ("NJ Nimello"); incorporation documents listed Erik Cohen and Joseph Cammarata as officers and directors. And a separate Quartis Trade and Investment LLC ("NJ Quartis") had been incorporated by Cohen in New Jersey in 2014. Cohen listed himself and Punturieri as members[4] and added Cammarata as an owner in 2017.[5] The Defendants

[3] The directors of Nimello and Quartis were not charged in the indictment, nor was Invergasa's president.

[4] The superseding indictment stated that Cohen and Punturieri were listed as "members/managers" of NJ Quartis. App. 98.

[5] As the Presentence Investigation Report recommended, PSR ¶ 67, Cammarata received a sentencing enhancement because his offense involved "sophisticated means[,]" such as "acquir[ing] foreign shell companies" and "portray[ing] these companies as hedge funds." App. 2068.

subsequently opened bank accounts in the names of NJ Nimello and NJ Quartis.

In support of the claims that Alpha Plus submitted to claims administrators, it included falsified spreadsheets purporting to show that Nimello, Quartis, and Invergasa had traded in securities of certain companies named as defendants in actual securities class actions that had been settled. In fact, the three entities never actually traded in those or any other securities. When claims administrators sought additional documentation that might confirm some suspect trades, the Defendants created and submitted further fabricated reports which listed fictitious transactions.

Some of those fabricated reports purported to have been authored by SpeedRoute, a broker dealer Cammarata founded in 2010, and which he sold in 2015.[6] For example, the Defendants altered real trade data from SpeedRoute and submitted it to claims administrators representing falsely that Nimello, Quartis, or Invergasa had made the trades. In other instances, when Alpha Plus submitted claims on behalf of the three entities, it identified SpeedRoute as the entities' brokerage firm and listed Cammarata as SpeedRoute's point of contact. When claims administrators pressed for further proof of trading, Cohen and Cammarata worked together to create fictitious SpeedRoute reports and submit them to the claims administrators. SpeedRoute itself was a legitimate entity and had no role in creating those reports. Most importantly, it never executed a trade on behalf of Nimello, Quartis, or Invergasa.

[6] Cammarata remained SpeedRoute's CEO until 2018.

As scrutiny of the claims submitted by Alpha Plus grew more intense, the Defendants resorted to other tactics in an effort to deceive administrators. In 2015, for example, a claims administrator asked several follow-up questions about supporting documents for trades ostensibly made by Quartis. The Defendants responded by falsely suggesting that SpeedRoute was Quartis's broker dealer. Cohen created an email account which he used to pose as the principal of Quartis, then sent an email to Cammarata purporting to ask for information that he could provide to the inquiring claims administrator. Cammarata drafted an email from his SpeedRoute account which offered a contrived explanation. Punturieri forwarded that email to the claims administrator, touting it as a justification for the claim from Quartis's broker dealer.

In 2020, the Defendants' scheme hit a snag. One claims administrator, KCC, asked to be provided with data that supported the trades allegedly underlying claims by Nimello and Quartis. Punturieri, pretending to be an Alpha Plus employee named "Paul Delfino," sent KCC two reports ostensibly authored by SpeedRoute. But Dan Dearden, a financial crimes investigator employed by the parent company of KCC, had begun to work with government investigators. He referred the reports on to SpeedRoute, asking for verification of their authenticity. SpeedRoute's Chief Compliance Officer responded that the company had not produced the reports and did not recognize Nimello or Quartis as clients. Around this same time, Dearden made a similar request for further information about trades supposedly made by Invergasa.

The Defendants' scheme had begun to unravel.

Because SpeedRoute could not verify the trades, Dearden insisted that he speak with someone at Nimello, Quartis, and Invergasa. Without such an assurance, Dearden told Punturieri that he would reject the claims. Desperate to give the phony claims an appearance of legitimacy, Cohen impersonated Nimello's principal in a conversation he had with Dearden. And the Defendants instructed Cammarata's business partner in Colombia as to what he should say on Invergasa's behalf in a separate phone call he was to have with Dearden. When the Invergasa call went poorly, Cammarata went so far as to suggest to his co-defendants that he personally go to Dearden's home and offer him a $1 million bribe. He elected, though, to abandon such an overture.

The conspirators' desperation could hardly have been assuaged when KCC rejected the Alpha Plus claims, and when other claims administrators did likewise.

All told, claims administrators paid Alpha Plus approximately $40 million for claims made on behalf of Nimello, Quartis, and Invergasa from 2014 to 2021. The Defendants transferred that money to bank accounts they held, including the NJ Nimello and NJ Quartis accounts,[7] for their personal benefit.

[7] The Defendants incorporated NJ Nimello and NJ Quartis so they could deposit settlement funds into those entities' bank accounts. Claims administrators would sometimes send settlement funds directly to Alpha Plus. In other instances, claims administrators wrote checks to Nimello Holding LLC and/or Quartis Trade and Investment LLC, thinking those

On October 28, 2021, a grand jury sitting in the Eastern District of Pennsylvania returned a single-count indictment charging the Defendants with conspiracy to commit mail and wire fraud, in violation of 18 U.S.C. §§ 1341 and 1343. Authorities arrested Cammarata six days later.[8] A grand jury returned a twelve-count superseding indictment in September of 2022, charging the Defendants as follows:

- Conspiracy to commit mail and wire fraud, in violation of 18 U.S.C. § 1349, at count one against all Defendants;
- Wire fraud, in violation of 18 U.S.C. § 1343, at counts two through five against all Defendants;
- Conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h), at count six against all Defendants;

---

entities were foreign hedge funds and Alpha Plus clients. But the Defendants would deposit those checks into the bank accounts of the New Jersey LLCs they had incorporated under either the Nimello or Quartis names.

[8] Cammarata was initially released on bail, with conditions including requirements that he live with his parents in New York, abide by a curfew, and wear a location monitoring device. But the District Court revoked his bail in March 2022 after concluding there was probable cause to believe Cammarata had committed a federal offense while on release, and that Cammarata was unlikely to abide by any conditions of release.

- Money laundering and aiding and abetting, in violation of 18 U.S.C. §§ 1956(a)(1)(B)(i) and 2, at counts seven through ten against all Defendants; and
- Money laundering and aiding and abetting, in violation of 18 U.S.C. §§ 1957 and 2, at counts eleven and twelve against Cammarata only.

Cammarata's co-Defendants, Punturieri and Cohen, pled guilty to counts one and six on October 13 and 14, 2022, respectively. The day after Cohen entered his guilty plea, the District Court granted the Government's motion to dismiss the money laundering charges at counts seven through ten as to all three Defendants. Only Cammarata proceeded to trial on the remaining counts a week later.

Both Punturieri and Cohen cooperated with the Government and testified at the trial. Punturieri described Cammarata as the "overseer" of the fraudulent scheme. App. 1326. And both Punturieri and Cohen detailed the false submissions the Defendants had made to claims administrators on behalf of Quartis, Nimello, and Invergasa. Several claims administrators, as well as Dearden, also testified at trial.

Cammarata testified on his own behalf. He conceded that he had lied to claims administrators by falsely representing that Quartis, Nimello, and Invergasa had traded the securities involved in the class action settlements. But by Cammarata's telling, the scheme was lawful because he had *personally* traded the subject securities and then assigned those trades to Quartis, Nimello, and Invergasa. The trades were all real, he claimed, and his assignments rendered the three entities the

"beneficial owners" of the trades, entitling them to settlement funds. App. 1594. Still, Cammarata admitted on cross-examination that he never informed the claims administrators that he had made any assignments.

After a six-day trial, the jury found Cammarata guilty on all counts. The District Court sentenced him on June 6, 2023. The Court calculated Cammarata's guideline imprisonment range to be 168 months to 210 months. Despite Cammarata's being unrepentant throughout the sentencing proceeding, the District Court granted him a downward variance. He was sentenced to 120 months' imprisonment and ordered to pay restitution and to forfeit certain property.

This appeal followed.[9]

II. DISCUSSION

Cammarata raises five issues in this appeal. First, he claims that the trial evidence and the Government's closing argument constructively amended the superseding indictment. Second, he argues that the District Court violated the Federal Rules of Evidence by permitting the Government to cross-examine him about his purchase of a private island and portions of his tax returns. Third, he contends that the District Court, in applying the Sentencing Guidelines, erroneously calculated the amount of loss caused by his offenses. Fourth,

[9] The District Court had jurisdiction under 18 U.S.C. § 3231. Cammarata timely filed a notice of appeal. We have jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

he avers that the District Court's restitution order ran afoul of the Mandatory Victims Restitution Act. And fifth, he claims the District Court improperly ordered the forfeiture of his vacation home.

We address each issue in turn.

A. Constructive Amendment

Cammarata argues that a constructive amendment of the superseding indictment occurred during trial and that his conviction should therefore be set aside. We are not persuaded.

Our review of a properly preserved constructive amendment claim is plenary. *United States v. Fallon*, 61 F.4th 95, 111 (3d Cir. 2023). Yet Cammarata failed to raise his constructive amendment claim until he filed a post-trial motion. We therefore review Cammarata's claim for plain error. *United States v. Vosburgh*, 602 F.3d 512, 531 (3d Cir. 2010) (explaining that constructive amendment claims raised for the first time after trial—*e.g.*, in a post-trial motion—are reviewed for plain error) (citing *United States v. Tiller*, 302 F.3d 98, 105 (3d Cir. 2002)). Plain error review hinges on whether the error prejudiced the defendant.[10] *United States v.*

[10] More specifically, to prevail under the plain-error framework, an appellant must "show (1) a legal error (2) that is plain and (3) that has affected his substantial rights." *United States v. Dorsey*, 105 F.4th 526, 528 (3d Cir. 2024) (citing *United States v. Olano*, 507 U.S. 725, 732–33 (1993)). If those three prongs are satisfied, we have "discretion to correct the error if (4) it seriously affects the fairness, integrity, or

Greenspan, 923 F.3d 138, 149 (3d Cir. 2019). Because a constructive amendment is a "*per se* violation of the fifth amendment's grand jury clause[,]" *United States v. Castro*, 776 F.2d 1118, 1121–22 (3d Cir. 1985), we presume prejudice when a constructive amendment has occurred, *United States v. Syme*, 276 F.3d 131, 154 (3d Cir. 2002).[11]

A constructive amendment occurs where trial evidence or arguments "modify essential terms of the charged offense in such a way that there is a substantial likelihood that the jury may have convicted the defendant for an offense differing from the offense" charged in the indictment. *United States v. Daraio*, 445 F.3d 253, 259–60 (3d Cir. 2006). This may take place if the trial evidence or arguments "'broaden[] the possible bases for conviction from that which appeared in the indictment[.]'" *United States v. Lee*, 359 F.3d 194, 208 (3d Cir. 2004) (emphasis omitted) (quoting *United States v. Asher*, 854 F.2d 1483, 1497 (3d Cir. 1988)). So our "key inquiry" is whether "the defendant was convicted of the same conduct for which he was indicted." *Daraio*, 445 F.3d at 260 (internal quotation marks and citation omitted).

Cammarata advances two constructive amendment arguments. First, he argues that the trial evidence failed to

---

reputation of judicial proceedings." *Id.* (citing *Olano*, 507 U.S. at 732).

[11] We also held in *Syme* that the government can rebut the presumption that a constructive amendment was prejudicial. 276 F.3d at 154–55. We need not reach that inquiry because we conclude no constructive amendment took place.

prove the superseding indictment's assertion that all class-member claimants to those settlements targeted by the scheme had to show that they purchased shares of the subject security during the relevant time period, and that they were damaged thereby.[12] Second, he contends that the Government broadened its theory of fraud when it countered his assignment defense during closing argument.

Cammarata's first argument seizes on the factual complexities of his wire fraud offenses, given the intricacies of the claims administration process and the numerous securities class action settlements that were affected. He cherry picks some testimony from two claims administrator employees, James Facciolla and Tina Chiango, and contends that that testimony undermined the need for a class action settlement claimant to prove that it actually purchased a subject security and suffered damages from that purchase.

Our reading of Facciolla and Chiango's testimony does not substantiate Cammarata's argument.

---

[12] Cammarata's argument focuses on paragraph 11 of the superseding indictment. That paragraph provides that all claimants to security class action settlements, "including those represented by claims aggregators such as Alpha Plus," were required to show two "essential facts" to qualify for an award of settlement funds: (1) "that they had bought shares of the subject security during the time period set forth in the court-approved settlement agreement[,]" and (2) that "they had suffered damages as a result of their purchase of securities." App. 97.

Cammarata claims Facciolla's testimony disproved the superseding indictment's assertion that claimants were required to demonstrate that they purchased shares of the subject security to qualify for payment. Facciolla explained that when submitting claims, aggregators like Alpha Plus must provide their clients' trade data and identify "the underlying beneficial owner[,]" defining a "beneficial owner" as "the person who has [the] rights to . . . the underlying shares." App. 504. In Cammarata's view, that seems to suggest that a claims aggregator's clients may not need to be the persons or entities to actually purchase the subject securities to qualify for payment of their claims. Yet when the prosecutor focused on the claims that Alpha Plus had submitted to Facciolla's employer, asking Facciolla if "Nimello itself ha[d] to make a purchase" of the subject security "to make a claim," Facciolla responded in the affirmative. App. 510. So Cammarata is simply wrong, and the testimony is consistent with the superseding indictment's allegation that claimants "represented by claims aggregators such as Alpha Plus" were required to "demonstrate that they had bought shares of the subject security during the [relevant] time period[.]" App. 97; *see also* App. 1251–52 (another claims administrator testifying that to qualify for payment, a claimant had "to have bought the stock during the class period").

So too with respect to Chiango's testimony. Cammarata claims her testimony was contrary to the superseding indictment's averment that claimants were required to demonstrate that they had suffered damages to qualify for payment. In his view, her testimony demonstrated that claimants need only show a "recognized loss"—not damages—to qualify. Opening Br. at 22. Chiango explained

that the portion of the settlement fund to which a claimant is entitled is "based on the recognized loss that was calculated for the plan of allocation[,]"[13] a plan that was approved by a judge pursuant to the class action settlement. App. 1483. Yet Chiango went on to explain that if claimants "don't have damages, per the plan of allocation that we have to follow, then they are not entitled to any distribution." App. 1484. The court-approved plan of allocation establishes the amount to which all claimants are entitled based on their recognized losses, but that does not negate the fact that claimants must still show they suffered damages if they are to qualify to receive payment. Chiango's testimony is entirely consistent with the superseding indictment's allegation that claimants "needed to show they had suffered damages as a result of their purchase of securities." App. 97; *see also* App. 1979 (defining a class as persons "who purchased shares of" the subject security and "who were damaged thereby").

---

[13] "A plan of allocation is a stated methodology by which a class action recovery is allocated among eligible claimants; literally, it is a plan for allocating the settlement fund." Stevie Thurin, *A Guide to Settlement Plans of Allocation in Securities Class Actions*, AM. BAR ASS'N (Nov. 15, 2018), https://www.americanbar.org/groups/litigation/resources/newsletters/securities/a-guide-to-settlement-plans-allocation-securities-class-actions/. Ordinarily, the plan of allocation provides a formula by which to calculate claimants' recognized losses. *See* App. 1983–86. The ultimate allocation of settlement funds is based on each claimant's recognized losses, as calculated by the plan of allocation.

Accordingly, Cammarata's overly-selective references to the trial testimony of Facciolla and Chiango fall short of contradicting averments in the indictment. The testimony of the two witnesses was consistent with the Government's theory of guilt and the means by which class action settlements were to be administered.

We likewise reject Cammarata's argument that the Government constructively amended the superseding indictment during its summation. Our constructive amendment analysis hinges on whether "an element of the offense for which [Cammarata] was convicted was different from an element of the offense for which it appears from the face of the indictment he was charged." *United States v. Bryan*, 483 F.2d 88, 96–97 (3d Cir. 1973). And *Fallon* reminds us that "[t]rial evidence, arguments, or the district court's own instructions can all form the basis of constructive amendments." 61 F.4th at 111.

Cammarata's theory boils down to his contention that the Government, during its closing argument, broadened its claim of fraud in the course of countering his assignment defense.[14] Yet none of the prosecutor's comments during summation on Cammarata's theory of assignment "'broaden[ed] the possible bases for conviction'" from those

[14] Wire fraud requires the Government to prove beyond a reasonable doubt that the defendant used interstate wire communication to engage in a scheme or artifice to defraud for the purpose of obtaining money or property with a specific intent to defraud. *Nat'l Sec. Sys., Inc. v. Iola*, 700 F.3d 65, 105 (3d Cir. 2012).

which appeared on the face of the superseding indictment. *Lee*, 359 F.3d at 208 (quoting *Asher*, 854 F.2d at 1497)). The Government simply rebutted the defense theory, pointing out why Cammarata's testimony was implausible.

The Government argued, quite understandably, that Cammarata's theory that he assigned his personal trades to Nimello, Quartis, and Invergasa made no sense. If Cammarata had personally bought securities and was thereby entitled to a share of settlement proceeds, why, the Government asked the jury, would he have made up three clients and have pretended that it was they who had purchased and sold those securities? The Government acknowledged that if Cammarata was, in fact, the beneficial owner of a security issued by a company that had settled any of the relevant class action cases, he was entitled to submit a claim in his own name. But, as the Government pointed out, no evidence was presented to show that Nimello, Quartis, and Invergasa were ever the beneficial owners of subject securities. And, even if Cammarata had assigned his personal trades to Nimello, Quartis, and Invergasa, he never advised the claims administrators of those assignments. To properly administer the settlement, they were entitled to that information.

It is always permissible for the Government to "comment on the weakness of the defense case in closing arguments." *United States v. Jackson*, 540 F.3d 578, 596 (7th Cir. 2008) (citation omitted). That is simply how the adversary system works in criminal trials. And as the Seventh Circuit has explained, rebutting a defense theory does not constructively amend an indictment. *United States v. McAnderson*, 914 F.2d 934, 945 (7th Cir. 1990). Countering a weak defense theory

was all the Government did here. Its rebuttal cannot reasonably lead one to believe that Cammarata was convicted for anything other than the crimes charged.

Cammarata has failed to direct our attention to any constructive amendment of the superseding indictment during trial.

B. Evidentiary Challenges

Cammarata claims that two areas of inquiry during his cross-examination violated Federal Rules of Evidence 403 and 404(b) by unfairly portraying him as a "hugely wealthy cheat[,]" and by improperly suggesting commission of an uncharged crime. Opening Br. at 37. We disagree.

1. Cammarata's Private Island Purchase

Cammarata filed a motion in limine shortly before trial in which he sought, *inter alia*, to preclude the Government from introducing evidence that he owned a private island. The District Court denied Cammarata's motion without prejudice, deferring its ruling until the time of trial.

On the fifth day of trial, the Government informed the District Court, at sidebar, that it planned to cross-examine Cammarata about his $5 million purchase of a private island in 2015. The prosecutor explained to the District Court that Cammarata had sent an email to Cohen stating that he would have a "decent monthly [financial] burn" if he purchased the island. App. 1734. Defense counsel objected, citing Federal Rule of Evidence 403 and arguing that Cammarata had already testified he had a "burn rate" and that the evidence was unfairly prejudicial. App. 1648. The District Court overruled the

objection. On the witness stand, Cammarata acknowledged purchasing the island but claimed that the email to Cohen about a potential financial burn had been falsified.

Cammarata challenges the District Court's ruling by arguing that the judge failed to conduct a proper Rule 403 analysis and, at all events, the probative value of the evidence was outweighed by its tendency to generate class-based prejudice in portraying him as wealthy.

We review the District Court's decision to admit evidence over a Rule 403 challenge for abuse of discretion and construe such discretion "especially broadly." *United States v. Scarfo*, 41 F.4th 136, 178 n.35 (3d Cir. 2022). Rule 403 permits courts to exclude otherwise relevant evidence "if its probative value is substantially outweighed by a danger of . . . unfair prejudice[.]" Fed. R. Evid. 403. In reaching a Rule 403 determination, a district court is required to balance those two competing considerations. *United States v. Heatherly*, 985 F.3d 254, 265 (3d Cir. 2021).

We "strongly prefer" that a district court detail its Rule 403 balancing on the record. *Egan v. Del. River Port Auth.*, 851 F.3d 263, 277 (3d Cir. 2017). But in the absence of a detailed balancing statement, we may undertake the analysis ourselves. *Id.* We have declined to balance the Rule 403 factors "de novo only where a district court [has] said nothing about particular evidence's probative value or prejudicial effect." *Greenspan*, 923 F.3d at 151.

The District Court overruled defense counsel's objection, pointing out that "there [had been] a suggestion to the jury, as part of the defense, that [Cammarata] did not need

this money, so he did not have to involve himself in this [criminal] activity." App. 1649. The Court was correct in noting that the defendant had "opened the door" to the inquiry, and that his denial that he needed money clearly spoke to the probative value of the evidence. But the District Court said nothing about any risk of unfair prejudice. Because the District Court failed to conduct the necessary balancing analysis, we undertake that analysis ourselves. *See Egan*, 851 F.3d at 277.[15]

The evidence showed Cammarata had suggested to Cohen that the $5 million island purchase could cause him monthly financial strain. He had purchased the island in 2015, and the superseding indictment alleged he committed wire fraud in wrongfully obtaining millions of dollars from class action settlement funds between the years 2014 and 2021. So the evidence not only rebutted Cammarata's defense that he "did not need money[,]" App. 491; it also suggested a financial motive for his fraud, *see United States v. Saada*, 212 F.3d 210, 224 (3d Cir. 2000) (explaining that evidence was "highly probative because it rebutted the defense's contention"); *United States v. Foster*, 891 F.3d 93, 110 (3d Cir. 2018) (reasoning that the government was "entitled to rebut" the defendant's argument "by presenting evidence of his motive"). The probative value of the evidence was, therefore, significant.

[15] We have repeatedly "renew[ed] our admonition that district courts articulate their Rule 403 reasoning on the record." *United States v. Heinrich*, 971 F.3d 160, 165 (3d Cir. 2020). "A basic part of the balancing process requires making a record. It is simple to do and essential to effective appellate review." *Id.*

But, as noted above, that does not end our inquiry. We must ask the question the District Court failed to address: was the probative value of the evidence substantially outweighed by any risk of unfairly portraying Cammarata as wealthy?

"Not all prejudice is unfair prejudice, and Rule 403 bars only the latter." *United States v. Long*, 92 F.4th 481, 488 (3d Cir. 2024). To meet this threshold, admission of the evidence must unfairly advantage one of the parties. *Coleman v. Home Depot, Inc.*, 306 F.3d 1333, 1343 n.6 (3d Cir. 2002). Importantly, we evaluate any prejudicial effect "in the context of the totality of the evidence produced." *United States v. Williams*, 974 F.3d 320, 357 (3d Cir. 2020).

Cammarata concedes that by the time the evidence was introduced, it "was undisputed, and otherwise established, that [he] was wealthy and controlled many businesses." Opening Br. at 31. Defense counsel explained in his opening statement that he had previously asked the jury "if anybody had any problems with somebody who is wealthy." App. 495–96. And counsel went on to state that Cammarata "had money[,]" "nice things[,]" and "a lot of bank accounts[.]" App. 495–96.

Cammarata himself testified that he had sold businesses for $31 million, $20 million, and over $3 million. He explained that at the time of his arrest, he "was literally at the pinnacle of [his] career"—he "was active in approximately 30 businesses," "was the CEO of a public company[,]" and "had just been named CEO of a two billion dollar social media company." App. 1587. When cross-examining Punturieri, it was defense counsel who elicited testimony that Cammarata owned a house in the Bahamas.

To put it mildly, Cammarata was not shy about presenting himself to the jury as someone who had enjoyed considerable financial success.

In summary, the jury was made aware of Cammarata's wealth by the defendant's own testimony and before it heard that he had purchased a private island. No prejudice could reasonably have resulted from admission of the private island evidence, let alone unfair prejudice that could have substantially outweighed the probative value of that evidence. *See GN Netcom, Inc. v. Plantronics, Inc.*, 930 F.3d 76, 88 (3d Cir. 2019) (reasoning that there was no unfair prejudice where the jury was "already alerted" to the subject matter the evidence supported); *United States v. Johnson*, 302 F.3d 139, 152 (3d Cir. 2002).

The District Court did not abuse its discretion in overruling defense counsel's Rule 403 objection.

2. Cammarata's Tax Returns

One of the Government's trial witnesses was Stacey Esimai, an auditor who worked in the U.S. Attorney's Office for the Eastern District of Pennsylvania. She testified that she had reviewed financial records covering the period from 2015 to 2020, and that they showed that Cammarata had transferred some of the money he had improperly obtained from class action settlement funds to a bank account in the name of PB Trade, a company he had started around 2007.

When Cammarata testified in his own defense, the prosecutor asked him whether he had reported the settlement money Alpha Plus sent to PB Trade on his tax returns.

Cammarata responded that he had realized offsetting losses, leading the prosecutor to show Cammarata his 2017, 2018, and 2019 tax returns.[16] Focusing his questions on Cammarata's Schedule C submissions for PB Trade in the tax returns, the prosecutor noted that there was no income attributed to the company. And when he pressed Cammarata as to whether he had ever informed the accountant who prepared the tax returns about the money Alpha Plus sent to PB Trade, Cammarata had several answers. He responded that he "may have[.]" App. 1740. And also that the company "may have" had offsetting losses. App. 1739. And also that he did not recall. *Id.* At one point during this exchange, defense counsel objected, but only to the relevancy of the inquiry. That objection was overruled.

Cammarata now claims on appeal that the Government sought testimony that violated Federal Rules of Evidence 404(b) and 403. According to him, the Government was improperly suggesting he committed the uncharged crime of tax fraud without first having complied with Rule 404(b)'s notice requirement.[17] Also, according to Cammarata, the District Court erred by failing to provide the jury with a proper limiting instruction. Finally, he argues that any slight probative

---

[16] The Government introduced Cammarata's tax returns as marked exhibits, but used them only for cross-examination. It never sought to admit them into evidence, and so the jury had no access to them.

[17] Rule 404(b) requires that a prosecutor in a criminal case "provide reasonable notice of any such evidence that the prosecutor intends to offer at trial, so that the defendant has a fair opportunity to meet it[.]" Fed. R. Evid. 404(b)(3)(A).

value of questioning him about his tax returns was outweighed by the risk of unfair prejudice, confusing the issues, and misleading the jury.

Before reaching the merits of Cammarata's arguments that use of the tax returns by the Government was improper, we must determine whether he properly preserved them for appeal. *See United States v. Sandini*, 803 F.2d 123, 126 (3d Cir. 1986). Federal Rule of Evidence 103(a)(1) restricts our review of evidentiary errors to those in which the complaining party "state[d] the specific ground" for objection, "unless it was apparent from the context[.]" Fed. R. Evid. 103(a)(1)(B). Defense counsel objected to questions regarding Cammarata's tax returns solely on relevancy grounds. Counsel mentioned neither Rule 403 nor Rule 404(b), so any supposed reliance on those Rules was not apparent from the context of the objection. *See Sandini*, 803 F.2d at 126.

Because Cammarata failed to preserve his arguments for appeal, *id.*, we review for plain error. *See United States v. Mitchell*, 365 F.3d 215, 257 (3d Cir. 2004).[18]

a. Rule 404(b)

Rule 404(b) prohibits the introduction of evidence of "any other crime, wrong, or act" to "prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." Fed. R. Evid. 404(b)(1). Its purpose is to keep from a jury evidence that suggests a person has a propensity to commit crimes "'or is otherwise a bad person[.]'" *United States v. Green*, 617 F.3d 233, 249 (3d Cir.

[18] *See supra* note 10.

2010) (quoting *United States v. Taylor*, 522 F.3d 731, 735–36 (7th Cir. 2008)).

Rule 404(b) applies only to extrinsic evidence. *United States v. Bailey*, 840 F.3d 99, 128 (3d Cir. 2016). It does not apply to intrinsic evidence, which "does not constitute a prior bad act at all[.]" *Id.* As we explained in *Green*:

> [W]e will reserve the "intrinsic" label for two narrow categories of evidence. First, evidence is intrinsic if it "directly proves" the charged offense. This gives effect to Rule 404(b)'s applicability only to evidence of "*other* crimes, wrongs, or acts." If uncharged misconduct directly proves the charged offense, it is not evidence of some "other" crime. Second, "uncharged acts performed contemporaneously with the charged crime may be termed intrinsic if they facilitate the commission of the charged crime." But all else must be analyzed under Rule 404(b).

617 F.3d at 248–49 (internal citations omitted).

Because the Government's use of Cammarata's tax returns fits neatly into the first category of intrinsic evidence, such use was not governed by Rule 404(b). To prove wire fraud, the Government had to show that the defendant "'willful[ly] participat[ed] in a scheme or artifice to defraud,' with intent to defraud[.]" *United States v. James*, 955 F.3d 336, 342 (3d Cir. 2020) (quoting *United States v. Andrews*, 681 F.3d 509, 518 (3d Cir. 2012)). Juries may infer a defendant's intent

to defraud from circumstantial evidence. *United States v. Riley*, 621 F.3d 312, 333 (3d Cir. 2010).

The failure by Cammarata to report the transfers of settlement funds from Alpha Plus to PB Trade as income on his tax returns supported a reasonable inference that he knew the funds were unlawfully obtained and that he was attempting to conceal income derived from his fraudulent scheme. Such an inference would bear on his intent to defraud and thereby constitute circumstantial evidence offered to prove an element of wire fraud.[19] Because the testimony admitted here was intrinsic to a charged offense, Cammarata's Rule 404(b) challenge must fail. *See United States v. Ryan*, 213 F.3d 347, 350–51 (7th Cir. 2000) (explaining that evidence of a defendant's effort to conceal his participation in a fraudulent scheme by failing to report fraudulent transactions as income on his tax returns "constituted circumstantial evidence of intent to defraud" and was therefore not governed by Rule 404(b)) (internal quotation marks and citation omitted).

b. Rule 403

We likewise reject Cammarata's Rule 403 challenge.[20] The probative value of Cammarata's failure to report the

[19] Indeed, Cammarata concedes that "the failure to declare income on a return may conceivably indicate consciousness of guilt with respect to the manner in which the income was earned[.]" Opening Br. at 33.

[20] Because Cammarata never objected to the discussion of his tax returns on Rule 403 grounds before the District Court, it

income he obtained from class action settlement funds on his tax returns was twofold. First, as discussed above, the evidence tended to prove Cammarata's fraudulent intent and knowledge by giving rise to a reasonable inference of his knowledge that receipt of the income was illegal. *See Williams*, 974 F.3d at 357 ("The fact that the evidence is intrinsic establishes its probative nature[.]"). Second, the evidence rebutted Cammarata's assertion that the settlement money derived from Nimello and Quartis's claims was rightfully obtained. Just before the prosecutor turned to Cammarata's tax returns, Cammarata stated he had received millions of dollars "for trade data that [he] owned and supported through claims." App. 1737. Pointing out that Cammarata had failed to report allegedly legitimate income on his tax returns tended to discredit his defense. *See*, *e.g.*, *United States v. Valenti*, 60 F.3d 941, 946 (2d Cir. 1995) (reasoning that the defendant's tax returns listing no income "were obviously probative to refute" the "defense that the contested funds were legitimate"); *see also Ryan*, 213 F.3d at 351.

Further, any risk of unfair prejudice posed by cross-examining Cammarata on his tax returns was minimal, at best. Cammarata argues that the Government unfairly portrayed him as a tax "cheat."[21] Opening Br. at 37. That, he now claims,

---

(understandably) did not conduct a Rule 403 balancing analysis. We undertake that analysis here.

[21] To be clear, prosecutors at no point during trial referred to Cammarata as a "tax cheat[,]" nor did they make reference to

biased the jury against him and tainted its verdict. Intrinsic evidence "that reveals a defendant's legal guilt can be highly prejudicial, but that alone does not make it unfairly so." *Long*, 92 F.4th at 488. What is proscribed is *unfair* prejudice, because it "speaks to the capacity of some concededly relevant evidence to lure the factfinder into declaring guilt on a ground *different* from proof specific to the offense charged." *Old Chief v. United States*, 519 U.S. 172, 180 (1997) (emphasis added). The tax return evidence supported an element of the charged offense of wire fraud, so it was highly probative. Viewing the trial record as a whole, it was not outweighed by any risk of unfair prejudice.

Nor are we persuaded by Cammarata's contention that the probative value of the Government's cross-examination as to his tax returns was substantially outweighed by the risk of confusing the issues or misleading the jury. He argues that the propriety of omitting income on a Schedule C is a complex question the jury could not have properly evaluated without accompanying explanatory or expert evidence.

Our review satisfies us that the Government's cross-examination relative to the Schedule C submissions was limited and its purpose clear. The Government proffered Cammarata's tax returns only after he claimed he had offsetting losses that justified his failure to report income transferred from Alpha Plus to PB Trade. The prosecutor elicited responses from Cammarata which showed that Cammarata knew the purpose of a Schedule C submission

---

any of his tax returns during the Government's closing argument.

before highlighting that the tax returns listed no income for PB Trade but did list expenses. And the prosecutor repeatedly asked Cammarata whether he had informed the accountant who prepared his tax returns about the money he transferred from Alpha Plus, *i.e.*, the money he fraudulently obtained from settlement funds.

The Government's purpose in pursuing this line of questioning was plain: the relevancy of the omissions on Cammarata's tax returns was their tendency to prove efforts to conceal his fraudulent scheme, not that he was trying to avoid paying taxes. *See* Fed. R. Evid. 401(a) (providing that evidence is relevant if "it has any tendency to make a fact" of consequence in determining the action "more or less probable than it would be without the evidence").[22] Even if some risk of confusing the issues or misleading the jury existed, that risk did not substantially outweigh the probative value of the intrinsic evidence. *See Blancha v. Raymark Indus.*, 972 F.2d 507, 516 (3d Cir. 1992) (reasoning that excluding evidence under Rule 403 based on confusing the issues or misleading the jury would not have been justified where the testimony "tended to prove" a fact "directly at issue" in the case).

[22] As noted, the only ground specifically raised by trial counsel for exclusion of testimony concerning the tax returns was relevancy. Cammarata argues before us that the District Court should have sustained that objection. Our conclusions reached during plain error review amply foreclose that argument.

C. Loss Calculation

Cammarata challenges the District Court's loss calculation under the Sentencing Guidelines.[23] Again, his challenge is meritless.

The Government bears the burden of establishing the amount of loss by a preponderance of the evidence. *Free*, 839 F.3d at 319. Although the Guidelines themselves define loss broadly as "the greater of actual loss or intended loss[,]" U.S.S.G. § 2B1.1, app. n.3(A), this Court has held that loss under the Guidelines is limited to "the loss the victim[s] actually suffered[,]" *United States v. Banks*, 55 F.4th 246, 258 (3d Cir. 2022). "Actual loss" is defined as "the reasonably foreseeable pecuniary harm that resulted from the offense." U.S.S.G. § 2B1.1, app. n.3(A)(i). "Reasonably foreseeable" means "pecuniary harm that the defendant knew, or . . . reasonably should have known, was a potential result of the offense." *Id.* § 2B1.1, app. n.3(A)(iv). In arriving at "a reasonable estimate of the loss," a district court looks to all "available information in the record[.]" *United States v. Shah*, 43 F.4th 356, 366 n.12 (3d Cir. 2022) (citation omitted).

At sentencing, the District Court found that the Government had proven $40,862,748.30 in actual loss to class

[23] We review a district court's factual findings supporting its loss calculation for clear error. *United States v. Free*, 839 F.3d 308, 319 (3d Cir. 2016). We exercise plenary review over a district court's interpretation of the Guidelines, including what constitutes loss. *United States v. Shulick*, 994 F.3d 123, 145 (3d Cir. 2021).

members. That dollar figure represented the total amount of settlement funds that claims administrators had paid the Defendants for the fraudulent claims they had submitted. Importantly, the District Court found that the trial evidence proved "the claims administrator[s] had less money to pay actual legitimate claims because of the Defendant[s'] fraudulent submissions." App. 2090. Because the loss was between $25 and $65 million, Cammarata's offense level was increased by 22 levels pursuant to U.S.S.G. § 2B1.1(b)(1)(L).

Cammarata argues that the District Court's finding lacks evidentiary support. In his view, the Government failed to present evidence at trial that any particular class member was underpaid due to the Defendants' fraud. And he claims the District Court misapplied the Guidelines when it concluded that the over-$40 million fraudulent gain it found resulted in an equivalent "actual loss" to class members.

The District Court's factual finding informing its loss calculation was firmly rooted in the trial testimony. *See Shore Reg'l High Sch. Bd. of Educ. v. P.S.*, 381 F.3d 194, 199 (3d Cir. 2004) ("A finding of fact is clearly erroneous when, after reviewing the evidence, the court of appeals is left with a definite and firm conviction that a mistake has been committed.") (internal quotation marks and citation omitted). Four claims administrators testified to the role they play, post-settlement, and also explained how the distribution process is supposed to unfold. In the ordinary course, a class member who submits a claim that is approved receives a *pro rata* share of the settlement fund based on a court-approved plan of allocation. As one administrator put it, the "settlement fund is divided" among all class members based on a "prorated

percentage" of their "loss[es.]" App. 1483.[24] And, as Cammarata concedes, it "can be readily seen" from the trial testimony that the amount a class member receives from a

[24] At trial, the Government introduced the Settlement Notice for *In re EndoChoice Holdings Securities Litigation*, a class action litigated in Georgia state court that ultimately settled and to which Alpha Plus submitted claims. The Government used the EndoChoice Settlement Notice as an exhibit during its examination of a claims administrator who was describing the settlement process. That Notice further illustrates how the settlement process works. Once notified of a proposed settlement, class members are required to submit a valid claim form within a specific time period. If they fail to do so, they are "forever barred from receiving any distribution" from the settlement fund. App. 1980. Class members may also choose to opt out of the class, if it is a Rule 23(b)(3) class, or they may object to the settlement. States oftentimes have state-law analogues to Rule 23(b)(3), such as Georgia's O.C.G.A. § 9-11-23(b)(3). From there, the court overseeing settlement holds a hearing and decides whether to approve the settlement. If the settlement is approved, the claims administrator determines how much each qualified clamant is entitled to receive. Payments are "calculated on a pro rata basis, meaning" the settlement fund is "divided among" class members who submitted valid claims. App. 1979. Afterwards, Class Counsel seeks permission from the court to distribute the settlement fund. If the court approves distribution, the settlement funds are then distributed according to the claims administrator's calculations.

settlement fund "depend[s] on the number of claims submitted to the administrator[.]" Reply Br. at 9.

The mathematical principle underlying the calculation of settlement claims is eminently straightforward. So is the impact that fraudulent claims will have on the amount available for payment to legitimate class members. As one claims administrator-witness stated, "if there are more claimants," everyone "get[s] less money." App. 1253. And as another claims administrator who testified put it, the payout of a fraudulent claim "lowers the amount of money that is available" to other, legitimate class members. App. 546; *see also* App. 659, 1253. The effect of fraudulent claims on the class as a whole could hardly be simpler.

Against this backdrop, the District Court appropriately concluded that the legitimate class members "actually suffered" a loss under the Guidelines. *Banks*, 55 F.4th at 258. As a result of Defendants' $40,862,748.30 in fraudulent claims, each legitimate class member's *pro rata* share of the settlement fund was proportionally reduced. And the fraudulent claims created administrative headaches. As one claims administrator explained, because fraudulent claims create "issues with the amount that was paid" to class members, once a fraudulent claim is discovered, claims administrators must "recalculate" the payment amounts to "provide losses . . . back to the original claimants who were wronged." App. 661.

We hold that under these circumstances, where the trial testimony showed that the Defendants' fraudulent scheme directly reduced the balance available from every settlement

fund for payment to legitimate class claimants, the District Court properly concluded that a "reasonably foreseeable pecuniary harm . . . resulted from the offense." U.S.S.G. § 2B1.1, app. n.3(A)(i) (defining "actual loss"). The District Court's $40,862,748.30 actual loss determination was consistent with the Guidelines.

D. Restitution

The Mandatory Victims Restitution Act of 1996 ("MVRA") provides that restitution must be awarded to the victims of certain offenses, including offenses "against property" and "offenses committed by fraud or deceit[.]" 18 U.S.C. § 3663A(c)(1)(A)(ii). Cammarata does not dispute that the MVRA is applicable to his wire fraud and money laundering convictions.

At sentencing, the District Court adopted the Government's proposed restitution plan, invoking the MVRA and ordering that restitution be paid jointly and severally by the Defendants. The restitution order included an attachment, which identified: (1) over one hundred settlement funds as the payees; (2) the amounts the Defendants fraudulently obtained from each fund; and (3) the names of the claims administrators overseeing those funds that were to be distributed to the members of the defrauded classes.

Although the District Court attributed a $40 million plus loss to the class members defrauded by the Defendants' scheme, the amount of restitution it ultimately ordered was only $31,275,832.92. In doing so, the District Court acceded to the Government's requested amount. The Government's rationale for seeking restitution in an amount less than the total

loss was that "it may not be economically feasible for some of the [settlement] funds to distribute restitution payments to their ultimate beneficiaries." App. 375; *see also* App. 2148 (District Court adopting the Government's rationale at sentencing).

Cammarata attacks the District Court's restitution order on two grounds.[25] First, he claims restitution was not directed to the "victims" of his offenses as that term is defined by the MVRA. Second, he argues that the District Court improperly relied upon claims administrators to distribute restitution funds. We reject both arguments. We conclude that the District Court abused its discretion by ordering restitution in an amount that did not fully compensate the victims. But because the Government did not cross-appeal, Supreme Court precedent requires us to affirm the District Court's restitution order.

1. The Defrauded Classes as Victims Under the MVRA

At various times throughout Cammarata's sentencing, the District Court characterized not only the class members as "victims" of the Defendants' fraud but also the settlement funds—and the claims administrators, as well. *See, e.g.*, App. 2067, 2073, 2078. 2148. Ultimately, in its restitution order, the District Court directed that restitution be paid to the settlement funds. Cammarata claims that none of these groups, and in particular the settlement funds, qualify as a "victim" under the MVRA.

---

[25] "We review the legality of a restitution order de novo and review specific awards for abuse of discretion." *United States v. Turner*, 718 F.3d 226, 235 (3d Cir. 2013).

This presents us with a legal question that our Court has not previously been called upon to resolve. Who qualifies as a victim under the MVRA when a defendant has defrauded hundreds of certified classes, resulting ultimately in individual harm to an even greater multitude of class members?

A crucial component of our analysis rests upon what seems a basic question: "just what a class *is* in a class action." ROBERT H. KLONOFF, CLASS ACTIONS AND OTHER MULTI-PARTY LITIGATION: CASES & MATERIALS 4 (4th ed. 2017) (emphasis in original). As Professor Klonoff queried: is "a class simply a convenient way to refer to a collection of individuals? Or is a class an entity unto itself—analogous perhaps to a corporation or unincorporated association—that has legal status apart from its individual members?" *Id.*

The Supreme Court and our Court have made clear that the latter is true. When a class is certified by the presiding district court judge, the "class of unnamed persons described in the certification acquire[s]" its own "legal status[.]" *Franks v. Bowman Transp. Co.*, 424 U.S. 747, 753 (1976) (internal quotation marks and citation omitted). In other words, the "relevant entity for purposes of the litigation after certification is the class, not the individuals who make up the class." *Fisher v. Fed. Express Corp.*, 42 F.4th 366, 374 (3d Cir. 2022).

Indeed, members are not "plaintiffs," nor are they denominated as such. *See In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 307 (3d Cir. 1998) (distinguishing between "the named plaintiffs" and "absentee class members"). A quick glance at the caption of a putative

class action complaint immediately notifies a reader that the pleading is not initiating a simple A vs. B lawsuit.[26]

Class actions are representative actions, *Neale v. Volvo Cars of N. Am., LLC*, 794 F.3d 353, 364 (3d Cir. 2015), and that term has profound implications for how this "ingenious procedural innovation" is litigated, *Eubank*, 753 F.3d at 719. Once a class has been certified,[27] its members effectively lose nearly all of their litigative individuality. Counsel for the class takes over (as do the class representative or representatives). And their roles vis-à-vis the class and its members impose upon them fiduciary duties. *See In re Fine Paper Litig.*, 632

[26] For example, the caption of the EndoChoice Holdings securities class action, to which Alpha Plus submitted claims after settlement was reached, was *In re EndoChoice Holdings, Inc. Securities Litig.*

[27] "As a practical matter, the certification decision is typically a game-changer, often the whole ballgame[.]" *Marcus v. BMW of N. Am., LLC*, 687 F.3d 583, 591 n.2 (3d Cir. 2012); *see also Newton v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 259 F.3d 154, 162 (3d Cir. 2001) ("[D]enying or granting class certification is often the defining moment in class actions (for it may sound the 'death knell' of the litigation on the part of plaintiffs, or create unwarranted pressure to settle nonmeritorious claims on the part of defendants)[.]").

F.2d 1081, 1086 (3d Cir. 1980); *Greenfield v. Villager Indus.*, 483 F.2d 824, 832 (3d Cir. 1973).[28]

These bedrock principles of class action jurisprudence inform the inquiry we now undertake. Because a class assumes an "independent legal status" once it has been certified, we must consider here whether the *classes* entitled to the settlement funds qualify as MVRA victims and are thereby initially affected by the Defendants' fraud. *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 75 (2013). We turn, then, to whether the classes, settlement funds, or claims administrators satisfy the MVRA's definition of victim.

The MVRA defines "victim" as "a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered[.]" 18 U.S.C. § 3663A(a)(2). For scheme-based crimes such as wire fraud, that definition is broadened to include "any person directly harmed by the defendant's criminal conduct in the course of the scheme[.]" *Id.* Though the MVRA's definition of victim uses the word "person[,]" our Court and other circuits have held that entities may qualify as victims under the MVRA. *See United States v. Bryant*, 655 F.3d 232, 253 (3d Cir. 2011) (hospital receiving federal funding); *United States v. Richardson*, 67

[28] Courts have imposed—even on the district court judge who approves a settlement—a fiduciary duty to the class. *See Ehrheart v. Verizon Wireless*, 609 F.3d 590, 594 (3d Cir. 2010) ("[T]he District Court evaluates the [settlement] agreement as a fiduciary for absent class members."); *Grant v. Bethlehem Steel Corp.*, 823 F.2d 20, 22 (2d Cir. 1987); *Reynolds v. Beneficial Nat'l Bank*, 288 F.3d 277, 280 (7th Cir. 2002).

F.4th 268, 271 (5th Cir. 2023) (corporation); *United States v. Donaby*, 349 F.3d 1046, 1054 (7th Cir. 2003) (police department).

We agree with Cammarata's contention that the District Court incorrectly characterized both the settlement funds themselves and the claims administrators as "victims" under the MVRA. That both the "settlement funds" and the "claims administrators," in a cause-and-effect sense, were affected by the Defendants' fraud—albeit, in profoundly different ways—is indisputable. But the effects experienced by each hardly rendered them "victims" as that statutory term of art is intended under the MVRA. A "fund" is merely "a sum of money[,]" *Fund*, MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY (11th ed. 2003), which is what we understand each of the settlement funds proffered here to be.[29] By itself, such a fund bears none

[29] The Fifth Circuit, in *United States v. Arledge*, 553 F.3d 881, 899 (5th Cir. 2008), categorized a settlement fund to which the defendant submitted fraudulent claims as a victim under the MVRA. In that case, however, the defendant did "not dispute that a restitution order was permitted by law;" he only contested the amount of restitution ordered and the schedule of repayment. *Id.* at 897. So the Fifth Circuit was not presented with a disputed issue as to whether the district court's conclusion that the settlement fund qualified as a victim under the MVRA was correct. Here, by contrast, Cammarata directly challenges the District Court's determination of the MVRA victim. Nothing in the *Arledge* opinion changes our conclusion that the settlement funds in this case do not qualify as victims under the MVRA.

of the incidents of the corporal or the corporate; it is neither a person nor a business entity. And the claims administrators retained in the underlying class actions are the antithesis of "victims." Their job was "the process of processing, reviewing and verifying the validity of all Claim Forms received." App. 1980. While the Defendants' fraudulent actions surely caused them inconvenience, they have made no claim for monetary loss. And, importantly, they were compensated for the tasks they performed.

By contrast, the defrauded classes easily meet the MVRA's definition of "victim." The losses that were suffered as a result of the Defendants' fraudulent scheme were experienced directly by the classes as they were defined in the nearly four hundred class actions that were targets of illegitimate claims. Accordingly, under the unique facts of this case as the Government developed them at trial, the victims of the Defendants' fraud were the *classes* entitled to settlement funds. *See Fischer v. Fed. Express Corp.*, 42 F.4th 366, 374 (3d Cir. 2022). But for the Defendants' fraudulent claims, the class settlement funds would have maintained larger balances which would then have been distributed to members with valid claims. Accordingly, the Defendants "directly and proximately harmed" the classes by reducing the amount of settlement funds that class members would ultimately receive. 18 U.S.C. § 3663A(a)(2).

Because we conclude that the defrauded classes were the victims, Cammarata is wrong when he contends that the District Court ran afoul of the MVRA by declining to identify each class member in its restitution order. *See United States v. Ben Zvi*, 242 F.3d 89, 100 (2d Cir. 2001) (holding that a district

court did not abuse its discretion by declining to identify the individual members comprising the "unified entity" to which restitution was ordered).

The District Court did not list the defrauded classes as the entities to which restitution was to be paid in its restitution order; it instead listed the settlement funds. But considering the District Court's restitution plan, we disagree with Cammarata's contention that this lack of precision means that restitution "was not directed" to the victims of his crimes such that the restitution order must be reversed. Opening Br. at 46.

The District Court viewed the defrauded class members as the "true victims" under the MVRA. Reply Br. at 11 (internal quotation marks omitted). And the District Court's restitution plan made clear that the class members, not the settlement funds or claims administrators, were the ultimate recipients of restitution. While restitution would be initially paid to the settlement funds, the District Court expected the claims administrators associated with those funds to "distribute restitution . . . payments to their ultimate beneficiar[ies]"—the members of the defrauded classes. App. 2148. Thus, in ordering restitution, the District Court effectively directed restitution in a manner that assured it would ultimately be paid out to the members of the victim classes.

And given the appropriate focus of the District Court's restitution plan, we decline to reverse the District Court's

restitution order simply because it listed the settlement funds as the payees.[30]

2. The District Court Did Not Err By Relying On Claims Administrators to Distribute Restitution Funds

Cammarata further argues that the District Court improperly "delegate[d]" the task of distributing restitution. Opening Br. at 45. Cammarata essentially complains that the District Court relied upon the claims administrators initially responsible for distributing settlement funds to class members to also distribute monies recovered pursuant to the MVRA to those same class members. In his view, instead of engaging in this "creative circumvention of the governing" statute, the District Court should have foregone restitution entirely because distributing it would have been impracticable and/or excessively burdensome. *Id.* We disagree. Given the unusual circumstances of this case, we conclude that the District Court's approach complied with the MVRA.

As discussed, the District Court's restitution plan sought to effectuate the MVRA's purpose of "compensat[ing] the victim[s] for [their] losses and, to the extent possible, . . . mak[ing] the victim[s] whole." *United States v. Diaz*, 245 F.3d 294, 312 (3d Cir. 2001). The District Court directed the

[30] We stress, however, that when faced with similarly complex facts that require intricate restitution schemes, a district court should be careful to explicitly identify victims and accurately outline its plan for distributing restitution to those victims in its restitution order.

Defendants to return the money they fraudulently obtained from settlement funds so the claims administrators overseeing those funds could distribute individualized payments to affected class members. Courts have affirmed more attenuated approaches to providing restitution to victims under the MVRA.

In *United States v. Gee*, 432 F.3d 713 (7th Cir. 2005), the defendant pleaded guilty to conspiring to defraud the United States, in violation of 18 U.S.C. § 371. *Id.* at 714. Although the Seventh Circuit recognized that the MVRA "victim" in an 18 U.S.C. § 371 prosecution was actually the United States, it nonetheless affirmed the terms of the district court's restitution order directing that a nonprofit organization was ultimately entitled to receive $200,000. *Id.* at 715. It reasoned that the organization was "a proxy for the federal interest because it was a recipient of federal funds[.]" *Id.*

We endorsed a similar approach in *Bryant*, 655 F.3d at 253–54. In that case, the defendants were convicted of honest services fraud[31] and mail fraud pursuant to 18 U.S.C. §§ 666(a), 1341, 1343, and 1346. *Id.* at 236. The defendants' fraudulent scheme involved a *quid pro quo* exchange that financially harmed a university. *Id.* at 237, 253.[32] We affirmed

[31] As we explained in *Bryant*, honest services fraud "is fraud that results in a loss to the public of its right to the honest services of its public servants[.]" 655 F.3d at 254.

[32] More specifically, one defendant gave the other a "low-show" job—"meaning he provided only minimal or nominal services"—at the university's school of osteopathic medicine.

the district court's restitution order directing payment to the university. *Id.* at 253. Unlike the settlement funds in the case before us, we held that the university itself qualified as a victim under the MVRA. *Id.* Still, we recognized the "intangible losses" to the public caused by the defendants' honest services fraud. *Id.* at 254. We explained that the university being awarded restitution was "a proxy for the State's interests, including its citizens' interest in the honest services of its public servants[,]" because it was a recipient of taxpayer funds. *Id.* Providing restitution to the university, we reasoned, "indirectly compensate[d] the public for its loss[es.]" *Id.*

Here, the settlement funds and the claims administrators listed in the District Court's restitution order did not serve as did the "proxies" in either *Gee* or *Bryant*. Neither the funds nor the administrators were paid restitution for their own benefit with the understanding that such payments would "indirectly compensate[]" victims of the Defendants' fraud. *Id.* Instead, the funds were the repositories for monies to which the classes were entitled, and the claims administrators were tasked with simply fulfilling the roles they had been given to administer the class action settlements pursuant to a process envisioned by Federal Rule of Civil Procedure 23 and as directed by the settlement agreements that had received court approval.

Bryant, 655 F.3d at 237. In exchange, the defendant who obtained the job leveraged his position as a New Jersey State Senator to funnel state funding to the school. *Id.* The scheme diverted over $2 million from the university's budget for direct allocation to the school of osteopathic medicine. *Id.* at 253.

Relying upon an entity with the means and expertise required to distribute restitution under circumstances similar to those presented in this case is not only appropriate but well-advised. Consider *Herzfeld v. United States District Court*, 699 F.2d 503, 507 (10th Cir. 1983), in which the Tenth Circuit upheld the creation of a receivership to distribute restitution. The defendant in that case had engaged in a widespread fraudulent scheme that had harmed numerous investors. *Id.* at 504. The Tenth Circuit explained that "[i]n a scheme like this one, where substantial sums of money are involved, the appointment of a receiver to . . . distribute the money is both necessary and beneficial to accomplish restitution." *Id.* at 506. It reasoned that the "usual practice of directing a probation officer to accomplish restitution is desirable where there are few claimants and where the amount of money is not great." *Id.* But where "the number of claimants is large and a pro rata distribution of a large fund is necessary," the court concluded that "a person with more specialized training is required." *Id.*

Like the receivership in *Herzfeld*, the "functions to be performed" in distributing restitution to the victim classes in the case before us "are typically those of a" claims administrator. *Id.* at 506. The Presentence Investigation Report explained that restitution funds would be distributed to the victim classes by the claims administrators, "given their familiarity and expertise in making distributions." PSR ¶ 54. The District Court's restitution order went only so far as listing the amounts the Defendants owed to the victim classes. Determining the amount of restitution to which each class member is entitled to receive the entirety of their *pro rata* share of the settlement fund, and then distributing those funds, should be within the province of claims administrators. Indeed,

as one claims administrator testified at trial: when a fraudulent claim is discovered, the claims administrator must "recalculate" the amount distributed to class members to "provide losses . . . to the original claimants who were wronged." App. 661. To achieve the MVRA's purpose of making victims whole, the District Court correctly relied upon claims administrators to perform their core function—distributing settlement funds to class members on a *pro rata* basis.

Given both the facts and complexity of this case, as well as the procedural posture of the numerous class actions, it was not up to the District Court to fashion a restitution order and also assume the function of a settlement administrator.

Finally, we reject Cammarata's assertion that the District Court, instead of relying on claims administrators to distribute restitution funds, should have foregone restitution under 18 U.S.C. § 3663A(c)(3). That provision provides that mandatory restitution "shall not apply" where: (1) "the number of identifiable victims is so large as to make restitution impracticable; or" (2) "determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process." *Id.* § 3663A(c)(3)(A)–(B).

Whether to forego restitution under § 3663A(c)(3) is within "the exercise of" the District Court's "sound discretion[.]" *United States v. Zangari*, 677 F.3d 86, 93 (2d Cir. 2012). And "[d]eference to the district court's consideration of

the issue is . . . typically warranted if 'the record indicates that the district court, although aware of the difficulties involved in ordering restitution[,] . . . considered restitution an essential part of [the defendant's] sentence." *United States v. Gushlak*, 728 F.3d 184, 193 (2d Cir. 2013) (quoting *United States v. Catoggio*, 326 F.3d 323, 328 (2d Cir. 2003)).

Here, the District Court invoked § 3663A(c)(3) and properly explained that under that provision, it must "weigh . . . the burden [of] awarding restitution" against the victims' "interest in receiving restitution." App. 2147; *see Gushlak*, 728 F.3d at 192. The Court acknowledged potential difficulties in distributing restitution, but as to the $31,275,832.92 in restitution it ultimately ordered,[33] the Court reasoned that such difficulties did not render distribution in that amount infeasible or unduly burdensome. And as just explained, the District Court did not err in relying on claims administrators to distribute that restitution. Moreover, the record shows that the Court regarded restitution as an essential component of Cammarata's sentence. *See Catoggio*, 326 F.3d at 328; App. 2146 ("[L]et me put on the record the need to provide

[33] As we explain next, the District Court abused its discretion by awarding restitution in this amount, as it did not fully compensate the victims' losses. But because the Government did not cross-appeal, that abuse of discretion cannot justify vacatur and remand for recalculation. So with the restitution award effectively capped at the $31 million figure, we consider whether the District Court abused its discretion by not foregoing restitution in that amount, *i.e.*, the amount it actually ordered.

restitution."). Because this determination "requires a detailed understanding of and sensitivity to the facts of each case[,]" *Gushlack*, 728 F.3d at 193, we defer to the Court's analysis and conclude that it did not abuse its discretion by not foregoing restitution under § 3663A(c)(3), *cf. United States v. Malone*, 747 F.3d 481, 487 (7th Cir. 2014) (perceiving no abuse of discretion where "although [the district court] did not expressly explain [its] balancing of the relevant complexity exception factors, [it] clearly considered those factors and exercised [its] discretion not to apply the exception in this case").

3. Although the District Court Abused Its Discretion by Failing to Award Full Restitution to Each Victim Class, We Will Not Disturb Its Restitution Order

Having rejected Cammarata's arguments with respect to the MVRA victims and the District Court's approach to distributing restitution, we turn to the amount of restitution ordered, *i.e.*, the Court's decision to order only $31 million in restitution after finding a more than $40 million loss.[34] In doing

[34] In a now vacated opinion, we observed that although Cammarata's argument was less than clear to us, he seemed to be pointing to the $9 million reduction from loss found to restitution ordered as a reason the District Court ran afoul of the MVRA. *See* Opening Br. at 45 (highlighting the "adjustment" and contending that "[t]he [restitution] award thus lacked any credible evidentiary basis and bears no rational relationship to its articulated rationale") (internal quotation marks omitted). We agreed, vacated the restitution order, and remanded with instructions to the District Court to either

so, the Court ran afoul of the MVRA. Nevertheless, because the Government did not cross-appeal, and in fact requested restitution in that underinclusive amount, we will affirm the District Court's restitution order.

The MVRA contemplates that ordering restitution is an all-or-nothing approach. A district court must "order restitution to *each* victim in the *full* amount of each victim's losses[.]" 18 U.S.C. § 3664(f)(1)(A) (emphasis added). "Thus, there is no restitution range under . . . § 3664(f)(1)(A) that starts at zero and ends at the full amount of each victim's losses; rather, the single restitution amount triggered by the conviction under the MVRA . . . is the full amount of loss." *United States v. Leahy*, 438 F.3d 328, 337–38 (3d Cir. 2006) (internal quotation marks omitted); *see also id.* at 337 ("[W]hen the court determines the amount of loss, it is merely giving definite shape to the restitution penalty born out of the conviction.").

Here, the District Court ordered restitution to only 115 of the 397 classes victimized by the Defendants' fraudulent

---

forego restitution entirely under 18 U.S.C. § 3663A(c)(3) or adjust the restitution award to fully compensate the victims' losses. Cammarata petitioned for panel rehearing. He clarified that he had not challenged the $9 million reduction as a basis for reversing the restitution order as underinclusive. He also raised, for the first time, the Supreme Court's decision in *Greenlaw v. United States*, 554 U.S. 237 (2008). We granted panel rehearing on this basis, and we address *Greenlaw*'s import below.

scheme.[35] And the amount awarded to those 115 classes fell well below the over-$40 million loss suffered by all the victim classes. By ordering less-than-full restitution, the District Court abused its discretion. *See United States v. Alalade*, 204 F.3d 536, 540–41 (4th Cir. 2000) (holding that the MVRA does not vest district courts with discretion to reduce the amount of restitution below the full amount of each victim's losses).

We previously concluded that this abuse of discretion required us to vacate the restitution order and remand for the Court to reconsider its restitution award consistent with the requirements of the MVRA. Now, with the benefit of briefing at the panel rehearing stage, we conclude that the Supreme Court's decision in *Greenlaw v. United States*, 554 U.S. 237 (2008), precludes such a remedy in this case.

Greenlaw provides that under the "cross-appeal rule," an "appellate court may not alter a judgment to benefit a nonappealing party." *Id.* at 244. In that case, the defendant appealed his sentence, claiming it was excessive, and the government did not cross appeal. *Id.* at 242. The Eighth Circuit, after rejecting the defendant's arguments, vacated the

[35] The list of 115 settlement funds was provided by the Government and incorporated into the District Court's restitution order. The Government apparently determined "for each fund a threshold amount of recovery below which it would not be feasible to make further distribution." App. 2148. The list of funds in the restitution order excluded the settlement funds from which the Defendants fraudulently obtained amounts less than the Government's unidentified threshold.

defendant's sentence and remanded for the district court to increase the sentence by 15 years to accord with the applicable statutory mandatory minimum. *Id.* at 242–43. The Supreme Court reversed. It held that "absent a Government appeal or cross-appeal, the sentence [the defendant] received should not have been increased." *Id.* at 240. That same principle controls here, and without a cross-appeal from the Government, it prevents us from remanding to the District Court for further proceedings that might enlarge Cammarata's restitution obligation.

Greenlaw dealt with an increase to a defendant's term of imprisonment, not as here, a restitution award under the MVRA. But we have little trouble concluding that *Greenlaw* applies in this context. After all, MVRA restitution is "a form of criminal penalty" that is "imposed as an integral and necessary part of sentencing[.]" *United States v. Edwards*, 162 F.3d 87, 91 (3d Cir. 1998). *Greenlaw*'s mandate that "the sentence [a defendant] received should not" be increased without a government cross-appeal, therefore, necessarily encompasses restitution under the MVRA. *Greenlaw*, 554 U.S. at 240.

Accordingly, and although the District Court abused its discretion by failing to fully compensate the victims of Cammarata's offenses, the Government's failure to cross-appeal requires that we affirm the District Court's restitution order. *See United States v. Greenlaw*, 538 F.3d 830, 831 (8th Cir. 2008) (affirming the defendant's sentence on remand); *In re Amy Unknown*, 701 F.3d 749, 774 (5th Cir. 2012) (en banc), vacated and remanded sub nom. *Paroline v. United States*, 572 U.S. 434 (2014), and cert. granted, judgment vacated sub nom.

Wright v. United States, 572 U.S. 1083 (2014) (affirming a similarly underinclusive restitution award under *Greenlaw* in the absence of a government cross-appeal).

E. Forfeiture

Finally, Cammarata claims the forfeiture of his vacation home (the "Poconos property") violated Federal Rule of Criminal Procedure 32.2. Whether forfeiture of the Poconos property complied with Rule 32.2 is a question of law over which we exercise plenary review. *See United States v. 6109 Grubb Rd.*, 886 F.2d 618, 621 (3d Cir. 1989).

The superseding indictment included a forfeiture allegation pursuant to 28 U.S.C. § 2461(c)[36] and 18 U.S.C. § 981(a)(1)(C),[37] directing the Defendants to forfeit "any property, real or personal, that constitutes or is derived from

[36] Section 2461(c) provides that if a defendant is convicted of an offense for which criminal forfeiture is authorized, the district court "shall order the forfeiture of the property as part of the sentence in the criminal case pursuant to the Federal Rules of Criminal Procedure[.]" 28 U.S.C. § 2461(c). "The federal rule referenced in § 2461(c) is Rule 32.2[.]" *United States v. Lo*, 839 F.3d 777, 790 (9th Cir. 2016).

[37] Section 981(a)(1)(C) provides that "[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to a violation of" certain offenses, including mail and wire fraud, "is subject to forfeiture to the United States[.]" 18 U.S.C. § 981(a)(1)(C) (incorporating 18 U.S.C. §§ 1956(c)(7) and 1961(1)).

proceeds traceable to the commission" of the charged wire fraud offenses, "including, but not limited to the sum of $40,000,000[.]" App. 116. The forfeiture allegation also stated that the Government intended to "seek forfeiture of any other property of the [D]efendants up to the value of the property subject to forfeiture" pursuant to 21 U.S.C. § 853(p). *Id.*

At the charge conference on the final day of trial, the District Court asked the Government whether the jury needed to consider any forfeiture issues, inquiring: "it's not a notice of forfeiture as to specific property, right?" App. 1802. In posing that query, the District Court complied with Rule 32.2(b)(5)(A), which requires a court to "determine before the jury begins deliberating whether either party requests that the jury be retained to determine the forfeitability of specific property if it returns a guilty verdict." Fed. R. Crim. P. 32.2(b)(5)(A). Cammarata essentially concedes that the Court complied with the Rule. Because the Government advised that it was seeking a "money judgment only[,]" neither party requested that the jury address forfeiture. App. 1802.

Months after trial and a week before Cammarata's sentencing was to occur, the Government filed a motion for forfeiture, seeking both a money judgment and forfeiture of the Poconos property. The Government averred that the Poconos property was traceable to fraudulent proceeds and thus subject to forfeiture under § 981(a)(1)(C). To that end, it attached a declaration executed by a government investigator which traced Cammarata's purchase of the Poconos property to three payments Alpha Plus had fraudulently received from class action settlement funds.

At sentencing, Cammarata objected to forfeiture of the Poconos property, arguing that the Government failed to provide him with sufficient notice. Such failure, he claimed, deprived him of his right to have a jury determine the property's forfeitability. Rather than ruling on Cammarata's objections, the District Court determined that the Government had proved by a preponderance of the evidence that the Poconos property was traceable to fraudulent proceeds. And by an order issued on June 6, 2023, the Court directed Cammarata to forfeit both $16,493,939.73, the amount he personally gained through the fraudulent scheme, and the Poconos property itself.

Cammarata claims the District Court erred by ordering the Poconos property's forfeiture. He re-asserts his notice argument and contends that the Government waived its ability to seek the property's forfeiture when it represented at trial that it would seek only a money judgment. And he argues that he was deprived of the jury trial right afforded to him by Rule 32.2(b)(5)(A).

We reject Cammarata's notice and waiver arguments. We conclude, however, that ordering forfeiture of the Poconos property as traceable to fraudulent proceeds without affording Cammarata a right to the jury trial afforded by Rule 32.2(b)(5)(A) was error subject to harmless error review. While reversal is not warranted under that standard, remand is. On remand, the Government should move to amend the forfeiture order to reflect that the Poconos property is forfeitable as "other property" under 21 U.S.C. § 853(p), not as property derived from criminal proceeds under 18 U.S.C. § 981(a)(1)(C).

1. The Government Provided Adequate Notice

The general notice provided by the Government in the superseding indictment was sufficient under 28 U.S.C. § 2461(c) and Rule 32.2(a). Section 2461(c) states only that "the Government may include notice of forfeiture in the indictment . . . pursuant to the Federal Rules of Criminal Procedure." And Rule 32.2(a) requires the Government to provide notice in an indictment that it "will seek the forfeiture of property as part of any sentence[.]" Fed. R. Crim. P. 32.2(a); *Lo*, 839 F.3d at 790. Such notice "need not identify" the specific property or the amount of money subject to forfeiture. Fed. R. Crim. P. 32.2(a).

The superseding indictment made plain the Government's intention to seek the forfeiture of "any property, real or personal," as part of Cammarata's sentence. App. 116. Neither Rule 32.2(a) nor § 2461(c) required more. *See United States v. Lacerda*, 958 F.3d 196, 217 (3d Cir. 2020) (holding that nearly identical language in an indictment was sufficient under Rule 32.2).

2. The Government Did Not Waive Its Right to Seek Forfeiture of the Poconos Property

Cammarata further argues that the Government waived its right to seek forfeiture of the Poconos property when it represented during the charge conference that it was seeking only a money judgment. He claims the District Court committed reversible error when it nonetheless disregarded his objection at sentencing and ordered the property's forfeiture. The basic flaw in Cammarata's argument is that he did not

object on the ground that the Government had waived its right to seek forfeiture of specific property. App. 2071–73, 2089.

Accordingly, we review Cammarata's waiver argument for plain error. *See United States v. Watson*, 482 F.3d 269, 274 (3d Cir. 2007). We again recite that the plain error doctrine requires that "an appellant . . . show (1) a legal error (2) that is plain and (3) that has affected his substantial rights." *Dorsey*, 105 F.4th at 528 (citing *Olano*, 507 U.S. at 732). Only if these requirements are met, may we exercise our discretion to correct the error, and then only if allowing the error to stand would "seriously affect[] the fairness, integrity or public reputation of judicial proceedings." *Olano*, 507 U.S. at 732 (internal quotation marks and citations omitted).

Cammarata fails to cite a single case supporting his waiver argument. Though "lack of precedent alone" does not categorically "prevent us from finding plain error[,]" we will do so only if "absolutely clear legal norm[s]" compel that conclusion. *United States v. Jabateh*, 974 F.3d 281, 299 (3d Cir. 2020) (internal quotation marks and citations omitted). Cammarata cannot show that any error here meets such a demanding test.

Notably, the Government claims that it was not aware, even by the time trial concluded, that the Poconos property was forfeitable as traceable to fraudulent proceeds. While the Government suggests that its "forfeiture submissions should have clarified that its tracing had only occurred post-trial[,]" Response Br. at 60 n.8, that fact is apparent in the declaration underpinning the Government's forfeiture motion. The declaration, executed months after trial, explained that the

investigator-declarant concluded that the Poconos property was traceable to fraudulent proceeds only *after* reviewing trial testimony and exhibits.

Waiver requires the "'intentional relinquishment or abandonment of a known right.'" *Hamer v. Neighborhood Hous. Servs.*, 583 U.S. 17, 20 n.1 (2017) (quoting *Olano*, 507 U.S. at 733). We fail to see, then, how the Government could have waived any right to seek forfeiture of property the forfeitability of which it was unaware when it represented to the District Court that it would seek only a money judgment. *See Magouirk v. Warden*, 237 F.3d 549, 553 (5th Cir. 2001) (agreeing in a habeas proceeding that state prosecution did not waive its ability to later advance an argument it "did not know of" at the time of trial).

Moreover, forfeiture of property traceable to criminal proceeds is mandatory upon conviction, so long as the Government provides sufficient notice in the indictment. *See* 18 U.S.C. § 981(a)(1)(C); 28 U.S.C. § 2461(c); *United States v. Hernandez*, 803 F.3d 1341, 1343 (11th Cir. 2015) (explaining that because forfeiture was authorized under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), and "the government included notice of the forfeiture in [the defendant's] indictment, the district court was required by § 2461(c) to order forfeiture as part of his sentence").

As explained, the Government provided sufficient notice here. To conclude that it later waived its ability to seek the Poconos property's forfeiture during the charge conference would be contrary to the mandatory nature of criminal forfeiture and the facts of this case.

3. Deprivation of the Jury Right Afforded by Rule 32.2(b)(5)(A) Constituted Procedural Error That Merits Remand

Finally, Cammarata claims his inability to submit the issue of the Poconos property's forfeitability to the jury constituted a fundamental violation of Rule 32.2(b)(5)(A). In his view, this error requires us to reverse the District Court's forfeiture order as to the Poconos property.

Rule 32.2(b)(5)(A) is plainly directed at district courts, not litigants. It provides that "the court must determine" whether either party requests that the jury be retained to determine the forfeitability of specific property. Fed. R. Crim. P. 32.2(b)(5)(A). As Cammarata concedes, the District Court heeded the Rule's mandate when it inquired of the Government at the charge conference whether it was seeking forfeiture of specific property. So the District Court did not violate Rule 32.2(b)(5)(A). *See United States v. Fisher*, 943 F.3d 809, 814 (7th Cir. 2019) (explaining that Rule 32.2(b)(5)(A) "is violated when a judge does not determine if a party wants the jury to decide whether certain property is forfeitable"). Nor can we ascribe any intentional error to the Government when it provided sufficient notice in the superseding indictment. Rule 32.2(b)(5)(A) does not govern the Government's conduct. And even if it did, the record indicates that it was not aware until after the jury had rendered its verdict that it had a basis to seek forfeiture of the Poconos property.

That said, we cannot ignore that Cammarata was deprived of the jury right afforded to him by Rule

32.2(b)(5)(A). That deprivation of process constituted procedural error.

As both parties recognize, that procedural error is subject to harmless error review on appeal.[38] *See* Fed. R. Crim. P. 52(a). And it is the Government's burden to demonstrate that the error was harmless. *United States v. Titchell*, 261 F.3d 348, 354 (3d Cir. 2001). Because a violation of Rule 32.2(b)(5)(A) is not of constitutional dimension,[39] reversal is "not warranted

---

[38] The Supreme Court's recent decision in *McIntosh v. United States*, 601 U.S. 330 (2024), bolsters this conclusion. There, the Court held that Rule 32.2(b)(2)(B)—mandating the entry of a preliminary order of forfeiture prior to sentencing—is a "time-related directive that, if missed, does not deprive the judge of her power to order forfeiture against the defendant." *Id.* at 342. *McIntosh*'s reasoning compels the same conclusion here with respect to Rule 32.2(b)(5)(A). *See id.* at 341–44; *United States v. Williams*, 720 F.3d 674, 700–01 (8th Cir. 2013) (holding that Rule 32.2(b)(5)(A) is "merely a time-related directive deadline" that is "legally enforceable but does not deprive a judge . . . of the power to take the action to which the deadline applies if the deadline is missed") (internal quotation marks and citation omitted). Still, failure to abide by a time-related directive is "subject to harmless-error principles on appellate review[.]" *McIntosh*, 601 U.S. at 338.

[39] Cammarata's contention that a deprivation of Rule 32.2(b)(5)(A)'s jury right is "structural error" requiring automatic reversal lacks merit. As he appears to concede, Supreme Court precedent forecloses his argument. *See Libretti*

if it is 'highly probable that the error did not contribute to the judgment.'" *United States v. Browne*, 834 F.3d 403, 416 (3d Cir. 2016) (quoting *United States v. Brown*, 765 F.3d 278, 295 (3d Cir. 2014)).

The Government's harmlessness argument is that even if the jury had found that the Poconos property was not forfeitable, Cammarata would nonetheless have had to forfeit it as substitute property under 21 U.S.C. § 853(p). That provision allows the Government to seek forfeiture of "property untainted by the crime[,]" *i.e.* substitute property, so long as it can prove one of five conditions listed in § 853(p)(1). *Honeycutt v. United States*, 581 U.S. 443, 451 (2017). These conditions include when, "as a result of any act or omission of the defendant", forfeitable property has been "transferred or sold to, or deposited with, a third party"; "placed beyond the jurisdiction of the court"; or "commingled with other property which cannot be divided without difficulty." 21 U.S.C. § 853(p)(1)(B), (C), (E).

We are mindful that the superseding indictment put Cammarata on notice of the Government's intention to seek forfeiture of substitute property under § 853(p). In the declaration supporting the Government's forfeiture motion, its

---

v. United States, 516 U.S. 29, 49 (1995) ("[T]he right to a jury verdict on forfeitability does not fall within the Sixth Amendment's constitutional protection."); Opening Br. at 49 & n.16 (acknowledging that "the 'structural error' rubric does not apply to a jury right conferred by statute rather than by the Constitution itself" and "[r]ecognizing that this Cou[r]t is bound by the precedent set in *Libretti*").

investigator concluded that "much of the" nearly $16.5 million in fraudulent proceeds Cammarata obtained had been transferred to a third party, used to pay for real property outside the United States, and/or commingled with other property. App. 330. In its forfeiture order, the District Court concluded that "one or more conditions in 21 U.S.C. § 853(p) have been met" and authorized the Government to seek forfeiture of substitute property. App. 16–17. And under Rule 32.2(e), upon the Government's motion, a district court "may at any time enter an order of forfeiture or amend an existing order of forfeiture to include" substitute property without the involvement of a jury. Fed. R. Crim. P. 32.2(e)(1), (3).

We acknowledge the practicality of the Government's harmlessness argument. Insofar as Cammarata would have forfeited the Poconos property as substitute property in any event, it is highly probable that the procedural error did not contribute to the judgment. So reversal is not warranted. *See Browne*, 834 F.3d at 416. But we decline the Government's invitation to affirm, without amendment to the forfeiture order, simply because Cammarata would have forfeited the Poconos property under a process distinct from the one it pursued before the District Court.

As we explained in *United States v. Voigt*, where "all that is at issue is the process by which the government may seize property in satisfaction of the" forfeiture amount to which it is legally entitled, the solution "is to give effect to the substitute asset provision." 89 F.3d 1050, 1088 (3d Cir. 1996). Accordingly, we will vacate the District Court's forfeiture order to the extent it reaches the Poconos property. And we will remand for the limited purpose of allowing the Government to

move to amend the forfeiture order under Rule 32.2(e) to reflect that the Poconos property is forfeitable as a substitute asset. *See id.* (remanding for a similar amendment of a forfeiture order where the district court erroneously concluded that specific property was forfeitable as traceable to criminal proceeds).

III. CONCLUSION

In sum, we will affirm Cammarata's conspiracy, wire fraud, and money laundering convictions, as well as the District Court's restitution order. We will vacate the forfeiture order in part and remand for further proceedings consistent with this opinion.

Exhibit I

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT _____ No. 23-2110
_____ UNITED STATES OF AMERICA v. JOSEPH CAMMARATA, Appellant
_____ (District Court No. 2:21-cr-00427-001)
_____ SUR PETITION FOR REHEARING _____
Before: CHAGARES, Chief Judge, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, McKEE, and SMITH*, Circuit Judges
The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by panel and the Court en banc, is denied.
_____ *The votes of the Honorable Theodore A. McKee and the Honorable D. Brooks Smith, Senior Judges of the United States Court of Appeals for the Third Circuit, are limited to panel rehearing. Case: 23-2110 Document: 83 Page: 1 Date Filed: 08/12/2025 BY THE COURT, s/D. Brooks Smith Circuit Judge Dated: August 12, 2025 Amr/cc: All counsel of record

Exhibit J

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1983

UNITED STATES OF AMERICA

v.

JOSEPH CAMMARATA,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal No. 3:22-cr-00639-001)
District Judge: Honorable Peter G. Sheridan

Submitted Under Third Circuit L.A.R. 34.1(a)
on December 2, 2025

Before: CHAGARES, *Chief Judge*, FREEMAN and MASCOTT, *Circuit Judges*

(Opinion filed: April 7, 2026)

OPINION*

---

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

FREEMAN, *Circuit Judge*.

Joseph Cammarata appeals his conviction for five counts of tax evasion. For the following reasons, we will affirm the judgment.

I

Cammarata and two co-conspirators, Erik Cohen and David Punturieri, ran a securities fraud scheme from at least 2015 to 2019. Through the scheme, they made over $40 million by submitting false claims in securities class actions across the United States.

In 2021, all three co-conspirators were indicted in the Eastern District of Pennsylvania on various fraud and money-laundering charges related to the securities fraud scheme. *See United States v. Cammarata*, 145 F.4th 345, 359 (3d Cir. 2025). In 2022, while Cammarata was awaiting trial in that case (the "Securities Fraud Case"), a grand jury in the District of New Jersey returned an indictment charging him with five counts of tax evasion, in violation of 26 U.S.C. § 7201. The latter case (the "Tax Evasion Case") is the one at issue here.

The indictment in the Tax Evasion Case charged Cammarata with attempting to evade his tax obligations by filing fraudulent tax returns for five calendar years: 2015 to 2019. The indictment alleged several affirmative acts in support of each count, including that Cammarata failed to report his income from the securities fraud scheme.

The government provided voluminous discovery to Cammarata's counsel in the Tax Evasion Case. The initial discovery included only tax-related materials, but by March 2023 the government also provided the entire discovery production from the Securities Fraud Case.

After Cammarata was convicted and sentenced in the Securities Fraud Case, the District Court granted Cammarata's motion to represent himself in the Tax Evasion Case.[1] The court required both attorneys who had been representing Cammarata to remain in the case as standby counsel.

Shortly before trial was scheduled to begin in the Tax Evasion Case, Cammarata stated he did not have an adequate opportunity to review the discovery, but he also expressed a desire for trial to begin immediately. The District Court colloquied Cammarata about those positions, and Cammarata confirmed that he was prepared to proceed and wished to do so. Trial began the next day.

During trial, Cohen and Punturieri testified for the government.[2] Cohen testified that he and Cammarata "had discussed not filing on what we had taken in, just to keep more money." Supp. App. 942. Cohen further testified that Cammarata recommended using Eisner CPA as accountants because they were "disastrous," so "if there was ever an issue with the IRS, [Cammarata] would just say that it was a mistake on their end and it was not on him." Supp. App. 584–85. Cohen and Punturieri testified that, for each calendar year charged in the indictment, they would put together a spreadsheet of profits and then Cammarata would alter the numbers before submitting the spreadsheet to his accountants for tax purposes. In 2016, Cammarata told Cohen that the two men would

[1] Cohen and Punturieri each pleaded guilty to two counts in the Securities Fraud Case, and a jury convicted Cammarata of eight counts. *Cammarata*, 145 F.4th at 359–60.

[2] Cohen and Punturieri were charged with tax evasion in separate indictments. After Cammarata's conviction in the Tax Evasion Case, each of them pleaded guilty to one count of tax evasion.

not get caught for filing false returns if they were consistent about the numbers, so Cohen started filing false returns, too. And when Cammarata learned that Punturieri filed a tax return that reported some of his fraudulent income, Cammarata got angry and directed Punturieri to "fix it." Supp. App. 587. All three co-conspirators decided that they would not accurately report their income in the future.

The government introduced a summary chart of Cammarata's fraudulent income ("Exhibit G-1001") that a lay witness prepared. The government also introduced a second summary exhibit ("Exhibit G-1004") through the testimony of its tax computation expert, IRS Agent Thomas Mazur. Although Mazur did not prepare Exhibit G-1004, he testified that he verified the figures in that exhibit were accurate before using the figures in his expert report.

The jury found Cammarata guilty of all five counts, and the District Court denied Cammarata's motions for judgment of acquittal and a new trial. After sentencing, Cammarata timely appealed.

II[3]

Cammarata raises four challenges to his conviction. None of them is availing.

A

Cammarata argues that the District Court erred in denying his motion for a judgment of acquittal. When he filed that motion in the District Court, he argued the

[3] The District Court had jurisdiction pursuant to 18 U.S.C. § 3231. We have jurisdiction pursuant to 28 U.S.C. § 1291.

government presented insufficient evidence of the "tax due and owing" element of the tax evasion offense. On appeal, Cammarata argues that the government presented insufficient evidence of a different element: willfulness. Because Cammarata did not raise his willfulness argument in the District Court, we review it for plain error. *See United States v. Jackson*, 849 F.3d 540, 544 (3d Cir. 2017). We discern no error, plain or otherwise. Cohen's and Punturieri's testimony that Cammarata falsified financial data to keep more money and advised them to do the same is sufficient evidence of Cammarata's willful tax evasion.

B

Cammarata also argues that the District Court improperly admitted evidence of the securities fraud scheme during trial in the Tax Evasion Case. We review the court's decision to admit evidence for abuse of discretion. *United States v. Saada*, 212 F.3d 210, 220 (3d Cir. 2000).

Although Cammarata purports to appeal the admission of all securities fraud evidence, at trial he stated that he was "okay with" the admission of securities fraud evidence from on or before December 31, 2019. Supp. App. 221. Thus, he waived any challenge to the evidence from 2019 or earlier. *See United States v. James*, 955 F.3d 336, 344–45 (3d Cir. 2020).

We review only Cammarata's challenge to the post-2019 evidence, which includes the tax return he filed in October 2020 for tax year 2019, plus certain statements he made in 2020 to an undercover federal agent in connection with a fraudulent claim he submitted. He does not dispute that evidence of the securities fraud scheme—including

the post-2019 evidence—was intrinsic to the charges in the Tax Evasion Case. After all, it is probative of Cammarata's unreported taxable income during the period charged in the indictment. *See Boulware v. United States*, 552 U.S. 421, 424 (2008) ("One element of tax evasion under § 7201 is the existence of a tax deficiency." (internal quotation omitted)). Instead, he argues that the District Court should have excluded the post-2019 evidence under Federal Rules of Evidence 403 and 404(b).

Rule 403 permits a court to exclude relevant evidence "if its probative value is substantially outweighed by a danger of . . . unfair prejudice." Fed. R. Evid. 403. But while "[i]nstrisic evidence 'that reveals a defendant's legal guilt can be highly prejudicial, . . . that alone does not make it unfairly so.'" *Cammarata*, 145 F.4th at 368 (quoting *United States v. Long*, 92 F.4th 481, 488 (3d Cir. 2024)). Here, the District Court did not abuse its discretion under Rule 403 in concluding any prejudice from the post-2019 evidence did not substantially outweigh the probative value.

Rule 404(b) governs the permissible uses of "other crimes" evidence. Fed. R. Evid. 404(b). As such it applies only to extrinsic evidence. *United States v. Bailey*, 840 F.3d 99, 128 (3d Cir. 2016). Intrinsic evidence "directly proves the charged offense," so it is not evidence of "*other* crimes." *Id.* (cleaned up). Therefore, Rule 404(b) did not apply here.

C

Cammarata next argues that the government constructively amended the indictment by presenting evidence regarding falsified tax returns (a violation of 26 U.S.C. § 7206), when he was charged with tax evasion (a violation of 26 U.S.C. § 7201).

Because Cammarata did not raise this objection at trial, we review for plain error. *Cammarata*, 145 F.4th at 360.

"A constructive amendment occurs where trial evidence or arguments modify essential terms of the charged offense in such a way that there is a substantial likelihood that the jury may have convicted the defendant for an offense differing from the offense charged in the indictment." *Cammarata*, 145 F.4th at 361 (cleaned up). The "key inquiry" is thus "whether the defendant was convicted of the same conduct for which he was indicted." *Id.* (cleaned up).

A conviction under § 7201 requires an affirmative act of tax evasion. *Sansone v. United States*, 380 U.S. 343, 351 (1965). The indictment alleged that Cammarata engaged in several affirmative acts, including filing false and fraudulent tax returns for the applicable calendar year of each of his five counts. Because the government presented evidence of the affirmative acts alleged in the indictment, there was no constructive amendment.

D

Lastly, Cammarata argues the District Court should have granted his motion for a new trial because the government purportedly violated *Brady v. Maryland*, 373 U.S. 83 (1963), and failed to comply with its expert discovery obligations.

Of the six purported *Brady* violations and discovery deficiencies, Cammarata only raised three in his Rule 33 motion. Under Rule 33, "a judge has no power to order a new trial on his own motion." *United States v. Wright*, 363 F.3d 237, 248 (3d Cir. 2004) (quoting Fed. R. Crim. Proc. 33, Advisory Committee Notes, 1966 Amendments).

Therefore, we will not reach the merits of the arguments Cammarata did not include in his Rule 33 motion.[4] *See id.*

As to the arguments Cammarata did raise in his Rule 33 motion, we review the District Court's ruling for abuse of discretion. *United States v. Kelly*, 539 F.3d 172, 181 (3d Cir. 2008). A district court may grant a Rule 33 motion if it "believes that there is a serious danger that a miscarriage of justice has occurred—that is, that an innocent person has been convicted." *United States v. Johnson*, 302 F.3d 139, 150 (3d Cir. 2002) (citation modified).

The District Court did not abuse its discretion in denying Cammarata's motion. First, Cammarata argues the government violated *Brady* by not providing all documents used to develop Exhibit G-1001. But Cammarata does not argue that the government withheld those documents from the defense. He argues only that, after he obtained permission to represent himself, he was unable to review the documents the government provided to his attorney when he was represented by counsel. A *Brady* violation requires the suppression of evidence, and there was none here. *See United States v. Pelullo*, 399 F.3d 197, 209 (3d Cir. 2005).[5]

[4] This applies to the arguments that (1) the government violated *Brady* by not providing Cammarata's IRS Forms 1042-S and related payment confirmation letters; (2) the government violated *Brady* by not providing Plan of Action forms from each class action settlement claims administrator involved in the securities fraud scheme; and (3) the District Court erred in admitting Exhibit G-1001 because it was prepared by a lay witness.

[5] Cammarata has waived any argument that he did not have the opportunity to review the documents that were produced.

Second, Cammarata argues the government did not comply with its expert discovery obligations under Federal Rule of Criminal Procedure 16 because it did not provide a written summary of Mazur's anticipated expert testimony. But the record includes an email from the government to Cammarata's then-counsel that belies this argument.

Third, Cammarata argues that the District Court erred by permitting the government to introduce Exhibit G-1004 through Mazur, who did not personally prepare that document. But there is no requirement that the preparer of a summary exhibit testify. Rather, a district court may admit a summary exhibit if it "accurately summarizes the materials involved." *Pritchard v. Liggett & Myers Tobacco Co.*, 295 F.2d 292, 301 (3d Cir. 1961). Agent Mazur testified that he verified the accuracy of the figures in Exhibit G-1004, so the District Court acted within its discretion when it admitted the exhibit.

* * *

For the forgoing reasons, we will affirm the judgment.

Exhibit K

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790
Website: www.ca3.uscourts.gov

TELEPHONE
215-597-2995

April 7, 2026

Joseph Cammarata
Montgomery FPC
Maxwell Air Force Base
1001 Willow Street
Montgomery, AL 36112

Mark E. Coyne, Esq.
Office of United States Attorney
970 Broad Street
Room 700
Newark, NJ 07102

Jack J. McMahon Jr., Esq.
Law Office of Jack McMahon
139 N Croskey Street
Philadelphia, PA 19103

Paul G. Shapiro, Esq.
Office of United States Attorney
615 Chestnut Street
Suite 1250
Philadelphia, PA 19106

RE: USA v. Joseph Cammarata
Case Number: 24-1983
District Court Case Number: 3:22-cr-00639-001

ENTRY OF JUDGMENT

Today, **April 07, 2026,** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:
14 days after entry of judgment.
45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:
3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).
15 pages if hand or type written.

Attachments:
A copy of the panel's opinion and judgment only.
Certificate of service, unless the petition is filed and served through the Court's electronic-filing system.
Certificate of compliance if petition is produced by a computer.
No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. A party seeking both forms of rehearing must file the petitions as a single document. Fed. R. App. P. 40(a).

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,
Patricia S. Dodszuweit, Clerk

By: s/Alicia
Case Manager
267-299-4948

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1983

UNITED STATES OF AMERICA,

v.

JOSEPH CAMMARATA,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal No. 3:22-cr-00639-001)
District Judge: Honorable Peter G. Sheridan

Submitted Under Third Circuit L.A.R. 34.1(a)
on December 2, 2025

Before: CHAGARES, *Chief Judge*, FREEMAN and MASCOTT, *Circuit Judges*

JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third Circuit L.A.R. 34.1(a) on December 2, 2025.

On consideration whereof, it is hereby **ORDERED and ADJUDGED** that the District Court's judgment entered on May 14, 2024, be and is hereby **AFFIRMED**. Costs will not be taxed.

All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: April 7, 2026

Exhibit L

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1983

UNITED STATES OF AMERICA,

v.

JOSEPH CAMMARATA,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal No. 3:22-cr-00639-001)

SUR PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, HARDIMAN, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, BOVE, and MASCOTT, *Circuit Judges*

The petition for rehearing filed by Appellant Joseph Cammarata in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc is denied.

By the Court,

s/ Arianna J. Freeman
Circuit Judge

Dated: May 7, 2026
Amr/Cc: All counsel of record

Exhibit M

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

UNITED STATES OF AMERICA
v.
JOSEPH CAMMARATA

JUDGMENT IN A CRIMINAL CASE

Case Number: DPAE2:21-cr-000427-CFK-001

USM Number: 02555-506

Reuven Cohen, Esq. & Mariana Rossman, Esq.
Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s) which was accepted by the court.

☑ was found guilty on count(s) after a plea of not guilty. 1, 2, 3, 4, 5, 6, 11, and 12 of the Superseding Indictment.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1349	Conspiracy	11/3/2021	1
18 U.S.C. § 1343	Wire fraud	11/3/2021	2, 3, 4, and 5
18 U.S.C. § 1956(h)	Conspiracy to commit money laundering	11/3/2021	6

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.

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

6/6/2023
Date of Imposition of Judgment

/s/ Chad F. Kenney
Signature of Judge

Chad F. Kenney, U.S. District Judge
Name and Title of Judge

6/6/2023
Date

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
19 U.S.C. §§ 1957 and 2	Money laundering and aiding and abetting	11/3/2021	11 and 12

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

120 months. This includes terms of 120 months on each of Counts 1, 2, 3, 4, 5, 6, 11 and 12 of the Superseding Indictment, all such terms to run concurrently.

☑ The court makes the following recommendations to the Bureau of Prisons:

The defendant shall receive credit for time served. The Court further recommends that the defendant be designated at FCI Fort Dix in New Jersey.

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

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

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

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

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ , with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Three (3) years.

This includes a term of three (3) years on each of Counts 1, 2, 3, 4, 5, 6, 11 and 12, such terms to run concurrently.

MANDATORY CONDITIONS

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

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

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

STANDARD CONDITIONS OF SUPERVISION

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

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

2. The defendant is prohibited from incurring any new credit charges or opening additional lines of credit without the approval of the probation officer unless the defendant is in compliance with a payment schedule for any fine or restitution obligation. The defendant shall not encumber or liquidate interest in any assets unless it is in direct service of the fine or restitution obligation or otherwise has the express approval of the Court.

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 800.00	$ 31,275,832.92	$ 250,000.00	$ 0.00	$ 0.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☑ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

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

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
Victim funds as outlined in the attachment on restitution	$31,275,832.92	$31,275,832.92	100%

TOTALS	$ 31,275,832.92	$ 31,275,832.92

☐ Restitution amount ordered pursuant to plea agreement $ _____

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☑ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☑ the interest requirement is waived for the ☑ fine ☑ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

1. The attorneys for the United States shall submit a motion for disbursement of restitution payments to the victim funds at the appropriate time.

2. The Office of the Clerk of Court shall not disburse any restitution payments to the victim funds until further order of the Court.

DEFENDANT: JOSEPH CAMMARATA
CASE NUMBER: DPAE2:21-cr-000427-CFK-001

SCHEDULE OF PAYMENTS

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

A ☑ Lump sum payment of $ 31,526,632.92 due immediately, balance due

☐ not later than _____, or
☑ in accordance with ☐ C, ☐ D, ☐ E, or ☑ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☑ Special instructions regarding the payment of criminal monetary penalties:
All monetary penalties are due immediately. It is recommended that the defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program and provide a minimum payment of $25 per quarter. Upon release from imprisonment, if there is any outstanding balance, then the defendant shall submit payments equal to one-third of the remaining balance, to be due once every 6 months thereafter while on supervised release.

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

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

☑ Joint and Several

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
Erik Cohen: 21-cr-427-02 David Punturieri: 21-cr-427-03	31,275,832.92	31,275,832.92	

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☑ The defendant shall forfeit the defendant's interest in the following property to the United States:
$16,493,939.73 U.S. currency. In addition, the real estate property located at the following: 372 Brookside Drive and Brookside Drive #2, Lot No. 1 and Lot No. 2, Brookside, Pocono Pines, Long Pond, Tobyhanna Township, PA.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

Fund	Administrator	Administrator Address	Amount Owed
3D Systems Securities Settlement	Epiq	777 Third Avenue	$ 124,608.07
Advanced Micro Devices (AMD) Securities Litigation	Epiq	12th Floor	$ 97,592.23
Agfeed Industries Class Action	Epiq	New York, NY 10017	$ 372,890.12
AllSource Securities Litigation	Epiq (Garden City Group LLC)		$ 66,468.25
Autoliv	Epiq		$ 120,452.81
Aveo Securities Litigation	Epiq		$ 922,973.33
Bancorp Securities Litigation	Epiq (Garden City Group LLC)		$ 170,316.04
Bank of New York Mellon Corp. Securities Actions	Epiq		$ 92,364.52
BOA Securities Class Action Settlement Fund	Epiq (Garden City Group LLC)		$ 951,088.12
China Green Agriculture	Epiq		$ 118,057.31
Citigroup Inc. Securities Litigation	Epiq (Garden City Group LLC)		$ 10,151.76
Clovis Securities Litigation	Epiq		$ 339,019.15
Computer Sciences Corporation Fair Fund	Epiq		$ 1,157,167.07
Computer Sciences Corporation Settlement Fund	Epiq (Garden City Group LLC)		$ 21,247.06
Comverge, Inc. Shareholders Litigation	Epiq		$ 86,764.60
Cornerstone Therapeutics Inc. Stockholder Litigation	Epiq (Garden City Group LLC)		$ 318,312.47
Delcath Securities Litigation	Epiq (Garden City Group LLC)		$ 291,506.40
Eletrobras Securities Litigation	Epiq		$ 135,382.28
Energy Recovery Inc. Securities Litigation	Epiq (Garden City Group LLC)		$ 84,512.08
EZCorp Settlement Fund	Epiq (Garden City Group LLC)		$ 73,946.91
General Motors Securities Litigation	Epiq (Garden City Group LLC)		$ 28,681.59
Gentiva Securities Litigation	Epiq		$ 402,549.21
GoPro Securities Litigation (2016 - CA district court)	Epiq		$ 52,351.53
Green Mountain Securities Litigation	Epiq		$ 7,335.86
Hill v. State Street Corporation	Epiq		$ 66,979.98
HP Securities Litigation Settlement Fund	Epiq (Garden City Group LLC)		$ 105,845.46
ITT Educational Services, Inc. Securities Litigation	Epiq		$ 216,618.90
Jinkosolar Class Action Settlement	Epiq (Garden City Group LLC)		$ 85,616.36
Kinross Gold Corporation	Epiq (Garden City Group LLC)		$ 52,309.39
Lehman Brothers Equity Debt Securities Litigation Settlement Fund EY Distribution Account	Epiq (Garden City Group LLC)		$ 2,343,646.73
Longtop Financial Technologies Securities Litigation	Epiq (Garden City Group LLC)		$ 145,591.07
LRR Energy Settlement Fund	Epiq (Garden City Group LLC)		$ 114,631.30
Macquarie Capital Inc. Fair Fund	Epiq		$ 58,720.00
MF Global Holding Securities Action Settlement Fund	Epiq (Garden City Group LLC)		$ 1,409,451.58
Nevsun Settlement Fund	Epiq (Garden City Group LLC)		$ 80,579.69
Ocean Power Technologies Inc. Securities Litigation	Epiq		$ 204,062.82
Penn West U.S. Securities Litigation Claims Administrator	Epiq		$ 143,801.68
Petrobras Securities Litigation QSF	Epiq (Garden City Group LLC)		$ 96,836.91
Puda Coal Securities Litigation	Epiq		$ 157,036.99
Rayonier Securities Litigation	Epiq		$ 29,244.54
Saba Software Settlement	Epiq (Garden City Group LLC)		$ 299,078.87
Salix Pharmaceuticals, Ltd. Securities Litigation	Epiq		$ 43,359.99
SEC v Agfeed Distribution Fund	Epiq		$ 407,036.97
SEC v CR Intrinsic Fair Fund	Epiq (Garden City Group LLC)		$ 1,691,600.57
SEC v Maxwell Fair Fund	Epiq		$ 4,799.98

Fund	Administrator	Administrator Address	Amount Owed
Sunrun Shareholder Litigation Settlement	Epiq (Garden City Group LLC)		$ 205,629.99
Weatherford International Securities Litigation	Epiq (Garden City Group LLC)		$ 418,988.08
World Acceptance Securities Settlement	Epiq		$ 249,570.47
Zynga Securities Litigation	Epiq		$ 529,191.66
Genworth Financial, Inc. Securities Litigation	Epiq		$ 512,656.11
Houston American Energy Corp Settlement	Heffler Claims Group LLC	**Kroll Settlement Administration Attn: Wayne Plush 2000 Market Street Suite 2700 Philadelphia, PA 19103**	$ 778,444.34
Career Education Corporation	Heffler Claims Group LLC		$ 106,382.31
Silvercorp Metals, Inc. Securities Litigation	Berdon Claims Administration LLC		$ 178,429.26
Atossa Genetics, Inc. Securities Litigation	Rust Consulting Inc. Claims Administrator	**Rust Consulting, Inc. Attn: Amy Lake 920 2nd Ave S, Suite 400 Minneapolis, MN 55402**	$ 166,839.28
Orthofix Securities Settlement Fund	Strategic Claims Services	**Stratgeic Claim Services Attn: Paul Mullholland 600 North Jackson Street Suite 205, Media, PA 19063**	$ 332,304.49
Deer Consumer Products Inc	Strategic Claims Services		$ 235,994.87
Kalobios Settlement Fund	Strategic Claims Services		$ 208,560.72
iBio Inc Securities Litigation	Strategic Claims Services		$ 170,890.80
Uni-Pixel Inc. Securities Litigation Settlement Fund	Strategic Claims Services		$ 161,604.49
KaloBios Pharmaceuticals, Inc. Settlement Fund II	Strategic Claims Services		$ 142,695.08
Kitov Pharmaceuticals Class Action QSF	Strategic Claims Services		$ 121,077.74
Isoray Inc Securities Litigation Settlement Fund	Strategic Claims Services		$ 117,941.76
Akari Therapeutics Securities Litigation	Strategic Claims Services		$ 97,826.04
Rino International Corporation Litigation Settlement Fund II	Strategic Claims Services		$ 95,130.16
China Finance Online Co Ltd Litigation Settlement Fund	Strategic Claims Services		$ 90,437.32
Montage Technology Group LTD Securities Litigation QSF	Strategic Claims Services		$ 84,324.51
Universal Travel Group QSF	Strategic Claims Services		$ 83,924.61
GGS Securities Litigation	Strategic Claims Services		$ 81,506.66
KIOR Securities Litigation QSF	Strategic Claims Services		$ 78,115.57
	Strategic Claims Services		

Fund	Administrator	Administrator Address	Amount Owed
	Strategic Claims Services		
BP ADS Securities Litigation	Strategic Claims Services		$ 3,123,226.77
Massey Securities Settlement Claims Administrator	Strategic Claims Services		$ 1,395,330.69
Tower Securities Settlement Fund	A.B. Data, Ltd	**A.B. Data, Ltd. Attention: CAAD Accounting 600 A.B. Data Drive Milwaukee, WI 53217**	$ 478,591.30
RCS Securities Settlement Fund	A.B. Data, Ltd		$ 231,064.08
Amedisys Securities Litigation	A.B. Data, Ltd		$ 152,665.61
Assisted Living Concepts	A.B. Data, Ltd		$ 145,754.40
Prospect Medical Holding Inc Shareholders Litigation QSF	A.B. Data, Ltd		$ 145,269.78
AAC Holdings Inc. Settlement Fund	A.B. Data, Ltd		$ 127,311.11
CytRx Securities Settlement Fund	A.B. Data, Ltd		$ 123,385.05
Juno Therapeutics Inc.	A.B. Data, Ltd		$ 121,932.99
Kaplan v. S.A.C. Capital Advisors, L.P.	A.B. Data, Ltd		$ 104,277.02
	A.B. Data, Ltd.		
SEC v BP p.l.c. Distribution Fund	RCB Fund Services LLC	**BP Fair Fund c/o RCB Fund Services LLC 17 Technology Place, Suite 1 East Syracuse, NY 13057**	$ 155,594.24
AIG, Inc. 2008 Securities Litigation	Computershare (KCC Class Action Service)	**KCC Attn: Lara McDermott Fund Accounting One McInnis Parkway Suite #250 San Rafael, CA 94903**	$ 2,006,641.52
JCPenney Securities Litigation	Computershare (KCC Class Action Service)		$ 572,659.06
Big Lots Securities Litigation	Computershare (Gilardi & Co, LLC)		$ 212,322.12
Aegerion Securities Litigation	Computershare (Gilardi & Co, LLC)		$ 132,856.70
Pfizer, Inc. Securities Litigation	Computershare (Gilardi & Co, LLC)		$ 80,690.76
Barclays PLC Securities Litigation	Computershare (Gilardi & Co, LLC)		$ 17,539.97
Gerdau S.A. Securities Litigation	Computershare (KCC Class Action Service)		$ 15,200.57
Medtronic Securities Litigation	Computershare (KCC Class Action Service)		$ 11,560.23
Sino-Forest Corporation Securities Litigation (2014)	Computershare (Ricepoint Administration Inc.)		$ 6,735.34
MetLife, Inc. CSU Securities Litigation Claims Administrator	Computershare (KCC Class Action Service)		$ 1,504.59
Molycorp, Inc. Securities Litigation	Computershare (Gilardi & Co, LLC)		$ 771.53

Fund	Administrator	Administrator Address	Amount Owed
Barclays PLC Securities Litigation	Computershare (KCC Class Action Service)		$ 658.54
Joy Global Securities Litigation	Computershare (KCC Class Action Service)		$ 382.52
Sino-Forest Corporation Securities Litigation (2018)	Computershare (KCC Class Action Service)		$ 252.25
Model N, Inc. Securities Litigation	Computershare (Gilardi & Co, LLC)		$ 596,680.64
Digital Domain Media Group Inc. Securities Litigation	Computershare (KCC Class Action Service)		$ 410,125.83
China MediaExpress Holdings Inc.	Computershare (KCC Class Action Service)		$ 408,275.19
OCCAM Shareholder Litigation Settlement Fund	RG/2 Claims Administration	RG/2 Claims Administration, L	$ 108,651.89
Zaghian v. THQ, et al Settlement Fund	RG/2 Claims Administration	ATTN: Michael Lee	$ 96,107.82
New Frontier Media, Inc Sharehold Litigation	RG/2 Claims Administration	30 South 17th Street, 5th Floor	$ 42,313.52
Biolase, Inc.	RG/2 Claims Administration	Philadelphia, PA 19103	$ 37,940.68
Fragala et al v 500.com Limited	RG/2 Claims Administration		$ 36,547.82
Yingli Securities Litigation Settlement Fund	RG/2 Claims Administration		$ 17,886.16
GoPro Shareholder Litigation Settlement (2016 - CA state court)	JND Legal Administration		$ 370,885.66
Higher One Holdings Settlement Fund	JND Legal Administration		$ 220,654.06
comScore Securities Litigation	JND Legal Administration		$ 113,474.24
MagicJack Securities Settlement Fund	JND Legal Administration		$ 77,858.60
Dole Food Company Securities Litigation	JND Legal Administration		$ 64,787.77
Strougo v. Barclays PLC Class Action	JND Legal Administration		$ 60,236.53
Yahoo Inc. Securities Litigation	JND Legal Administration		$ 49,588.31
Bankrate Inc. Securities Litigation (2018)	JND Legal Administration		$ 44,294.38
Amaya Inc. Securities Litigation	JND Legal Administration		$ 38,143.18
Chamblee v TerraForm Settlement Fund	JND Legal Administration		$ 33,355.76
Unilife Securities Settlement Fund	JND Legal Administration		$ 32,791.27
			$ 31,275,832.92

Exhibit N

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE COMMISSION,	
Plaintiff,	**Civil Action No. 21-cv-04845 (CFK)**
v.	
JOSEPH A. CAMMARATA, ERIK COHEN, DAVID H. PUNTURIERI, ALPHAPLUS PORTFOLIO RECOVERY CORP., AND ALPHA PLUS RECOVERY LLC,	
Defendants.	

STIPULATION AND PRELIMINARY INJUNCTION ORDER

Plaintiff Securities and Exchange Commission ("Commission" or "Plaintiff"), Defendant Joseph A. Cammarata ("Joseph Cammarata"), Defendant Erik Cohen ("Cohen"), Defendant David H. Punturieri ("Punturieri"), and Intervener and Nominal Defendant Nina Cammarata ("Nina Cammarata") (collectively the "Parties"), stipulate and agree as follows:

WHEREAS on November 3, 2021, the Commission commenced this action ("Action") by filing a Complaint (Dkt. No. 1), Ex Parte Motion for Temporary Restraining Order Enjoining Violations of The Federal Securities Laws, Freezing Assets, Granting Other Relief, and Order to Show Cause (Dkt. No. 2), and, in support of the motion, submitted a memorandum of law (Dkt. No. 2-1), Declaration of Dustin Ruta and exhibits thereto (Dkt. No. 3 - 3-5), and Declaration of John Donnelly (Dkt. No. 2-2); and

WHEREAS, on November 4, 2021, this Court considered the Commission's submissions and entered a Temporary Restraining Order Freezing Assets and Prohibiting Destruction of Records and Data (Dkt. No. 4) (the "TRO Order"); and

WHEREAS on November 10, 2021, after a hearing and with consent of those parties who had appeared in the case at that time, the Court entered an Order which, among other things, extended the asset freeze and other relief set forth in the TRO Order ("November 10 Order"); and

WHEREAS the November 10 Order also directed the parties "to continue conferring regarding a potential stipulated preliminary injunction and potential carve outs to the asset freeze, for reasonable, necessary and appropriate expenses related to the retention of counsel in the parallel criminal case, *United States v. Cammarata, et al.,* No. 21-cr-00427 (CFK) (the "Criminal Case"), living expenses, and preservation of assets subject to the TRO Order"; and

WHEREAS, on November 22, 2021, the Court entered the Stipulation and Consent Order Permitting Limited Intervention by Nina Cammarata as a Nominal Defendant (Dkt. No. 23), permitting Nina Cammarata to intervene in this case as a nominal party defendant for the limited purpose of protecting her rights and claim to all legitimate assets of the marital estate not subject to disgorgement by Plaintiff; and

WHEREAS on December 3, 2021, pursuant to the stipulation of the parties who had appeared in the case at that time, the Court entered an Order which, among other things, extended the asset freeze and other relief set forth in the TRO Order and extended by the November 10 Order ("December 3 Order") through January 25, 2022; and

WHEREAS the December 3 Order also directed the parties to consider whether to stipulate to the extension of the relief in the TRO Order, propose a discovery schedule relating to

a preliminary injunction hearing, address the status of the two entity defendants, and consider the other current litigation relating to this matter; and

WHEREAS Joseph Cammarata, Cohen, and Punturieri are all defendants in the Criminal Case, which derives from substantially the same facts and circumstance underlying this Action; and

WHEREAS defendants AlphaPlus Portfolio Recovery Corp. and Alpha Plus Recovery LLC have been served with process pursuant to Rule 4 of the Federal Rules of Civil Procedure but have not appeared in this action (Dkt. Nos. 61-62); and

WHEREAS the Parties agree that the Court's TRO Order, November 10 Order, and December 3 Order should be extended as a preliminary injunction continuing the existing asset freeze and adding the accounts and additional property identified in this stipulation and Order to the list of accounts and property expressly enumerated in the asset freeze, enjoining defendants from violating the federal securities laws; continuing the order prohibiting the destruction of documents and requiring the preservation and retention of documents; and

WHEREAS the Parties agree that the defendants' consent to the entry of this Preliminary Injunction is not an admission of liability by any defendant and that any Party may petition the Court in the future to revise, amend, or vacate the Preliminary Injunction; and

WHEREAS the Parties agree that all Parties preserve any arguments they currently possess regarding this case, including, but not limited to arguments regarding liability, except that Defendants agree that they have been properly served and that this Court has personal jurisdiction over them and subject matter jurisdiction over this Action; and

WHEREAS the Parties have submitted stipulations for the Court's consideration as agreements have been reached regarding carve outs from the asset freeze for attorneys' fees in the Criminal Case, living expenses, and preservation of assets subject to the TRO Order; and

WHEREAS the Parties anticipate that future carve outs from the asset freeze may be necessary as the Criminal Case and this Action proceed and will continue to confer in good faith regarding potential carve outs to the asset freeze; and

NOW THEREFORE, the Parties stipulate and agree and the Court hereby **ORDERS,** as follows:

1. The Court hereby enters a **Preliminary Injunction** extending all provisions provided in the TRO Order, November 10 Order, and December 3 Order, including but not limited to the asset freeze, the prohibition against the destruction of documents, and the obligation to preserve and retain documents, until further order of the Court.

2. As set forth in the TRO Order, November 10 Order, and December 3 Order, the asset freeze includes, but is not limited to, the accounts and property identified in Appendices A, B, and C to this Stipulation and Preliminary Injunction Order.

3. Defendants are hereby restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

(a) to employ any device, scheme, or artifice to defraud;

(b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

4. Plaintiff may serve this Order through any means reasonably calculated to provide notice of the asset freeze to third-parties, including but not limited to email, U.S. mail, third-party carrier, personal delivery, or facsimile.

5. All Defendants shall answer or otherwise respond to the Complaint by February 10, 2022.

6. This Preliminary Injunction shall remain in force and effect, subject to any future carve outs or modifications, until further order of this Court.

7. This Order also binds the following who receive actual notice of this Preliminary Injunction by personal service or otherwise: (a) any of Defendants' officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with any Defendant or with anyone described in (a).

8. In the event of changed circumstances, any party may petition the Court to amend or vacate this Order.

9. This Order does not constitute a waiver of any right or defense of any party, except that Defendants agree that they have been properly served and that this Court has personal jurisdiction over them and subject matter jurisdiction over this Action.

Dated: January 12, 2022

/s/ Chad F. Kenney

Chad F. Kenney
United States District Judge

The undersigned consent to
the form and entry of this Order

By: s/ John V. Donnelly III
John V. Donnelly III

Securities and Exchange Commission
1617 JFK Boulevard
Suite 520
Philadelphia, PA 19103
(215) 597-3100
donnellyj@sec.gov
Counsel to Plaintiff

By: s/ Jennifer L. Beidel
Jennifer L. Beidel, Esq.

Saul Ewing Arnstein & Lehr LLP
Centre Square West
1500 Market Street, 38th Floor
Philadelphia, PA 19102
(215) 972-7777
jennifer.beidel@saul.com

Joseph A. Valenti, Esq.
Saul Ewing Arnstein & Lehr LLP
One PPG Place, Suite 3010
Pittsburgh, PA 15222
(412) 209-2500
joe.valenti@saul.com
Counsel to Defendant David H. Punturieri

By: s/ Meredith Lowry
Mark B. Sheppard, Esq.
Meredith Lowry, Esq.

Klehr Harrison Harvey Branzburg LLP
1835 Market Street, Suite 1400
Philadelphia, PA 19103
(215) 569-2700
msheppard@klehr.com
mlowry@klehr.com
Counsel to Defendant Erik Cohen

By: s/ Antonio M. Pozos
Antonio Miguel Pozos, Esq.
Victoria Leigh Andrews, Esq.

Faegre Drinker Biddle & Reath LLP
One Logan Square, Suite 2000
Philadelphia, PA 19103
(215) 988-2700
antonio.pozos@faegredrinker.com
victoria.andrews@faegredrinker.com
Counsel to Defendant Joseph A. Cammarata

By: s/ William J. Hughes, Jr.
William J. Hughes, Jr.
Sydney J. Darling

Porzio, Bromberg & Newman, P.C.
15 East 8th Street
Ocean City, NJ 08226-3737
(609) 439-4222
wjhughes@pbnlaw.com
sjdarling@pbnlaw.com
Counsel to Intervener Nina M Cammarata

Appendix A

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
Alianza Valores Comisionista de Bolsa S.A.	Joseph Cammarata	Unknown
Apex Clearing Corporation	David Punturieri	*5014
Apex Clearing Corporation	David Punturieri	*0166
Bancolombia S.A.	Joseph Cammarata	*4558
Bank of America	Nine Six Tech Inc.	*2745
Bank of America	Nine Six Tech Inc.	*5184
Bank of America	WOT Trading LLC	*5599
Bank of America	David Punturieri	*0044
Bank of America	Joseph Cammarata	*6848
Coinbase	Unknown	Unknown
Columbia Bank	Present Six LLC	*5275
E*Trade	David Punturieri	*4976
Entrex Capital Market Inc.	Unknown	Unknown
Interactive Brokers LLC	Speedroute Technologies Inc.	*4121
Interactive Brokers LLC	Speedroute Technologies Inc.	*7677
Interactive Brokers LLC	Speedroute Technologies Inc.	*8834
Interactive Brokers LLC	Speedroute Technologies Inc.	*0947
Interactive Brokers LLC	Speedroute Technologies Inc.	*2682
Interactive Brokers LLC	Speedroute Technologies Inc.	*6476
Interactive Brokers LLC	Speedroute Technologies Inc.	*9438
Invesco Funds	David Punturieri	*1825
Investors Bank	Quartis Trade & Investments LLC	*5993
Lincoln Investments	David Punturieri	*2872
Lincoln Investments	David Punturieri 401(a)	*2872
Lincoln Investments	David Punturieri IRA	*2872
Lincoln Investments	David Punturieri SEP IRA	*2872
Merrill Lynch	Joseph & Nina Cammarata (Joint Sub CMA)	*8187
Merrill Lynch	Joseph Cammarata	*6349
Merrill Lynch	Joseph Cammarata	*2319
Merrill Lynch	Joseph Cammarata	*3524

Bank/Broker	Account Holder	Account Number (Last 4 Di its)
Merrill Lynch	Joseph Cammarata	*4310
Merrill Lynch	Joseph Cammarata	*3121
Merrill Lynch	Joseph Cammarata	*3120
Merrill Lynch	Joseph Cammarata	*6351
Merrill Lynch	Joseph Cammarata	*4305
Merrill Lynch	Joseph Cammarata	*4304
Merrill Lynch	Joseph Cammarata	*4303
Merrill Lynch	Joseph Cammarata	*5348
Merrill Lynch	Joseph Cammarata est for Josepha Cammarata Jr. UTMA	*0264
Merrill Lynch	Misc. Holdings Corp SEP FBO Joseph Cammarata	*5956
Merrill Lynch	PB Trade LLC	*2002
Merrill Lynch	PB Trade LLC	*2304
Merrill Lynch	PB Trade LLC	*2306
Merrill Lynch	PB Trade LLC	*2307
Merrill Lynch	PB Trade LLC	*2309
Merrill Lynch	PB Trade LLC	*2368
Merrill Lynch	Sandy Cay LLC	*2321
Merrill Lynch	Sandy Cay LLC	*2357
Merrill Lynch	Sandy Cay LLC	*2358
Merrill Lynch	Sandy Cay LLC	*2362
Metropolitan Commercial Bank	PB Trade LLC	*3217
Metropolitan Commercial Bank	PB Trade LLC	*3233
Metropolitan Commercial Bank	Speedroute Technologies Inc.	*2261
Metropolitan Commercial Bank	Speedroute Technologies Inc.	*0744
Morgan Stanley	Joseph Cammarata	*7435
Morgan Stanley	Joseph Cammarata	*9129
Morgan Stanley	PB Trade LLC	*1529
Morgan Stanley	PB Trade LLC	*9567
Morgan Stanley	PB Trade LLC	*2442
Morgan Stanley	PB Trade LLC	*9768
National Financial Services	Erik Cohen	*911-1
National Financial Services	Erik Cohen IRA	*849-1
New York Community Bank	David Punturieri	*5702
Oppenheimer	David Punturieri	Unknown
PNC Bank	Alpha Plus Recovery LLC	*6602

Bank/Broker	Account Holder	Account Number (Last 4 Di its)
PNC Bank	Erik Cohen	*8257
PNC Bank	Nimello Holding LLC	*6658
PNC Bank	SSA Technologies LLC	*3485
Robinhood	David Punturieri	Unknown
TD Ameritrade	Joseph Cammarata	*1707
TD Bank	710 Properties LLC	*2832
TD Bank	Advanced Tech NJ LLC	*9194
TD Bank	Alpha Plus Recovery LLC	*7766
TD Bank	Alpha Plus Recovery LLC	*1530
TD Bank	Alpha Plus Recovery LLC	*1481
TD Bank	Alpha Plus Recovery LLC	*1340
TD Bank	Alpha Plus Recovery LLC	*1308
TD Bank	Alpha Plus Recovery LLC	*1415
TD Bank	Alpha Plus Recovery LLC	*1473
TD Bank	Alpha Plus Recovery LLC	*1449
TD Bank	Alpha Plus Recovery LLC	*1423
TD Bank	Alpha Plus Recovery LLC	*1580
TD Bank	Alpha Plus Recovery LLC	*8747
TD Bank	Alpha Plus Recovery LLC	*1506
TD Bank	Alpha Plus Recovery LLC	*1465
TD Bank	Alpha Plus Recovery LLC	*1514
TD Bank	Alpha Plus Recovery LLC	*1457
TD Bank	Alpha Plus Recovery LLC	*1522
TD Bank	Alpha Plus Recovery LLC	*1407
TD Bank	Alpha Plus Recovery LLC	*1431
TD Bank	Alpha Plus Recovery LLC	*1324
TD Bank	Alpha Plus Recovery LLC	*1556
TD Bank	Alpha Plus Recovery LLC	*1316
TD Bank	Alpha Plus Recovery LLC	*1548
TD Bank	Alpha Plus Recovery LLC	*6452
TD Bank	Alpha Plus Recovery LLC	*3752
TD Bank	Alpha Plus Recovery LLC	*1499
TD Bank	Alpha Plus Recovery LLC	*1390
TD Bank	Alpha Plus Recovery LLC	*1291
TD Bank	David & Carla Punturieri	*8930
TD Bank	David Punturieri	*6341
TD Bank	David Punturieri	*6507
TD Bank	Erik & Tammy Cohen	*6197
TD Bank	Erik Cohen	*2738

Bank/Broker	Account Holder	Account Number (Last 4 Di its)
TD Bank	Erik Cohen	*9024
TD Bank	Erik Cohen	*8096
TD Bank	Erik Cohen	*4718
TD Bank	Joseph & Nina Cammarata	*0808
TD Bank	Misc. Holdings Corp	*2956
TD Bank	N328MB LLC	*6114
TD Bank	Newer Ventures LLC	*7783
TD Bank	Nine Six Tech Inc.	*0087
TD Bank	Nine Six Tech Inc.	*8436
TD Bank	PB Trade LLC	*3555
TD Bank	Present Six LLC	*9931
TD Bank	SSA Technologies LLC	*0181
TradeStation	Erik Cohen	*6169
TradeStation	David Punturieri	*9142

Appendix B

Type	Identification #	Plate#	Description	Owner
Aircraft	N101JT		Ownership interest in HondaJet Elite HA-420	Cammarata
Aircraft	N328MB		Cirrus SR-22	Cammarata
Real Property			12 Gull Point Road; Monmouth Beach, NJ 07750	Cammarata
Real Property			372 Brookside Drive; Pocono Pines, PA 18350	Cammarata
Real Property			Bahama Palm Shores; Abaco, Bahamas	Cammarata
Real Property			Sandy Cay; The Abacos, Bahamas	Cammarata
Real Property			Carrera 8A #97-07 Apto 506; Bogota D.C.	Cammarata
Real Property			469 Eisenhower Avenue; Ortley Beach, NJ 08751	Punturieri
Real Property			1029 Ionia Avenue; Staten Island, NY 10309	Punturieri
Vehicle	137ZA 8430V E1755 46	LEKV26	1997 Black AMGH1 (Hummer)	Cohen
Vehicle	1832943730 or BKFBC 109E920	A21MFG	1973 Volkswagen Thing	Cammarata
Vehicle	1C4RJFCT4CC203196	Unknown	Jeep Grand Cherokee	Cammarata
Vehicle	IFABP42E5HF203307	T62NYB	Ford Mustang GT	Cohen

Type	Identification #	Plate#	Description	Owner
Vehicle	1GYS4FKL8MR246880	KKL1280	2021 Grey Cadillac Escalade	Punturieri
Vehicle	1HGCP263X8A106159	Unknown	Honda (model unknown)	Cohen
Vehicle	4JGBF86E48A402498	S89HLF	Mercedes-Benz GL 550 4Matic	Cohen
Vehicle	4JGCB65E38A08451 l	Ll7PBH	Mercedes-Benz R350	Cohen
Vehicle	5A4FXLG 1212010849	TUH41V	Unknown	Cohen
Vehicle	5UXCW2C07L9D32599	GMZ1218	Unknown	Cammarata
Vehicle	5UXCX6C02L9B36252	F79MAA	BMWX7M50I	Cammarata
Vehicle	5YJ3ElEBXLF664617	Z69MMH	Tesla Model 3	Cammarata
Vehicle	ER201535800000256	Unknown	2012 Yellow Ferrari California	Cohen
Vehicle	JN1CA21DXWT501561	Unknown	Nissan Maxima GLE	Cohen
Vehicle	JTJHY7AX3J4274221	T76KRM	Lexus LX 570	Cammarata
Vehicle	KWEMF141J314	3891HN	Unknown	Cammarata
Vehicle	SAJWA 82C98 TH263 37	C50MJL	2008 Jaguar XJ	Cohen
Vehicle	SALTY124XYA243 l77	Unknown	2000 Land Rover Discovery Series II Base	Cammarata
Vehicle	SBMl 1BAAXDW00271 l	Unknown	2013 White McLaren MP4-12C Spider	Cohen
Vehicle	SCA 1S 68404 UX072 43	CLSACTN	2004 Rolls Royce Phantom	Cohen
Vehicle	Unknown	AJH5361 (2007)	Unknown	Cohen
Vehicle	Unknown	ERIK80 (2007)	Unknown	Cohen
Vehicle	VIN 5UXCW2C07L9D32599	NY GMZ1218	2020 White BMW	Punturieri
Vehicle	WBANU535X8CT01459	Unknown	2008 BMW 5 Series 5281	Cammarata
Vehicle	WBS83CH03MCF06860	E36NAC	BMWM5	Cammarata
Vehicle	WDBRN40Jl3A442744	Unknown	Unknown	Cohen
Vehicle	WDDRJ 7HA5B A0006 23	GULWING	2011 Sliver Mercedes Benz	Cohen

Type	Identification #	Plate#	Description	Owner
Vehicle	WMEEK31X58K123002	Unknown	2008 Smart Porto Passion Cabrio	Cammarata
Vehicle	WP0CB2A95LS262296	HTJ4417	2020 White Porsche	Punturieri
Vehicle	WP 1AC2A22ELA87718	LEEL40	Porsche Cayenne Turbo	Cohen
Vehicle	WP1AF2A2XDLA32651	Unknown	2013 Porsche Cayenne Diesel	Cammarata
Vehicle	ZAM45VMA6J0292740	L10LWH	Maserati Gran Turismo S	Cammarata
Vehicle	ZFF65LJA5C0182420	FORARl	Ferrari California	Cohen
Vehicle	ZFF67NFA8A0174842	LEKA81	Ferrari 458 Italia	Cohen
Vehicle	ZFFFG 36A8L 00872 10	A35AUL	1990 Red Ferrari Spider-348 TS	Cohen
Vehicle	Unknown	Unknown	2015 McLaren 650S Springer	Cammarata
Vehicle	Unknown	Unknown	Volkswagen Nuevo Tiguan Allspace	Cammarata
Watercraft	BKFBC 109E9 20			Cammarata
Watercraft	CRS7341BB888			Cammarata
Watercraft	FGBL0 1000021			Punturieri
Watercraft	TNRD9115K900			Cammarata
Watercraft	VKY64341H708		64' Viking	Cammarata (via Water Hog LLC)
Watercraft	YDV28451K920	6510HN	2020 Sea Doo GTX230LTD	Cammarata
Watercraft	YDV28452K920	6509HN	2020 Sea Doo GTX230LTD	Cammarata
Watercraft	ZZN20756J495		1995 Sea Doo Bombardier	Cammarata
Watercraft	WCG00060E717		2017 25' Boston Whaler 210	Cammarata
Watercraft	SLPVU166C020		2020 34' 11" Scout 355 LXF	Cammarata
Watercraft	SLPKU149C020		2020 23' 08" Scout 235XSF	Cammarata
Watercraft	Unknown		Galeon 425	Cammarata

Type	Identification #	Plate#	Description	Owner
Watercraft	Unknown		Grady White 25'	Cammarata
Watercraft	Unknown		Ocean Master 27'	Cammarata
Watercraft	Unknown		Island Bird 21'	Cammarata
Watercraft	Unknown		Yellowfin 18'	Cammarata

Appendix C

Asset	Description	Owner or Beneficiary
Life Insurance Policy and underlying reserves	Insurance policy held by Cotswold Insurance (Barbados) Ltd. Policy reserves include real estate located in the Bahamas.	Cammarata family members
Disability, Long Term Care and Welfare Benefit Policy and underlying reserves	Insurance policy issued by Cotswold Insurance (Barbados) Ltd. Policy reserves include cash, securities, and other assets owned by Speedroute Technologies Inc.	Cammarata
Cash	Cash held on behalf of Cammarata by All That Search Inc. at Ansbacher (Bahamas) Ltd. account x61.01	Cammarata
Cash and Securities	Cash and securities held on behalf of Cammarata by All That Search Inc. at Magellan Securities Limited account xl428	Cammarata
Red Line Marine Liquidators, Inc.	Receivable	Cammarata
Apex Tek, LCC	Investment	Cammarata
Arcarius Funding, LLC	Investment	Cammarata
Blue Ocean Technologies LLC	Investment	Cammarata
Bolsa Mercantil de Colombia	Investment	Cammarata
DataiFX S.A.S.	Investment	Cammarata
Datavault Holdings, Inc.	Investment	Cammarata
Dental Acquisition CompanyLLC	Investment	Cammarata
DFST Holdings, LLC	Investment	Cammarata
Digital Optica	Investment	Cammarata
Display Inc. (formerly TSU, Inc.)	Investment	Cammarata
Dynasty Wealth LLC	Investment	Cammarata
EcoExpan LLC	Investment	Cammarata
Entrex, Inc.	Investment	Cammarata
Equity Acquisition Company Ltd.	Investment	Cammarata
Escala Capital S.A.S.	Investment	Cammarata
Fusion IQ	Investment	Cammarata

Asset	Description	Owner or Beneficiary
ID Global Corporation	Investment	Cammarata
Intelid	Investment	Cammarata
International Technology Holdings Ltd.	Investment	Cammarata
Kuvera LLC	Investment	Cammarata
LifeSmart Group dba LifeSmart Wellness	Investment	Cammarata
Macon Pineridge Apartments, LLC	Investment	Cammarata
Omega Gold Corporation	Investment	Cammarata
Oneiro NA, Inc.	Investment	Cammarata
Parkway Dental Services, LLC	Investment	Cammarata
Parralax Health Sciences, Inc.	Investment	Cammarata
Pigeon Platform, Inc.	Investment	Cammarata
Pineridge Apartments, LLC	Investment	Cammarata
Private Transaction Network	Investment	Cammarata
Seed CX Ltd.	Investment	Cammarata
Siren Marine, LLC	Investment	Cammarata
TapJets Technologies Inc.	Investment	Cammarata
The Amerigreen Products Company (dba Amerigreen Organics Co.)	Investment	Cammarata
The Intellectual Property Network	Investment	Cammarata
The Token Team LLC	Investment	Cammarata
Tollpays, Inc.	Investment	Cammarata
Valorem S.A.S.	Investment	Cammarata
Ndau	Digital currency	Cammarata
Cryptocurrency wallet (service unknown)	Digital currency	Cohen

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOSEPH A. CAMMARATA, Applicant, v. UNITED STATES SECURITIES AND EXCHANGE COMMISSION and UNITED STATES OF AMERICA, Respondents.

CERTIFICATE OF SERVICE

I, Joseph A. Cammarata, certify that on November 6, 2026, as required by this Court's Rule 29, I caused one copy of the foregoing Emergency Application for a Stay, with its attached exhibits, to be served on counsel for the Respondents by first-class United States mail, postage prepaid, addressed as follows:

Solicitor General of the United States
Room 5616, Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

I further certify that an electronic copy of the application was transmitted to the Solicitor General at SupremeCtBriefs@usdoj.gov on the same date.



_____
Joseph A. Cammarata
Applicant, pro se
Reg. No. 02555-506
FPC Montgomery
Maxwell AFB
Montgomery, AL 36112