

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
Abingdon Division

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UNITED STATES OF AMERICA, :
 :
Plaintiff, :
 :
v. : 1:07CR29
 :
PURDUE FREDERICK COMPANY, et al., :
 :
Defendant. : Abingdon, Virginia
 : July 20, 2007
-----x 1:00 p.m.

SENTENCING
BEFORE THE HONORABLE JAMES P. JONES
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

S. RANDALL RAMSEYER, Esquire
RICK A. MOUNTCASTLE, Esquire
Assistant U.S. Attorneys
180 West Main Street, Room 104
Abingdon, Virginia 24210
For the United States of America.

HOWARD M. SHAPIRO, Esquire
KIMBERLY A. PARKER, Esquire
WilmerHale
1875 Pennsylvania Avenue, N.W.
Washington, D.C., 20006
Counsel for the Defendant Purdue Frederick.

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produced by computer.

BRIDGET A. DICKERT
UNITED STATES COURT REPORTER
180 WEST MAIN STREET, ROOM 104
ABINGDON, VIRGINIA 24210
(276) 628-5115

APPEARANCES (cont.):

MARK F. POMERANTZ, Esquire
Paul, Weiss, Rifkin, Wharton & Garrison
1285 Avenue of the Americas
New York, New York 10019
Counsel for the Defendant Friedman.

MARYJO WHITE, Esquire
Debevoise & Plimpton
919 Third Avenue
New York, New York 10022
Counsel for the Defendant Udell.

ANDREW GOOD, Esquire
Good & Cormier
83 Atlantic Avenue
Boston, Massachusetts 02110
Counsel for the Defendant Goldenheim.

1 (Proceedings commenced at 1:00 p.m.)

2 THE COURT: Good afternoon, ladies and
3 gentlemen. The clerk will call the case.

4 THE CLERK: *United States of America v. The*
5 *Purdue Federick Company, Incorporated, and others,*
6 Case Number 1:07CR29.

7 THE COURT: This is the date scheduled for
8 sentencing. I want to first verify from defense
9 counsel that the defendants and their counsel have
10 read and discussed the pre-sentence reports. So, if
11 each counsel would confirm that to me?

12 MR. SHAPIRO: Yes, Your Honor, on behalf of
13 the Purdue Federick Company we have. Thank you.

14 MR. POMERANTZ: Your Honor, I'm Mark
15 Pomerantz. On behalf of Michael Friedman we have
16 received the pre-sentence report. I've reviewed it,
17 I reviewed it with Dr. Friedman, and we have no
18 objections to it.

19 MS. WHITE: Your Honor, Maryjo White for
20 Udell. We also received the pre-sentence report,
21 reviewed it, and we have no objections to it.

22 MR. GOOD: Your Honor, my name is Andrew
23 Good. I represent Dr. Paul Goldenheim. We've
24 received and read the report.

25 THE COURT: Thank you, very much. The

1 court has previously announced it would allow persons
2 to speak to the court, and a number of people have
3 signed up to speak. And what I'd like to do now is
4 to allow the persons who have signed up to speak, and
5 the process will be as I call their names, if they'll
6 come forward and speak directly to me at the lectern.

7 A number of people have signed up to speak, and
8 so in order to make sure that everybody gets an
9 opportunity to speak to me, I'm going to ask that you
10 limit your comments to two minutes. I'll ask
11 Mrs. Cook, the clerk, to indicate when that time is
12 up. I'll call these persons in alphabetical order as
13 I have them.

14 The first person I have is Teresa Ashcraft.
15 Yes, ma'am, if you'll just come forward. Let me say,
16 also, I have received a number of letters, and many
17 of those who have signed up to speak have also
18 written me, and I have read every letter that has
19 been sent to me. And so I want to make sure
20 everybody understands that.

21 So, yes, ma'am, Ms. Ashcraft.

22 MS. ASHCRAFT: I'm a little nervous, Your
23 Honor. Thank you for allowing me to speak. My name
24 is Teresa Ashcraft. I come from a small town in
25 DeBary, Florida. On September 23, 2001 my son,

1 Robert Lee Ashcraft, Jr. died from an accidental
2 overdose of OxyContin. I refer to it as heroin in a
3 pill. He was only 19 years old. He left behind a
4 brother who was only 16 at the time.

5 He got his OxyContin because of Purdue's
6 criminal actions. The OxyContin that took my son's
7 life came from a prescription that was given to a
8 mother who must have been so high that she didn't
9 realize that her son was taking her drug into the
10 neighborhood and selling it to the local teens.

11 All deaths are related to a prescription from
12 somewhere which, in turn, came from the lies that
13 Purdue has told the American people.

14 The amount of money that Purdue is being asked
15 to pay is pennies. Let us not forget that Purdue has
16 made over \$10,000,000,000 from OxyContin. Let us not
17 forget how over the years Purdue Pharma has bragged
18 on how many lawsuits they have won, how they would
19 say that our children were addicts, that we as
20 parents needed to take the responsibility.

21 Our children were not addicts; they were just
22 your typical teenagers. Purdue, you knew the truth,
23 you started phony drug awareness programs, so please
24 don't sit there and claim you didn't know.

25 The actions of Purdue have not only take the,

1 the life of my son, but the aftermath has slowly
2 taken the life of his little brother. No, it's not
3 from drugs, but it's from the depression and the
4 guilt and the devastation it has caused him and our
5 family. His pain some days is so unbearable it
6 scares me. My husband and I worry every day about
7 each other and our families.

8 The actions of the three criminals have affected
9 so many lives, and it doesn't go away. We have been
10 given the life sentence due to their lies and their
11 greed.

12 THE COURT: Thank you, very much, ma'am.
13 Paul and Wanda Begley.

14 MR. BEGLEY: I want to thank the court for
15 allowing us to do this today. My wife's not going to
16 speak. We're here today to talk about the tragic
17 consequences of addiction through the drug,
18 OxyContin, which is readily available from drug
19 dealers on almost any street corner in our
20 neighborhood.

21 We lost our grandson, who was 21 years old, from
22 a drug overdose. I went to his bedroom to wake him,
23 and I couldn't get him awake. We started CPR, called
24 911. He died at the hospital at 2:00 p.m. on June 8,
25 2006.

1 Josh was an outstanding young man, never in
2 trouble. He excelled in sports. He won a football
3 scholarship to the University of Virginia at Wise.
4 He did something that most kids who play football
5 never do. He won the state, all state title in
6 Virginia and Tennessee, because he finished his
7 senior year in Tennessee, and he also won the state
8 shot put championship.

9 Unfortunately, Josh will never finish college.
10 His dreams will never be realized. They'll go
11 forever unrealized. Your children are special, your
12 grandchildren are special, but when you raise your
13 grandchildren, they're extra special, and we raised
14 Josh from the age of five. So, we used to go to his
15 football games and cheer him on. Now we go to his
16 grave and weep. Thank you.

17 THE COURT: Thank you, sir. Edward Bisch,
18 is it?

19 MR. BISCH: Thank you, Your Honor. My name
20 is Ed Bisch. The first time I heard the word
21 OxyContin, my 18 year old honor student son was dead
22 from it after taking it at a party.

23 I started a website to warn kids about this
24 drug. Soon Purdue contacted me. I told Purdue that
25 a lot of death and addiction stories I am getting

1 through my website were from patients. Their
2 response was less than one percent of patients get
3 addicted, which was a lie. They also said there was
4 a study where if a patient is not receiving a high
5 enough dose, they will exhibit all symptoms of an
6 addict. All they really need is a higher dose.

7 The sales force also used this story on doctors,
8 but they did not even know the whole theory was based
9 on a single patient.

10 Patients easily wean off OxyContin, I was told.
11 Another lie. I have met the three criminals before.
12 I was at the first Congressional hearing on
13 OxyContin. There it came out that Purdue knew of all
14 the top prescribing doctors, even those who went off
15 the charts, when asked at the time that they did not
16 report these top prescribers they took the Fifth
17 Amendment.

18 At a later trial the Purdue lawyer responded to
19 this same question that Purdue was under no legal
20 obligation to report these top prescribers. Where
21 was your moral obligation?

22 This corporate policy insured millions of pills
23 would reach the streets. By the way, Purdue referred
24 to these doctors as whales, but I call them pill mill
25 doctors.

1 For these three men to claim it was only a few
2 rogue individuals guilty of crimes is ludicrous.
3 Purdue painted themselves as champions of chronic
4 pain patients. I'm sure you will hear from some
5 today with severe injuries which warrant Oxys, and
6 you'll also hear from so called pain experts who
7 Purdue funds, but the fact was Purdue spent hundreds
8 of millions of dollars on marketing this heroin like
9 drug for moderate pain. Two hundred million, alone,
10 was spent in 2001, the year my son died.

11 In the summer of 2001 OxyContin was front page
12 news, and there was Congressional hearings scheduled
13 for the fall. By the way, Purdue was denying this
14 epidemic existed. I was optimistic something
15 concrete would be done to stop the death and
16 destruction that this epidemic was causing.
17 Unfortunately, on 9/11/01 everything changed and the
18 OxyContin was no longer a priority, understandably
19 so.

20 THE COURT: Excuse me, Mr. Bisch.
21 Mr. Bisch? Mr. Bisch, let me interrupt you. I
22 really want to give everybody a chance. If you'll
23 just sum up now.

24 MR. BISCH: On 9/12/01 they sent out
25 company-wide voice mail stating since the terrorists

1 had taken Oxy out of the headlines, let's get to the
2 top prescribers and push the Oxy. The lies and
3 deceits started at the top and caused to ruin
4 countless lives. Please do not allow this plea
5 bargain to proceed. These criminals deserve jail
6 time.

7 THE COURT: Thank you, sir. Victor Del
8 Regno.

9 MR. DEL REGNO: Thank you, Your Honor. I
10 will go to my grave believing with every fiber of my
11 body that my son, Andrew, would be alive today if
12 OxyContin wasn't illegally marketed and misbranded,
13 and therefore made so readily available on the
14 college campuses, in our high schools, and on the
15 streets. And to you, James W. Heins, if you are in
16 the courtroom, you are quoted in today's *Providence*
17 *Journal*, today's lead cover story, I quote, "We do
18 not believe that our promotion of OxyContin to health
19 care professionals has resulted in injury to anyone."
20 Yet, Mr. Heins, in the *Roanoke Times* there's a quote
21 that Purdue top three officers pleaded guilty to
22 charges of over promoting OxyContin.

23 Our son was a great kid. He was in college. He
24 was at St. Michael's College. He was a junior. We
25 were close, we're a close family. He was planning on

1 going to Italy for his spring semester, Your Honor.
2 We spoke to him the night before he died. Everything
3 was fine. He went out with some friends. He made a
4 mistake, we know that. He took OxyContin with some
5 alcohol. He didn't wake up.

6 When the State Policeman came to our house the
7 next morning he said, "Your son had died." I said,
8 "What? No, not Andrew. Car accident?" They said,
9 "No, drug overdose." So, when they talk about these
10 kids and make these statements that they make bad
11 decisions because they're bad people, I think they
12 better evaluate a little further. We told him we
13 loved him before he died and thank God we had that.

14 I would like to ask Mr. Friedman, Mr. Udell and
15 Mr. Goldenheim what if it was your son or daughter
16 you saw in the morgue when we went there and he was
17 autopsied, sliced and diced? Then what would they do
18 if they were confronted by donor people with just
19 minutes to make a decision, they wanted his skin and
20 his bones. Well, we had him skinned, and he was
21 cremated. I know you received the letter, so I won't
22 go over with it. I would, with the court's
23 permission, just one paragraph that a detective wrote
24 after 15 months.

25 THE COURT: All right. You may read that.

1 MR. DEL REGNO: "I began this investigation
2 not knowing anything about Andrew. Now that the
3 investigation has concluded I feel in a way I have
4 come to know Andrew quite well, and know what kind of
5 person he was. I found that he comes from a very
6 supportive and caring family who loved him dearly. I
7 found that every person he came into contact with he
8 touched in some way. I found that those who had the
9 pleasure of knowing him knew that he was caring and
10 committed to his friends and family. He was someone
11 that if you met just once you would always remember."

12 Closing comment. Oh, yes, our son did make a
13 bad decision by his own choice, and it cost him his
14 life. What should it really cost each of you for
15 your bad decisions and choices? I know if the roles
16 were reversed, Your Honor, and those three men were
17 standing where I am right now, and it was their loved
18 one who had died from fraudulent marketing of a
19 lethal drug, they, you, those men would want more
20 punishment than a company check being written to pay
21 a fine. You would want true justice to be served.

22 THE COURT: Peter Jackson.

23 MR. JACKSON: Thank you, Your Honor, for
24 the opportunity to address the court in this
25 proceeding. My name is Peter W. Jackson, and my wife

1 and I reside in Arlington Heights, Illinois where we
2 have raised one boy and one girl.

3 On August 18, 2006 our daughter, Emily, only 18
4 years of age, three days from her first day in
5 college, was killed accidentally when she consumed
6 OxyContin that had been prescribed for a relative.

7 Emily was not an experienced drug user, and all
8 it took was one encounter with this drug. She had no
9 chance to learn from this one time experience. Had
10 she any idea how deadly this heroin-like drug was,
11 she would still be alive.

12 Emily's tragedy can be traced to the aggressive
13 and dishonest marketing campaign of Purdue Pharma
14 that began when the drug was first put on the market
15 in 1996.

16 Purdue chose to expand the use of OxyContin for
17 profit, in spite of possessing the knowledge that
18 OxyContin was prone to abuse, addiction and death.

19 Given its widespread distribution in the years
20 that followed, and the resultant ready access to the
21 drug, teenagers across the country soon became aware
22 of the drug's heroin-like high and how to circumvent
23 the time release mechanism. Oxys became a household
24 word in the vernacular of our young people, who too
25 often make the assumption that any drug that has been

1 FDA approved and prescribed by a doctor is safe.
2 They have no idea how lethal this drug is. Purdue
3 Pharma knew.

4 In light of the plea agreement for the three
5 executives for Purdue Pharma, brings me to ask this
6 question: Why does a person in this country who
7 gives someone, by giving them OxyContin in prison
8 would get off under the plea agreements by simply
9 paying the fine for what was an intentional crime
10 that resulted in, directly and indirectly, in
11 thousands of deaths and addictions?

12 I would like to close by telling you a few
13 things about our daughter, and I'll make it short.
14 She was a bright, funny, artistic, loving friendly,
15 compassionate person who cared more about the people
16 around her than herself. She suffered from thyroid
17 cancer and went through three major surgeries in her
18 last four years of life. Nonetheless, she supported
19 the people around her who she cared more about. Her
20 sweet disposition gave meaning and life to family and
21 friends. We could not be more proud of our daughter.

22 The three executives of Purdue Pharma who are
23 defendants in this proceeding deserve to be punished
24 severely for what they have done. They marketed this
25 drug to the American public as though it was safe.

1 And they knew better. Thank you, Your Honor.

2 THE COURT: Thank you, sir. Larry Golbom.

3 MR. GOLBOM: Thank you, sir. Larry Golbom.

4 Many people in this courtroom have lost their loved
5 ones because of OxyContin being implicated in their
6 lives. My wife and I grieve for these families. It
7 appears our son may have the same, may have a
8 terminal illness of addiction which started with
9 oxycodone.

10 Before these three men started peddling
11 oxycodone in 1995 few people had heard of it. My
12 wife and I will never know if our lives would be
13 different if the actions of those three men would
14 have been different.

15 Sir, I know you have seen a diagram of OxyContin
16 and heroin. I sent it to you. Sir, if it quacks
17 like a duck it is a duck. If it smells like a skunk,
18 it is a skunk.

19 Today this venue is not to talk about the
20 personal responsibility of my son and the other
21 children; today is not the venue to talk about the
22 personal responsibility of my wife and I as parents;
23 today is not even the venue to ask why our government
24 has allowed such a dangerous drug to remain on the
25 market; today I am here to talk about the personal

1 responsibility of the three executives in this
2 courtroom.

3 You have seen the diagram and proof before you.
4 The three of them were part of a coordinated and
5 ingenious effort to unleash a drug that is chemically
6 similar to heroin. I hope that your actions today
7 will help us stop the lies surrounding the drug
8 OxyContin.

9 As a pharmacist, I can stand before any one of
10 the Purdue experts or attorneys and explain the half
11 truths and mistruths surrounding the drug. It is not
12 a miracle drug as these three executives paid so many
13 people to tell you.

14 But most importantly, even though this case of
15 misbranding ends in 2001, these executives brazenly
16 continued to market the drug OxyContin aggressively
17 after 2001. The number of so-called experts who have
18 either been paid directly or indirectly by this
19 company to expound upon the virtue of the drug that
20 is addicting and killing thousands is shameful.

21 The selling and marketing of OxyContin continues
22 today, just not as blatantly and misleadingly as in
23 2001 and before.

24 The people who are taking the drugs and
25 expounding the attributes of OxyContin are also

1 unfortunately possibly addicted to the drug, and at
2 the very least must plead for the drug to prevent
3 violent withdrawal from the effects of oxycodone.
4 That may sound like a callous statement, but the
5 total truth about this drug must be told. Today,
6 sir, you have a chance to save many people. Thank
7 you.

8 THE COURT: Thank you, sir. Gary Harney.

9 MR. HARNEY: Thank you, Judge. Gary
10 Harney. I lost my son August 20th. I'm from
11 Sarasota, Florida, and in Manatee County we lost
12 about 1,700 that year.

13 I want to talk about Dr. Frederick -- not
14 Frederick, Dr. Friedman. Dr. Friedman isn't a
15 medical doctor. He has his Ph.D. in sales and
16 marketing. He's an expert in sales, and he's an
17 expert in marketing. He's a regular P.T. Barnum. He
18 has got this drug across this country. We in Florida
19 are swamped with it. Lives are being destroyed. And
20 as the person in front of me so eloquently said, they
21 have not stopped their marketing of the way it was.
22 They're still marketing it.

23 This trial is nothing more than a play on chess.
24 It's just another move. They haven't changed a
25 thing. They're working it just as hard as ever.

1 They're going to take money out of the checkbook, pay
2 it, keep going.

3 We're having deaths every day down there in
4 Florida. Three a day on just Oxy, five a day on
5 prescription drugs. I kind of wish it was manatees
6 washing up on the beach because maybe we'd get a lot
7 more attention. But that amount of people that are
8 dying, the sheer numbers show a total lack of
9 responsibility from that company, and I hope they
10 never have to feel that type of pain because it's
11 never ending. Thank you.

12 THE COURT: Thank you, sir. Kenny Keith.

13 MR. KEITH: Your Honor, I have nothing
14 written down here. I thank you for allowing me to
15 come. I am a blessed person because I am one of the
16 patients who got addicted to OxyContin, who lived
17 through it. I was given it for chronic pain, which I
18 still have. My doctors thought that it was right,
19 and because of the information they had been given.

20 It took very little time for me to be addicted
21 to this drug because whenever I tried to stop it the
22 withdrawals were worse than the pain that I was
23 having. It took me over two and a half to three
24 years to get off this drug.

25 I kept getting more from the doctor. The

1 doctors would give them to me, but I could get more
2 off the street, and it was to match what I needed to
3 take because of the addiction I had.

4 Your Honor, I had a family, I had a home, I had
5 motorcycles, I had a car. Those are worldly
6 possessions, except for my family, but Your Honor, I
7 lost all of that because I spent every cent of our
8 family's money on it, including my daughter's
9 Christmas money, the last thing that happened. My
10 wife left me and took my daughter, rightly so,
11 because I was a man and I was an animal out of
12 control.

13 It took me still after that a month or two that
14 I had to do something right, and finally I figured I
15 had nothing to live for, and I just wanted to die.
16 And I tried to commit suicide because I knew I could
17 not get off the OxyContin without the horrible pain
18 of withdrawals. And if anyone says it's not, they're
19 a liar.

20 Thank you. One little thing more, sir. I went
21 through a program, drug court in Roanoke, Virginia.
22 I was arrested for the first time, and at 48 years
23 old, and I went through that process, and now I'm
24 clean, and I'm taking non-narcotic medicines for my
25 pain. And you can live through it, but very few do.

1 Thank you, sir.

2 THE COURT: Thank you, sir. Lynn Locascio.

3 MS. LOCASCIO: Thank you, Judge. My name
4 is Lynn Locascio. I'm from Palm Harbor, Florida. I
5 should be at work today, but I'm here. My 22 year
6 old son is a recovering Oxy addict.

7 Michael Friedman, Howard Udell, Paul Goldenheim,
8 you are responsible for my son's life being trashed.
9 He should be a firefighter right now, and he should
10 be a paramedic right now, and he's not. He had a car
11 accident, he had surgery, he was prescribed
12 OxyContin. When he became addicted the doctor
13 dropped him. The doctor was not educated enough
14 about this.

15 Gentlemen, you are responsible for a modern day
16 plague. It is killing our children every day. Every
17 day. On Sunday before we made our journey to come up
18 here, we had a reporter come to my house, she did a
19 great story. The next day I went to work, the very
20 first e-mail I got was this: "My son committed
21 suicide on June 23, 2007 from this terrible
22 addiction. He purchased \$800 worth of OxyContin the
23 night before his death from the streets. Kids are
24 getting prescriptions for this drug and selling them
25 for \$50 a pill. I want to know what I can do to get

1 this off the streets. My son was 24 years old. My
2 only child. He shot himself because he couldn't get
3 off the drugs. He spent \$5,500 in five weeks on
4 these drugs in Pinellas County, Florida."

5 This lady's heart is broken, and will be
6 forever. We refuse to suffer in silence, and to be
7 told our beloved children are not victims. We are
8 parents that placed our children in proper child
9 safety seats, parents that read labels on toys to
10 make sure they were age appropriate, parents that
11 participated in the Just Say No to Drugs campaign --
12 by the way, mine graduated that with honors and
13 received an award from the Sheriff's Department -- it
14 didn't work ten years later because of your drug.

15 I could go on and on. I do want to say one
16 thing. I think jail is too good for you guys. I
17 think you should go spend some time in a rehab
18 facility like my son did and watch that. Maybe
19 you'll change your minds. Thank you.

20 THE COURT: Thank you ma'am. Leona Nuss.

21 MS. NUSS: Thank you, Your Honor. Thank
22 you for allowing me to be here. My name is Leona
23 Nuss. I live in Palm Coast, Florida. On May 1, the
24 year 2003, my husband and I lost our only child, an
25 18 year old son named Randall. The cause of his

1 death was an accidental overdose of OxyContin.

2 Your Honor, right before this happened to my son
3 he was getting ready to go to college. His college
4 was paid for. Four months after he graduated he had
5 an overdose of this OxyContin. His pre-paid college
6 ended up paying for his funeral.

7 For me to conceive Randall it took 11 years with
8 the help of modern technology and miracle drugs. How
9 ironic can life be that 18 years later Purdue dumped
10 OxyContin as their miracle drug and it took my son's
11 life.

12 I feel, I feel that you are illegal drug users,
13 nothing more than a large corporate drug cartel. You
14 created this drug, you promoted it, you pushed it,
15 you lied about it, you even had the ex-mayor of New
16 York City defend it. You have killed and continue to
17 kill our future of tomorrow. You killed my son, and
18 many others, and continue to do so as I speak.

19 OxyContin has caused addiction, crimes,
20 destruction of families and the ultimate, death. You
21 and your drug, OxyContin, have caused legal genocide
22 in this country. Illegal drug pushers get jail time,
23 and so should you.

24 Your Honor, please reject the plea agreement.
25 Money means nothing to them. Let the punishment fit

1 the crime.

2 And one more thing, Your Honor, this is the
3 remains of my son, Randall. This is from your drug,
4 OxyContin, and here he is in this courtroom, which I
5 thank you, Your Honor, because he was put out of the
6 courtroom in the year 2005 at Karen White's trial
7 against Purdue Pharma. They made my son, in this
8 little jar, Your Honor, leave the courtroom and go
9 out of the building, or they were going to call for a
10 mistrial. And I had wrote in my son's book, "You
11 weren't there in body, but you were there in spirit,
12 and you will return." And here he is. Thank you.

13 THE COURT: Thank you, ma'am. Robert
14 Palmisano.

15 MR. PALMISANO: Thank you for letting me
16 speak, Your Honor. My name is Robert Palmisano, and
17 I'm an addict. At least I am now, or I have to say I
18 am when I go to meetings. I'm a recovering addict.
19 I'm 17 months clean.

20 OxyContin destroyed my life. I was prescribed,
21 and I almost died. I was prescribed the drugs from
22 approximately 19 to 21 years old. I was doctor
23 shopping to get more of the drug once I got addicted
24 because I couldn't get enough. I was taking it for
25 physical pain, emotional pain, and for fun. It

1 wasn't worth it.

2 I got charged with possession and doctor
3 shopping of the drug. I was sentenced to a year in
4 county jail. I was still hooked on the drugs when I
5 got sentenced. I was given no medical treatment in
6 there, and I withdrew for about 45 days. I did not
7 sleep for ten of those days. I was miserable. I
8 wished I had a weapon; I would have killed myself. I
9 would not want to go through that misery again, ever.
10 That's why I am recovering.

11 I think it would be ridiculous to see a slap on
12 the wrist and a misdemeanor charge in a plea
13 agreement for money. Money can't buy all the lives
14 that were lost, nor the years of my life that I have
15 lost back. They have tons of it. Money doesn't make
16 you a person, and you can't get respect for it,
17 either.

18 I have no respect for those three executives
19 there at all. It's a cop out, and I would be
20 absolutely appalled to see them walk away with a
21 misdemeanor crime and a fine. That's all, Your
22 Honor.

23 THE COURT: Thank you, sir. Joanne
24 Peterson.

25 MS. PETERSON: Good afternoon, Your Honor.

1 Thank you for allowing us the opportunity for our
2 voices to be heard today. My name is Joanne
3 Peterson, and I'm from Massachusetts. I'm standing
4 to speak for 400 strong in our group in the southern
5 part of Massachusetts. Some of them are here today
6 outside, families who grieve for the sons and
7 daughters, families are, are trying to save their
8 sons and daughters, families who will lose their sons
9 and daughters. It is not over. We all grieve for
10 the losing of the future they were meant to have.

11 A tsunami hit our state in 2001 in the form of a
12 little white pill. Thank you. There was no warning,
13 no defense, and it snuffed out lives, destroyed
14 families, and today it continues. Just in the past
15 two weeks two young men and one young woman have been
16 buried, and we've had to deal with that, and it just
17 continues daily. The fourth funeral was today in
18 Massachusetts, and that family today is grieving, and
19 they're in the beginning of the pain that was
20 suffered by the other families you're hearing from.
21 All in their twenties, all gone.

22 Every Monday I've had a support meeting in
23 Massachusetts, and every Monday there's new
24 heartbroken mothers and fathers coming to our
25 meeting, desperately seeking help for their children.

1 Some are as young as 15 years old. In 28 communities
2 a year long investigation from death certificates
3 revealed from January, '04 through August of '06, 74
4 people lost their lives, but the numbers are even
5 higher than that. These are just the reported cases.
6 Shame and stigma prevent families from speaking out
7 about it like myself.

8 Irresponsible corporate greed led to horrific
9 pain and loss that affects generations to come. It
10 leads to millions in costs. Every one has paid a
11 price for greed.

12 I'm here in honor of Mikey today, my friend,
13 Carol's, son. No parent should have to find their
14 child barely breathing. No parent should have to
15 bury their child. My son today is a survivor. He
16 has two years clean. But his life will never be the
17 same, nor will my family's, my younger children.

18 To be sentenced to pay pennies for people's
19 lives doesn't fit the crime. We feel you should be
20 sentenced to work in a detox and deal with the
21 families as they are turned away because there are no
22 more beds available because they're all full, or you
23 should have to attend the wakes that I have to attend
24 all the time, and that wouldn't be enough. The price
25 is too high. God love my son, God bless my son, and

1 God bless my family and ever person in this
2 courtroom. Thank you.

3 THE COURT: Julie Rinaldi.

4 MS. RINALDI: Thank you for letting us
5 speak today. My name is Julie Rinaldi. I'm from
6 Tampa, Florida. I lost my only child, my daughter,
7 Sarah. She was 17. She died June 30, 2006, just a
8 little over a year ago. I'm just here as a mom, a
9 mom that will never be called Grandma, I'll never see
10 my daughter walk down the aisle. I didn't even get
11 to see my daughter graduate high school. She died of
12 an accidental overdose of OxyContin.

13 We're losing kids in Florida daily. Our drive
14 up here yesterday, we got a phone call, lost another
15 19 year old girl a couple of days ago due to
16 OxyContin.

17 I just want to see Purdue Pharma be held
18 accountable for their actions. Nobody is being held
19 responsible for anything these days, and whatever you
20 decide to do I know it will be the right thing. But
21 I just wanted to come here and tell you my story
22 about my daughter. Thank you.

23 THE COURT: Thank you, ma'am. Marianne
24 Skolek.

25 MS. SKOLEK: Thank you, Your Honor. My

1 name is Marianne Skolek. I had a beautiful 29 year
2 old daughter named Jill who had the misfortune of
3 being prescribed OxyContin in January, 2002 and being
4 killed in April of 2002. She left behind her son,
5 Brian, who was six years old at the time of her
6 death. Brian is here in the courtroom with me today
7 because he needed to see that bad things do happen to
8 bad people.

9 My initial research on Purdue Pharma began four
10 and a half years ago, and focused on David Haddox,
11 dentist turned psychiatrist and Senior Medical
12 Director of Purdue Pharma, as well as Robin Hogan,
13 former P.R. spokesman for Purdue Pharma.

14 Unfortunately they were not charged for their
15 involvement in the criminal activities of OxyContin.

16 Pain patients from pain societies will speak of
17 the merits of OxyContin and their quality of life
18 being restored. These pain societies throughout the
19 country are funded by Purdue Pharma. Let the pain
20 patient not part of any pain society funded by Purdue
21 Pharma speak about the quality of their life after
22 they become addicted by this less than addictive drug
23 and have to go out on the street and purchase it.

24 I would like to know why the FDA allowed
25 OxyContin to cause such destruction to victims, why

1 12 warning letters were sent to the FDA about their
2 marketing of the drug, and to this day they are not
3 required to put addictive or highly addictive on the
4 label of the drug. I just want to know why Attorney
5 General Blumenthal of Connecticut's citizen petition
6 which requests strengthened warnings on the OxyContin
7 label as a result of their investigation has been
8 sitting at the FDA without any action since 2004. I
9 wanted to know how Rudy Giuliani could be hired by
10 Purdue Pharma to play down the abuse of OxyContin and
11 also get paid by the DEA.

12 I will be working to have Paul (sic) Udell
13 disbarred for his activities, and I will also be
14 working that the three criminals not being able to
15 work in the pharmaceutical industry again because
16 they are criminals who criminally marketed OxyContin.
17 I will accomplish this. Do not doubt me in being
18 successful in achieving this.

19 I will reach out to any organization that
20 Mr. Friedman speaks to about having a member of his
21 family survive the Holocaust, and contact that group
22 and say to them that Friedman is no better than
23 Adolph Hitler who killed and destroyed countless
24 lives; Hitler through death and torture, Friedman
25 through death and addiction.

1 I would like to thank U.S. Attorney Brownlee and
2 all that were involved in this long process of
3 proving Purdue Pharma guilty, and these criminals
4 guilty. In particular, I would like to thank a very
5 special person who knows who he is for never letting
6 us down. Her name was Jill Carol Skolek. Purdue
7 will never forget the name Jill Carol Skolek. The
8 criminal activities of Friedman, Udell, Goldenheim,
9 Haddox and Hogan are absolute monsters in every sense
10 of the word. Jill was all about good; they are all
11 about sheer evil.

12 THE COURT: Thank you, ma'am. Edward
13 Swain.

14 MR. SWAIN: Judge Jones, I appreciate the
15 opportunity to speak before you today. My name is Ed
16 Swain. I speak on behalf of myself and my wife, who
17 his a board certified family practitioner, who is now
18 in federal prison incarcerated in Alderson, West
19 Virginia. She prescribed OxyContin before the
20 horrific publicity on the drug. Purdue
21 representatives stressed that OxyContin time release
22 formulation provided -- sir?

23 THE COURT: Sir, let me interrupt you.
24 It's a little hard for me to hear you. If you'll
25 speak right up to that microphone, and relax. You

1 don't need to -- you just tell me your story.

2 MR. SWAIN: I'm sorry, sir. Purdue
3 represented OxyContin as the ideal drugs for
4 treatment of chronic pain; safe, and effective, and
5 unabusable. They flooded doctors' offices with
6 graphs and charts to prove it, placed full page ads
7 in every medical journal. Purdue reps lied to these
8 physicians when they claimed that OxyContin was
9 specifically formulated to prevent the possibility of
10 abuse. OxyContin's actually the most dangerous drug
11 ever approved for use in the United States.
12 OxyContin is the only drug ever approved by FDA for
13 the treatment of pain which can kill a normal,
14 healthy adult with just one pill.

15 Purdue physicians who prescribed this product
16 and the enormity of the crimes correlated directly
17 with the astronomical profits. They did not only
18 sell their souls, but also the souls of thousands of
19 unsuspecting patients who are forever scarred. These
20 crimes committed by them will last for generations.

21 It's ironic that prosecutors who demanded prison
22 time for physicians who were duped by Purdue and
23 their reps, and their reps misrepresented to those
24 physicians who prescribed OxyContin in good faith,
25 are now asking the court for only a slap on the wrist

1 for the men who created the whole OxyContin hoax.

2 Your Honor, we urge you to reject the plea
3 agreement and hold accountable for criminal
4 prosecution these Purdue executives who are men
5 without honor, and are motivated solely by greed.

6 THE COURT: Thank you, sir.

7 MR. SWAIN: Thank you, Your Honor.

8 THE COURT: Donnie Trent.

9 MR. TRENT: Thank you, Your Honor, for
10 letting me speak today. I'm a grateful recovering
11 addict, recovering from OxyContin. I've been in
12 recovery for approximately a year and a half. First
13 time I -- I never will forget the first time I tried
14 OxyContin. I was at Fort Bragg, North Carolina,
15 stationed there. And it's safe to say I was hooked
16 right from the very beginning, the first time I tried
17 it, the whole euphoria, the feeling of it, and
18 everything; and two, I will never forget the first
19 day I went into withdrawals from not having OxyContin
20 in my system, just like it was yesterday. I
21 struggled with addiction to OxyContin for a period of
22 five years, in and out of detoxes, trying to get off
23 the drug, and actually went through a treatment
24 center for about ten months before I was able to
25 actually establish some kind of recovery.

1 I had lost all hope. I had lost all
2 self-respect, all my values. I lost my family's
3 trust, and I was spiritually dead due to the drug
4 OxyContin.

5 But I am grateful to say today that I am in
6 recovery. But, you know, the drug, itself, has
7 changed so many lives, and it's hurt so many people
8 and so many families, and I just can't see that there
9 can be any amount of money or dollar sign that could
10 be compared for the loss. And just probation or
11 community service, I don't see how that can be
12 accountable for their actions, and how they misled
13 doctors and the public.

14 And also, too, you know, if there is some kind
15 of -- the monies, you would think it would be
16 important for some of the monies that are going to be
17 paid, if they are, would go toward treatment because
18 jails are not the answer to addiction. Treatment is
19 the answer to addiction. And otherwise, I just thank
20 you for your time.

21 THE COURT: Thank you, sir. Barbara Van
22 Rooyan.

23 MS. VAN ROOYAN: Hello, Your Honor. Thank
24 you for allowing me to be here today. My husband and
25 I have come from California to be here today because

1 my son, Patrick Stuart, had his life cut short at age
2 24 with just one OxyContin. And you heard previously
3 from a gentleman about a healthy, normal individual
4 losing their life to one OxyContin. My son was
5 another example of that.

6 You know from my letter that he was a San Diego
7 State University graduate. He was an artist, and he
8 was a certified personal trainer. What I learned
9 after Patrick's death about OxyContin and Purdue
10 shocked and sickened me, enough that almost every day
11 for a year I wasn't sure I wanted to be alive. But I
12 got up, and two months after Patrick's death I went
13 back to work because, as a college counselor, I knew
14 that I had a platform, a platform for educating
15 others about the dangers of OxyContin, and about the
16 life taking campaign of deception that Purdue Pharma
17 has engaged in.

18 I told Patrick's story in classrooms, in
19 auditoriums, in meeting rooms and at college fairs.
20 I talked to thousands of people between the ages of
21 16 and 90. We have a student as old as 90. And
22 because I was a counselor, and because I was willing
23 to talk about Patrick's story, people responded to me
24 with their own tragic OxyContin stories, or those of
25 a friend or relative.

1 Purdue would like you to believe that those who
2 died or become addicted have only themselves to
3 blame. But here's what I learned firsthand from
4 talking to thousands of students. Many, many, many
5 people were routinely being prescribed OxyContin for
6 minor to moderate pain from minor sports injuries,
7 removal of skin cancers, wisdom teeth, arthritis and
8 bursitis, and I heard that people put their trust in
9 their doctors, and these same doctors put their trust
10 in Purdue Pharma's drug dealers. And I mean drug
11 dealers who were, as they've admitted, lying to the
12 doctors.

13 The result of that broken trust has been
14 addiction and/or death. It doesn't take a smart
15 person to figure out where the blame lies. It lies
16 on the shoulders of the people who put a narcotic
17 strong enough to kill with just one pill into
18 hundreds of thousands of medicine cabinets across the
19 nation and the continent. For this they're being
20 fined.

21 There is no justice that can atone for Patrick's
22 death or all the other deaths. I am here today not
23 just for justice, but to help to protect future
24 victims, and a fine is not enough to insure that
25 protection. The message needs to be sent that money

1 cannot be made by taking or destroying lives. I
2 don't know what it will take, exactly, to get that
3 message across. I am trusting that you will know the
4 right thing to do. A fine, alone, will not send the
5 message that can prevent future victims.

6 THE COURT: Thank you, ma'am. Kirk Van
7 Rooyan.

8 MR. VAN ROOYAN: Your Honor, I appreciate
9 the opportunity to speak today. My comments today
10 will be made as a physician, as a consultant to the
11 Medical Board of California. Even though it had no
12 proper clinical data documenting OxyContin's
13 indications and line of toxicity, Purdue's marketing
14 practices purposely violated the essential medical
15 principle of no treatment without a specific
16 scientific diagnosis.

17 It unconscionably promoted the drug as safe for
18 chronic moderate pain of all types. In fact,
19 targeted physicians with less expertise in pain
20 management. The result was a tremendous volume of
21 legitimately prescribed but improperly directed
22 OxyContin, inevitably followed by substantial
23 diversion and abuse, and substantial reports of
24 adverse side effects, addictions and deaths.
25 Purdue's response to these highly troubling events

1 should have been ethical and professional. Instead,
2 it has been a highly organized and financed campaign
3 of deception. In the face of overwhelming
4 documentation to the contrary, Purdue has arrogantly
5 and feloniously maintained the validity of their
6 shotgun approach to chronic pain as a disease unto
7 itself; that the addiction and deaths is due to
8 illicit, not prescription, use of OxyContin.

9 They claim chemical reformulation is a daunting
10 task and a minor issue, and taking a pill every 12
11 hours instead of every four somehow eliminates break
12 through pain.

13 A substantial number, as you've heard today, of
14 the persons harmed by OxyContin were responsible,
15 productive, law abiding individuals who did nothing
16 wrong except trust their physicians or their friends'
17 reassurances that it was a safe prescription drug.

18 The OxyContin issue is not mutually exclusive.
19 You will hear, undoubtedly, from patients today who
20 have benefitted from the drug. There is an
21 appropriate medical use for the drug, and we here
22 praise the positive outcomes, but only in the proper
23 medical situation. That's an important
24 consideration.

25 As a medical professional, Your Honor, I am

1 demeaned and outraged by the disrespect for medical
2 ethics and science so wilfully and repeatedly
3 demonstrated by these men.

4 As a citizen I cannot agree that monetary
5 sanctions without incarceration, parole or community
6 service is a punishment consistent with their crimes.
7 But most important, as a physician committed to the
8 relief of suffering, I am appalled at the harm -- and
9 yes, Mr. Heins, there was harm -- the individual
10 devastation and heartache that these men have
11 perpetrated on so many in this court today, and
12 throughout the country.

13 THE COURT: Thank you, sir. Ed Vanicky.

14 MR. VANICKY: Afternoon, Your Honor. Thank
15 you for allowing me the opportunity this afternoon to
16 address the court.

17 My wife was involved in an auto accident in
18 January of 2000. Among her injuries she was
19 diagnosed with a herniated disc. After referral to a
20 pain management physician in late February, 2000 she
21 was prescribed OxyContin. A drug as powerful as
22 OxyContin never should have been prescribed for that
23 type of injury. Although she complained about the
24 side effects of the OxyContin, itching and shortness
25 of breath, the doctor convinced her the OxyContin was

1 necessary for treatment, and subsequently increased
2 her dosage from ten milligrams to 20, and then
3 finally 40 milligrams. He was writing prescriptions
4 for her to take the OxyContin every six to eight
5 hours, and also giving her oxycodone for break
6 through pain.

7 I woke up to discover my wife unresponsive next
8 to me on the morning of January 27, 2000. After
9 repeated attempts myself using CPR, the emergency
10 technicians failed to resuscitate her. She was
11 pronounced at 5:55 a.m. She had been taking
12 OxyContin as prescribed for five months, and it
13 killed her.

14 Besides myself she left behind a daughter, two
15 sons and a granddaughter. I found out after her
16 death that this particular pain management physician
17 was one of the doctors initially targeted and
18 referred to as a whale by Purdue.

19 The emotional pain and suffering I've endured
20 since my wife's sudden death, and continue to
21 struggle with now, will never compare to the pain and
22 suffering my wife endured when she died as a direct
23 result of your drug, OxyContin. If anyone abused
24 anything it was this criminal organization, and these
25 three criminal defendants. They abused the

1 government's trust for their own monetary gain. They
2 abused the government's trust in an effort to get
3 OxyContin approved for sale. Once they had that
4 approval and OxyContin sales skyrocketed, along with
5 the death toll, they sat in their plush Stamford,
6 Connecticut offices watching the money roll in while
7 wives, husband, fathers and mothers are burying
8 citizens across this country.

9 As with all dishonest acts, it all catches up
10 with you. It has caught up with Purdue. Although we
11 are grateful these prayers have been answered, our
12 work is not done. This is a despicable company, and
13 they will be allowed to hawk OxyContin. I can
14 promise them we will continue to speak, and write our
15 elected national and state official, as well as law
16 enforcement on both levels, as well as call for
17 further investigations. Also we will continue to
18 petition the FDA to reclassify OxyContin and tighten
19 its restrictions for use. It should just be
20 prescribed for terminal severe medical conditions,
21 also.

22 In closing, we appreciate the fact that Purdue
23 Frederick Company will carry its conviction
24 permanently as part of the criminal record, but we
25 also pray that each and every one of these people

1 will be forever haunted by the victims of their many
2 crimes. When the end comes for each of you and you
3 stand before God to be judged, you better pray that
4 he forgives you because none of us ever will. Thank
5 you, very much.

6 THE COURT: Thank you, sir. Now, attorney
7 Russell Butler has filed a motion, and Mr. Butler, if
8 you wish to come forward and I will be glad to hear
9 you.

10 MR. BUTLER: May it please the court, my
11 name is Russell Butler, and I represent the victim
12 Jane Doe. And I thank you for allowing her to
13 maintain her name in privacy.

14 THE COURT: Yes, sir.

15 MR. BUTLER: But on behalf of my client we
16 have filed a motion under the Crime Victim Rights Act
17 to assert her right as a victim under federal law.

18 And I think it's clear, Your Honor, from what
19 we've set forth in our motion, and I know that Your
20 Honor does not have a lot of time so I will try to
21 not repeat, but we would ask the court to very
22 carefully look at all the legal arguments, and we
23 believe for those legal arguments the court, at least
24 at this point, should not accept the plea.

25 I believe that the law is very clear. I think

1 the defendants have admitted that as a condition of
2 probation this court has the ability to order
3 restitution against other persons. I think there are
4 other provisions of the Code that we've cited that
5 allows it to do that, as well. I don't think there's
6 any doubt under the statute that the statute requires
7 that in order for the corporate defendant, as they've
8 pled guilty, that they have, have intent to deceive
9 the public.

10 There are victims, these people who came before
11 Your Honor in two minutes, or a little more, and I'm
12 sure they're grateful for the court allowing them to
13 have a little additional time, have clearly stated it
14 was the intent to deceive in terms of the misbranding
15 this caused harm to a great number of people,
16 including my client.

17 Your Honor has her written victim impact
18 statement in her affidavit. I only wish she could be
19 here because she is now currently addicted, and she
20 believes after going through one course of treatment,
21 detoxification she's going to be okay. I'm not sure,
22 after hearing all these people, that that's even
23 going to be true.

24 Your Honor, we believe that the plea is not in
25 the interests of justice. Is the plea to punish,

1 protect, deter? I think Purdue Frederick, in
2 response to Blue Cross/Blue Shield said exactly what
3 the purpose of this plea is, and it is to provide
4 significant resources to federal and state
5 governments; \$600,000,000 from the corporate
6 defendant, 34.5 million dollars from the individual
7 defendants, only to have the state and federal
8 government have that money instead of the victims.

9 We've cited the statute that the court needs to
10 protect the interests of victims and not the monetary
11 sanctions that go to governments.

12 Your Honor, is there acceptance of
13 responsibility in this case? From my practice, I
14 represented criminal defendants, I talked to my
15 clients about mea culpa and what it meant to talk
16 from the heart and accept responsibility. Your
17 Honor, I think by the pleadings of the corporate
18 defendant and the individual defendants they have
19 clearly not accepted responsibility. They have
20 agreed to pay this money, it's in their corporate
21 interests, it's in their individual interests, but
22 they say there's no victims. Well, if there are no
23 victims then what are they? Casualties of corporate
24 greed? They say bring on the civil suits. These
25 people can't profit. We've got lots of money. This

1 is only -- the money we're giving is from the
2 proceeds of the periods of information. We have
3 plenty of money for selling OxyContin after that
4 time, and for other medications.

5 You know, to agree with their argument, the drug
6 laws that our Congress passed would be that they do
7 not protect the citizens, and of course the reason
8 for those drugs laws were to protect these citizens,
9 and all these people and my client have been harmed
10 by the actions of the individual and corporate
11 defendants.

12 They got tremendous plea offers from the
13 Government, misdemeanor offenses for the individual
14 defendants. You know, I heard these other people say
15 that, you know, this is payment, this is get out of
16 jail money, you know. You can hear the pain of these
17 victims, you can hear in my client's statement her
18 pain of being addicted, and what it was like to try
19 to get off of OxyContin. Clearly, my client has a
20 long row to hoe, but she does not have the money for
21 treatment. She's trying to get her family members to
22 borrow to be able to do this. I can only imagine,
23 unlike a lot of these people that have spoken before
24 you, I am glad that neither I nor my family have had
25 to deal with this drug.

1 But I will tell you, Your Honor, what rings loud
2 and clear to me is that the severity of the
3 punishment needs to fit the crime. It is a travesty
4 of justice if this court allows these individual
5 defendants not to be on probation. Think of the pain
6 of all these people who are suffering the
7 consequences of OxyContin, and they get off with
8 disgorgement of money that they benefitted as a
9 result of what they somewhat have admitted as their
10 wrongful conduct.

11 Is this plea fair to my client, Jane Doe? No.
12 She's been harmed by the statute. We have cited the
13 law. It may be fair to the defendants, it may be
14 fair to the Government, the state government, the
15 federal government for the money they get, but that
16 is not the standard of being in the interests of
17 justice.

18 So, Your Honor, on behalf of my client, we would
19 ask the court not to accept the plea, or modify the
20 plea, at least to the extent that the individual
21 victims of this drug are compensated, and not just
22 the state and federal government entities. And if
23 the court rejects it, this court, a jury will speak
24 and the defendants will have to suffer the
25 consequences of their conviction. If they really do

1 agree, they would agree to pay, and not, and make it
2 very clear that they plan to litigate, and litigate,
3 and litigate. One can only imagine the millions and
4 billions of dollars they have spent in attorneys'
5 fees, not in this case, but defending all these
6 cases.

7 Mea culpa, Your Honor, says we're wrong, we're
8 sorry for our wrong, we admit that we've harmed
9 people, and we're going to take action and not just
10 make a corporate decision to pay money so that the
11 corporation can go on and that the individual
12 defendants don't go to jail.

13 I would be happy to address the legal arguments
14 if the court would like, but my understanding is that
15 was not the purpose of this hearing.

16 THE COURT: Mr. Butler, I have read your
17 memorandum, and your pleadings, and thank you, very
18 much.

19 MR. BUTLER: Thank you, Your Honor. Have a
20 good day.

21 THE COURT: Now, other third parties have
22 filed pleadings in this case by counsel. I know
23 Mr. Bragg is local counsel. Is there anything else
24 those attorneys wish to say? I take it not. Now, as
25 I am advised the defendant, Purdue, would like to

1 present some witnesses, and I'll be glad to hear
2 those persons at this time.

3 MR. SHAPIRO: Thank you, Your Honor. Your
4 Honor, Purdue would call for purposes of the
5 sentencing hearing Mr. Dillie Walker to the stand,
6 please.

7 THE COURT: Mr. Walker, if you'd come
8 forward and face the clerk and be sworn, please.

9 DILLIE WALKER, DEFENDANT'S WITNESS, SWORN

10 DIRECT EXAMINATION

11 BY MR. SHAPIRO:

12 Q Mr. Walker, could you state your name clearly
13 and spell your last name for the record?

14 A Dillie R. Walker.

15 Q Where do you live, sir?

16 A Bay City, Michigan.

17 Q How old are you?

18 A I'm 48.

19 Q Did you serve in the military, Mr. Walker?

20 A Yes, sir.

21 Q And when was that?

22 A From 1976 to 1978.

23 Q After you were discharged from the military what
24 sort of job did you do?

25 A I became a tool and die maker apprentice.

1 Q How long did you remain in that business?

2 A Until 1991 when I was injured on the job.

3 Q Tell us what happened when you were injured on
4 the job?

5 A I was lifting a hydraulic manifold, and I felt
6 my back begin to hurt, and I went and sat down at the
7 lunch room table and I couldn't get back up. I was
8 taken to Detroit Industrial Clinic. They did x-rays,
9 put me off of work. From there I went to my family
10 doctor, and then I went to an orthopedic surgeon for
11 evaluation and treatment.

12 Q Did they determine what was wrong, sir?

13 A Yeah. I was, I had two bulging discs, sciatic
14 nerve entrapment, and degenerative disc disease.

15 Q And what course of treatment did the doctor
16 pursue at that time?

17 A He tried all kinds of different therapies,
18 aquatic, that's in the water, land based back
19 stabilization exercises, medications, all different
20 types of medications, injections, epidural blocks,
21 multitude of injections into my back. And after
22 about eight months he decided I was a candidate for
23 spinal fusion surgery with a lumbar laminectomy.

24 Q Did you, in fact, undergo spinal fusion surgery?

25 A Yes, on 9/29, 1992 I had a spinal fusion surgery

1 of the L5-S1, your lower lumbar, and also a lumbar
2 laminectomy, and it failed.

3 Q When you say it failed, sir?

4 A The bone graft didn't grow to support my spinal
5 cord.

6 Q What condition were you left in?

7 A I was worse than before. I was in constant
8 pain. The pain increased, in fact, and I lost
9 mobility.

10 Q Would you say, sir, that the pain was severe?

11 A It was unbearable. I couldn't think about
12 anything but pain.

13 Q What was your life like at that point,
14 Mr. Walker?

15 A At that point I was a complete shut in. I spent
16 roughly 23 hours a day in bed. I couldn't walk. I
17 shut myself off from the world, literally, and my
18 family, too. I didn't want my kids to see me like
19 that. I closed my bedroom door and stayed in there.

20 Q How long did that last?

21 A Well, that was about three years. And then I
22 went to, I enrolled myself into the Veterans
23 Administration Pain Clinic because I was just looking
24 for help anywhere I could find it.

25 Q Did you find help there, sir?

1 A Well, they tried, for every two weeks for a year
2 I went, went through more injections in my spinal
3 cord, and that was a very, very painful procedure,
4 out patient procedure, and with no results, and also
5 therapies. Didn't help me. And then my doctor at
6 the Veteran's Hospital, I kept complaining to him
7 about stomach aches from the medications I was
8 taking, and he said, "Well, let's try oxycodone or
9 OxyContin." And he did, put me on OxyContin,
10 20 milligrams, and my stomach pain stopped hurting,
11 my stomach stopped hurting, I got more mobility back
12 and I felt better for the first time in years. I was
13 very happy.

14 Q And then what happened?

15 A Well, in order, at the Veteran's Hospital they
16 want you to continue with the injections, and I had
17 been through a year of injections every two weeks,
18 and I was tired of them sticking needles in my back,
19 so I went to my private neurologist and told him that
20 I had all these injections, they're just aggravating
21 my back more than they're helping it. The one thing
22 I did find out at the Veteran's Hospital was this
23 OxyContin medicine helped me, it made me feel better,
24 it took the pain away, and I got more mobility and I
25 could function on it. And my doctor, knowing all the

1 things I've been through said, "You don't have to
2 have no more of these procedures. You've been
3 through enough. I'll give you the OxyContin without
4 being stabbed in the back anymore." That's what he
5 did. He put me on OxyContin.

6 Q Has that treatment worked, sir?

7 A Yes, yes. I've been on OxyContin since 1998,
8 and I feel great. I run a business, I help my wife
9 run businesses, I get to spend time with my kids. I
10 got 70 percent of my normal life back. Before that I
11 was in bed 23, 24 hours a day. But now I'm outside
12 playing catch with my kids, I'm running businesses.
13 I feel like I'm a functional, productive person now
14 again. I got my self esteem back.

15 Q Sir, did you get a high from taking OxyContin?

16 A I don't get high from it. To me it goes
17 straight to my pain. I don't get a buzz like
18 everybody says, or a high, or anything like that. It
19 goes straight to my pain, lowers my pain level, and
20 allows me to be more functional.

21 Q How would you sum up, Mr. Walker, how has
22 OxyContin affected your life?

23 A It's made my life a lot better. I feel bad for
24 anyone that's had bad effects, but I feel a lot
25 better. If I didn't have OxyContin, I couldn't have

1 started two businesses, I couldn't have spent time
2 with my son with all the hockey games and baseball
3 games. I couldn't do anything, I couldn't be here
4 today. I'd be stuck in that room with the door shut.

5 Q Did you travel here today from Michigan so that
6 you could give this testimony?

7 A That's right.

8 MR. SHAPIRO: I have nothing further.

9 THE COURT: Thank you, Mr. Shapiro.
10 Questions?

11 MR. MOUNTCASTLE: No, Your Honor.

12 THE COURT: Thank you, sir. You may step
13 down.

14 MR. SHAPIRO: Purdue would call Ms. Joyce
15 Walker, Your Honor. My colleague, Ms. Parker, will
16 examine.

17 JOYCE WALKER, DEFENDANT'S WITNESS, SWORN

18 DIRECT EXAMINATION

19 BY MS. PARKER:

20 Q Good afternoon. Can you state your name,
21 please, for the court?

22 A Joys Renee Walker.

23 Q Where do you live, Mrs. Walker?

24 A Bay City, Michigan.

25 Q How old are you?

1 A Forty-seven.

2 Q Do you know Mr. Walker, who previously
3 testified?

4 A Yes, he's my husband.

5 Q And how long have you been together?

6 A Twenty-three years.

7 Q Did you see first hand how pain affected
8 Mr. Walker's life?

9 A When I first started dating him and going out
10 with him he was like macho man, you know, a man, he
11 just loved life and he was good at everything
12 athletic, and a very good husband and father, and
13 everything. And when pain took him over, he was bed
14 ridden, he couldn't do anything. And the pain just
15 took him right over. It was terrible.

16 Q And did that change when he started taking
17 OxyContin?

18 A Yup. He got, you know, pretty much better, like
19 he said, about 70 percent better. He was able to
20 function, and do things that he hadn't done in a very
21 long time.

22 Q How did that affect your family?

23 A Before he got on the OxyContin or after?

24 Q Yeah.

25 A It was much better than ever. Like he said, he

1 was a shut in. He thought he was less of a man. He
2 couldn't do anything. And he hated life. He didn't
3 even want to live no more. But since he's been on
4 OxyContin we've been able to do more normal things.
5 He's been, you know, you know, helping me with my
6 business.

7 Q Are you a pain patient yourself?

8 A Yes.

9 Q Your pain started with polyurethane silicon
10 poisoning?

11 A Yes.

12 Q Can you tell the court a little bit about the
13 pain you experienced?

14 A I have several, several disabilities, and then I
15 was in a car accident, but the pain was so unbearable
16 I couldn't stand it myself, you know. I didn't want
17 to live. I just, I would go a week without even
18 taking a shower, or grooming myself. I didn't want
19 to get dressed or move. My kids were, lucky they
20 were like ten and up, or around that age, because
21 they would have to take care of themselves, and the
22 house, and me, and basically their father. He was
23 already bad and disabled, and then for me to become
24 the same way, it was like how can I even go on and
25 live like this? I'm looking at him like he is, and

1 here I become sick. Life was just totally
2 devastating. I hated life. I didn't want to go on.

3 Q Were you able to work at that point?

4 A No. I couldn't clean the house, or clean
5 myself, or groom myself. There's no way I could work
6 or hold a job. No one would hire me, either, I was
7 so bad.

8 Q Did you try any medicines to treat your pain?

9 A I was on so many medicines I was like in la la
10 land, and just felt like crap. You know what I mean.
11 I had a row of drugs. It was terrible.

12 Q Did any of those medicines work?

13 A No. I just, I didn't like any of them. They
14 didn't help me at all. I was a zombie.

15 Q Did you come to try a medicine that did work?

16 A Well, after I had seen how the OxyContin had
17 been helping him, and he was up, and he was given
18 back his life, he was like become more of a man
19 again, he was doing things with the family and the
20 kids, and here I'm still laying there feeling like
21 crap, wanting to be like him, and support the family,
22 and get up and move like him, so I was like how can I
23 get that? What can I do to get on OxyContin? When I
24 went to the doctors I said, "I want to feel like
25 Dillie feels. I want to participate in life. I want

1 to be a mother, and a wife, and everything again." I
2 was given that chance.

3 Q How did you feel once you began taking
4 OxyContin?

5 A I could move, I could groom myself, I would take
6 showers, I could feel more like a woman, be with my
7 kids, participate in sports. I started two
8 businesses since I've been on OxyContin. It's
9 wonderful.

10 MS. PARKER: No further questions, Your
11 Honor.

12 THE COURT: Thank you. Questions?

13 MR. MOUNTCASTLE: No, Your Honor.

14 THE COURT: Thank you, ma'am. You may step
15 down.

16 THE WITNESS: I'm very sorry for anybody
17 else.

18 THE COURT: Mr. Shapiro, do you have
19 anything further?

20 MR. SHAPIRO: One further witness, Your
21 Honor. Purdue Frederick would call Ms. Katherine
22 Hamilton.

23 KATHERINE HAMILTON, DEFENDANT'S WITNESS, SWORN

24 DIRECT EXAMINATION

25 BY MR. SHAPIRO:

1 Q Good afternoon. Could you state your name for
2 the record, please?

3 A Katherine Joan Hamilton.

4 Q Where do you live, Ms. Hamilton?

5 A I live in Hampton, Virginia.

6 Q Are you able to work full time?

7 A No, I'm on Social Security disability now. I
8 was working before that, though, full time.

9 Q And how were you employed when you worked full
10 time?

11 A After graduating from college in 1981 I became a
12 pharmaceutical sales rep for Burroughs Wellcome. I
13 worked for them for a year, then I went to work for
14 another company, Ciba Geigy. The last company I
15 worked for, Searle Pharmaceuticals, which would now
16 be a company, Pfizer, and I had to get off the road
17 in 2001 because of pain problems related to, the
18 diagnosis was chronic migraine and complicated
19 migraine with some --

20 Q Let me ask you about that, but before I do just
21 so the record is clear, were you ever employed by
22 Purdue?

23 A No. I actually don't know much about Purdue.

24 Q You said you were suffering from migraines. Can
25 you explain that? Is that just a headache?

1 A No, that's just, migraine is sort of a misnomer
2 to a lot of people. It means headache, but it means
3 a lot more than that. What I have used to be called
4 classical migraine in the International Headache
5 Society classification. Those terms are kind of old,
6 but it's more of a syndrome. It is a headache with
7 nausea and vomiting, and also you can have, like I
8 do, stroke-like symptoms with it, things as, oddly
9 enough, auditory hallucinations, visual problems,
10 gait disturbances, speech problems. It just walks
11 and talks differently than a normal headache, and it
12 doesn't respond typically to normal headache
13 medicine.

14 Q How frequently would you have those migraines?

15 A I've had them since I was a small child. The
16 first one I can recall with any vividness was in
17 1965, and the reason I realize the date is my mother
18 actually took a picture of me in a new dress when I
19 came home from school that day, and my father was in
20 Vietnam, and we were sending that picture out to him.
21 It was, I had thrown up on the school bus, and that
22 was my first experience with migraine, and had funny
23 things going on in my head and such. The headache
24 was, the headache and the attendant symptoms were
25 episodic through my teenage years. Probably they

1 went from every couple of months to monthly, through
2 my twenties. And by the time I was around 30 they
3 were coming with increased frequency, about once a
4 week. By 2001 they were there daily. My job
5 suffered, my ability to do my job suffered. My
6 ability, a pharmaceutical rep's job is to
7 communicate, and I could not communicate a lot of the
8 days.

9 Q Did you seek treatment?

10 A Oh, yeah, yeah. Yes, I did. I saw my family
11 doctor first, and then saw a local neurologist. I
12 was followed by local neurology from 1985, or so, on
13 to present time, and they went through a variety of
14 medicines, and none of them worked for me, and you're
15 compliant when you hurt. What I ended up doing was
16 seeking treatment, seeking help, actually, at the
17 university level. I went, I went on the internet,
18 and I looked for researchers. I found a good
19 neurologist at SUNY Syracuse. He has retired in the
20 last year. I was followed by him for three years,
21 and he transferred me to Columbia University. I see
22 Dr. Ann Remmis (phonetic) at Columbia University.

23 Q The doctor at the State University New York, how
24 did he treat you?

25 A The local neurologist in Newport News, Virginia

1 started me on a small dose of OxyContin. It was
2 around, I'm thinking back, it was ten milligrams
3 titrated to 20. I was handed over or followed by
4 both the local neurologist and local pain management
5 people. I was at 30 milligrams of OxyContin at that
6 point, and that would have been 2003. And I was
7 getting some relief, but I was not really getting
8 what I called adequate relief. So I, the doctor at
9 SUNY said, "If you're getting some relief, if the
10 needle is pushing a little bit, let's titrate the
11 dosage until we see a measure of relief that is
12 satisfactory." And that's exactly what we did. We
13 just slowly titrated the dose over a year's time.
14 We, having been on most of the evidence-based
15 medicines in the past, we, I stayed on a medicine
16 called Candasartan, but that was, OxyContin was the
17 mainstay.

18 Q Were you able to find a successful, effective
19 level of relief?

20 A Yes, I was. It's not perfect, it wasn't perfect
21 but, you know, it provided me with a measure of
22 relief that allowed me to take care of day to day
23 things. It does not affect the auras and the
24 symptoms around migraine like that, but it does
25 affect the pain, and in a positive way. My problem

1 became that pharmacies, we were hearing out west
2 there were problems with, problems with OxyContin in
3 the press, and I just didn't, I chose to get off the
4 medicine, and asked my physician for another product
5 because of those problems.

6 Q And what other product did you change to?

7 A We changed, we tried three at doses that are
8 equal analgesic, and we first went to MSContin, and
9 then we went, it just didn't seem as, I don't know
10 for me, I guess everyone responds individually to a
11 drug, or that's what my physician told me, that even
12 though they're in the same class you can vary in your
13 response so we tried Avinza, and then ended up on a
14 drug called Kadian. It's a 24 hour drug, it is a C2
15 narcotic.

16 Q Schedule II?

17 A Yes, it is a Schedule II narcotic.

18 Q All of these that you mentioned are strong,
19 opioid based?

20 A Absolutely.

21 Q What would your life be like without strong
22 medicines?

23 A I would be in bed most days. And days I was not
24 in bed, I would have headache -- if, if you were
25 talking about a pain, our physicians commonly use a

1 pain scale of one to ten, ten being your worst
2 headache. Daily would be around a schedule, I mean a
3 pain of four or five, and then it would jump to seven
4 or eight, even into the nines, ten being the worst
5 pain you have. I mean, compared to surgery, for me
6 surgery, I've had some surgeries, and that was
7 discomfort. This is pain. And it takes -- what
8 these products do, or what they have done for me is
9 take care of that pain, and bring it back to a
10 manageable level, probably a one or two. I still
11 have problems with the speech, the other things, but
12 OxyContin, MSContin, any of those drugs, that's not
13 an indication for those drugs.

14 Q Were you able to safely transition from
15 OxyContin to these drugs?

16 A Oh, absolutely. What we did was drop back, and
17 you drop back and then you slowly titrate. If you're
18 getting woozy or feeling spaced out, I never got that
19 feeling because we didn't titrate at a, we didn't
20 just jump, jump, jump, but my physician gave me
21 parameters, he said, "If you're feeling woozy you're
22 probably getting too much drug on board. You might
23 feel a little light headed for a day or two, but it
24 shouldn't be a long lasting sensation. And if it is,
25 we'll drop you back in dosage." So, at this time

1 I'm, I'm managing pretty well. I do volunteer work,
2 I can travel, probably not the way a lot of people
3 would like to travel, I have to take breaks, I have
4 to manage my schedule a lot more closely. It's
5 planning, planning, planning, and I just -- that's
6 the way I have to do things.

7 MR. SHAPIRO: Nothing further, Your Honor.

8 THE COURT: Any questions?

9 MR. MOUNTCASTLE: No, Your Honor.

10 THE COURT: Thank you, ma'am. You may step
11 down.

12 MR. SHAPIRO: We have nothing further.

13 THE COURT: As I understand, there's no
14 further evidence that the parties wish to present?

15 MR. MOUNTCASTLE: That's correct, Your
16 Honor.

17 THE COURT: I'll be glad to hear argument,
18 first from the Government.

19 MR. MOUNTCASTLE: Your Honor, I'm going to
20 address the corporate plea agreement or company's
21 plea agreement, and Mr. Ramseyer will address the
22 court with respect to the individuals and plea
23 agreements.

24 The United States, Your Honor, respectfully
25 requests that the court accept the corporate plea

1 agreement in this case because that agreement holds
2 the Purdue Frederick Company criminally responsible
3 for the false and misleading marketing of OxyContin.

4 The plea agreements are the product of months of
5 negotiations between the Government and the attorneys
6 for the defendants, and the plea agreements are also
7 the end result of an investigation that was
8 conducted, overseen by the Western District of
9 Virginia and the Department of Justice's Office of
10 Consumer Litigation.

11 The investigation was conducted by both federal
12 and state agencies. The state agencies were the
13 Virginia Attorney General's Medicaid Control Fraud
14 Unit, the West Virginia State Police and Virginia
15 State Police, and the federal agencies were the Food
16 and Drug Administrations Office of Criminal
17 Investigation, the Internal Revenue Service Criminal
18 Investigation, the Department of Health and Human
19 Services Office of Inspector General, the Defense
20 Criminal Investigative Service and the Department of
21 Labor's Office of Inspector General.

22 Based on the evidence gathered during the four
23 years of investigation, all of the agencies that
24 participated in it were in agreement that the global
25 resolution that is memorialized by the plea agreement

1 was in the best interests of the people of the United
2 States, and in the interests of justice.

3 In addition, the global resolution was subjected
4 to review by multiple elements of both the Criminal
5 and Civil Divisions of the Department of Justice, as
6 well as the Department of Health and Human Services
7 Office of Inspector General.

8 Now, under the global resolution that's before
9 the court, the corporate defendant acknowledges his
10 felonious conduct in making false and misleading
11 statements in the marketing of OxyContin. Under this
12 resolution the defendant will suffer substantial
13 monetary penalties as a consequence of this unlawful
14 conduct, and in fact the \$635,000,000 total penalty
15 has been reported, at least in some of the news
16 media, as one of the largest in history.

17 Now, while the financial impact of the crime to
18 which the defendant has pled guilty cannot easily be
19 quantified, the global resolution serves the
20 following public interests, in the opinion of the
21 Government. First, it provides significant
22 punishment in the form of a \$276,100,000 forfeiture,
23 and a \$500,000 fine. Second, it provides significant
24 disgorgement of any possible or potential profits
25 from the illegal conduct in the form of a

1 \$160,000,000 payment to resolve any potential
2 governmental civil claims, and a \$130,000,000 amount
3 to be paid to resolve private civil claims. Thirdly,
4 it provides for the prevention of future violations
5 in the form of an integrity agreement applicable to
6 Purdue Pharma, L.P. which is the entity which now
7 markets OxyContin, and the expenditure of more than
8 \$4,000,000 to monitor the conduct of that entity to
9 be sure it complies with the integrity agreement and
10 the laws applicable to the marketing of drugs such as
11 OxyContin. And fourthly, it provides for the funding
12 of ongoing healthcare law enforcement efforts in the
13 Commonwealth of Virginia through the \$20,000,000 to
14 fund Virginia's prescription monitoring program, and
15 approximately \$39,000,000 for the Virginia Attorney
16 General's Medicaid Fraud Control Unit Program Income
17 Funds.

18 The United States, Your Honor, believes that the
19 global resolution best serves the interests of the
20 people of the United States, and best serves the
21 interests of justice. And we respectfully request
22 the court accept the agreements that implement it.

23 THE COURT: Thank you.

24 MR. RAMSEYER: Your Honor, the court should
25 accept the plea agreements of Michael Friedman, Paul

1 Goldenheim and Howard Udell as part of the resolution
2 of this case.

3 They pled guilty to a crime that does not
4 require awareness of some wrongdoing, or conscious
5 fraud. That's what they pled guilty to, and a
6 sentence of probation is within the sentencing
7 guideline range for this case.

8 Accordingly, a non incarcerative sentence in,
9 unlike many cases, the convictions of the corporate
10 officers has the potential to have a significant
11 deterrents effect on other crimes.

12 To my knowledge, never before have
13 pharmaceutical corporate officers been held
14 criminally liable for this type of conduct. It just
15 hasn't happened before. It's unprecedented, and it
16 will reaffirm to executives in the pharmaceutical
17 industry that they are held to a higher standard
18 because the products they deal with have such a high
19 potential for endangering public safety.

20 Recently a paper criticizing the use of this
21 statute was written. The authors called the
22 article *The Crime of Doing Nothing*. The essence of
23 the paper was it just wasn't right to hold these
24 executives responsible for crimes committed by their
25 company without some showing that the executives

1 actively participated in or knew about the crimes.

2 But the Supreme Court of the United States has
3 stated exactly why it is right to hold these men
4 criminally responsible in this case. The, this
5 statute, in the words of the Supreme Court, "imposes
6 not only a positive duty to seek out and remedy
7 violations when they occur but also, and primarily, a
8 duty to implement measures that will ensure that
9 violations will not occur. The requirements of
10 foresight and vigilance imposed on responsible
11 corporate agents are beyond question demanding and
12 perhaps onerous, but they are no more stringent than
13 the public has a right to expect of those who
14 voluntarily assume positions of authority in business
15 enterprises whose services and products affect the
16 health and well being of the public who supports
17 them."

18 Under the law the only way these defendants
19 could avoid criminal responsibility for this
20 misdemeanor offense is if they could prove they were
21 powerless to prevent the crime. By pleading guilty
22 they have admitted that they were not powerless to
23 prevent the crime. As corporate officers these men
24 had a duty to insure that misbranding did not occur.
25 By pleading guilty they are acknowledging that

1 they've breached that duty. By pleading guilty they
2 are acknowledging that doing nothing just isn't good
3 enough. They should have done something. In the
4 Supreme Court's words, they had a duty to "implement
5 measures that will insure that violations did not
6 occur."

7 And hopefully, after hearing about this case,
8 every pharmaceutical executive started taking
9 extraordinary steps to personally insure that his
10 employees were complying with the law so that he or
11 she would not end up sitting where these defendants
12 are today. And that is a good thing.

13 Your Honor, this case has, there's a human
14 element to these proceedings that needs to be
15 addressed. Many individuals have addressed the court
16 today, and there are, of course, complex legal
17 questions about the relationship between Purdue's
18 crimes and the events that these individuals have
19 described, and the court is aware of those issues.

20 I just want to put that aside because the
21 statements made by these individuals, and they've all
22 suffered great losses, it's heart breaking to hear
23 what these people have gone through, and as a
24 prosecutor you see a lot of bad things, but you just
25 don't, it doesn't make it easier; if there's anything

1 that the Government could do, if there's anything the
2 court could do to bring those people back we'd do it.
3 And I can't imagine the pain that those people have
4 suffered, but we can't bring those people back.
5 That's not something this case can do. I think
6 everyone knows that. It's just beyond our power.

7 We have to recognize that whatever we do today
8 will be of very small significance to these people.
9 But maybe these plea agreements can serve some
10 purpose for those individuals, and others like them
11 who couldn't be here today.

12 Many people, and some of them have been here
13 today, have been raising concerns about Purdue for
14 years. Most of those people weren't saying Purdue
15 was solely responsible for their loved ones' losses,
16 they weren't saying it was all Purdue's fault; they
17 were just saying, "Purdue, tell the truth." They
18 were told by Purdue repeatedly that Purdue had never
19 done anything wrong. This case has given them a
20 forum, so those people could publicly face the top
21 three executives of Purdue and express their true
22 feelings. I don't think those people in their
23 wildest dreams, if you asked them six months ago,
24 that they thought they'd be in a courtroom in
25 Abingdon, Virginia with Purdue and their top three

1 executives pleading guilty, being sentenced, and
2 having an opportunity to tell the court what they
3 thought about Purdue and those people. And this case
4 has given them that forum. I think most of those
5 people probably will say they didn't believe Purdue
6 would ever be brought to justice, but now we're this
7 close to making it happen. And in accepting these
8 plea agreements perhaps the court can help bring some
9 measure of closure to these people. They have fought
10 the good fight, they have said what they wanted to
11 say, they have stood up for truth, and the whole
12 world now knows that Purdue is guilty, and I truly
13 hope that those individuals can find some peace.

14 As to Purdue, wouldn't it be nice if when I sat
15 down Purdue would show that they finally get it, that
16 after denying, after denying what they did they
17 finally understand that they did wrong. They filed
18 detailed memos setting forth their position on
19 sentencing. What more needs to be said? Wouldn't it
20 be nice if the company's attorney would come to the
21 podium and say Purdue is sorry for the crime it
22 committed, and sat down? Wouldn't it be nice if the
23 individuals' attorneys would come to the podium and
24 say they're sorry they've breach that high standard
25 that they've been entrusted to protect public safety,

1 and then sit down? Everyone here knows that's not
2 going to happen.

3 When I sit down the next public relations
4 campaign will begin for Purdue. They will attempt to
5 minimize the crimes to which they pled guilty. They
6 will argue that they have done much good. They will
7 argue that they are the only ones who care about pain
8 management. They'll talk about their, quote,
9 unquote, "extraordinary efforts to stop abuse and
10 diversion," not because it has anything to do with
11 this case; it's all done for public relations
12 purposes, and it will underscore why the court should
13 accept the plea agreements in this case, and find
14 these defendants guilty as charged.

15 If the court accepts the plea agreements, from
16 this day forward, notwithstanding all the public
17 relations efforts by Purdue, the whole world will
18 know that Purdue is a company that has been convicted
19 of making false and misleading statements, and
20 everything they say should be viewed in that context.

21 Your Honor, the United States respectfully
22 requests that the court accept the plea agreements in
23 this case, find the defendants guilty as charged, and
24 sentence them in accordance with the plea agreements.
25 Thank you, Your Honor.

1 THE COURT: Thank you, Mr. Ramseyer. I'm
2 going to hear from counsel for the defendants, but
3 since we've been in session for a while, before we do
4 that we're going to take about a ten minute recess.

5 (Recess from 2:43 p.m. to 2:55 p.m.)

6 THE COURT: I'll be glad to hear from
7 counsel for the defendants. Mr. Shapiro?

8 MR. SHAPIRO: Thank you, Your Honor. Good
9 afternoon.

10 THE COURT: Good afternoon.

11 MR. SHAPIRO: The Purdue Frederick Company
12 stands before you today ready to accept
13 responsibility for the acts of some of its
14 supervisors and employees as described in the agreed
15 statement of facts previously filed with the court.

16 As set forth in the agreed statement of facts,
17 more than six years ago prior to July, 2001 certain
18 employees made or told others to make statements
19 about OxyContin to some health care professionals
20 that were inconsistent with the FDA approved
21 prescribing information for OxyContin and the express
22 warnings the OxyContin label contained about risks
23 associated with the medicine.

24 Specifically, these misstatements were that
25 OxyContin was less addictive, less subject to abuse

1 and diversion, and less likely to cause tolerance and
2 withdrawal.

3 These statements were far from pervasive. They
4 were not the way the company intended to market its
5 product. Indeed, they violated written company
6 policies regarding adherence to the FDA prescribing
7 information. But these misstatements did, occur and
8 they were wrong.

9 Notwithstanding Mr. Ramseyer's extraordinary
10 suggestion, I'm not going to sit down now. I am
11 confident that whatever the United States Attorney's
12 Office might wish, that we still live in a country
13 and that this is still a courtroom where one can hold
14 to the belief that justice is best served by hearing
15 from both sides. And an insistence on fact, and
16 truth, and law is not merely public relations.

17 Purdue was deeply troubled by the misconduct,
18 and believes it has taken significant steps over the
19 past six years to prevent it from recurring. During
20 that time Purdue has implemented substantial changes
21 to its training, compliance and monitoring systems.

22 In July, 2001 working with the FDA Purdue added
23 amplified warnings to the prescribing information for
24 OxyContin and communicated those warnings to health
25 care professionals. Purdue has enhanced its

1 compliance infrastructure, increased its training,
2 and developed a risk management program that has been
3 acknowledged to be a model for the industry.

4 These efforts seek to insure that the kinds of
5 misconduct that has brought the company before this
6 court today do not occur again.

7 Your Honor, I sat in the courtroom today, and I
8 heard the moving statements of individuals who have
9 suffered personal tragedies and terrible losses
10 related to OxyContin. One would be less than human
11 not to respect and share their grief and pain. There
12 is no question that OxyContin's abuse and misuse has
13 ravaged a number of communities across the country in
14 recent years, including the one in which this court
15 sits. And like virtually any medication, even the
16 proper use of OxyContin can, on occasion, be
17 associated with serious side effects as reflected in
18 the label.

19 But it is also important to be precise and
20 accurate about the plea that the Purdue Frederick
21 Company entered into in this case. It does not for
22 one minute disrespect the suffering of these families
23 to say that there is nothing, absolutely nothing in
24 the agreed statement of facts, or in any other
25 evidence of which we are aware, that suggests that

1 the misbranding that forms the basis for Purdue's
2 plea is in any way connected to, let alone
3 responsible for, that suffering.

4 We understand that others have argued that
5 Purdue's misbranding caused more OxyContin to be
6 prescribed and thus available for misuse. But
7 frankly, as Your Honor heard the Government concede
8 in this courtroom just last week, there is no proof
9 that a single prescription was written as a result of
10 any act of misbranding, and there is no evidence that
11 links any promotional act by Purdue to illegal
12 diversion or abuse.

13 Purdue marketed OxyContin only to trained
14 physicians and never to direct consumers. Again, I
15 truly do not mean to minimize the very real harm that
16 these individuals, and many others, have suffered.
17 Prescription drug abuse is a serious problem with
18 often tragic consequences, whether it involves
19 OxyContin or any other medication. The personal and
20 societal consequences that have resulted from the
21 abuse and misuse of OxyContin cannot be denied. And
22 yet, that's only one part of the story. And frankly,
23 Your Honor, not the larger part.

24 We also heard today from a few of those whose
25 lives have been dramatically improved by access to

1 this medication, a few of them who have taken
2 medication that is unquestionably safe and effective
3 when taken as directed. It is worth noting that each
4 of the witnesses Purdue called today suffered from
5 extraordinarily painful chronic conditions. Indeed,
6 millions of people suffering from debilitating
7 chronic pain, and not just those battling cancer,
8 have found solace and effective pain relief from
9 OxyContin.

10 In many, many instances, as you heard just a bit
11 about today, OxyContin has repaired families, has
12 renewed hope, has restored lives. That is why,
13 despite all the negative publicity, the genuine fears
14 of abuse and diversion, and indeed the risk that law
15 enforcement will scrutinize and challenge prescribing
16 doctors' medical judgment, despite all of that
17 OxyContin continues to be one of the most prescribed
18 opioid analgesics on the market today. It continues
19 to have wide support among medical professionals for
20 the simple reason that it works, and works well.

21 Because day after day, patient after patient,
22 these professionals make the same judgment that the
23 United States Food and Drug Administration has
24 repeatedly made that the enormous benefits of
25 OxyContin far outweigh its risks, even taking into

1 account the grief from those we've heard about today.

2 In determining an appropriate sentence for the
3 misbranding offenses to which this company has pled
4 it is important not to lose sight of this central
5 fact. OxyContin, and the company, and the
6 individuals who oversaw its development and brought
7 it to physicians and patients have done vastly more
8 good than harm.

9 To say Purdue's acts did not cause OxyContin
10 diversion has not been to say the company has been
11 heedless to the abuse that has occurred. All
12 Schedule II products, by definition, have a high risk
13 of abuse. Purdue was attentive to that expected
14 potential abuse, and took steps to try and prevent
15 it. From the time of launch, the OxyContin packaging
16 insert had extensive written warnings about abuse and
17 diversion, including warnings against crushing and
18 chewing tablets.

19 Dr. Kathy Foley who served for 15 years as the
20 Chief of the Pain Service of Memorial Sloan-Kettering
21 Hospital and is one of the leading pain experts in
22 the world, notes in her letter to the court, and I
23 know that Your Honor has seen it, that the package
24 insert at the time it was first published was viewed
25 as providing even more information on the risks and

1 benefits of opioids and their potential for abuse
2 than package inserts for comparably available strong
3 opioid drugs.

4 But that's not all. Since 1996 Purdue has spent
5 in excess of \$325,000,000 attempting to develop a
6 number of opioid formulations that would be
7 resistant to abuse, and that quest continues.

8 Moreover, in December of 1998, at its own
9 initiative, and at its own expense, Purdue started
10 distributing to physicians hundreds of thousands of
11 copies of guidelines created by the Federation of
12 State Medical Boards which explained how properly to
13 use opioid based pain medications, and how to avoid
14 dispensing them to abusers. Over the years Purdue
15 has handed out more of these materials than the
16 Federation, itself.

17 Despite these efforts, as we all know, and as we
18 heard, OxyContin became part of, of a wave of
19 increasing drug abuse in the United States, and
20 although OxyContin has never been the most abused
21 prescription drug in the nation, Purdue recognized
22 that it did become a significant part of the
23 prescription drug abuse problem and stepped up its
24 anti-abuse activities through research grants to, and
25 partnerships with, law enforcement agencies and

1 community and public education initiatives. Purdue
2 has dedicated extraordinary and unprecedented
3 resources to combatting this problem.

4 Purdue has spent more than \$68,000,000 to aid
5 law enforcement to fight abuse and diversion of
6 prescription drugs. These efforts have included
7 distributing more than one million tamper resistant
8 prescription pads in 34 states, including Virginia,
9 to combat prescription counterfeiting, a commonly
10 used method to obtain prescriptions illegally.

11 Purdue has provided at its own expense placebo
12 tablets.

13 Purdue developed RxPATROL, the nation's first
14 and only web based clearing house to collect, analyze
15 and disseminate pharmacy theft information.

16 Since its inception, RxPATROL has collected
17 information on thousands of incidents of robbery,
18 pharmacy robbery, burglary, fraud and forgery
19 leading, in fact, to arrest.

20 And Purdue has made grants to many community
21 organizations. In Southwest Virginia Purdue has
22 provided \$550,000 in funding to Occupational
23 Enterprises, Inc., a non profit information that
24 provides drug abuse prevention, education, recovery
25 and employment services in eight counties.

1 And Purdue has developed innovative programs to
2 discourage prescription drug abuses, specially among
3 vulnerable teens.

4 This is not just public relations; this is part
5 of the story. This is part of what the court, of
6 course, needs to understand in deciding on whether to
7 accept or reject the plea agreement. The efforts I
8 described, along with others I have not highlighted
9 today, have dwarfed those of every other company,
10 including those which also make scheduled opioids.

11 They have received widespread recognition from
12 law enforcement officials here in Virginia. For
13 example, former Attorney General Mark Early said as
14 long ago as March 1, 2001 that when Purdue learned of
15 the problem of abuse and diversion, quote, "it jumped
16 in with both feet to solve it."

17 I think Dr. Michael Brennan, an experienced pain
18 physician whose mother suffered for years in
19 agonizing chronic pain, which inspired him to go into
20 this field, I think he said it just right in his
21 letter to the court. He wrote, and I'm quoting,
22 "OxyContin has been misused, no one of probity would
23 argue with that. On the other hand, the appropriate
24 use by physicians has enabled thousands of patients
25 to regain part of their lives otherwise lost to

1 pain," end quote. That is the rest of the story.
2 That must, in fairness, be taken into account.

3 As I said in the outset, the Purdue Frederick
4 Company accepts full responsibility for the acts of
5 misbranding committed by some of its employees. In
6 acceptance of that responsibility, as the court is
7 well aware, the company has agreed to pay enormous
8 sums and fines, penalties, forfeiture and
9 restitution: \$470,000,000 to the United States and
10 state governments, and \$130,000,000 to settle civil
11 claims.

12 On behalf of the Purdue Frederick Company I
13 respectfully request that the court accept the plea
14 agreement. With its plea Purdue hopes to move
15 forward with renewed focus with its mission of
16 alleviating the suffering of millions from chronic
17 pain, and insuring the acts that led to this plea do
18 not reoccur.

19 Before I sit down I just want to take a further
20 moment to offer some words about these three
21 individuals who are before you today. As Your Honor
22 is aware, and as the Government has acknowledged,
23 they are not here today because of any misconduct on
24 their part, but because they held the positions of
25 responsible corporate officers at the time of the

1 acts committed by others at the company which form
2 the basis of the company's plea.

3 I have come to know these men well over more
4 than the four years this matter has been pending.
5 They are good men. They are good men who have worked
6 hard to bring relief to the millions of Americans who
7 suffer in pain, and have done all that they could do
8 to stop the abuse and diversion of OxyContin.

9 In the time we have worked together, they have
10 each consistently acted out of concern for what was
11 right, and have conducted themselves throughout with
12 honor, integrity and dignity. I would have been
13 remiss if I had not shared my own personal experience
14 as the court considers the appropriateness of their
15 sentences as well as the company's. Thank you, Your
16 Honor.

17 THE COURT: Thank you, Mr. Shapiro.
18 Mr. Pomerantz?

19 MR. POMERANTZ: Your Honor, I would like to
20 speak briefly on behalf of Michael Friedman. I'm a
21 lawyer because I speak for the defendant, and I say
22 the things I need to say on his behalf, and the
23 Government's suggestion to the contrary is
24 unfortunate and offensive.

25 I want to say at the outset I will not be

1 addressing what the court was told by people who lost
2 loved ones because of their involvement with
3 OxyContin. I won't be addressing those comments not
4 because we are unmoved or don't care; I won't be
5 addressing them because we recognize that there is
6 nothing that we can say or do that will ease the pain
7 of a parent who has lost a child, a brother who has
8 lost a sister, a grandfather who has lost a grandson,
9 a husband who has lost a wife. Those are tragedies,
10 each and every one. Anything I could say, anything
11 Michael Friedman could say about those tragedies
12 would be seen as diminishing them or attempting to
13 explain them away, and that is not our purpose.

14 Instead, I'll focus on the plea that is before
15 the court, and why the sentence that is called for by
16 the plea agreement is appropriate and should be
17 accepted by the court.

18 As the court knows, the issue is not whether
19 OxyContin is a good drug or a bad drug, and not
20 whether it should be legal to sell it or to prescribe
21 it. Under our system those decisions are made by the
22 Government acting through the Food and Drug
23 Administration.

24 The crimes for which Michael Friedman's, the
25 crime for which Michael Friedman stands before the

1 court is not the manufacture or distribution of
2 OxyContin. The simple truth is that it is legal to
3 make the drug, to market it, and to sell it because
4 there is a need for it. And the Government has
5 determined that when it is used properly under a
6 doctor's care the advantages outweigh the risks.

7 I'm also not standing before the court on a
8 claim that Michael Friedman or, indeed, any of the
9 individual defendants wanted to bring about the abuse
10 of OxyContin, or to encourage its misuse, or to cause
11 the deaths and the tragedies about which we heard
12 earlier.

13 The truth is, and there is chapter and verse on
14 this in the materials that are before the court, that
15 Purdue never marketed OxyContin to consumers
16 directly, and they tried to educate doctors about the
17 proper use of the drug to prevent its abuse, to keep
18 the drug out of the hands of unscrupulous doctors,
19 and to make sure that it was used safely in the
20 manner that it was intended to be used.

21 Michael Friedman, in particular, was very loud
22 and clear in trying to stop abuse of OxyContin. The
23 notion that Dr. Friedman, or any of these
24 individuals, did nothing is patently untrue.

25 Your Honor has before the court, indeed, an

1 entire book, it simply required a book to describe
2 the efforts these men took. They distributed
3 anti-diversion brochures, anti-fraud prescription
4 pads, they created the Liaison Law Enforcement Unit
5 within Purdue, they created RxPATROL, they
6 distributed placebos and funded law enforcement
7 programs, they discontinued the 160 milligram tablet
8 when it was suggested to them by law enforcement that
9 the amount of harm that it was causing outweighed the
10 benefits. They took steps to prevent the diversion
11 of OxyContin unlawfully from Mexico. They
12 established the RADARS system. They, they researched
13 abuse resistant technologies. They funded a public
14 service advertising campaign. They created the
15 Painfully Obvious program. They altered sales
16 representative compensation so that it would not lend
17 itself to abuse. They recorded suspicious
18 prescribers, they funded Occupational Enterprises,
19 Inc. and Virginia One Care. They started a program
20 called 100 Counties Program. I'm not going to
21 elaborate on those because Your Honor has the
22 materials, and they are before the court.

23 The reason, there were several reasons that
24 Michael Friedman tried to prevent OxyContin from
25 being abused. One, I will tell the court, is that he

1 is a good and a decent person. The court has
2 received letter after letter talking about the fact
3 that Michael Friedman is a profoundly good, moral and
4 decent man. I won't belabor the point. I'll just
5 cite one letter to Your Honor from a friend, Rear
6 Admiral Golove, retired from the Coast Guard. "I've
7 known Michael Friedman for more than 20 years. I've
8 known him as a friend, neighbor and family man."
9 Quoting a little bit later in the letter, "Throughout
10 our long relationship he has been a beacon of
11 compassion and fairness, a role model for all of us
12 to follow. He has always been (and I am convinced
13 will always be) a good person of scope beyond anybody
14 else I know. He has often shown how totally
15 committed he is to building and not tearing down, to
16 helping the helpless and not hurting anybody, to
17 'repairing the world' and not causing it any pain...
18 and much more. He has always been a role model of
19 humility and goodness for me..."

20 Another reason that Dr. Friedman did not want to
21 see OxyContin abused, apart from the fact that he is
22 a decent, honest and moral man, is that the abuse of
23 the company's product was very bad for the company,
24 and very bad for its business. It is true, Purdue
25 sold a lot of OxyContin, and made a lot of money from

1 selling OxyContin. The company would have sold a lot
2 more of its product and made a lot more money had it
3 not been for the abuse of OxyContin, for the deaths,
4 and for the suffering that resulted when the pills
5 were crushed and taken for the high that could be
6 induced when the continuous release mechanism was
7 defeated.

8 Purdue recognized that the abuse of OxyContin
9 and the resultant public attention was disastrous to
10 its business, and so the abuse of OxyContin was never
11 something that the company or these individuals
12 wanted to encourage. Never, never. It was just the
13 opposite. Indeed, they spent hundreds of millions of
14 dollars trying to find a formulation for the drug
15 that could not be abused.

16 The reason Michael Friedman is before the court,
17 Your Honor, is because in a limited number of
18 instances in the time prior to June of 2001, as
19 outlined in the agreed statement of facts, a number
20 of company employees, not Dr. Friedman, not
21 Mr. Udell, not Dr. Goldenheim, made statements about
22 OxyContin that were inconsistent with company policy
23 and that should not have been made. Michael Friedman
24 did not participate in that misconduct. But he is
25 before the court because he was the chief executive

1 officer of Purdue, and under the law he can be held
2 responsible for conduct that he did not approve, did
3 not recommend, and did not condone.

4 This is one of the very rare situations under
5 our laws in which an individual can be held
6 criminally responsible without a showing of criminal
7 intent. And as the court knows, there is no claim in
8 the agreed statement of facts that Michael Friedman
9 acted in any respect with criminal intent.

10 He's here because he is a high ranking corporate
11 officer, was, and under the responsible officer
12 doctrine that is sufficient.

13 We have agreed with the United States Attorney's
14 Office that the appropriate disposition, if the court
15 accepts the plea, is one that does not include a
16 prison sentence. It does include a financial penalty
17 of \$19,000,000 which already has been paid into the
18 court.

19 I know that the court has received letters that
20 urge Your Honor to reject the plea agreement, and
21 that argue that these individuals should be sent to
22 prison. We heard some of those arguments here this
23 afternoon. We want to make several points in
24 response, each of which, I think, is compelling.

25 First, as Your Honor knows, to impose a prison

1 sentence where there is no proof and no allegation
2 that a defendant committed a specific criminal act,
3 and that he did so with criminal intent would be
4 virtually unprecedented under American law.

5 Even in the *Park* and the *Dotterweich* cases upon
6 which the Government has relied on bringing this
7 charge, those cases permit criminal liability for
8 responsible corporate officers, but in those cases
9 there were allegations that the defendants failed to
10 act after specific warnings that there was misconduct
11 occurring on their watch.

12 Here there is no such allegation. The agreed
13 upon statement of facts does not suggest that Michael
14 Friedman intended that bad action be committed. To
15 send him to prison under these circumstances, so far
16 as we have found, would be literally unprecedented in
17 the annals of American law.

18 These men did not, as has been suggested to the
19 court, buy their way out of a prison sentence. Under
20 our system of laws they didn't do anything that would
21 have justified a prison sentence, and it is precisely
22 for that reason I would suggest to the court that the
23 United States Attorney entered into the plea
24 agreement that is before Your Honor.

25 And the fact that we are dealing here with an

1 agreement that has been endorsed by the United States
2 Attorney is another compelling reason why the guilty
3 plea should be accepted, and the plea agreement
4 should be accepted.

5 Obviously, there's a great deal of emotion
6 surrounding this case and this sentence. People from
7 the community have written the court, have addressed
8 the court this afternoon. Those of us who work in
9 the criminal justice system, particularly those of us
10 who have had the privilege of serving as Assistant
11 United States Attorney and, indeed, United States
12 Attorney, understand that it is the United States
13 Attorney who ultimately speaks for the community. It
14 is the U.S. Attorney who represents the community and
15 the people of the United States here after a lengthy
16 investigation, an investigation that involved many
17 years, millions of documents, dozens of witnesses and
18 many millions of dollars being spent by the
19 Government.

20 The United States Attorney has come before the
21 court and has told the court that the plea agreement
22 that is before Your Honor is in the best interests of
23 the United States. That agreement may be viewed as
24 too lenient by some; it may be viewed as unwarranted
25 and, indeed, too harsh by others; but it represents

1 the product of years of labor of well intentioned men
2 and women on both sides of this case.

3 I believe it merits the court's endorsement and
4 I urge the court to accept it and to impose a
5 sentence on Michael Friedman in accordance with it.
6 Thank you.

7 THE COURT: Thank you. Ms. White?

8 MS. WHITE: Thank you, Your Honor. It is
9 my privilege to speak on behalf of Howard Udell.
10 This is a very hard day for Mr. Udell. It is also,
11 obviously, a very hard and painful day for everyone
12 in this courtroom. Especially for those who are
13 recalling memories of lost or ill loved ones who used
14 OxyContin.

15 As Mr. Pomerantz said, nothing that any of us
16 can say, or the fact that OxyContin has also helped
17 millions of people, can diminish the pain and loss we
18 have heard about today. It is also very hard and
19 impossible for relatives and friends not to blame
20 Purdue and its senior executives for their loss, and
21 not to be cynical when Mr. Udell and others at Purdue
22 express what is, in fact, deep sympathy for their
23 loss, and talk about the commitment and extensive
24 efforts at Purdue to combat the problem of OxyContin
25 abuse and diversion once it was known to be

1 occurring.

2 We obviously don't expect to change those views
3 today, but we do need to talk about the facts as
4 they've been agreed to and with the United States
5 Attorney's Office, what Mr. Udell's plea means and
6 what it doesn't mean, and need to talk about Howard
7 Udell, the person. The court will then decide on the
8 objective facts in the case before it, whether to
9 accept the plea agreements with the Government and
10 impose non incarcerative sentences on Mr. Udell,
11 Mr. Friedman and Dr. Goldenheim. We urge the court
12 to do so, and we submit that the record compellingly
13 leads to that conclusion.

14 Mr. Udell's guilty plea is to a strict liability
15 misdemeanor. That, as the court knows and has heard,
16 does not require wrongdoing, no participation in
17 misconduct, no knowledge of misconduct, no intent to
18 defraud or mislead anyone. And there is no evidence
19 at all of any personal wrongdoing by Mr. Udell in the
20 agreed statement of facts. Rather, Mr. Udell's plea
21 is based on his position as a senior executive at
22 Purdue at a time when certain Purdue sales and
23 marketing personnel made statements about OxyContin
24 that went beyond statements approved by the FDA.

25 There's no evidence, however, in the agreed

1 statement of facts that Mr. Udell knew about this
2 misconduct, and we submit that had he known he would
3 have done everything in his power to stop it.

4 Mr. Udell is also not charged with harming
5 anyone, and there is no evidence or claim in the
6 agreed statement of facts that Mr. Udell caused any
7 harm to anyone. Committing or condoning misconduct,
8 or causing harm, or letting harm occur to any person
9 is the antithesis of what Mr. Udell and his life are
10 about. He has devoted his professional life to the
11 law. He is high minded and a thoroughly ethical
12 person who always holds himself to the highest
13 standards of conduct. He is a deeply moral,
14 compassionate person, dedicated to his family,
15 friends and colleagues.

16 Nothing in Mr. Udell's strict liability
17 misdemeanor plea is inconsistent with or detracts
18 from Mr. Udell's exemplary character, or the person
19 who is rightly admired by so many.

20 The letters submitted to the court on
21 Mr. Udell's behalf provide an accurate and compelling
22 account of this remarkable man and his principles. A
23 uniform theme is that Mr. Udell has shown a life long
24 reverence for the law, always tries to do the right
25 thing, and always urges others to always do the same.

1 Everyone says that about Mr. Udell because it is
2 true, and evident in everything he does, large and
3 small.

4 His sons were brought up that way, and saw it
5 every day. As his son, Jeffrey, a former Assistant
6 United States Attorney in New York wrote to the
7 court, "Respect for the law, itself, is something my
8 father has always taught me and my brother for as
9 long as I can remember. Do the right thing was the
10 way my father taught us to behave, both by express
11 instruction and by example. In my entire life, I
12 have never seen him once falter from that path."

13 The people at Purdue who have worked with
14 Mr. Udell for many years consider him to be the moral
15 compass of the company, whose constant admonition to
16 the employees at Purdue is also to do the right
17 thing, and as Clint A. Yeager, an at risk youth and
18 community specialist and Purdue's Director of
19 Community Partnerships for three years, himself an
20 extraordinary person who has devoted his life to
21 substance abuse issues, states in his letter to the
22 court, "Mr. Udell's words were not empty words. His
23 philosophy was backed by actions and support."

24 Another former Purdue employee of 45 years says
25 this: "Mr. Udell is considered the heart and soul of

1 the organization. In my entire career I never
2 experienced a single incident where he did not do the
3 right thing."

4 The former United States Attorney in Maine, Jay
5 McCloskey, who was the public official who brought
6 the OxyContin abuse problem in Maine to Purdue's
7 attention, he dealt directly with Mr. Udell both as
8 U.S. Attorney and later as a consultant to Purdue on
9 abuse issues, he describes Mr. Udell in his letter to
10 the court as honest and highly ethical.

11 Mr. McCloskey writes that when he explained to Purdue
12 the extent of OxyContin abuse in Maine, Mr. Friedman
13 and Mr. Udell offered to help in any way Purdue
14 could, and Mr. Udell said, "We want to do what is
15 right."

16 As he says in his letter to the court,
17 Mr. McCloskey became a firm believer in those words
18 of Mr. Udell when he saw firsthand all of the actions
19 Mr. Udell, Michael Friedman and others at Purdue,
20 including Dr. Paul Goldenheim, took in an effort to
21 stop the abuse of OxyContin. These efforts, and
22 you've heard a lot about those from Mr. Shapiro and
23 Mr. Pomerantz, and I know you have extensive
24 materials, but these efforts included voluntarily
25 taking the 160 milligram dose of OxyContin off the

1 market after Mr. McCloskey expressed safety concerns
2 for young people if they were to abuse tablets of
3 that strength.

4 These efforts included eventually stopping
5 altogether the shipment of OxyContin to Mexico
6 because it proved to be an area where there was
7 significant illegal diversion of the drug which was
8 then shipped back into the United States and
9 illegally distributed.

10 Both of these decisions, Your Honor, were
11 against the commercial interests of Purdue. But they
12 were the right things to do. As Mr. McCloskey says
13 in his letter, "In all my dealings with Howard I do
14 not recall one instance in which he favored Purdue
15 Pharma's business interests over efforts to curb
16 OxyContin diversion. In fact, just the opposite is
17 true. Although Howard is an advocate of legitimate
18 pain patients not being denied access to OxyContin,
19 he has always spent a considerable amount of time to
20 reduce OxyContin abuse and diversion."

21 Mr. Udell is one who did something about abuse
22 and diversion. Mr. Udell's personal efforts to curb
23 the abuse and diversion of prescription drugs,
24 including OxyContin, also include championing
25 monitoring programs when most others in the industry

1 were opposed to those programs.

2 They also support efforts in this district to
3 support Occupational Enterprises that addresses
4 substance abuse issues in Southwest Virginia. Its
5 Executive Director has written a letter to the court
6 praising Mr. Udell and his leadership.

7 Howard Udell is a man who cares deeply about
8 people. Pamela Bennett, a nurse who joined Purdue in
9 2000, has written, "When I think of compassion
10 embodied, I think of Howard. He cares about his
11 employees, he cares about patients and he cares about
12 those who suffer from abusing and/or misusing
13 prescription drugs."

14 As another Purdue employee says in his letter to
15 the court, "Howard is beloved. He treats everyone,
16 whether maintenance man or senior executive, with
17 respect and kindness."

18 Throughout his career Mr. Udell has given
19 countless hours of pro bono service and advice to
20 educational and other non profit institutions.
21 Beginning in the late 1980s, for example, long before
22 there was ever an OxyContin, Mr. Udell gave many
23 hours of pro bono service as both legal counsel and
24 board member to Vitam, a residential treatment
25 facility and school in Connecticut that offered

1 assistance to young people suffering with problems of
2 serious substance abuse.

3 I know the court has received and read the many
4 letters of support for Mr. Udell, and I won't recount
5 more of them here, but the court has seen in those
6 letters written by people exposed to Mr. Udell in
7 every aspect of his life, the words the writers use
8 to describe Mr. Udell and his actions, and these
9 writers are quite a varied group of credible people,
10 most of whom have spent a significant portion of
11 their careers in public service or serving the
12 community: A former Attorney General of Virginia,
13 two former U.S. Attorneys, three heads of non profit
14 organizations devoted to pain management or substance
15 abuse issues, a former DEA supervisor. The list goes
16 on.

17 Some of the words and phrases Your Honor has
18 seen in those letters that most often appear include
19 these: Highly ethical, sincere, genuine, an
20 especially caring man, decent, principled, kind,
21 generous, respect for the law, man of integrity,
22 thoughtful, fair, compassionate, hard working,
23 unselfish, upright, humble, intentionally moral man.
24 And just as Mr. Udell's exhortations to himself and
25 to others to always do the right thing are not just

1 words, the words in these letters aren't just words
2 either. They reflect a lifetime of observations of
3 Mr. Udell and his actions.

4 For Mr. Udell, a distinguished and highly
5 respected lawyer for over 40 years, to have publicly
6 pled to a crime which he has done is a very severe
7 punishment. The offense involves no allegation of
8 wrongdoing; it is a crime. It will be part of the
9 permanent record, and a painful reminder of what
10 devastation occurred with OxyContin in addition to
11 all of the good that it has done for so many people.

12 And if complicity in connection with the plea is
13 any indication, it will be difficult for people to
14 understand that Mr. Udell has pled to a strict
15 liability misdemeanor that involves no wrongdoing by
16 Mr. Udell.

17 Mr. Udell has learned -- indeed, we have all
18 learned -- very painful lessons about the abuse and
19 diversion of OxyContin and other prescription drugs.
20 We all have a responsibility to address this very
21 serious public health issue. Certainly Mr. Udell has
22 been, and will continue to be, a leader in those
23 efforts.

24 He and others at Purdue are not, as some have
25 said in the media and today, akin to drug dealers or

1 murderers. Nothing could be further from the truth.
2 And yet, Mr. Udell will have to live with those very
3 public and devastating labels in the eyes of some who
4 do not know what this case is about, what it isn't
5 about, who don't know what the facts are, and who do
6 not know Howard Udell. It isn't fair, it isn't
7 deserved, but it is a harsh reality that is part of
8 Mr. Udell's punishment.

9 What has happened here is a personal tragedy for
10 Mr. Udell. It is a particularly sad irony, Your
11 Honor, that this deeply ethical man who has exhibited
12 life long reverence for the law, an intolerance for
13 even bending of the rules, finds himself here. As
14 Richard Silbert, a lawyer at Purdue who has worked
15 with Mr. Udell for 15 years wrote, "I have difficulty
16 wrapping my mind around the fact that Howard, the
17 most decent and honorable person I know, is pleading
18 to a crime. It is as if the universe is out of
19 whack." That's what Mr. Silbert said.

20 But in another sense, as Mr. Silbert and others
21 have written to the court have said, it is not
22 surprising that Howard Udell has stepped up to take
23 responsibility for the misconduct of others at his
24 company. That is also Howard Udell.

25 As Jennifer Bragg, who worked at the FDA Office

1 of Chief Counsel, and later for Purdue as an outside
2 counsel puts it, "I believe that during times of
3 adversity the true character of individuals is
4 revealed. Although adversity tempts many to blame
5 others, Howard never abdicated responsibility."

6 As Jack Crowley, a former DEA supervisor
7 investigator, and now head of Controlled Substance
8 Compliance at Purdue says, "It does not surprise me
9 that Mr. Udell has accepted responsibility in the
10 matter before the court by pleading to a strict
11 liability misdemeanor offense as this is but an
12 example of his upstanding character."

13 Your Honor, I have tried my best to do justice
14 to and capture the person, remarkable person who is
15 Howard Udell, and who is before you today for
16 sentencing.

17 As the plea agreement with the Government
18 provides, there should be no incarcerative sentence
19 for Mr. Udell. Neither he nor his conduct remotely
20 deserves it, nor is a period of probation in these
21 unique circumstances justified or needed to fulfill
22 any sentencing or law enforcement purpose. Indeed,
23 it would unjustifiably and needlessly compound the
24 stigma and punishment for an offense and facts that
25 are without personal wrongdoing.

1 Mr. Udell is a fine, decent and highly
2 principled man who should be seen as the role model
3 he is for integrity, leadership, and trying always to
4 do the right thing. He will continue after today to
5 be that person.

6 Thank you, very much, Your Honor.

7 THE COURT: Thank you, Ms. White.
8 Mr. Good?

9 MR. GOOD: If Your Honor please,
10 Dr. Goldenheim is the only defendant before you who
11 is a physician. And as a physician I think Your
12 Honor will recognize how high a value Dr. Goldenheim
13 places on caring for people, and for relieving
14 suffering and disease. And Dr. Goldenheim has
15 devoted his entire professional life and achieved a
16 great deal in that field.

17 He's an extraordinary physician in that he is
18 not just a doctor who can treat patients, but he's
19 also a scientist, and he's able to contribute in a
20 way that very few people can to the relief of
21 suffering and disease. And lest anyone believe that
22 Dr. Goldenheim is heedless about addiction and the
23 harm addiction causes, Your Honor has the letter from
24 Dr. Roger Weiss who is the head of Addiction Services
25 at McLean Hospital which is a Harvard teaching

1 hospital in the Boston area, and Dr. Weiss recounts
2 that he and Dr. Goldenheim many years ago did some
3 research and published two papers which were some of
4 the earliest research on the effect on respiratory
5 systems of people who inhaled cocaine.

6 So, Dr. Goldenheim, at the very beginning of his
7 career, even before he was at Purdue, was someone who
8 was very aware of the harm that addictive drugs had
9 on the human body and to all of us. And he did, and
10 has done, a tremendous amount to try to alleviate
11 that problem, as well as relieve pain.

12 And in that course I want to mention the word
13 possible because my brother from the Government has
14 indicated that the only defense available to this
15 crime to which Dr. Goldenheim has pleaded guilty is
16 it's impossible to prevent what has occurred. And I
17 must say, Your Honor, having read all the letters
18 that I know Your Honor has read, as well, if there is
19 a person who might be able to do the impossible it
20 would be Dr. Goldenheim.

21 This is a man who led the effort to develop
22 OxyContin as a scientist, and it's an extremely
23 difficult and challenging endeavor to develop drugs
24 which have benefitted as many people as this drug
25 has. I won't try to explain to the court what all

1 the science is, but I think Your Honor can imagine
2 that it takes many, many years, and you have to
3 overcome a great many obstacles and difficulties,
4 scientific difficulties and medical difficulties in
5 order to accomplish that task, and one has to use a
6 tremendous amount of skill, dedication to the truth,
7 scientific truth, to the accuracy of records, to the
8 development of systems to assure that all is done as
9 perfectly as possible, and Dr. Goldenheim did that.

10 Now, he's pleading guilty here because things
11 happened which may very well be impossible, but he
12 has accepted the legal responsibility, nevertheless.
13 That's the type of person he is.

14 Dr. Goldenheim is in agony here. And he has
15 been in agony since this whole case began because he
16 is anything but a person who would tolerate that any
17 harm should come to any person from what he has done
18 trying to help people who suffer from pain.

19 And I think none of us who have experienced
20 intense pain, or who have seen people who have
21 experienced intense pain can, can dismiss for a
22 second how important it is for us to try to achieve
23 relief for these people.

24 It is painful to be addicted, and it's nothing
25 like the pain they experience themselves, and this

1 man through his scientific skill has relieved a great
2 deal of suffering for millions and millions of
3 people, and there are very few people on the planet
4 who can say that about themselves.

5 So, even though he has done all that, the
6 standard is that he has somehow failed to do what the
7 Government says is possible. I'm not sure it was
8 possible for Dr. Goldenheim to prevent what happened
9 here, but in any event, he has accepted that
10 responsibility and in the process he has been
11 labeled -- because that's what this court proceeding
12 means -- a criminal, and that is horrendously harsh
13 punishment for someone who has done so much good, and
14 under the agreed statement of facts has done nothing
15 wrong.

16 The word carries harsh punishment, the word
17 criminal. Dr. Goldenheim sometimes says that about
18 himself now, and it is an extraordinarily painful
19 thing for him to say, and for other people to believe
20 about him. It's not deserved because he hasn't done
21 anything wrong, but the law calls this, calls this
22 criminality, and that is a very, very costly thing to
23 do to someone who has done nothing wrong.

24 And the Government is quite right to say that
25 this is unprecedented. And it is unprecedented in

1 exactly that sense; that is, that this is an outer
2 extension of this statute that we're talking about
3 here today. And therefore, it imposes punishment
4 over the least blameworthy people who have ever been
5 convicted under this statute. And that calls for, it
6 seems to me, the relationship between the punishment
7 and the least blameworthy people, is the punishment
8 we're asking the court to impose.

9 And that's exactly as it should be. The
10 relationship between blameworthiness and punishment
11 is the key one in any judge's mind, I would think.
12 And there is no blameworthiness here, and therefore
13 one has to consider that.

14 Your Honor, with respect to Paul Goldenheim the
15 person, I just want to say Your Honor has a great
16 many letters, and I know you've read them all, and I
17 think what comes through from these letters is a
18 person of extraordinary ability and accomplishment.
19 I can't imagine a person who is more able, and
20 accomplished, and caring in every way than
21 Dr. Goldenheim is. He's off the charts that way.

22 To me, the fact that the life he's lived has
23 been ineffective from insulating him from this day is
24 very, very harsh; to lead the life he's lived and
25 done as well as he's done, in all of his endeavors.

1 He's been very devoted to his family, to education.
2 He's led the -- Dr. Goldenheim tried to exert his
3 scientific skill through all of this, and I would say
4 to the court, focused on the RADAR Program, as Your
5 Honor has seen.

6 Epidemiology is the study of the population, the
7 frequency when bad things happen, either disease or
8 whatever, some public health problem, and the federal
9 government had epidemiology with respect to
10 prescription drug abuse but it was national, but it
11 had no local information, there were no, couldn't
12 pinpoint within this country where this problem was
13 occurring, and so Dr. Goldenheim, upon learning this
14 program was beginning to accelerate, was in the
15 forefront of getting the information in a form where
16 you could isolate exactly where it's happening in the
17 United States, and most acutely, so the resources
18 could be addressed to those particular places to try
19 to stop this. This is what a scientist does, and
20 this is not what a person who doesn't care would do.
21 This is a person who cares very deeply and was trying
22 very hard to stop this.

23 The other thing I think is terribly important
24 for Your Honor to consider, it's been mentioned the
25 company has spent around \$325,000,000 to try to

1 develop an abuse free, an abuse proof medication.
2 Now, again, this has so far been impossible. No one
3 has been able to achieve this. It's an enormous
4 scientific challenge to produce a pill that will
5 release medication for beneficial purposes swallowed,
6 but not function to cause a high if crushed or chewed
7 or otherwise destroyed. They have tried through
8 \$325,000,000 worth of effort to do that.

9 Dr. Goldenheim has been in the forefront of that.

10 This is hardly a person who is an anti-social
11 person, or a person who doesn't care about the agony
12 that you've heard here today. He cares about it.
13 He's working extremely hard to try to stop what's
14 been happening to these people. And so I ask the
15 court to consider all of that when Your Honor
16 determines the outcome here.

17 Finally, I would just say on the subject of
18 probation, Your Honor, that I echo what Ms. White has
19 said; that as I mentioned the conviction, itself, is
20 a tremendous punishment. The people who know the
21 most about this case, Dr. Goldenheim wears a label
22 that is undeserved and it is very painful and
23 destructive in his life going forward, and probation
24 would serve no purpose other than to compound the
25 harm, the undeserved harm. So, I ask the court not

1 to do that, but otherwise to adopt the agreement.

2 Thank you, very much, Your Honor.

3 THE COURT: Thank you, Mr. Good. Counsel,
4 I want to thank you. I'm going to take a recess now,
5 while I consider my decision in this case.

6 (Recess from 3:50 p.m. to 4:20 p.m.)

7 THE COURT: First I want to thank counsel
8 for their professionalism in this case. I also want
9 to thank those who have spoken to the court about
10 their personal experiences, and I appreciate very
11 much the efforts that all of you made in coming here
12 today and sharing those personal experiences with me.

13 The issue before the court is whether or not to
14 accept the plea agreements in this case. I have
15 carefully read the lengthy paper work in the case,
16 and have listened to everything that's been presented
17 today.

18 Defendant Purdue has pleaded guilty to
19 misbranding OxyContin with the intent to defraud or
20 mislead, a felony under the Federal Food and Drug and
21 Cosmetic Act. The individual defendants, Michael
22 Friedman, Howard Udell and Paul Goldenheim have
23 pleaded guilty to the misdemeanor charge of
24 misbranding solely as responsible corporate officers.
25 The individual defendants are not charged with

1 personal knowledge of the misbranding, or with any
2 personal intent to defraud.

3 These plea agreements which have been submitted
4 to the court are pursuant to the provision of the
5 Federal Rules of Criminal Procedure that allows the
6 parties to agree to a specific sentence to be
7 imposed.

8 The court is not bound by the plea agreements,
9 and may reject them. If a plea agreement is
10 rejected, the defendant must be given an opportunity
11 to withdraw the guilty plea. The Government has
12 agreed in this case that if the court rejects a plea
13 agreement, the Government will dismiss the
14 information filed in this case without prejudice to
15 its right to later indict the defendants or any other
16 entity or individual on any charge.

17 Accordingly, if the court rejects any of the
18 plea agreements, the present case may end and it will
19 be up to the Government to decide whether to
20 reprosecute the defendants, or any of them.

21 The Supreme Court has held that defendants have
22 no absolute right to have the guilty plea accepted.
23 As the court has stated, a court may reject a plea in
24 exercise of what is called sound judicial discretion.
25 By leaving the decision whether to accept or reject a

1 plea to the exercise of sound judicial discretion,
2 the Supreme Court did not intend to allow the courts
3 to reject pleas on an arbitrary basis, but the rules
4 do not limit the reasons for which the court may
5 reject a proposed plea agreement.

6 The court's responsibility is to consider all of
7 the relevant factors, and rationally construct a
8 decision. The Rules allow the judge to reject the
9 plea agreement if it is too lenient or too harsh.

10 In determining a proper criminal sentence in the
11 federal courts, the court must consider certain
12 factors set forth by statute. I must consider the
13 nature and circumstances of the offense, and the
14 history and characteristics of the defendant, as well
15 as the need for the sentence imposed to reflect the
16 seriousness of the offense, to promote respect for
17 the law, to provide just punishment for the offense,
18 to afford adequate deterrence for criminal conduct
19 and to protect the public from future or further
20 crimes of a defendant.

21 My mandate is to impose a sentence sufficient
22 but not greater than necessary to comply with these
23 purposes.

24 Under the law Purdue is subject to a penalty of
25 five years probation and a fine of up to half a

1 million dollars. In its plea agreement Purdue has
2 agreed to additional substantial monetary obligations
3 totaling \$600,000,000.

4 The individual defendants are subject to a
5 maximum punishment of 12 months imprisonment, and a
6 fine of up to \$100,000. In their plea agreements
7 they have agreed to pay a total of 34 and a half
8 million dollars to the Virginia Medicaid Fraud Unit
9 Program Income Fund. In return, the Government has
10 agreed to a sentence without any imprisonment.

11 Now, there have been several reasons suggested
12 why the court should reject these plea agreements.
13 These plea agreements preclude other restitution, and
14 a number of alleged victims object to this provision.

15 The Government and defendants, in agreeing to
16 preclude other restitution, rely on the statute which
17 states, in relevant part, as follows: "To the extent
18 that the court determines that the complication and
19 prolongation of the sentencing process resulting from
20 the fashioning of an order of restitution under this
21 section outweighs the need to provide restitution to
22 any victims, the court may decline to make such an
23 order."

24 In order to award an alleged victim restitution,
25 the court would have to determine whether that person

1 was directly and proximately harmed by the
2 misbranding offense that is the subject of the plea
3 agreements.

4 To be considered directly and proximately harmed
5 a person must show that harm resulted from conduct
6 underlying an element of the offense of conviction.

7 Purdue argues that the third party payors, the
8 insurance companies and others, cannot show that they
9 were directly and proximately harmed by Purdue's
10 misbranding.

11 Purdue further argues that this chain of
12 causation between the harm and the misbranding
13 offense would have been broken by any intervening act
14 on behalf of a patient or the health care
15 professional.

16 As to any individuals injured by the use of
17 OxyContin, the difficulties of establishing causation
18 have been demonstrated by numerous civil suits that
19 have been filed by such persons against Purdue,
20 including two filed in this court.

21 It has been argued that restitution must be
22 handled in this case as in the manner of a civil
23 class action claim, but class certification has
24 generally been denied in OxyContin claims because of
25 the variety of causation issues. So, in spite of

1 these arguments, I agree that the restitution process
2 would unduly complicate and prolong the sentencing
3 process.

4 In order to prove causation, litigation over
5 many months would be required before final judgment
6 in this case would be entered, and such a delay would
7 be contrary to the basic principles of our criminal
8 justice system.

9 I would have preferred that the plea agreements
10 had allocated some amount of the money for the
11 education of those at risk from the improper use of
12 prescription drugs, and the treatment of those who
13 have succumbed to such use. As we've heard today,
14 prescription drug abuse is rampant in all areas of
15 our country, particularly among young people, causing
16 untold misery and harm.

17 The White House Drug Policy Office estimates
18 that such drug abuse rose 17 percent from the year
19 2001 to 2005. That office estimates currently there
20 are more abusers of prescription drugs than any new
21 users of any other illicit drug.

22 Many people mistakenly believe that prescription
23 drugs are safer than street drugs, and as we've
24 heard, accidental prescription drug deaths are
25 increasing. It has been estimated that there are

1 more than 6.4 million prescription drug abusers in
2 the United States.

3 On the other hand, I am forbidden by law to
4 participate in plea discussions, and I will not
5 reject these agreements simply because they do not
6 contain provisions that I would have preferred.

7 The Government has explained that it did not
8 demand inclusion of a treatment provision in the plea
9 agreements because national drug policy has been
10 placed by Congress in an executive agency, and the
11 Government prosecutors were reluctant to direct
12 treatment funds in a manner beyond their expertise
13 and possibly contrary to national policy. I will not
14 second guess their decision in that regard.

15 It has been disclosed that during the
16 negotiations of these plea agreements former New York
17 mayor Rudy Giuliani played a central role on behalf
18 of Purdue. Of course, Mr. Giuliani is an experienced
19 attorney, and Purdue had a right to hire whomever it
20 wished as its legal counsel.

21 It has been implied that because Mr. Giuliani is
22 a prominent national politician, Purdue may have
23 received a favorable deal from the Government solely
24 because of politics. I completely reject this claim.
25 I've had long experience with the United States

1 Attorney for this district, and I am convinced
2 neither he nor the career prosecutors who handled
3 this case would have permitted any political
4 interference. In fact, I am sure they would have
5 refused any plea agreement that they did not
6 sincerely believe was in the best interests of
7 justice.

8 The plea agreements provide for no incarceration
9 for the individual defendants. The Government points
10 out that a prison sentence would be highly unusual
11 based on the facts of this case. The Government is
12 also convinced that the nature of the convictions of
13 the individual defendants, based on strict liability
14 for misbranding, will send a strong deterrent message
15 to the pharmaceutical industry.

16 The defendants point to their lack of prior
17 criminal record, their strong commitment to civic and
18 charitable endeavors, as well as their other positive
19 personal attributes.

20 On the other hand, the potential damage by the
21 misbranding disclosed in this case was substantial.
22 And I do not overlook the danger to the public from
23 this crime.

24 The defendants voluntarily accepted
25 responsibility over this enterprise for which they

1 were generously rewarded. For these reasons, the
2 lack of incarceration is the most difficult aspect,
3 to me, of the plea agreements.

4 I do not doubt that most of our fellow citizens
5 with perhaps only a passing knowledge of the case
6 gleaned from the headlines will believe it
7 inappropriate for no prison sentences to be imposed.
8 I must confess that it bothers me, also, and I've
9 studied this case for many months.

10 However, after careful deliberation, I have
11 concluded that the plea agreements should be
12 accepted. In the absence of legal proof by the
13 Government that the individual defendants had
14 knowledge of the wrongdoing charged or participated
15 in it, I do not think prison appropriate. While this
16 may not be a popular decision, my job is not to make
17 popular decisions but to follow the law.

18 Accordingly, I will accept the plea agreements,
19 and I will deny the third party motions.

20 Now, if there's nothing further, I wish to
21 proceed to sentencing. First, I'm going to pronounce
22 sentence as to the company. Counsel for the company
23 will stand, along with a representative of the
24 company. And does the company representative wish to
25 make any statement to the court before sentence is

1 pronounced?

2 THE DEFENDANT PURDUE: No, Your Honor.

3 THE COURT: Pursuant to the Sentencing
4 Reform Act, it is the judgment of the court that the
5 defendant, Purdue Frederick Company, Inc. is placed
6 on probation for a term of five years.

7 While on probation the defendant must not commit
8 another federal, state or local crime. In addition,
9 the defendant must comply with the following special
10 condition: The defendant must report in writing to
11 the probation officer once each three months and
12 disclose therein any criminal prosecution, civil
13 litigation, administrative proceeding or
14 investigation or inquiry by any governmental
15 authority commenced against it or any of its
16 affiliated entities since the last such report of
17 which the defendant has knowledge.

18 The defendant is ordered to pay a fine in the
19 amount of \$500,000 and a special assessment of \$400
20 due immediately. It is further ordered that the
21 financial sanctions and obligations agreed to in the
22 defendant's plea agreement are hereby imposed on the
23 defendant in the manner set forth in the plea
24 agreement. The defendant has waived its right to
25 appeal this sentence. You may be seated.

1 Now, if the individual defendants would each
2 stand with their counsel. First, Mr. Friedman, is
3 there anything you wish to say to me before I
4 pronounce sentence in your case?

5 THE DEFENDANT FRIEDMAN: No thank you, Your
6 Honor.

7 THE COURT: Mr. Udell, is there anything
8 you wish to say to me before I pronounce sentence in
9 your case?

10 THE DEFENDANT UDELL: No, Your Honor.

11 THE COURT: Mr. Goldenheim, or
12 Dr. Goldenheim, is there anything you wish to say to
13 me before I pronounce sentence in your case?

14 THE DEFENDANT GOLDENHEIM: No, Your Honor.

15 THE COURT: Pursuant to the Sentencing
16 Reform Act it is the judgment of the court that the
17 defendants Michael Friedman, Howard Udell, Paul
18 Goldenheim are hereby sentenced as follows: They are
19 each placed on probation for terms of three years.

20 While on probation, the defendants must comply
21 with the following mandatory conditions of
22 supervision: They must not commit another federal,
23 state or local crime; they must not unlawfully
24 possess controlled substances; must refrain from any
25 unlawful use of a controlled substance; and mandatory

1 drug testing is waived.

2 They must comply with the standard conditions of
3 supervision, as well as the following special
4 conditions: They must pay any monetary sanctions
5 imposed by this judgment; they must each provide 400
6 hours of community service related to prescription
7 drug abuse treatment or prevention as approved in
8 advance by the probation officer.

9 It is ordered that each defendant pay a fine in
10 the amount of \$5,000, and a special assessment of \$25
11 due immediately.

12 It is further ordered that each defendant pay
13 the amount set forth in his plea agreement to the
14 Virginia Medicaid Fraud Unit's Program Income Fund in
15 the manner set forth in such plea agreement.

16 The defendants have waived their right to
17 appeal. You may be seated. If there's nothing
18 further to be taken up in this case, we are
19 adjourned.

20 (Proceedings concluded at 4:40 p.m.)
21
22
23
24
25

1 CERTIFICATE

2
3 I certify the foregoing is an accurate transcript
4 from the record of proceedings in the above-entitled
5 matter.

6
7
8 7/25/07
9 Date

/s/ Bridget A. Dickert