

SDNY News Clips

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Civil
NYCHA

A Look at What NYCHA's New Chairperson Has Done with Minneapolis Public Housing

New York 1
By Courtney Gross
6/24/19

Gregory Russ has only served as the head of the Minneapolis Public Housing Authority for a little more than two years.

But come mid-August, he will be the new leader of New York City's sprawling public housing system — its lead paint, mold, and scandals included.

Gross: Have you ever been in a NYCHA [New York City Housing Authority] apartment?

Russ: I have walked the NYCHA sites, but I have not actually gone in the buildings. Usually I've been in town and I kind of walk by public housing just to check it out ... but I haven't been through the buildings yet.

So Russ has never seen all of its problems. Even without that firsthand experience, the incoming CEO believes the price tag to fix up NYCHA is well above the \$32 billion that officials here estimate.

Russ: The number to do it is probably north of \$40 billion.

Gross: So you think it's much higher.

Russ: I would say it's probably 45 right now.

NY1 went to Minneapolis to meet the new chair and CEO of our housing authority to get his take on what it will take to fix our struggling public housing system, a system that is now under the thumb of a federal monitor and a settlement agreement between federal prosecutors, the U.S. Department of Housing and Urban Development (HUD), and City Hall.

"I think it could be helpful ... because you can use it to drive changes to meet those goals," Russ said. "I have talked to the monitor several times now and we both agree this has to be a partnership."

Russ is less than two months away from taking the reins, and even so his selection has already sparked controversy: a \$402,628 salary and a promise to return home to Minneapolis for weekends to spend time with his family are chief among the complaints.

•The New NYCHA Chair is from Minneapolis — and He's Going to Spend a Lot of Time There

Gross: You are making more than the mayor, the governor, the president of the United States. There has been some criticism of how much money you are making.

Russ: I understand, but the bottom line for me is ok, I have to go there, I have the salary I have, but I have to have results for the residents or — that's the bottom line, and I think that in some ways it's a sign of how much dedication I had to this job ... because I really believe in what we are doing here.

Gross: How often will you be visiting here, [Minneapolis]?

"I haven't done any final scheduling. My family and I have some ideas about that. They are going to come see me. It's not going to be always out-of-town kind of thing," Russ said. "The job is going to take many more hours a day than a regular job. So for example, I would imagine 10-12 hour days. Plus, even with this job, I am working on the weekends."

"Those things are going to happen if I am sitting at a desk in New York or I am sitting here at the house working through something," he added.

In Minneapolis, the problems in public housing are certainly less pronounced.

We toured one vacant apartment with Russ. Willie Sanders, a resident we spoke to, said his issues have been relatively minor, even if he is waiting for a leak to be fixed in his ceiling.

"Other than that, it's just little knick knack stuff like I was saying," Sanders said.

Even though the Minneapolis public housing system is clearly much smaller than that of New York City, Russ has still managed to get some critics.

"He is a very charming man, so when you meet him," said Ladan Yusuf of Defend Glendale & Public Housing Coalition. "people always have a positive response, until you see what he does on paper."

Russ has built a reputation for using a federal program, known as RAD, which turns over properties to private nonprofit developers to infuse developments with funding to make repairs. It has stirred controversy in the Twin Cities and given fuel to Russ's critics.

"There has been a lot of opposition. I wish I could say I share their passion for protecting the units, but there is a lot of misinformation in those materials," Russ said.

"Get him out of New York City," Yusuf said. "We call him the czar of privatization and gentrification, and there is a reason for that, because his track record is that."

Still, we asked local officials, who were less quick to criticize Russ's tenure in the heartland.

"He's got a lot of ideas, he understands the system really well, and he's got a lot of energy to see how he can make a difference and change things," Minneapolis Councilman Cam Gordon said. "He's been adept at trying to figure out the ... federal programs and figure out what they are and how to leverage those to get money into public housing."

The issues Russ will face in New York are far more daunting. Our public housing system is about 28 times the size of the system in Minneapolis.

"I've worked in Chicago, which is usually in the top five or six agencies. Nothing is as big as NYCHA," Russ said. "But my thinking is that we have to have a picture of the whole portfolio. How will NYCHA present to the community ideas and plans for preserving 174,000 units?"

Part of that plan from the Bill de Blasio administration is considering more controversial approaches to fixing public housing, like tearing down buildings and building market-rate housing on vacant or underutilized NYCHA property.

It's something Russ wouldn't rule out.

Russ: In that model, you are never abandoning the property and you are never abandoning the residents; it's incremental.

Gross: But you think if they have fallen into such disrepair, you can tear them down?

Russ: Well, that kind of plan, I would not attempt unless we had resident buy-in to the whole phasing schedule.

First, Russ has to get here. He told us he plans to move to lower Manhattan. It's unclear how long of a lease he will sign.

Russ says he's begun to receive calls from public housing tenant leaders, and says he wants to meet regularly with tenants.

Bronx Tenants to New NYCHA Chair: Deliver

Norwood News

By Christy Rae Ammons and Sha-nia Alston

6/24/19

New York City Housing Authority (NYCHA) recently hired Gregory Russ as the new chairman with a salary of over \$400,000. Tenants in public housing and city officials are concerned.

Russ has managed housing before, but never anything the size of NYCHA. In Minneapolis, he managed 6,300 units, and in Cambridge, Massachusetts, he managed 2,700. NYCHA has 400,000 New Yorkers living in 170,000 apartments, which is a difference of 163,700 units from where Russ started.

“He managed a quarter of what NYCHA has,” said Linda Bailey, a tenant in Gun Hill Houses. “How are you going to manage this? What can you bring to us? What are you going to do for NYCHA besides pocket all the money?”

When asked what Russ could do to deserve a salary so large, Bailey said “Bring these developments up to par, quick, fast, and in a hurry”

Many residents find the salary excessive, considering building conditions are not up to par. Residents are also concerned about how Russ can efficiently manage NYCHA with the allowance of frequent trips to Minnoesta, where his family lives.

Bronx Tenants to New NYCHA Chair: Deliver

WORK IS UNDERWAY at the common areas of Gun Hill Houses. But no work is being performed inside the apartments.

Photo by Christy Rae Ammons

“To be the chair of NYCHA is to be the mayor of a large city in the United States, and that’s not something you can do half-heartedly. You have to be on the ground, on call, 24/7. It is one of the most demanding positions in the country,” Councilman Ritchie Torres told the Norwood News.

Torres would’ve wanted to look elsewhere for a NYCHA chair, pointing out that a successful would be “someone who has experienced managing real estate on a large level, who knows how to cultivate relationships with tenants, [and] elected leaders.”

The conditions of Gun Hill Houses are inadequate, according to tenants. There have been complaints of no hot water, no water, no cooking gas for over a month, problems with elevators, paint jobs needing done, an abundance of lingering cats, and more.

“There’s a lot of things that we need done here. When was the last time they really painted hallways? 1999. Our hallways and stuff need painted. Our elevators need to be updated. Every weekend there’s something wrong with the elevators,” said Erma Grey, a resident of Gun Hill Houses since 1972. “We have a lot of people with walkers, wheelchairs. How are they supposed to get out of their apartment? Are they supposed to be locked in their apartment the whole summer because there’s only one elevator?”

Not only are these problems present in the buildings, but general maintenance issues are also put off for extended periods of time.

“If you have a stoppage or something, they tell you they can’t come today, but you have to have an appointment for tomorrow. In the meantime, what do you do?” said resident Charlotte Trafton, who has lived in Gun Hill Houses since 1975.

Expectations are high for Russ. Not only residents, but even city officials are anxious to see if his work will match his salary.

“We’re paying Mr. Russ more money than previous chairs to do less work than previous chairs,” said Torres.

New NYCHA Chair's Vow: No One Will Lose Their Apartment

The City
By Greg Smith
6/25/19

The new \$400,000-a-year chair of the New York City Housing Authority arrives as a crusader for teaming with the private sector to rebuild public housing — and as a lightning rod for controversy.

Gregory Russ' signature strategy — an Obama-era reinvestment program known as Rental Assistance Demonstration (RAD) — has set off alarm bells among tenants in Minneapolis, where he now works, and in New York, where he starts in August.

At issue is the persistent yet unsubstantiated tenant fear that RAD is a cover story for a secret plan to privatize public housing — a contention Russ and other defenders of the program vigorously deny.

Tensions over RAD were heightened in Minneapolis by confusing messages to public housing residents asked to move to make way for renovations. Some say they're unsure if they'll be able to return.

Russ told THE CITY he'll continue his enthusiastic support of RAD in New York — and promised no NYCHA tenant will lose their apartment.

"Residents rightfully have questions and concerns about the future of their homes, but one thing is clear: RAD is not privatization with displacement," Russ told THE CITY.

He noted that NYCHA and federal Housing and Urban Development requirements for RAD forbid permanent displacement. "Every NYCHA resident with an apartment now will have an apartment after the conversion," he vowed.

Russ said that RAD "allows us to raise much-needed funds that will help us preserve New York City's public housing."

But his approach on RAD differs from the city's tact so far: He favors keeping management of apartments with the authority. NYCHA has, so far, turned over management to private vendors.

De Blasio Gets RAD-icalized

Mayor Bill de Blasio, who wasn't initially a RAD fan, came around last year to embrace the program as medicine to help cure NYCHA's ills, amid a Justice Department lawsuit over dismal living conditions and mismanagement.

In November, he promised to put 62,000 NYCHA apartments into the program by 2028, which would amount to the biggest RAD conversion in America.

While more than 100,000 apartments have undergone conversion nationally, so far NYCHA has converted only 1,395 units at the Ocean Bay Houses in Far Rockaway, Queens. The agency is moving toward converting 1,088 units at the Betances Houses in the Bronx as well as 1,718 more at 16 developments across Manhattan.

NYCHA turned over management of Ocean Bay to a private firm, Wavecrest, which renovated the units with taxpayer funding.

Under New York City's spin on RAD — locally rebranded “Permanent Affordability Commitment Together,” or PACT — NYCHA leases the property to Wavecrest, which collects rent and is responsible for repairs. Wavecrest can also move to evict tenants for lease violations.

Ocean Bay tenants have generally praised the RAD upgrade. But residents at other public housing developments, under the umbrella group “Fight for NYCHA,” have held protests with signs objecting to RAD expansion, stating, “Public Housing is NOT a for-profit business.”

Similar protests erupted in Minneapolis last year, after Russ moved to renovate, via RAD, a 174-unit senior housing complex called Elliot Twins. Tenants say the Minneapolis Public Housing Authority made contradictory promises about how RAD will play out for them.

Ladan Yusuf, a campaign organizer for the Defend Glendale & Public Housing Coalition, which is fighting the Elliot Twins conversion, said tenants were told no one would have to move out of the development during renovations, and that they'd be relocated within the project.

Tenants later learned the Housing Authority planned to relocate all tenants — and did not specify where residents would go.

“They changed their story,” said Yusuf, who lives at another MPHA site, Glendale Houses, where residents in 2015 stopped a previous attempt at RAD conversion.

HUD documents distributed to Elliot Twins tenants clearly state that all tenants are “guaranteed” an apartment there once renovations are complete.

Yet a “general interest notice” sent to tenants last year promised that the Housing Authority would find an apartment elsewhere for Elliot Twins tenants “if you are permanently displaced” during renovations.

Minneapolis Public Housing Authority spokesperson Jeff Horwich dismissed that phrasing, saying the HUD notice was “stock” language and stated flatly, “There is no potential for permanent displacement from the property.”

Russ told THE CITY non-Elliot tenants have misrepresented his handling of RAD and that fears of displacement are unfounded.

“While some outside the process have worked to sow confusion, MPHA's communication with residents about relocation has been consistent from the first discussions of RAD at the Elliot Twins,” he stated. “We have always been clear that residents cannot remain in their same apartment through a major renovation.”

Russ described tenant engagement going forward that would clearly spell out a “relocation rights agreement” so there's no confusion about relocation and ultimate return to their homes.

“Every resident will have a home throughout and a guaranteed right-to-return to the Elliot Twins after the work is done,” he said.

The Cambridge Model

Russ is taking heat in Minnesota, despite taking pains to ensure that in his version of RAD public housing remains under the housing authority’s management — a playbook he followed when he ran the equivalent agency in Cambridge, Mass.

And this is the approach Russ wants to bring to New York, he told THE CITY: keeping management of properties with the Housing Authority while attracting private investors to pay for renovations of older buildings with the help of federal tax credits.

“I would very much like to do that,” he said. “If we can do the deal, why not use the public approach?”

If Russ follows through it will mark a reversal for NYCHA, which on Friday revealed the private development consortium that will take over management of 16 Manhattan developments via RAD.

Under Russ’ approach, the Housing Authority would retain ownership of the land, but the investors gain 99% ownership of the buildings to qualify for the tax credits. After 15 years, the ownership returns to the Housing Authority.

Bracing for the Big Move

Danny Barber, president of the Council of Presidents, a NYCHA tenant leadership group, suggested that the communication problems in Minneapolis do not speak well of Russ’ leadership.

“The residents have lost hope in their leadership. Greg Russ is their leadership,” he said. “Is he really bringing a difference to New York City? We don’t know until we see what he’s doing. He hasn’t done [anything] on this magnitude before.”

To date, Russ has managed much smaller public housing authorities: Minneapolis has 6,200 apartments. In Cambridge, it was 2,700. NYCHA has 175,000 units, housing over 400,000 people — roughly the population of Minneapolis.

Russ is acutely aware of the jump he’s making.

“The first thing is, it’s exciting to have something of this scale but I do appreciate how this is going to have to be thought about because it’s massive,” he acknowledged.

And he brushed off criticism about weekend visits he plans to make back to the Midwest because his family will be staying there at least through the next school year.

“This is a full time job. I’m going to put the hours in. I’m going to be available,” Russ said. “We don’t have a schedule [for family visits] worked out. There will be times when my family comes to visit — because New York is a great place.”

Complex Frauds and Cybercrime

Pierce

Ex-chair of FCC broadband committee gets five years in prison for fraud

Ars Technica
By Jon Brodtkin
6/25/19

The former head of FCC Chairman Ajit Pai's Broadband Deployment Advisory Committee (BDAC) was sentenced to five years in prison for defrauding investors.

Elizabeth Ann Pierce was CEO of Quintillion, an Alaskan telecom company, when she lied to two investment firms in New York in order to raise \$270 million to build a fiber network. She also defrauded two individual investors out of \$365,000 and used a large chunk of that money for personal expenses.

Pierce, 55, pleaded guilty and last week was given the five-year prison sentence in US District Court for the Southern District of New York, US Attorney Geoffrey Berman announced. Pierce was also "ordered to forfeit \$896,698.00 and all of her interests in Quintillion and a property in Texas." She will also be subject to a restitution order to compensate her victims "at a later date."

Pierce's industry experience helped her land the top spot on Pai's broadband advisory committee in April 2017. But she left Quintillion in July 2017 as her scheme unraveled, and she resigned from the FCC advisory panel. Pai appointed a new chair for his committee two months later; he thanked Pierce for her service, saying she did "an excellent job" chairing the committee and "wish[ed] her all the best in her future endeavors."

Pierce used fake contracts to fool investors

Berman's announcement detailed Pierce's fraud:

Between May 2015 and July 2017, Pierce engaged in a scheme to induce two New York-based investment companies to provide more than \$270 million to construct the Quintillion System by providing them with eight forged broadband capacity sales contracts and related order forms under which Quintillion would obtain guaranteed revenue once the Quintillion System was built (the "Fake Revenue Agreements"). Under the Fake Revenue Agreements, four telecommunications services companies appeared to have made binding commitments to purchase specific wholesale quantities of capacity from Quintillion at specified prices. The cumulative value of the Fake Revenue Agreements was approximately \$1 billion over the life of the Fake Revenue Agreements. In reality, the Fake Revenue Agreements were completely worthless because Pierce had forged the counterparties' signatures.

Some of these revenue agreements "never existed at all," and "others were falsified versions of genuine revenue agreements." Pierce altered the contracts "to make them more favorable to Quintillion and, therefore, more appealing to investors than the genuine agreements," the US Attorney's office said.

"For example, under one of the Fake Revenue Agreements, the customer purportedly agreed to buy from Quintillion increasing quantities of gigabits per second of capacity over a period of 20 years," the US Attorney

said. "That agreement, if genuine, would have assured Quintillion hundreds of millions of dollars in future revenue. In reality, negotiations over that deal had ended unsuccessfully, a fact that Pierce never disclosed to the investors. Under another Fake Revenue Agreement, the customer purportedly agreed to buy a fixed, predetermined amount of capacity from Quintillion regardless of subsequent market conditions. In truth, that customer was not obligated to buy any capacity."

Pierce tried to cover up her fraud "by continuing to negotiate with the telecommunications companies in hopes of reaching agreements identical to the ones she forged" but failed to do so.

"Pierce hid these genuine, but inferior, contracts from the investment companies and her own staff," the US Attorney's office said. "When Quintillion and the investment companies ultimately discovered the fraud in mid-2017, they learned that the real contracts Pierce actually negotiated would generate only a fraction of the anticipated guaranteed revenue of the Fake Revenue Agreements she forged."

Pierce convinced the two individual investors that they would receive ownership interests in Quintillion in exchange for their \$365,000, when in reality they received no shares in the company. Pierce "used half of one victim's money and all of the other victim's investment for her own personal benefit," the US Attorney's office said.

Quintillion said it "took swift action and self-reported to the Department of Justice" when it learned of Pierce's fraud, the company said in April 2018.

FCC committee favors industry

The FCC committee that Pierce used to lead has repeatedly been criticized for favoring the interests of industry over the public at large. San Jose Mayor Sam Liccardo quit the group in January 2018 out of frustration that its recommendations favor the interests of private industry over municipalities

The committee has also pushed policy that would benefit telecom companies at the expense of other tech companies. In December 2018, the committee urged states to impose new taxes on Netflix, Google, Facebook, and many other businesses that require Internet access to operate. The resulting funding would have been transferred to ISPs via grants that subsidize private broadband providers' network construction. (Pai didn't back the tax proposal.)

The BDAC is continuing its work, with the FCC saying it will "craft recommendations for the Commission on ways to accelerate the deployment of high-speed Internet access... by reducing and/or removing regulatory barriers to infrastructure investment and strengthening existing broadband networks in communities across the country."

In April this year, Pai gave a consumer advisory committee spot to a representative of the American Legislative Exchange Council (ALEC), which lobbies against municipal broadband, net neutrality, and other consumer protection measures. (Correction: This story originally stated incorrectly that an ALEC representative is a member of the FCC's Broadband Deployment Advisory Committee. The consumer advisory committee is separate from the BDAC.)

Kromah

Arrest of Key Ivory and Rhino Horn Trafficker Signals a Game Change

Sierra Magazine
By Rachel Nuwer
6/25/19

On June 12, Moazu Kromah, a Liberian citizen codenamed “Kampala Man,” was arrested in Uganda. The very next day, Kromah found himself standing in a federal courthouse in New York City as a judge read the charges against him—among them, conspiracy to sell rhino horns and elephant ivory valued at \$7.4 million.

While a handful of high-level animal parts traffickers have been arrested before, experts believe this case represents a paradigm shift in how governments can combat illegal wildlife trade: by aggressively infiltrating and dismantling criminal syndicates, and by building strong cases to ensure the syndicate’s members are brought to justice.

“We’re not reacting to a seizure or a tip on an incident, we’re identifying criminal networks and proactively going after them,” says David Hubbard, the US Fish and Wildlife Service (FWS) special agent in charge of the international operations unit. “I think this is truly a game changer for the wildlife trafficking world.”

Kromah, along with his partner, Amara Cherif, a Guinea citizen also named on the indictment, allegedly headed one of the largest wildlife crime syndicates in Africa. Cherif was arrested in Senegal a few days before Kromah and his extradition to the US is now pending. Mansur Mohamed Surur and Abdi Hussein Ahmed, two Kenyans currently at large, appear on the indictment as well.

Kromah, Cherif, and Surur face additional charges of money laundering, while Surur and Ahmed are also charged with possession with intent to distribute over 20 pounds of heroin. According to Chris Thouless, director of the Elephant Crisis Fund at Save the Elephants, a non-profit conservation group in Kenya, these additional charges exemplify the fact that illegal wildlife trade frequently goes hand in hand with other forms of crime—and that inclusion of those crimes can significantly strengthen sentences. In this case, the wildlife charges carry a maximum sentence of five years in prison, but the drug possession one carries a mandatory minimum of 10 years and a maximum of life.

For Africa’s rhinos and elephants, the alleged criminals’ business was “as destructive as it was lucrative,” said US Attorney Geoffrey Berman. According to the indictment, since 2012, the defendants conspired to traffic and sell at least 200 pounds of rhino horn and 10 tons of elephant ivory, representing some 35 poached rhinos and more than 1,000 elephants. Based out of Uganda, their transnational criminal activities spanned at least seven countries in East and West Africa, with customers as far-flung as the United States and Southeast Asia.

To build the case, in 2018 a confidential source infiltrated the alleged criminals’ network by posing as a buyer representing customers in Manhattan’s Chinatown. After negotiating by text, phone, and in person meetings, the source paid for multiple rhino horns using a US bank account. Law enforcement agents intercepted two New York-bound packages containing the horns, which the shippers had concealed inside African masks and art works.

The FWS-led investigation was made possible through the collaboration of various agencies, including the Drug Enforcement Administration, as well as African governments and law enforcement units. A number of non-

profit conservation organizations—which have asked not to be named while the trial is ongoing—also provided intelligence and support.

“This case was an example of our ability to partner with a select, trusted group of NGOs that understand US law enforcement, the way we work, and what we need to bring someone to justice,” Hubbard says. “That’s critical.”

This level of cooperation stands in contrast to past wildlife trafficking cases, which were typically pursued by single, isolated groups. “The way things were being done in the past for conservation was not working,” says a source close to the investigation. “We need to fund projects that build collaboration and cooperation and are geared toward prosecutions.”

Kromah and his colleagues will be prosecuted by the Southern District of New York—one of the most powerful US Attorney’s Offices in the country, according to Hubbard. If found guilty, the defendants face the possibility of decades or even life in prison. To get a lesser sentence, they may be given an opportunity to take a plea bargain in exchange for information that will help unravel the entire criminal enterprise—another perk of trying them in the US, Thouless says. “If they were in an African court, they wouldn’t get a very long sentence, so it’s much less likely they’d divulge a lot of information about their network.”

That the defendants will be prosecuted on US soil is also significant because it eliminates their ability to use corruption or intimidation to evade justice. Kromah, for example, faced charges in 2017 in Uganda related to a seizure of 1.3 tons of ivory, but he is still awaiting prosecution. “He had corrupted the system and delayed things,” the confidential source says.

“It’s a common problem with trying to indict high level criminals in Africa,” Thouless adds. “In Kenya, for example, low level wildlife crimes get prosecuted and get convictions, but for high level crimes, every case has failed.”

Hubbard cannot comment directly on the Kromah case and the likelihood of reaching a conviction, but he does say that the US government has undergone a “mindset shift,” now regarding the illegal wildlife trade as a significant threat and becoming serious about tackling it. The FWS currently has seven attachés stationed at key wildlife trafficking hubs around the world, for example, but by the end of this year, that count will increase to 12.

The Kromah case, says Hubbard, “is signaling the beginning, not the end.”

White Plains

Parmar

Uber Driver Sentenced After Kidnapping Sleeping NYC Passenger

NBC New York

6/25/19

An Uber driver was sentenced after kidnapping a sleeping New York City passenger and trying to take them to Boston to get more fare money.

Harbir Parmar was sentenced to three years in prison for kidnapping and wire fraud after the February 21, 2018 incident.

Parmar picked up the female passenger in the city and was supposed to bring her to White Plains. When the victim fell asleep in the back as he drove, Parmar changed the destination to Boston, Massachusetts, and began driving in that direction, according to the U.S. Attorney's Office for the Southern District of New York.

The woman woke up as Parmar was driving in Connecticut. She immediately demanded to be driven to White Plains or be dropped off at a nearby police station, but Parmar refused, according to the prosecutor. Instead, she was dropped off on the side of I-95 in Branford, Connecticut, a suburb just east of New Haven. The victim then got help at a convenience store.

The 25-year-old Parmar also overcharged riders for transportation on a number of occasions from December 2016 through February 2018. He would send false information regarding the customer's destination to Uber, and also reported false information about cleaning fees to customers, according to the indictment, racking up thousands in improper charges he pocketed.

"Many people rely on rideshare apps to navigate New York safely. But when a woman hailed a ridesharing car driven by Harbir Parmar, her ride home took a turn for the worst," U.S. Attorney for the Southern District of New York Geoffrey Berman said. "With Parmar's lengthy prison term, he will no longer be able to take advantage of ridesharing customers."

In addition to the prison time, Parmar was ordered to pay more than \$3,600 in restitution.

Uber driver who kidnapped, groped passenger sentenced to 3 years in prison

NY Daily News

By Stephen Rex Brown

6/24/19

An Uber driver was sentenced Monday to three years in prison on kidnapping and other charges for groping a customer and taking her on a nightmare ride.

Harbir Parmar, of Howard Beach, Queens, was supposed to drive his victim to White Plains.

Instead, he changed his victim's destination on the Uber app to Boston as the woman dozed in the back seat of his car on Feb. 21, 2018.

The woman awoke to find Parmar, 25, putting his hand up her shirt as the car was parked on a quiet residential street.

She tried to call for help, but Parmar snatched her phone. He eventually dropped her off on the side of Route 95 in Branford, Conn., just east of New Haven, at 2 a.m. after a two-and-a-half hour ride.

The woman's ride home to White Plains from Midtown should have taken around an hour, or less.

Prosecutors described the victim as "a young Japanese woman with limited English proficiency, who was intoxicated and travelling alone at night." They said Parmar tried to cover up his deed by claiming his victim had vomited in the car, drunkenly changed her destination and then tried to renege.

That he entered the woman's destination on the Uber system as Boston was not unusual, said prosecutors.

As part of his guilty pleas to kidnapping and wire fraud, Parmar admitted to overcharging customers by continuing to run the meter after dropping them off. He also falsely claimed customers had vomited to extract a cleaning fee from them and Uber.

Attorney Arthur Aidala wrote in court papers that Parmar was remorseful and "devastated by the shame" he has brought his family. At the time of the kidnapping, Parmar was overwhelmed with stress due to \$50,000 in debt from the purchase and renovation of a house, Aidala wrote, adding that was not meant as an excuse.

"Many people rely on rideshare apps to navigate New York safely. But when a woman hailed an Uber driven by Harbir Parmar, her ride home took a turn for the worst. With Parmar's lengthy prison term, he will no longer be able to take advantage of his ridesharing customers," Manhattan U.S. Attorney Geoffrey Berman said.

Ridesharing Driver Who Kidnapped Woman Customer Gets Prison

Patch

By Michael Woyton

6/24/19

The ride-sharing driver who pleaded guilty to kidnapping and wire fraud will be going to prison. Geoffrey S. Berman, the U.S. attorney for the Southern District of New York, said Monday that Harbir Parmar, 25, of Howard Beach, was sentenced to three years in prison.

He pleaded guilty March 11.

Parmar was also sentenced to three years of supervised release and ordered to pay \$3,642 in restitution and forfeiture.

"Many people rely on ride-share apps to navigate New York safely," Berman said. "But when a woman hailed a ride-sharing car driven by Harbir Parmar, her ride home took a turn for the worst. With Parmar's lengthy prison term, he will no longer be able to take advantage of ridesharing customers."

Authorities said Parmar was working as a driver for a ride-sharing company and, on Feb. 21, 2018, picked up a woman customer in Manhattan who wanted to be driven to White Plains.

After the woman fell asleep in the backseat of the car, Parmar changed the woman's destination in the company's mobile app to an address in Boston, Massachusetts, and proceeded to drive to that location.

When the woman woke up, the car was in Connecticut, and she asked to be taken to White Plains or to the police station, but Parmar refused, police said.

Instead, he dropped her off on the side of I-95 in Branford, Connecticut. She then went to a nearby convenience store where she sought help.

Authorities said that, from December 2016 through February 2018, Parmar also sent false information about the destinations of the company's customers through its mobile app. He also sent false information about the application of a cleaning fee to be applied to the customers' accounts, resulting in thousands of dollars worth of improper charges to the customers.

The customers filed complaints about being overcharged for their rides.

Uber Driver Sentenced To Prison For Kidnapping Female Passenger

CBS New York

6/24/19

An Uber driver has been sentenced to prison for kidnapping a female passenger.

Twenty-five-year-old Harbir Parmar, of Howard Beach, was sentenced Monday to three years in prison, followed by three years of supervised release.

On Feb. 21, 2018, Parmar, who was working as an Uber driver, picked up a female passenger who wanted to be driven from New York City to White Plains, New York.

While Parmar was driving, the passenger fell asleep in the backseat. Parmar then changed her destination to an address in Boston, Massachusetts. When the woman woke up, they were in Connecticut.

She asked to be taken to White Plains or the nearest police station, but Parmar instead left her on the side of an interstate in Branford, Connecticut. The victim went to a nearby convenience store for help.

“Many people rely on rideshare apps to navigate New York safely. But when a woman hailed a ridesharing car driven by Harbir Parmar, her ride home took a turn for the worst. With Parmar’s lengthy prison term, he will no longer be able to take advantage of ridesharing customers,” U.S. Attorney Geoffrey S. Berman said in a release.

Parmar also pleaded guilty to wire fraud charges. Authorities say for more than a year, Parmar would send Uber false information about his customers’ destinations and false cleaning fees. As part of his sentence, he has been ordered to pay \$3,642 in restitution and forfeiture.

Uber Driver Sentenced For Assaulting, Kidnapping White Plains Woman

White Plains Daily Voice

By Zak Failla

6/25/19

A 25-year-old Uber driver has been sentenced after admitting to picking up a Westchester woman, kidnapping her and sexually assaulting her in his car before dropping her on the side of I-95 in Connecticut.

Harbir Parmar, of Howard Beach in Queens, has been sentenced to three years in prison, followed by three years of supervised release after pleading guilty in White Plains federal court to kidnapping and wire fraud following his arrest on Oct. 16 last year.

In addition to his prison term, Parmar has been ordered to pay \$3,642 in restitution, U.S. Attorney Geoffrey Berman announced. Parmar pleaded guilty to the charges on March 11.

On Feb. 21, 2018, a woman ordered a vehicle through Parmar's ride-sharing company to pick her up in Manhattan and take her to her home in White Plains. She was picked up by Parmar at approximately 11:30 p.m. and promptly fell asleep.

While she was asleep in the backseat, Parmar admitted to changing the destination in his computer's GPS to Boston, and proceeded to drive toward Massachusetts. When the woman woke up, Parmar was in the back seat with her, with his hand under her shirt, touching the top her breast.

When she woke up, Parmar proceeded back to the driver's seat and continued driving. The woman asked to be taken to White Plains or to a nearby police station, but Parmar refused, dropping her off on the side of I-95 in Branford, Conn. The woman then went to a nearby convenience store for assistance and law enforcement was called.

In addition to the assault and kidnapping, from December 2016 through February last year, Parmar sent false information about the destination of his company's customers through the company's mobile app nearly a dozen times.

He also sent false information about the application of a cleaning fee to be applied to the accounts of the company's customers on at least three occasions.

Berman said that in those instances, customers of the ride-sharing company filed complaints about being overcharged, resulting in more than \$3,600 in improper charges to customers.

"Many people rely on rideshare apps to navigate New York safely," Berman said. "But when a woman hailed a ridesharing car driven by Harbir Parmar, her ride home took a turn for the worst. With Parmar's lengthy prison term, he will no longer be able to take advantage of ridesharing customers."

"The victim, in this case, utilized a ride-sharing service trusting that her driver would provide a safe ride home," FBI Assistant Director-in-Charge William Sweeney Jr., said. "Instead, Harbir Parmar made an outrageous

choice, deciding to unlawfully take advantage of his passenger at a moment of vulnerability for his own selfish motives. This kind of behavior should never be tolerated.”

Henning

Steven Henning: Accountant with Westchester offices admits running \$2M scam

LoHud

By Matt Spillane

6/25/19

Here are five things you need to know about crime in Westchester County. Video by Jordan Fenster/lohud Wochit

Henning had offices in Purchase and Tarrytown.

An accountant who had offices in Westchester County has admitted defrauding two investors out of \$2 million, officials said.

Steven Henning deceived the pair through a company he established called OpportunIP, which had offices in Purchase and Tarrytown at different times between 2008 and 2016, the U.S. Attorney's Office said.

Henning, 58, pleaded guilty on Monday in White Plains federal court to participating in two wire fraud schemes, officials said. The resident of Stamford, Connecticut, will be sentenced on Oct. 18.

Henning and his lawyer, Michael Burke, could not immediately be reached for comment.

Henning was a certified public accountant at a Manhattan accounting firm when he started OpportunIP in 2008, officials said. Henning had also worked as a professor at a university in Texas, and in 2012 he told one of his former students about OpportunIP, which he billed as a firm that specialized in helping people take intellectual property to market, officials said.

By providing phony documents about OpportunIP's supposed involvement in multi-million-dollar deals that would lead to future profits, Henning convinced his former student and that student's relative to invest \$2 million in his firm, officials said.

The two relatives eventually learned that those deals did not exist, and that they had been duped, officials said.

Ex-Marks Paneth Exec Pleads Guilty In Sham IP Co. Fraud

Law 360

By Hannah Albarazi

6/25/19

A former Marks Paneth executive accused of setting up a sham intellectual property company and using fabricated documents to defraud investors out of \$2 million pled guilty Monday to two counts of wire fraud, according to New York federal prosecutors.

Steven L. Henning, a certified public accountant who briefly worked as an academic fellow at the U.S. Securities and Exchange Commission, is accused of providing false information to victims to induce them to invest in OpportunIP LLC, a company he created and which purportedly specialized in assisting other entities in taking intellectual property to market, the U.S. Attorney's Office for the Southern District of New York said.

Henning convinced his victims to invest in OpportunIP by providing them with false documents to back up his claims that the company had lined up intellectual property deals that would reap millions of dollars in future profits, according to prosecutors.

"He will now have to answer for his actions," U.S. Attorney Geoffrey S. Berman said in a statement Monday.

Henning is a former partner-in-charge of advisory services with Marks Paneth in Manhattan, according to a cached version of the firm's website. His biography on that website says he was also a member of the firm's executive committee and that he has more than 30 years of experience in public accounting, securities litigation and consulting.

He also served as an academic fellow in the Office of the Chief Accountant at the SEC, federal authorities said. Henning also served as a member of the American Institute of Certified Public Accountants' SEC Regulations Committee.

During stints as an accounting professor at the University of Colorado and at Southern Methodist University, Henning authored numerous academic journal articles on accounting.

In June 2008, while working at the accounting firm, authorities say Henning formed and became chief executive officer of what would later become OpportunIP LLC.

His first victim was a former university student of his, who came on board with the company in 2012, according to officials. The scheme to defraud him, another victim and relatives of them both continued from then forward, officials said.

That scheme continued until at least mid-2017, according to prosecutors.

Some members of the accounting firm also owned an interest in OpportunIP, according to federal officials.

Records show Marks Paneth filed a civil summons in the Supreme Court of the State of New York on Nov. 27, 2018, against Henning and OpportunIP LLC, seeking to collect \$6.8 million from Henning and \$600,000 from OpportunIP.

Additionally, Henning is accused of defrauding a Chicago employer after leaving Marks Paneth in New York.

Prosecutors say Henning induced a Chicago firm to hire him, provide him with an advance of \$240,000 based on false claims that he had entered into client engagements and provided the firm with fraudulent contracts, prosecutors say. That scheme lasted from about mid-2017 until about September 2018.

Following an investigation by the U.S. Postal Inspection Service and the SEC Office of Inspector General, federal authorities arrested Henning in Florida in October 2018.

Henning has admitted to the allegations and has agreed to forfeit nearly \$1 million in restitution, according to a plea agreement he signed Monday.

Henning's sentencing is scheduled for Oct. 18.

The parties did not immediately respond to requests for comment Tuesday.

The government is represented by Assistant U.S. Attorney Margery B. Feinzig of the Southern District of New York.

Henning is represented by Michael Kennedy Burke of Hodges Walsh & Burke LLP.

The case is U.S. v. Henning, case number 7:18-mj-08398, in the U.S. District Court for the Southern District of New York.

Securities and Commodities Fraud

Ceglia

US News
By Reuters
6/24/19

U.S. Says Accused Facebook Fraudster Ceglia a Fugitive After Ecuador Freed Him

U.S. prosecutors on Monday said the New York man charged with trying to defraud Facebook Inc founder Mark Zuckerberg out of half of that company is again a fugitive, after Ecuador's president turned down a U.S. extradition request.

Paul Ceglia, 45, a wood pellet salesman from Wellsville in upstate New York, was released from Ecuador's custody earlier this month, 9-1/2 months after his August 2018 arrest.

He had previously been missing since March 2015, when he removed his electronic ankle bracelet and disappeared from the United States with his wife, two sons and a dog.

"The government continues to consider Ceglia a fugitive and to seek his return to the United States to face charges," Assistant U.S. Attorney Janis Echenberg wrote to U.S. District Judge Vernon Broderick in Manhattan.

The criminal case accusing Ceglia of mail fraud and wire fraud arose from his 2010 civil lawsuit against Zuckerberg.

Ceglia claimed that Zuckerberg had, while a student at Harvard University, signed a 2003 contract giving him half of a planned social networking website that later became Facebook.

U.S. District Judge Richard Arcara in Buffalo dismissed that case after another judge said the contract was doctored. Ceglia was criminally charged in November 2012.

In a June 4 order denying Ceglia's extradition, Ecuadorean President Lenin Moreno cited "humanitarian concerns" and the principle of reciprocity, saying several Ecuadorean citizens had not been extradited to face criminal charges at home.

He also said Ceglia had fathered a third son in Ecuador.

Echenberg attached a translated copy of Moreno's order to her letter.

Robert Ross Fogg, a lawyer for Ceglia, said prosecutors can keep the criminal case open, but there is little they can do.

"He's not coming back to the United States. I don't foresee that at all," Fogg said, referring to Ceglia. "I think he's going to live his life in Ecuador, and seek asylum."

Ceglia thanked Moreno at an unscheduled news conference following his release, according to the Buffalo News.

"Thank you president," Ceglia said in Spanish. "Thank you all. This is an incredible place."

The case is U.S. v. Ceglia, U.S. District Court, Southern District of New York, No. 12-cr-00876.

Facebook fugitive Paul Ceglia freed by Ecuador's president

C Net

By Steven Musil

6/24/19

Paul Ceglia, who spent three years as a fugitive after being charged with trying to defraud Facebook co-founder Mark Zuckerberg, is once again a fugitive, US prosecutors say. The US Justice Department made that announcement Monday after learning Ecuador's president had denied a US extradition request.

"The government continues to consider Ceglia a fugitive and to seek his return to the United States to face charges," Assistant US Attorney Janis Echenberg wrote to US District Judge Vernon Broderick in Manhattan.

Ceglia, a wood pellet salesman from upstate New York, was released from custody in Ecuador earlier this month, the Justice Department said, about nine months after his August 2018 arrest by Ecuadorian authorities. At the time of his March 2015 disappearance, Ceglia was awaiting trial in New York federal court on charges of mail fraud and wire fraud related to his alleged attempt to extort billions of dollars from Facebook and Zuckerberg. He reportedly removed his electronic ankle bracelet and disappeared with his wife, two children and a dog.

Ceglia, 45, filed a lawsuit against Zuckerberg in 2010, claiming that he and Zuckerberg, then a student at Harvard University, signed a contract in April 2003 that promised Ceglia a 50 percent stake in the fledgling web venture that was to become Facebook.

Ceglia included a two-page contract and emails between him and Zuckerberg as evidence of the agreement. After a forensic examination of the evidence, authorities said Ceglia simply falsified the first page of the contract and attached it to a second page containing both parties' signatures.

Ceglia's lawsuit against Zuckerberg was dismissed in 2014 after a judge said he found clear evidence that the 2003 contract submitted in the claim was a "recently created fabrication."

During his time in Ecuador, Ceglia fathered a third son, who is 14 months old and is subject to court-ordered child support, Ecuadorian President Lenin Moreno wrote in a letter on June 5.

"As a protective measure against him, such order prohibits him from traveling out of the country," Moreno wrote in his letter denying the extradition request. "These are humanitarian issues, since the state is required to honor and enforce the rights of girls, boys and adolescents, according to the principle of their best interest."

Facebook and Robert Ross Fogg, a US lawyer for Ceglia in the criminal case, didn't immediately respond to requests for comment.

Public Corruption

Calk

Chicago banker's pursuit of Trump administration job detailed in new court filing

The Chicago Sun Times

By Lynn Sweet and Jon Seidel

6/24/19

A newly unsealed court document paints a fuller picture of the relentless, at times desperate pursuit by Chicago banker Stephen Calk of a top Trump administration job, including pressuring his bank to make \$16 million in risky loans to Paul Manafort, President Donald Trump's former campaign manager.

According to the affidavit, Calk also enlisted Steve Bannon, who at the time was a key Trump strategist, and Anthony Scaramucci, a member of Trump's transition team, to help as he worked his way into Trump's transition inner circle.

With the loans pending, Calk, who saw himself as a future Trump cabinet member, ambassador or, as a fallback, at least getting a lesser position, was anxious about how his bid to become Army secretary was doing, according to a Dec. 5, 2016, e-mail to Manafort, who had left the Trump campaign but still had influence.

Calk wrote: "President Elect Trump will be in Michigan on Friday. Should we arrange a meeting while he is near by? Do you think we are making any progress re: SECARMY?"

Manafort replied: "He is not doing meetings on the road on these types of matters. I will be calling you later today with updates."

Calk, who lives in Northfield, is the founder of The Federal Savings Bank of Chicago, 300 N. Elizabeth St., and until May was its chief executive officer.

Calk was indicted in May for what federal prosecutors in New York said was a bribery scheme: leveraging the risky Manafort loans to try to get a Trump administration position. Calk is charged with financial institution bribery.

The New York charges are an outgrowth of the Calk pay-to-play scheme that came to light last year in former special prosecutor Robert Mueller's Russia probe case against Manafort.

During the Manafort trial, held in federal court in Alexandria, Virginia, and in related documents, details surfaced about Calk's audacious bid for a cabinet post or ambassadorship while the financially troubled Manafort was seeking loans.

What's new are additional details of Calk's hunger for a Trump position — and how he worked his way up through the appointment process, even though a job never materialized.

This additional information emerged when an affidavit from an FBI agent filed on June 26, 2017, before a federal magistrate judge in Chicago was unsealed Friday. It appears to be the first document filed in Chicago's federal court to go public that touches on the investigation into the Trump 2016 campaign.

Manafort is serving a seven-and-a-half year federal sentence and facing more charges filed by state prosecutors in New York.

Calk, who has pleaded not guilty in New York, had reason to believe Manafort had the clout to get him a job. In August 2016, as the loan discussions began, Manafort arranged for Calk to be a member of the Trump Economic Advisory Council, got him into debates and the “spin room” and inauguration invitations.

With Calk pushing despite red flags, Manafort got a \$9.5 million loan on Nov. 16, 2016, just after Trump was elected on Nov. 8, and another loan, for \$6.5 million, on Jan. 4, ahead of Trump’s Jan. 20 inauguration.

Other details gleaned from the affidavit to support a search warrant of Calk’s iPhone:

- As the loans were being processed, an employee of The Federal Savings Bank of Chicago, Anna Ivakhnik, was suspicious. She lost her job. According to a footnote in the affidavit, “The official reason for her termination was failure to follow TFSB’s procedures but that she believed that she was fired for refusing sexual advances from Calk.” She filed a complaint with the New York City Committee on Human Rights.
- According to the affidavit, during the transition, on Dec. 27, 2016, “Calk sent an email to ‘Jim,’ which was answered by an assistant to Gen. James Mattis, who at that time had been announced by then-President-elect Trump as prospective nominee for Secretary of Defense. Calk wrote: ‘I believe that Steve Bannon will be speaking to you again about me today.’”
- The affidavit states that Calk actually was scheduled for an interview at Trump Tower on Jan. 10, 2017 with, among others, former Rep. John Sweeney, R-N.Y., a transition team member.
- On Jan. 12, 2017, after the Trump Tower interview, Calk wrote to Mattis’ assistant to follow up on his request for a meeting with Mattis. “I know that Anthony Scaramucci and others will be reaching out on my behalf as well.”
- Ivakhnik told FBI agents that in August 2016, bank vice president John Brennan told her “to put any communications related to the Manafort loan into emails because this matter would be ‘investigated by the FBI.’”

Scaramucci did not return a call or email asking for comment.

Epstein

Jeffrey Epstein plea deal must stand, prosecutors tell sex abuse victims

Miami Herald

By Julie K. Brown

6/25/19

Suspected sex trafficker Jeffrey Epstein was handed another break by the Department of Justice on Monday when federal prosecutors rejected his victims' efforts to throw out his plea deal and prosecute him for abusing dozens of underage girls.

In the 35-page motion, filed in federal court in the Northern District of Georgia, federal prosecutors said that there is no legal basis to invalidate Epstein's non-prosecution agreement — and they warned the federal judge in the case against doing the same.

U.S. Attorney Byung "B.J." Pak said that because Congress did not outline specific penalties in the Crime Victims' Rights Act when it was created by Congress, Epstein's victims have no right to demand anything from the government — not even an apology. A federal judge ruled earlier this year that the plea deal violated that legislation.

In the filing, federal prosecutors did concede that the U.S. Attorney's Office in South Florida failed to treat Epstein's victims — most of whom were 13 to 16 years old — fairly, but they said that the law gives prosecutors discretion in deciding how to dispose of a case. Victims have a right to confer with prosecutors, but no rights beyond that, Pak said.

The federal judge in the case, Kenneth Marra, will have to decide what happens now.

Epstein, a politically connected financier, escaped federal sex-trafficking charges after his high-powered lawyers, led by Kenneth Starr and Alan Dershowitz, pressured prosecutors in Miami to work out a secret plea deal in 2007.

The controversial agreement, engineered by then-Miami U.S. Attorney Alexander Acosta, allowed Epstein to plead guilty to lesser charges in state court, resulting in a 13-month jail sentence on a single prostitution charge involving a girl who was 17. At the time, investigators had identified nearly three dozen victims.

The women, now in their late 20s and early 30s, were underprivileged middle and high school girls recruited in and around Palm Beach County from about 1998 to 2006.

The Miami Herald, in a three-part series published in November called "Perversion of Justice," detailed through emails, letters and other court documents how federal prosecutors worked hand-in-hand with Epstein and his lawyers to keep his victims in the dark and seal records so that no one would know the extent of Epstein's crimes or who was involved.

Acosta agreed to not prosecute Epstein federally, which means Epstein is not subject to double jeopardy. Instead, his plea agreement included unusual language that granted federal immunity — not only to Epstein, but to others who were never identified or named, leading many to suspect that the deal covered up a larger sex trafficking operation, possibly crossing international borders.

Two of Epstein's victims sued the government in the Southern District of Florida in 2008. During the course of that case, which dragged on for a decade, evidence was uncovered that showed Epstein and others working for him had been recruiting underage girls in the United States and abroad.

Since then, at least two other women have come forward alleging in court documents that Epstein and one of his partners, British socialite Ghislaine Maxwell, had been recruiting women and underage girls to force them to have sex. Maxwell has never been charged and has denied the allegations.

The Herald has been seeking to unseal documents in a New York case involving her that could provide new information about Epstein's operation. Maxwell's lawyers have been fighting the Herald's effort, which is supported by the Reporters Committee for Freedom of the Press and 32 other media companies, including The New York Times, Washington Post, Dow Jones, Fox News, Gannett, Politico, Reveal Center for Investigative Reporting and Tribune Publishing Co.

In February, Judge Marra ruled that Acosta and other federal prosecutors not only broke the law by failing to tell the victims that a deal had been reached, but that they deliberately misled victims into believing the FBI was still actively investigating the case.

In ruling that the plea deal was illegal, Marra directed lawyers for the victims and the government to file legal briefs outlining ways to resolve the case. Two of Epstein's victims, Jane Doe No. 1 and Jane Doe No. 2, said they want the deal invalidated and Epstein prosecuted.

Sources have told the Herald that at least 16 other women also want him prosecuted.

Pak did, however, say that victims would be given an opportunity to confer in private with prosecutors, or if they wish, be heard at a public hearing. He also agreed to give federal prosecutors additional training on dealing with crime victims.

Marci Hamilton, a law professor at the University of Pennsylvania and CEO of CHILD USA, said giving the victims a chance to speak at a hearing is a good first step.

But prosecutors' failures went beyond the Crime Victims' Rights Act, she said.

"I continue to believe that the government violated the due process rights of the victims in its failure to inform them of the deal in a timely manner," Hamilton said. "That is a constitutional violation and the remedy is not limited to the Crime Victims' Rights Act's provisions."

Jack Scarola, one of the victims' attorneys, said the government's remedies ignore an important element in the case that Congress could never have predicted when it created the Crime Victims' Rights Act in 2004.

"Congress didn't provide for remedies for circumstances like this because it was inconceivable to Congress that there would be a conspiracy between our government and a serial child molester — who could have conceived of that?" Scarola said.

Sen. Ben Sasse questioned attorney general nominee William Barr about the Jeffrey Epstein case on January 15, 2019, getting the nominee to commit to having the Department of Justice look into the handling of that case if confirmed. By C-SPAN

Pak, who was appointed by President Donald Trump, went so far as to warn the judge in the case that the court had no authority to overrule the original decision by Acosta not to prosecute Epstein.

“Courts are not to interfere with the free exercise of the discretionary powers of the [United States attorneys] in their control over criminal prosecutions,” said Pak, citing case law. “The decision whether to prosecute Epstein lies solely within the executive branch, and any order today, by this court, as to what the government must do in the future would be wholly inappropriate.”

Scarola, a former prosecutor, conceded that prosecutors do have discretion to handle a case as they see fit, but that discretion is not unlimited; victims have the right to appeal to the judge at sentencing, something Epstein’s victims were denied.

“Courts reject plea deals when they find them to be unjustifiable and unreasonable — especially if they are not told the full scope of the agreement,” Scarola said.

Joseph A. DeMaria, a former federal prosecutor, said there is no perfect justice in this case. But Pak’s remedy makes the best sense given there is no mechanism to undo the plea agreement.

“The government’s agreement to meet with the victims, provide them a public forum to present their grievances and to require additional training to the U.S. Attorney’s Office that committed this violation, is the right remedy,” said DeMaria. “Pak has properly proposed to give the victims what they should have been given in 2007 — a real voice in the process.”

Pak took over the case in March after prosecutors in South Florida where the case originated recused themselves. Joining him in signing the brief were assistant U.S. attorneys Jill E. Steinberg and Nathan P. Kitchens.

After the Herald series, Congress demanded that the Justice Department investigate the case, examining whether Acosta — who is now President Trump’s secretary of labor — committed any prosecutorial misconduct in negotiating the deal.

The Justice Department assigned its Office of Professional Responsibility to handle the review. But OPR has no oversight over former attorneys in the Justice Department, including Acosta, so it’s unclear what will become of the probe.

Acosta has repeatedly refused to comment to the Herald about the case. In the past, he has told Congress that the deal was necessary to ensure that Epstein received some jail time and registered as a sex offender.

But Epstein’s lenient treatment continued even after he was sentenced, as he received extraordinary privileges rarely, if ever, afforded to a child sex offender in Florida. He was allowed to leave the Palm Beach County jail for nearly half of every day on “work release.”

Epstein’s lawyers are expected to file a response in the CVRA case by July 8.

Matters of Interest

'Polite F-U Letters': DOJ Says Emails Show 'Brazen' Illegal Coordination Among Drug Makers

Law and Crime
By Jerry Lambe
6/24/19

A bloc of Attorneys General from 44 states on Monday released the full, unredacted version of the federal lawsuit originally filed in May against pharmaceutical giant Teva Pharmaceutical Industries—the largest producer of generic drugs in the world—and 19 others, alleging that the drug makers engaged in “a broad conspiracy to artificially inflate and manipulate prices” for more than 100 different generic drugs.

The newly unredacted complaint reveals more internal communications; Law&Crime previously reported on other such communications. The DOJ said these emails show drug manufacturers engaging in pre-meditated coordination of responses to congressional inquiries, emails “enforcing ‘fair share’ and ‘playing nice in the sandbox’ market allocations, ‘fluff pricing’ strategies and other brazen attempts to coordinate and artificially inflate prices, hinder competition and unreasonably restrain trade across the industry.”

Below are some of the most eyebrow-raising communications contained within the unredacted complaint, which alleged violations of antitrust law.

“Polite F-U Letters.”

In October 2014, Rep. Elijah Cummings (D-Md.) and Sen. Bernie Sanders (D-Vt.) sent Heritage Pharmaceuticals a letter as part of their joint investigation into price increases in the generic drug industry. The unsealed emails reveal that outside counsel for Heritage coordinated a response with counsels for both Teva and Mylan.

“Spoke with my colleague [redacted] in DC who is doing the response letter for Mylan. Her husband works for [redacted] and he is doing the response for Teva,” wrote Heritage’s outside counsel to the company’s CEO Jeff Glazer.

“They have both been in contact with GPhA on coordinating a response – and the consensus at this point is that the responses will be ‘polite f-u’ letters. She told me that Teva authorized [redacted] to schedule a conference call to coordinate the response and make sure everyone is on the same page. She said the response can either be a ghost written letter on HPI letterhead or a letter from outside counsel,” the email said.

“Co-opetition.”

In another series of emails, senior executive at Mylan and Sandoz allegedly colluded with each other to “divvy up the market for generic blood pressure medication,” the DOJ said. One Sandoz executive was so pleased with the alleged illegal coordination that he wrote, “sometimes a little help from our competition is welcome as well,” prompting another senior executive to reply: “I guess this is what they call ‘co-opetition.’”

Phone records also allegedly indicated that company representatives spoke at least 21 times by phone to divide and designate the market enabling each competitor to obtain roughly 50-percent of the total market share.

Ranking Competitors Based on Willingness to Collude?

As Teva's Director of National Accounts, Nisha Patel was primarily responsible for implementing price increases. Patel allegedly accomplished this by systematically conspiring with Teva's competitors — even maintaining a ranking system of competitors, scoring each based on their willingness to collude in pricing. According to the unredacted documents, Patel would allegedly assign a "+3" to the most collusive competitors and "-3" to the least willing. The complaint also included detailed rankings and numerous charts documenting Patel's communication with competitors.

"No Emails please."

The pharmaceutical executives appeared to be aware that they were engaging in illegal activity and sought to cover their tracks, with emails stating "No emails please. Phone calls. [redacted] let's discuss."

The picture of said email is at the top of the article.

Industry "Code words" Revealed?

The unredacted complaint also revealed what are said to be commonly used "code words" by the alleged co-conspirators in attempts to collude with competitors on coordinating price increases, such as "fair share," "playing nice in the sandbox," and "fluff pricing."

In one email from July 2013, Armando Kellum, the Director of Contracts and Pricing at Sandoz, wrote an email with the heading "Re: Product Sales and Market Share Performance" that simply read, "Fair Share for all!!!". The next day, an internal email at Teva said they had agreed to the proposed market allocation, saying "Tell Greenstone we are playing nice in the sandbox and we will let them have [the wholesaler]."