1 IN THE UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF NORTH CAROLINA

3 UNITED STATES OF AMERICA, ) Case No. 1:14CR308-1
4 vs. ) Greensboro, North Carolina
5 SARAH EURY FARRELL, ) October 29, 2014
6 Defendant. ) 3:14 p.m.
7

8 TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE WILLIAM L. OSTEEN, JR.
9 UNITED STATES DISTRICT JUDGE

10 APPEARANCES:

11 For the Government: FRANK JOSEPH CHUT, AUSA
Office of the U.S. Attorney
12 101 S. Edgeworth Street, 4th Floor
Greensboro, North Carolina 27401
13

14 For the Defendant: JOSHUA BRIAN HOWARD
Gammon, Howard & Zeszotarski, PLLC
15 115 1/2 W. Morgan St.
Raleigh, NC 27601
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22 Court Reporter: Joseph B. Armstrong, RMR, FCRR
324 W. Market, Room 101
23 Greensboro, NC 27401

24 Proceedings reported by stenotype reporter.
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1 P R O C E E D I N G S
2 (At 3:14 p.m., proceedings commenced.)
3 (Defendant present.)
4 MR. CHUT: Good afternoon, Your Honor. The next
5 matter is United States of America versus Sarah Eury Farrell.
6 1:14CR308-1, Mr. Howard representing Ms. Farrell, and this is
7 on for sentencing, Your Honor.
8 THE COURT: All right. Mr. Howard, good afternoon.
9 MR. HOWARD: Good afternoon, Your Honor.
10 THE COURT: Are you and Ms. Farrell ready to proceed?
11 MR. HOWARD: We are, Your Honor.
12 THE COURT: And have you received a copy of the
13 presentence report and reviewed it with her?
14 MR. HOWARD: We have, yes, sir.
15 THE COURT: And are there any objections?
16 MR. HOWARD: There are no objections.
17 THE COURT: All right. Ms. Farrell, have you
18 reviewed the presentence report with Mr. Howard?
19 THE DEFENDANT: I have, Your Honor.
20 THE COURT: And do you generally agree with the
21 report?
22 THE DEFENDANT: I do, Your Honor.
23 THE COURT: All right. In Ms. Farrell's case,
24 because she has pled to two Class B misdemeanors, there is no
25 applicable guideline calculation for those misdemeanors. I

1 think the statutory maximum as to each count is not more than
2 6 months imprisonment or a fine of $3,000 for each unauthorized
3 alien in each of those two cases.
4 Mr. Howard, will there be additional evidence on
5 behalf of Ms. Farrell?
6 MR. HOWARD: Your Honor, there's only one exhibit we
7 would like to at least share with the Court. It's a
8 photograph. We don't need to make it part of the permanent
9 record.
10 THE COURT: All right. I do have a -- I'm assuming
11 it's been -- you've had a chance to look at it, but I do have
12 an order of forfeiture that appears to me consistent with what
13 was agreed to in the plea agreement in this case. Any
14 objection to my going ahead and signing that?
15 MR. HOWARD: No objection. We consent. That is part
16 of the plea deal.
17 THE COURT: $16,300 is what is reflected here.
18 MS. KLAUER: Your Honor, if I may?
19 THE COURT: Yes, ma'am. I knew we would hear from
20 you at some point, Ms. Klauer.
21 MS. KLAUER: I believe I was brought along to correct
22 a statutory reference in that proposed order that's incorrect.
23 THE COURT: All right.
24 MS. KLAUER: On the second page of the first
25 paragraph where it says, "Now, therefore...," the reference

1 there should be to Title 8, United States Code, Section 1324.
2 THE COURT: Instead of 21 -- it's not a drug offense
3 here. Title 8?
4 MS. KLAUER: Title 8, United States Code, Section
5 1324.
6 THE COURT: All right. I've made that change to the
7 order. All right. Ms. Farrell, you may have a seat.
8 Mr. Howard, you had something you wanted to hand up?
9 MR. HOWARD: Yes, Your Honor, if I may approach?
10 THE COURT: You may. A couple of happy, good looking
11 kid. All right, Mr. Howard, any additional evidence in this
12 case?
13 MR. HOWARD: No further evidence, Your Honor.
14 THE COURT: All right. I'll hear from you at this
15 time as to what constitutes a sentence that is sufficient but
16 not greater than necessary taking into consideration the
17 advisory guideline calculation as well as all other factors set
18 out under 18 USC Section 3553.
19 MR. HOWARD: Thank you, Your Honor. You know, as a
20 Class B misdemeanor, this is a case that I think could have
21 been sentenced by an Article I judge at the time of plea
22 without a PSR, just on the spot. But I think we all have
23 benefited from the fact that we did the full monty here, that
24 we got the PSR done, because it gives the Court a much broader
25 perspective on Ms. Farrell and why I think the Probation

1 Office's recommendation as to the sentence is spot on.
2 Your Honor, when we go through the factors in
3 3553(a), the first that's relevant are the nature and
4 circumstances of the offense. Here, when you examine the
5 rationale that the Probation Office has used, and when they
6 look at the history and characteristics of this person, the
7 salient point is that she has no meaningful criminal history,
8 and there's no meaningful chance of recidivism here. She's not
9 someone that will ever be back in this courthouse in a criminal
10 context. She's an educated, capable professional. She's, as
11 you can see in Defendant's Exhibit 1, the doting mother of a
12 two -- a 6-year-old and a 2-year-old.
13 As to the case here, for her it wasn't really about
14 the money. Your Honor, she was a salaried employee of ILMC.
15 And while there is a broader case that Mr. Chut is still
16 pursuing where there are allegations that several other people
17 made small fortunes through this process, that never was
18 bestowed upon her. She does not have that kind of fortune. As
19 you can see in the PSR, the economic consequences of this case
20 have already been catastrophic for her and her family. So I
21 would ask the Court to be careful not to conflate her with the
22 others that are involved in related case.
23 What she was really motivated to do here was to serve
24 her clients, even -- in particular, Count One can be explained
25 as a zeal to serve her client who was struggling to get the

1 workers he needed to do his business; and what happened here,
2 and what Sarah readily admits, is that she went overboard in
3 trying to did that, and that has adverse consequences for the
4 administration of immigration policy. She's -- she and her
5 family will pay a terrible price for this, and they already
6 have. It's an economic price, a professional price, and it's
7 very much a personal price, and that needs to be kept in mind
8 when you also turn to the factors of reflecting the seriousness
9 of the offense and promoting respect for the law and providing
10 just punishment, Your Honor.
11 This resolution isn't just punishing Sarah, it's
12 really punished her whole family. She's lost her job. It's
13 the only job she's ever had. It's the one expertise and skill
14 set she brings to the economy and to the market, and now she'll
15 have to find an entirely new line of work. She may have to go
16 back to school, but she's going to have that uncomfortable
17 first day somewhere where she's going through the rebuilding of
18 a life.
19 THE COURT: Let me ask you both. Here's what jumps
20 out at me when I look at this presentence report. There is a
21 lot of fraud, a lot of documents falsified, a lot of false
22 statements made to the United States, more than I would say
23 is -- I can say that I've ever seen before in terms of a
24 misdemeanor. So in terms of the nature and circumstances of
25 the offense, this is one that arguably causes me, as a judge,

1 to look at it and go -- I mean, the whole operation was built
2 on fraud, feeding the caps, getting aliens here, maintaining
3 low -- allowing these businesses to continue on using the lower
4 wages of the foreign workers, even though they weren't supposed
5 to be here. So I understand your point.
6 One way to look at this, and it's something I am
7 sympathetic to Ms. Farrell on, is she stepped into the family
8 business, so to speak, and I have serious doubts about
9 Ms. Farrell actually being the operator or the one who created
10 the scheme to get all these individuals in. This business
11 looks like it -- when did she start, 2003 or something like
12 that?
13 MR. HOWARD: Yes, sir, when she graduated from
14 college.
15 THE COURT: Graduated from college. So she comes in,
16 and this kind of stuff is going on, and that -- but the amount
17 of fraud is troubling in many respects in terms of the nature
18 and circumstances of the offense.
19 MR. HOWARD: Your Honor, I think it's important to
20 distinguish her from those others that you necessarily learn
21 about when you study the broader case, and the way to
22 distinguish her is to note that she's neither the architect of
23 that nor the financial beneficiary of that. There are others
24 that will potentially face the full penalty of many, many more
25 counts.

1 But in Sarah's particular case, having come into a
2 company that was operating in this fashion before she got
3 there, and it's the only way she's known to do it, I would ask
4 the Court to recognize that, you know, she was not the leader
5 of that, but rather a player who has paid and will continue to
6 pay a very significant personal professional and economic price
7 for what happened.
8 Your Honor, and she's not the only one who is paying
9 for that. Her husband is here, too, Dan. Dan lost his job at
10 ILMC as well. He's got a masters degree in economics, and in
11 their part of Moore County, that's not easy to match that skill
12 set with another job, and he's out there act actively
13 interviewing. And, Your Honor, the family -- because of the
14 economic chaos that this has put on Sarah and Dan, he's in a
15 position where he can -- he's gotten a job offer recently, and
16 he has another interview tomorrow. But that job offer is a
17 fraction of what he would expect and hope to make and what he
18 used to make, but they have to seriously consider it because
19 they need the health insurance. They're in a bad spot, and
20 it's not just Sarah alone. It's the whole family. This
21 resolution has visited all of that pain on all of them. Her
22 brother is here as well. He's lost his position as a result of
23 that at ILMC.
24 This is one that's shared not just by Sarah, but
25 shared by a whole family. They're going to be saddled with a

1 large forfeiture obligation. They may be saddled with fines if
2 the Court so chooses. They will take years to come back from
3 the economic consequences that are all but certain in this
4 case, and that will take her laboring on a daily basis to pay
5 those off together, potentially with her husband.
6 Your Honor, there's also something present in this
7 case that's not always present in matters that come before this
8 Court, and it's a shame factor. This case was widely
9 publicized in the local media. Sarah and her family are
10 prominent people down in Moore County, and it's not something
11 that's been exactly a pleasant experience for them. In fact,
12 Your Honor, when we made our initial appearance here, she had
13 to spend time in chains in the lockup with guys in orange
14 jumpsuits in custody. That -- no matter what you choose to do
15 today as to her sentence, that moment and that in time will
16 never be forgotten.
17 Now, there's also a very important factor here and a
18 punishment that's already been imposed on Sarah, Your Honor,
19 and it's from the moment we realized and knew that Mr. Chut and
20 the Government would move forward and would charge her. She's
21 been saddled with a terrible fear of what happens to these two
22 kids in this picture. Is she going to be able to raise her
23 kids? Hopefully, we'll have the answer to that today, but
24 Dylan and Ellie have always been on her mind about this, and
25 that's a crippling fear that is, again, its own kind of

1 punishment, especially for a professional person with no other
2 criminal history. It's perhaps the toughest punishment of this
3 entire experience.
4 Your Honor, 3553(a) also mandates that you consider
5 the deterrence factor of any particular sentence. This case is
6 already very well reported in the relevant industry. It's made
7 Business Week, and the folks that work in this otherwise niche
8 field are well aware of what Mr. Chut and his investigative
9 team are doing. Deterrence has already been achieved. And as
10 we'll see in the second sentencing today, ILMC has effectively
11 received a death penalty. It's winding up and will cease to
12 exist, and that is an important factor in the deterrence
13 calculous. Anyone in this industry would note that effectively
14 the death of the company, the debarment of both the company and
15 of the individuals, including Sarah, from doing this kind of
16 work before the Government is a crushing penalty in the context
17 of these kinds of otherwise law-abiding, professional people.
18 Another factor that the Court has to consider is do
19 you need to protect the public from the defendant? In most
20 instances --
21 THE COURT: I think everybody would agree that that's
22 virtually nonexistent.
23 MR. HOWARD: Well, I agree, Your Honor. In fact,
24 Your Honor, I would say the best thing to do for the public is
25 to leave her out on probation because she is the best person in

1 the world to continue the orderly winding up of ILMC and, put
2 simply, maximizing its final assets for surrender to the United
3 States. In that folder in front of her, you can see some of
4 the things she's been doing since effectively shutting down the
5 company, which is selling office equipment, office furniture.
6 There's a copy machine they just sold. We've worked with
7 Ms. Klauer recently to get permission to sell a computer server
8 so that, again, they can put that into the funds of this
9 company that eventually will go right back to the United
10 States, and she's the best person on earth to be able to do
11 that; and if she's not at liberty to do that, then the public
12 and the public dole will be adversely impacted.
13 Your Honor, one of the last factors we have to
14 consider is the need to avoid unwarranted sentencing
15 disparities. This kind of case is highly unusual. It's
16 somewhat interesting, Your Honor. If we were in any other
17 courtroom, I would have spent great amounts of time briefing
18 the Court on the H-2A and H-2B programs --
19 THE COURT: Not necessary.
20 MR. HOWARD: But given your opinion in *Growers versus*
21 *Solis* and your recent civil work on an ILMC matter involving
22 Department of Labor, you get this program. But prosecutions
23 like this are not that common; and if you go through the
24 country to look at what other penalties have been handed down,
25 there are several other examples that this Court can look to in

1 finding a sentence.
2 In the *Starks* case, which is a 2009 matter from the
3 Eastern District of Virginia -- and I have a small library of
4 these cases right here. In that case -- which, again, each of
5 these facts are a little bit different, the money involved, the
6 people involved. They're all different. But they all have to
7 do with manipulating the guest worker program. In that case
8 the defendant, like Ms. Farrell, pled to a bill of information
9 and got probation. In the *Voisine* case, which, for the benefit
10 of the court reporter, is V-O-I-S-I-N-E, which is a 2012
11 Western District of Missouri case, again, involving
12 manipulations in the guest worker program, that defendant got a
13 5K and probation along with the forfeiture of proceeds. And in
14 what might have been the most significant case to date --
15 THE COURT: It's been a while since I looked at those
16 cases. I had to look at them some time ago. If I recall
17 correctly, the losses -- or the money, the fraud, was fairly
18 significant in those cases as well. Am I remembering
19 correctly? Like well into the six figures?
20 MR. HOWARD: Your Honor, some of those cases have
21 interesting guideline applications where you can punish these
22 kinds of violations based on things like the number of workers
23 and the number of visa applications. You can also come up with
24 an economic analysis that turns you to 2B1.1.
25 THE COURT: It's like mail fraud or something.

1 MR. HOWARD: That's right, and I think -- I know in
2 *Starks*, that was actually a mail fraud case, and so that would
3 turn you to a 2B1.1 analysis. That can be difficult to do, to
4 sort of conceptualize what, for instance, helping someone beat
5 the cap does financially.
6 THE COURT: Well, they're kind of personnel agencies,
7 so you can look at the income to the wrongdoer, you can look at
8 the -- there are different ways to -- you know. You were an
9 assistant US Attorney. But you can look at them in different
10 ways.
11 MR. HOWARD: Your Honor, that's correct. One more
12 case that I would point out to the Court, the *Glah* case, which,
13 again, for the court reporter is G-L-A-H, that may have been
14 the most prominent case in this field, at least to date, and
15 that was out of the Eastern District of Pennsylvania in 2010.
16 Now, Mr. Glah was the lead defendant. That case ended in a
17 personal tragedy as to him, but there were three other
18 codefendants, and the record reflects that they all ended up
19 with a probationary sentence as well.
20 And so we would submit that that experience and the
21 concern the Court must consider about unwarranted sentencing
22 disparities shows that the probation officer's recommendation
23 in this case is correct, that many other courts analyzing
24 similar fact patterns have reached that same conclusion, and
25 the Court could rest assured that you would fit capably in that

1 mix, in that same set of analysis, without creating an
2 unwarranted sentencing disparity by doing that same kind of
3 sentence.
4 Finally, Your Honor, we would just ask that if you
5 review the personal consequences of a custodial sentence and
6 what it would visit on Dylan and Ellie, what it would do to Dan
7 and the rest of the family, when you consider the economic
8 consequences that are already present -- they're not wealthy
9 people, and it's going to take them years and years and years
10 to come back from this economically -- and just the fear and
11 the shame and the difficulties -- and I know Sarah will talk
12 about that in a moment with you, Your Honor -- the probation
13 officer's recommendation is what we feel is sufficient to
14 achieve the purposes of Section 3553(a).
15 THE COURT: All right. Thank you, Mr. Howard. Let's
16 take a short break, and I'll come back and hear from you.
17 MR. CHUT: Yes, Your Honor.
18 (At 3:32 p.m., break taken.)
19 (At 3:44 p.m., break concluded.)
20 THE COURT: All right. Mr. Chut?
21 MR. CHUT: Your Honor, I'll just speak briefly and
22 hit a couple of the sentencing factors. I would ask the Court
23 to consider in its discretion a sentence that would be beyond
24 the recitation of the PSR for the following reasons that I'm
25 going to hit on: respect for the law, seriousness, and

1 deterrence.
2 Let me say the good first in terms of the nature of
3 Ms. Farrell. I don't disagree with Mr. Howard that she didn't
4 make a fortune out of this. There are those that did who are
5 under indictment currently and proceeding to trial. I think
6 the evidence would suggest that this was a family business. I
7 don't suspect Ms. Farrell would be running her own crooked
8 immigration shop absent the fact that her father had found this
9 business and taught her. She worked under the tutelage of her
10 father, Mr. Eury; she worked with Lee Wicker, who was a
11 consultant to the company; and I think independent of that,
12 Your Honor, it's unlikely she would have been involved in this
13 conduct.
14 That said, this conduct showed a profound disrespect
15 for the law of the United States. International Labor
16 Management Corporation was not a little player, Your Honor.
17 You know this industry very well, Your Honor, based on your
18 experience in the various cases you've worked on.
19 International Labor Management Corporation at one time was
20 either the biggest or one of the biggest purveyors of H-2B
21 visas. They were an extremely visible player in this field who
22 presented themselves, sometimes through Ms. Farrell, as an
23 expert on the law in this field. In fact, as ILMC's plea
24 shows, the entire business was based on fraud. The dis -- for
25 a company and for a person, Ms. Farrell, to put themselves out

1 as experts in the law to businesses to exhibit such a profound
2 disrespect for the law needs to be taken into consideration by
3 this Court. Your Honor --
4 THE COURT: Why then extend the misdemeanor plea to
5 Ms. Farrell?
6 MR. CHUT: Because, Your Honor, Ms. Farrell was a
7 salaried employee with two young children who, in the judgment
8 of the United States, through me, was someone that, quite
9 frankly, as I said before, Your Honor, absent her father and
10 absent Mr. Wicker, I suspect, would have been doing something
11 completely legitimate. That doesn't excuse her conduct, but in
12 the exercise of my judgment as a prosecutor in the case, it
13 certainly didn't -- it certainly justified extending her the
14 chance to avoid 5 to 10 years in federal prison, Your Honor.
15 Whether that's right or wrong, Your Honor, you know --
16 THE COURT: No, I mean, the plea is fine. I don't
17 have a problem with the plea. What I do have -- what I don't
18 understand -- what causes me a little bit of discomfort
19 listening to you at the outset is she needs more than what's
20 recommended. She pled to two Class B misdemeanors. She needs
21 more than is recommended. The Government had it within its
22 power to put her in a -- you know, with a variety of felonies
23 available from misprision of felony up to the stuff she was
24 originally charged with to put her in a position where there is
25 a guideline range that guides this case; and here, having

1 chosen not to, it's hard for me to hear the Government tell me
2 how serious this case is because she's pled to misdemeanors
3 with the consent of the Government.
4 MR. CHUT: Well, Your Honor, I'm speaking within the
5 universe of that plea. I think a misdemeanor plea is
6 completely appropriate for her. I think there's some times
7 where the United States has some discretion about different
8 defendants in the same case. Within that universe of that
9 plea, which is basically capped at a year and that you -- you
10 have -- as in all cases, but in this case without any
11 guidelines even were there discretion -- I'm not sure is the
12 right way to say it -- I think within that universe, Your
13 Honor, I think something -- Your Honor has a lot of tools one
14 can use just short of just incarceration or probation. I think
15 something more should be done to reflect the seriousness.
16 You're right, Your Honor. If the United States and I
17 felt that she needed more than the universe of what the Court's
18 tools are in this plea, you're right, we could have done more
19 or should have done more.
20 THE COURT: Let me phrase the question this way.
21 Maybe we'll -- because there's a little bit -- I understand
22 your point about the universe and this, that, or the other.
23 One of the things I have to consider is the seriousness of the
24 offense. There are two things that flow from seriousness of
25 the offense. Number one is here the actual offense of

1 conviction is a misdemeanor offense committed by an individual
2 with a criminal history category of I, 34 years old, other than
3 her involvement in this conduct, nothing to suggest that she
4 would otherwise participate in criminal activity. Low risk,
5 low everything. As you point out, and as the presentence
6 report makes clear, a lot of fraud and a lot of lying going on
7 in these applications. Some of it may have been done by the
8 company, some attributable to Ms. Farrell.
9 But I've still -- I've got the first problem of I
10 look at the offense of conviction as described, referring
11 illegal aliens for a fee for employment, Class B misdemeanor,
12 that's a low end. I've got offense conduct that arguably
13 extends well past what would be reflected by the statute of
14 conviction.
15 Then I've got the other problem, and this came up in
16 our other case together, in evaluating the seriousness of the
17 offense. We have stepped into this immigration field where
18 it's hard to figure out what's serious anymore. You get up and
19 read the paper -- and I'm not saying the president or Congress
20 will do A or B, but you get up and read the paper, and you see
21 articles that say -- the president or the executive branch says
22 they're not going to enforce certain laws anymore. Some people
23 will be allowed to stay. So that doesn't make lying right like
24 occurred here, but it does create this problem of even the
25 Government's ignoring laws validly passed by Congress, and

1 suddenly I have to impose a substantial sentence on this
2 person, lying certainly. But how do I evaluate the seriousness
3 of the offense with those kinds of factors contributing?
4 MR. CHUT: Well, Your Honor, I can't speak for the
5 larger policy of the Government. I can only speak for this.
6 To get to the answer, Your Honor, I think I said this in the
7 previous case was the tax law is often in flux, but that does
8 not allow people to forge names on tax returns or falsify their
9 tax returns.
10 THE COURT: When is the last -- I mean, I ask this
11 rhetorically, and you don't have to answer it. When's the last
12 time you saw the executive branch say they weren't going to
13 enforce tax laws?
14 MR. CHUT: Your Honor, I can't --
15 THE COURT: I mean, it's a unique -- my only point is
16 there are some very unusual considerations in this particular
17 case.
18 MR. CHUT: But, Your Honor, I will say this. I have
19 conceptualized this case from the beginning not as an
20 immigration case, but as a document fraud case. The reality is
21 this is not simply gaming the regulations for benefit. This is
22 a fraud that was -- involved substantial profit not for
23 Ms. Farrell personally but for the company and certainly for
24 her father and others associated with it. It involved a fraud
25 that was worked on clients that believed they were hiring an

1 extremely reputable company. Both -- her direct conduct that
2 accompanies the misdemeanors, a pattern of conduct, involves
3 the Miller -- Miller Seafood, who are very law-abiding,
4 straight people who relied on --
5 THE COURT: And I think that's a fair point,
6 Mr. Chut. But the way the case is prosecuted, it's prosecuted
7 as an immigration case, not as a fraud case. We only get to
8 the fraud because of the relevant conduct rules under
9 sentencing, not because of the offense of conviction.
10 MR. CHUT: Well, Your Honor, the -- well, in terms of
11 her conduct, yes, that's correct. Once she's -- the counts
12 she's pled to are a pattern of immigration misconduct.
13 You know, Your Honor, I can't answer the other
14 actions of the Government. I think the Department of Justice
15 has -- we have an obligation to enforce the laws. These laws
16 involve the sovereignty of the United States. They involve the
17 ability of businesses to rely on the largest company portraying
18 itself as an accurate representer of what the law is. Some of
19 this fraud involved, I mean, just profit. The second
20 misdemeanor she pled to involving RH Love & Company was
21 taking -- people brought in fraudulently on an inflated I-129
22 petition and shipping them out to Pineola, North Carolina, for
23 nothing more except for the profit of ILMC.
24 So I would suggest, Your Honor -- I mean, I
25 understand your point, and I'm trying to respond to it to the

1 extent I can, but some of this is not a matter of immigration
2 policy, but it's a matter of making money through fraud no
3 different than any other false pretense.
4 THE COURT: So why not charge her with that instead
5 of an immigration offense?
6 MR. CHUT: Well, Your Honor, the Title 8 immigration
7 charge does involve obtaining visas by a false statement, which
8 is a fraud. Immigration, but it's still fraud, Your Honor.
9 And, of course, as we've gone -- as this case has progressed
10 down its sort of life -- course of life or however you say it,
11 substantially now it is a fraud case, substantially a mail
12 fraud case.
13 But these are serious offenses, and I would argue,
14 Your Honor, that even though they're immigration offenses, they
15 involve a pattern of fraudulent conduct. And, Your Honor, I am
16 speaking in the universe of these misdemeanor pleas. If the
17 Government felt that a different result was justified, then she
18 would still be a defendant or offered a different plea, Your
19 Honor.
20 I will say this one brief note on deterrence, Your
21 Honor. There is no need -- no specific deterrence -- there's
22 certainly no need to deter Ms. Farrell anymore. She's been
23 disbarred from this field, and ILMC is defunct. She has
24 cooperated with liquidation of the company. I will note, Your
25 Honor --

1 THE COURT: Let me interrupt you and ask you one
2 question to make sure. She had a condition in her plea
3 agreement that she would submit to debarment, and then there's
4 a recommended condition that after she submits to debarment
5 she'll provide documentation of such to the probation officer.
6 Has she submitted to and been debarred? And the reason that I
7 ask is I'm going to make a condition of whatever I do that she
8 submit to the debarment and then submit the documentation if
9 she hasn't already been debarred.
10 MR. CHUT: My understanding, Your Honor, from
11 speaking to the folks at DOL is that she has been disbarred
12 for -- an individual is debarred for a 3-year period. There is
13 an issue whether a company is permanently debarred, and ILMC,
14 it's my understanding, has been permanently debarred. So my
15 understanding, Your Honor, is she has been.
16 THE COURT: So all we need in the conditions of
17 whatever is imposed is the condition that she provide proof of
18 that to the probation.
19 MR. CHUT: Yes, Your Honor.
20 THE COURT: Okay.
21 MR. CHUT: And briefly, Your Honor, to wrap up, there
22 is -- there's no need to specifically deter Ms. Farrell, but
23 there is some need, the Court should consider, for deterring
24 others in this field. Obviously, ILMC was the major player,
25 and I'd ask the Court take that more general deterrence factor

1 into consideration, Your Honor.
2 THE COURT: Then what sentence do you recommend, if
3 any, Mr. Chut?
4 MR. CHUT: Your Honor, I think I am -- while I have
5 often prosecuted folks that have young children, usually that's
6 a more clear-cut felony case. A term of house arrest might be
7 appropriate or something along those lines, Your Honor. I do
8 think something that's a little more than "I got probation"
9 would be appropriate, and Your Honor has discretion to do that.
10 And I think that even though all this is in the
11 universe of a B Class misdemeanor, this is really serious
12 conduct, Your Honor, and I certainly don't want, both in the
13 specific sense and in the general sense, anyone to consider the
14 Government sort of sorting -- attempt to sort, whether it's
15 right or wrong, between defendants to think this is somehow not
16 really that big a deal, and if even that might -- may not be
17 too strong a message, but maybe that would be some message,
18 Your Honor.
19 I will say this, Your Honor, and I don't know if this
20 is speaking in my own defense or justifying to the Court -- the
21 United States' courts of action, I do believe, Your Honor, that
22 the Government of the United States has an obligation to maybe
23 sort between those who made millions and those who perhaps,
24 while they certainly should have known better -- and I'm not
25 excusing Ms. Farrell because she should have known a lot better

1 and she did a lot of things, but there is perhaps a sense that
2 but for her father's involvement she would not have been in
3 this situation.
4 THE COURT: And I don't know, Mr. Chut. I mean, what
5 the Government bases its charging decisions on is entirely up
6 to the Government, and I'm not suggesting that that needs to be
7 changed. But to put the question -- or the comments in some
8 type of context, we still live in a time where although
9 relevant conduct and considering dismissed counts and acquitted
10 counts and that kind of thing is appropriate under the
11 sentencing guidelines, there are still cases percolating -- I
12 think there may be one in front of the Supreme Court now --
13 about continuing to use that as relevant conduct in sentencing,
14 acquitted conduct.
15 And so there's always some concern, even though the
16 relevant conduct rules clearly apply -- allow it now of
17 actually punishing people for the offense that's before the
18 Court, and the relevant conduct rules are very broad, we get to
19 sweep in a lot of things, and so I think the other side -- the
20 criticism of that conduct is it allows the Government to come
21 in and charge something small and then sweep into the
22 sentencing process and obtain a large sentence under the
23 relevant conduct. I'm not suggesting you did that here.
24 MR. CHUT: No.
25 THE COURT: But it does -- I only say that to put in

1 perspective that sometimes it leaves a court in a little bit of
2 an awkward position for the Government to have come in and
3 dismiss counts that might otherwise heighten the seriousness of
4 the sentencing and then sweep it back in later.
5 MR. CHUT: And I'm not trying it later, Your Honor.
6 I'm asking the Court, and I'll be clear about it, sentence
7 Ms. Farrell based on the conduct of bringing in the H-2 --
8 workers under an H-2A application knowing they're going to be
9 doing H-2B work and sentence her that that's a pattern of the
10 conduct violated -- that's violative of the misdemeanor statute
11 and punish her as president of ILMC for knowingly shifting
12 three workers who were supposed to be in Orchard Park, New
13 York, to Pineola, North Carolina, in violation of law, and
14 that's a pattern of conduct also. I'm not -- and that, Your
15 Honor, is the -- what the Government is requesting of the
16 Court. I'm not trying to -- I think my other comments bear on
17 those matters, Your Honor, and --
18 THE COURT: Let me phrase the question this way then.
19 The bill of information alleges that she engaged in a practice
20 or pattern of referring for employment in the United States for
21 a fee certain aliens, that being aliens with the initials ECG,
22 JCG, CEM, and so on, nine aliens, knowing that said aliens were
23 unauthorized aliens as defined at Title 8, United States Code,
24 Section 1324a(h)(3). Those aliens are pretty well detailed in
25 paragraph 34 in relation to Loumac.

1 But to get to the real seriousness of -- or the full
2 extent of the seriousness of Ms. Farrell's conduct, you've got
3 other paragraphs in here relating to -- take, for example,
4 paragraph 39, 32 H-2B visas on behalf of Enviro-Scapes, LLC, in
5 Nashville, Tennessee. Are you suggesting I punish her for
6 paragraph 34 conduct or all of the conduct described in the
7 PSR?
8 MR. CHUT: Your Honor, like -- it's all relevant
9 conduct, Your Honor, and I can't argue that you ignore relevant
10 conduct. However, I am asking you to focus on the two counts
11 she pled to, Your Honor.
12 THE COURT: I appreciate your candor.
13 Ms. Farrell, you're not required to say anything. If
14 you choose to remain silent, your silence will not be held
15 against you in any way whatsoever, but you do have the right to
16 address the Court before any sentence is imposed; and if you
17 wish to address the Court, now is the appropriate time.
18 THE DEFENDANT: Thank you, Your Honor. I appreciate
19 the Court's allowance for me to speak today.
20 I stand in court today a changed person, altered from
21 what I was before at the beginning of this year, never to
22 completely return to that person. This year I lost a job that
23 I've worked at for all of my adult life. I started at the
24 International Labor Management Corporation as a full-time
25 employee just one month after I graduated from college in 2002.

1 I have been debarred and permanently cast out from the guest
2 worker community. My husband also lost his job at ILMC, and
3 with that went a young family's entire income and any sense of
4 financial security and ushered in worry and anxiety about how
5 to provide for two young daughters and keep a roof over our
6 heads.
7 This year the word "criminal" crept into my
8 vocabulary. I didn't have any prior experience with law
9 enforcement or criminal court proceedings, so this was a shock
10 to me. Meeting with criminal defense attorneys and appearing
11 in court became a part of my reality. Sitting on this side of
12 the courtroom is an immensely unpleasant spot to be in, a place
13 I never sought to be or want to be ever again in my lifetime.
14 This year I lost the ability to feel completely
15 content in life. There were times when I would go about normal
16 daily activities, going to a store, getting lunch, and feeling
17 as though I was afflicted with some sort of condition. That
18 condition is called guilt. Would people be able to tell that I
19 had it? Did I have visible symptoms? Having the condition
20 made me question all of the attributes that I thought I
21 possessed and valued in others: honesty, integrity, and
22 loyalty.
23 I am sorry for my actions and acting in violation of
24 our laws. I am sorry to those that may have been adversely
25 impacted by my actions. These are serious charges, and I am

1 well aware of the even more difficult penalties that I once
2 faced. I am so grateful for the case being resolved in this
3 fashion, a way that still allows me to raise my two young
4 daughters.
5 I'd like the Court to be aware that my experience
6 with the staff at probation and pretrial services was a
7 completely professional and courteous one, and I'd like to
8 thank them for that. This process has been frightening, and it
9 continues to be frightening even at this very moment. The
10 process has been emotionally and mentally painful for me
11 individually, and the pain has carried on echos to my immediate
12 family and extended family and friends.
13 My hope is that my two little girls have not been
14 affected by this process or my actions for even one second. I
15 would like to apologize to my family for causing them any pain
16 as a result of my actions. I certainly appreciate whatever
17 grace and mercy the Court might show me today in deciding my
18 sentence. Thank you, Your Honor.
19 THE COURT: Thank you, Ms. Farrell. Let me ask
20 Mr. Chut a question. I meant to ask you while you were
21 standing up. Mr. Chut, I come -- Ms. Farrell's husband, I
22 think -- it seems like they were married in about 2005, and
23 he's worked in the business since then. But the way I read the
24 report, he's been allowed to continue, and I gather -- from
25 what I'm reading here, I don't reach the conclusion that he was

1 involved in any of the criminal activity. Am I reading that
2 correctly?
3 MR. CHUT: Yes, Your Honor. We have no evidence that
4 he was involved in any criminal activity, Your Honor.
5 THE COURT: All right. And the other question -- you
6 can have a seat. Ms. Farrell, I'm going to ask you a very
7 difficult question, but this is a very difficult case because
8 there's -- you've pled to two misdemeanors. Mr. Howard has
9 done -- well, first I'm going to make a comment, then I'm going
10 to ask you a question.
11 Mr. Howard has done a wonderful job on your behalf
12 arranging this plea whatever happens in terms of this
13 sentencing. To a large degree, there needs to be a thank you
14 to -- and I think you at least implied it -- to the US
15 Attorney's Office and the investigators for agreeing to this
16 plea because, quite candidly, had you pled to one of the even
17 lower end felonies, your guideline range would have been
18 substantial, and I would have had a very difficult time, even
19 if I wanted to, finding a way to vary to probation. So your
20 lawyer has done a yeoman's job on your behalf, and the US
21 Attorney's Office has shown some mercy here in spite of what
22 their reputation might otherwise be.
23 I am left in a very difficult position, though, and
24 that's this. There's a recommendation for two years probation.
25 I don't think it would serve substantial purpose to put you in

1 jail for a year, but probation, no fine -- I know there's been
2 forfeiture -- doesn't feel to me in some respects like it meets
3 all of the requirements of 3553(a) because there was a lot of
4 fraud involved. So I've got community service. I've got house
5 arrest. I've got various other options that I can consider.
6 You know what you did. You know how painful it's
7 been to live with the consequences of what you did, and I think
8 you understand the need for this sentence to deter others from
9 participating in this type of conduct because my guess is when
10 you were involved in the middle of it, it didn't feel like you
11 were doing anything much that was wrong. I may be wrong about
12 that, but it's easy to get caught up in this kind of stuff.
13 Do you have any thoughts as to what I do in between
14 sending you to prison and placing you on straight probation
15 that would be appropriate in this case? That may not be a fair
16 question. If you want to talk to Mr. Howard, you can.
17 MR. HOWARD: Your Honor, if we might, I need to
18 discuss -- as Mr. Chut said, there are a number of tools
19 available to the Court. This is not just a --
20 THE COURT: I'm happy to --
21 MR. HOWARD: -- binary set of outcomes. Let me
22 review some of those with her.
23 THE COURT: You can talk about that. And, again, I'm
24 not asking you to argue for me to do something more, but I
25 am -- in light of her comments, I'm curious to hear her

1 thoughts. Let me see Ms. Schroeder up here.
2 (Bench conference with probation.)
3 MR. HOWARD: Thank you for that opportunity, Your
4 Honor.
5 THE COURT: Mr. Howard, if you would rather handle
6 the answer to that, I understand that completely.
7 MR. HOWARD: You know, I found Ms. Farrell's colloquy
8 with the Court so moving, I think its best if she articulates
9 what she wanted to tell the Court.
10 THE COURT: Ms. Farrell, I'm not asking you to get
11 into a position of telling me -- I will make my own mind up at
12 the end of the day whether I agree with you or not, but you
13 recognize the seriousness of what you did, so what thoughts do
14 you have?
15 THE DEFENDANT: Your Honor, the prospect of being
16 separated from my children is terrifying. The idea that I
17 might be separated from them and then returned and then
18 withdraw from me in some way or would our relationship be
19 affected is horrifying, quite frankly, and I would ask the
20 Court to possibly impose a community service obligation. I
21 would love to serve the community and try to give back and
22 maybe mitigate some damage that I've done in that regard and
23 also to remain at home and continue to wind up the business and
24 provide proceeds to the United States Government.
25 THE COURT: All right. I appreciate your candor,

1 Ms. Farrell. I have no doubt about the truthfulness of your
2 comments. Let me take about five minutes and think about this,
3 and I'll come back and give you my decision.
4 (At 4:12 p.m., break taken.)
5 (At 4:19 p.m., break concluded.)
6 THE COURT: All right. I apologize again to
7 Ms. Farrell for asking that question. Ultimately, the point of
8 the question is to -- and I think it's clear. Maybe it was
9 fair, maybe it was unfair, but the point is that often -- I
10 don't ask that question very often anymore; but historically in
11 asking that question, generally speaking the answer that I got
12 was "My being arrested is enough, I've learned my lesson, and I
13 will never do this again, so you don't need to do more."
14 The reason that I asked the question was not so much
15 for the specifics of the answer, but to get -- to find out
16 whether the defendant appears to genuinely understand how
17 difficult the punishment decision is and whether or not they're
18 willing to recognize that perhaps their conduct is more serious
19 than might be otherwise reflected by a low end sentence or a
20 probationary sentence or something of that nature, and there's
21 no question in my mind that Ms. Farrell, having prefaced her
22 answer with her fear over being separated from her children,
23 fully recognizes what she did here and is genuinely remorseful
24 for her conduct, but at the same time realistically understands
25 the nature of that conduct and the seriousness of that conduct.

1 So, Ms. Farrell, I appreciate your response to the Court.
2 In terms of the actual sentence to be imposed in this
3 case, it is a difficult one. If there were assets remaining, I
4 would -- I think there's no question but what a fine of
5 substantial nature would be appropriate here. There are no
6 assets remaining at this point, at least as far as I can see,
7 in light of Ms. Farrell's other responsibilities.
8 Ultimately, I conclude in Ms. Farrell's case that the
9 recommendation of the probation office in terms of two years of
10 probation as to each count is an appropriate one. The more
11 difficult question is what conditions of probation to impose.
12 I am inclined -- it's not all that the Government has asked
13 for, but I am inclined to impose four months of a curfew, a
14 further restriction on Ms. Farrell's freedom. That may seem,
15 to some, to be frivolous, but it is slightly more than a
16 straight probationary sentence. The curfew would be from
17 six -- I'm going to say with young children would be from
18 9 p.m. to 6 a.m, but she may leave the house during the curfew
19 time for purposes of maintaining the household or employment.
20 I really think there ought to be a condition in
21 Ms. Farrell's probation that she continue to cooperate with the
22 United States and the creditors of ILMC to recover assets of
23 the business. I suspect she probably was, but also assist in
24 wrapping up the business. Mr. Chut, there may not be much left
25 to do from the Government's perspective, but I do think she

1 ought to be available as may be reasonably necessary to assist
2 in such efforts --
3 MR. CHUT: Yes, Your Honor.
4 THE COURT: -- to wrap up the affairs of the
5 corporation. I know that's not the sentence that the
6 Government requested in this case. I think the point -- and
7 I'll go through the sentencing issues in a little bit more
8 detail, but is there anything else in terms of conditions of
9 probation, Mr. Chut, that you would like for me to address?
10 MR. CHUT: No, Your Honor.
11 THE COURT: All right. Mr. Howard, that's not quite
12 the sentence that was argued for here, but this is a tough case
13 with the nature and circumstances of the offense given the long
14 time nature of the conduct. Ultimately, Ms. Farrell's -- as
15 you pointed out, Ms. Farrell's personal history and
16 characteristics suggest that in many respects the need for a
17 lengthy sentence is low. Are there any other conditions of
18 probation that I ought to address?
19 MR. HOWARD: Your Honor, I did want to speak to the
20 part that you just raised. I was going to discuss the
21 financial status and the winding up of ILMC in the next
22 proceeding, but since it's made relevant here, I can inform the
23 Court that it looks like the company has enough money to
24 satisfy its special assessment, and there are accounts
25 receivable that are out for collection. As you might imagine,

1 when you send a bill as a company and then you get indicted,
2 people don't pay at the rate they used to pay. But those
3 receivables are coming in, and Sarah's main job right now is to
4 go collect those and sell the assets of ILMC that Ms. Klauer
5 allows us to sell and then ultimately forward that to the
6 Government. They've already paid $290,000 in forfeiture. I
7 suspect that number will be a little over 300 by the time it's
8 done, but, you know, there's really no real estate left with
9 any employees in it or anything like that, it's just Sarah
10 going to the mailbox.
11 THE COURT: So her cooperating and wrapping up the
12 affairs of the business is -- there is a little bit left to do.
13 MR. HOWARD: There is, and she would have done that
14 in any event, but now it can be mandated as one of the
15 conditions, and we would be very satisfied with that.
16 THE COURT: All right. Ms. Farrell, if you will
17 stand then, please, ma'am. In Case No. 1:14CR308-1, United
18 States versus Sarah Eury Farrell, as to Counts One and Two of
19 the bill of information, it is hereby ordered that the
20 defendant is placed on probation for a period of two years. A
21 special assessment -- what is the misdemeanor special
22 assessment?
23 MR. HOWARD: It's ten or twenty dollars, Your Honor.
24 THE COURT: A special assessment of $10 as to each
25 count for a total of $20 is mandatory, is hereby imposed, and

1 is due and payable immediately. A fine is waived because of
2 the defendant's inability to pay, and restitution will not be
3 imposed in Ms. Farrell's case.
4 During the period of probation, it is ordered that
5 Ms. Farrell will comply with the standard terms and conditions
6 of probation. In addition to the standard terms and
7 conditions, the following special conditions are imposed:
8 One, the defendant shall submit to substance abuse
9 testing at any time as directed by the probation officer. The
10 defendant shall cooperatively participate in a substance abuse
11 treatment program which may include drug testing and inpatient
12 or residential treatment and pay for those treatment services
13 as directed by the probation officer. During the course of any
14 treatment, the defendant shall abstain from the use of any
15 alcoholic beverages.
16 Three -- two, after the defendant has submitted to
17 debarment by the United States Department of Labor and the
18 United States Citizenship & Immigration Service from the H-2A
19 and H-2B visa programs as required, Ms. Farrell shall provide
20 documentation of that debarment to the United States probation
21 officer.
22 Three, the defendant shall not be employed or
23 otherwise employed in any capacity wherein her duties are
24 related to immigration or the application or enforcement of
25 immigration laws.

1 Four, the defendant shall cooperate in a reasonable
2 manner with the United States as well as others creditors of
3 ILMC in the orderly resolution of the business of ILMC as well
4 as the disposition of ILMC's assets as may be otherwise
5 required by the United States or the terms of any plea
6 agreement or guilty plea of ILMC in this or any related case.
7 Five, the defendant shall abide by all conditions and
8 terms of a curfew program -- what did I say, three months or
9 four months?
10 MR. CHUT: You said four months, Your Honor.
11 THE COURT: -- curfew program for four months. The
12 time of the curfew shall be from -- did I say 8 or 9:00?
13 MR. CHUT: You said 9, Your Honor.
14 THE COURT: From 9 p.m. until 6 a.m. seven days a
15 week. The defendant may be permitted to leave the premises --
16 leave her premises during that curfew time as may be reasonably
17 necessary for the maintenance of household responsibilities.
18 Yes, ma'am?
19 PROBATION AGENT: May I approach, Your Honor?
20 THE COURT: You may.
21 (Bench conference with probation.)
22 THE COURT: Mr. Howard, probation -- it's not
23 anticipated that it will be necessary, but along with the
24 curfew provision has asked that I include the GPS location
25 monitoring to be used if deemed necessary or appropriate in the

1 discretion of the probation officer. I don't intend that she
2 initially be required to wear that type of -- the ankle
3 bracelet, but that's apparently part of it if it's determined
4 later to be necessary. So I will include as part of that
5 provision that if so directed by the probation officer, the
6 defendant shall wear a location monitoring device which may
7 include GPS or other monitoring technology.
8 In fashioning this sentence, the Court has taken into
9 consideration the arguments of counsel, the facts as contained
10 in the presentence report, and the factors set forth under
11 18 USC Section 3553.
12 In terms of the nature and circumstances of the
13 offense, as has been discussed at some length and as
14 demonstrated in the presentence report, there was long-term
15 activity involving substantial fraudulent activity. On the
16 other hand, in looking at the history and characteristics of
17 Ms. Farrell, she is a criminal history category of I, 34 years
18 old; and, as all parties seem to agree, Ms. Farrell stepped
19 into a circumstance where actual operation of the business had
20 been established by others.
21 The need for the sentence imposed here to reflect the
22 seriousness of the offense and promote respect for the law and
23 provide just punishment is high. The need to deter criminal
24 conduct is significantly low as to Ms. Farrell personally. It
25 is certainly high generally. But as the Court has noted, this

1 is a very uncertain time in terms of a substantial amount of
2 the policies and activities related to immigration. In light
3 of the plea entered in the case as well as the facts of the
4 case and the fact that ILMC is no longer in operation and
5 Ms. Farrell has been debarred, I find that those consequences
6 of this conduct are substantial and have been taken into
7 consideration. Ultimately, the need to protect the public from
8 further crimes of Ms. Farrell is low, and, therefore, the Court
9 finds this sentence to be sufficient but not greater than
10 necessary in this case.
11 Ms. Farrell -- I will order the dismissal of the
12 indictment. Mr. Chut, do you know that case number off the top
13 of your head?
14 MR. CHUT: Your Honor, it is -- I do, Your Honor. It
15 is 1:14CR39-2.
16 THE COURT: I will order the dismissal of the charges
17 contained in the indictment in Case No. 1:14CR39-2 as to
18 Ms. Farrell, dismissed pursuant to the terms of the plea
19 agreement in this case.
20 Ms. Farrell, you do have the right -- I think you
21 reserved the right. Does she still have the right to appeal?
22 MR. HOWARD: She does, Your Honor.
23 THE COURT: Ms. Farrell, you do have the right to
24 appeal the sentence that I have imposed in this case. If you
25 choose to appeal, notice of appeal must be filed within 14 days

1 of the entry of judgment. If you wish to appeal and cannot
2 afford the services of counsel, counsel will be appointed to
3 represent you. Mr. Howard will be responsible for advising you
4 with respect to your right to appeal and will file a notice of
5 appeal if you instruct him to do so.
6 Ms. Farrell, certainly I know the Government does
7 appreciate the work that your husband has done and that you are
8 continuing to do to wrap up the affairs of this corporation,
9 and I am very confident that in terms of future activity that
10 you will not be seen in this or any other courtroom again, so I
11 wish you and your family good luck.
12 MS. KLAUER: Your Honor, could I ask you to also
13 announce and include in the judgment reference to the
14 forfeiture?
15 THE COURT: I will do that. What do I need -- oh, in
16 the written judgment? Announce it and --
17 MS. KLAUER: Yes, sir.
18 THE COURT: The Court notes as part of the judgment
19 entered in this case that while I decline to impose a fine,
20 that was done in light of the fact that the Court has executed
21 a forfeiture judgment in the amount of -- 16,300?
22 MS. KLAUER: Yes, sir.
23 THE COURT: -- $16,300. That judgment will be
24 incorporated in the criminal judgment as well. All right.
25 Good luck, Ms. Farrell.

1 (At 4:34 p.m., proceedings concluded.)

2 * * * * *

3 C E R T I F I C A T E

4 I certify that the foregoing is a correct transcript
from the proceedings in the above-entitled matter.

5

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7 Date: 12/18/2014 Joseph B. Armstrong, RMR, FCRR
United States Court Reporter
8 324 W. Market Street
Greensboro, NC 27401

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