

## BEFORE THE FEDERAL ELECTION COMMISSION

**SENSITIVE**RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2004 MAR -2 P 3:08

In the Matter of )

MUR 4919 )

Adrian Plesha )

## GENERAL COUNSEL'S REPORT #17

I. ACTIONS RECOMMENDED

Accept the attached conciliation agreement with Adrian Plesha, close the file, and approve the appropriate letters.

II. BACKGROUND

MUR 4919 arose out of a referral from the Election Fraud Unit of the California Secretary of State's Office. After an extensive investigation, the Commission discovered that Adrian Plesha ("Plesha"), the campaign manager for Charles Ball for Congress, initiated and executed a scheme in 1998 to deceive the voters in California's 10<sup>th</sup> Congressional District by disseminating communications that fraudulently misrepresented the opposing candidate's party and a Congressman from the neighboring district.

On June 19, 2002, the Commission found probable cause to believe that Adrian Plesha knowingly and willfully violated 2 U.S.C. § 441h and referred Plesha to the Department of Justice ("DOJ").<sup>1</sup> Subsequently, DOJ opened a criminal investigation into Plesha's activities, and on September 10, 2003, Plesha pleaded guilty to making false statements to the Commission, a felony violation under 18 U.S.C. § 1001. *See* General Counsel's Report #15 (Sept. 11, 2003).

<sup>1</sup> The Commission has closed the file as to all other respondents in this matter. The Commission previously decided to take no further action against Heather Patterson, the campaign's finance director, and found probable cause to believe and conciliated with Charles Ball for Congress and Justin Briggs, as treasurer. *See* General Counsel's Report #12 (Aug. 13, 2003) and General Counsel's Report #11 (Jun. 10, 2002). The Commission never made any findings as to the candidate, Charles Ball. *See* General Counsel's Report #11 (Jun. 10, 2002).

1 Before Plesha entered his plea, the Commission, on September 8, 2003, approved  
2 probable cause conciliation with Plesha,

3 and also authorized contingent civil suit

4 Counsel for Plesha requested an extension of the probable cause conciliation period  
5 until after Plesha's sentencing and signed a tolling agreement in connection with the request.<sup>2</sup>  
6 See General Counsel's Report #16 (Oct. 8, 2003). On November 21, 2003, Plesha was sentenced  
7 to, among other things, a three-year term of probation and a \$5,000 criminal fine. Attachment 1.

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10 **III. DISCUSSION**  
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<sup>2</sup> Subsequently, counsel requested additional time to respond and signed a second tolling agreement. Counsel finally submitted another tolling agreement with the conciliation agreement to allow the Commission sufficient time to consider the agreement. The most recent tolling agreement changes the statute of limitations date to March 20, 2004.

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Based on the above, this Office recommends that the Commission accept the attached conciliation agreement with Adrian Plesha, close the file, and approve the appropriate letters.

**IV. RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Adrian Plesha.
2. Close the file.

3. Approve the appropriate letters.

Lawrence H. Norton  
General Counsel

3/2/07  
Date

BY: Rhonda J. Vosdingh  
Rhonda J. Vosdingh  
Associate General Counsel  
for Enforcement

Jonathan A. Bernstein  
Jonathan A. Bernstein  
Assistant General Counsel

Dominique Dillenseger  
Dominique Dillenseger  
Attorney

Attachments:

1. Sentencing Documents
2. Conciliation Agreement

24 04 407 3420

FROM

(MON) 12. 1 '03 15:20/ST. 15:20/NO. 4861219605 P. 2

AO 245 S (Rev. 11/00 DC) Sheet 1 - Judgment in a Criminal Case

NR

UNITED STATES DISTRICT COURT  
for the District of Columbia

FILED

UNITED STATES OF AMERICA

NOV 21 2003

v.

Case Number CR 03-345

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

ADRIAN PLESHA

Defendant.

JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)

2003 DEC -1 P 3:2  
FEDERAL BUREAU OF INVESTIGATION  
OFFICE OF THE ATTORNEY GENERAL

The defendant, ADRIAN PLESHA, was represented by Mark Smith, Esquire.

The defendant pled guilty to count 1 of the information on September 10, 2003. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

Title & Section	Nature of Offense	Date of Offense	Count Number(s)
18 USC 1001	False Statement - Felony	April 1988 - November 1988	1

As pronounced on November 20, 2003, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The mandatory special assessment is included in the portion of this Judgment that imposes the Criminal Monetary Penalties.

It is further ordered that the defendant shall notify the United States Attorney and the Clerk's Office for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances that might affect the ability to pay.

Signed this the 21<sup>st</sup> day of November, 2003.



United States District Judge

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DEC 1 2003

PUBLIC INTEGRITY SECTION

United States District Court  
For the District of Columbia

A TRUE COPY

NANCY MAYER WHITTINGTON, Clerk

By  Deputy Clerk

Defendant's SSN:

Defendant's Date of Birth: 08/02/70

Defendant's USM No.: 27152-016

Defendant's mailing address: 430 New Jersey Avenue, SE, Washington, DC 20003

Defendant's residence address: Same as above

Page 1 of 4

Defendant: ADRIAN PLESHA  
Case Number: CR 03-345

**STANDARD CONDITIONS OF PROBATION**

While the defendant is on probation pursuant to this Judgment:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any controlled substance or any paraphernalia related to any such controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant: ADRIAN PLESHA  
Case Number: CR 03-345

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth below under **SCHEDULE OF PAYMENTS** heading.

Count	Assessment	Fine	Restitution
1	\$100.00	\$5,000.00	\$0.00
<b>TOTALS:</b>	<b>\$100.00</b>	<b>\$5,000.00</b>	<b>\$0.00</b>

The court determined that the defendant does not have the ability to pay interest on the fine and/or restitution, and it is ordered that the interest requirement is waived.

**SCHEDULE OF PAYMENTS**

Payments shall be applied in the following order: (1) assessment and (2) fine principal.

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

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court, unless otherwise directed by the court, the probation officer, or the United States Attorney.

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



Defendant: ADRIAN PLESHA  
Case Number: CR 03-345

## STATEMENT OF REASONS

- ☒ The court adopts the factual findings and guideline application in the presentence report.  
OR  
☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

## Guideline Range Determined by the Court:

Total Offense Level: 4Criminal History Category: IIImprisonment Range: 0 to 6 monthsSupervised Release Range: 2 to 3 yearsFine Range: \$ 250 to \$ 5,000

- ☐ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Total Amount of Restitution: \$ N/A

- ☐ Discretionary restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(a)(B)(ii). (or in offenses committed before April 23, 1996, pursuant to 18 U.S.C. § 3663(d)).
- ☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because the number of identifiable victims is so large as to make restitution impracticable, pursuant to 18 U.S.C. § 3663A(c)(3)(A).
- ☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because determining complex issues of fact and related to the cause of amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process, pursuant to 18 U.S.C. § 3663A(c)(3)(B).
- ☐ For offenses committed on or after September 13, 1994 but before April 23, 1998 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.
- ☐ Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c), for the following reason(s):

- ☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.  
OR  
☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR  
The sentence departs from the guideline range:

- ☐ upon motion of the government, as a result of defendant's substantial assistance.
- ☐ for the following specific reason(s):