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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	
	:	10-CR-460 (SJ)
v.	:	
	:	May 24, 2011
IGOR SHTURMAN, MARIYA GOMELSKAYA,	:	Brooklyn, New York
	:	
Defendants.	:	
	:	
-----X		

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:	UNITED STATES ATTORNEY BY: DAN BROWNELL, ESQ. ASSISTANT U.S. ATTORNEY
For Defendant Shturman:	DOUGLAS M. NADJARI, ESQ.
For Defendant Gomelskaya:	ALEXANDER G. BATEMAN, JR., ESQ.
Russian Interpreter:	ISABELLE AVRUTIN
Court Transcriber:	MARY GRECO TypeWrite Word Processing Service 211 N. Milton Road Saratoga Springs, NY 12866

Proceedings recorded by electronic sound recording,
transcript produced by transcription service

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I N D E X

Defendants Sworn at Page 3

<u>EXHIBITS</u>	<u>Marked</u>	<u>Received</u>
1 Shturman Plea Agreement	--	18
2 Gomelskaya Plea Agreement	--	18

1 THE CLERK: Criminal Causes For Pleading, United
2 States v. Igor Shturman, docket number 10-CR-460-1 and United
3 States v. Mariya Gomelskaya, docket number 10-CR-460-2. Please
4 state your appearances for the record.

5 MR. BROWNELL: Daniel Brownell for the Government.
6 Good afternoon, Your Honor.

7 THE COURT: Good afternoon.

8 MR. BATEMAN: For Ms. Gomelskaya, Alex Bateman. Good
9 afternoon, Your Honor.

10 MR. NADJARI: For Mr. Shturman, Douglas Nadjari.

11 THE COURT: Good afternoon.

12 MR. NADJARI: Good afternoon.

13 THE INTERPRETER: And I'll be standing by.

14 THE COURT: All right. Does any of the defendants
15 need an interpreter at this time?

16 MR. NADJARI: No.

17 THE COURT: But possibly may. All right. If at any
18 time you think you need an interpreter, please just let me
19 know. The interpreter is standing here. I think we'll just
20 swear the interpreter just in case. Do you want to swear the
21 interpreter just in case?

22 THE CLERK: Yes.

23 (AT THIS TIME THE INTERPRETER, ISABELLE AVRUTIN, WAS SWORN.)

24 THE CLERK: I'm going to swear both of the defendants
25 at the same time. Please raise your right hands.

1 (AT THIS TIME THE DEFENDANTS, IGOR SHTURMAN AND MARIYA
2 GOMELSKAYA, WERE SWORN.)

3 THE COURT: All right. What are Mr. Shturman and Ms.
4 Gomelskaya going to do today?

5 MR. NADJARI: Your Honor, with the Court's
6 permission, I represent Igor Shturman but for both purposes the
7 defendants will be entering a plea of guilty, withdrawing
8 previously entered pleas of not guilty and entering a plea of
9 guilty to a single charge of conspiracy to commit health care
10 fraud.

11 MR. BATEMAN: Pursuant to the Plea Agreement that's
12 been provided to the Court, Your Honor, Ms. Gomelskaya is
13 prepared to do the same.

14 THE COURT: Have the defendants been sworn as well?
15 Yes, they have. I thought you did. Okay. All right.

16 So I'm just going to speak to Mr. Shturman and Ms.
17 Gomelskaya first. We're doing your pleas together. I'm going
18 to be asking the same questions to both of you. You don't have
19 to give the same answers. You should each give individualized
20 answers. If there's anything that I say that you don't
21 understand, just let me know. If you feel you need an
22 interpreter at any time, just let me know. She's standing
23 here. She's ready to go. All right? Do you understand?

24 DEFENDANT GOMELSKAYA: Yes.

25 THE COURT: All right. Now each one of you is under

1 oath. You have to answer my questions honestly and completely.
2 You could be prosecuted for perjury if you don't. Do you
3 understand?

4 DEFENDANT GOMELSKAYA: Yes.

5 THE COURT: Also you're going to have to speak up. I
6 think we need to put one set of microphones over next to Mr.
7 Shturman. Maybe you could just stand next to each other.
8 Okay. And then you need to speak up a little bit because this
9 is being recorded and if the transcript doesn't go through,
10 you'll have to come back and do this again.

11 DEFENDANT GOMELSKAYA: Okay.

12 THE COURT: All right. So can you each -- we're
13 going to start with Mr. Shturman because you're on my left, and
14 then Ms. Gomelskaya after each question. Can you tell me your
15 full name, please?

16 DEFENDANT SHTURMAN: Igor Shturman.

17 DEFENDANT GOMELSKAYA: Mariya Gomelskaya.

18 THE COURT: How old are you?

19 DEFENDANT SHTURMAN: 49.

20 DEFENDANT GOMELSKAYA: 28.

21 THE COURT: What is the last level of school that you
22 finished?

23 DEFENDANT SHTURMAN: The college [inaudible].

24 THE COURT: Okay. So you're a college graduate?

25 DEFENDANT SHTURMAN: College graduate.

1 THE COURT: In economics?

2 DEFENDANT SHTURMAN: Economics.

3 DEFENDANT GOMELSKAYA: Present time in the college
4 for the Bachelor Degree.

5 THE COURT: Now, I have here consent forms for each
6 of you in which you've each agreed to have me, a Magistrate
7 Judge, hear your guilty pleas and make a recommendation to
8 Judge Johnson, the District Judge, as to whether or not to
9 accept your guilty pleas. He will be the Judge who will
10 sentence you as well if he accepts the plea.

11 Starting with Mr. Shturman, is that your signature on
12 this consent form?

13 DEFENDANT SHTURMAN: Yes.

14 THE COURT: And before signing it did you discuss it
15 with your lawyer?

16 DEFENDANT SHTURMAN: Yes.

17 THE COURT: Is your decision to have me hear your
18 plea voluntary?

19 DEFENDANT SHTURMAN: Yes.

20 THE COURT: Do you have any questions about what
21 you're doing?

22 DEFENDANT SHTURMAN: No.

23 THE COURT: And I'm just going to speak to your
24 attorney for a moment. Are you satisfied that your client's
25 consent here is knowing and voluntary?

1 MR. NADJARI: I am, Your Honor.

2 THE COURT: All right. Now, for Ms. Gomelskaya. Is
3 this your signature on the consent form?

4 DEFENDANT GOMELSKAYA: Yes.

5 THE COURT: Did you sign it here today in court?

6 DEFENDANT GOMELSKAYA: Yes.

7 THE COURT: And before you signed it did you discuss
8 it with your attorney?

9 DEFENDANT GOMELSKAYA: Yes.

10 THE COURT: Do you have any questions about what
11 you're doing?

12 DEFENDANT GOMELSKAYA: No.

13 THE COURT: Are you agreeing voluntarily to have me
14 hear your guilty plea?

15 DEFENDANT GOMELSKAYA: Yes.

16 THE COURT: And you both understand that if you
17 choose to have Judge Johnson do it rather than me no one will
18 be upset with you and it won't be a problem. Mr. Bateman, are
19 you satisfied that Ms. Gomelskaya's consent is knowing and
20 voluntary?

21 MR. BATEMAN: Yes, Your Honor.

22 THE COURT: Okay. All right. Mr. Shturman, are you
23 under the care of a doctor or a psychiatrist?

24 DEFENDANT SHTURMAN: No.

25 THE COURT: Ms. Gomelskaya?

1 DEFENDANT GOMELSKAYA: No.

2 MR. NADJARI: Hang on one second. You're under the
3 care of a doctor.

4 DEFENDANT SHTURMAN: Oh, yes actually. The doctor of
5 neurology, yes.

6 THE COURT: Okay. And do you take any medication for
7 your condition?

8 DEFENDANT SHTURMAN: Yes.

9 THE COURT: When is the last time you took
10 medication?

11 DEFENDANT SHTURMAN: Every morning.

12 THE COURT: All right. Does this medication have any
13 side effects?

14 DEFENDANT SHTURMAN: No.

15 THE COURT: Does it make it difficult for you to
16 concentrate or stay awake?

17 DEFENDANT SHTURMAN: No. It doesn't make any --

18 THE COURT: Have you ever been hospitalized or
19 treated for drug addiction?

20 DEFENDANT SHTURMAN: No.

21 THE COURT: For alcoholism?

22 DEFENDANT SHTURMAN: No.

23 THE COURT: For a mental or emotional problem?

24 DEFENDANT SHTURMAN: No.

25 THE COURT: In the past 24 hours have you taken any

1 narcotic drugs or drunk any alcoholic beverages?

2 DEFENDANT SHTURMAN: No.

3 THE COURT: Is your mind clear now?

4 DEFENDANT SHTURMAN: Yes.

5 THE COURT: And do you understand why you're here and
6 what's happening here today?

7 DEFENDANT SHTURMAN: Yes.

8 THE COURT: Ms. Gomelskaya, are you presently under
9 the care of a doctor or a psychiatrist?

10 DEFENDANT GOMELSKAYA: No.

11 THE COURT: In the past 24 hours have you taken any
12 narcotic drugs?

13 DEFENDANT GOMELSKAYA: No.

14 THE COURT: Alcoholic beverages?

15 DEFENDANT GOMELSKAYA: No.

16 THE COURT: Medicine or pills of any kind?

17 DEFENDANT GOMELSKAYA: No.

18 THE COURT: Have you ever been hospitalized or
19 treated for a narcotic addiction?

20 DEFENDANT GOMELSKAYA: No.

21 THE COURT: For alcoholism?

22 DEFENDANT GOMELSKAYA: No.

23 THE COURT: For a mental or emotional problem?

24 DEFENDANT GOMELSKAYA: No.

25 THE COURT: Is your mind clear?

1 DEFENDANT GOMELSKAYA: Yes.

2 THE COURT: And do you understand why you're here and
3 what's happening here today?

4 DEFENDANT GOMELSKAYA: Yes.

5 THE COURT: Now, with respect to language, again, we
6 do have an interpreter here standing by. Each one of you has
7 told me that you don't have any difficulty with the language.
8 The question I'm going to ask each one of you is whether you
9 have been able to communicate with your attorney either in
10 English or with an interpreter. Mr. Shturman?

11 DEFENDANT SHTURMAN: In English.

12 THE COURT: All right. And do you think that he
13 understood everything that you said?

14 DEFENDANT SHTURMAN: Yes.

15 THE COURT: And did you understand everything that he
16 said?

17 DEFENDANT SHTURMAN: Yes.

18 THE COURT: Is there anything else you'd like to
19 discuss with him with the help of an interpreter?

20 DEFENDANT SHTURMAN: No.

21 THE COURT: All right. Now, Ms. Gomelskaya, same
22 question.

23 DEFENDANT GOMELSKAYA: No. I mean I understood
24 everything when I spoke with my attorney.

25 THE COURT: Yes. You don't have an interpreter here

1 on standby for you; do you?

2 DEFENDANT GOMELSKAYA: No.

3 THE COURT: And counsel, both attorneys, did Mr.
4 Shturman's attorney, are you satisfied that you've been able to
5 communicate with the defendant in English?

6 MR. NADJARI: I have. He's completely fluent, Your
7 Honor.

8 THE COURT: Okay. And the same for Ms. Gomelskaya?

9 MR. BATEMAN: Yes, Your Honor.

10 THE COURT: All right. Now, I have a copy of the
11 indictment here. Mr. Shturman, have you seen a copy of the
12 indictment and discussed it with your lawyer?

13 DEFENDANT SHTURMAN: Yes.

14 THE COURT: Ms. Gomelskaya?

15 DEFENDANT GOMELSKAYA: Yes.

16 THE COURT: Do you understand the charges against
17 you?

18 DEFENDANT SHTURMAN: Yes.

19 THE COURT: Would you like me to explain them?

20 DEFENDANT SHTURMAN: No.

21 THE COURT: Do you understand the charges?

22 DEFENDANT GOMELSKAYA: I understand, yeah.

23 THE COURT: Do you need an explanation from the
24 Court?

25 DEFENDANT GOMELSKAYA: No.

1 THE COURT: I'll ask the Government then to just
2 briefly explain this indictment.

3 MR. BROWNELL: Sure, Your Honor. Your Honor, with
4 regard to the health care fraud conspiracy, these defendants
5 operated two retail durable medical equipment companies,
6 submitted fraudulent no fault claims to insurance companies.
7 The claims were generally fraudulent in that they were
8 supported by inflated, fraudulent inflated invoices for durable
9 medical equipment which meant that the payment of the claims
10 were much higher than they should have been and therefore were
11 false.

12 THE COURT: Any questions about the charges?

13 DEFENDANT SHTURMAN: No.

14 DEFENDANT GOMELSKAYA: No.

15 THE COURT: All right. We're now going to have a
16 discussion of your rights. You have a number of rights under
17 the US Constitution and federal law. If you plead guilty today
18 you will be giving them up. I need to be sure you're making a
19 knowing and voluntary waiver of those rights.

20 Do you each understand that you have a right to plead
21 not guilty?

22 DEFENDANT SHTURMAN: Yes.

23 DEFENDANT GOMELSKAYA: Yes.

24 THE COURT: And do you understand that if you
25 continue to plead not guilty you have a right under the US

1 Constitution and laws to a speedy, public trial by jury with
2 the help of your lawyer on the charges contained in the
3 indictment?

4 DEFENDANT SHTURMAN: Yes.

5 DEFENDANT GOMELSKAYA: Yes.

6 THE COURT: Do you understand that if you cannot
7 afford to retain an attorney the Court will ensure that you
8 have counsel appointed to advise and represent you at every
9 stage of this case at no cost to you, through trial, and if
10 you're convicted on appeal of any conviction? Do you
11 understand?

12 DEFENDANT SHTURMAN: Yes.

13 DEFENDANT GOMELSKAYA: Yes.

14 THE COURT: At your trial, you would be presumed to
15 be innocent. The Government would have to overcome that
16 presumption and prove through competent evidence admissible in
17 court that you're guilty. The jury would have to be convinced
18 beyond a reasonable doubt of your guilt. Do you understand?

19 DEFENDANT SHTURMAN: Yes.

20 DEFENDANT GOMELSKAYA: Yes.

21 THE COURT: And even if you did everything that the
22 Government has accused you of, the Government still has the
23 burden of proof, which means that the jurors have to be
24 convinced beyond a reasonable doubt of your guilt and if they
25 are not, the jurors would have a duty to find you not guilty

1 despite whatever you had done. Do you understand?

2 DEFENDANT SHTURMAN: Yes.

3 DEFENDANT GOMELSKAYA: Yes.

4 THE COURT: Any questions about anything so far?

5 DEFENDANT GOMELSKAYA: No.

6 DEFENDANT SHTURMAN: No.

7 THE COURT: During your trial, the Government's
8 witnesses would have to come to court, they would have to
9 testify in your presence. Your lawyers would have the right to
10 cross examine them, to object to the Government's evidence, and
11 present evidence in your defense. Do you understand?

12 DEFENDANT SHTURMAN: Yes.

13 DEFENDANT GOMELSKAYA: Yes.

14 THE COURT: You would also have the right to compel
15 witnesses to appear and testify in court. Do you understand?

16 DEFENDANT SHTURMAN: Yes.

17 DEFENDANT GOMELSKAYA: Yes.

18 THE COURT: At your trial, you would have a choice.
19 You could testify in your defense, or if you chose, you could
20 remain silent. Under the Fifth Amendment to the US
21 Constitution you have a right to remain silent, not to
22 incriminate yourself. No one could force you to testify at any
23 court proceeding if you didn't want to. Do you understand ?

24 DEFENDANT SHTURMAN: Yes.

25 DEFENDANT GOMELSKAYA: Yes.

1 THE COURT: So if you decided to go to trial but not
2 to testify, Judge Johnson would instruct the jurors that they
3 couldn't hold that against you and assume that you're guilty
4 just because you didn't testify. Do you understand?

5 DEFENDANT SHTURMAN: Yes.

6 DEFENDANT GOMELSKAYA: Yes.

7 THE COURT: Okay. Any questions so far?

8 DEFENDANT SHTURMAN: No.

9 DEFENDANT GOMELSKAYA: No.

10 THE COURT: Now, if you plead guilty and if the Court
11 accepts your guilty plea you'll be giving up all these rights.
12 You'll give up your right to a trial, the right to remain
13 silent, all the rights I just explained. You will not have a
14 trial of any kind. Do you understand that?

15 DEFENDANT GOMELSKAYA: Yes.

16 DEFENDANT SHTURMAN: Yes.

17 THE COURT: The Court will simply enter a judgment
18 that you're guilty based on what you say here today. Do you
19 understand?

20 DEFENDANT SHTURMAN: Yes.

21 DEFENDANT GOMELSKAYA: Yes.

22 THE COURT: And you will also give up your right to
23 appeal from that judgment of guilty.

24 DEFENDANT SHTURMAN: Yes.

25 THE COURT: In other words, you cannot take back your

1 guilty plea. Understand?

2 DEFENDANT SHTURMAN: Yes.

3 DEFENDANT GOMELSKAYA: Yes.

4 THE COURT: And if you plead guilty, I'm going to
5 have to ask you some questions because I'll have to be sure
6 before I recommend to Johnson whether to accept your plea, I
7 have to be sure that you really are guilty of the charge that
8 you're pleading guilty to. So you're going to have to answer
9 my questions and admit your guilt. When you do that, you give
10 up your right to remain silent and not to incriminate yourself.
11 Do you understand?

12 DEFENDANT SHTURMAN: Yes.

13 DEFENDANT GOMELSKAYA: Yes.

14 THE COURT: So Mr. Shturman, are you willing to give
15 up your right to a trial and the other rights I just discussed?

16 DEFENDANT SHTURMAN: Yes.

17 THE COURT: Ms. Gomelskaya?

18 DEFENDANT GOMELSKAYA: Yes.

19 THE COURT: Now, I understand each one of you is
20 pleading pursuant to a Plea Agreement; is that right?

21 MR. BATEMAN: That's correct.

22 THE COURT: All right. I have one Plea Agreement
23 here. I have the one for Mr. Shturman.

24 THE CLERK: [Inaudible].

25 THE COURT: Oh, you put it up here? Thank you. Yes.

1 Okay. So Mr. Shturman's as been marked Court Exhibit
2 1 and Ms. Gomelskaya's has been marked Court Exhibit 2.

3 (AT THIS TIME COURT EXHIBITS 1 AND 2 MARKED)

4 THE COURT: With respect to Mr. Shturman, is this
5 agreement the only current agreement between the parties?

6 MR. BROWNELL: Yes, Your Honor.

7 THE COURT: Does the defense agree? Are there any
8 other agreements than this one between --

9 MR. NADJARI: There are no other agreements.

10 THE COURT: Okay. And with respect to Ms.
11 Gomelskaya, is Court Exhibit Number 2 the only current
12 agreement between her and the Government?

13 MR. BROWNELL: It is the only current agreement,
14 Judge, but one thing I want to put on the record is that an
15 additional thing that Mr. Bateman and I will be discussing
16 between now and sentence is whether some additional points
17 ought to be taken off under 3B1.1 for a minimal role in the
18 conspiracy. That doesn't change the Plea Agreement because the
19 Plea Agreement allows for that to happen.

20 MR. BATEMAN: Yes, Your Honor. We have had that
21 discussion leading up to today and my understanding based on
22 the facts and the evidence in this case, I think it would be an
23 appropriate reduction for minimal role. I've spoken with Mr.
24 Brownell about that including the fact that we will be, during
25 the presentence report process and the sentencing, presenting

1 arguments in favor of that further reduction.

2 THE COURT: All right. Ms. Gomelskaya, do you
3 understand what both lawyers just said?

4 DEFENDANT GOMELSKAYA: Yes.

5 THE COURT: And do you understand there is no
6 guarantee what will happen with respect to that request?

7 DEFENDANT GOMELSKAYA: Yes.

8 THE COURT: Now, Mr. Shturman, have you read the Plea
9 Agreement carefully?

10 DEFENDANT SHTURMAN: Yes.

11 THE COURT: Discussed it with your lawyer?

12 DEFENDANT SHTURMAN: Yes.

13 THE COURT: Asked him all the questions you needed
14 to?

15 DEFENDANT SHTURMAN: Yes.

16 THE COURT: Do you have any questions about the Plea
17 Agreement at all?

18 DEFENDANT SHTURMAN: No.

19 THE COURT: Now, your agreement is not dated.

20 MR. BROWNELL: Probably neither one are dated.

21 THE COURT: There's a date of the signature of
22 counsel and the defendant but not the ultimate date. So maybe
23 I should pass them down to you.

24 MR. BROWNELL: Sorry, Your Honor.

25 THE COURT: That's okay. Ms. Gomelskaya, have you

1 read the Plea Agreement carefully?

2 DEFENDANT GOMELSKAYA: Yes.

3 THE COURT: Discussed it with your lawyer?

4 DEFENDANT GOMELSKAYA: Yes.

5 THE COURT: And have you asked him all the questions
6 that --

7 DEFENDANT GOMELSKAYA: Yes.

8 THE CLERK: You've got to do it again. The mike
9 [inaudible].

10 THE COURT: Oh, okay. All right. Have you read your
11 Plea Agreement carefully?

12 DEFENDANT GOMELSKAYA: Yes.

13 THE COURT: Discussed it with your lawyer?

14 DEFENDANT GOMELSKAYA: Yes.

15 THE COURT: And have you asked him every question
16 that you could think of?

17 DEFENDANT GOMELSKAYA: Yes.

18 THE COURT: All right. Are you satisfied that you
19 fully understand it?

20 DEFENDANT GOMELSKAYA: Yes.

21 THE COURT: All right. Mr. Shturman, did you sign
22 this Plea Agreement?

23 DEFENDANT SHTURMAN: Yes.

24 THE COURT: Ms. Gomelskaya, did you sign it as well?

25 DEFENDANT GOMELSKAYA: Yes.

1 THE COURT: Yours. Okay. All right. So according
2 to these Plea Agreements, each one of you will be pleading
3 guilty to Count 1 of the indictment. If you do that, you're
4 facing a possible penalty of from zero to ten years. Each one
5 of you is facing that same possible penalty. Do you
6 understand?

7 DEFENDANT SHTURMAN: Yes.

8 DEFENDANT GOMELSKAYA: Yes.

9 THE COURT: If you are sentenced to prison, there is
10 what's called a period of supervised release of up to three
11 years following your term of imprisonment. Do you each
12 understand that?

13 DEFENDANT SHTURMAN: Yes.

14 DEFENDANT GOMELSKAYA: Yes.

15 THE COURT: And do you know what supervised release
16 is?

17 DEFENDANT SHTURMAN: Yes.

18 DEFENDANT GOMELSKAYA: Yes.

19 THE COURT: All right. You're released on
20 conditions, you're supervised by the Probation Department. If
21 you violate any condition of your release there's a penalty.
22 That means that you could be brought to court to answer for
23 that violation. The maximum penalty for a violation of
24 supervised release is up to two years in prison just for the
25 violation without any credit for the time you've been on

1 supervised release or in prison in this case. Do you
2 understand?

3 DEFENDANT GOMELSKAYA: Yes.

4 DEFENDANT SHTURMAN: Yes.

5 THE COURT: Okay. Any questions about anything so
6 far?

7 DEFENDANT SHTURMAN: No.

8 DEFENDANT GOMELSKAYA: No.

9 THE COURT: There is a maximum possible fine, and
10 this I'm sure you've looked at carefully but I want to be sure
11 you understand it. It's \$250,000.00 or twice the monetary
12 gain, whichever is greater. Do you understand that, Mr.
13 Shturman?

14 DEFENDANT SHTURMAN: Yes.

15 DEFENDANT GOMELSKAYA: Yes.

16 THE COURT: There is also a restitution amount that's
17 to be determined by the Court at sentencing. Do you each
18 understand that?

19 DEFENDANT SHTURMAN: Yes.

20 DEFENDANT GOMELSKAYA: Yes.

21 THE COURT: Is there anything that counsel would like
22 to put on the record with respect to restitution at this time
23 or just --

24 MR. BROWNELL: No, Your Honor. That will be
25 determined with regard -- with the insurance companies.

1 THE COURT: You each have a special assessment which
2 is a fee of \$100.00 to be paid to the Court. There is a
3 criminal forfeiture provision that is set forth in the Plea
4 Agreements for each one of you. Do you understand that?

5 DEFENDANT SHTURMAN: Yes.

6 DEFENDANT GOMELSKAYA: Yes.

7 THE COURT: All right. Now, for Mr. Shturman, you're
8 also facing a possible penalty of removal which is deportation
9 if you're not a citizen. I don't know if that's applicable or
10 not.

11 DEFENDANT SHTURMAN: No.

12 THE COURT: Are you an American citizen?

13 DEFENDANT SHTURMAN: Yes.

14 THE COURT: All right. If you weren't a citizen a
15 warning would be that you would face that.

16 DEFENDANT SHTURMAN: I understand.

17 THE COURT: And the same for you, Ms. Gomelskaya --

18 DEFENDANT GOMELSKAYA: I understand.

19 THE COURT: -- if you're not a citizen.

20 DEFENDANT GOMELSKAYA: No, I'm citizen.

21 THE COURT: Okay. Now, has each one of you discussed
22 this case carefully with your lawyer?

23 DEFENDANT SHTURMAN: Yes.

24 DEFENDANT GOMELSKAYA: Yes.

25 THE COURT: Have you asked them all the questions

1 that you need to ask?

2 DEFENDANT GOMELSKAYA: Yes.

3 DEFENDANT SHTURMAN: Yes.

4 THE COURT: All right. Is there anything else you'd
5 like to discuss with them?

6 DEFENDANT SHTURMAN: No.

7 DEFENDANT GOMELSKAYA: No.

8 THE COURT: Are you satisfied to have them represent
9 you?

10 DEFENDANT SHTURMAN: Yes.

11 DEFENDANT GOMELSKAYA: Yes.

12 THE COURT: All right. Now, I'm going to speak to
13 each attorney at this point. Have you discussed this case
14 fully with your client, Mr. Nadjari?

15 MR. NADJARI: I have, Your Honor.

16 THE COURT: Mr. Bateman?

17 MR. BATEMAN: Yes, Your Honor.

18 THE COURT: Are you satisfied that your client
19 understands all the charges against him?

20 MR. NADJARI: I'm satisfied he understands the
21 charges, particularly the charge for which he's pleading.

22 THE COURT: Okay. And against her?

23 MR. BATEMAN: I am satisfied, Your Honor.

24 THE COURT: Okay. Does she understand the rights
25 that she's giving up by pleading guilty -- I'm sorry, that he

1 is giving up by pleading guilty?

2 MR. NADJARI: Yes, he does.

3 THE COURT: And that Ms. Gomelskaya is giving up by
4 pleading guilty?

5 MR. BATEMAN: Yes, she does, Your Honor.

6 THE COURT: Okay. Are you satisfied that Mr.
7 Shturman is competent to plead at this time?

8 MR. NADJARI: Without question, Your Honor.

9 THE COURT: And that Ms. Gomelskaya is competent to
10 plead at this time?

11 MR. BATEMAN: I am satisfied, Your Honor.

12 THE COURT: Have you advised Mr. Shturman of the
13 maximum and minimum sentence and fine and all the other
14 penalties that he might face as well as informing him of the
15 effect of the sentencing guidelines?

16 MR. NADJARI: I have.

17 THE COURT: And the same for Ms. Gomelskaya?

18 MR. BATEMAN: Yes, Your Honor.

19 THE COURT: Have you advised Mr. Shturman that
20 there's no guarantee at this time what his sentence will be?

21 MR. NADJARI: Yes, Your Honor.

22 THE COURT: And with respect to Ms. Gomelskaya, have
23 you made the same --

24 MR. BATEMAN: I have, Your Honor.

25 THE COURT: Okay. With respect to the sentencing

1 guidelines, I'm sure you both understand this. The guidelines
2 are just rules that the Court looks to in determining how to
3 sentence you. They're not binding on Judge Johnson. He's
4 going to calculate the guideline range and then he will decide
5 whether to sentence you within the guidelines, above the
6 guidelines, or below the guidelines. Do you understand that,
7 Mr. Shturman?

8 DEFENDANT SHTURMAN: Yes.

9 THE COURT: Ms. Gomelskaya?

10 DEFENDANT GOMELSKAYA: Yes.

11 THE COURT: And do you understand that at this time
12 there's no guarantee what your guideline range will be?

13 DEFENDANT SHTURMAN: Yes.

14 DEFENDANT GOMELSKAYA: Yes.

15 THE COURT: And do you understand there's no
16 guarantee at this time what your sentence will be?

17 DEFENDANT SHTURMAN: Yes.

18 DEFENDANT GOMELSKAYA: Yes.

19 THE COURT: In Paragraph 2 of each of your Plea
20 Agreements there is a discussion of the sentencing guidelines
21 as well as estimate of what each of your guideline ranges would
22 be. Do you understand that those are just estimates?

23 DEFENDANT SHTURMAN: Yes.

24 DEFENDANT GOMELSKAYA: Yes.

25 THE COURT: Would the Government mind just going

1 through each guideline calculation?

2 MR. BROWNELL: No, Your Honor. For each defendant,
3 especially adding on the acceptance of responsibility points,
4 the Government estimates that it would be at a level 13 which
5 means that the range of imprisonment would be 12 to 18 months.
6 As the Government indicated with regard to Ms. Gomelskaya,
7 there's a fairly good chance that the level is going to be even
8 lower than that by the time of sentence so that the sentence
9 obviously would then be lower than the 12 to 18 months.

10 THE COURT: Mr. Shturman, any questions about what he
11 said?

12 DEFENDANT SHTURMAN: No.

13 THE COURT: Ms. Gomelskaya?

14 DEFENDANT GOMELSKAYA: No.

15 THE COURT: Now, the guidelines are just one aspect
16 of sentencing as I'm sure your lawyers have explained to you.
17 Under federal law the Court has to also consider such other
18 things as the circumstances of the offense, your background,
19 your respect for the law, what would be fair punishment, what
20 would be a deterrent for others from committing similar crimes,
21 how the public could be protected from further crimes and what
22 your personal need for effective correctional treatment would
23 be. That's a paraphrase of the statute. Do you understand?

24 DEFENDANT SHTURMAN: Yes.

25 DEFENDANT GOMELSKAYA: Yes.

1 THE COURT: Does either one of you have any questions
2 about anything that's been said so far?

3 DEFENDANT SHTURMAN: No.

4 DEFENDANT GOMELSKAYA: No.

5 THE COURT: So let's move along. In the Plea
6 Agreement -- is there anything else in Paragraph 2 that I
7 should put on the record at this point for Mr. Shturman? I
8 know there's a stipulation to the guideline calculation.

9 MR. BROWNELL: I don't think so, Your Honor. Not
10 that I can see anyway.

11 THE COURT: Okay. All right. So why don't we move
12 to Paragraph 4 then? In Paragraph 4, each one of you has
13 agreed not to appeal or otherwise challenge your sentence or
14 conviction in the event that the Court imposes a term of
15 imprisonment of 21 months or less. Do you understand, Mr.
16 Shturman?

17 DEFENDANT SHTURMAN: Yes.

18 THE COURT: Ms. Gomelskaya?

19 DEFENDANT GOMELSKAYA: Yes.

20 THE COURT: Now, should we put on the record with
21 respect to each defendant the provisions in Paragraph 5 and 6
22 of the Plea Agreements with respect to criminal forfeiture?

23 MR. BROWNELL: As Your Honor has indicated, those
24 paragraphs relate to the criminal forfeiture in this case which
25 is joint and several approximately \$105,000.00 which relates to

1 the amount of money that the two companies that these two
2 defendants operated which were TriMed Medical Supply and Dorsey
3 Medical Supply paid to fraudulent wholesale companies during
4 2010 and -- excuse me, 2009 and 2010.

5 THE COURT: And I believe there's a payment date of
6 July 30, 2011. Is that applicable still as well?

7 MR. BROWNELL: Quite frankly, it can be done at the
8 date of sentence or even after. I mean I don't have any -- I
9 doubt very much that these defendants would be able to pay it
10 by July of this year. So something will be worked out in terms
11 of the sentence date. That ought to be perhaps revised.

12 THE COURT: Do you want to change the agreement on
13 that or --

14 MR. BROWNELL: That's fine, Judge. Why don't we put,
15 if I can do it orally, that it would be due at the date of
16 sentence, whatever that date is.

17 THE COURT: Mr. Nadjari?

18 MR. NADJARI: That's fine.

19 THE COURT: Mr. Bateman?

20 MR. BATEMAN: That's fine, Judge.

21 THE COURT: Mr. Shturman and Ms. Gomelskaya, do you
22 understand what was just discussed?

23 DEFENDANT GOMELSKAYA: Yes.

24 DEFENDANT SHTURMAN: Yes.

25 THE COURT: Do you understand how the criminal

1 forfeiture provisions work?

2 DEFENDANT GOMELSKAYA: Yes.

3 DEFENDANT SHTURMAN: Yes.

4 THE COURT: And the change in the Plea Agreement
5 about when you would have to pay your portion?

6 DEFENDANT GOMELSKAYA: Yes.

7 DEFENDANT SHTURMAN: Yes.

8 THE COURT: And do you know what it means to be
9 jointly and severally liable?

10 DEFENDANT SHTURMAN: Yes.

11 DEFENDANT GOMELSKAYA: Yes.

12 THE COURT: So I'm just going to cross out from July
13 30th, the word "July" to the word "or".

14 MR. BROWNELL: That's correct, Your Honor.

15 THE COURT: Okay. And I assume somebody is going to
16 have to initial that.

17 [Pause in proceedings.]

18 THE COURT: Okay. Is there anything else in the Plea
19 Agreement that anyone would like to put on the record or
20 discuss?

21 MR. BROWNELL: No, Your Honor.

22 MR. NADJARI: No, Your Honor.

23 MR. BATEMAN: No, Your Honor.

24 THE COURT: Counsel, have you discussed the fact that
25 there's no parole with your client?

1 MR. BATEMAN: Yes.

2 MR. NADJARI: Yes, Your Honor.

3 THE COURT: Do you each understand that if you are
4 sentenced to prison there's no early release on parole?

5 DEFENDANT GOMELSKAYA: Yes.

6 DEFENDANT SHTURMAN: Yes.

7 THE COURT: Does either one of you have any questions
8 that you'd like to ask me or ask your attorneys privately?

9 DEFENDANT SHTURMAN: No.

10 DEFENDANT GOMELSKAYA: No, Your Honor.

11 THE COURT: Mr. Shturman, are you ready to plead?

12 DEFENDANT SHTURMAN: Yes.

13 THE COURT: Ms. Gomelskaya?

14 DEFENDANT GOMELSKAYA: Yes.

15 THE COURT: As to Count 1 in the indictment, how do
16 you plead, Mr. Shturman; guilty or not guilty?

17 DEFENDANT SHTURMAN: Guilty.

18 THE COURT: Ms. Gomelskaya?

19 DEFENDANT GOMELSKAYA: Guilty.

20 THE COURT: I think I'll just continue with Mr.
21 Shturman now. Mr. Shturman, are you pleading guilty
22 voluntarily?

23 DEFENDANT SHTURMAN: Yes.

24 THE COURT: Has anyone forced you or threatened you?

25 DEFENDANT SHTURMAN: No.

1 THE COURT: Has anyone promised you anything other
2 than what's in the Plea Agreement?

3 DEFENDANT SHTURMAN: No.

4 THE COURT: Has anyone promised you what your
5 sentence will be?

6 DEFENDANT SHTURMAN: No.

7 THE COURT: Can you tell me in your own words what it
8 is that you did that makes you guilty of Count 1?

9 DEFENDANT SHTURMAN: Between January 29 and June 2010
10 -- between January 2009 and June 2010 I operate TriMed Medical
11 Supply and Dorsey Medical Supply. It's company that were in
12 the business of providing durable medical equipment. During
13 this time I entered into an agreement [unintelligible] to
14 defraud with Gregory and [unintelligible] and at least one
15 other man to commit healthcare fraud.

16 They came to me with this idea. I thought they were
17 a DME wholesaler when in fact this is a government informant.
18 I went along with this plan willingly. I thought it's easy way
19 to make money but I was wrong.

20 The price of same durable medical equipment if
21 government set pricing schedule [unintelligible]. Certain item
22 are not -- I don't have glasses. I'm sorry.

23 THE COURT: Is that better with those glasses?

24 DEFENDANT SHTURMAN: Yes, much better. Certain item
25 are not what we call schedule item and their price are not set

1 by insurance company. After inflate invoice from
2 [unintelligible], it was the wholesaler. This scheme or
3 agreement involved non-schedule item only. This respect to
4 non-schedule item.

5 I would provide invoice that contained inaccurate and
6 grossly inflate price. It was our plan and agreement to submit
7 this inaccurate and inflated invoices to the insurance company
8 and secure payment for those company at the inflated and
9 unjustified price.

10 THE COURT: Where were you when you did this? Where
11 was your business?

12 DEFENDANT SHTURMAN: It's 20 Avenue T, Brooklyn, New
13 York.

14 THE COURT: Mr. Brownell?

15 MR. BROWNELL: That's satisfactory to the Government,
16 Your Honor.

17 THE COURT: Mr. Shturman, I find that you're acting
18 voluntarily, you fully understand your rights, the charges
19 against you, the rights you're giving up by pleading guilty,
20 the consequences of your guilty plea including all the
21 penalties that we talked about and the fact that there's no
22 guarantee what your sentence will be. I finally find that
23 there's a factual basis for the plea, that you did in fact do
24 what's charged in Count 1. So I therefore recommend that Judge
25 Johnson accept your plea of guilty to Count 1.

1 DEFENDANT SHTURMAN: Yes.

2 THE COURT: Ms. Gomelskaya, I'll ask you again, are
3 you still ready to plead?

4 DEFENDANT GOMELSKAYA: Yes.

5 THE COURT: Counsel, is there any reason why she
6 should not plead guilty to Count 1?

7 MR. BATEMAN: None, Your Honor.

8 THE COURT: So how do you plead to Count 1; guilty or
9 not guilty?

10 DEFENDANT GOMELSKAYA: Guilty.

11 THE COURT: Are you pleading guilty voluntarily?

12 DEFENDANT GOMELSKAYA: Yes.

13 THE COURT: Did anybody force you or threaten you?

14 DEFENDANT GOMELSKAYA: No.

15 THE COURT: Did anybody promise you anything that is
16 not in the Plea Agreement?

17 DEFENDANT GOMELSKAYA: No.

18 THE COURT: Did anyone promise you what your sentence
19 will be?

20 DEFENDANT GOMELSKAYA: No.

21 THE COURT: Again, in your own words, can you tell me
22 what you did?

23 DEFENDANT GOMELSKAYA: On the days between January
24 2009 and June 2010, within the Eastern District of New York
25 specifically in the county of Kings, I worked with the TriMed

1 Medical Supply and Dorsey Medical Company, two companies
2 involved in the supplying of the durable medical equipment to
3 the patients with respect to such equipment.

4 I became aware that those two companies were involved
5 in a scheme to defraud the insurance companies for durable
6 medical equipment provided to the patients covered by no fault
7 insurance. Certain durable medical equipment is paid for no
8 fault insurances based on the price companies paid for such
9 equipment they dispense to the patient. TriMed Medical Supply
10 and Dorsey Medical Supply conspired to commit healthcare fraud
11 with the Gregory and [unintelligible] and others by being
12 [unintelligible] who was government informant posing as an
13 equipment wholesaler, agreements by [unintelligible] and other
14 for the equipment wholesale invoices whether they contain
15 falsely inflated purchase price for the equipment.

16 The plan was for Dorsey and TriMed to submit those
17 false invoices to the insurance carrier in order to receive a
18 higher reimbursement than they were entitled to. After
19 learning about this scheme to defraud I helped to advance the
20 scheme by providing an envelope containing US currency to
21 Gregory which was payment for the false invoices.

22 THE COURT: And again, where were you working at that
23 time?

24 DEFENDANT GOMELSKAYA: Dorsey Medical Supply, 20
25 Avenue T, Brooklyn, New York.

1 THE COURT: Anything else that either counsel would
2 like to add at this time?

3 MR. BROWNELL: I just wanted to add one thing for
4 purposes of the transcript, and it seems to be a function of
5 accent. For each of the defendants it sounded like "shame"
6 when they were actually saying "scheme."

7 THE COURT: Right.

8 MR. BROWNELL: I wanted to make sure that the
9 transcript --

10 THE COURT: Yes.

11 MR. BROWNELL: -- actually reflects that.

12 THE COURT: Yes. Thank you for adding that. I think
13 each time where the word "sheem" was used they meant to say
14 scheme. All right.

15 Ms. Gomelskaya, I find that you're acting
16 voluntarily, that you fully understand your rights, the charges
17 against you, the rights you're giving up by pleading guilty,
18 the consequences of a guilty plea. We went through the
19 possible penalties, criminal forfeiture, other penalties that
20 you're facing. You understand how sentencing works and the
21 fact that there's no guarantee what your sentence will be. And
22 finally, there's a factual basis for the plea and you did in
23 fact do what's charged in Count 1. So I therefore recommend
24 that Judge Johnson accept your plea of guilty to Count 1.

25 DEFENDANT GOMELSKAYA: Yes.

1 THE CLERK: Sentencing for Mr. Shturman is set for
2 September 28th, 2011 before Judge Johnson at 9:30 a.m.
3 Sentencing for Ms. Gomelskaya is set for September 29th, 2011
4 at 9:30 a.m. before Judge Johnson.

5 MR. BATEMAN: Would it be possible, Your Honor, if we
6 put both our clients on for the same day?

7 THE COURT: It might be if you call Judge Johnson's
8 chambers.

9 MR. BATEMAN: Very well.

10 THE COURT: All right. Do you each understand that
11 the next step is that you're going to be interviewed by the
12 Probation Department and they will prepare a presentence
13 investigation report that will help Judge Johnson decide how to
14 sentence you and how to calculate the guideline range. You
15 have a right to have your lawyer present during that interview.
16 Understand?

17 DEFENDANT GOMELSKAYA: Okay.

18 DEFENDANT SHTURMAN: Yes.

19 THE COURT: Okay. Good luck.

20 MR. NADJARI: Thank you.

21 MR. BATEMAN: Thank you.

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1 I certify that the foregoing is a court transcript from an
2 electronic sound recording of the proceedings in the above-
3 entitled matter.

Mary Greco

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5 _____
6 Mary Greco

7 Dated: June 20, 2011
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