JEFFREY A. MARTINOVICH
EXECUTIVE SUMMARY
CASE 4:12CR101/4:15CR50

JANUARY 1, 2019

I was very fortunate to become Founder and CEO of MICG Investment Management, which over nearly two decades grew to $1 billion in assets, 3,000 clients in 42 states, 100 associates, and which provided services in asset management, financial planning, lending, insurance, investment banking, trusts, and alternative investments, with 8 branches in Virginia, Washington D.C., and New York.

Following the 2008 Financial Crisis, our firm experienced great distress with the regulatory body, FINRA. As a boutique firm, we did not possess the tremendous checkbook to appease the regulators, as occurred with all of our large Wall Street competitors, therefore we demanded arbitration to defend our employees and practices. Shortly before arbitration, we were informed that the last five years of our audited financials had mysteriously been "re-audited," and now we were millions of dollars out of compliance and must shut our doors. These were the same financials audited monthly, quarterly, and yearly by the SEC, CFTC, SCC, Broker-Dealer auditors, and FINRA themselves. Yet, overnight we were out of business. As MICG was comprised of a mix of entities, shareholders, bondholders, and direct investments, numerous lawsuits and bankruptcies consumed our creation. [See "The Fall of MICG," Ash Press 2017, Amazon Books].

As CEO I was then indicted following the bankruptcy of a solar company investment held in one of MICG's three private hedge funds following the solar industry implosion in 2009-2010 (Solyndra, et al). The government claimed that two years earlier I manipulated the valuation experts and the auditors into pricing this stock too high, all the while knowing it would years later claim bankruptcy. As this holding was merely point-two-percent (.2%) of our investments, I knew the allegations were ridiculous, and our defense attorneys repeatedly asserted that there was zero evidence of wrongdoing. Therefore, in an effort to do the right thing in defense of my employees and myself, I rejected government plea offers of 7-years, 5-years, and 3-years, and proceeded to trial.

The trial was a debacle from day one. The prosecution daily

displayed on the monitors pictures of my Bentley, Ferrari, beach house, and "mansion." They added testimony of lifestyle and luxury, and even the Bellagio pit boss was flown in to recount blackjack stories [Ground 17, § 2255].

The defense, in turn, attempted to explain hedge fund accounting and valuation industry practices to the jury comprised of hardworking citizens of Newport News, Virginia. The external solar valuation expert (a government witness) and the independent auditing firm both, repeatedly claimed they had performed correct and conservative valuations and followed industry protocols. Yet, after the character assassination and the judge's theatrics, the fantastical narrative of me deceiving my entire management team, the valuation experts, and the auditors to all fraudulently generate an extra $140,000 fee seemed to make more sense to the jury (after being a hung jury and ordered to return for a fifth week to continue deliberations).

Yet, the overriding issue in the four-week trial was the egregious abuse of the defense by District Judge Robert A. Doumar. The histrionics shocked the conscience of all parties with the Fourth Circuit Panel later claiming his prejudiced assault "went beyond the pale...impermissibly interfered with the manner in which appellant sought to present his evidence...such conduct tends to undermine the public's confidence in the integrity of the judiciary." Judge Doumar abused the defense, objected for the prosecution, berated defense witnesses on perjury, interfered in my own testimony 168 times, and so much more [Ground 1, § 2255]. I was convicted and sentenced to 12 years in prison and $1.75 million restitution.

On Appeal, the Fourth Circuit vacated my sentence and replaced Judge Doumar on my case, noting the sentencing plain errors and the egregious conduct at trial. Yet, although writing a strong rebuke of the judge, to include a concurring second opinion, the Fourth Circuit upheld the conviction stating that the defense counsel, Mr. Broccoletti, inexplicably never once objected and preserved the errors which "challenge(d) the fairness of the proceedings." [Affidavit 110-143]. Other proceedings and remedies may have, or may not have, occurred of which confidentially provisions may, or may not, currently restrict their public release.

When remanded for resentencing, the government then served a

superseding indictment which they had saved just in case I won the appeal, and which was intended to prevent my release on resentencing and to hinder the case from being overturned on obvious collateral attack for ineffective assistance. After allegedly deceiving all these parties, the government now alleged that I had also tricked four law firms, engaged to represent the interests of the multiple hedge funds and shareholders, into authorizing and processing fraudulent indemnification clause payments for the defense [See XL v. Level Global, 2nd Circuit, for legal foundation of payments]. This indictment was more ridiculous than the first, and is completely debunked with the substantial documentation submitted to the courts [Ground 9, § 2255].

My later due diligence discovered that this second indictment had been illegally-sealed, had expired and unsealed, and was illegally-resealed after being shopped before three magistrate judges. This fraud was to conceal the statute of limitations which had expired. Then, once publicly uncovered [Ground 10, § 2255], the District Court colluded with the government by switching the relevant statute of limitations code in a bait-and-switch constructive amendment even though the previous statute had been the documented necessity for obtaining the indictment, for sealing the indictment, and for resealing the indictment after expiration [Complaint DOJ OIG, 4th Circuit 18-7061].

Prior to resentencing, the court held me in county jail for eight months and employed a court-appointed counsel, Mr. Woodward, to coerce and prevent me from proceeding to trial once again, now against the second indictment [Contemporaneous Comm., Affidavit #36, 49-78, 102, 104-105, 107-109, 230-238].

Eventually, after more than fifteen negotiations, I accepted what I believed to be an agreement amongst the Court, the prosecution, and the defense for me to accept a plea agreement for a substantial reduction in the Case 1 sentence and for Case 2 to be "less than Case 1 and run concurrent, therefore zero," all in return for me accepting the two convictions, waiving all further appeals, and moving on to restore my shareholders.

The explicit documentation on the record details the agreement to expect immediate release, or a few more months to serve. Court-appointed counsel made one final call to my fiance to instruct her that I would be home soon because of his deal if I "went along, so don't let him do anything crazy." [Amburn Affidavit].

Unfortunately, the joint sentencing-resentencing was an orchestrated ambuscade from the first minute. As counsel once again sat silent, the District Court violated too many statutes, Guidelines, and constitutional rights to enumerate in a histrionic presentation for the media and packed courtroom. New Judge Wright Allen proclaimed ten times that I suffered from "deep and complex" mental disease or defect [Ground 4, § 2255], she ran the sentences consecutive instead of concurrent pursuant to the agreement and the correct Guidelines [Ground 7, § 2255], she sentenced in Category II in contravention to the Guidelines [Ground 8, § 2255], she proclaimed that I had fabricated my BOP record as a GED tutor, law library clerk, and business instructor, as well as refused to consider my "positive attributes" [Ground 11, § 2255], in one more attempt to prevent obvious claims of ineffective assistance against counsel she exclaimed that my attorney was "the best in Virginia...I would venture to say across the United States of America," and it went down hill from there. I was not only not released, but my sentence was increased to fourteen (14) years and restitution increased to $2.5 million.

I had now rejected three years to receive twelve years, and then overturned twelve to receive fourteen.

In an effort to finally rectify this miscarriage, I have submitted two § 2255 Petitions with 18 non-frivolous Grounds, an Affidavit of 304 relevant facts, and 43 Exhibits of contemporaneous documentation. In the second case (Superseding Indictment), without even directing the government to respond to my Petition,District Judge Wright Allen dismissed all ten Grounds with template responses which were incongruent with, or irrelevant to, the Grounds submitted, even inexplicably repeating, "Martinovich provides no specific evidence." The COA/Appeal has been filed. In the first case (Trial), Judge Wright Allen has after ten months finally ordered the government to respond to the Petition by February 22, 2019.

I have omitted numerous other appeals, writs, and petitions for the sake of brevity and can provide all numbers, facts, and documentation. With a current, reasonable solution, I am confident we can rebuild and restore for so many people and organizations whom relied on the success of MICG.

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