



BRIAN KAVANAGH
SENATOR, 26TH DISTRICT

THE SENATE
STATE OF NEW YORK

CHAIR
HOUSING
COMMITTEES
CITIES
CODES
CONSUMER PROTECTION
ELECTIONS
ENVIRONMENTAL CONSERVATION
ENERGY & TELECOMMUNICATIONS

July 2, 2020

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

I write to request that you consider fully commuting the sentence of Sholam Weiss of Brooklyn, New York to time served. A commutation of Mr. Weiss' sentence to time served is both fair and just. He has currently served nearly 20 years in prison for non-violent crimes, which is 16 years more than the maximum recommended sentence for his crimes under the current federal sentencing guidelines. And he is eligible for compassionate release given his advanced age and deteriorating health.

Mr. Weiss was convicted on November 1, 1999 in the United States District Court at the Middle District of Florida on multiple counts of wire fraud, racketeering, and money laundering for his connection with the collapse of National Heritage Life Insurance Company. On February 15, 2000, Mr. Weiss was sentenced to 845 years in prison, the longest sentence ever issued in the United States for white collar crime.

Mr. Weiss's 845-year sentence is far longer than the current federal sentencing guidelines recommend, which were amended just eleven months after Mr. Weiss was sentenced. Had Mr. Weiss been sentenced under the current guidelines, the longest permissible prison term would have been only 37 months, or just over 3 years.¹ Mr. Weiss has already served nearly seven times that length.

Mr. Weiss's sentence is also grossly disproportionate to those received by his co-defendants, and to other sentences imposed in similar crimes, especially given that just five months after Mr. Weiss was

¹ United States Sentencing Guidelines (U.S.S.G.) §§ 2S1.1(a)(1), 2B1.1(a)(1), 2B1.1(b)(16)(B).



sentenced, the policyholders of National Heritage had been completely repaid. Mr. Weiss was brought in to assist National Heritage in covering up over \$35 million that had been embezzled by three National Heritage officers, Patrick Smythe, Director and CEO; Michael Blutrich, outside counsel; and Lyle Pfeffer, a member of National Heritage's investment committee.² The officers enlisted Mr. Weiss and others into a criminal scheme in which Weiss would acquire and service non-performing mortgages at a deep discount and record them in the National Heritage records at face value, in order to help conceal the \$35 million hole. The government obtained convictions for Mr. Weiss' participation in a criminal conspiracy constituting racketeering, as well as for the crimes of wire fraud and money laundering.³

The three National Heritage officers, considered to be the original impetus of the criminal scheme,⁴ were charged and sentenced each on more counts than Mr. Weiss. However, all three individuals entered into plea agreements and were given a sentence of just 25 years; two defendants had that sentence reduced to 16 years, 8 months, and another to 12 ½ years, for their cooperation.⁵ All told, six individual co-defendants were convicted in the case other than Mr. Weiss, and all six have been long released from prison; yet Mr. Weiss has served just two percent of his draconian 845-year sentence. The outcomes of other cases involving serious financial crimes also illustrate the extraordinarily harsh sentence Mr. Weiss received. For example, Jeffrey Skilling, Sanjay Kumar, and Bernard Ebbers all had direct control of operations of their companies and sophisticated knowledge of the financial sector, and perpetuated billions of dollars in losses for their own profit. Those individuals were given sentences of 14 years, 12 years, and 25 years respectively, notably shorter sentences than that of Mr. Weiss.

In addition to the disparity of Mr. Weiss's prison term, Mr. Weiss's sentence should also be commuted because he meets the legal requirements for compassionate release. Thanks to the reforms your Administration enacted through the First Step Act, Mr. Weiss and his attorneys were granted the ability to file a motion for compassionate release, which they did in December 2019.⁶ A defendant is eligible for compassionate release if the court finds that "extraordinary and compelling reasons warrant such a reduction."⁷ The Sentencing Commission further promulgated a policy statement to define

² Indictment, ¶¶ 11, 13, 20, 48-81. *United States of America v. Weiss et. al.*, No. 6:1998-cr-00099-89067 (M.D. Fla. 1999).

³ *Id.* ¶¶ 1-386.

⁴ *Id.* ¶¶ 48-81.

⁵ See Case No. 97-CR-71-ORL-22B, Doc. 351.; Case No. 97-CR-71-ORL-22B, Doc. 361, Doc. 362, Doc. 363.

⁶ See Case 6:98-cr-00099-CEM-EJK, Doc. 2469, (Filed Dec. 18, 2019).

⁷ 18 U.S.C. § 3582(c)(1)(a)(1).

extraordinary and compelling reasons to include the age and medical condition of the defendant, their family circumstances, and the extent of their rehabilitation, among other factors.⁸

Mr. Weiss is now 65 years old, with deteriorating health. He has been diagnosed with colon cancer, and he has undergone numerous heart surgeries and other medical procedures during his incarceration. Mr. Weiss is forced to endure his medical treatments while shackled and handcuffed to his hospital bed, making these procedures incredibly painful and sometimes more difficult to carry out. Compassionate release allows for dignified treatment in these situations. Unfortunately, the Court has not made a decision on Mr. Weiss' motion for compassionate release, while his health continues to decline, hence the need for your intervention.

For the first 10 years of his prison sentence, Mr. Weiss was held in a maximum-security facility in Ocala Florida, secluded from society. In the time he has been incarcerated, Mr. Weiss has been a model inmate, counseling others and serving as a Rabbi, devoting himself fully to rehabilitative activities.

For all of these reasons, I join several of my colleagues in government who have written to you in support of clemency for Mr. Sholam Weiss. A commutation of Mr. Weiss' sentence to the nearly 20 years of time served is both fair and just.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Kavanaugh', with a stylized, cursive script.

Brian Kavanaugh

⁸ U.S.S.G. § 1B1.13, Application Note 1 to § 1B1.13.