

Case	Conviction	Guideline Amount	Guideline Range	Sentence
<i>Christian Milton, AIG, Vice President (D. Conn. 2009)</i>	Convicted at trial of various counts of fraud.		LIFE imprisonment	48 months¹
<i>Ronald Ferguson, CEO, General Reinsurance Corp. (D. Conn. 2008)</i>	Convicted at trial of conspiracy, securities fraud, false statements to SEC, and mail fraud.	\$544 million	LIFE imprisonment	24 months²
<i>Travis Correll, (N.D. Ga. 2008)</i>	Pled guilty to wire fraud (related to Ponzi scheme).	\$29 million (ordered in restitution)	188-235 months	108 months³ (Mr. Correll was initially sentenced to 144 months. He later received a further reduction, under Rule 35, based on his cooperation).
<i>Robert Cole, Sales Rep., Diebold (N.D. Ohio 2008)</i>	Pled guilty to securities fraud.	\$509,000	30-37 months	12 months and 1 day⁴
<i>William Ledee, Founder of fictitious insurance company (N.D. Ga. 2007)</i>	Pled guilty to making false financial statements, engaging in business of insurance as a convicted felon, mail fraud, conspiracy to commit money laundering, etc.	\$21.6 million (ordered in restitution)	The PSR indicated a total offense level of 51, and criminal history category II, resulting in a guideline range of LIFE . ⁵	70 months (Judge varied below C agreement's sentence cap of 7.5 years) ⁵

¹ *United States v. Milton*, Case No. 3:06-cr-00137, Docket Entry 1216 (D. Conn. Jan. 30, 2009) (Judgment); *United States v. Milton*, No. 3:06-cr-00137, Docket Entry 1164 (D. Conn. Oct. 31, 2008) (Ruling on Loss Calculation, Victim Enhancement, and Restitution).

² *United States v. Ferguson*, Case No. 3:06-cr-00137, Docket Entry 1199 (D. Conn. Dec. 31, 2008) (Judgment); *United States v. Ferguson*, No. 3:06-cr-00137, Docket Entry 1164 (D. Conn. Oct. 31, 2008) (Ruling on Loss Calculation, Victim Enhancement, and Restitution).

³ *United States v. Correll*, Case No. 1:07-cr-00365, Docket Entry 36 (N.D. Ga. June 9, 2009) (Order Granting Motion for Reduction of Sentence).

⁴ *United States v. Cole*, 2008 WL 5204441, at *2-3, 9 (N.D. Ohio, Dec. 11, 2008).

⁵ Neither the Defendant's nor the Government's sentencing memorandum indicated what the Probation Office had found the advisory guideline range to be. Undersigned counsel contacted Marcia Shein, counsel for Mr. Ledee. Ms Shein reported that the PSR had indicated a total offense level of 51, criminal history

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<i>John Whittier, Manager, Wood River Partners (S.D.N.Y. 2007)</i>	Pled guilty to securities fraud, failure to disclose ownership in excess of 5% of publicly traded security, and failure to disclose ownership in excess of 10% of publicly traded security.	\$88 million (ordered in restitution)	188-235 months	36 months⁶
<i>Paul Humphreys, CFO, Safety-Kleen (S.D.N.Y. 2007)</i>	Pled guilty to securities fraud and conspiracy (to commit securities fraud, file false reports with SEC, falsify books and records, make false statements to auditors, and commit bank fraud).	More than \$80 million	70-87 months	70 months⁷

category II, and an advisory range of life imprisonment. Ms. Shein also reported that the sentencing court disagreed with some of the PSR's calculation and found a lower guideline range of approximately 20 years. The parties had, however, entered a C agreement, which capped the sentence at 7.5 years. Although this cap was substantially lower than the advisory guideline range, the sentencing court nevertheless varied even further to impose a sentence of just 70 months. *See United States v. Ledee*, Case Nos. 1:04-cr-0623-BBM and 1:05-cr-0015-BBM, Docket Entry 154 (N.D. Ga. May 8, 2007) (Judgment and Commitment).

⁶ *United States v. Whittier*, Case No. 1:07-cr-0087, Docket Entry 12 (S.D.N.Y. Oct. 18, 2007) (Judgment). *See also, United States v. Whittier*, 1:07-cr-0087, Docket Entry 14 (S.D.N.Y. Nov. 6, 2007) (Transcript of Sentencing Hearing).

⁷ *United States v. Humphreys*, Case No. 1:02-cr-01559, Docket Entry 17 (S.D.N.Y. Nov. 14, 2007) (Judgment). *See also United States v. Humphreys*, Case No. 1:02-cr-01559, Docket Entry 19 (S.D.N.Y. Dec. 3, 2007) (Government's Sentencing Memorandum).

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<i>Hector Orlansky, President, E.S. Bankest (S.D. Fla. 2007)</i>	Convicted at trial of conspiracy to commit bank fraud and wire fraud, bank fraud, making false statements, wire fraud, conspiracy to commit money laundering, and money laundering.	\$164.5 million (ordered in restitution)	262-327 months	240 months⁸
<i>Richard Adelson, CEO & President, Impath (S.D.N.Y. 2006)</i>	Convicted at trial of conspiracy, securities fraud, and filing false reports with SEC.	\$50 - \$100 million (court ordered restitution of \$50 million)	Guidelines called for life imprisonment ; however, statutory maximum was 85 years .	42 months⁹
<i>Jamie Olis, Tax Lawyer, Dynegy (S.D. Tex. 2006)</i>	Convicted at trial of: (1) conspiracy to commit securities fraud, mail fraud, wire fraud, (2) securities fraud, (3) mail fraud, and (4) wire fraud.	\$79 million	151 -181 months	72 months¹⁰

⁸ *United States v. Orlansky*, Case No. 1:03-cr-20951, Docket Entry 1196 (S.D. Fla. Nov. 16, 2007) (Judgment). *See also, United States v. Orlansky*, Case no. 1:03-cr-20951, Docket Entry 1054 (S.D. Fla. July 17, 2007) (Defendant’s Sentencing Memorandum).

⁹ *United States v. Adelson*, 441 F. Supp.2d 506, 514 (S.D.N.Y. 2006), *aff’d* 2008 WL 5155341 (2d Cir. Dec. 9, 2008). *See also United States v. Adelson*, Case No. 1:05-cr-00325, Docket Entry 86 (S.D.N.Y. June 6, 2006) (Judgment).

¹⁰ The district court initially imposed a sentence of 292 months (a sentence within the then-mandatory guideline range) after finding an actual loss amount of \$105 million. *United States v. Olis*, 429 F.3d 540, 542 (5th Cir. 2005). On appeal, the Fifth Circuit vacated the sentence, finding that the district court’s “loss calculation did not take into account the impact of extrinsic factors on Dynegy’s stock price decline.” *Id.* at 548-49. On remand, the district court concluded that the actual loss to shareholders could not be reasonably calculated. *United States v. Olis*, 2006 WL 2716048, at * 10 (S.D. Tex. Sept. 22, 2006). The court, therefore, relied on the intended loss figure of \$79 million. *Id.* The new loss amount changed the guidelines range to 151-181 months. *Id.* The court then went on to grant a variance below this advisory range to arrive at a final sentence of just 72 months. *Id.* at 11-13.

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Walter A. Forbes, Chairman, Cendant Corporation (D. Conn. 2007)	Convicted at trial of conspiracy and making false statements to the SEC.	\$3.275 billion (ordered in restitution)	151-181 months (The advisory range was this low because the 1997 Guidelines were used. The 2006 Guidelines would have instead called for life imprisonment, limited only by a statutory cap of 300 months.)	151 months ¹¹
E. Kirk Shelton, Vice Chairman, Cendant Corporation (D. Conn. 2005)	Convicted at trial of: (1) conspiracy to commit securities fraud, mail fraud, wire fraud, and false statements to SEC, (2) mail fraud, (3) wire fraud, (4) false statements to SEC, (5) securities fraud.	\$3.275 billion (ordered in restitution)	151-181 months (See explanation above regarding use of 1997 Guidelines)	120 months ¹²
Bernard Ebbers, CEO, WorldCom (S.D.N.Y. 2005)	Convicted at trial of conspiracy, securities fraud, making false filings with the SEC.	Over \$1 billion	360 months to life	300 months ¹³

¹¹ *United States v. Forbes*, Case No. 3:02-cr-00264, Docket Entry 2634 (D. Conn. Jan. 15, 2007) (Government’s Sentencing Memorandum). *See also United States v. Forbes*, Case No. 3:02-cr-00264, Docket Entry 2641 (D. Conn. Jan. 23, 2007) (Judgment).

¹² *United States v. Shelton*, Case No. 3:02-cr-00264, Docket Entry 1604 (D. Conn. July 13, 2005) (Government’s Sentencing Memorandum). *See also United States v. Shelton*, Case No. 3:02-cr-00264, Docket Entry 1635 (D. Conn. Aug. 4, 2005) (Judgment).

¹³ *See United States v. Ebbers*, 458 F.3d 110 (2d Cir. 2006). Ebbers’ sentence has been widely viewed as “one of the most severe given to a first-time offender for a crime that did not involve violence or trafficking in illegal narcotics.” *See* Peter J. Henning, *White Collar Crime Sentences After Booker: Was the Sentencing of Bernie Ebbers Too Harsh?*, 37 MCGEORGE L. REV. 757 (2006).

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<i>Sanjay Kumar, CEO, Computer Associates Int'l (E.D.N.Y. 2006)</i>	Pled guilty to conspiracy to commit securities fraud and wire fraud, securities fraud, false statements to SEC, conspiracy to obstruct justice, obstruction of justice, and false statements.	\$2.2 billion (according to Government's Sentencing Memorandum)	LIFE imprisonment under 2005 Guidelines 188 to 235 under 1998 Guidelines (Unclear how District Court resolved dispute over which version should apply.)	144 months ¹⁴
<i>Stephen Richards, Sr. Vice President, Computer Associates (E.D.N.Y. 2006)</i>	Pled guilty to conspiracy to commit securities fraud and wire fraud, securities fraud, false statements to SEC, conspiracy to obstruct justice, obstruction of justice, and perjury.	\$2.2 billion (according to Government's Sentencing Memorandum)	LIFE imprisonment under 2005 Guidelines 151 to 188 under 1998 Guidelines (Unclear how District Court resolved dispute over which version should apply.)	84 months ¹⁵
<i>Mehdi Gabayzadeh, CEO, American Tissue (E.D.N.Y. 2006)</i>	Convicted at trial of conspiracy to commit securities fraud, conspiracy to commit bank fraud, bank fraud, wire fraud, interstate transport of property obtained by fraud, bankruptcy fraud, conspiracy to commit perjury, and obstruction of justice.	PSR found total loss of \$193 million (Court ordered \$65 million in restitution.)	LIFE imprisonment	180 months ¹⁶

¹⁴ In its Sentencing Memorandum, the Government argued for a loss calculation of \$2.2 billion and set forth the two possible Guideline calculations. *United States v. Kumar*, Case No. 1:04-cr-00846, Docket Entry 223 (E.D.N.Y. Nov. 2, 2006). See also *United States v. Kumar*, Case No. 1:04-cr-00846, Docket Entry 284 (E.D.N.Y. Nov. 27, 2006) (Amended Judgment).

¹⁵ In its Sentencing Memorandum, the Government argued for a loss calculation of \$2.2 billion and set forth the two possible Guideline calculations. *United States v. Richards*, Case No. 1:04-cr-00846, Docket Entry 223 (E.D.N.Y. Nov. 2, 2006). See also *United States v. Richards*, Case No. 1:04-cr-00846, Docket Entry 283 (E.D.N.Y. Nov. 22, 2006) (Judgment).

¹⁶ In his Sentencing Letter, Mr. Gabayzadeh conceded a total offense level of 48 (an offense level that results in an advisory sentence of life imprisonment regardless of criminal history score). See *United States v. Gabayzadeh*, Case No. 2:03-cr-00162, Docket Entry 180 (E.D.N.Y. Aug. 17, 2006). See also *United States v. Gabayzadeh*, Case No. 2:03-cr-00162, Docket Entry 190 (E.D.N.Y. Nov. 23, 2006) (Judgment).

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John Rigas, Founder, Adelphia (S.D.N.Y. 2004)	Convicted at trial of securities fraud, bank fraud, and conspiracy to: (a) commit securities fraud, (b) commit bank fraud, and (c) make or cause to be made false statements in filings to SEC.	\$2.3 billion	Guideline range was LIFE imprisonment ; however, statutory maximum was 185 years .	144 months ¹⁷
Timothy Rigas, CFO, Adelphia (S.D.N.Y. 2004)	Convicted at trial of securities fraud, bank fraud, and conspiracy to: (a) commit securities fraud, (b) commit bank fraud, and (c) make or cause to be made false statements in filings to SEC.	\$2.3 billion	Guideline range was LIFE imprisonment ; however, statutory maximum was 185 years .	204 months ¹⁸
Jacob Jacobowitz, Executive VP, Allou Healthcare (E.D.N.Y. 2007)	Pled guilty to making false statements in reports to the SEC.	\$30 million (ordered in restitution)	Guideline range was 168-210 months ; however, plea agreement was structured to impose statutory maximum of 120 months .	84 months ¹⁹

¹⁷ Following their conviction and sentencing, John and Timothy Rigas succeeded in obtaining limited relief on appeal. Specifically, the Second Circuit reversed their convictions on one of the counts, and remanded for an entry of acquittal on that count and for resentencing. *United States v. Rigas*, 490 F.3d 208, 239 (2d Cir. 2007). On remand, the District Court concluded that the elimination of one count of conviction did not change the guideline range (life imprisonment), but did change the aggregate statutory maximum sentence from 215 months to 185 months. *United States v. Rigas*, Case No. 1:02-cr-01236, Docket Entry 428 (S.D.N.Y. June 24, 2008) (Memorandum and Opinion). Though each defendant had already received a substantial variance below the advisory range at the original sentencing, the district court reduced each of the defendants sentences by another three years. *Id.* Accordingly, John Rigas' sentence was reduced from 180 months to 144 months and Timothy Rigas' sentence was reduced from 240 months to 204 months. *Id.*

¹⁸ See Endnote 17.

¹⁹ *United States v. Jacob Jacobowitz*, Case No. 1:04-cr-00558, Docket Entry 141 (E.D.N.Y. July 23, 2007) (Government's Sentencing Memorandum). See also *United States v. Jacobowitz*, Case No. 1:04-cr-00558, Docket Entry 164 (E.D.N.Y. Aug. 8, 2007) (Judgment).

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<i>Herman Jacobowitz, CEO, Allou Healthcare (E.D.N.Y. 2007)</i>	Pled guilty to conspiracy to commit bank, securities, and mail fraud and making false statements in reports to SEC.	\$176 million (ordered in restitution)	Guideline range would have been LIFE imprisonment ; however, plea agreement was structured to impose statutory maximum of 180 months .	180 months ²⁰
<i>Aaron Jacobowitz, Manager of various companies controlled by Jacobowitz family (E.D.N.Y. 2007)</i>	Pled guilty to money laundering.	\$176 million (ordered in restitution)	Guideline range was LIFE imprisonment ; however, plea agreement was structured to impose statutory maximum of 120 months .	120 months ²¹
<i>Carole Argo, CFO, SafeNet, Inc. (S.D.N.Y. 2008)</i>	Pled guilty to securities fraud.	\$1 - 2.5 million (stipulated loss amount)	97 - 121 months	6 months ²²
<i>Lennox Parris, Director, Queench, Inc. (E.D.N.Y. 2008)</i>	Convicted at trial of conspiracy to commit securities fraud, securities fraud, conspiracy to commit witness tampering, and witness tampering.	Between \$2.5 and \$7 million	360 months to LIFE	60 months ²³

²⁰ *United States v. Herman Jacobowitz*, Case No. 1:04-cr-00558, Docket Entry 141 (E.D.N.Y. July 23, 2007) (Government’s Sentencing Memorandum). *See also United States v. Herman Jacobowitz*, Case No. 1:04-cr-00558, Docket Entry 158 (E.D.N.Y. Aug. 7, 2007) (Judgment).

²¹ *United States v. Aaron Jacobowitz*, Case No. 1:04-cr-00558, Docket Entry 141 (E.D.N.Y. July 23, 2007) (Government’s Sentencing Memorandum). *See also United States v. Aaron Jacobowitz*, Case No. 1:04-cr-00558, Docket Entry 161 (E.D.N.Y. Aug. 8, 2007) (Judgment).

²² *United States v. Argo*, Case No. 1:07-cr-00683, Docket Entry 14 (S.D.N.Y. Jan. 23, 2008) (Government’s Sentencing Memorandum). *See also United States v. Argo*, Case No. 1:07-cr-00683, Docket Entry 16 (S.D.N.Y. Jan. 29, 2008) (Judgment).

²³ *See United States v. Parris*, 573 F. Supp. 2d 744 (E.D.N.Y. 2008).

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Lester Parris, Director, Queench, Inc. (E.D.N.Y. 2008)	Convicted at trial of conspiracy to commit securities fraud, securities fraud, conspiracy to commit witness tampering, and witness tampering.	Between \$2.5 and \$4.9 million	360 months to LIFE	60 months ²⁴
Raquel Kohler, Mutual Benefit Corp. (S.D. Fla. 2007)	Pled guilty to conspiracy to commit securities fraud.	\$471 million (ordered in restitution)	Guideline range was 324 - 405 months , but statutory maximum limited sentence to 120 months .	60 months ²⁵
Marc Dreier, Managing Partner, Dreier LLP (S.D.N.Y. 2009)	Pled guilty to securities fraud, wire fraud, and conspiracy to commit securities and wire fraud.	\$387 million (ordered in restitution)	Guideline range was LIFE , but statutory maximum limited sentence to no more than 145 years .	240 months ²⁶
Mark Turkcan, Executive, First Bank and Mortgage (E.D. Missouri 2009)	Pled guilty to misapplication of bank funds, a Class B felony	\$35 million (\$24,628,221 ordered in restitution)	Guideline range was 63 - 78 months	one year and a day ²⁷

²⁴ *Id.*

²⁵ *United States v. Kohler*, Case No. 1:07-cr-20446, Docket Entry 65 (S.D. Fla. Sept. 17, 2007) (Defendant's Objections to Presentence Investigation Report). *See also United States v. Kohler*, Case No. 1:07-cr-20446, Docket Entry 84 (S.D. Fla. Oct. 10, 2007) (Amended Judgment).

²⁶ *United States v. Dreier*, Case No. 1:09-cr-085, Docket Entry 84 (S.D.N.Y. July 17, 2009) (Judgment). *See also United States v. Dreier*, Case No. 1:09-cr-085, Docket Entry 76 (S.D.N.Y. July 8, 2009) (Government's Sentencing Memorandum).

²⁷ *United States v. Turkcan*, Case No. 4:08-cr-00428, Docket Entry 52 (E.D. Mo. June 11, 2009) (Judgment). *See also United States v. Turkcan*, Case No. 4:08-cr-00428, Docket Entry 38) (E.D. Mo. April 21, 2009) (Defendant's Sentencing Memorandum).

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<i>Thomas Coughlin</i>, COO, Exec. VP, & Vice Chm. Of Board, Wal-Mart Stores, Inc. (W.D. Arkansas 2008)	Pled guilty to five felony counts of aiding and abetting wire fraud and one felony count of filing false tax returns	(\$411,218 ordered in restitution)	Guideline range was 27 - 33 months	Five years probation, with 27 months of home detention²⁸
<i>William Tomko</i>, Owner & CEO, W.G. Tomko, Inc. (W.D. Pennsylvania 2009)	Plead guilty to tax evasion, the scheme involving 12 subcontractors and a general contractor	\$228,557 tax deficiency	Guideline range was 12 - 18 months	Three years probation, with 12 months of home detention²⁹

²⁸ *United States v. Coughlin*, No. 06-20005, 2008 WL 313099, at *1 (W.D. Ark. Feb 1, 2008).

²⁹ *United States v. Tomko*, Case No. 2:04-CR-00108, Docket Entry 33 (W.D.Pa. Oct. 12, 2005) (Judgment), *affirmed after rehearing en banc*, *United States v. Tomko*, 562 F.3d 558 (3d Cir. 2009).