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7 T002-2013-000106

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF PIMA**

10 **STATE OF ARIZONA,**

11 **Plaintiff,**

12 **vs.**

13 **MICHAEL ALLEN FRICKER (001)**
14 **dba SALT RIVER SOLAR & WIND,**

15 **Defendant.**

No. CR 2014-0164-001

**SUPPLEMENT TO STATE'S
SENTENCING MEMORANDUM**

Hon. Casey McGinley - Division LF

16
17 The State of Arizona, through undersigned counsel, submits the following information to
18 this Court for its consideration in imposing sentence in this case.

19 On February 9, 2015, Defendant Fricker testified under oath that he worked for Copper
20 State, not ACA Solar. He further testified had removed himself from marketing and/or direct
21 customer contact in Copper State after entering his change of plea on October 29, 2014. He also
22 testified under questioning by both attorneys, and by this court, that he had *no* direct customer
23 contact *at all* on behalf of Copper State after entering his plea.¹
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27 ¹ Special term (8) of the plea agreement requires that "the Defendant shall notify any employers and/or any client of his
28 convictions and the nature of the convictions."

1 At the State's direction, on February 10, 2015, FBI Special Agent Steve Morris² re-
2 contacted David Chern of ACA Solar. In this conversation, SA Morris specifically asked Mr.
3 Chern how many solar jobs Copper State's marketing had brought to ACA Solar in the last three
4 months³. Mr. Chern stated Copper State had brought him three solar jobs in the last three months
5 and provided customer contact information.⁴

6 From the client contact information produced by Mr. Chern, SA Morris that same day was
7 able to reach California customer Julie Milligan⁵, the wife of listed customer Samuel Milligan.
8 Ms. Milligan told the FBI she and her husband recently agreed to purchase a residential solar
9 system from ACA Solar. She said she had her first meeting at her home on January 14, 2015 with
10 Tim Precourt and "Mike Allen." She said that Tim Precourt was the main salesman and the main
11 person with whom she has had contact. During the first meeting on January 14, 2015, "Mike
12 Allen" described the solar system he had on his house and the number of solar panels his system
13 had. In her words, "Mike Allen" seemed to be a supporting person for Tim Precourt and would
14 chime in with different pieces of information as Tim Precourt spoke.
15
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17 She described "Mike Allen" to SA Morris as heavy set, 5'10", having a full head of sandy
18 brown/grayish hair, and in his mid-50s. She said neither Tim Precourt nor Mike Allen mentioned
19 anything about a conviction of crime. When the FBI emailed her an MVD photo⁶ of Michael
20 Fricker, she immediately identified the man in the photo as the man she knew as "Mike Allen."
21

22 ² The Court will recall that on 2/09/15, SA Morris testified that on 1/29/15 David Chern directly answered SA
23 Morris' question whether he knew about Michael Fricker's criminal conviction in Arizona, with Mr. Chern stating he
24 did not know. SA Morris further testified that Mr. Chern inquired of the FBI representatives and the undersigned
25 Assistant Attorney General (something to the effect of) "whether there was something he should know" [about Mr.
26 Fricker].

27 ³ SA Morris intentionally limited his inquiry to the time after Mr. Fricker entered his plea on October 29, 2014.

28 ⁴ See FBI 302 of Interview of David Chern on 2/10/15, attached as Exhibit A, page 1 of 6.

⁵ See FBI 302 of Interview of Julie Milligan on 2/10/15, attached as Exhibit A, page 2-3 of 6.

⁶ See the MVD photo of Michael Allen Fricker and email thread, attached as Exhibit A, page 4-5 of 6.

1 Ms. Milligan then emailed the FBI a scanned copy of the business card ⁷ that “Mike Allen” gave
2 her. The card was for Mike Allen, Customer Service, on behalf of ACA Solar, license #952623.
3 For the court’s information, when the name Michael Allen Fricker is *Googled*,⁸ the first link is
4 “Salt River Solar owner charged with fraud” by the Arizona Daily Star from 2/6/14, stating
5 “Michael Allen Fricker, owner of Phoenix-based Salt River Solar and Wind, is accused of keeping
6 customers’ rebates and not paying...” When the name Michael Allen is *Googled*, the official PGA
7 Champion Tour Profile is the first link.
8

10 **Conclusion**

11 Two months after pleading guilty, the Defendant was out marketing solar systems to *at*
12 *least* one unsuspecting customer using the imprimatur of an ACA business card with its license
13 number. He did not inform Mrs. Milligan of his fraud and criminal enterprise convictions, in
14 blatant violation of his plea agreement. Even worse, he used an alias to prevent potential
15 customers from discovering his criminal past, which places vulnerable consumers at risk of
16 becoming yet another Fricker fraud casualty.
17

18 His conduct less than a month before his sentencing shows his utter disregard for the terms
19 of the plea and the authority of this Court. Mr. Fricker lied to Probation, and then lied under oath
20 on Monday straight to this Court’s face, and he will continue to do so if it serves his interests.
21 Michael Fricker is a repeat *fraud* offender with dishonest business conduct dating back to 2000.
22 His continuing lies and deceptions show that he not amendable to rehabilitation, as he is both a
23 supervision risk *and* a risk to the public.
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27 ⁷ See the business card presented to Mrs. Milligan by the Defendant, attached as State’s Exhibit A, page 6 of 6.
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The State urges this Court to impose a substantial prison sentence to punish Mr. Fricker for his predatory conduct and to prevent him from victimizing other innocent people with his lies and fraud.

RESPECTFULLY SUBMITTED this 11th day of February, 2015.

MARK BRNOVICH
Attorney General



KIM ORTIZ
Assistant Attorney General

A copy of the foregoing document delivered this 11th day of February, 2015, to:

Hon. Casey McGinley – Div. LF
Pima County Superior Court

A copy of the foregoing document e/mailed this 11th day of February, 2015, to:

Joseph P. St. Louis
216 North Main Avenue
Tucson, Arizona 85701
joestlouis@azdefense.com

EXHIBIT A



FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/11/2015

David Chern, owner of ACA Technology, Inc., 15370-A Fairfield Ranch Road, Chino Hills, California, 91709, telephone 909-606-8000, email address davidchern@gmail.com, was interviewed by telephone by FBI Special Agent Steven Morris and FBI Forensic Accountant John O'Rourke. After being advised of the identities of the interviewers and the nature of the interview, Chern provided the following information:

Tim Precourt is Chern's main contact at Copper State. Precourt does the sales.

For the Kloehn job, Chern sent out checks on March 6, 2014, June 6, 2014, and December 12, 2014.

In the last three months, Copper State has sold three solar jobs, all residential, to the following individuals:

Bruce McCandless, California, telephone [redacted]. The job was sold on January 29, 2015 by Tim Precourt.

Samuel Milligan, California, telephone [redacted]. The job was sold on January 5, 2015 by Tim Precourt.

Efrain Russo, California, telephone [redacted]. The job was sold on November 11, 2014.

Investigation on 02/10/2015 at Tucson, Arizona, United States (Phone)
File # _____ Date drafted 02/10/2015
by Steven John Morris

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Exhibit A 1 of 6



FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/11/2015

Julie Milligan, _____, California, telephone _____ email address _____, was interviewed by telephone by FBI Special Agent Steven Morris and FBI Forensic Accountant John O'Rourke. After being advised of the identities of the interviewers and the nature of the interview, Milligan provided the following information:

Julie Milligan is the wife of Samuel Milligan. Julie and her husband recently agreed to purchase a solar system for their residence from ACA Solar. On January 14, 2015, Julie had her first meeting at her home with Tim Precourt and Mike Allen of ACA Solar. Tim Precourt was the main salesman and the main person with whom Julie has had contact. During that initial meeting, Mike Allen described the solar system he had on his house and the number of solar panels his system had. Mike Allen seemed to be a supporting person for Tim Precourt and would chime in with different pieces of information as Tim Precourt spoke.

Julie Milligan described Mike Allen as heavy set, 5 foot 10 inches tall, having a full head of sandy brown and grayish hair, and in his mid-50s. Neither Tim Precourt nor Mike Allen mentioned anything about a conviction of crime.

The interviewers sent Julie via email a photograph of Michael Fricker. Julie confirmed that the man in the photograph was the man who came to her house with Tim Precourt and the man she knew as Mike Allen. Julie sent the interviewers via email a scanned copy of the business card provided to her by Mike Allen. The card had the name Mike Allen with the title "Customer Service." The emails, photo of Michael Fricker, and the business card from Mike Allen will be maintained as a 1A package.

Julie had not spent any money yet on the solar system and was currently in the application process for a loan to pay for the system.

Investigation on 02/10/2015 at Tucson, Arizona, United States (Phone)

File # _____ Date drafted 02/10/2015

by Steven John Morris

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Exhibit A 2 of 6

Continuation of FD-302 of Julie Milligan, On 02/10/2015, Page 2 of 2

Exhibit A 3 of 6



Exhibit A 4 of 6

email chain

From: Julie Milligan
Sent: Tuesday, February 10, 2015 11:42 AM
To: Morris, Steven J. (PX) (FBI)
Subject: Re: photo
Attachments: Scan0001.pdf

Ok, I'm attaching the business card. Its upside down so check the bottom of the page. The info is there. What do I do next????

On Tue, Feb 10, 2015 at 10:35 AM, Julie Milligan < > wrote:
yes, sorry. Give me a minute and I will scan it.

On Tue, Feb 10, 2015 at 10:30 AM, Morris, Steven J. (PX) (FBI) <Steven.Morris@ic.fbi.gov> wrote:
Thanks, Julie. Could you please send his business card? We will call you back in a few minutes.

Steve

From: Julie Milligan [mailto:
Sent: Tuesday, February 10, 2015 11:20 AM
To: Morris, Steven J. (PX) (FBI)
Subject: Re: photo

Yes, this is the man that was at my house with Tim Precourt. What do I do??? I'm scared!!!

On Tue, Feb 10, 2015 at 10:18 AM, Morris, Steven J. (PX) (FBI) <Steven.Morris@ic.fbi.gov> wrote:
Julie,

If this is the person you know as Michael Allen, could you please scan or photograph his business card and send it to me?

Thank you,

Steven Morris
Special Agent
FBI
275 N. Commerce Park Loop
Tucson, AZ 85745
520-623-4306
Cell 310-864-7915



Creating Solar Solutions for a Brighter Future
License #952623

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Exhibit A 6 of 6