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Surprising developments in embezzlement restitution hearing for former MCF treasurer

By Vera Kochan

Just when it seemed that the Robert (Bob) Fritzky embezzlement trial was finally coming to a close in the form of a restitution hearing, his Nov. 5 in-person court appearance added one last bit of unexpected drama to its conclusion.

In early September 2019, the Moraga Community Foundation revealed that Fritzky was suspected of making unauthorized withdrawals as Foundation treasurer, between June 2016 and August 2019, of more than \$330,000 from MCF's bank accounts to himself, to his majority-owned company MedMatRx, LLC and to the Jeanette Fritzky Foundation, which he founded and controlled. Fritzky also provided false financial reports to MCF's board of directors.

During a July 30 sentencing hearing Fritzky alleged that he was suffering COVID-19 symptoms and was awaiting test results to either confirm or deny his illness. The court granted a continuance to a later date and ordered Fritzky to present a negative COVID test prior to the proceedings.

After countless delays, Fritzky was sentenced to 18 months in prison on Aug. 27. Prior to the sentencing he disclosed to the court that he was diagnosed with Long-haul COVID symptoms that could last for weeks or months. Regardless, United States District Judge Jon S. Tigar ordered Fritzky to surrender of his own accord to the Marshal's office on Nov. 8, three days after his restitution hearing.

During Fritzky's Nov. 5 in-person hearing, Assistant United States Attorney Barbara Valliere noted that Fritzky "had agreed in his plea agreement to pay restitution in an amount of no less than \$204,913.84, that that, too, should govern the court's decision, and that he should be ordered to pay nothing less than that." A matter of an interest payment was settled when the court replied, "I also accept the request for prejudgment interest. For clarity, the amount of prejudgment interest is \$16,636 on top of an original restitution obligation of \$193,726.19 for a total restitution obligation of \$210,362.19."

Court documents dated Nov. 3 revealed that Fritzky's attorneys, Geoffrey Hansen and Graham Archer, from the Federal Public Defender's office asked the court for a continuance of his surrender date until after Dec. 8 to "permit his doctors to complete and evaluate testing that was ordered in September as the result of abnormal lab test results. Mr. Fritzky's request is based upon a serious medical concern raised by his treating physician that requires further evaluation over the next two months."

According to unsealed court documents, it was also revealed that Fritzky falsified his COVID-19 test results to read "positive," when in fact his test results were "negative."

"The defendant has submitted the motion on the papers essentially acknowledging that he submitted a forged document to me," stated Tigar. "Just saying it out loud leaves a certain weight in the room. I don't know how much more there is to be said. I'm left sort of speechless."

"I think probably I would have imposed a higher sentence if I had known that this misconduct had occurred before I imposed it," added Tigar, "but that's water under the bridge. So the court's tentative ruling is to do nothing, except to express the thoughts that I just expressed."

A motion by Valliere to extend Fritzky's date of surrender beyond Nov. 8 was denied by the court, "I don't want any argument on that point. It relies - after a motion to revoke the defendant's bond based on falsified medical records submitted through counsel." Tigar continued, "I have a response that consists of a motion to extend a surrender date based on medical records submitted through counsel. Mr Fritzky has exhausted the court's patience and his own credibility. The motion is denied. As is the motion to revoke bond. That concludes this hearing."

As of Nov. 8, Fritzky has reported to the United States Penitentiary in Lompoc, Calif., to serve out his 18-month sentence.

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