

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MICHAEL J. MADIGAN

No. 22 CR 115-1

Hon. John R. Blakey

GOVERNMENT'S SENTENCING MEMORANDUM

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The UNITED STATES OF AMERICA, by ANDREW S. BOUTROS, United States Attorney for the Northern District of Illinois, respectfully submits this sentencing memorandum concerning defendant Michael J. Madigan.

PRELIMINARY STATEMENT

Defendant Michael J. Madigan, the longest serving Speaker of the Illinois House of Representatives in history and one of the most powerful politicians in Illinois for decades, was steeped in corruption. The crimes charged and proven at trial demonstrate that Madigan engaged in corrupt activity at the highest level of state government for nearly a decade. Time after time, Madigan exploited his immense power for his own personal benefit by trading his public office for private gain for himself and his associates, all the while carefully and deliberately concealing his conduct from detection.

Madigan stands convicted of ten offenses, including bribery, conspiracy, and fraud. The jury found that, from 2011 to 2019, Madigan used his position as Speaker to solicit and receive a stream of bribes from Commonwealth Edison (“ComEd”) in the form of jobs for Madigan’s political cronies, many of whom did no work, in exchange for Madigan’s official action on ComEd’s legislation. In addition, the jury found that, in order to enrich himself with business for his private law firm, Madigan was willing to exploit his political power and that of former Alderman Daniel Solis to obtain a position on a significant State board for Solis. Through his criminal conduct, Madigan put his own self-benefitting interests before his duty as an elected official to the citizens of Illinois.

Madigan has expressed no remorse for his crimes, nor has he acknowledged the damage wrought by his conduct. Indeed, Madigan went so far as to commit perjury at trial in an effort to avoid accountability, and he persists in framing his actions as nothing more than helping people.

Given the seriousness of Madigan's crimes, his obstructive conduct in lying on the witness stand, the need to promote respect for the law and provide just punishment, and the need to deter other public officials from committing similar crimes, the government submits that a sentence of 12.5 years' imprisonment and a fine in the amount of \$1,500,000 is just and warranted.

I. FACTUAL BACKGROUND AND OFFENSE CONDUCT

Through Madigan's all-encompassing leadership roles, Madigan was considered by many to be the most powerful politician in Illinois.

Starting in the early 1970s, Madigan was elected to the Illinois House of Representatives from a district on the southwest side of Chicago largely made up of two wards: the 13th Ward (for which he was Democratic Committeeman and Chairman) and the 23rd Ward. The 13th Ward was Madigan's base of power, where he had an army of loyal political workers to keep him in power and work on his chosen campaigns.

Madigan served as Speaker of the Illinois House from 1983 to 2021, with a two-year gap in the mid-1990s. As Speaker, Madigan controlled the operations of the Illinois House; there was no one in the Illinois House more powerful than him. Madigan controlled the flow of legislation by moving bills forward or killing bills. Madigan made the final decisions about whom to appoint or remove as committee

chairs.¹ In addition, Madigan controlled redistricting in the state and, as a result, could reconfigure legislative districts every ten years to increase the likelihood of a continued Democratic majority in the Illinois House. Madigan also served from 1998 through 2019 as Chairman of the Democratic Party of Illinois and he was a prolific fundraiser. Madigan distributed some of the money raised to Democratic candidates to support their campaigns.

Madigan also was a partner, with a 50% profit share, in the law firm Madigan & Getzendanner, which focused on property tax appeals. The firm was financially successful, and Madigan was its rainmaker, bringing in many of its clients.

The jury heard mountains of evidence of how Madigan received a stream of valuable benefits from ComEd in exchange for Madigan's official action on legislation hugely beneficial to ComEd. At the same time, Madigan exploited his own public office, and Solis's public office, to unlawfully secure business for Madigan & Getzendanner and his son. Based on this conduct, the jury convicted Madigan of ten crimes:

¹ See, e.g., Tr. 202 (Madigan "had the most power of the members of the House") (Rep. Carol Sente); Tr. 756 (Madigan was a "very powerful Speaker" and there was no one in the House more powerful than him) (Rep. Lou Lang); Tr. 2368 (Madigan was "immensely powerful" as a public official) (Fidel Marquez).

Count	Statutes	Offense
2	18 U.S.C. § 371	Conspiracy—ComEd Conspiracy from 2011-2019
4	18 U.S.C. § 666(a)(1)(B) 18 U.S.C. § 2	Bribe Solicitation—ComEd payments to Michael Zalewski in 2018
5	18 U.S.C. § 1952(a)(3) 18 U.S.C. § 2	Travel Act—ComEd, June 29, 2018
6	18 U.S.C. § 666(a)(1)(B) 18 U.S.C. § 2	Bribe Solicitation—ComEd Payments to Frank Olivo, Ray Nice, and Michael Zalewski in 2019
8	18 U.S.C. § 1343 18 U.S.C. § 1346	Wire fraud—State positions for Solis and his relative
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10	18 U.S.C. § 1343 18 U.S.C. § 1346	Wire fraud—State positions for Solis and his relative
12	18 U.S.C. § 1952(a)(3) 18 U.S.C. § 2	Travel Act— State board, August 15, 2018
13	18 U.S.C. § 1952(a)(3) 18 U.S.C. § 2	Travel Act— State board, August 31, 2018
14	18 U.S.C. § 1952(a)(3) 18 U.S.C. § 2	Travel Act— State board, December 1, 2018

Madigan’s illegal conduct is summarized below and more fully detailed in the government’s response to post-trial motions (R. 408) and version of the offense. GVO at 3-19.

A. Bribery Scheme: Madigan Received a Stream of Benefits from ComEd in Exchange for His Official Action on Legislation.

Madigan engaged in a near decade long conspiracy to solicit and accept bribes from ComEd in the form of jobs and contracts for his political allies and associates. The bribes included ComEd’s payment of \$1.3 million to low-show or no-show “subcontractors.” Madigan knew his coconspirators covered up those improper payments through false records and the circumvention of internal controls. ComEd conferred this stream of benefits upon Madigan in exchange for Madigan’s official action on legislation worth hundreds of millions of dollars to ComEd.

The conspiracy began in 2011, when ComEd had major legislation pending in the Illinois House—the Energy Infrastructure Modernization Act (“EIMA” or “Smart Grid”). This legislation sought to implement the formula rate in Illinois, which would place the company in a better financial position and allow the company to modernize the electrical grid.² It was while this legislation was pending that the Madigan-approved plan began whereby ComEd paid certain of Madigan’s key political workers and allies \$4,000 to \$5,000 each month indirectly through intermediaries, to conceal the nature and purpose of the payments. Specifically, in August 2011, ComEd increased payments to its consultant, Jay Doherty and his firm, Jay D. Doherty & Associates, under an existing consulting contract, and, in turn, Doherty passed this extra money on to Madigan associate Frank Olivo (former 13th Ward Alderman) as a so-called “subcontractor.” The plan was later expanded to include Madigan associates Ray Nice and Edward Moody (both valuable political workers in Madigan’s political organization), Edward Acevedo (Madigan’s Assistant Majority Leader in the House and leader of the Latino Caucus), and Michael Zalewski (former 23rd Ward Alderman) as so-called “subcontractors.” In addition, on the eve of EIMA’s final veto-override vote in the House, Madigan secured a lucrative and unique contract for the law firm of valuable fundraiser Victor Reyes, which guaranteed the firm hundreds of hours of work on an annual basis.

² Later projections found that around \$400 million in additional shareholder value would be obtained by extending the formula rate from 2018 through 2022. Tr. 614. The formula rate was so valuable that the company’s credit rating improved substantially as a result. Tr. 607.

What these individuals had in common was their value to Madigan and not their value to ComEd. Madigan wanted to find a way to get his associates paid by someone else for work they performed for him, and he found that way through ComEd. ComEd paid more than \$1.3 million to the low- and no-show subcontractors and \$1.8 million to Victor Reyes's law firm during the conspiracy. GX1520.

The payments to the subcontractors flowed through intermediaries to hide the fact that they did virtually no work, to insulate ComEd from responsibility, and to conceal Madigan's involvement.³ In addition, phony contracts, invoices, and false entries in ComEd's books and records were employed to conceal the true recipients and nature of the payments made to Madigan's associates.

Madigan, not ComEd, controlled when the "subcontractor" payments started and stopped and the amounts of payment received. Madigan knew that the subcontractors did virtually no work for ComEd. One of the "subcontractors," Ed Moody, testified that he expressly told Madigan he had not done any work for ComEd in exchange for hundreds of thousands of dollars in payments. In response, Madigan told him: "You have nothing to worry about. What you're doing right now for – what you're doing right now is what I want, it's what [intermediary John Bradley] wants, it's what ComEd wants." Tr. 4426. And, in a conversation with Madigan's right-hand man and codefendant, Michael McClain, recorded just

³ In addition to Doherty, the conspirators also used several other individuals as pass-throughs, including Madigan associates John Bradley (former Representative and Assistant Majority Leader) and Shaw Decremer (former Speaker's Office employee and Democratic Party operative).

months after the last subcontractor was added in 2018, Madigan joked about how people who were paid by ComEd had “made out like bandits.” GX156. McClain agreed, “for very little work too.” *Id.*

Doherty also acknowledged that the subcontractors did no work but “kept their mouths shut,” and advised Fidel Marquez, ComEd’s former Senior Vice President for Governmental and External Affairs, that ComEd continue paying the subcontractors because “your [ComEd’s] money comes from Springfield.” GX270. Doherty further explained that these payments were made “to keep Madigan happy, I think it’s worth it, because you’d hear otherwise.” GX270. In fact, when Marquez asked John Hooker, the person who held Marquez’s position before him, how Madigan would react if ComEd stopped paying the subcontractors, Hooker opined that Madigan’s reaction would be: “You’re not going to do something for me, I don’t have to do anything for you.” GX286.

The linkage between Madigan’s favorable action on legislation and ComEd’s payments to Madigan’s associates was further highlighted by the facts surrounding the renewal of the Reyes Kurson contract. In 2016, while ComEd was working to pass FEJA, ComEd’s former General Counsel sought to reduce the number of hours that ComEd guaranteed to Reyes Kurson because there was not enough work for the firm. McClain then stepped in and looped in Anne Pramaggiore, former ComEd CEO, and Hooker to make sure the contract was negotiated on favorable terms. McClain put it in stark terms: “I know the drill and so do you. If you do not get involve[d] and resolve this issue of 850 hours for his law firm per year then he will

go to our Friend [Madigan]. Our Friend will call me and then I will call you.” GX522. McClain threatened that such a step would “provoke a reaction from our Friend.” *Id.* After that threat, Reyes Kurson’s contract was renewed in 2016 and again in 2017, soon after the passage of FEJA.

The sham subcontractors and Reyes Kurson law firm are just some examples of the numerous hiring requests Madigan made of ComEd. Madigan, through McClain, also repeatedly demanded that ComEd hire individuals tied to Madigan, and the company complied, finding positions for individuals even when they flunked entry-level tests and “bombed” their initial interviews.

“That ComEd agreement,” as Madigan called it (GX248), was designed to ensure that Madigan acted favorably on ComEd legislation. ComEd’s bribes to Madigan resulted in a string of legislative successes: EIMA in October 2011, with Madigan’s vote; Senate Bill 9 in 2013, also with Madigan’s vote; and FEJA in late 2016, with Madigan’s help in pushing for the final votes needed to pass the bill.

B. Wire/Honest Services Fraud Scheme: Madigan Agreed to Recommend Solis for a State Board Position in Exchange for Solis Directing Business to Madigan’s Law Firm and His Son.

Madigan’s efforts to get clients for his law firm was the focus of the State board counts. This conduct involved Madigan’s interactions with Daniel Solis, who was then the Alderman of Chicago’s 25th Ward and Chairman of Chicago’s powerful Committee on Zoning, Landmarks and Building Standards. The State board conduct shows that, while Madigan was *politically* benefiting from the ComEd bribery

conspiracy, Madigan also corruptly schemed to obtain business for his law firm to benefit himself and his son *financially*.

Between 2014 and late 2018, both before and after Solis began to cooperate, Madigan used Solis to acquire new clients for Madigan's law firm.⁴ Madigan used Solis in this way because of Solis's contact with and control over the developments in Solis's ward, as well as his control over developments city-wide.

Solis first raised the State board appointment on June 20, 2018 (GX125), immediately after a pitch meeting with a real estate developer that Madigan had asked Solis to arrange (GX28). The conversation about the State board position shows the two men's "ask for an ask" arrangement: Solis told Madigan that he was going to run in the next aldermanic election but that he might not finish the term. GX125. Solis told Madigan that he was interested in a State board position. Madigan immediately said, "I'll take a note down. I have a file...." Solis then told Madigan that he would continue to get him legal business. Madigan then asked Solis about Harry Skydell, the developer of the Old Post Office in Solis's ward. Madigan wanted to use Solis's connection to Skydell to secure a pitch meeting with Skydell.

Critically, in the months prior to this meeting, Solis had linked his official action and giving business to Madigan's law firm on *six* separate occasions, as detailed in the Government's Version. GVO at 14-17.

⁴ Solis's ward included portions of Chicago's West and South Loops and Chinatown, which had substantial real estate development. Solis began cooperating in June 2016. Solis recorded his interactions with Madigan between 2017 and late 2018 as a part of his cooperation.

The first four times in which Solis linked his official action and Madigan's law firm business concerned Madigan's efforts to use Solis to bring in the Union West developer as a client.⁵ In the first of those conversations, Solis expressly told Madigan that the developer understood the "*quid pro quo*," that is, the link between the developer meeting with Madigan and Solis approving the Union West project. GX7. Madigan responded "Mhmm. Mhmm" and "yeah, okay," and continued to work with Solis to get business from the Union West developers. Solis expressed the "this for that" arrangement to Madigan again prior to the pitch meeting with the Union West developer and twice after the pitch meeting. GX9, GX12, GX16.

The two other recorded conversations in which Solis expressly linked official action with business for Madigan's law firm related to the Chinatown parcel. In July 2017, in the midst of the conversations between Madigan and Solis about the Union West project, Solis sought Madigan's assistance with the development of the Chinatown parking lot.⁶ GX11. On March 26, 2018, after another pitch meeting, Solis privately told Madigan that the Chinatown developer would work with Madigan "and get you the, the property taxes." GX31. The next day, on March 27, 2018, Solis

⁵ The Union West transaction was the basis of Counts 15, 16, 17, and 18, and the jury found Madigan not guilty of these counts. Evidence related to the Union West transaction is referenced herein for the purpose of providing context to the State board convictions and for the Court's consideration under 18 U.S.C. § 3553(a); the government is not seeking to apply the Union West conduct to the Guidelines calculation.

⁶ Madigan and codefendant McClain were charged in Counts 19, 20, 21 and 22 with wire fraud, bribery, and use of interstate facilities in connection with the Chinatown transaction. The jury was unable to reach a verdict on these counts. Evidence related to the Chinatown land transfer is referenced herein to provide context to the State board charges and for the Court's consideration under 18 U.S.C. § 3553(a), and not for purposes of the Guidelines calculation.

repeated this linkage between acquiring developer business and Madigan securing the land transfer to Madigan during a telephone call. GX32. Madigan continued to work on securing the Chinatown parcel transfer after this conversation.

Madigan admitted on cross-examination that, before Solis approached Madigan about the State board position, Solis had on these six occasions suggested exchanging official action for business for Madigan's law firm. Tr. 9189. This demonstrates that Madigan agreed to help Solis obtain an important State board position while knowing that Solis was a willing participant in *quid pro quo* arrangements. Madigan also continued to make asks of Solis for his and his family's benefit. Madigan was comfortable in continuing to participate with Solis in corrupt schemes.

On August 2, 2018, Solis and Madigan met in Madigan's private office to discuss the State board positions. GX151. Solis had earlier informed Madigan that he had reached out to developer Harry Skydell per Madigan's request and arranged for Skydell to attend a pitch meeting at Madigan's office. GX146. This conversation was another example of their transactional, "give and get" relationship. Madigan and Solis, in private, reviewed a list Madigan had sent to Solis of the various boards. Solis told Madigan that he would continue to help Madigan get law firm business and identified the developers with whom he had contact. Madigan then immediately shifted the conversation to the State board positions and confirmed with Solis the two boards he was interested in. Madigan said, "Just leave it in my hands." GX151 at 8. Solis asked if there was anything else Madigan was interested in. *Id.* Madigan

responded, “There’s one thing you can do.” *Id.* Madigan then asked Solis to reach out to Raul Raymundo from a non-profit called the Resurrection Project so that Madigan’s son could try to secure insurance business from the non-profit. Madigan advised Solis to ask Raymundo, “Give Andrew something.” *Id.* at 8-9. Madigan gave Solis his son’s business card. Madigan then shifted back to the State board appointment and said a second time, “just leave this in my hands.”⁷ *Id.* at 9.

On October 26, 2018, Solis told Madigan that Skydell would give Madigan a real estate project. Madigan told Solis he would discuss the State board position with Governor-elect JB Pritzker and that Madigan would tell him, “here it is, this is what we want to do.” GX197. On November 23, 2018, Solis referenced the development in his ward and told Madigan, “I figure I can still help you a lot.” GX236. Madigan asked, “Do you want to go forward now on one of those state appointments?” Madigan then asked for Solis’s resume. A week later, Madigan called Solis to confirm the boards in which Solis was interested—two Boards with significant responsibilities and lucrative pay, the Illinois Commerce Commission and the Labor Relations Board. GX244.

In January 2019, however, Solis’s cooperation was announced in the press, and Madigan knew about these news reports. GX863.

⁷ The Resurrection Project ultimately engaged Madigan’s son’s insurance firm; Madigan’s son personally earned approximately \$43,000 in commissions between 2019 and 2021 and his firm earned even more, as Jennifer Gavelek testified.

Based on these facts, the jury found that Madigan engaged in a scheme (i) to deprive the State of Illinois of money or property because Solis would have received a salary from the State if appointed to a State board, and (ii) to deprive the people of Illinois of Madigan's honest services because Madigan agreed to recommend Solis for a State board position not based on Solis's qualifications but for his own personal profit.

II. GUIDELINES CALCULATION AND OBJECTIONS TO THE PSR

Madigan's properly calculated Guideline range is life imprisonment, based on an adjusted offense level of 50 (treated as 43) and a criminal history category of I. The government's position as to the disputed Guidelines is set forth below.

A. Offense Level Calculations – “ComEd Group”

1. § 666 Offenses

The government agrees with the Probation Office's calculation of the Guidelines for the ComEd offenses of conviction (Counts 2, 4, 5, and 6, or the “ComEd Group”) with the addition of a two-level enhancement for obstruction of justice.⁸ PSR ¶¶ 49-76. The offense level for the ComEd offenses of conviction (Counts 2, 4, 5, and 6, or the “ComEd Group”) is 50, as summarized below.⁹

⁸ The Probation Office did not take a position on the application of the obstruction enhancement under § 3C1.1, deferring to the Court to make that decision given that the Court observed Madigan's testimony and would be in the best position to determine whether he committed perjury. PSR ¶ 59.

⁹ Count 2 charges a conspiracy to violate two provisions of § 666 and two provisions of the FCPA.

Guideline Section	Description	Offense Level
2C1.1(a)(1)	Base Offense	14
2C1.1(b)(1)	More than one bribe	+2
2C1.1(b)(2); 2B1.1(b)(1)(N)	Value of the benefit exceeded \$150,000,000	+26
2C1.1(b)(3)	Elected public official	+4
3B1.1(c)	Organizer / leader of criminal activity	+2
3C1.1	Obstruction of justice	+2
Total		50

a. Guideline § 2C1.1(b)(1) – More Than One Bribe

Guideline § 2C1.1(b)(1) provides for a two-level enhancement if the “offense involved more than one bribe.” U.S.S.G. § 2C1.1(b)(1). “Related payments that, in essence, constitute a single incident of bribery or extortion (*e.g.*, a number of installment payments for a single action) are to be treated as a single bribe or extortion, even if charged in separate counts.” U.S.S.G. § 2C1.1, Application Note 2.

Courts assessing this provision have found multiple bribes exist where payments involved different payees and payors and where the bribes were designed to elicit different official actions. *See United States v. Arshad*, 239 F.3d 276, 282 (2d Cir. 2001) (“[T]he payments were indisputably and undisputedly intended to achieve several distinct benefits for [defendant] and were therefore more than one bribe irrespective of their manner of payment”); *United States v. Kahlon*, 38 F.3d 467, 470 (9th Cir. 1994) (finding more than one bribe where the payments were for different actions and to different payors); *United States v. Martinez*, 76 F.3d 1145, 1153-54 (10th Cir. 1996) (finding more than one bribe where agreement “was not for a final fixed sum paid in regular installments” but instead was “open-ended” and involved occasional “bonus” payments).

As the Probation Office correctly concluded, the evidence clearly established multiple bribes made to different people for different official actions by Madigan. ComEd paid five Madigan allies \$1.3 million in monthly payments over a period of 8 years as so-called “subcontractors.” GX1520; PSR ¶ 51. Not only that, ComEd made payments to the Reyes Kurson law firm, the 13th Ward interns, and numerous other individuals at Madigan’s request. These payments were also separate bribes, intended to influence different official action over the years, starting with EIMA in 2011, FEJA in 2016, and the Lisa Madigan bill in 2018, among others. Madigan’s bribery scheme plainly involved multiple bribes.

b. Guideline § 2C1.1(b)(2) – Value of the Benefit

The government agrees with Probation that a 26-level enhancement is required because the value of the benefit ComEd received from the bribery scheme was at least \$150 million. PSR ¶ 53. Madigan incorrectly claims the value of the benefit from the bribes should be zero.¹⁰ DVO at 17.

Pursuant to Guideline § 2C1.1(b)(2), Madigan’s offense level must be increased based on “the value of the payment, the benefit received or to be received in return for the payment, the value of anything obtained or to be obtained by a public official or others acting with a public official, or the loss to the government from the offense, *whichever is greatest.*” U.S.S.G. 2C1.1(b)(2) (emphasis added). Courts are to apply the higher amount “for deterrence purposes,” because “the punishment should be

¹⁰ Madigan’s claim of zero benefit further underscores his failure to accept responsibility or acknowledge the harm caused by his conduct.

commensurate with the gain to the payer or the recipient of the bribe, whichever is greater.” *Id.*, Background Commentary. “[W]hen a district court can reasonably determine the benefit received (or to be received) in return for a bribe, and that amount is greater than the bribe or any loss to the government, § 2C1.1(b)(2)(A) requires an enhancement corresponding to the amount of that benefit.” *United States v. Muhammad*, 120 F.3d 688, 701 (7th Cir. 1997) (emphasis added).¹¹

In this case, the value of the benefit is the proper metric under Guideline § 2C1.1(b)(2). The value of the legislation ComEd sought to influence by bribing Madigan can be reasonably estimated and exceeds the value of the bribe payments. Indeed, the government is not required to provide a precise calculation of the anticipated benefit; reasonable estimates based on the information available in the record suffice. *United States v. Buncich*, 20 F.4th 1167, 1172 (7th Cir. 2021) (quoting *United States v. Anderson*, 517 F.3d 953, 963 (7th Cir. 2008)).

As set forth in the Government’s Version (GVO at 9-12), the evidence easily establishes that the benefit “to be received” by ComEd from the bribery conspiracy far exceeded \$150 million. Scott Vogt testified about ComEd’s dire financial condition before the bribery conspiracy began. Vogt testified that before EIMA was passed in 2011, ComEd lost approximately \$100 to 120 million a year in costs that the Illinois

¹¹ The Guideline permits the government to establish the “benefit received” or “to be received” from the bribery—in other words, the actual benefit or the anticipated benefit. *See* Guideline § 2C1.1(b)(2). *Cf. United States v. Blagojevich*, 794 F.3d 729, 743 (7th Cir. 2015) (benefit public official intended to receive through corrupt solicitation was relevant amount for Guidelines, even though no one turned out to be willing or able to pay it); *accord United States v. Chmielewski*, 196 F.3d 893, 895 (7th Cir. 1999).

Commerce Commission (“ICC”) did not allow the company to recover through its rates, which amounted to a whopping \$1 billion lost between 2002 and 2010. Tr. 570.

Against this backdrop, Madigan began soliciting bribes from ComEd in 2011. Vogt explained that the “formula rate,” established in 2011 through EIMA, helped address the volatility in the ICC’s rate-setting process. Tr. 571-73. The formula rate was so valuable that, according to Vogt, after EIMA, “we saw our credit ratings improve substantially from middle-of-the-road debt to high-grade debt” Tr. 607.

In 2014, in the early years of the charged conspiracy, Vogt projected that around \$400 million in additional shareholder value would be obtained through the extension of the formula rate from 2018 to 2022. Tr. 614; *see also* GVO Ex. B. Although this forward-looking projection ended up being high due to market conditions, what matters is that the conspirators understood the value of the benefit “to be received” exceeded \$400 million during the conspiracy. *See Chmielewski*, 196 F.3d at 895.

Moreover, the \$400 million projection only covered a five-year period. The projection did not cover the first five years after the formula rate was enacted (2012 through 2017) or the years after 2022. During the ComEd Four trial, Vogt testified that the projected shareholder value derived from the formula rate for the ten-year period from 2012 to 2030 was \$750 million. Gov. Sent. Ex. 1 at 827:18-22 (Vogt’s testimony in Case Number 20 CR 812).

In addition, the formula rate was not the only benefit ComEd received during the bribery conspiracy. EIMA also authorized ComEd to spend a whopping \$2.6

billion in infrastructure investment over a 10-year period. Tr. 597. And the 2016 FEJA legislation also benefited ComEd's parent company, Exelon, by including price support provisions that allowed two struggling nuclear plants in Illinois to remain open. Tr. 625, 634-635. As Scott Vogt testified, "it was very valuable to keep those plants open." Tr. 635.

In short, the evidence clearly establishes that the value of the benefit to ComEd of Madigan's bribery scheme far exceeded \$150 million.

c. Guideline § 3B1.1(c) – Leader / Organizer

The government agrees with the Probation Office that an additional two-level enhancement should be applied, because Madigan was "an organizer, leader, manager, or supervisor in any criminal activity" under Guideline § 3B1.1(c). U.S.S.G. § 3B1.1(c). PSR ¶ 56-57.

To determine whether a defendant is an organizer or leader, courts consider factors such as "the exercise of decision-making authority, the nature of participation in the commission of the offense, the recruitment of accomplices, the claimed right to a larger share of the fruits of the crime, the degree of participation in planning or organizing the offense, the nature and scope of the illegal activity, and the degree of control and authority exercised over others." U.S.S.G. § 3B1.1, Application Note 4. "This list of factors, however, is not exhaustive, nor do all of these factors need to be present." *United States v. Sierra*, 188 F.3d 798, 804 (7th Cir. 1999).

Guideline § 3B1.1(c) "only requires that the defendant directed one person," although "the defendant must have exercised some real and direct influence." *Sierra*, 188 F.3d at 803; *see also* U.S.S.G. § 3B1.1, Application Note 2. The court's analysis

involves a “commonsense judgment about the defendant’s relative culpability given his status in the criminal hierarchy.” *United States v. Lovies*, 16 F.4th 493, 506 (7th Cir. 2021) (internal quotation marks and citations omitted) (Guideline § 3B1.1(c) applied when defendant “told people what to do” and “dictated what would happen”).

As summarized below, Madigan was unquestionably at the top of the criminal hierarchy. Madigan told McClain what he wanted from ComEd, and McClain ensured ComEd acted on Madigan’s demands. *E.g.*, *United States v. Figueroa*, 682 F.3d 694, 697 (7th Cir. 2012).

Nature of participation, including planning or organizing the offense. Madigan was the reason the bribes were paid. As Doherty acknowledged, he was paid “all this money” “to keep Mike Madigan happy.” GX270. And as McClain put it on another call, “We had to hire these guys because Mike Madigan came to us. . . . [I]t’s that simple.” GX267. McClain and former ComEd executive John Hooker discussed that Madigan approved of the subcontractors’ payment arrangement from its origins in 2011, and thought it was “great.” GX267.

Madigan claims that McClain and Hooker were the organizers or leaders, not him. DVO at 18. But “[t]here can, of course, be more than one person who qualifies as a leader or organizer of a criminal association or conspiracy.” U.S.S.G. § 3B1.1, Application Note 4. Moreover, even if McClain and Hooker conceived the way to implement Madigan’s request to pay his allies, the recordings make clear that the request came from Madigan. The subcontractors were close allies of Madigan, not McClain or Hooker. Indeed, Madigan was forced to admit on cross-examination that

he gave each of the subcontractors' names to McClain. Tr. 9063 (Olivo); Tr. 8678 (Nice), Tr. 8680 (Moody); Tr. 8688 (Zalewski); and Tr. 9110 (Acevedo).

Exercise of decision-making authority and degree of control and authority exercised over others. Madigan controlled the subcontractor and other bribe payments. Recordings associated with former Alderman Michael Zalewski's hiring, intercepted on a single day in May 2018, establish Madigan's control and leadership role. Madigan told McClain to talk to Anne Pramaggiore (then CEO of ComEd) about adding Zalewski as a subcontractor. GX73. McClain did as instructed and asked Pramaggiore to confirm that Zalewski would be added. Without hesitation, Pramaggiore confirmed. GX74. McClain then called Marquez and instructed him to pay Zalewski "five," or \$5,000. GX75. McClain then called Madigan to confirm that Madigan could let Zalewski know that Doherty would be in touch with him. GX76. Just four minutes after that call, phone records show that Madigan placed a call to Zalewski's number, which was not recorded. GX1618. Zalewski started getting paid shortly thereafter, for no work.

As another example, Madigan controlled the six years of payments to political worker Edward Moody at every step. From the outset, Madigan made it clear that he controlled the payments when he told Moody, "If I leave my politics . . . I'm going to lose the [ComEd] contract." Tr. 4326 (testimony of Moody). Madigan gave instructions to Moody and McClain when Moody was moved from being paid by one intermediary (Doherty) to another (Decremer) in 2016 after Moody became a Cook County Commissioner. See Tr. 4401-02; GX3; GX4. And Madigan again reiterated the

message that he was in control in 2018, when Madigan assured Moody that he did not need to worry about doing work for ComEd. In 2018, Madigan made the final decision to stop payments to Moody as part of “that ComEd agreement.”

Still another example of Madigan’s leadership is that McClain consulted with Madigan before dropping Eddie Acevedo. GX247, GX248.

Nature and scope of the illegal activity. Madigan’s criminal involvement was extensive and ongoing from 2011 to 2019. The eight-year duration of the bribery conspiracy and the fact that ComEd paid millions of dollars in bribes—both to the subcontractors and the other Madigan hires—further demonstrate Madigan’s leadership role.

d. Guideline § 3C1.1 – Obstruction of Justice

Madigan’s perjury warrants a two-level enhancement for obstruction of justice under Guideline § 3C1.1.

A two-level enhancement is appropriate when a “defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense of conviction, and (2) the obstructive conduct related to (A) the defendant’s offense of conviction and any relevant conduct; or (B) a closely related offense.” U.S.S.G. § 3C1.1. It is well-settled that perjury warrants the enhancement under Guideline § 3C1.1. *See* § 3C1.1, n.4(B); *United States v. Taylor*, 637 F.3d 812, 817 (7th Cir. 2011).

A defendant’s right to testify does not include the right to lie on the witness stand. *United States v. Hickok*, 77 F.3d 992, 1007 (7th Cir. 1996). An enhancement for perjury is appropriate if, while under oath, the defendant gives false testimony

concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake or faulty memory. *United States v. Dunnigan*, 507 U.S. 87, 95 (1993); *Taylor*, 637 F.3d at 817; *United States v. Johnson*, 680 F.3d 966, 981 (7th Cir. 2010); *see also* U.S.S.G. § 3C1.1, n.4(B). The Court should apply the enhancement if, upon “comparing [defendant’s] testimony with the evidence presented by the government, the district court determines that [defendant] testified falsely at trial.” *United States v. Anderson*, 580 F.3d 639, 648-49 (7th Cir. 2009).

As detailed in the Government’s Version, Madigan lied to the jury about material matters. *See* GVO at 19-26.

i. Madigan Falsely Denied an Intended Exchange for Official Action.

The guilty verdicts as to Counts 2, 4, 5, and 6 demonstrate that the jury rejected Madigan’s testimony that he did not believe any company intended to trade official action for jobs offered at Madigan’s request (Tr. 8585), and that he did not intend to trade official action for private gain. (Tr. 8585):

	Madigan - direct	8585
1	Q. Mike, let me ask you a few more questions to get to the	
2	heart of things.	
3	Did you ever trade your public office for private	
4	gain?	
5	A. No.	
6	Q. Did you ever deband a thing of value in exchange for	
7	promise to take official action?	
8	A. No.	
9	Q. Did you ever accept a thing of value in exchange for a	
10	promise to take official action?	
11	A. No.	
12	Q. Did you ever believe that a company or any employer who	
13	acted on one of your recommendations sought to improperly	
14	influence you to take official action on their behalf?	
15	A. No.	

This testimony was a lie, as the jury's verdict, and the evidence at trial, make clear.

Madigan doubled down on his false testimony during cross-examination by McClain's attorney, Madigan was asked, "During the time period 2011 to 2019, in connection with any request you ever made to Mike McClain, did you ever agree to exchange for some jobs at ComEd official action you would take to help ComEd legislation?" Tr. 8882. Madigan answered definitively, "The answer is no." *Id.* These lies are material and go to the core of the case. Given that Madigan was convicted of exactly that—conspiring to solicit and soliciting payments he knew were made in exchange for official action—his denial of any intended exchange was necessarily false. This testimony alone supports an obstruction enhancement.

ii. Madigan Falsely Denied Knowing that the Subcontractors Did Not Work.

Madigan also lied when he testified that McClain never said he believed or suspected that any of the people that Madigan had referred to ComEd were not working. Tr. 8882. This testimony was a lie, as demonstrated by a call the jury heard between Madigan and McClain in which they laughed about the fact that multiple people were paid by ComEd for little work. GX156. Madigan claims that this call related only to Dennis Gannon, whom Madigan claims he did not recommend to ComEd. DVO at 10. But, as the recording makes clear, and as the Court recognized by deciding to admit this exhibit (Tr. 8900-01), Madigan referred to *multiple* people getting paid to do little to no work. GX156 (“Some of *these guys* have made out like bandits . . .” (emphasis added)).

Madigan similarly lied when he claimed to be upset that Olivo, Nice, and the other subcontractors were not working. For example, he testified that he was upset that Nice did not do any work for ComEd: “My reaction again is anger. I knew Nice. He knew me. He knew my work ethic and what I expected from people associated with me. And he should, he should have worked just like everybody else is supposed to work.” Tr. 8678. This was a lie because, while Madigan disclaimed any knowledge that Nice did not do work for Doherty or ComEd, Madigan testified that he knew Nice performed work for a State board for which Madigan had recommended him. Tr. 8676, 9353, 9366. The notion that Madigan talked to Nice about his work for the State board, but had no idea that Nice did no work for ComEd for 8 years, a job for which

Madigan also recommended Nice, is implausible and inconsistent with the jury's guilty verdict.

iii. Madigan Falsely Testified That He Only Wanted to Help People.

On direct examination, Madigan testified that his motivation for recommending people for jobs was to help people who came to the 13th Ward office in need. Tr. 8823-24, 8689. Madigan testified that he viewed it as part of his job as a legislator and as Speaker to help people, including with jobs. Tr. 8824. Madigan's testimony on direct glaringly omitted any mention that in return for finding employment, Madigan expected certain of those individuals to do political work for Madigan. Tr. 9106-09. In context, this was false testimony. On cross-examination, Madigan was confronted with an interview he gave on this topic in 2009 (GX1) and only then did Madigan acknowledge that he used his governmental position to help find jobs for people with the expectation that some of those people would do unpaid political work for Madigan in return. Tr. 9108-09. Madigan's true motivations for finding jobs for his associates, elicited only through cross-examination, demonstrated why Madigan wanted to secure payments for people like Ed Moody and Ray Nice at ComEd and how that work personally benefitted Madigan. Madigan's attempt to hide his true motivation from the jury was an attempt by him to support his false denial of the bribery charges, which supports an obstruction enhancement.¹²

¹² Misleading testimony that understates a defendant's role in the offense warrants an obstruction enhancement. *See, e.g., United States v. Grigsby*, 692 F.3d 778, 785 (7th Cir. 2012) ("A defendant's deliberate attempt to mislead the court implicates the basic purpose of the

iv. Madigan Lied About His Role in Payments to Ed Moody.

Madigan lied about his involvement with Ed Moody's contract. Specifically, during his direct examination, Madigan was shown GX248, a December 7, 2018, call where McClain asked Madigan: "So do you want us to keep going with Ed Moody under that ComEd agreement or do you want us to pull off a little bit because of this Recorder of Deeds thing?" Tr. 8686. Madigan then told two lies to the jury. First, he claimed that he merely understood McClain to be "asking for some advice." *Id.* Second, Madigan claimed that McClain's request for advice was because Moody now had a full-time government job (as Recorder of Deeds), as opposed to his prior part-time job with the Cook County Board. *Id.* ("in light of his [Moody's] assumption of a full-time executive position, that he ought to pull back on his extra work with ComEd"). This testimony was false.

As an initial matter, Ed Moody already had a full-time job that Madigan helped obtain with the Circuit Court of Cook County from 1993 to 2016, as Madigan acknowledged during cross examination. Tr. 9079-80. And Madigan's claim that McClain was merely asking for "advice" makes no sense. McClain was clearly asking for instruction from Madigan. GX248 ("Do you want us to keep going with Ed Moody" and "Do you want me to call Ed and tell him?") In both instances, Madigan gave

obstruction enhancement . . ."). Another example of Madigan's calculated effort to mislead the jury about his motivations concerned Kathy Laski. Madigan acknowledged helping Laski find a job during his direct examination and testified that he met her at a block party. Tr. 8733-34. Madigan failed to mention during direct that Laski's husband had been Alderman of the 23rd Ward, which was part of Madigan's legislative district. This detail only came out when Madigan was asked about it on cross examination. Tr. 9097-99.

instructions to McClain, demonstrating his knowledge of and control over the subcontractor arrangement. Indeed, McClain consulted with Madigan before dropping Acevedo as well. GX247, GX248.¹³

Madigan's testimony contradicts Ed Moody's testimony. Moody testified that he saw Madigan while campaigning near Madigan's home and expressed concern that he (Moody) was not doing any work for ComEd. *Compare* Tr. 4426 (Moody's testimony), *with* Tr. 8680-8682 (Madigan's denial). Moody testified that Madigan responded by telling Moody, "You have nothing to worry about. What you're doing right now [campaign work] . . . is what I want . . . it's what ComEd wants." Tr. 4426. Moody's testimony is yet another piece of evidence that shows Madigan's testimony was materially false. Madigan's false explanation about his response to McClain was material because it attempted to present an innocent explanation about a critical part of the charged conspiracy—Madigan's involvement in the hiring of his political workers by ComEd.

v. Madigan Falsely Denied Telling McClain He Expected a Quick Favorable Response from ComEd.

Madigan lied when he denied having directed McClain to pass a message to ComEd executive Fidel Marquez that he expected a hard and quick favorable response to job requests made to ComEd. Specifically, on direct examination,

¹³ Madigan's claim that McClain was merely asking for "advice" was further contradicted by his instruction (not "advice") to McClain to secure a ComEd subcontract for Zalewski. *See, e.g.*, GX73, GX74, GX75, GX77.

Madigan was asked about GX466, an email in which McClain informed Marquez that Madigan complained that Marquez was not being responsive to Madigan's requests for jobs for two 13th Ward precinct captains. GX466; Tr. 8745-47. McClain reported that Madigan had asked, "Are there two Fidels?" and then said, "Sometimes Fidel is totally responsive and engaging, and I feel sometimes he is not with us." *Id.* McClain told Marquez, "I do not know how to respond to our friend who believes, in his mind, there should be a hard and quick favorable response." *Id.*

When confronted with this email, Madigan falsely testified that he never passed such a message to McClain. Tr. 8746. This was a lie, contradicted by McClain's email and Madigan's own words in other recorded calls. For example, GX108 and GX62 proved that Madigan *did* authorize McClain to tell Marquez to make hard and quick favorable responses to Madigan's requests. In GX108, Madigan mocked Marquez and complained about his failure to act quickly in relation to ComEd's agreement with labor unions. In GX62, McClain and Hooker discussed that Madigan said talking to Marquez was "like putting something in a dark hole," meaning that Marquez failed to respond quickly enough to Madigan. GX62 at 2.

vi. Madigan Lied By Minimizing His Relationship with McClain.

Madigan's credibility as a witness was completely undermined by his steadfast refusal to accurately describe his close friendship and agency relationship with McClain. As just one example of Madigan's repeated lies about McClain, when asked during cross-examination by McClain's attorney about the many times that Madigan went to McClain for help with problems, Madigan refused to admit that he "regularly"

asked McClain to help with problems, stating only that “some” problems were “submitted” to McClain. Tr. 8856.

Another example of Madigan’s false testimony designed to minimize his relationship with McClain concerned McClain’s access to the Speaker’s suite of offices. Madigan claimed that McClain did not have unique access to his office suite in the Illinois Capitol, that the Speaker’s office had an “open-door policy,” and that no one would be excluded from his suite of offices. Tr. 8860. This testimony contradicted the testimony of numerous other witnesses who testified about McClain’s use of a private conference room in Madigan’s office suite. Madigan’s own secretary, Mika Baugher, testified that McClain “would usually hang out in the conference room behind my desk [in the Speaker’s office suite].” Tr. 5743. When asked if that conference room was open to the public, Baugher testified, “it’s not for the public.” *Id.* She further testified that, other than McClain, there were no lobbyists who frequented the Speaker’s conference room. *Id.*¹⁴

The multitude of recorded conversations, emails, and documents presented at trial established a uniquely close and longstanding relationship of mutual dependence between Madigan and McClain and demonstrated that Madigan was lying when he tried to distance himself from his key operative. Madigan assigned McClain, and only McClain, to carry out the most sensitive assignments and requests and to engage in the most potentially politically explosive conversations when

¹⁴ Madigan’s efforts at minimizing his relationship with McClain pervaded his trial testimony. *See, e.g.*, Tr. 8665, Tr. 8750-51, Tr. 8834-36, 8837, 8839-41, 8855-56, 8860-63, 8877, 9116, 9120, 9123, 9125, 9142-43, 9154, 9160.

Madigan wanted bad news delivered, including to legislators who served under Madigan. *See, e.g.*, GX73, GX77, GX183, GX205, GX212, GX248, GX280, Tr. 787-91, GX1306, GX1412. Witness after witness—including defense witnesses—testified that Madigan and McClain were close friends for decades. *E.g.*, Tr. 779-80 (Lou Lang); Tr. 6787-88 (Thomas Cullen); Tr. 8191 (David Ellis); Tr. 8272 (Justin Cox). Records showed that Madigan and McClain had dinner more than 100 times between 2011 and 2019, including three times during the week FEJA passed. *See* Tr. 7327; GX1521.

One recorded call between Madigan and McClain on May 16, 2018 (GX73) exemplifies the true nature of their relationship and the scope of authority Madigan had delegated to McClain. During this single call, Madigan spoke with McClain about: (i) gaming legislation; (ii) the appointment of Juan Ochoa to the ComEd board; (iii) talking to Pramaggiore about who had been proposed as her replacement; (iv) the AT&T small cell bill; (v) the Chinatown property land transfer; and (vi) talking to Pramaggiore about ComEd hiring Michael Zalewski.

Madigan's lies and minimization of his relationship with McClain were highly material to the charges because Madigan was alleged to have conspired with McClain to commit bribery at ComEd. Madigan's attempt to distance himself from McClain and from the job demands he made of ComEd through McClain was necessarily rejected by the jury in finding Madigan guilty of the ComEd counts.

vii. Madigan Lied In Denying His Role in Securing FEJA's Passage.

Madigan lied when he denied telling Cousineau to round up the final votes necessary to pass FEJA. *Compare* Tr. 1637-39, *with* Tr. 8662. Madigan's denial stood

in stark contrast to Cousineau's testimony that Madigan specifically instructed him to secure the votes to pass FEJA and other evidence of Cousineau's critical role in securing the votes. Tr. 1637-39.

The evidence fully corroborated Cousineau's account. On December 2, 2016, just one day after FEJA passed, McClain wrote to Pramaggiore that Cousineau "was extremely helpful in us acquiring the necessary votes in the Illinois House." GX577. And in 2018, McClain reminded Hooker that Madigan had helped put the final votes on FEJA. GX70 ("[T]hat last day, um, we had to go to Madigan. Madigan put 47 votes on."). Defense witness Craig Willert, whom Madigan claims supports his position, actually testified that he helped to move FEJA out of committee, at Cousineau's direction. Tr. 8421; DX5055. Willert thus corroborates Cousineau's account.¹⁵

e. Guideline § 4C1.1 – Zero-Point Offender

The government agrees with the Probation Office that Madigan does not qualify for the two-level decrease in offense level under Guideline § 4C1.1 because he was a leader or organizer of the criminal activity. PSR ¶ 74. Guideline § 4C1.1. only applies if "the defendant did not receive an adjustment under § 3B1.1 (Aggravating Role)." U.S.S.G. § 4C1.1(a)(10).

¹⁵ Madigan is wrong that Willert's testimony that there was no internal Speaker's Office roll call for FEJA contradicts Cousineau. Tr. 8387. Cousineau never said there was an internal roll call; he testified that "I can't remember who brought the information, but I learned that – or based on my analysis of what was presented, there weren't enough votes to pass the [FEJA] bill." Tr. 1636. Willert readily admitted that internal rolls calls were not the only way to obtain information about a bill, that companies and outside lobbyists sometimes complete their own roll calls, and that he was not privy to all Cousineau's conversations with Madigan. Tr. 8417, 8426-27, 8431-33.

2. FCPA Objects

The offense level for the false books and records and circumvention of accounting controls objects of Count 2 (the “FCPA objects”) is 37.¹⁶

Guideline Section	Description	Offense Level
2B1.1(a)	Base Offense	7
2B1.1(b)(1)(N)	Gain / loss exceeded \$150,000,000	+26
2B1.1(b)(10)	Sophisticated means	+2
3B1.1(c)	Organizer / leader of criminal activity	+2
TOTAL		37

a. Guideline § 2B1.1(b)(1)(N) - Gain / Loss exceeded \$150,000,000

Pursuant to Guideline § 2B1.1(b)(1)(N), a 26-level offense level increase is appropriate because the actual gain from the offense exceeded \$150,000,000.

Under Guideline § 2B1.1(b)(1), the offense level is increased “if the loss exceeded \$6,500.” The Table Notes provide that “[t]he court shall use the gain that resulted from the offense as an alternative measure of loss only if there is a loss but it reasonably cannot be determined.” U.S.S.G. § 2B1.1(b)(1), Note B; *see also United States v. Bhutani*, 266 F.3d 661, 668 (7th Cir. 2001) (“If it has been shown that the

¹⁶ The Probation Office did not perform a separate calculation of the FCPA objects of the conspiracy. The PSR notes that pursuant to §1B1.2(d), a conviction charging a conspiracy to commit more than one offense shall be treated as if the defendant had been convicted on a separate count of conspiracy for each offense that the defendant conspired to commit. PSR ¶ 46. Count 2 included four objects, and thus the separate counts of the conspiracy are for violations of 18 U.S.C. §§ 666(a)(1)(B) and 666(a)(2) and 15 U.S.C. §§ 78m(b)(5). *Id.* Probation grouped all of the subparts of Count 2 because they involved the same victim and acts/transactions connected by a common criminal objective or constituting a common scheme or plan. PSR ¶ 47, citing U.S.S.G. § 3D1.2(b) and Application Note 4. Furthermore, Guideline § 2C1.1 provides for a higher offense level and therefore Probation applied this section. *Id.* The government agrees, but to be complete in its analysis of the Guidelines, the government has calculated the Guidelines for the FCPA objects separately under Guideline § 2B1.1.

victims of the fraud suffered a loss and a more precise way of measuring the loss is unavailable, the amount of the defendant's gain may provide a reasonable estimate of the loss."); *United States v. Vrdolyak*, 593 F.3d 676, 680 (7th Cir. 2010) (where "there is a loss but the precise amount of the loss cannot be determined . . . the criminal's gain is treated as the measure of loss").

There Was Loss, Which Cannot Reasonably Be Determined. The falsification of records and circumvention of internal controls caused loss. The contracts and invoices stated that services were rendered, including as "lobbying" and "consulting" expenses, when in reality the payments were not for work but to influence Madigan. The false books and records were designed to deceive those within the company responsible for ensuring vendor payments were accurate and appropriate. Based on this web of lies, ComEd paid \$1.3 million to the "subcontractors." That amount plainly constituted a loss to ComEd, Exelon, and its shareholders.

The \$1.3 million was not the only loss. Those harmed by the conduct also included ratepaying citizens of Northern Illinois, who expect that regulated utilities are managed with honesty and integrity. Those impacted also included Illinois voters, who expect their elected representatives do not conspire to falsify records and circumvent internal controls but instead represent their own interests. *Cf. United States v. Escamilla*, 509 F. App'x 254, 255 (4th Cir. 2013) (applying gain in immigration fraud case, noting that "[i]mmigration document fraud causes actual economic loss, to the persons whose information is used on the documents, to

employers who mistakenly rely on the counterfeit documents, and to the United States in protecting its borders and citizens”).

The harm to the companies, shareholders, and private citizens is complex and difficult to estimate. For example, many critics have complained that ratepayers shouldered the burden of Madigan’s and his coconspirators’ wrongdoing, as the legislative wins that ComEd achieved led to increased rates. *See, e.g.,* Abe Scarr, Ill. Public Interest Research Group, “New report: Formula rate law at center of ComEd scandal cost consumers billions, under-delivered promised benefits,” Dec. 1, 2020, <https://illinoispirg.org/news/ilp/new-report-formula-rate-law-center-comed-scandal-cost-consumers-billions-under-delivered> (last visited May 30, 2025). FEJA’s provisions that allowed Exelon to keep open two nuclear plants in Illinois were viewed by critics as an improper “bail out,” which undoubtedly impacted energy markets. *See, e.g.,* Citizens’ Utility Board, “What is the Future Energy Jobs Act? CUB analyzes Illinois’ biggest energy legislation in years,” March 22, 2017, available at www.citizensutilityboard.org/blog/2017/03/22/future-energy-jobs-act-cub-analyzes-illinois-biggest-energy-legislation-years/ (last visited May 30, 2025).

Whether the legislation ultimately harmed consumers is a complex, multi-faceted question that the Court need not address. But the civil litigation that followed the government’s investigation going overt, and the jaw-dropping settlements that resulted, are strong indicators that there was substantial loss, and provide an alternative and reasonable means by which to assess loss for purposes of a Guidelines enhancement. Specifically, ComEd and Exelon: (i) agreed to settle outstanding

shareholder litigation for \$173 million, *see Flynn v. Exelon Corp.*, No. 19 CV 8209 (N.D. Ill.) (Kendall, J.) [ECF #193 at 9]; (ii) agreed to settle securities charges with a payment by Exelon of \$46.2 million, *see* <https://www.sec.gov/news/press-release/2023-207>; and (iii) were ordered by the ICC to pay a refund of approximately \$38 million to customers. *See* <https://www.chicagotribune.com/politics/ct-comed-returns-38-million-over-madigan-scandal-20220817-bctxrnaec5gvpgg64xh5gsh4ru-story.html>. These figures together form an alternate measure of loss. *Cf. United States v. Brathwaite*, 242 F. App'x 900, 905 (4th Cir. 2007) (applying gain in driver's license fraud case, where the DMV was "going to have to take action to cancel the fraudulent licenses").

The Court Should Apply the Total Gain. Consistent with the settlement figures, the conspirators' gain is an appropriate proxy for loss under Guideline § 2B1.1(b)(1). *See Bhutani*, 266 F.3d at 670 (concluding that consumers suffered loss, and applying defendant's gain from fraudulent adulteration of drugs under precursor to Guideline § 2B1.1(b)(1)). As discussed above, the evidence established that the gain from the conspiracy far exceeded \$150 million.

b. Guideline § 2B1.1(b)(10) – Sophisticated Means

The two-level sophisticated means enhancement is properly applied in this case, because: (i) Madigan caused off-books payments to be made through multiple nominees to five Madigan's associates over the course of approximately eight years; (ii) caused the creation of phony contracts, invoices, internal approvals, and false entries in accounting records for the purpose of concealing the illegal activity; and (iii) shifted payments between various nominees as circumstances required. *Cf.*

United States v. Fife, 471 F.3d 750, 754 (7th Cir. 2006) (sophisticated means employed where payments made through nominee corporations to conceal illegal activity); *United States v. Redman*, 887 F.3d 789, 792-93 (7th Cir. 2018) (creation of substantial amount of false paperwork to further and conceal illegal activity constituted sophisticated means).

c. Guideline § 3B1.1(c) – Leader / Organizer

The Court should apply an additional two-level leader / organizer enhancement under Guideline § 3B1.1(c), for the same reasons discussed above.

The evidence at trial established that Madigan knew Doherty was being used as an intermediary to conceal payments to his allies and that false records were being prepared. In one phone call, Madigan reported to McClain that Representative Jaime Andrade needed money and suggested using Doherty (though “not necessarily with ComEd”) as an intermediary. Madigan said to McClain, “we’d tell Jaime prepare some monthly reports on what she’s doing” so the representative has “got it on file.” GX135. Faced with this recording, Madigan was forced to concede that he knew Doherty was being used to conceal payments. Tr. 9307 (“Q. When you didn’t want folks in the General Assembly to know who was behind payments that were being made to Jaime Andrade’s wife, what came to your mind was Jay Doherty, right? . . . A. Okay. I thought of Doherty, yes.”). This evidence, and the evidence discussed above, demonstrated that Madigan controlled payments to Doherty, and knew he could call on Doherty to conceal payments. This demonstrates his leadership and control over the ComEd payments through Doherty.

3. Grouping for ComEd Conduct

Pursuant to Guidelines §§ 3D1.2(b), (c), and (d), Counts 2, 4, 5, and 6 are grouped together. The combined offense level for the ComEd Group is 50, pursuant to Guideline § 3D1.3.

B. Offense Level Calculations – “State Board Group”

The government agrees with the Probation Office’s calculation of the guidelines for the State board offenses of conviction (Counts 8, 9, 10, 12, 13, and 14, or the “State Board Group”), with the exception of the Probation Office not taking a position on whether an enhancement under § 3C1.1 should apply. PSR ¶ 61-69. Including the two-level enhancement under § 3C1.1 on account of Madigan’s perjury at trial, the offense level for the State Board Group is 32.

Guideline Section	Description	Offense Level
2C1.1(a)(1)	Base Offense	14
2C1.1(b)(2); 2B1.1(b)(1)(G)	Value of the benefit exceeded \$250,000	+12
2C1.1(b)(3)	Elected public official	+4
3C1.1	Obstruction of justice	+2
TOTAL		32

1. Guideline § 2C1.1(b)(2) – Value of the Benefit

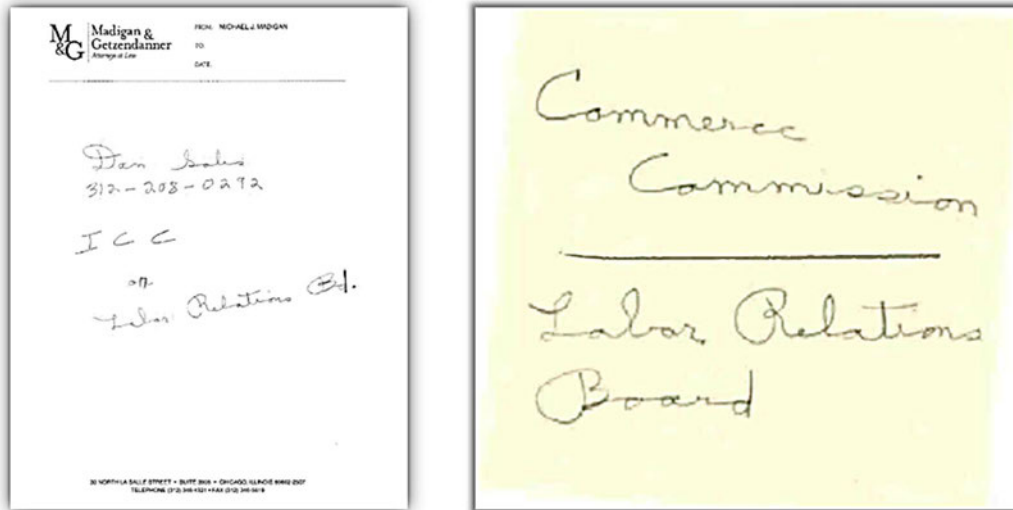
Pursuant to Guideline § 2C1.1(b)(2) and § 2B1.1(b)(1)(G), a 12-level increase is appropriate, because the value of the benefit received or to be received exceeded \$250,000. The lower paid of the two Boards Solis proposed (the Labor board) had a salary of \$93,926 per year and a term of four years, for a total of \$375,704. The Probation Office agrees. PSR ¶ 63.

Madigan claims that the amount should be zero because he “never recommended Mr. Solis for the Labor board position,” “the government chose the

State board positions that Mr. Solis suggested,” and Madigan “received no private benefit.” DVO at 21.

As discussed above, Guideline § 2C1.1(b)(2) instructs that the Court must consider the benefit “to be received in return for the payment.” U.S.S.G. 2C1.1(b)(2). The Court considers the anticipated benefit, whether realized or not. *Cf. Blagojevich*, 794 F.3d at 743; *Chmielewski*, 196 F.3d at 895.

During Madigan’s and Solis’s June 20, 2018 meeting, Madigan offered to put together a list of boards for Solis and told Solis “there’s less than ten real nice boards.” GX125. Soon thereafter, Madigan delivered to Solis a document describing a subset of State boards (GX1401). Solis then identified for Madigan two high-paying State board positions on that list. Madigan did not miss a beat in agreeing to secure him one of those Board seats. When Solis told him he wanted those two boards because they are “generous in their compensation,” Madigan said “Yeah” and informed Solis that he had previously “got [Bob Gierut] appointed” to the Labor Relations Board. GX151. Madigan told Solis to “just leave it my hands.” GX151. Madigan even took handwritten notes of Solis’s preferred State boards:



GX1570, GX1592. These were well paid Boards due to their importance to State government. Yet Madigan repeatedly demonstrated his willingness to sell seats on those Boards, by agreeing to champion Solis, in order to acquire more law firm business for Madigan’s own personal gain.

Here, the scheme did not get to the point of Madigan recommending Solis; Solis’s cooperation was announced in January 2019, which forced Madigan’s corrupt efforts to stop. GX863. The crime was nevertheless already complete at this point, and Madigan anticipated a benefit to be conferred on Solis, in the form of a State board salary.

2. Guideline § 3C1.1 – Obstruction of Justice

Madigan’s false testimony that he only considered recommending Solis to the governor for a State board position warrants a two-level enhancement for obstruction of justice under Guideline § 3C1.1.

The evidence made clear that Madigan intended to recommend Solis to Pritzker, and that this would be successful. *See, e.g.*, GX151 at 7-9; GX197 (“When I

sit down with Pritzker, that's, I'll tell him here it is, this is what we want to do."). On direct examination, too, Madigan testified that he agreed to recommend Solis for the State board in 2018 because, "I never heard anything negative about Alderman Solis." Tr. 9181.

During cross examination, however, Madigan attempted to minimize his involvement in helping Solis, after he was confronted with the evidence that Madigan knew at the time that Solis had suggested a *quid pro quo*. Specifically, Madigan was forced to acknowledge that, before he agreed to recommend Solis, Madigan knew that, on six prior occasions, Solis had suggested unlawfully exchanging official action for referrals to Madigan's law firm. Tr. 9169-70, Tr. 9187-89. Madigan was then asked, "And in spite of all that . . . you were prepared to actually recommend him [Solis] for a board position, right?" Madigan, lying and contradicting his earlier testimony that he had planned to recommend Solis, answered: "I was prepared to entertain the possibility that I would submit his name [to Pritzker]." Tr. 9189. Madigan was pushed on this obvious contradiction and clear backpedaling:

- Q. You intended to submit his name to the governor, right?
- A. Well, I was compiling my file of potential submissions to the governor.
- Q. Is that a "yes"?
- A. I was -- I was contemplating putting his name in that file, and then I would review it when it came time to do submissions to the governor.

Tr. 9189-90. Confronted specifically with his words to Solis, Madigan was asked, "So your testimony before the jury today, sir, is that, when you said, 'Just leave it in my hands,' what you meant was maybe I'll recommend you, maybe I won't; I'll make that

decision later. Is that what you're . . . telling the jury?" Madigan dug into his lie and answered, "That's correct." Tr. 9222-23.

The evidence and the jury's verdict on the State board counts directly refute Madigan's testimony that he had not decided whether to recommend Solis for a State board position. Madigan contradicted himself during his testimony in an effort to mislead and confuse the jury, when the evidence from the recordings could not have been clearer: Madigan intended to recommend Solis to a State board position, and he did so in exchange for Solis agreeing to continue to send legal business to Madigan.

C. Grouping and Total Adjusted Offense Level

Pursuant to Guidelines §§ 3D1.3 and 3D1.4, the ComEd Group and the State Board Group are not grouped, but there is no increase to the total offense level because the offense level for the State Board Group is 9 or more levels lower than the offense level for the ComEd Group. PSR ¶¶ 70-73. The total adjusted offense level is therefore 50, which is treated as an offense level of 43. *See* U.S.S.G. § 5, Pt. A, App. Note 2; PSR ¶ 76.

D. Criminal History Category

The government agrees that defendant has no criminal history points and is therefore in criminal history category I. PSR ¶ 81.

E. Advisory Guideline Range

Based on the government's calculation of a total offense level of 43, and a criminal history category of I, Madigan's Guideline range is life imprisonment, consistent with the Probation Office's finding. PSR ¶ 126.

F. The Government's Sentencing Recommendation

The government's sentencing recommendation of 12.5 years' imprisonment is below the Guideline range of life imprisonment. Madigan implies in the Defense Version that the Guidelines for the ComEd conduct are inflated due to the 26-level increase based on the significant value of the legislation obtained through the bribery scheme. Even setting aside the ComEd conduct, however, and focusing solely on the State board conduct, the offense level is 32, which results in a Guidelines range of 121 to 151 months' imprisonment. The government's recommendation is the high-end of that range—151 months, or 12.5 years—and, as set forth below, is consistent with and warranted by the sentencing factors set forth in 18 U.S.C. § 3553(a).

III. SENTENCING FACTORS UNDER 18 U.S.C. § 3553(A)

Section 3553(a) requires the Court to impose a sentence that is “sufficient, but not greater than necessary,” to comply with the purposes of sentencing. In order to determine the sentence to impose, after calculating the Sentencing Guidelines, the Court must consider the statutory factors listed in § 3553(a)(1)-(7). For the reasons set forth below, consideration of the statutory sentencing factors reveals that a sentence of 12.5 years of imprisonment and a \$1.5 million fine is warranted and is sufficient but not greater than necessary to comply with § 3553(a).

A. The Nature and Circumstances and Seriousness of the Offense

Madigan engaged in prolonged, calculated, and deliberate corrupt conduct over the course of years, which involved multiple episodes of criminal activity. The offense conduct unquestionably merits a significant custodial sentence. Madigan's criminal activity spanned nearly a decade and was particularly egregious because it involved

efforts to enrich himself—both by maintaining his political power by securing do-nothing jobs for his political allies and by attempting to line his own pockets with legal business. In so doing, Madigan served his own personal interests and not the best interests of Illinoisians.

Madigan adds another sordid chapter to Illinois's storied reputation of corruption and "pay to play" politics. Public corruption has been a persistent scourge on Illinois. Madigan, who held a top position in Illinois government and led the Democratic Party of Illinois, was the most powerful and well-known Illinois public official. Madigan's prominence and state-wide position makes his criminal activity particularly grave and damaging. Madigan was in a special position of trust and responsibility to the public. Yet he deprived all residents of Illinois of honest government and eroded the public's trust. Judge Zagel stated in sentencing former Governor Blagojevich, another corrupt high-level Illinois politician: "the fabric of Illinois is torn and disfigured and not easily or quickly repaired. You did that damage." *United States v. Blagojevich*, No. 08 CR 888 (Dec. 7, 2011) (N.D. Ill.) (Zagel, J.), Dkt. 1036 at 260. Judge Zagel's words are apt here. The damage Madigan has done will not be easy to repair and is a further stain on our state, which has seen in recent history two governors convicted of corruption-related crimes.

The seriousness of Madigan's crimes is heightened by the nature of the entities that he used for purposes of enriching himself and his associates: the State's largest electricity provider, two significant State boards, and the Office of the Speaker.

1. ComEd Conduct

In order to pay his political allies, Madigan went so far as to corrupt the largest electric utility in Illinois. The residents and businesses of northern Illinois depend upon ComEd and its electrical grid. The critical nature of electric service is why ComEd was highly regulated, a fact Madigan exploited for his own benefit. Madigan knew that ComEd, as a regulated entity, was dependent on the passage of favorable legislation by the Illinois General Assembly for its livelihood. *See* GX88 (McClain in a recorded call with Andrew Madigan stating, “These people [referring to People’s Gas] are in a regulatory body and they’re offended if people ask for favors. Hello? Dumb shits.”). Madigan then used this public utility for his own ends—to place his political associates in lucrative jobs so that they would continue to support Madigan’s political apparatus, thereby ensuring he stayed in power.

Madigan did not care that his actions targeted a regulated utility upon which the public depends. In fact, the jury heard Madigan *laughing* with McClain about the fact that the people whom they had gotten employed at ComEd made a lot of money for very little work:

MADIGAN: Mhmm. (Laughs.)

McCLAIN: Well if, if you remember uh—

MADIGAN: Some of these guys have made out like bandits Mike.

McCLAIN: Oh my God, (coughs) for very little work too.

MADIGAN: Yeah.

McCLAIN: Very little work.

GX156, Lines 45-55; Tr. 9050.

Madigan's corrupt conduct has financially impacted the citizens of Northern Illinois, ComEd, ComEd's parent company (Exelon), and its shareholders, including by causing the payment of more than \$450 million in penalties and settlements.

Another aspect of the nature and circumstances of the offense that weighs in favor of a substantial custodial sentence is the fact that Madigan engaged in corruption over a period of at least *eight years*. This was not a one-time lapse in judgment. Madigan acted with impunity for nearly a decade, bringing his political associates to ComEd to get them paid time and again: Frank Olivo in 2011, Victor Reyes's law firm in 2011, Ray Nice in 2012, Ed Moody in 2012, Eddie Acevedo in 2017, Michael Zalewski in 2018, and others. In exchange, Madigan repeatedly used his power as Speaker to shepherd valuable legislation for ComEd and Exelon (and in at least one instance, stopping legislation adverse to ComEd), including EIMA in 2011, Senate Bill 9 in 2013, FEJA in 2016, and the Lisa Madigan bill in 2018.

Despite the jury's finding that Madigan traded official action on ComEd legislation for this stream of benefits, Madigan persists in claiming that he did nothing for ComEd and that he was ComEd's "principal antagonist." DVO at 4. Madigan's claim is contrary to the evidence and the jury's verdict and demonstrates his complete lack of acknowledgement of his criminal conduct.

2. Madigan's Concealment Involving ComEd

Madigan's use of secrecy and concealment allowed his corruption to remain undetected for years. As McClain told Pramaggiore and Marquez, "Our friend is very, very cautious about letting people know and do what he needs done." GX869.

Madigan's secrecy and concealment made his crimes more insidious and difficult to detect, which weighs heavily in favor of a substantial custodial sentence.

Madigan used surrogates—often McClain—and he did not use a cell phone or email. Madigan did this strategically. By using surrogates to carry out his wishes and intermediaries to conceal payments to his allies, Madigan sought to distance himself from criminal exposure. As McClain told a ComEd executive, “I’ve been doing assignments for him [Madigan] for 25 years . . . you’ve never read about me in a newspaper. . . . I’m pretty discreet.” GX282.

ComEd paid Madigan's associates through intermediaries like Jay Doherty to hide the true nature of the payments and the fact that they were for virtually no work. *E.g.*, GX267 (Hooker noting that the Doherty payments were “clean for all of us”). Despite his continued protestations to the contrary, Madigan knew Doherty was employed as an intermediary to conceal Madigan's involvement. *See, e.g.*, GX135. Madigan admitted on cross examination that, when he wanted to conceal payments, he thought of using Doherty as an intermediary. Tr. 9307. The evidence proved that Madigan was a seasoned professional when it came to concealing payments to his associates, including through intermediaries.

3. State Board Conduct

Madigan also exploited State board positions—which carry out important governmental functions—to line his own pockets. Madigan agreed to recommend Solis to important State boards, even though Madigan knew that Solis was willing to engage in corrupt *quid pro quo* exchanges.

Notably, the two State boards that were the focus of the counts of conviction carry out important governmental functions across the State. The Illinois Commerce Commission “regulates public utilities, interstate motor carriers, and rail, bus, and barge transportation; sets rates for privately owned electric, natural gas, telephone, water, and sewer companies, regulates intrastate rates charged by property motor carrier; inspects railroad crossings and tracks, and railroad cars carrying hazardous materials.” GX1516 at 5; Stipulation 80. Madigan knew about these functions because he worked as a hearing officer for the ICC in the early years of his legal career. Tr. 8601-02. The salaries of ICC board members reflected their critical role: in 2018, board members were paid \$117,043 per year. The ILRB has “jurisdiction over collective bargaining between labor unions and units of local government with populations over 2 million, except Regional Transportation Authority.” GX 1516 at 9. The salaries of ILRB board members likewise reflected these important functions: in 2018, board members were paid \$93,926.

Madigan cared more about business for his law firm and his son than about the proper functioning of these boards or the proper stewardship of the State finances. Not once did Madigan say that he was concerned with appointing the best or most qualified candidate. Instead, his conversations with Solis centered around what would be in it for Madigan if he secured the State board appointment. In fact, Madigan made clear he was willing to recommend a person who he believed was corrupt to perform these important governmental functions in exchange for business for himself and his son. Madigan thus showed his true motives: Madigan wanted to

enrich himself and his family at the expense of the State.¹⁷ Madigan cast aside his duties to the people of Illinois, and instead sought to use his immense power for his own personal profit. Madigan's atrocious breach of his duties to the public warrants a lengthy custodial sentence.

4. Madigan's Concealment Involving Solis

Like with the ComEd conduct, concealment was a hallmark of Madigan's interactions with Solis. For example, after Solis first told Madigan over the phone that the Union West developer understood the "*quid pro quo*" (GX7; *see also* GX9), Madigan asked to meet Solis privately. Once inside Madigan's private office, he chastised Solis for his loose talk and coached Solis on a false explanation to disguise the corrupt exchange. Madigan closed the door and in whispered tones told Solis, "you shouldn't be talking like that." GX11. Madigan went on to give Solis a false story to explain his involvement with Union West: "You're just recommending our law firm—because if, if they don't get a good result on the real estate taxes, the whole project would be in trouble. Which is not good for your ward. So you want high quality representation." GX11.

¹⁷ Madigan was adept at exploiting his power to place his allies on lucrative State boards. Frank Olivo had a position on the Illinois Motor Vehicle Review Board, earning \$20,000 each year starting in 1999, and Ray Nice had a position on the Illinois Department of Employment Security Board, earning \$15,000 per year starting in late 2013. Stipulations 75 and 76, GX1303 (Madigan letter to Nice confirming his appointment). Madigan acknowledged during cross examination that he recommended Nice for the board position. Tr. 9218-20. Madigan also got Bob Gierut, who like Nice was precinct captain for the 11th Ward, appointed to the Labor Relations Board. GX151 (Madigan telling Solis, "I got him appointed. . .").

Madigan was instructing Solis to conceal Madigan's involvement in a *quid pro quo* exchange—all while continuing to reach out to Solis for introductions to developers. Notably, Madigan did not tell Solis not to *engage* in a *quid pro quo*; rather, Madigan's instruction was that Solis should not *talk* about a “*quid pro quo*” and should hide the corrupt nature of the exchange. Madigan's words and manner of addressing Solis demonstrate that he was an expert at concealment. In fact, Madigan spoke in cryptic terms when discussing whether Solis should vote on the Union West project because his law firm had secured legal business from the developers, by telling Solis he “should go ahead and process that.” GX16.

Indeed, given Madigan's deliberate concealment and extreme efforts at secrecy, it took the cooperation of a senior member of Chicago City's Council—and someone who Madigan wanted to use for legal business—and a wiretap on Madigan's trusted agent's cellular phone, among other investigative means, to finally bring to light Madigan's corrupt conduct. The insidious nature of Madigan's crimes and criminal conduct should be met with a significant sentence of incarceration.

For all these reasons, Madigan's abuse of his office through bribery and fraud merits a sentence of 12.5 years' imprisonment.

B. The Need for the Sentence Imposed to Reflect the Seriousness of the Offense, to Promote Respect for the Law, and to Provide Just Punishment for the Offense

Madigan's criminal conduct was serious, extended, and extremely damaging. He made a conscious choice to break the law, and then he made a conscious choice to testify at trial and lie under oath.

A non-custodial, or short custodial, sentence for a high-ranking public official

who betrayed his office would not promote respect for the law; rather, it would cause people to question our system of justice, by suggesting that people who choose to who corrupt the highest levels of government and then lie about their crimes, can receive lighter punishment than other, less well-heeled and politically connected individuals.

As the Seventh Circuit has observed, there is no different standard that applies to defendants surrounded by privilege:

[N]o “middle class” sentencing discounts are authorized. Business criminals are not to be treated more leniently than members of the “criminal class” just by virtue of being regularly employed or otherwise productively engaged in lawful economic activity. It is natural for judges, drawn as they (as we) are from the middle or upper-middle class, to sympathize with criminals drawn from the same class. But in this instance we must fight our nature. Criminals who have the education and training that enables people to make a decent living without resorting to crime are more rather than less culpable than their desperately poor and deprived brethren in crime.

United States v. Stefonek, 179 F.3d 1030, 1038 (7th Cir. 1999) (citation omitted). By the time he committed the offenses of conviction, Madigan was at the pinnacle of power in the State. He wanted for nothing, and he had considerable wealth. PSR ¶ 121. He was well educated, served as an elected official, and had a thriving legal practice. Despite all these advantages, he chose to break the law time and again.

Similarly, it would not promote respect for the law or provide just punishment to impose a low sentence because Madigan has helped his constituents or has done favors for people. It was Madigan’s job as a Representative to help his constituents. Moreover, it was Madigan’s immense political power that afforded him the ability to do favors—the same immense political power he exploited in committing bribery and

fraud. *See Vrdolyak*, 593 F.3d at 683 (“Politicians are in the business of dispensing favors; and while gratitude like charity is a virtue, expressions of gratitude by beneficiaries of politicians’ largesse should not weigh in sentencing.”).¹⁸

For these reasons, the government submits that a sentence of 12.5 years’ imprisonment and a \$1.5 million fine is required to promote respect for the law and provide just punishment for the offense.

C. The History and Characteristics of the Defendant

Madigan’s history and characteristics present both mitigating and aggravating factors. Madigan had an extremely successful career in government, and at the same time, had a lucrative law practice. Madigan has no prior criminal history. Madigan was disciplined and a hard worker and, by all accounts, he is devoted to his wife, children, and grandchildren. The letters of support set forth that Madigan can, at times, be a generous person and helpful to his friends and constituents. These mitigating factors, however, must be considered in the context of the offense conduct, Madigan’s positions of power, and Madigan’s abuse of power.

1. Madigan’s Transactional Approach to Politics and Patronage

Madigan has for years taken advantage of the “give and get” nature of the patronage system to ensure his power and longevity. Madigan got from his political

¹⁸ For example, one letter in support of Madigan was from former State Representative Arthur L. Turner. The trial evidence showed that McClain, on behalf of Madigan, pressured ComEd General Counsel Tom O’Neill to help Mr. Turner’s son—who at the time was a sitting State Representative—obtain job interviews at law firms. Tr. 1261-68 (O’Neill’s testimony, referencing emails contained in GX419, GX421, GX422, GX423).

workers support in elections and, in return, Madigan gave them rewards. Madigan's position as ward committeeman allowed him to recruit and support candidates and select precinct captains. Tr. 2213-14. These precinct captains, in turn, ensured that voters turned out to support the party's candidates in an election cycle. *Id.*

Madigan explained how he benefited by providing jobs to constituents in a 2009 interview for the Richard J. Daley Oral History Collection at the University of Illinois at Chicago. Madigan stated that, as a ward committeeman, a person would come to him wanting a job in the patronage system and that Madigan told them, "Yeah, we can put you in a job, but you're going to work for the Democratic party." GX1 (Clip 2). Madigan saw such a person as "raw material" and he would "teach 'em what to do, how to go about it." *Id.* Madigan explained that, when he became ward committeeman, "everybody wanted to be ward committeeman. They knew the, the power of the patronage system." GX1 (Clip 5).

Madigan's largesse to political workers was anchored in expediency, because it was conditioned on the political workers' continued support of him. Ed Moody, for example, was a 13th Ward precinct captain and long-time door to door political worker for Madigan. Tr. 4260-61. Madigan got him a job at the Bridgeview courthouse in January 1993, which he testified was connected to his continued political work for Madigan. Tr. 4300, 4317-18. In 2011 or 2012, when Moody asked Madigan for a way to make more money, Madigan lined up payments from ComEd. Tr. 4320, 4325. Madigan told Moody at that time that if Moody left his politics, Moody would lose the consulting contract. Tr. 4326-27.

Madigan has helped many people during his long political career and, as the letters submitted on his behalf reflect, the help Madigan gave was not always tied to any request for or expectation of the recipient's political support of him. But much of the help Madigan gave, as Ed Moody illustrates, was connected to political support in return. It is no surprise that the names on ComEd's "roster" discussed by McClain and Fidel Marquez on May 16, 2018 were individuals who performed political work for Madigan or who had loyally supported Madigan for years. The value of these individuals was not in what they were doing for ComEd but in what they were doing or had done for Madigan.

McCLAIN: So 1—let, let me just ell you about each guy as you go through 'em. . . . So, Ray Nice, he's, um, one of, um, he's one of the top three precinct captains, and he also trains, uh, people how to go door to door. . . . An--, and um, so just to give you and idea- . . . how important the guy is. . . . Frank Olivo, former Alderman [of the 13th Ward]. Ed Moody. . . . Eddie Acevedo. I gotta talk to M-, somebody about that, let me talk about that. . . .

MARQUEZ:Um, we're gonna, we're gonna go ahead and add Frank, oh, um, Mike Zalewski [Alderman of the 23rd Ward].

GX75. One hour later, McClain told Madigan, "you can call Mike Zalewski and say that they're gonna get in touch with him." GX77. Zalewski had recently—at Madigan's request—left his position as Alderman of the 23rd Ward.¹⁹ Tr. 8687.

¹⁹ Madigan testified at trial that Zalewski came to him after winning reelection and told Madigan that he did not want to run again and asked for his help growing Zalewski's lobbying practice. Tr. 8687. A recorded conversation between McClain and John Hooker on April 13, 2018, presents a different reason for Zalewski stepping down as Alderman—that Madigan orchestrated the maneuver in order to make the reelection of Marty Quinn, the Alderman of Madigan's 13th Ward, more likely. Hooker told McClain that he did not "understand Mike Z.

Madigan should be commended for the help he gave to individuals without asking anything of them in return. But, at the same time, in performing deeds for constituents, such as arranging for public services, Madigan was doing the job that he was elected to do. He should not get credit for simply doing his job. *See United States v. Serafini*, 233 F.3d 758, 773 (3rd Cir. 2000) (“[I]f a public servant performs civic and charitable work as part of his daily functions, there should not be considered in his sentencing because we expect such work from our public servants.”); *Vrdolayk*, 593 F.3d at 683 (noting that defendants who commit good deeds because they are in a position to do so should not gain advantage over those who do not because they cannot do so).

2. Madigan’s Use of Power for Retribution

Madigan’s power as Speaker was a double-edged sword that Madigan wielded to both effect change on behalf of the public good and also to act on behalf of himself for his own political and personal gain. The image Madigan tried to craft of himself during his direct examination as a benevolent avoider of conflict and consensus builder was an incomplete portrait of Madigan as a public servant. *E.g.*, Tr. 8629-30.

Madigan, as Speaker, doled out punishment on members of the General Assembly whose conduct displeased him or who, in his view, stepped out of line.

leaving?” McClain explained, “I’ll give you the truth. So, uh, al-, Madigan’s ward is fifty-two percent Latino, Zalewski’s ward’s almost seventy percent Latino, and Burke’s ward is seventy percent Latino. . . . And um, Madigan’s view is for Marty Quinn, if there are three white guys trying to keep their seats but with those (unintelligible) and Latinos, somebody’s gonna lose. . . . And it could be Marty. And so, Madigan said, to Zalewski, I mean, wh-, who was, who was kind of tired of it anyway. Um- . . . Oh, okay. So, he um, um, he was ready to go anyway, but, uh, Madigan convinced him that he ought to step down. . . .” GX 37.

Madigan's purported open hand closed into an iron fist on these occasions. Madigan was, and could be, a "street-fighter" in McClain's words. GX180. A committee chaired by former Representative Carol Sente disappeared after Sente introduced bills that Madigan did not support, including one proposing term limits for the Speaker of the House. Tr. 199-200. State Representative Michael J. Zalewski was in Madigan's "penalty box" because he had called a bill in his committee that Madigan had held up by placing a brick on it. GX86. Madigan used McClain to "lower the boom" on long-time Representative Lou Lang when Madigan decided Lang needed to resign his House seat. GX212. Madigan and McClain discussed what steps should be taken against former Senator John Cullerton for what they believed to be his hand in negative ads against Madigan. GX180. McClain told Madigan during the conversation that if Madigan wanted "to put the squeeze on the guy you could hurt him pretty badly." *Id.* at 3. Madigan responded that he would "think about it."²⁰ *Id.*

Madigan's acts of pique, which he expressed by exercising his legislative and political authority, were not limited to perceived transgressions by General Assembly members. Madigan's retribution also negatively affected the citizens of the state. Juan Ochoa testified about serving as the Chief Executive Officer of the Metropolitan

²⁰ Madigan's testimony that he developed a trait in childhood to avoid conflict (Tr. 8593, 8620) is contradicted by other testimony from Madigan about legislative battles he waged. Madigan, for example, described how he told the Democratic Caucus that he would not stand for what he perceived as an attack by Governor Rauner on the "heart and soul" of the Democratic Party. Tr. 8659 ("And so I scheduled a meeting of the House Democratic Caucus, and I simply told our members, Ladies and gentlemen, we're going to be involved in a monumental struggle against the Governor of Illinois. And in my view, this is all about the heart and soul of the Democratic Party. I'm not going to stand for it.").

Pier and Exposition Authority (McPier) between 2007 and 2010. Tr. 4142, 4144. During his tenure, Ochoa tried to pass legislation in Springfield to allow MCPier to restructure its debt. But Madigan took issue with Ochoa, as Madigan testified, because Madigan believed that Ochoa had fired one of his former employees at the request of then Governor Blagojevich and because Blagojevich had “defamed” the Madigan name. Tr. 8724-25; 9145-50. Madigan admitted on cross examination that he refused to support the restructuring legislation until language was added providing for a new CEO at McCormick Place. Tr. 9148. The legislation passed shortly after Ochoa resigned as CEO. Tr. 9149. Madigan’s interpersonal spat was costly. The failure to pass the debt restructuring legislation during Ochoa’s tenure meant that MCPier, that is, Illinois taxpayers, had to pay half a billion dollars in interest on loans that restructuring would have prevented. *Cf.* Tr. 9147. *See* Gov. Sent. Ex. 2, Crain’s Chicago Business, *Madigan’s Revenge*, Nov. 12, 2011. Madigan did not use his legislative might exclusively for good but also for his own personal and political aims.

3. Madigan’s Other Abuses of Power

Madigan had a duty as an elected public official to represent the best interests of the citizens and the state. Yet Madigan abused his office and his legislative authority to benefit himself, including his crimes related to ComEd and the State board position.

One example, not presented at trial, illustrates how Madigan exerted his legislative muscle to benefit himself: Madigan worked to derail an agency rule change that, if enacted, could have reduced Madigan’s law firm’s profits.

In January 2018, then Governor Bruce Rauner issued an Executive Order prohibiting state legislators and other state officials from practicing before the Property Tax Appeal Board (PTAB) while in office. Gov. Sent. Ex. 3. PTAB is one of the entities to which an appeal can be made from a denial of a tax reduction by the Cook County Assessor's Office. The Executive Order directed PTAB to amend its rules and procedures to reflect the prohibition. *Id.* The PTAB's rulemaking process is conducted through the Joint Committee on Administrative Rules (JCAR). JCAR is a bipartisan legislative oversight committee created by the General Assembly to conduct systematic reviews of administrative rules promulgated by state agencies. See "Joint Committee on Administrative Rules," available at www.ilga.gov/commission/jcar (last visited May 30, 2025).

In late 2018, the proposed amendment to PTAB's rules based on the Executive Order was pending before JCAR. On November 6, 2018, the day that Governor Rauner lost his reelection campaign against JB Pritzker, Madigan told McClain in a recorded call that the PTAB amendment was scheduled for hearing at JCAR's meeting on November 13, 2018. GX205 at 2-3. Madigan instructed McClain that, if Rauner lost, "maybe John Bradley, as the lobbyist for those guys should go over and talk to the Chairman of PTAB." *Id.* Madigan suggested that Bradley "tell the guy, 'You know, there's gonna be a lawsuit, and there's gonna be depositions. And you're gonna be asked, 'Did you take directives from the Governor's office, which is contrary to how the statute reads. You're supposed to be independent.' . . . 'So why don't you

withdraw that thing?” . . . ‘Get yourself out of trouble.’”²¹ *Id.* McClain responded, “Yup, will do.” *Id.*

On November 13, 2018, before the JCAR meeting, Bradley told McClain that another intermediary had “completed his mission” and had received a “favorable response.” Gov. Sent. Ex. 4. Two hours later, after the JCAR meeting, McClain reported to Madigan that it was “Eleven to zero prohibition on PTAB. So, it’s over.” Gov. Sent. Ex. 5.²² Madigan responded, “Mhm, okay, very good.” *Id.* Thus, with the assistance of multiple intermediaries (including John Bradley, who also paid the ComEd “subcontractors” as a pass-through), Madigan accomplished his self-benefitting mission to kill the rule change.

This episode demonstrates that the checks and balances in place to prevent Madigan from participating in legislation that might benefit his law firm and his own bottom line, as described by defense witnesses, *see e.g.*, Tr. 9411-12 (Vincent Getzendanner); 9589-94 (Heather Wier Vaught), did not prevent Madigan from trying to kill a rule change to benefit himself.

²¹ Madigan’s “explanation” here is another example of Madigan priming the listener, the person to whom he is speaking, with seemingly legal or logical reasons to cover the improper personal gains Madigan was trying to secure for himself. Madigan did the same thing when he chastised Solis for saying out loud the words “*quid pro quo*” in relation to the Union West development. The bogus justification Madigan articulated for Solis on that occasion (“You’re just recommending our law firm—because if, if they don’t get a good result on the real estate taxes, the whole project would be in trouble. . . . So you want high quality representation.” (GX11)) was a similar false narrative designed to secure the end Madigan sought to achieve—continuing to use Solis as a source of law firm clients.

²² This conversation was part of the same call between Madigan and McClain transcribed and admitted at trial as GX218.

4. Madigan's Concealment of Wrongdoing

Concealment and secrecy were the hallmarks of Madigan's conduct. The JCAR incident is one example of how Madigan used intermediaries, or surrogates, to insulate himself and to cause others to dirty their hands on his behalf. McClain was Madigan's lead surrogate for years. McClain willingly allowed Madigan to use him to, in McClain's words, avoid Madigan's "fingerprints" being left. *See, e.g.*, GX 251.

Madigan's steadfast refusal to use his own cell phone or send emails under his own name also shielded Madigan from exposure. This was no generational aberration as defense counsel posited to the jury at trial. *See, e.g.*, Tr. 78. This was a deliberate choice. In an era, of which Madigan was very much aware, when wire interceptions became the hallmark of criminal prosecutions of public officials and others, Madigan tried to shield himself by shunning direct, personal contact using these technologies. When Madigan did speak on the phone, he disguised what he was doing and what he wanted by talking in cryptic terms. For example, Madigan told Solis to "go ahead and process that" (GX16), when he was really telling Solis to take official action on the Union West project; Madigan told Solis "you know why I'm interested" (GX28) when Madigan was really asking Solis to introduce him to a developer with a project in Solis's ward; and Madigan told McClain to "put the file in a drawer for a while" (GX105), when Madigan was really telling McClain to wait until the next opportunity to push the legislative transfer of the Chinatown parcel.

Madigan's careful use of technology, his cryptic way of speaking, and his use of surrogates made it more difficult to uncover the depths of his corruption. The wall Madigan erected around himself through these means remained in place for years.

But after years of investigative work, including the use of wire interceptions, recorded meetings, and extensive interviews, Madigan's corrupt words and actions were exposed. Madigan's decades-long efforts at concealment are highly aggravating.

5. Madigan's Perjury at Trial

Any consideration of Madigan's character must include the fact that, when faced with recordings of his own statements, and with his back against the wall, Madigan chose to testify and lie to protect himself. The recordings and other evidence proved, without question, Madigan's longstanding reliance on McClain and McClain's regular follow-up with Madigan to report on the tasks he had performed at Madigan's behest. Yet, at trial, Madigan distanced himself from McClain and falsely downplayed the uniqueness and closeness of their decades' long friendship.

Similarly, Madigan attributed his monosyllabic assents to Solis's statements ("yeah, okay") to a childhood-learned technique to bring a quick end to conversations. But the evidence showed that Madigan was no shrinking violet, who was unable to say what he meant. Indeed, Madigan made his own affirmative asks of Solis at the same time Solis asked for Madigan's assistance in securing a state board appointment.

Madigan's lies during his testimony demonstrate his lack of integrity and candor, and his interest in prioritizing his own self-interest over the truth. That theme runs directly contrary to the experiences others have had with Madigan as expressed in their letters.

6. Madigan's Age and His Criminal Acts

The government has taken Madigan's age—he is now 83 years old—into account in its sentencing recommendation, which otherwise would be higher given the seriousness and extent of his crimes. Madigan himself described his age, at the time of his testimony as “I am 82 years old, a young 82.” Tr. 8607. Madigan's age must be viewed with the perspective that the actions focused upon in this case took place in the latter portion of Madigan's life when Madigan was between 68 and 82 years old. Significantly, Madigan was an elected official until four years ago and a practicing lawyer until two years ago. Madigan's age neither deterred nor prevented him from abusing his public office for personal benefit. To the contrary, Madigan's age and longevity allowed him to amass the substantial amount of power that he wielded, and abused, in committing the crimes for which he was convicted.

As just some examples of how age has not slowed Madigan's criminal or public facing conduct, the jury convicted Madigan of crimes that spanned from 2011 to 2019, when Madigan was between 68 and 77 years old. Madigan was reelected in November 2020 at age 78, and served as Speaker until approximately February 2021. Madigan met Solis in his law firm office—and was still trying to develop new clients—in his mid-70s. Madigan was 80 or 81 years old in 2023 when he last registered to practice law. And Madigan was 82 years old when he lied under oath at trial. Tr. 8556, 8607. These age markers demonstrate that Madigan's age has neither deterred him from abusing his public office or from committing crime, and thus, his age should not serve as a significant mitigating factor. *See, e.g., United States v. Johnson*, 685 F.3d 660, 663 (7th Cir. 2012) (rejecting a rule that a post-70 year old defendant can be

sentenced to no more than six months in prison “lest he die there,” because such a rule would provide a weak disincentive to a post-70 year old defendant to end their criminal career); *see also United States v. Moreland*, 703 F.3d 976, 991 (7th Cir. 2012) (“As for age and infirmity, age 59 is not elderly in our society; the elderly do not have a license to commit crime, and adequate medical care is available in federal prisons.”); *United States v. Brown*, 26 F.4th 48, 70-71 (1st Cir. 2022) (citing *Johnson* in affirming a 300-month sentence for a defendant who was 64 years old when he committed the crimes and would be 91 years old at the time of release from prison; affirming district court’s conclusion that the other relevant sentencing factors outweighed defendant’s age).

Indeed, Madigan’s decades leading the House and the 13th Ward and the power he amassed over those decades enabled him to commit these crimes. Madigan was aware of the power of invoking his name to cause others to act and he chose to abuse that power to achieve his own personal ends.

A sentence of 12.5 years is a significant sentence for someone of Madigan’s age. But, here, Madigan is in good health, and he ably engaged in a four-month long trial. PSR ¶¶ 101-106. For all the reasons discussed herein, Madigan’s age should not be considered as a significant mitigating factor.

D. The Need for the Sentence Imposed to Afford Adequate Deterrence and to Protect the Public from Further Crimes of the Defendant

High-level public officials in the State of Illinois need to receive the simple, undiluted, and unequivocal message that if they engage in corruption, they will be sent to prison for a long period of time. Public corruption “undermines the essential

confidence in our democracy,” and it must be deterred. *United States v. Spano*, 411 F.Supp.2d 923, 940 (N.D. Ill. 2006), *affirmed*, 477 F.3d 517 (7th Cir. 2006).

“Bribery is a premeditated crime—those tempted to sell out the public have plenty of time to weigh the risks and rewards before doing so.” *United States v. Arroyo*, 75 F.4th 705, 708-09 (7th Cir. 2023). The need for general deterrence is particularly compelling in this case. This public corruption prosecution has been identified as one of the most significant in this district for many years, and everyone within City and State government will be aware of what this Court does. The message should be that corruption of the extent and magnitude here will be met with a very stiff sentence.

It is clear that a significant sentence of imprisonment is necessary to deter current and future public officials and their associates from engaging in bribery and fraud. Indeed, “[t]he only way to protect the public from the ongoing problem of public corruption and promote respect for the rule of law is to impose strict penalties on all defendants who engage in such conduct, many of whom have specialized legal training or experiences.” *Spano*, 411 F.Supp.2d at 940.

Judge Seeger previously recognized the importance of general deterrence in public corruption cases during the sentencing of former Illinois State Representative Luis Arroyo:

Public corruption is deeply damaging. Public corruption makes the public cynical about their government. Public corruption infects the culture, too. It’s so prevalent in Chicago that people kind of expect it. Public corruption, unfortunately, is in the air in Chicago. Public corruption breeds more public corruption. Public corruption leads to

cynicism. It leads people to think that that's just how things go around here.

* * * *

I have to think about other members of the Illinois House. I need to think about the senators. I need to think about aldermen. I need to think about all of the public officials in the state/city government, high and low who might be tempted to sell out the public like you did and turn to public corruption. Public officials are watching. Public officials are listening. I need to make sure that they hear a message loud and clear. The message is this: Public corruption isn't worth it. I need to make sure that the message gets out that public corruption isn't worth it.

From a supply-and-demand perspective, the length of the sentence matters. The lower the cost—in other words, the lower the sentence—the more public corruption you're going to get. Public officials are rational actors. They think about the costs and benefits of public corruption. They think about how likely it is they're going to get caught. They think about what will happen to them if they do get caught. They think about the costs and benefits of corruption.

Judges play a role in that decision-making. Judges need to make sure that the costs of public corruption are high enough to deter other people from engaging in public corruption. For whatever reason, that message isn't getting through. I don't know why public officials in this city and in this state aren't hearing the message, but they need to. Public corruption isn't worth it. If you engage in public corruption, like Mr. Arroyo, there will be serious consequences. Public corruption doesn't pay.

United States v. Arroyo, 19 CR 805 (N.D. Ill.), Dkt. 162 at 107-08, 120-22. In affirming Judge Seeger's sentence, the Seventh Circuit recognized that the need for general deterrence can outweigh other mitigating factors, such as age and lack of criminal history. *Arroyo*, 75 F.4th at 709.

The need for general deterrence is also particularly strong for crimes that are lucrative and difficult for law enforcement to detect. *See United States v. Heffernan*, 43 F.3d 1144, 1149 (7th Cir. 1994) (“Considerations of (general) deterrence argue for punishing more heavily those offenses that either are lucrative or are difficult to detect and punish, since both attributes go to increase the expected benefits of a crime and hence the punishment required to deter it.”). Public corruption crimes certainly fall into that category—particularly where, as here, Madigan was a master when it came to secrecy and concealment. Given the challenges of detecting corruption crimes and the fact that these crimes erode public trust in our government, there is an even greater need for general deterrence.

The role of specific deterrence is limited here. Madigan no longer holds public office and is 83 years old. On the other hand, the sentences imposed on previous high-level politicians for public corruption crimes—including the approximately 6.5-year sentence imposed upon former Governor George Ryan and the 14-year sentence imposed upon former Governor Rod Blagojevich—were not sufficient to dissuade Madigan from engaging in criminal acts. Further, it is apparent from the character letters received that there are current and former government officials who are still strong allies of Madigan—despite the evidence of his illegal conduct presented at trial and his 10 counts of conviction. This too shows that there is a strong need for a significant custodial sentence, of 12.5 years in length, for public officials to know that what Madigan did—repeatedly—was illegal and that the consequences for doing so are high. Madigan so far has failed to accept responsibility in this case and went so

far as to testify at trial and lie. These facts indicate that the need for specific deterrence, although perhaps minimal, cannot be ignored.

In summary, the epidemic of public corruption in Illinois and the substantial need for deterrence weigh in favor of a 12.5-year sentence in this case.

E. The Need to Avoid Unwarranted Sentencing Disparities

The government respectfully requests that the Court impose a significant custodial sentence for another reason: to avoid unwarranted sentencing disparities (18 U.S.C. § 3553(a)(6)). Madigan's case is unique in terms of his long-standing high-level position in Illinois government, his abuse of multiple positions of trust, the many years that he engaged in criminal conduct, the sophisticated nature of his criminal activity, including his efforts at concealment, and his perjury at trial. Nevertheless, it may be instructive to review sentences imposed on other high-ranking state officials:

- Former Governor Rod Blagojevich was sentenced to 14 years' imprisonment following a conviction after trial for honest services fraud and making false statements. Case No. 08 CR 888 (N.D. Ill.), R. 1247.
- Former Governor George Ryan was sentenced to 6.5 years' imprisonment following a conviction after trial for racketeering, mail fraud, and false statements. Case No. 02 CR 506 (N.D. Ill.), R. 888.
- Former Speaker of the Ohio House of Representatives Larry Householder was sentenced to 20 years' imprisonment following a conviction at trial for racketeering conspiracy related to an approximately \$60 million bribery scheme to pass and uphold a nuclear plant bailout. Case No. 20 CR 77 (S.D. Ohio), R. 288.
- Former seven-term member of the Illinois House of Representatives, Luis Arroyo, was sentenced to 57 months' imprisonment following a

conviction for honest services fraud. Case No. 19 CR 805 (N.D. Ill.), R. 144.

The significant sentences imposed on other high-ranking public officials further confirm that a significant custodial sentence is warranted and appropriate in this case.

IV. SUPERVISED RELEASE

The government agrees with the Probation Office that a term of supervised release of one year is appropriate and reasonable to protect the community and ensure that Madigan does not engage in future criminal activity, as well as to promote respect for the law. The government also agrees with the Probation Office's recommended conditions of release (contained at pages 24 to 29 of the PSR), which are necessary to ensure Madigan is not committing crimes, to protect the public, and to ensure that the Probation Office can effectively supervise the defendant.

The government requests one additional condition: Discretionary Condition #5—Defendant shall refrain from engaging in the following occupation, business or profession bearing a reasonably direct relationship to the conduct constituting the offense: elected public office. Madigan's elected position directly related to the crimes; this condition is necessary to protect the public from future crimes by this defendant.

V. FINE

Statutory Maximum Fine: For each of the 10 counts of conviction, the maximum fine is "not more than \$250,000," 18 U.S.C. § 3571(b)(3), or "not more than the greater of twice the gross gain or twice the gross loss." 18 U.S.C. § 3571(b)(2) & 3571(d). The Court may impose consecutive fines on each count of conviction. *See*

18 U.S.C. § 3584; *United States v. Sessa*, 821 F. Supp. 870, 876 (E.D.N.Y. 1993) (cleaned up). Accordingly, the statutory maximum total potential fine is \$2.5 million, based on \$250,000 multiplied by 10 counts of conviction.²³

Guideline Fine: Guideline § 5E1.2(a) provides that “[t]he court shall impose a fine in all cases, except where the defendant establishes that he is unable to pay and is not likely to become able to pay any fine.” Madigan is able to pay a fine, and thus a fine is appropriate here. The Guideline range for a fine is \$50,000 to \$500,000 (for all counts of conviction) under Guideline § 5E1.2(c)(3).

Factors Applicable to a Fine: The Court must consider the § 3553(a) factors in imposing a fine, and the additional factors set forth in 18 U.S.C. § 3572. Those additional factors include, as relevant here:

- (1) the defendant’s income, earning capacity, and financial resources;
- (2) the burden that the fine will impose upon the defendant, any person who is financially dependent on the defendant, or any other person (including a government) that would be responsible for the welfare of any person financially dependent on the defendant, relative to the burden that alternative punishments would impose;
- (3) any pecuniary loss inflicted upon others as a result of the offense;
- (4) whether restitution is ordered or made and the amount of such restitution;
- (5) the need to deprive the defendant of illegally obtained gains from the offense;

²³ The Supreme Court has held that the rule of *Apprendi* applies to the imposition of criminal fines, meaning that any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury. *See S. Union Co. v. United States*, 567 U.S. 343, 360 (2012). Here, the government is being conservative in using the \$250,000 figure to calculate the statutory maximum fine rather than the gross gain or loss. 18 U.S.C. § 3571(b)(3).

(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence . . .

Id.

Government's Position on a Fine: The government agrees with the Probation Office that a fine is appropriate. Madigan caused immense harm to the people of the State of Illinois by exploiting his public office for private gain for nearly a decade. Furthermore, Madigan has very significant financial means, and thus an above-Guidelines fine will not impose an undue burden on any of Madigan's family members. Given the seriousness of this offense, the harm it caused, and Madigan's ready ability to pay, the government requests that the Court impose an above-Guidelines fine of \$1,500,000.

VI. CONCLUSION

For the foregoing reasons, the government respectfully submits that defendant's pervasive corruption, his failure to accept responsibility and obstructive conduct, and the need for deterrence and just punishment warrant a sentence of 12.5 years' imprisonment and a \$1,500,000 fine.

Respectfully submitted.
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Government Sentencing Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

MICHAEL McCLAIN, ANNE
PRAMAGGIORE, JOHN HOOKER,
and JAY DOHERTY,

Defendants.

Case No. 20 CR 812-1, -2,
-3, and -4

Chicago, Illinois
March 20, 2023
2:00 p.m.

VOLUME 4-B
TRANSCRIPT OF PROCEEDINGS - Trial
BEFORE THE HONORABLE HARRY D. LEINENWEBER, and a Jury

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01:59:22 1 (Proceedings heard in open court. Jury out.)

01:59:22 2 MR. BHACHU: Judge, if I could just put something on
01:59:24 3 the record really quickly. If we could, your Honor, just have
01:59:29 4 the Court admonish all the parties not to talk to jurors and
01:59:33 5 also not talk to witnesses.

01:59:34 6 I understand there was an incident over the break
01:59:37 7 where one of the defendants was engaged in conversation with
01:59:40 8 the witness that's on the stand. And just, nothing wrong with
01:59:43 9 the communication as I understand it. It was more
01:59:47 10 pleasantries, etcetera. However, I do think it's appropriate
01:59:50 11 that, you know, witnesses not have contact with either the
01:59:52 12 defendants or with -- or jurors with defendants as well.

01:59:54 13 So if we could just emphasize that that should be the
01:59:57 14 case. Thank you.

01:59:58 15 THE COURT: To everybody here or to the jury or both?

02:00:02 16 MR. BHACHU: I think both is probably appropriate,
02:00:04 17 Judge.

02:00:05 18 THE COURT: All right. Well, parties and lawyers
02:00:07 19 should not contact the witnesses while they're on the stand,
02:00:11 20 obviously.

02:00:14 21 MR. COTTER: Thank you, your Honor. Apologies.

02:00:16 22 THE COURT: Even pleasantries.

02:00:18 23 MR. COTTER: Even pleasantries.

02:01:56 24 (Proceedings heard in open court. Jury in.)

02:01:57 25 THE COURT: Please be seated.

02:01:58 1 Members of the jury, I've been asked to tell you that
02:02:05 2 the lawyers and the parties have strict instructions not to
02:02:07 3 talk to you. So you may run into them in the building. If
02:02:11 4 they ignore you, don't think that they're just being impolite.
02:02:18 5 They're following my instructions, so just so you know that.

02:02:20 6 You may continue your examination.

02:02:24 7 MS. SCHWARTZ: Thank you, your Honor.

02:02:24 8 SCOTT VOGT, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN

02:02:26 9 DIRECT EXAMINATION (Resumed)

02:02:26 10 BY MS. SCHWARTZ:

02:02:26 11 Q. Before the lunch break, Mr. Vogt, we had been talking
02:02:28 12 about the EIMA legislation. I'd now like to jump ahead and
02:02:32 13 ask you questions about subsequent legislation.

02:02:35 14 First, following EIMA's enactment, what agency was
02:02:38 15 charged with implementing the new formula rate?

02:02:42 16 A. The Illinois Commerce Commission.

02:02:44 17 Q. After EIMA, did ComEd make a filing with the commerce
02:02:47 18 commission to implement the new formula rate?

02:02:50 19 A. Yes.

02:02:52 20 Q. How would you describe the commerce commission's order on
02:02:54 21 that first formula rate case?

02:02:56 22 A. Surprising and disappointing.

02:02:59 23 Q. In what sense?

02:03:00 24 A. They had misinterpreted or had issued an order that was
02:03:06 25 substantially lower than we expected due to the treatment

02:03:12 1 around pension costs and other things that were explicitly
02:03:15 2 spelled out in the statute.

02:03:18 3 Q. What was the impact of the Illinois Commerce Commission's
02:03:22 4 interpretation of EIMA on ComEd's recovery of expenses that
02:03:26 5 year?

02:03:26 6 A. I think it was around \$100 million additional reduction.

02:03:30 7 Q. Did the company do anything to address the commerce
02:03:37 8 commission's bad formula rate order?

02:03:40 9 A. Yes. The company initially went back to the legislator to
02:03:47 10 ask for some clarifying -- there's a term or procedure that
02:03:55 11 the House issued on our -- on ComEd's behalf to suggest that
02:03:59 12 the language wasn't interpreted correctly. Ultimately,
02:04:02 13 though, new legislation was introduced to tighten the words in
02:04:08 14 the statute to make it explicitly clear.

02:04:12 15 Q. And what was intended to be made explicitly clear in that
02:04:18 16 new legislation?

02:04:18 17 A. How the treatment of pension and other things were
02:04:21 18 supposed to operate under the formula.

02:04:23 19 Q. And did that new legislation become law?

02:04:26 20 A. Yes.

02:04:26 21 Q. Was that Senate Bill 9?

02:04:29 22 A. Yes.

02:04:29 23 Q. What year did Senate Bill 9 pass?

02:04:32 24 A. I believe that was in 2013.

02:04:34 25 Q. What was the effect of Senate Bill 9's passage in 2013?

02:04:41 1 A. It just tightened up the language on the formula and took
02:04:45 2 any discretion to a degree on how those items were supposed to
02:04:50 3 operate in the rate-making process away from the commission's
02:04:55 4 discretionary abilities to interpret them.

02:04:58 5 Q. And what was ComEd's position on the Senate Bill 9?

02:05:03 6 A. In favor of it.

02:05:05 7 Q. Following the passage of Senate Bill 9, how did the
02:05:08 8 Illinois Commerce Commission treat ComEd's rate case?

02:05:11 9 A. It reversed the original order putting the new language
02:05:16 10 into effect and correcting the issue.

02:05:19 11 Q. And how was the passage of Senate Bill 9 viewed within
02:05:23 12 ComEd?

02:05:27 13 A. Sorry. I'm a little lost for words for once. You know,
02:05:32 14 excited, relieved.

02:05:37 15 Q. Mr. Vogt, were you promoted in 2013?

02:05:40 16 A. Yes.

02:05:40 17 Q. What was the role that you took on in 2013?

02:05:43 18 A. Vice president, regulatory projects.

02:05:49 19 Q. Who did you report to in that role?

02:05:51 20 A. I reported to Tom O'Neill.

02:05:53 21 Q. What was Tom O'Neill's position within the company?

02:05:56 22 A. He was general counsel and senior vice president of
02:05:59 23 regulatory.

02:05:59 24 Q. While you were working as vice president of regulatory
02:06:02 25 projects, what was your primary responsibility?

02:06:06 1 A. My main project when I came back to ComEd was to really
02:06:12 2 evaluate the performance of the formula against other
02:06:20 3 rate-making regimes, if you will, or structures whether
02:06:23 4 traditional rate making or some other rate-making ideas that
02:06:28 5 have emerged in Europe and other things, whether those were
02:06:31 6 better alternatives than what we currently had under the
02:06:35 7 formula rate.

02:06:39 8 Q. And when you testified you were charged with evaluating
02:06:42 9 the formula rate, was that the same formula rate enacted
02:06:44 10 through the passage of EIMA?

02:06:46 11 A. Yes -- well, after modification on SB9, yes.

02:06:50 12 Q. Thank you. Was this project referred to as Project
02:06:54 13 Sunrise?

02:06:54 14 A. Yes.

02:06:54 15 Q. What was the reason for evaluating how the formula rate
02:06:57 16 was doing as part of Project Sunrise?

02:07:00 17 A. It was part of planning for the future in terms of, we
02:07:04 18 knew that the sunset was there on 12/31/2017, so the question
02:07:09 19 really was, was it worth an extension of the formula? Did we
02:07:12 20 want the extension of the formula? Did we want a different
02:07:17 21 model? Did we want to return back to traditional rate making?

02:07:21 22 These were all options that were available to the
02:07:24 23 business at the time, so my job was to really take a long-term
02:07:31 24 look at the financials of the company under these different
02:07:34 25 rate-making methods to understand what was most beneficial for

02:07:39 1 the company and the customers.

02:07:41 2 Q. And did you conduct a comparison of how the formula rate
02:07:46 3 was performing relative to other rate-making models?

02:07:50 4 A. Yes.

02:07:50 5 Q. What was your conclusion with regard to the value of the
02:07:53 6 formula rate compared to other types of rate making?

02:07:57 7 A. We felt like the formula rate was probably the best
02:08:01 8 alternative out there for the long-term financial health of
02:08:06 9 the business as well as the most appropriate one for customers
02:08:10 10 in terms of how it married the benefits with the rate making
02:08:14 11 with what we could do for performance with the customers.

02:08:18 12 Q. Did you and your team project the value of an extension of
02:08:22 13 the formula rate from 2018 through 2022?

02:08:27 14 A. Actually, we went all the way to 2030.

02:08:29 15 Q. And based on that analysis going all the way to 2030,
02:08:34 16 about how much additional shareholder value did you and your
02:08:37 17 team project would be gained by extending the formula rate?

02:08:41 18 A. 400 million to 2022.

02:08:44 19 Q. And did you also do a calculation to 2030?

02:08:49 20 A. Yes.

02:08:49 21 Q. What was that value?

02:08:50 22 A. That was around 750 million.

02:08:57 23 Q. Can you describe to the jury how you made that projection?

02:09:02 24 A. Yes. We actually modeled it financially. We looked at
02:09:09 25 the current values of the investments we had in the system,

02:09:14 1 the asset lives we had, and we modeled all the depreciation,
02:09:21 2 all future investments. We modeled load, revenue, costs,
02:09:26 3 expenditures under these different rate-making methodologies,
02:09:31 4 and then we just did the difference in terms of how much
02:09:35 5 income was being generated and what was the total bill effect
02:09:40 6 to customers as we went through time.

02:09:43 7 Q. And when did you complete that analysis, the analysis
02:09:46 8 where you determined that the shareholder value gain from the
02:09:49 9 formula rate would be 400 million to 2022 and 700 million to
02:09:54 10 2030?

02:09:55 11 A. Right around September 2014, towards the end of September.

02:10:00 12 Q. Did you report on those findings to ComEd's strategy and
02:10:04 13 lobbying team?

02:10:05 14 A. Yes.

02:10:06 15 Q. Did you report those findings to Ms. Pramaggiore?

02:10:10 16 A. Yes.

02:10:10 17 Q. Did you ever go back and check your numbers, do an
02:10:14 18 after-the-fact analysis to see if your 400 million, 750
02:10:19 19 million was about right?

02:10:20 20 A. No, I never went back.

02:10:21 21 Q. Looking back on it now based on what you know here today,
02:10:25 22 do you think those figures, the 400 million and the 750
02:10:29 23 million, were too high, too low, just about right?

02:10:34 24 A. It -- they were probably high at the time based on --
02:10:40 25 there's a lot of interplay around return on equity that was

02:10:43 1 tied to Treasury rates, and Treasury rates dropped a lot. So
02:10:47 2 it was probably a little higher than where we were over those
02:10:53 3 first four years. I would say right about now, it looks
02:10:57 4 spot-on to probably what we were evaluating at that time.

02:10:59 5 Q. So, you know, taking that into account, how would you
02:11:04 6 say -- what effect would you say the formula rate legislation
02:11:06 7 has had over time on ComEd's shareholder value?

02:11:10 8 A. It significantly increased it. It was -- it created this
02:11:14 9 level of certainty for us to know what a dollar invested was
02:11:21 10 going to generate in terms of earned return as well as the
02:11:24 11 cash flow that would be provided through the business. So we
02:11:28 12 had a high degree of certainty on what we could invest in the
02:11:31 13 business. In fact, we ended up investing probably
02:11:34 14 significantly more than what I modeled we would invest back in
02:11:39 15 2014, 2015.

02:11:42 16 Q. You testified earlier that the formula rate was originally
02:11:48 17 set to sunset or expire in 2017. At some point, did that
02:11:51 18 formula rate sunset get extended until 2019?

02:11:55 19 A. Yes.

02:11:55 20 Q. What company advocated for that extension of the formula
02:11:58 21 rate sunset?

02:11:59 22 A. Initially, Ameren.

02:12:02 23 Q. What is Ameren?

02:12:02 24 A. Ameren is the public utility in southern Illinois. So
02:12:05 25 they cover Peoria, Decatur, close to St. Louis, all the way

02:12:14 1 down south to the southern border of Illinois.

02:12:19 2 Q. So does Ameren deliver the same type of services as ComEd
02:12:22 3 but in the southern part of the state?

02:12:24 4 A. Yes, with the addition of some natural gas delivery that
02:12:27 5 they do that we do not.

02:12:28 6 Q. Is Ameren an affiliate of Exelon?

02:12:32 7 A. No.

02:12:32 8 Q. Is Ameren a regulated utility like ComEd?

02:12:36 9 A. Yes.

02:12:38 10 Q. Was the Ameren formula rate extension ultimately enacted
02:12:42 11 into law?

02:12:42 12 A. Yes.

02:12:42 13 Q. Was that part of House Bill 3975 in 2014?

02:12:48 14 A. Yes.

02:12:51 15 MS. SCHWARTZ: Your Honor, at this time I'd like to
02:12:52 16 read a stipulation into the record. It's Stipulation 19:

02:13:06 17 "The United States of America, by Morris Pasqual,
02:13:09 18 Acting United States Attorney for the Northern District of
02:13:12 19 Illinois, through Assistant United States Attorneys, and the
02:13:15 20 defendants Michael McClain, Anne Pramaggiore, John Hooker, and
02:13:20 21 Jay Doherty, individually and through their attorneys hereby
02:13:23 22 agree and stipulate as follows:

02:13:26 23 "On January 13th, 2015, the Illinois General Assembly
02:13:31 24 passed House Bill 3975. Government Exhibits 810 and 884
02:13:40 25 contain an accurate summary of the votes of all House and

02:13:43 1 Senate members on House Bill 3975. Government Exhibit 814
02:13:49 2 contains an accurate summary of the legislation's history."

02:13:53 3 So stipulated?

02:13:56 4 MR. NIEMEIER: Yes.

02:13:59 5 MS. SCHWARTZ: Hearing that resounding chorus, I will
02:14:02 6 move to admit Government Exhibits 810, 884, and 814 into
02:14:12 7 admission. I will not be publishing those at this time, your
02:14:16 8 Honor.

02:14:16 9 THE COURT: Without objection, they're admitted.
02:14:20 10 (Government Exhibits 810, 814, and 884 received in
02:14:21 11 evidence.)

02:14:21 12 BY MS. SCHWARTZ:

02:14:21 13 Q. Mr. Vogt, was House Bill 3975's extension of the formula
02:14:25 14 rate viewed as beneficial for ComEd?

02:14:28 15 A. Yes.

02:14:32 16 MS. SCHWARTZ: I'm now going to read another
02:14:34 17 stipulation into the record. It's Stipulation 23:

02:14:37 18 "The government and the defendants individually and
02:14:46 19 through their attorneys hereby agree and stipulate as follows,
02:14:50 20 Stipulation 23:

02:14:51 21 "All exhibits with the Bates number referenced in the
02:14:53 22 left-hand column below are authentic records of the
02:14:58 23 corresponding entity or individual listed in the right-hand
02:15:01 24 column."

02:15:02 25 And I'll go through what each of these abbreviations

02:15:05 1 mean. Documents identified as "13 WDO" are documents from the
02:15:11 2 13th Ward Democratic organizations. Documents with label
02:15:16 3 "CCC" are documents from the City Club of Chicago. Documents
02:15:19 4 with the label "EXE" are documents from Exelon or ComEd.
02:15:24 5 Documents with the label "ComEd" are similarly from Exelon and
02:15:28 6 ComEd. Documents bearing labels "EXE SUPB" are likewise
02:15:35 7 documents from Exelon or Commonwealth Edison.

02:15:38 8 Documents bearing the label "Doherty" are from J.D.
02:15:41 9 Doherty & Associates. Documents bearing "DPI" as a label are
02:15:46 10 from the Democratic Party of Illinois. Documents bearing
02:15:50 11 "Gallegos" as a label are from Janet Gallegos. Documents
02:15:55 12 bearing "MJM" as a label are from Michael J. Madigan. And
02:15:58 13 documents with the "SO" label are from the Speaker's office.

02:16:02 14 Those -- those documents with those labels are
02:16:03 15 authentic records of the corresponding entity.

02:16:06 16 So stipulated?

02:16:10 17 MR. COTTER: Yes.

02:16:15 18 MS. SANSONETTI: So stipulated.

02:16:16 19 MS. SCHWARTZ: Thank you.

02:16:17 20 At this point I'd like to publish to the witness
02:16:21 21 Government Exhibit 292.

02:16:30 22 And if I may, your Honor, may I publish to the jury?

02:16:34 23 THE COURT: You may.

02:16:35 24 MS. SCHWARTZ: I assume there's no objection.

02:16:37 25 THE COURT: I guess, if there's no objection, you

02:16:38 1 may.

02:16:42 2 MS. SCHWARTZ: At this time I'd move to admit
02:16:44 3 Government Exhibit 292 into evidence and publish.

02:16:46 4 THE COURT: Without objection, it's admitted. You
02:16:48 5 may publish.

02:16:51 6 (Government Exhibit 292 received in evidence.)

02:16:51 7 BY MS. SCHWARTZ:

02:16:51 8 Q. Mr. Vogt, is this a letter dated April 9th, 2015?

02:16:54 9 A. Yes.

02:16:54 10 Q. Is it addressed to the Honorable Michael J. Madigan?

02:16:57 11 A. Yes.

02:16:58 12 Q. And it is -- is it signed at the bottom by Anne

02:17:01 13 Pramaggiore?

02:17:01 14 A. Yes.

02:17:01 15 Q. I'm going to read the body of this letter:

02:17:06 16 "Dear Speaker Madigan, I am writing to thank you for
02:17:09 17 your ongoing support for ComEd. The passage of the original
02:17:14 18 Smart Grid bill has made our electric system stronger and
02:17:16 19 has helped us begin to build a company that will serve
02:17:19 20 customers in northern Illinois well into the future. By
02:17:22 21 passing HB 3975, you created more certainty for us around
02:17:26 22 the regulatory platform which will ensure we complete the
02:17:30 23 Smart Grid programs we began in 2012 and deliver more
02:17:33 24 benefits to consumers. In just three years, this energy
02:17:37 25 policy has resulted in 3.3 million avoided outages, 30

02:17:42 1 percent improvement in storm restoration times, 3,600 jobs,
02:17:47 2 and over \$1.2 billion worth of supply chain spend in
02:17:52 3 Illinois. Building this system and building it well is
02:17:54 4 important for the economy. I appreciate both the personal
02:17:57 5 and company support."

02:18:07 6 At this point I'd also move to admit and publish
02:18:10 7 Government Exhibit 313. Your Honor, may I -- I'd move to
02:18:26 8 admit and publish before the jury.

02:18:27 9 THE COURT: Any objection? Hearing none, it's
02:18:30 10 admitted. You may publish it.

02:18:33 11 (Government Exhibit 313 received in evidence.)

02:18:33 12 BY MS. SCHWARTZ:

02:18:37 13 Q. Is this an email dated November 9th, 2015, Mr. Vogt?

02:18:42 14 A. Yes.

02:18:42 15 Q. From Michael McClain to Kevin Quinn and April Burgos?

02:18:46 16 A. Yes.

02:18:50 17 Q. I'm going to read the body of this email:

02:18:52 18 "Kevin and April, would you give this to the Speaker
02:18:55 19 for his Wednesday event? I do not want to bother him with
02:18:57 20 it today or tomorrow because he has more pressing items.

02:19:02 21 "Speaker, below are some talking points for you to
02:19:04 22 review. If you remember, you passed the Smart Grid Act over
02:19:07 23 then Governor Pat Quinn's veto. In addition, you passed an
02:19:11 24 infrastructure law for the gas companies in Illinois. In
02:19:14 25 other words, with an infrastructure of electric and gas as

02:19:17 1 old as almost 100 years, you created a pathway to upgrade
02:19:20 2 and modernize. It is an extremely valuable tool for keeping
02:19:25 3 jobs in Illinois and attracting new ones and keeping your
02:19:28 4 citizens safe. Huge. I asked for the below points because
02:19:36 5 obviously you will be in front of Exelon and ComEd but
02:19:38 6 because the Smart Grid Act has already done great things for
02:19:41 7 northern Illinois. Hope this helps. Best, Mike."

02:19:55 8 Mr. Vogt, after Senate Bill 9 was enacted, what was
02:20:00 9 the next major piece of legislation that you were involved in
02:20:02 10 on behalf of ComEd?

02:20:04 11 A. The Future Energy Jobs Act.

02:20:06 12 Q. When was what became the Future Energy Jobs Act first
02:20:11 13 introduced in the General Assembly?

02:20:14 14 A. I want to say in March of 2015.

02:20:17 15 Q. And did FEJA ultimately pass in 2015?

02:20:21 16 A. No.

02:20:22 17 Q. Did it pass the next year, in 2016?

02:20:25 18 A. Eventually in 2016.

02:20:26 19 Q. What was your involvement in the legislation that became
02:20:30 20 FEJA?

02:20:32 21 A. I spent a lot of time designing many of the elements that
02:20:36 22 were included in the original proposal and how the different
02:20:42 23 elements of FEJA would come together to create value for the
02:20:49 24 companies, for customers, and for external stakeholders, so
02:20:54 25 how to put this together in a way that could give the

02:20:56 1 stakeholders what they were looking for in terms of renewables
02:20:59 2 and increases in energy efficiency while at the same time
02:21:03 3 putting processes and procedures in place at the utility that
02:21:07 4 it wouldn't hurt us so that we could kind of create the bridge
02:21:11 5 for that legislation to go through.

02:21:13 6 Q. So I want to break that down a bit. You mentioned
02:21:17 7 "companies." Did the FEJA legislation affect both Exelon and
02:21:20 8 ComEd?

02:21:20 9 A. Yes.

02:21:22 10 Q. Let's start with the ComEd side of things. What were
02:21:25 11 ComEd's primary goals with regard to FEJA?

02:21:29 12 A. The most important thing for us was trying to make sure
02:21:34 13 that the legislation that was proposed by other stakeholders
02:21:40 14 which included big expansions in energy efficiency which is
02:21:45 15 incentives that we provide to customers to use less power,
02:21:50 16 that they wanted to expand that so much that we had to have a
02:21:53 17 mechanism in place that if that expansion occurred, it
02:21:56 18 wouldn't be detrimental to the business.

02:21:59 19 Secondly, we were looking, the stakeholders really
02:22:03 20 wanted a big expansion in renewables, a renewable portfolio,
02:22:08 21 so enabling solar and wind. And we needed to be able to get
02:22:14 22 to a point to say we are okay with those things happening, but
02:22:18 23 in order to get there, we needed to modify some of the
02:22:22 24 business models that were currently in place.

02:22:28 25 We had elements in there for developments of

02:22:30 1 microgrids which was to provide additional reliability in
02:22:35 2 small pockets. And then there was the nuclear plant piece
02:22:39 3 which was for the carbon-free attributes for the nuclear
02:22:45 4 plants in northern Illinois.

02:22:47 5 Q. So focusing on that nuclear plant piece, was that
02:22:50 6 advocated by ComEd or Exelon?

02:22:52 7 A. That was an Exelon add.

02:22:56 8 Q. Other than the nuclear plant side of things what, if any,
02:23:00 9 piece of the FEJA legislation did Exelon advocate for?

02:23:04 10 A. That was really it on the Exelon side.

02:23:10 11 Q. Did the enacted version of the FEJA legislation also
02:23:13 12 include an extension of the formula rate that you just
02:23:16 13 discussed?

02:23:16 14 A. It did.

02:23:17 15 Q. Until when?

02:23:19 16 A. 2022.

02:23:21 17 Q. Who from ComEd led the efforts to pass FEJA?

02:23:31 18 A. I would say Anne, Anne Pramaggiore was the lead.

02:23:35 19 Q. Who else was significantly involved in those efforts?

02:23:38 20 A. Fidel Marquez was SVP, or the senior vice president, of
02:23:43 21 government and legislative affairs at that point. Tom
02:23:48 22 O'Neill, myself, Stacy O'Brien. Joe Trpik was the CFO --

02:23:59 23 Q. Does CFO --

02:24:00 24 A. -- Bob Jensen.

02:24:01 25 Q. I'm sorry.

02:24:01 1 A. And Bob Jensen.

02:24:03 2 Q. Does CFO stand for chief financial officer?

02:24:05 3 A. Chief financial, sorry.

02:24:06 4 Q. So let's talk through some of those individuals. You
02:24:08 5 mentioned a person named Fidel Marquez who was senior vice
02:24:14 6 president of governmental affairs?

02:24:15 7 A. Yes.

02:24:15 8 Q. You testified earlier that John Hooker had been senior
02:24:17 9 vice president of governmental affairs when EIMA was passed in
02:24:20 10 2011. What happened to Mr. Hooker between 2011 and when FEJA
02:24:26 11 was before the General Assembly?

02:24:28 12 A. He retired.

02:24:29 13 Q. What year did Mr. Hooker retire?

02:24:31 14 A. I believe 2012.

02:24:33 15 Q. Who took over Mr. Hooker's old role?

02:24:36 16 A. Fidel Marquez.

02:24:38 17 Q. What, if anything, did Mr. Hooker do for ComEd after he
02:24:41 18 retired as an employee?

02:24:43 19 A. He became a contractor.

02:24:46 20 Q. Did he continue to be involved in legislative strategy?

02:24:49 21 A. Yes.

02:24:50 22 Q. At the time FEJA was introduced, what was
02:24:58 23 Ms. Pramaggiore's role at ComEd?

02:24:59 24 A. She was CEO.

02:25:00 25 Q. When did that promotion happen?

02:25:02 1 A. I believe in 2012.

02:25:05 2 Q. Was there a project manager on ComEd's side for the FEJA
02:25:09 3 legislation?

02:25:09 4 A. Yes.

02:25:10 5 Q. Who was that?

02:25:11 6 A. Mark Falcone.

02:25:13 7 Q. Who did Mr. Falcone report to?

02:25:16 8 A. I believe he reported to Fidel.

02:25:21 9 Q. And what was Mr. Falcone's role with regard to FEJA?

02:25:25 10 A. Project management really, keeping track of all of the
02:25:28 11 meetings we were having, what deliverables we needed to
02:25:31 12 support the meetings meaning what presentations, what letters,
02:25:34 13 what documents did we need to have a meeting with the
02:25:37 14 legislator.

02:25:38 15 And he was scheduling us, making sure that he had the
02:25:41 16 right subject matter expert and the right meeting with the
02:25:44 17 right legislator. There was a big laundry list of action
02:25:48 18 items that he maintained and managed.

02:25:51 19 Q. You mentioned meetings. Did you have internal meetings to
02:25:55 20 discuss the FEJA legislation over that 2015-2016 period?

02:25:59 21 A. Yes.

02:25:59 22 Q. About how often did those meetings occur?

02:26:02 23 A. Weekly, biweekly. It depended on where we were in
02:26:07 24 session, but very frequently.

02:26:09 25 Q. Did Ms. Pramaggiore attend those meetings?

02:26:12 1 A. Yes.

02:26:12 2 Q. Did Mr. Hooker attend those meetings?

02:26:14 3 A. Some of them, yes.

02:26:16 4 Q. During the passage of FEJA, was Mr. McClain also involved

02:26:19 5 in ComEd legislative strategy?

02:26:21 6 A. Yes.

02:26:22 7 Q. Would Mr. McClain attend those meetings?

02:26:27 8 A. Yes.

02:26:30 9 Q. How would you describe Mr. McClain's role with regard to

02:26:32 10 legislative strategy for FEJA?

02:26:35 11 A. Very integral, helping us navigate that legislative

02:26:41 12 process in terms of who we needed to talk to, who we needed to

02:26:46 13 be able to sway and move through the process.

02:26:53 14 Q. During the lead-up to FEJA, were you ever included on

02:26:56 15 emails with Mr. McClain?

02:26:57 16 A. Yes.

02:26:58 17 Q. In those emails, did he ever reference Speaker Madigan?

02:27:02 18 A. Yes.

02:27:03 19 Q. What did Mr. McClain refer to Speaker Madigan as?

02:27:06 20 A. Sometimes as "S," capital S; sometimes as "He" with a

02:27:12 21 capital H; "Himself" with a capital H.

02:27:15 22 Q. Based on your interactions with Mr. McClain, did

02:27:21 23 Mr. McClain communicate the positions of the Speaker's office

02:27:24 24 as it related to FEJA?

02:27:28 25 A. Not to me directly, but I...

02:27:33 1 Q. Did you come to learn information that had been passed on
02:27:35 2 from Mr. McClain from the Speaker?

02:27:38 3 MR. COTTER: Objection to the hearsay. Calls for
02:27:40 4 hearsay.

02:27:47 5 THE COURT: I -- well, overruled. He can answer.

02:27:50 6 BY THE WITNESS:

02:27:50 7 A. Yes.

02:27:51 8 BY MS. SCHWARTZ:

02:27:52 9 Q. What, if any, role did you understand Mr. McClain to have
02:27:54 10 in connection to Speaker Madigan when it came to FEJA?

02:27:57 11 A. It was really that connection between how we were
02:28:03 12 negotiating the bill, the progress of the bill, and
02:28:08 13 communicating to the Speaker's office where things were and
02:28:10 14 trying to ascertain what changes or modifications we might
02:28:14 15 need or what the hot points were on the bill as time was going
02:28:18 16 through as well as, okay, how is the process going to play
02:28:22 17 out.

02:28:23 18 Q. At some point in 2016, did ComEd start meeting on Sunday
02:28:28 19 evenings to discuss FEJA?

02:28:30 20 A. Yes.

02:28:30 21 Q. What was the purpose of those Sunday meetings?

02:28:33 22 A. To tee up the week; to really, you know, set the tone for
02:28:39 23 what was the upcoming week. So these would be Sunday evening
02:28:43 24 calls that would lay out what were the main things that had to
02:28:45 25 be accomplished over the next week in order to move the bill

02:28:48 1 forward.

02:28:50 2 Q. Who participated in those Sunday meetings?

02:28:54 3 A. Anne, Tom, Joe Trpik, myself, Stacy O'Brien, Val Jensen,
02:29:05 4 Mark Falcone, anyone involved in the process. And there was a
02:29:12 5 long list, but...

02:29:15 6 Q. What was Anne Pramaggiore's role in terms of advancing the
02:29:17 7 FEJA legislation?

02:29:19 8 A. She was the leader. She was really setting the stage for,
02:29:26 9 okay, here's what we really need to accomplish and drive
02:29:31 10 forward. So she was, I would say, the heart and the soul
02:29:35 11 behind the push of keeping us all focused and moving forward.

02:29:41 12 Q. Did you interact with Ms. Pramaggiore regularly about
02:29:44 13 FEJA?

02:29:44 14 A. Yes.

02:29:45 15 Q. How detail oriented would you say Ms. Pramaggiore is?

02:29:48 16 A. Pretty detailed.

02:29:49 17 Q. Mr. Vogt, do you know somebody by the name of Jay Doherty?

02:29:57 18 A. Yes.

02:29:57 19 Q. Have you met Mr. Jay Doherty?

02:30:01 20 A. Yes.

02:30:01 21 Q. In what context did you meet Mr. Doherty?

02:30:05 22 A. The first time I met Jay was at a meeting with the
02:30:09 23 Archdiocese Catholic Church in Chicago, and we were discussing
02:30:17 24 FEJA and the archdiocese's position on a competing bill versus
02:30:23 25 FEJA, and we were there to try and understand their concerns

02:30:29 1 but also make sure they actually understood what was in the
02:30:34 2 bill that we were presenting.

02:30:37 3 Q. Who had set up that meeting between ComEd representatives
02:30:40 4 and the archdiocese?

02:30:41 5 A. I believe Jay Doherty did.

02:30:44 6 Q. What did you understand Mr. Doherty's role to be with
02:30:47 7 ComEd at the time?

02:30:49 8 A. As a lobbyist.

02:30:53 9 Q. Other than that one meeting you just described, did you
02:30:57 10 have any other interactions with Mr. Doherty about FEJA?

02:31:00 11 A. Not that I remember.

02:31:02 12 Q. Did you have any interactions with Mr. Doherty about
02:31:05 13 Springfield legislation generally other than that one meeting?

02:31:08 14 A. Not that I recall.

02:31:09 15 Q. You testified earlier about Mark Falcone who was a project
02:31:20 16 manager for FEJA. Who did he report to directly in terms of
02:31:26 17 the FEJA legislation? Who was his supervisor?

02:31:30 18 A. It was either Fidel or Anne, but I'm not positive exactly
02:31:35 19 who he was directly reporting to at the time.

02:31:47 20 Q. You testified that you traveled to Springfield for the
02:31:51 21 EIMA negotiations back in 2011. Did you do the same for FEJA?

02:31:55 22 A. Yes.

02:31:56 23 Q. Were you involved in any negotiations with the Speaker or
02:32:00 24 his staff about FEJA?

02:32:01 25 A. Yes.

02:32:02 1 Q. Who specifically in the Speaker's office did you interact
02:32:05 2 with?

02:32:06 3 A. Heather Wier Vaught, Justin Cox.

02:32:10 4 Q. Who was Heather Wier Vaught?

02:32:13 5 A. She was, I believe, the general counsel for the Speaker's
02:32:15 6 office at the time.

02:32:16 7 Q. So did she replace Dave Ellis who had been in that role
02:32:19 8 earlier?

02:32:19 9 A. I believe so.

02:32:19 10 Q. Who was Justin Cox?

02:32:22 11 A. He was one of the lead attorneys that worked for Heather.

02:32:24 12 Q. About how many meetings did you have with members of the
02:32:28 13 Speaker's office about FEJA?

02:32:34 14 A. Probably five to ten.

02:32:35 15 Q. And what was the purpose of those meetings?

02:32:38 16 A. Initially, the first time we met with them was probably
02:32:42 17 just to bring them up to speed on elements in the bill and
02:32:45 18 explain details of different elements that were in the bill.

02:32:49 19 And then lastly, the week before Thanksgiving in
02:32:53 20 2016, we were meeting pretty much all day or half a day with
02:32:59 21 the Speaker's office which had coordinated meetings between
02:33:07 22 us, environmental stakeholders, Attorney General's office. A
02:33:10 23 whole swath of stakeholders in the process were meeting to try
02:33:15 24 and hammer out the final details of the bill before veto
02:33:20 25 session.

02:33:20 1 Q. And who had organized those meetings around Thanksgiving
02:33:23 2 of 2016?

02:33:24 3 A. The Speaker's office.

02:33:25 4 Q. And what was the relevance of bringing together all these
02:33:29 5 different stakeholders into one room?

02:33:31 6 A. It was really trying to get to an agreed-upon bill so that
02:33:36 7 if all of these elements could be agreed upon by the different
02:33:39 8 parties, it was more likely that the bill was going to have a
02:33:41 9 chance to pass.

02:33:43 10 Q. And what did you understand the significance of it to be,
02:33:46 11 the fact that the Speaker's office and the Speaker's staff
02:33:49 12 were setting up those Thanksgiving meetings?

02:33:50 13 A. That we actually had a chance to move the bill the next
02:33:54 14 week.

02:33:54 15 Q. Did the bill, in fact, move the next week?

02:33:56 16 A. It did.

02:33:57 17 Q. When did FEJA pass?

02:33:59 18 A. It passed on December 1st, 2016.

02:34:04 19 Q. And was it ultimately enacted into law?

02:34:07 20 A. Yes.

02:34:07 21 Q. What did you understand the Speaker's role to be in
02:34:10 22 helping get the FEJA legislation passed?

02:34:14 23 A. My belief was he had opened up the pathway for it to make
02:34:18 24 it to the floor, to get a vote in the House, and that his
02:34:23 25 desires for it to move to the Senate be considered on the

02:34:27 1 Senate side.

02:34:28 2 Q. And what was your understanding, if the Speaker did not
02:34:31 3 support major legislation like FEJA, what would have happened?

02:34:33 4 A. I don't think it would have ever gotten to the floor or
02:34:36 5 out of committee.

02:34:37 6 Q. Was the FEJA legislation financially beneficial to ComEd?

02:34:43 7 A. Yes.

02:34:44 8 Q. And what was your understanding of the importance of FEJA
02:34:47 9 to Exelon?

02:34:49 10 A. Very important.

02:34:50 11 Q. And could you remind the jury, what did FEJA do with
02:34:53 12 regard to Exelon?

02:34:54 13 A. It really gave a lifeline to two nuclear plants for --
02:34:59 14 that were owned by Exelon: One quad cities nuclear plant
02:35:02 15 which is out in quad cities, and the other one, Clinton, which
02:35:06 16 is in Ameren service territory. And without that, those
02:35:10 17 plants had already been slated to shut down.

02:35:13 18 We had -- the company had given notice that those
02:35:17 19 plants would close. I can't remember when they were going to
02:35:20 20 close, but the closure was imminent, which was the reason why
02:35:25 21 FEJA was so critical to be dealt with in that November, was
02:35:30 22 providing that lifeline to the nuclear plants.

02:35:33 23 Q. How was the passage of FEJA received internally at ComEd?

02:35:39 24 A. Jubilant, excited.

02:35:43 25 Q. Who, if anyone, was given credit for spearheading that

02:35:47 1 passage?

02:35:48 2 A. I -- it was Anne Pramaggiore, Joe Dominguez from the
02:35:55 3 Constellation side, and all the team members that were
02:35:57 4 involved.

02:35:57 5 Q. You mentioned Joe Dominguez from the Constellation side.
02:36:02 6 What is Constellation, first off?

02:36:04 7 A. Constellation is the name of the generation company at
02:36:07 8 Exelon.

02:36:07 9 Q. Is it another affiliated entity?

02:36:09 10 A. Yes.

02:36:09 11 Q. And who is Joe Dominguez?

02:36:11 12 A. He was senior vice president of government and regulatory
02:36:15 13 affairs for Exelon at the time which was more of a federal
02:36:21 14 kind of connection point to federal affairs.

02:36:26 15 Q. In the course of your job responsibilities, did you
02:36:30 16 calculate an estimated value -- did you calculate an estimated
02:36:34 17 value of FEJA to ComEd?

02:36:37 18 A. Yes.

02:36:37 19 Q. What did you estimate that value to be?

02:36:38 20 A. Around \$1.8 billion.

02:36:41 21 Q. 1.8 billion?

02:36:43 22 A. Yes.

02:36:43 23 Q. You testified earlier that ComEd had been on the brink of
02:36:47 24 bankruptcy in 2006 and 2007. How have EIMA and FEJA helped
02:36:52 25 ComEd's financial position over the last ten years?

02:36:55 1 A. Tremendously improved it. We've gone from earnings almost
02:37:03 2 at the low point of the company in 2006 and 2007 to highest
02:37:11 3 earnings on record in 2022.

02:37:16 4 MS. SCHWARTZ: Your Honor, I'd like to show the
02:37:17 5 witness what's been marked Government Exhibit 462.

02:37:29 6 THE COURT: Is there objection to it?

02:37:33 7 MR. COTTER: No, your Honor.

02:37:34 8 THE COURT: Okay. It's admitted, and you can publish
02:37:36 9 it.

02:37:37 10 MS. SCHWARTZ: Thank you.

02:37:40 11 (Government Exhibit 462 received in evidence.)

02:37:40 12 MS. SCHWARTZ: I'm going to blow up 462 so it's
02:37:42 13 easier to read.

02:37:43 14 BY MS. SCHWARTZ:

02:37:43 15 Q. Mr. Vogt, do you recognize Exhibit 462?

02:37:46 16 A. Yes.

02:37:46 17 Q. What is Exhibit, Government Exhibit 462?

02:37:49 18 A. It's an email from Michael McClain.

02:37:52 19 Q. And what is the date of that email from Mr. McClain?

02:37:54 20 A. 12/1/2017.

02:37:56 21 Q. What's the significance of that date?

02:37:59 22 A. It was the one-year anniversary of the passage of FEJA.

02:38:03 23 Q. And did he send that email to a number of individuals
02:38:07 24 including yourself, Fidel Marquez, Anne Pramaggiore, and
02:38:11 25 others?

02:38:14 1 A. Yes.

02:38:15 2 Q. And what is the subject line of Mr. McClain's email?

02:38:19 3 A. "Happy anniversary."

02:38:22 4 Q. And could you read the body of Mr. McClain's email,

02:38:25 5 please?

02:38:25 6 A. "Excellent. You should all take pride in it. It is

02:38:30 7 historic."

02:38:32 8 Q. Does this email also include an attachment?

02:38:38 9 A. Yes.

02:38:38 10 Q. What is the image that is depicted here?

02:38:45 11 A. That is the roll call of the vote in the Senate for FEJA.

02:39:00 12 Q. I want to now turn to the time after FEJA. Was

02:39:04 13 Ms. Pramaggiore promoted after FEJA?

02:39:06 14 A. Yes.

02:39:06 15 Q. Approximately when was she promoted?

02:39:09 16 A. I want to say May of 20' -- oh, now I've got my years

02:39:15 17 confused. 2018, I think May of 2018.

02:39:18 18 Q. What position did Ms. Pramaggiore take on at that point?

02:39:21 19 A. President of Exelon utilities.

02:39:24 20 Q. What, if any, oversight did Ms. Pramaggiore have over

02:39:28 21 ComEd's operations in her new role?

02:39:31 22 A. She had governance and oversight over all of the

02:39:35 23 utilities, which ComEd would have been one.

02:39:38 24 Q. I want to now jump ahead to 2019. In 2019, did ComEd

02:39:47 25 advocate for legislation to extend the expiration of the

02:39:51 1 formula rate yet again?

02:39:52 2 A. Yes.

02:39:53 3 Q. Why did ComEd have to go back to the legislature?

02:39:57 4 A. The final sunset in the legislation -- or the expiration
02:40:02 5 date, it wasn't technically a sunset, on the formula rate was
02:40:07 6 12/31/2022. So we saw that date coming closer and knew that
02:40:13 7 absent a formal extension to that legislation, it was just
02:40:17 8 going to end.

02:40:18 9 Q. And what was ComEd's position on the 2019 legislation that
02:40:23 10 would have extended the formula rate?

02:40:25 11 A. Supportive.

02:40:26 12 Q. Why was ComEd supportive of that legislation?

02:40:29 13 A. We wanted to extend the formula rate through 2032.

02:40:33 14 Q. Did that legislation ultimately pass?

02:40:39 15 A. No.

02:40:39 16 Q. Why didn't it pass?

02:40:41 17 A. It never really made it through committee or to the floor.

02:40:46 18 There was another movement by many energy stakeholders in
02:40:54 19 Illinois for another omnibus legislation piece of legislation.

02:41:01 20 And while ComEd wanted just the extension and wanted to stay
02:41:05 21 out of the conversations around this broader package, other
02:41:09 22 stakeholders wanted us to be a part of it, and they wanted us
02:41:14 23 to be a part of it to enhance the probability that that
02:41:17 24 legislation would move forward and pass.

02:41:19 25 Q. And what was that 2019 legislation commonly referred to

02:41:23 1 within ComEd?

02:41:24 2 A. The Skinny Bill.

02:41:26 3 Q. The Skinny Bill?

02:41:27 4 A. The Skinny Bill.

02:41:29 5 Q. You've testified that you spent time in Springfield

02:41:33 6 working on ComEd legislation. About how many lobbyists did

02:41:38 7 ComEd have in Springfield on major legislation like FEJA or

02:41:42 8 EIMA?

02:41:42 9 A. Usually 20 to 30.

02:41:44 10 Q. Did you get to know each of those 20 to 30 lobbyists?

02:41:47 11 A. No.

02:41:47 12 Q. Did you at least recognize their faces, see them around?

02:41:50 13 A. Yes.

02:41:52 14 Q. In what capacity would you interact with Springfield

02:41:55 15 lobbyists for ComEd?

02:41:58 16 A. I would do briefings to the whole lobbyist team. On

02:42:03 17 Tuesday mornings, it was pretty common practice that we'd have

02:42:05 18 all the lobbyists into our offices in Springfield, and I'd

02:42:10 19 often do a presentation on different elements of legislation

02:42:12 20 that was percolating or pending in Springfield.

02:42:16 21 I would also go with lobbyists to meet legislators.

02:42:24 22 Lobbyists all had their own relationships with different

02:42:26 23 legislators, and depending on who we were scheduled to meet

02:42:30 24 with, I would be with different lobbyists, both internal

02:42:36 25 lobbyists and external lobbyists, and then go meet

02:42:39 1 legislators.

02:42:39 2 MS. SCHWARTZ: Your Honor, at this time I'd move to
02:42:41 3 publish what's an exhibit already admitted into evidence,
02:42:44 4 Government Exhibit 786.

02:42:46 5 THE COURT: You may.

02:42:54 6 BY MS. SCHWARTZ:

02:42:54 7 Q. Government Exhibit 786 is on your screen, I believe. Did
02:42:57 8 you ever see this individual as a ComEd lobbyist in
02:43:00 9 Springfield?

02:43:00 10 A. Not that I recall.

02:43:01 11 Q. Did you ever see this person doing any work as a ComEd
02:43:05 12 lobbyist?

02:43:05 13 A. Not that I recall.

02:43:06 14 Q. Do you recognize this person?

02:43:07 15 A. No.

02:43:14 16 Q. I'm showing Government Exhibit 785 which has been
02:43:19 17 previously admitted into evidence. Did you ever see the
02:43:23 18 person depicted in Government Exhibit 785 working as a
02:43:27 19 lobbyist in Springfield?

02:43:28 20 A. Not that I recall.

02:43:29 21 Q. Did you ever see this person doing any work for ComEd as a
02:43:32 22 lobbyist or at all?

02:43:34 23 A. No.

02:43:35 24 Q. Do you recognize this person?

02:43:36 25 A. No.

02:43:42 1 Q. I'd now like to publish Government Exhibit 780 which has
02:43:46 2 been previously admitted. Did you ever see the person
02:43:54 3 depicted in Government Exhibit 780 in Springfield working as a
02:43:59 4 ComEd lobbyist?

02:44:00 5 A. Not that I recall.

02:44:00 6 Q. Did you ever see this person working for ComEd in any
02:44:03 7 capacity?

02:44:04 8 A. Not that I recall.

02:44:04 9 Q. Do you recognize this person?

02:44:06 10 A. No.

02:44:06 11 Q. I'd now like to publish what's been admitted as Government
02:44:14 12 Exhibit 789. Did you ever see the person depicted in
02:44:22 13 Government Exhibit 789 working as a ComEd lobbyist in
02:44:25 14 Springfield?

02:44:26 15 A. Not that I recall.

02:44:27 16 Q. Did you ever see this person doing any work for ComEd at
02:44:29 17 all?

02:44:30 18 A. Not that I recall.

02:44:31 19 Q. Do you recognize this person?

02:44:32 20 A. No.

02:44:49 21 MS. SCHWARTZ: I have no further questions, your
02:44:50 22 Honor.

02:44:50 23 THE COURT: Cross-examine?

02:44:52 24 MR. CRAIG: Yes, your Honor.

02:45:05 25 THE COURT: Mr. Craig, you may question the witness.

* * * * *

C E R T I F I C A T E

We, Judith Walsh and Amy Spee, do hereby certify that the foregoing is a complete, true, and accurate transcript of the proceedings had in the above-entitled case before the Honorable HARRY D. LEINENWEBER, one of the judges of said Court, at Chicago, Illinois, on March 30th, 2023

/s/ Judith Walsh March 21st, 2023
Official Court Reporter

/s/ Amy Spee March 21st, 2023
Official Court Reporter

Government Sentencing Exhibit 2



Newsletters



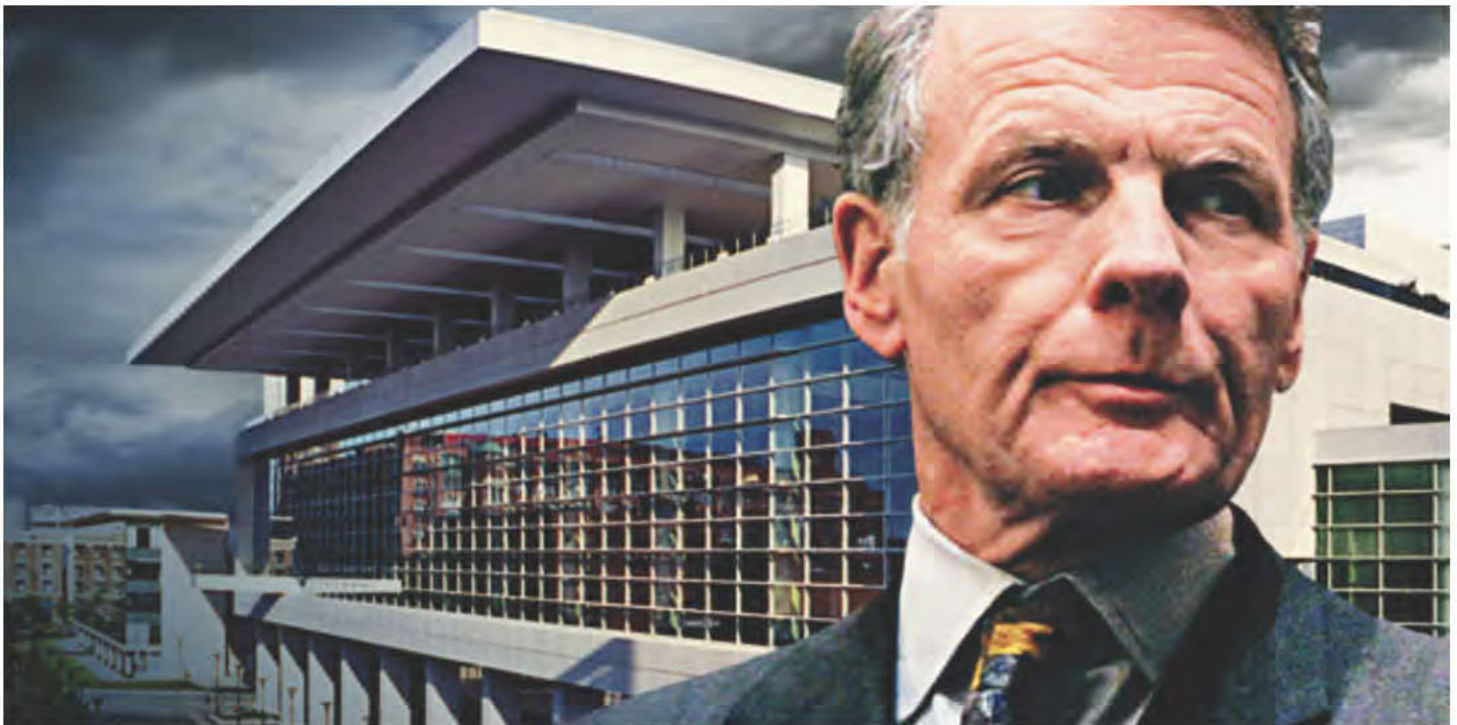
News

Madigan's revenge

The high price of political payback at McCormick Place

By James Ylisela Jr.

Gift Article



Credit: AP/Wide World

Photo illustration by Sean McCabe.

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November 12, 2011 06:00 AM

Illinois House Speaker Michael Madigan cost taxpayers nearly half-a-billion dollars by blocking repeated efforts to restructure McCormick Place bonds and finance a much-needed second hotel at the convention center, a *Crain's* investigation finds.

Between 2005 and 2010, Mr. Madigan stopped five refinancing bills, ignoring declining interest rates that would have saved hundreds of millions. At the time, he never explained why, but his reasons seem petty and political: McCormick Place CEO Juan Ochoa, an appointee of then-Gov. Rod Blagojevich, had fired a Madigan ally at the convention center, and lawmakers from both parties say the speaker wanted retribution.

"It was no secret that Madigan had a beef with Ochoa and wanted him gone," says state Rep. Angelo "Skip" Saviano, an Elmwood Park Republican who sponsored refinancing bills in 2005, 2007 and 2009. "As long as Ochoa was there, Madigan wasn't going to give McCormick Place anything."

But politics may not have been Mr. Madigan's only motivation. By holding up refinancing, the speaker also denied McCormick Place the money to build a new hotel. That bought time for clout-heavy developers Gerald Fogelson and Cleveland-based Forest City Enterprises Inc. to push a controversial land swap and hotel deal with McCormick Place on property just north of the convention center. Both were then clients of Mr. Madigan's law firm, Madigan & Getzendanner, but the speaker denies any connection.

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As the recession raged in early 2010, the collapse of the real estate market scuttled the deal. That May, after Mr. Ochoa resigned, the General Assembly finally passed legislation that lowered McCormick Place's debt payments, allocated funds to expand the existing Hyatt Regency McCormick Place and imposed wage restrictions and new work rules on union labor. The House sponsor was Speaker Michael Madigan.

The legislation reduced this year's debt service by \$96 million, but the damage had already been done at the Metropolitan Pier and Exposition Authority, known as McPier, the agency that runs McCormick Place. Denied refinancing for six years, McPier paid out as much as \$300 million more in bond interest than it should have and was forced to tap state sales tax revenue to meet its obligations.

Mr. Madigan's inaction also set off a chain of events that put Chicago's \$8-billion trade show industry — and the estimated 66,000 jobs it supports — at risk. Without revenues from the debt savings and a second hotel, McPier had to mark up its prices in the middle of the recession, driving away two trade shows. With McCormick Place in crisis in late 2009, other shows threatened to leave Chicago unless state lawmakers imposed restrictions on McPier unions.



Click above for a closer look at Speaker Madigan's costly feud with then-Gov. Blagojevich.

To find out what went wrong, and what still needs to be fixed, *Crain's* obtained internal McPier memos and emails under the Freedom of Information Act, examined state and county records, and conducted dozens of interviews with McPier officials, legislators and others. With Illinois on the verge of insolvency, what emerges is an unflattering view of how the state works — or doesn't — when politics trumps the public interest.

'THIS STINKS'

The exchange didn't last long, and it failed to attract much attention, despite the gaggle of press covering the final night of the 2010 state legislative session in May. But state Rep. Jim Sacia, a Pecatonica Republican, was determined to ask Mr. Madigan why numerous prior efforts to refinance McCormick Place bonds had failed to come to a vote in the Illinois House.

A month earlier, in a hearing on the McCormick Place legislation, McPier Chairman John Gates testified that failure to refinance sooner had cost taxpayers hundreds of millions in higher interest payments. Reducing debt payments also would have given the agency a surplus of tax revenue that could have been applied to McPier's struggling operating budget, Mr. Gates testified.

Two of the previous refinancing bills had passed the state Senate only to die in the House. A shocked Mr. Sacia wanted to know why.

At the closing session on May 6, he got his chance to ask Mr. Madigan. "I would be deeply grateful, Speaker, if you could explain to the body how that could happen, if that in fact was the case — did I misunderstand something?" Mr. Sacia asked, according to state transcripts of their testy exchange. "Did a bill pass the Senate that could have saved the taxpayers of this state several hundred million dollars? Would you be kind enough to address that, if you could?"

A brief back-and-forth ended with this terse response from Mr. Madigan: "Mr. Sacia, I'm not sure I understand your question. . . . To repeat what I said, there have been bills that provided for yet another restructuring of the debt payments, but none of those bills dealt with the significant work-rule changes that are in this bill."



"This stinks to high heaven and you, the taxpayers, get half-a-billion dollars worth of rotten meat. I can't wait to hear the explanation for this one."

Rep. Jim Sacia, R-Pecatonica



McPier was "engaged in a scheme, and the Speaker wasn't going to allow that to happen."

Spokesman for Illinois House Speaker Michael Madigan



"As long as (McPier CEO Juan) Ochoa was there, Madigan wasn't going to give McCormick Place anything."

Rep. Angelo "Skip" Saviano, R-Elmwood Park



"We didn't have the political strength to get what we knew was in the best interests of McCormick Place."

Juan Ochoa, former CEO, McPier

Mr. Sacia got a bit more colorful in a letter after the exchange to his constituents: "This stinks to high heaven and you, the taxpayers, get half-a-billion dollars worth of rotten meat. I can't wait to hear the explanation for this one."

He is still fuming today. "I was simply looking for a logical explanation," he says. "How can we have millions in the taxpayers' money just going away to higher interest when we had opportunities to bring that interest down?"

Many still wonder why McCormick Place took six years to refinance its debt, as plenty of government agencies, private companies and homeowners were doing at the time.

"A lot of people were expecting (refinancing) to come earlier," says John Kenward, a bond analyst in Chicago at Standard & Poor's. With interest rates dropping, "I don't know why the state wouldn't have taken advantage of that."

As for Mr. Madigan, he never spoke of his reasons for rejecting bill after bill. But in response to questions from *Crain's*, a spokesman for Mr. Madigan now says the speaker blocked refinancing to prevent the Blagojevich administration from cashing in on contracts for bond work, such as underwriting and legal services. He provided *Crain's* an unsigned memorandum of understanding, dated August 2007, in which McPier agreed to allow the state to review and approve all fees and "structuring decisions" related to bond refinancing.

Asked about the financial impact of delayed refinancing, the spokesman says the "consequences were outweighed by (opposition to) becoming part of the Blagojevich fundraising machine."

Mr. Ochoa says he received the memo but never signed it. A McPier spokeswoman confirms that the agreement never took effect. No matter, Mr. Madigan's spokesman says. McPier was "engaged in a scheme, and the speaker wasn't going to allow that to happen."

Mr. Madigan's power is so sweeping that few will state publicly what many acknowledge privately. Mr. Gates, who took on the McPier chairmanship in October 2009 after building one of the nation's largest real estate investment trusts, is now chairman of the Regional Transportation Authority. He says his testimony about the cost of refinancing delays speaks for itself.

State Sen. Kwame Raoul, a Chicago Democrat whose district includes McCormick Place, sponsored two failed efforts to refinance McPier's debt. But he treads gingerly when asked what happened. "I never got a firm answer as to why the bills never advanced in the House," he says. "I imagine there was distrust for the (McPier) leadership at the time."

Mr. Saviano is one of the few to put it more directly. Mr. Ochoa, he says, committed a cardinal sin of patronage politics: He dumped one of Mr. Madigan's "guys."

The guy was Jack Johnson, who had worked as a legislative analyst on Mr. Madigan's staff in the mid-1980s before signing on as McPier's chief of external relations in 1989. In September 2007, Mr. Ochoa, just eight months on the job, fired him.

Mr. Johnson, now senior vice-president at the Chicago Convention and Tourism Bureau, declines to comment, and Mr. Madigan's spokesman rejects the story. Management at McPier was "a national disaster," he says, "looking for other people to blame for their mistakes."

For his part, Mr. Ochoa says he was well aware of the rumors but chose to ignore them. "The speaker never called me to say he was upset with me," he says. "I tried to meet with him several times but was never granted a meeting."

'NO-BRAINER'

Refinancing is a concept familiar to every homeowner. When interest rates go down, you can refinance your mortgage, reduce your monthly payment and maybe even use some of the savings to make a few improvements.

McCormick Place needed to do the same thing, only its mortgage was in the billions and the improvements would have added a new hotel to the convention center campus.

Mr. Ochoa says those were his two top priorities when he took the job as McPier CEO. Unlike the convention centers in Orlando and Las Vegas, McCormick Place receives no state subsidy for its operations and has to live off the revenue it generates.

"When I came to McPier, I looked at our operating budget. It was a no-brainer that another hotel would help us further subsidize our operations," he says. "We also knew that we would soon fall short in the taxes collected to make our debt payments. Rather than wait for that to happen, we tried to address both issues at once."

From 1992 to 2004, McPier sold bonds to finance an ambitious expansion that built the West and South buildings, giving McCormick Place 2.6 million square feet of exhibit space and solidifying its position as the largest convention center in the nation.

The expansion left McPier about \$3 billion in debt. To pay back the bondholders, the General Assembly approved four taxes — on hotel rooms, car rentals, restaurants and taxi rides from Midway and O'Hare airports.

At the time, the taxes were thought to be adequate to cover the debt payments, but the business downturn that followed the Sept. 11 terrorist attacks changed all of that. Tax receipts fell short by more than \$26 million between 2002 and 2006, depleting the surplus fund set up when the bonds were issued. With interest rates declining, it seemed the perfect time to refinance.

By the mid- to late 2000s, many public entities, including the city of Chicago, the Chicago Board of Education and the Chicago Transit Authority, were replacing older municipal bonds with lower-interest debt.

Mr. Saviano, whose district includes the Rosemont Convention Center, sponsored the 2005 legislation in the Illinois House. He is unabashed about his motivations: "If we keep McCormick Place healthy, the trickle-down helps Rosemont," Mr. Saviano says. He introduced his bill in February 2005, when interest rates had dropped under 4.5% — well below the interest on the existing McPier expansion bonds, which carried rates as high as 7.1%.

But Mr. Saviano's bill died in the House Rules Committee, the legislative way station controlled by Mr. Madigan. Mr. Saviano's 2007 effort met a similar fate, even though interest rates had dropped to near 4%. On April 4, 2008, Mr. Raoul's bill passed the Senate 48 to 6, only to die in the House. In 2009, with rates still under 5%, the lawmakers tried again, but neither measure made it.

State Rep. Barbara Flynn Currie, a Chicago Democrat who is chairman of the rules committee, can't say why none of the bills reached the House floor for a vote. "I don't have a good explanation," she tells *Crain's*. "It's just one of those items that didn't make it to the top of the agenda."

But Mr. Saviano says, "The bills didn't come out of the rules committee because the speaker didn't want them to. It's unfortunate we had an opportunity to show some fiscal responsibility — and we didn't."

The financial impact of doing nothing was significant. Since 2005, McPier could have saved up to \$300 million in interest payments alone, based on a two-percentage-point savings in interest. Restructuring the debt to push larger principal repayments into the future would have provided millions more for McPier operations. A second hotel would have added another \$15 million a year, McPier officials estimate.

In October 2010, after finally winning approval to refinance its debt five months earlier, McPier sold \$1.12 billion in new bonds, at interest rates between 4.98% and 5.23%, to retire some of the older, higher-interest debt. "By restructuring, we don't have to draw from the state and can save it money," McPier Chief Financial Officer Richard Oldshue said at the time. "It relieves pressure from the state's sales tax revenues."

This year's debt payment, which would have been \$177 million without the restructuring, fell to \$81 million — a reduction of \$96 million. The restructuring also provided \$80 million for McPier's operating budget and raised

\$200 million for the hotel.

LAND SWAP

Just north of McCormick Place and east of the Metra train tracks sits an empty, boot-shaped tract of dirt and weeds that developers dreamed would be worth billions.

While McPier's efforts to restructure its debt and finance a hotel were going nowhere in the General Assembly, a group of well-connected real estate agents, developers and lawyers were pushing hard for a deal that would transform the vacant land into a thriving community called the Gateway Development.

Gateway was the brainchild of Gerald Fogelson and Forest City Enterprises, creators of nearby Central Station, an 80-acre spread of high-end townhouses and condominiums where former Mayor Richard M. Daley once lived. The \$4-billion Gateway plan called for condominiums, apartments, senior housing, office space, retail, entertainment venues and, at the south end of the property, a twin-tower hotel for McCormick Place.



Click above to see the Gateway Development plan's proposed land swap with McCormick Place.

The plan was as beautiful as it was ambitious, offering Lake Michigan views and easy access to Soldier Field and the Museum Campus. But there was a catch: To make the deal work, Mr. Fogelson and Forest City wanted McCormick Place to give up five acres of prime vacant land along Lake Shore Drive in exchange for less than two acres they owned toward the back of the property, documents obtained by *Crain's* show.

An October 2007 meeting on the project featured a who's who of Chicago real estate and political clout: Mr. Fogelson, Forest City's Albert and Ron Ratner, attorney Jack George of law firm Daley & George Ltd., David Haymes of architecture firm Pappageorge Haymes Ltd., and urban planner Stephen Friedman, a city consultant on tax-increment financing. The group also included then-McPier Chairman Ted Tetzlaff, a Chicago litigator, and board member Michael Scott, a real estate developer and president of the Chicago Board of Education.

A memo summarizing the meeting from Timothy Desmond, president of Central Station Development Corp., describes a busy and connected project team. Representing the developers, Mr. George, a law partner of Michael Daley's, the then-mayor's brother, confirmed that the city would approve a planned unit development designation for the land, while Mr. Friedman offered to seek TIF financing to pay for infrastructure improvements.

But Mr. Scott failed to tell the McPier board about his relationship with the developers, Mr. Ochoa says. Mr. Scott had an office and an email address with Fogelson Properties, the correspondence shows. Documents obtained by the Better Government Assn. last year revealed that Fogelson Properties provided the office rent-free and was paying Mr. Scott \$10,000 a month as part of the developer's efforts to build the proposed Olympic Village. Mr. Scott was then serving on Mr. Daley's bid committee for the 2016 Olympic Games. The payments stopped in early November 2009, two weeks before Mr. Scott was found dead of what police called a self-inflicted gunshot wound; he reportedly was distraught over financial difficulties and an admissions scandal at Chicago Public Schools.

The developers also have ties to Mr. Madigan. Mr. Madigan's spokesman acknowledges that Forest City and Central Station were clients of the speaker's law firm. He says Mr. Madigan "operates at a code of conduct far beyond state ethics requirements," adding that the law firm had withdrawn its representation of the developers "when it became apparent there was a land swap" with McCormick Place that might create a possible conflict.

Yet Madigan & Getzendanner represented Central Station in cases before the Cook County Board of Review in 2007 and 2008, records show. And the firm represented both developers and Mr. Scott in the Eastgate Village condominium development, at 330 E. 26th St. The firm's appeal before the Cook County assessor successfully

lowered the property's 2010 assessment to \$468,000 from \$1.4 million. The firm currently represents Forest City in a Bolingbrook property, Mr. Madigan's spokesman says.

The internal documents show McPier officials enthusiastically supporting the project, with the notable exception of Messrs. Ochoa and Gates.

"Gateway was a captivating project, but the land swap shortchanged the taxpayers," Mr. Ochoa says. And by agreeing to the land deal, Mr. Ochoa says he would have been largely committed to building the hotel on the Gateway Development. But if McPier's refinancing had come through, he would have had other options, including a proposed location near the West Building.

Mr. Ochoa had high hopes for Mr. Raoul's March 2009 legislation, the senator's second attempt at debt refinancing. The bill passed the Senate easily, but only after Mr. Raoul added a last-minute amendment that reduced the bonding authority by \$203 million — the exact amount designated to finance the hotel, Mr. Ochoa says.

"We didn't have the political strength to get what we knew was in the best interests of McCormick Place," says Mr. Ochoa, now CEO of Chicago-based Miramar International Group Inc., which helps organizations connect with Latino customers in the U.S. and Mexico.

Mr. Raoul says he can't remember who asked for the change, and neither can Senate President John Cullerton, a spokeswoman for the Chicago Democrat tells *Crain's* in an email.

In May 2009, Central Station's Mr. Desmond sent McPier's then-general counsel, Renee Benjamin, a letter of intent from Fogelson Properties to pursue the land deal, and two months later delivered a memorandum of understanding that would serve as the agreement for the land exchange and development. Mr. Ochoa says he never saw the document and would not have signed it.

Mr. Desmond, speaking on behalf of Central Station and Forest City, tells *Crain's* in an email that he would not comment on the negotiations, saying only that the developers are not currently involved in a hotel project with McCormick Place.

In September 2009, Ms. Benjamin proposed that the deal be part of the agenda at McPier's October board meeting. But Mr. Gates, the incoming chairman, decided against it. "This could be a critical piece of property to (McPier) in the future," Mr. Gates wrote in an email. "I am opposed to limiting our options — even in a non-binding manner."

He confirms his skepticism about the deal. "The market had collapsed, and frankly I didn't think it was in McPier's interest to give up control of the 18th Street exit to Lake Shore Drive," he says.

Without the hotel money, Mr. Raoul's bill passed the Senate easily, but it hardly mattered. Mr. Madigan once again stopped the bill from reaching the House floor.

FATEFUL PRICE HIKES

By 2009, McCormick Place was desperate to refinance. The recession had hit the convention business hard, and McPier had already tapped \$57 million in state sales tax revenue to make its debt payments. Without refinancing, it was on track to consume up to \$800 million more in sales taxes by 2027. Running short of cash to pay its bills, McPier officials kept raising prices for food and electrical services at McCormick Place.

"We were limited in our sources of revenue," Mr. Ochoa recalls. "The only alternative, unfortunately, was to raise the cost of services to our customers."

Reaction was swift. In November 2009, two trade shows declared they were leaving the convention center, citing high electrical and food costs.

Chicago-based Healthcare Information and Management Systems Society announced its departure on Nov. 11. The show, which rotates among three cities, had come to Chicago only after Hurricane Katrina made it impossible to hold the event in New Orleans.

As late as Oct. 22, HIMSS officials said they were still considering Chicago for their 2012 show, but only if McCormick Place could guarantee lower electrical prices. "If this does not get fixed, everything else is irrelevant," HIMSS Vice-president Karen Malone wrote in an email to McPier.

But Ms. Malone tells *Crain's* the HIMSS show will return in 2015 and 2019.

"Based on changes at McCormick Place and feedback from industry peers, I believe most, if not all of our concerns about electrical services have been addressed," she says.

Internal memos also reveal that McPier made an unprecedented effort to keep the International Plastics Showcase. McPier offered financial incentives for the triennial plastics show to stay in 2012 and 2015, including discounts on space rental and price freezes for services and labor. (McPier redacted the exact numbers from the documents it provided *Crain's*.) Mr. Ochoa even laid off 100 electricians to demonstrate his commitment to making some changes.

But he now says that McPier probably didn't stand a chance. The plastics show was declining and it "needed to create a diversion," Mr. Ochoa says, and McCormick Place was the perfect foil. "The (higher costs) were certainly an excuse for them to leave the city, especially since we gave them the most aggressive package of incentives we had given to any show during my tenure."

SPI, the Washington, D.C.-based plastics trade association, reported a 28% drop in show attendance between its 2006 and 2009 events, and a 24% decline in membership revenue in the same period, forcing the group to lay off one-third of its staff.

A spokesman says the association is looking forward to its upcoming Orlando event and will not comment on what happened at McCormick Place or on the state of its finances. But a spokesman for the Chicago riggers union confirmed that up to 75 of its members will travel to Orlando to help secure the heavy machinery on the show floor, working at Chicago labor rates and with all expenses paid.

McPier's showcase events, led by the National Restaurant Assn., seized on the crisis to demand labor concessions, even though McPier's higher prices had gone to pay its bills, not to provide raises for its union workers.

Critics: Law doesn't protect exhibitors from price-gouging

Since last year's McCormick Place legislation, the convention center has reduced its payroll, restructured its debt, lowered food costs and is finally adding more hotel rooms. But critics say the law did nothing to curb the worst trade show abuses: the inflated costs imposed on exhibitors by the general contractors and the trade associations themselves, for freight handling, floor space and hotel rooms, as reported by *Crain's* in June. "The exhibitors are still getting screwed," one former McPier official says. "But at least now they're getting screwed the same way they're getting screwed everywhere else. We are no longer at a competitive disadvantage." General contractors Freeman and Global Experience Specialists Inc., both of which control three out of four trade shows at McCormick Place and nationwide, have denied gouging exhibitors. But they also have been reluctant to open their books to prove it, citing proprietary and competitive reasons.

'The exhibitors are still getting screwed'. But at least now they're getting screwed the same way they're getting screwed everywhere else.'

— Former McPier official

An audit of the trade shows, required by law, was supposed to be completed last month but was delayed because the chosen auditors, Chicago-based Crowe Horwath LLP, were monitoring the selection of SMG as the private management company for McCormick Place. SMG, based in West Conshohocken, Pa., took over management of McCormick Place on July 1.

McPier officials say the audit, now expected by the end of the year, will analyze three shows to determine whether last year's labor changes resulted in real savings to exhibitors. In an August letter to the head of the decorators union, McPier Trustee Jim Reilly promised the auditors would "go beyond the statutory requirements" to examine the true costs of freight handling — the No. 1 cost cited by exhibitors.

State Rep. Angelo "Skip" Saviano, an Elmwood Park Republican who sponsored three McPier refinancing bills, isn't holding his breath. The issues at McCormick Place went way beyond labor, he says. "The issue was giving the contractors more control over every aspect of McCormick Place," he says. "With that kind of control all over the country, then they can start shopping the shows to the cities that will give them the biggest incentives. That's where we're heading."

James Ylisela Jr.

McPier officials weren't about to waste the crisis, either. Both Mr. Gates and Mr. Ochoa acknowledge they used the trade show exodus to stoke public ire about the convention center and to reduce MCPier's patronage-bloated payroll. They pushed for union work-rule changes to provide political cover for lawmakers reluctant to expand MCPier's bonding authority during a recession.

Mr. Cullerton's spokeswoman says the timing of the McCormick Place legislation "wasn't tied to the rise and fall of interest rates" but rather to the issues driving trade shows out of Chicago. "That 'event' seemed to be the centralizing force that brought the leaders together to get something done."

STILL PAYING

Today, the financial picture at McCormick Place has changed dramatically. Restructured debt payments are now in line with tax revenue, but ballooning payments in the future will have to be refinanced yet again. The workforce, once topping 500, now stands at 25, though many former employees now work at SMG, the private management company that took over day-to-day operations on July 1. After a federal judge threw out the union wage and work-rule changes, trade shows once again threatened to leave, though an agreement brokered by Illinois Gov. Pat Quinn and Chicago Mayor Rahm Emanuel last month appears to have brought labor peace, for now.

Dallas-based Freeman and Las Vegas-based Global Experience Specialists Inc., the nation's two giant trade show contractors, have taken over most of the electrical work on McCormick Place shows. Those services, which in 2009 brought a \$22-million profit to MCPier's operating budget, will bring the agency only about \$4.3 million in fiscal 2012. Profits from food operations, at \$9 million two years ago, will total about \$1 million.

With all the cuts, McCormick Place officials say they will run a \$134-million operating deficit between fiscal 2011 and 2014. Savings from the debt restructuring pumped \$20 million into the fiscal 2011 operating budget and will add another \$60 million over the next three years while MCPier builds the hotel addition, which will add 450 rooms.

The six-year delay in building a new hotel continues to cost Chicago money. When President Barack Obama invited world leaders to come to Chicago next May for a NATO meeting and the G-8 economic summit, many applauded the event as a boost for the city's global reputation — and a windfall for the local economy.

But the news didn't sit as well with the Washington, D.C.-based National Restaurant Assn., whose annual trade show at McCormick Place, from May 19 to 22, would overlap the last four days of the summit. Show organizers complained that Chicago didn't have enough hotel rooms to accommodate both events and said they had no choice but to relocate to Las Vegas or Orlando.

After several reportedly tense meetings with Mr. Emanuel, the association's executive director, Mary Pat Heftman, announced the show would stay in Chicago but would move up to May 5 to 8, aided by a reported \$2-million package of concessions and incentives from the city.

"There were enough hotel rooms, but everyone was going to want to stay in the same places," Ms. Heftman says. "I was looking forward to producing a show in another city to see if (Chicago) is the right place, especially if we were forced to move."

At the time, Mr. Emanuel said he was pleased to keep the show and the estimated \$100 million it generates in revenue each year. But in the midst of his own budget crisis, it was \$2 million the mayor certainly didn't want to spend.

The McCormick Place hotel addition won't be ready until late 2013.

By James Ylisela Jr.

Companies, Better Government Association, Chicago Convention and Tourism Bureau, Chicago Public Schools, Chicago Transit Authority, City of Chicago, Cook County, Crowe Horwath LLP, McCormick Place, Metropolitan Pier and Exposition Authority, National Restaurant Association, Pace, Regional Transportation Authority, Soldier Field, State of Illinois, People, Rod Blagojevich, John Cullerton, Richard M. Daley, Rahm Emanuel, Michael Madigan, Barack Obama, Juan Ochoa, Pat Quinn, Ted Tetzlaff, Industries, Convention Industry, Finance, Government and Politics, State Government, Infrastructure, Travel and Tourism, Issue, Newsletters, Weekly Alert, Issue - News, This week's issue, Central Station Development

More in News →

Private security firm laying off 300 workers in Chicago

Government Sentencing Exhibit 3



EXECUTIVE ORDER

2018-01

**EXECUTIVE ORDER TO ELIMINATE IMPERMISSIBLE CONFLICTS OF
INTEREST AT THE PROPERTY TAX APPEALS BOARD**

WHEREAS, the people of Illinois have the right and expectation that the business of their government will be conducted in an honest and ethical manner; and

WHEREAS, State officials and employees protect the public trust, and must be impartial in the performance of their duties; and

WHEREAS, the public loses their faith in government when they see State officials personally profit from the very constituencies they are meant to serve; and

WHEREAS, the State of Illinois Code of Personal Conduct (the "Code"), which applies to all State officials and employees under the Governor, requires that government be conducted in a transparent, ethical, accountable, and motivated manner; and

WHEREAS, the Code states that State officials and employees "may not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with their official State duties and responsibilities"; and

WHEREAS, the Code states that State officials and employees "must take appropriate action to identify, disclose, and avoid potential conflicts of interest in the performance of their official duties"; and

WHEREAS, conflicts of interest clearly arise where legislators and regulators receive financial benefits by charging Illinois citizens and businesses through a morass of red tape those same officials created by passing complicated rules and establishing confusing and bureaucratic processes; and

WHEREAS, for decades, Illinois government has undermined the fiscal health of its citizens by passing crippling taxes and enacting policies that make the State's property tax system one of the most complicated and burdensome in the nation; and

WHEREAS, the disastrous outcomes of Illinois' current property tax system are eroding the State's ability to sustain the fundamental markers of our health as a state, including economic growth, business and job development, stable homeownership, and the preservation of home values; and

WHEREAS, recent investigations of Cook County by the University of Chicago and Chicago Tribune have also demonstrated property value assessments and appeals are systemically inequitable, yielding disproportionately high property tax burdens on low-income residents; and

WHEREAS, because this is profoundly unfair property tax system, and because of serious public concerns about the fairness of the tax assessment process, avoiding even the appearance of conflicts of interest in the system is of fundamental importance;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of my executive authority to establish and enforce ethical standards for the executive branch vested in me by Section 8 of Article V and Section 2 of Article XIII of the Constitution of the State of Illinois, do hereby order as follows:

I. ELIMINATION OF CONFLICTS OF INTEREST AT THE PROPERTY TAX APPEALS BOARD

The Property Tax Appeals Board (the "Board") is a State agency under the jurisdiction of the Governor. The Board hears appeals of property tax assessments made at the county-level throughout Illinois. The Board is empowered to restrict persons who appear before it as representatives of appealing parties. To ensure that the Board conducts its work in an ethical manner, and to ensure that parties before it do not present impermissible conflicts of interest, the Board shall allow no State legislator to participate in any way in any representation case on any matter before the Board. The Board shall also prohibit participation in such a representation case by a legislator where the legislator receives any fee or compensation, directly or indirectly, through any interest in a partnership, limited liability corporation, or other business entity. The Board is directed to amend its rules of practice and procedure to reflect this executive order.

Representation case means a "representation case" as defined by the Illinois Governmental Ethics Act, 5 ILCS 420/1-113.

II. SAVINGS CLAUSE

This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

III. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any other prior Executive Order.

IV. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

V. EFFECTIVE DATE

This Executive Order shall take effect immediately upon filing with the Secretary of State.



Bruce Rauner, Governor

Issued by Governor: January 19th, 2018

Filed with Secretary of State: January 19th, 2018

FILED
INDEX DEPARTMENT

JAN 19 2018

IN THE OFFICE OF
SECRETARY OF STATE

Government Sentencing Exhibit 4

CASE TITLE: United States v. Madigan and McClain
CASE NUMBER: 22 CR 115
ACTIVITY: Telephone conversation between Michael McClain and
John Bradley
DATE: November 13, 2018
TIME: 9:50 a.m.
TARGET PHONE: (217) 257-6280
SESSION NUMBER: 15703

SPEAKERS: MCCLAIN = MICHAEL MCCLAIN
BRADLEY = JOHN BRADLEY

(BEGIN CLIP 1)

1 BRADLEY: Hey Mike. JCAR has not met yet, but, um, [REDACTED]
2 completed his mission, and he got a favorable
3 response.
4
5 MCCLAIN: Good.
6
7 BRADLEY: So, um.
8
9 MCCLAIN: So, they're not gonna call it?
10
11 BRADLEY: I don't know, but if they do, I think that,
12 according to [REDACTED], PTAB is prepared to object to
13 it themselves.
14
15 MCCLAIN: Mhm.
16
17 (STATIC - UNINTELLIGIBLE)
18
19 BRADLEY: I'll keep you advised as, uh-
20
21 MCCLAIN: Okay.
22
23 BRADLEY: -matters develop, but they just, they're still pre-
24 meeting, so I assume there's a fight over it of some
25 sort.
26
27 MCCLAIN: Yeah, yeah.
28
29 BRADLEY: Okay.
30
31 MCCLAIN: Okay. Good.
32
33 (END CLIP 1)

Government Sentencing Exhibit 5

CASE TITLE: United States v. Madigan and McClain
CASE NUMBER: 22 CR 115
ACTIVITY: Telephone conversation between Michael Madigan and
Michael McClain
DATE: November 13, 2018
TIME: 11:42 a.m.
TARGET PHONE: (217) 257-6280
SESSION NUMBER: 15768

SPEAKERS: MADIGAN = MICHAEL MADIGAN
MCCLAIN = MICHAEL MCCLAIN

1 MCCLAIN: Hi Speaker.
2
3 MADIGAN: Yeah, Mike. How are you?
4
5 MCCLAIN: Good, good, and yourself?
6
7 MADIGAN: Good, good. Uh, Lang was here, and, uh, you know, he
8 told me he's gonna bow out sometime before the end
9 of the calendar year.
10
11 MCCLAIN: Good. Perfect.
12
13 MADIGAN: Yeah, yeah. (Unintelligible)
14
15 MCCLAIN: Now, I'll talk to him, I'll talk to him about the
16 replacement then. Um, um, JCAR.
17
18 MADIGAN: Yes.
19
20 MCCLAIN: Eleven to zero prohibition on PTAB. So, it's over.
21
22 MADIGAN: Okay. Alright, yeah. Very good.
23
24 MCCLAIN: And [REDACTED], John Bradley, and [REDACTED] drove
25 down from Chicago. They all worked on it. So, just
26 to let-
27
28 MADIGAN: Mhm, okay, very good.
29
30 MCCLAIN: Alright, sir.
31
32 MADIGAN: Thank you.
33
34 MCCLAIN: Take care.
35
36 MADIGAN: Buh-bye.

Government Sentencing Exhibit 6

Jim FitzGerald

February 12, 2025

Hon. Robert John Blakey

Court 1203
Dirksen Courthouse
219 S. Dearborn St.
Chicago, IL 60604

Re: UNITED STATES OF AMERICA v. MICHAEL J. MADIGAN and MICHAEL F. McCLAIN

Your Honor:

I write in reference to the upcoming sentencing of Michael J. Madigan for bribery, conspiracy and wire fraud associated with using his elected office for his personal gain. I have been a citizen of Illinois since 1987 (save one decade), and therefore I am a direct victim of Michael Madigan's crimes.

The evidence presented at trial proved to the clear satisfaction of the jury not only the defendant's guilt, but also his central role over many decades in the continuing criminal enterprise that characterizes Illinois politics.

Mike Madigan did not create graft in Illinois, but he perfected its application, he mentored its practitioners, and he perpetuated and reinforced an entrenched culture of political corruption, all to the detriment of millions of Illinoisans, all for his own benefit. The victims of his crimes are not just public utilities. His victims include everyone in the state over the past half century. We're a lot poorer and a lot less free because of the chokehold Madigan and his conspiracy of political corruption has had on our state. I have been robbed by Mike Madigan and his like of honest government services and any benefits that would have accrued to me had he provided those services honestly. I've paid the Illinois Graft Tax for far too long.

It is not enough to, once again, send an aging, crooked Illinois pol off to "Club Fed" for a few months of golf practice and tanning. "The Velvet Hammer" deserves to spend any prison time in an actual prison, with other criminals, miscreants, reprobates, racketeers and thugs just like him. It's time all the other scheming Illinois politicians know that graft and corruption in Illinois is not a "Poor Guy," bump along the road to more corruption. It's time a message was sent and an example was made, that the days of old-school Illinois corruption will no longer be tolerated.

Michael Madigan didn't leave one victim bleeding, he bled out an entire state for half a century. He deserves worse than a vacation in khaki.

Sincerely,



Jim FitzGerald

After 3 days return to:

Jim FitzGerald

Return Service Requested

14 FEB 2025 PM 2 L



Hon. Robert John Blakey
Court 1203
Dirksen Courthouse
219 S. Dearborn St.
Chicago, IL 60604

RECEIVED

FEB 18 2025

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT