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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

24 Cr. 00168 (ALC)

5 PEKEN GLOBAL LIMITED, ET AL.,

6 Plea and Sentence

7 Defendant.

8 -----x

9 New York, N.Y.
January 27, 2025
2:30 p.m.

10
11 Before:

12 HON. ANDREW L. CARTER, JR.,

13 U.S. District Judge

14 APPEARANCES

15 DANIELLE R. SASSOON
Interim United States Attorney for the
16 Southern District of New York
EMILY DEININGER
17 Assistant United States Attorney

18 ALEXANDER J. WILSON
CHRISTOPHER LAVIGNE
19 KATHERINE J. STOLLER
Attorneys for Defendant Peken Global Limited

20
21 Also Present:

22 Bochong Wong, CEO, Peken Global Limited
23 John Rodriguez, Special Agent, Homeland Security Investigations
David Meister, Attorney for Defendant Ke Tang
24 Alexander J. Wilson, Attorney for Defendant Chun Gan
25

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(Case called.)

MS. DEININGER: Good afternoon, your Honor. Emily Deininger for the United States, and with me at counsel table is Special Agent John Rodriguez from Homeland Security Investigations.

THE DEPUTY CLERK: And for the defendant?

MR. NATHANSON: Good afternoon, your Honor. John Nathanson from A&O Shearman. I have with me at counsel table corporate representative and CEO, Mr. Bochong Wang, from Peken Global Limited, and Chris LaVigne and Katherine Stoller from my firm.

Thank you, your Honor.

THE COURT: Good afternoon.

I think it makes sense to deal with the deferred prosecution agreements first. So, is Chun Gan here, or --

MS. DEININGER: Your Honor --

THE COURT: Let me hear from the government.

MS. DEININGER: The individual defendants are not present and are not planning on making appearances. We have conferred with defense counsel. We do not think they need to make appearances. Agreements are already signed and executed between the parties.

We are requesting that time be excluded under the Speedy Trial Act to allow for the time period under the deferred prosecution agreement. So we're requesting that your

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1 Honor so order that before we move forward with the plea
2 proceeding for defendant Peken Global.

3 If you do have questions for them, counsel for Mr. Gan
4 and Mr. Tang are in the room, but, again, were not planning on
5 entering an appearance or I think saying anything to your Honor
6 unless it's needed.

7 THE COURT: Okay. Counsel for Mr. Gan, counsel for
8 Mr. Tang, can you step forward real quick?

9 MR. MEISTER: Good afternoon, your Honor.

10 THE COURT: Please place your appearances on the
11 record.

12 MR. MEISTER: David Meister for Mr. Tang from Skadden,
13 Arps.

14 MR. WILSON: Good afternoon, your Honor. Alex Wilson
15 of Jones Day for Mr. Gan.

16 THE COURT: All right. One question I have, since the
17 deferred prosecution agreements require that the defendants
18 admit that they knowingly owed part of a money transmitting
19 business that was not registered or licensed in the United
20 States, I want to make sure that you have discussed that with
21 your clients.

22 Have you done that, counsel for Mr. Tang?

23 MR. MEISTER: Yes, your Honor. We discussed the
24 entire agreement with Mr. Tang.

25 THE COURT: Have you done so, counsel for Mr. Gan?

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1 MR. WILSON: I have, your Honor. We have discussed it
2 at length, and he is comfortable with the agreement.

3 THE COURT: Counsel for Mr. Tang, have you discussed
4 any possible immigration consequences that might stem from such
5 an admission?

6 MR. MEISTER: Your Honor, my client actually doesn't
7 live in the United States and doesn't have any intention of
8 coming to the United States. Having said that, we've discussed
9 all of the risks associated with the agreement.

10 THE COURT: Okay. Counsel for Mr. Gan, have you
11 discussed the possible immigration consequences regarding your
12 client's potential entry and/or remaining in the United States
13 as a result of this admission?

14 MR. WILSON: Yes, your Honor.

15 THE COURT: Okay. Thank you very much.

16 Anything else from the government on this?

17 MS. DEININGER: No, your Honor. Thank you.

18 THE COURT: Okay. I have no further questions. Thank
19 you.

20 MR. MEISTER: Thank you, Judge.

21 MR. WILSON: Thank you, your Honor.

22 THE COURT: Okay. So, regarding the corporation, let
23 me just ask the person who is the representative of the
24 corporation to please stand and identify themselves.

25 THE DEFENDANT: Good afternoon, your Honor.

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1 THE COURT: What is your name?

2 THE DEFENDANT: Wong, Bochong.

3 THE COURT: I'm sorry. Just speak slowly.

4 THE DEFENDANT: Wong, Bochong.

5 MR. NATHANSON: Don't go so close.

6 THE DEFENDANT: Wong, Bochong.

7 THE COURT: Okay. Do you speak and understand

8 English?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Okay. Let me ask my deputy to administer
11 an oath.

12 THE DEPUTY CLERK: Please raise your right hand, sir.

13 Please raise your right hand.

14 (Defendant sworn)

15 THE DEPUTY CLERK: Thank you. You may be seated.

16 THE DEFENDANT: Thank you.

17 THE COURT: I want to make sure you understand that
18 now that you've taken an oath to tell the truth, if you were to
19 intentionally lie in response to any of my questions, you could
20 face prosecution for making false statements under oath.

21 Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: How old are you?

24 THE DEFENDANT: Thirty-seven, your Honor.

25 THE COURT: You can stay seated. That's fine. Just

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1 make sure the microphone is close to you.

2 How far did you go in school?

3 THE DEFENDANT: Sir? Pardon?

4 THE COURT: How far did you go in school? What's your
5 level of education?

6 THE DEFENDANT: Juris Doctor, your Honor. Singapore.

7 THE COURT: Are you an officer or authorized employee
8 of the organization?

9 THE DEFENDANT: No -- other than Peken Global, no.
10 But I'm the officer -- I'm the CEO of Peken Global Limited,
11 your Honor.

12 THE COURT: Okay. And have the board of directors or
13 the director empowered -- are they empowered to authorize a
14 person to enter a plea of guilty?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Are you that person who has been
17 authorized by the board of directors or the director to enter
18 this plea of guilty?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Is that pursuant to a valid resolution?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Is the organization financially able to
23 pay a substantial fine that can be imposed by the Court?

24 THE DEFENDANT: Definitely. Yes, your Honor.

25 THE COURT: All right. Let me make sure that you --

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1 hold on a second.

2 Have you seen a copy of attachment B, the certificate
3 of corporate resolution?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Is this your signature on the third page
6 of this document?

7 THE DEFENDANT: Yes. Yes, your Honor.

8 THE COURT: Before signing this, did you discuss this
9 with your attorney?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand it?

12 THE DEFENDANT: Definitely. Yes, your Honor.

13 THE COURT: Have you seen a copy of attachment D, the
14 certification?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Is this your signature on the second page
17 of this document under the first line?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Before signing this, did you discuss this
20 with your attorney?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand it?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. Again, I will accept attachment D,
25 as well as attachment B.

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1 I want to make sure that you understand the rights
2 that the corporation is waiving by pleading guilty.

3 Do you understand?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Have you seen a copy of the indictment
6 that's been filed in this case?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: You have a constitutional right to plead
9 not guilty, continue to plead not guilty to the crimes charged
10 in that indictment.

11 Do you understand?

12 THE DEFENDANT: Yes, I understand that, your Honor.

13 THE COURT: Actually, hold on a second.

14 Has the corporation been arraigned on the indictment
15 yet, counsel for the government?

16 MS. DEININGER: No, your Honor. This is the first
17 appearance.

18 THE COURT: All right. Hold on.

19 MS. DEININGER: Can I provide a copy of the
20 indictment?

21 THE DEPUTY CLERK: Thank you so much.

22 THE COURT: Have you seen a copy of the indictment
23 that's been filed in this case?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Have you discussed it with your attorney?

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1 THE DEFENDANT: Yes.

2 THE COURT: The indictment has four counts.

3 Do you understand?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: My understanding is that you will be

6 pleading guilty to Count Four of the indictment.

7 Is that correct?

8 THE DEFENDANT: Correct.

9 THE COURT: All right. Let's briefly review all of
10 the counts in the indictment.

11 Count One charges conspiracy to violate the Bank
12 Secrecy Act.

13 Do you understand?

14 THE DEFENDANT: Yes.

15 THE COURT: Count Two charges a conspiracy to operate
16 an unlicensed money transferring business.

17 Do you understand?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Count Three charges a violation of the
20 Bank Secrecy Act.

21 Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Count Four charges operation of an
24 unlicensed money transmitting business.

25 Do you understand?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Again, you've discussed all of those
3 charges with your attorneys?

4 THE DEFENDANT: Yes.

5 THE COURT: Counsel, have you, in fact, discussed
6 those charges with your client?

7 MR. NATHANSON: We have, your Honor.

8 THE COURT: Does the defendant -- are you currently
9 under the care of a doctor for any reason?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: In the last 24 hours, have you had any
12 medication, drugs, pills, or alcoholic beverages of any kind?

13 THE DEFENDANT: No, your Honor.

14 THE COURT: Is your mind clear as you sit here today?

15 THE DEFENDANT: Very clear.

16 THE COURT: Defense counsel, do you have any doubts
17 about your client's competence to proceed?

18 MR. NATHANSON: None, your Honor.

19 THE COURT: Do you feel that he understands the
20 charges in the indictment?

21 MR. NATHANSON: I do, your Honor.

22 THE COURT: Do you feel that he understands the rights
23 that the corporation is waiving by pleading guilty?

24 MR. NATHANSON: I do, your Honor.

25 THE COURT: We'll enter a plea of not guilty to Counts

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1 One through Four of the indictment on the defendant's behalf.

2 MR. NATHANSON: Yes, your Honor.

3 THE COURT: Okay. Now, you have a constitutional
4 right to continue to plead not guilty.

5 Do you understand?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: If you persist in that right, you have a
8 right to a speedy and public trial by jury.

9 Do you understand?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: At that trial -- and when I say "you," I'm
12 talking about the corporation.

13 Do you understand?

14 THE DEFENDANT: Got it. Yes, your Honor.

15 THE COURT: At that trial, you'd have the right to be
16 represented by an attorney.

17 Do you understand?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: If you could not afford to hire an
20 attorney, the Court would give you an attorney for free.

21 Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: At that trial, you'd be presumed innocent.
24 You wouldn't have to prove that you're innocent.

25 Do you understand?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: At that speedy and public trial, the
3 burden of proof would be on the government at all times and the
4 government would be required to prove each and every element of
5 the offense charged beyond a reasonable doubt.

6 Do you understand?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: So, counsel for the government, what are
9 the elements that the government would be required to prove for
10 Count Four?

11 MS. DEININGER: Yes, your Honor.

12 For Count Four, operation of an unlicensed money
13 transmitting business, the government would be required to
14 prove beyond a reasonable doubt three elements:

15 First, that the defendant knowingly conducted,
16 controlled, managed, supervised, directed, or owned all or part
17 of an unlicensed money transmitting business;

18 Second, that the business affected interstate or
19 foreign commerce in any manner;

20 And, third, that the business was unlicensed, and that
21 it failed to comply with the money transmitting business
22 registration requirements under Title 21, United States Code,
23 section 5330, and the regulations prescribed therein, which
24 require money transmitting businesses to register with the U.S.
25 Department of Treasury Financial Crimes Enforcement Network,

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1 known as FinCEN.

2 We'd also be required to prove venue beyond a
3 preponderance.

4 THE COURT: Okay. Are there any elements missing from
5 the government's recitation, counsel for the defense?

6 MR. NATHANSON: No, your Honor.

7 THE COURT: All right. So the government would have
8 to prove each and every one of those elements beyond a
9 reasonable doubt.

10 Do you understand?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: For the element -- well, it's not an
13 element. For the issue of venue, the government would have to
14 prove venue by a preponderance of the evidence.

15 Do you understand?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: In order to attempt to prove those
18 elements, the government would call witnesses. Your attorney
19 could question those witnesses.

20 Do you understand?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Again, I instructed you that if you could
23 not afford to hire an attorney, the Court would give you an
24 attorney for free. I suspect I know the answer to this
25 question, but I will ask anyway.

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1 Counsel, are you appointed or retained on this matter?

2 MR. NATHANSON: Retained, your Honor.

3 THE COURT: Again, your attorney could question those
4 witnesses at trial.

5 Do you understand?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Your attorney could object to evidence the
8 government tried to use against you.

9 Do you understand?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: You could call your own witnesses at trial
12 and your attorney would have the subpoena power of the United
13 States to make witnesses come to Court for you.

14 Do you understand?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: You could testify on your own behalf.

17 Do you understand?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: At the same time, you could not be forced
20 to testify, because you have a right or privilege against
21 self-incrimination.

22 Do you understand?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: The right or privilege against
25 self-incrimination means that you cannot be forced to say

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1 anything out of your own mouth that makes you appear guilty.

2 Do you understand?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: So even if you, the corporation, are, in
5 fact, guilty, you are not required to plead guilty.

6 Do you understand?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: You could remain silent and force the
9 government to attempt to prove each and every one of the
10 elements to a jury beyond a reasonable doubt.

11 Do you understand?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: If the government could not prove each and
14 every element to the jury's satisfaction beyond a reasonable
15 doubt, the jury would have an obligation to find you not
16 guilty.

17 Do you understand?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: So, again, even if you are guilty, you are
20 not required to plead guilty.

21 Do you understand?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: On the other hand, if you decide to plead
24 guilty, I'll have to ask you what you did that makes you guilty
25 of this crime, and when you answer that question, you'll be

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1 saying things out of your own mouth that make you appear
2 guilty, thereby giving up your right or privilege against
3 self-incrimination.

4 Do you understand?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Ordinarily, if I were to accept your plea
7 of guilty, you would meet with the Probation Department and
8 they'll prepare a presentence or probation report.

9 Do you understand?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: That report would have information about
12 you, as well as the crime that the corporation is alleged to
13 have committed.

14 Do you understand?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: That report would also have the Probation
17 Department's sentencing guideline calculation.

18 Do you understand?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: My understanding is that you wish to waive
21 the presentence report in this case and go directly to
22 sentencing.

23 Is that correct?

24 THE DEFENDANT: Yes. Correct.

25 THE COURT: My understanding is also that what is

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1 before me is a plea agreement pursuant to 11(C)(1)(c).

2 Is that correct, counsel for the government?

3 MS. DEININGER: Yes, your Honor.

4 THE COURT: Counsel for the defense?

5 MR. NATHANSON: Yes, your Honor.

6 THE COURT: In that case, if I accept this plea, there
7 will be an agreed-upon sentence that I will be bound to impose.

8 Do you understand?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Do you, in fact, wish to waive the
11 presentence report and go directly to sentencing after your
12 guilty plea allocution?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. Let's turn to your agreement with
15 the government dated January 25, 2025.

16 Have you seen a copy of this agreement?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Have you discussed it with your attorneys?

19 THE DEFENDANT: Yes.

20 THE COURT: Is this your signature on the last page of
21 the agreement?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Before signing this agreement, did you
24 discuss it with your attorneys?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Do you understand it?

2 THE DEFENDANT: Definitely.

3 THE COURT: Does this agreement constitute the
4 entirety of the corporation's agreement with the government?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Counsel for the government, is that
7 correct?

8 MS. DEININGER: That is correct.

9 THE COURT: Counsel for the defense, is that correct?

10 MR. NATHANSON: Yes, your Honor.

11 THE COURT: All right. I'm not going to go over the
12 entire agreement. I'm going to go over the statutory
13 penalties, and then I will go over some portions of the
14 agreement.

15 I want to make sure that you understand that the
16 statutory maximum sentence is a fine of \$500,000 or twice the
17 gross pecuniary gain or gross pecuniary loss resulting from the
18 offense.

19 Do you understand?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: There's a mandatory special assessment of
22 \$400.

23 Do you understand?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: I must also impose forfeiture of any and

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1 all property, real and personal, involved in Count Four of the
2 indictment, or any property traceable as such property.

3 Do you understand?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: In this case, the parties have agreed that
6 the gross pecuniary gain resulting from the offense is
7 \$125,460,000.

8 Do you understand?

9 THE DEFENDANT: Yes, I understand.

10 THE COURT: The parties have agreed, based on the
11 application of the sentencing guidelines, that the appropriate
12 total criminal fine is \$112,914,000.

13 Do you understand?

14 THE DEFENDANT: Yes, I understand.

15 THE COURT: Under your agreement, you admit that the
16 facts set forth in the statement of facts establish that the
17 sum of at least \$184,500,000 in United States currency is
18 forfeitable to the United States.

19 Do you understand?

20 THE DEFENDANT: Yes, I understand.

21 THE COURT: Under your agreement, you have agreed not
22 to file an appeal nor collaterally attack any sentence at or
23 below the statutory maximum.

24 Do you understand?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: I have before me a proposed forfeiture
2 order, a consent preliminary order of forfeiture.

3 Is this your signature on the last page of this
4 document, E-5?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Before signing this document, did you
7 discuss it with your attorneys?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand the document?

10 THE DEFENDANT: Definitely.

11 THE COURT: By signing this document, do you agree, on
12 behalf of the corporation, to make a payment to the government
13 in the amount of \$179,200,000, less the CFTC disgorgement
14 credit?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Anything else regarding the forfeiture
17 order by the government?

18 MS. DEININGER: No, your Honor.

19 THE COURT: By the defense?

20 MR. NATHANSON: No, your Honor.

21 THE COURT: I am signing off on the consent forfeiture
22 order.

23 Is there anything else regarding the agreement, the
24 plea agreement that the parties would like an allocution on?

25 Counsel for the government?

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1 MS. DEININGER: No, your Honor.

2 THE COURT: Counsel for the defense?

3 MR. NATHANSON: No, your Honor.

4 THE COURT: Defendant, are you satisfied with your
5 legal representation up to this point?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Counsel, are you aware of any reason why
8 your client should not plead guilty?

9 MR. NATHANSON: No, your Honor.

10 THE COURT: Are you aware of any legal defense to the
11 charge?

12 MR. NATHANSON: No, your Honor.

13 THE COURT: Peken Global Limited, are you willing to
14 give up your rights to a trial and all the other rights that
15 we've discussed?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Other than what's contained in your
18 agreement with the government, has anyone made any promises to
19 induce you to give up those rights?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Has anyone threatened you or attempted to
22 force you to give up those rights?

23 THE DEFENDANT: Definitely no.

24 THE COURT: How do you plead to Count Four of the
25 indictment, guilty or not guilty?

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1 THE DEFENDANT: Yes.

2 THE COURT: Okay.

3 THE DEFENDANT: Yes, guilty to Count Four.

4 THE COURT: What is it you did that makes you guilty
5 of Count Four?

6 THE DEFENDANT: So Peken Global Limited is a business
7 entity incorporated in the Republic of Seychelles, that since
8 in or about September 2019, has operated the KuCoin Online
9 Cryptocurrency Exchange and Trading Platform. Peken Global
10 Limited is a successor in interest for other entitles that
11 operated KuCoin between in or about September 2017 and in or
12 about September 2019.

13 Since its launch, KuCoin has served approximately 1.5
14 million registered users located in the United States,
15 including registered users located in the Southern District of
16 New York. Because KuCoin had a significant number of user --
17 of registered users located in the United States, KuCoin
18 knowingly conducted a money transmitting business that was
19 required to register with the U.S. Department of the Treasury's
20 Financial Crimes Enforcement Network, known as FinCEN.

21 KuCoin violated United States law by failing to
22 register with FinCEN as a money transmitting business, your
23 Honor.

24 THE COURT: Did Peken engage in this behavior
25 intentionally and knowingly?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: There is also an attachment A, a statement
3 of facts that is stipulated between the parties.

4 Do you, in fact, adopt attachment A and those
5 statement of facts as true?

6 THE DEFENDANT: Yes, your Honor, as truth.

7 THE COURT: Okay. Any further allocution requested by
8 the government?

9 MS. DEININGER: Your Honor, my understanding is that
10 defense counsel is willing to stipulate, although I think it's
11 implicit in the facts described, that the conduct affected
12 interstate and foreign commerce.

13 THE COURT: Okay. Is there a stipulation from defense
14 counsel?

15 MR. NATHANSON: Yes, we agree to that stipulation,
16 your Honor, with respect to interstate commerce.

17 THE COURT: All right. Any further allocution
18 requested by the government?

19 MS. DEININGER: No, your Honor.

20 THE COURT: Any further allocution requested by the
21 defense?

22 MR. NATHANSON: No, your Honor.

23 THE COURT: Anything else from the government
24 regarding this case today?

25 Well, obviously, we're going to move on to sentencing,

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1 but in terms of the plea, anything else from the government?

2 MS. DEININGER: Nothing other than confirming that
3 your Honor is accepting the plea.

4 THE COURT: Okay. From the defense, anything else?

5 MR. NATHANSON: Other than dismissing the open counts
6 both against Peken Global and the other corporate entities,
7 nothing other than that, your Honor.

8 THE COURT: All right. I find that there is a factual
9 basis for the plea.

10 I find the defendant understands the rights that are
11 being waived by pleading guilty.

12 I accept the 11(C)(1)(c) plea.

13 My understanding is now the parties would like to move
14 to sentencing immediately.

15 Is that correct, counsel for the government?

16 MS. DEININGER: That's correct, your Honor. And just
17 to build on what defense counsel just said, we'll move to
18 dismiss the counts at the end of the sentencing.

19 THE COURT: Okay.

20 Is that correct, we're ready for sentencing, defense
21 counsel?

22 MR. NATHANSON: Yes, your Honor.

23 THE COURT: All right. There was an 11(C)(1)(c) plea
24 here, an agreement between the parties, and the Court accepted
25 the plea. The Court, as well as the parties, is bound by the

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1 agreement in this instance.

2 I will ask again, is the defendant satisfied with your
3 legal representation up to this point?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Is there any reason why we should not
6 proceed to sentence, counsel for the government?

7 MS. DEININGER: No, your Honor.

8 THE COURT: Counsel for the defense?

9 MR. NATHANSON: No, your Honor.

10 THE COURT: All right. I will impose a fine which
11 reflects the total criminal fine, less the anticipated payment
12 of the CFTC civil credit. I will impose a fine of
13 \$67,914,000 -- well, let me find out from the parties.
14 Obviously he's getting -- or the company's getting credits for
15 payments that have been made or will be made.

16 In terms of the sentence, is it more appropriate for
17 me to impose the fine without regard to the credits, or impose
18 the fine with the credit already reflected?

19 MS. DEININGER: No, your Honor. We would ask your
20 Honor impose as a sentence the total criminal fine, the gross
21 number, and then obviously we have an agreement between the
22 parties as to certain credit arrangements and a payment
23 schedule. But in terms of the sentence, I think only the top
24 line number is part of the judgment.

25 THE COURT: Anything from the defense on this?

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1 MR. NATHANSON: No. We agree with that, your Honor.

2 THE COURT: Okay. I will impose a fine of
3 \$112,914,000. I will impose criminal forfeiture in the amount
4 of \$184,500,000.

5 MR. NATHANSON: Your Honor, I'll just note that, as
6 with respect to the fine, with respect to forfeiture, also,
7 there are various credits referenced in the plea agreement and
8 a payment schedule that could effectively reduce the payment
9 that goes to the government in this case, or at least the
10 United States Department of Justice. But those are laid out in
11 the agreement.

12 The forfeiture amount, the top line number of
13 \$184,500,000 is correct.

14 THE COURT: Okay. I will also impose the mandatory
15 special assessment of \$400.

16 Is there anything else I need to state on the record
17 regarding the sentence before we turn to statutory rights of
18 appeal and open counts, counsel for the government?

19 MS. DEININGER: No, your Honor.

20 THE COURT: Counsel for the defense?

21 MR. NATHANSON: No, your Honor.

22 THE COURT: All right. Does the government move to
23 dismiss any open counts?

24 MS. DEININGER: Yes, your Honor. We move to dismiss
25 Counts One through Three against Peken Global Limited. And

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1 we're also going to move to dismiss all counts against the two
2 other corporate entities named in the indictment, Flashdot
3 Limited and Phoenixfin Private Limited, because that is all of
4 the counts against those entities. We'll follow up with nolle
5 paperwork for your Honor to consider, but I can orally
6 represent that we will move to dismiss all of those counts.

7 THE COURT: Okay. Is there anything else before I
8 advise defendant of a statutory right to appeal?

9 Counsel for the government?

10 MS. DEININGER: No, your Honor.

11 THE COURT: Counsel for the defense?

12 MR. NATHANSON: No, your Honor.

13 THE COURT: All right. So, for the corporate
14 defendant, although you have waived your right to appeal under
15 this agreement, there is still a statutory right to appeal.
16 There are time constraints on your ability to file a notice of
17 appeal. You should talk to your attorney about that.

18 If you cannot afford to hire an attorney to help you
19 prosecute the appeal, the Court would give you an attorney for
20 free.

21 Do you understand?

22 THE DEFENDANT: I understand, your Honor.

23 THE COURT: Anything else from the government today?

24 MS. DEININGER: No, your Honor.

25 THE COURT: Anything else from the defense?

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1 MR. NATHANSON: No, your Honor. Thank you, your
2 Honor.

3 THE COURT: Okay. We are adjourned. Thank you.

4 (Adjourned)

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