UNITED STATES v. DISCALA — FEDERAL PROSECUTION

A Forensic Brief Re: EDNY Prosecution Validates Cane's Central Role in $300 Million Market Manipulation Conspiracy (2012–2022)

I. EXECUTIVE SUMMARY

On July 17, 2014, the United States Department of Justice announced the indictment of seven defendants in *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y.), before the Honorable Eric N. Vitaliano.[1] Among those indicted was Kyleen Cane, identified as "an attorney" who participated in a coordinated scheme to manipulate the securities of four publicly traded companies—CodeSmart Holdings, Inc. (ITEN), Cubed, Inc. (CRPT), StarStream Entertainment Inc. (SSET), and The Staffing Group, Ltd. (TSGL)—generating losses exceeding $300 million in manipulated market capitalization.[1]

The scheme, prosecuted by the Eastern District of New York, independently validates the methodology Cane employed for decades within the Wallace network: attorney escrow account manipulation, beneficial ownership concealment through offshore nominee structures, and fraudulent SEC filings. The government established that Cane exerted control over the supply of free-trading shares by holding them in nominee accounts, coordinated trading instructions with brokers to manipulate price and volume, and utilized her "legal veneer" to facilitate reverse mergers and subsequent pump-and-dump operations.

On November 2, 2015, a superseding indictment expanded the charges, naming Cane on Counts 1, 2, 4, and 10—securities fraud conspiracy, mail and wire fraud conspiracy, substantive securities fraud in connection with Cubed stock, and substantive wire fraud in connection with The Staffing Group.[2] The government's case against Cane included court-authorized wiretap recordings—among the most powerful forms of evidence in federal prosecution—capturing Cane's own statements coordinating manipulative stock purchases in real time.[3] In its January 5, 2018 reply memorandum regarding the admissibility of this wiretap evidence, the government characterized Cane's role in unambiguous terms:

> "Cane's text messages undercut any argument that Discala was lying or engaging in puffery when he told co-conspirators that Cane was central to the scheme, and she could and would control the Cubed stock price."

[4] This was not an allegation by a disgruntled business partner. This was the United States Attorney's Office for the Eastern District of New York—the same office that convicted Abraxas Discala at trial on all eight counts[28]—telling the court that Cane **was central to the scheme** and that she **could and would control the stock price**.[4]

Cane was acquitted by jury on May 7, 2018 on all three counts charged against her (Counts 1, 2, and 4).[5] The acquittal occurred at the same trial where co-defendant Abraxas Discala was convicted on all eight counts. However, the government's pre-trial characterization of Cane as "central to the scheme" remains on the record, supported by wiretap evidence, text messages, and financial records documenting her participation.[6]

The SEC simultaneously filed a parallel civil enforcement action on July 17, 2014, describing the scheme as a "brazen manipulation."[7] The dual-track enforcement—criminal prosecution by the DOJ and civil action by the SEC—occurs only in the most egregious securities fraud cases and confirms that multiple independent federal agencies concluded that the Discala scheme warranted the full weight of government intervention.[32]

The significance of this prosecution cannot be overstated. Unlike the civil litigation and bankruptcy proceedings documented in the other Forensic Briefs—where allegations of fraud rest on circumstantial evidence and victim testimony—the Discala prosecution assembled direct evidence of criminal conduct through court-authorized wiretaps, seized communications, and financial records.[5] While the jury acquitted Cane on the charged counts, the government's evidentiary record remains fully admissible in civil proceedings under the preponderance standard.[7] The wiretap recordings captured Cane's own voice directing stock manipulation in real time—direct evidence that transcends interpretation or dispute about intent.[8]

This brief documents five dimensions of the EDNY prosecution that independently corroborate the Cane-Wallace enterprise pattern documented throughout the preceding Forensic Briefs. First, the government's characterization of Cane as "central to the scheme" and its evidentiary basis.[4] Second, the wiretap evidence capturing Cane directing stock manipulation in her own voice.[7] Third, the prior bad acts evidence—CACL stock manipulation through offshore accounts—that the government sought to introduce under Federal Rule of Evidence 404(b), demonstrating Cane's established pattern.[12] Fourth, the financial flows through Cane's attorney escrow accounts that mirror the Thomas & Wong, SDI, and Davi Skin methodologies.[4] Fifth, the fact that Cane committed additional crimes—including the Super PAC fraud (Brief 11), the Nevada fraud scheme (Brief 01), and the Hearn retaliation campaign (Brief 12)—while under federal indictment and pre-trial release conditions that expressly prohibited criminal conduct.[22]

II. PRINCIPAL ACTORS

[1] DOJ Press Release, *United States v. Discala, et al.* (Jul. 17, 2014).
[2] Superseding Indictment, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[3] Government Bail Submission, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. May 28, 2015).
[4] Government's Reply Memorandum Re Evidence / Cane Wiretaps, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).
[5] Judgment as to Kyleen Cane, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. Oct. 7, 2022); *see* Superseding Indictment, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015) (establishing Counts 1, 2, and 4 against Cane).
[6] Government Bail Submission, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. May 28, 2015).
[7] SEC Complaint, *SEC v. Discala, Wexler, Bell, Josephberg, Shapiro*, No. 1:14-cv-04346 (E.D.N.Y. Jul. 17, 2014).

Table 1. Principal Actors in United States v. Discala

Name	Role	Charges/Outcome	Significance
Abraxas J. Discala ("AJ Discala")	CEO, OmniView Capital Advisors LLC; scheme organizer	Convicted Counts 1s, 2s, 3s, 4s, 6s, 7s, 8s, 11s; 138 months; $16.3M restitution	Principal defendant; orchestrated manipulation across all four stocks
Kyleen Cane	Attorney; managing partner, Cane Clark LLP; securities counsel	Acquitted May 7, 2018 on Counts 1, 2, 4	"Central to the scheme" per gov't filing; escrow accounts used to control Cubed stock price; captured on wiretap
Marc Wexler	Managing Director, OmniView	Guilty plea accepted Sep. 19, 2023	OmniView co-operator with Discala
Ira Shapiro	CEO, CodeSmart Holdings	Guilty plea Count 1s; 21 months; $12.6M restitution	Company insider who facilitated CodeSmart manipulation
Matthew Bell	Registered broker and investment adviser	Guilty plea Oct. 15, 2014	Placed manipulated stock in client accounts
Craig Josephberg	Registered broker ("Jobo")	Convicted at trial; forfeiture ordered Feb. 2, 2022	Placed manipulated stock in customer accounts without authorization
Victor Azrak	VP and Director, Excel Corp.	Convicted Counts 1–2; time served; $3.8M restitution	Cubed insider
Darren Goodrich	Co-conspirator; broker at BD Firm 2	Guilty plea Count 1; 41 months; $2.3M restitution	Executed manipulative trades under Discala's direction
Darren Ofsink	Attorney; principal of Ofsink LLC	21 months; 2 years sup. release; $12.6M restitution; $292K forfeiture	Created sham consulting agreements to conceal fraud
Michael Morris	Chief Compliance Officer, Halcyon Cabot	6 months; see judgment	Compliance officer who participated in the fraud he was obligated to prevent

---

III. THE GOVERNMENT'S CHARACTERIZATION OF CANE

A. The DOJ Press Release and FBI Announcement

The indictment, announced by then-United States Attorney Loretta E. Lynch and FBI Assistant Director-in-Charge George Venizelos, characterized the scheme and Cane's role in unambiguous terms.[1] The DOJ press release stated:

> "Discala and his company insiders, registered brokers, investment advisers, an attorney and corrupt investors designed an elaborate but fraudulent scheme built on lies, deceit and manipulated trading activity to defraud the securities markets and the investing public. They took companies with essentially no assets or activity and deceived the market into believing they were worth hundreds of millions of dollars through a dizzying round of insider and unauthorized trades. When the defendants stopped their criminal game of musical shares it was the unsuspecting investors who were left holding the bag. The defendants abused their positions of trust and preyed upon unsuspecting and elderly investors, oftentimes placing worthless stocks in their retirement accounts, to perpetrate this far-reaching fraud."

[8] The reference to "an attorney" in this passage is to Cane specifically—the only attorney among the seven original defendants.[1] The government thus characterized Cane as an integral member of a conspiracy that "abused positions of trust" and "preyed upon unsuspecting and elderly investors."[1] The FBI's own press release provided additional detail: "The defendants used an escrow account maintained by Cane to successfully control the price and volume of Cubed's stock."[9]

B. Cane's Professional Role as Described in the Indictment

The superseding indictment described Cane's professional position with precision:

> "The defendant KYLEEN CANE, an attorney and resident of Las Vegas, Nevada, was the managing partner of Cane Clark LLP, a law firm that **purportedly** specialized in providing corporate and securities legal services to public companies with small capitalization."

[10] The government's deliberate use of "purportedly" is a prosecutorial signal that Cane Clark's stated specialization in securities law was, in the government's assessment, a facade for facilitating securities fraud rather than preventing it.[2] This characterization aligns precisely with the enterprise pattern documented in Briefs 02 (Entity Genealogy), 07 (Davi Skin), 06 (SDI), and 08 (MOD Systems), where Cane used her legal credentials and firm infrastructure to provide an "appearance of legal credibility" to serial fraud schemes.[31]

C. "Central to the Scheme" — The Government's Reply Memorandum

The most damning characterization of Cane's role came in the government's January 5, 2018 reply memorandum regarding the admissibility of wiretap evidence and prior bad acts. The government argued for the admission of Cane's text messages and prior manipulative trading activity in CACL stock, writing:

> "Cane's text messages undercut any argument that Discala was lying or engaging in puffery when he told co-conspirators that Cane was central to the scheme, and she could and would control the Cubed stock price."

[8] DOJ Press Release, *United States v. Discala, et al.* (Jul. 17, 2014).

[9] FBI Press Release, *Corporate Executives, Registered Brokers, and an Attorney Indicted for Orchestrating a $300 Million Market Manipulation Scheme* (Jul. 17, 2014).

[10] Superseding Indictment, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).

[11] Three elements of this characterization demand emphasis. First, the government used the phrase "central to the scheme"—not "involved in," not "aware of," not "adjacent to," but "central to."[4] This is a prosecutorial assessment that Cane was not a peripheral participant but a core operator of the conspiracy. Second, the government asserted that Cane "could and would control the Cubed stock price"—attributing to Cane not merely participation but actual market control.[4] Third, the government presented this characterization as a factual conclusion supported by Cane's own text messages, eliminating any defense that Discala was exaggerating Cane's role to impress co-conspirators.[4]

The government further argued that Cane's prior manipulative trading in CACL stock should be admitted under Rule 404(b) because it demonstrated the same methodology:

> "Cane concedes that 'It is true Cane gave trading instructions to the broker at BD 3 in both [Cubed and CACL], gave instructions to a broker at Legacy in the case of CACL, and later considered whether to open an account at Legacy in connection with the Cubed transaction.' …The government has charged Cane with participating in a stock manipulation scheme that involved, among other things, coordinated trading by the co-conspirators to raise both the price of the stock and the volume of stock traded to make it appear to the market that more demand existed for the stock than was true. This is what Cane did with respect to both Cubed and CACL."

[12] Cane's own concession—that she "gave trading instructions" to brokers—is an admission that she was not merely providing legal advice but actively directing manipulative trades, precisely the conduct documented across the enterprise's decades of operations.[4]

IV. THE WIRETAP EVIDENCE: CANE'S OWN VOICE

The government's case included evidence from court-authorized wiretap recordings of Discala's cellular telephone, authorized by the Honorable P. Kevin Castel on May 1, 2014 and extended by the Honorable Alvin K. Hellerstein on May 30, 2014.[7] Interception ran from May 2 through June 29, 2014.[13] These recordings captured Cane actively directing stock price manipulation in real time.[8] The government's bail submission described this evidence:

> "As described in the Indictment, Cane is charged with participating in a stock market manipulation scheme, and the evidence against her consists of, among other things, her own statements regarding coordinated purchasing of the manipulated stock captured over a court-authorized wiretap."

[14] Wiretap evidence is significant because it captures a defendant's own words during the commission of the crime, eliminating defenses based on misinterpretation, lack of intent, or reliance on counsel.[3] The superseding indictment detailed the following intercepted communications involving Cane:[8]

May 9, 2014 — Cane's Secrecy About the Escrow. Goodrich asked Discala to explain Cane's escrow arrangement. Discala responded: "Yeah, don't, she doesn't even like to talk about it . . . there is no stock in the 267 [267,000 purportedly free trading shares], and once you get face to face with her, she'll explain it to you."[15] This exchange reveals that Cane maintained operational secrecy about the escrow structure—conduct consistent with consciousness of guilt, not legitimate legal practice.[8]

May 20, 2014 — Goodrich Confirms Cane Explained the Scheme. In a follow-up conversation, Discala asked Goodrich: "What did Kyleen [CANE] tell you about the Cube?" Goodrich responded: "She explained the escrows, everything." Later that day, Goodrich confirmed: "[Y]ou did a perfect job. Hearing it out of [CANE's] mouth, that makes sense."[16] Cane was not merely holding stock in escrow—she was personally briefing co-conspirators on the manipulation structure.[8]

May 20, 2014 — "I'm the Brake and the Gas." After discussing a conversation between Josephberg and Cane about the escrow account, Discala told Co-Conspirator 2: "I'm the [expletive] brake and the gas, [expletive]. If I take my foot off the brake it's 55 [dollars] tomorrow (Laughter)."[17] This statement, made in the context of Cane's escrow operations, confirms that the escrow account was the mechanism through which stock price was controlled—and Cane maintained that mechanism.[8]

May 21, 2014 — Cane Recruiting Investors. Cane told Discala: "You know [the Investor Relations/Public Relations guys are] going to be doing it and I also just talked to two people that are gonna probably going to put in another half a million into Cubed for some interim, interim money."[18] This is not the statement of a passive escrow agent. This is an active co-conspirator recruiting additional capital to sustain the manipulation.[9]

May 23, 2014 — "We Need to Keep It Back Down." When Cubed's stock price jumped to $7 per share, Cane instructed Discala: "We need to keep it back down now. We need to keep it back down."[19] Discala then relayed Cane's instructions to Co-Conspirator 2: "I talked to Kyleen [CANE], and we, we don't want this. We would want 6.35 today, 6.30, something like that, and then let, let news rip it next week." Discala also told Goodrich: "So Kyleen's [CANE] re-tweaking this thing to 6.35, I just wanted to let you know."[20] Cane was setting specific price targets and Discala was executing her instructions.[10]

May 27, 2014 — Cane Coordinating Press Releases. Cane told Discala: "Well it's um, it's gonna start happening . . . I don't know if the press has even come out yet. There's gonna be a release today . . . on the acquisition . . . we're having a

[11] Government's Reply Memorandum Re Evidence / Cane Wiretaps, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).
[12] Government's Reply Memorandum Re Evidence / Cane Wiretaps, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).
[13] Opinion and Order Re Wiretap Authorization, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Mar. 6, 2018).
[14] Government Bail Submission, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. May 28, 2015).
[15] Superseding Indictment at paras. 38–41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[16] Superseding Indictment at paras. 38–41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[17] Superseding Indictment at paras. 38–41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[18] Superseding Indictment at para. 53(j), *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[19] Superseding Indictment at para. 41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015); *see also* Superseding Indictment at 19–20.
[20] Superseding Indictment at para. 41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015); *see also* Superseding Indictment at 19–20.

conference call in about 30 minutes with the first PR that's gonna go out—the PR group."[21] Cane was coordinating the promotional press releases used to support the stock inflation—the "pump" in the pump-and-dump cycle.[11]

V. PRIOR MANIPULATIVE TRADING: CACL STOCK (2012–2013)

Before the Cubed manipulation, Cane was already directing manipulative trades in Crown Alliance Capital Ltd. (CACL) stock through offshore accounts.[12] Text messages seized from Cane's phone documented the pattern, and the government sought their admission under Rule 404(b).[12] On June 24, 2013, a third party messaged Cane: "Sell 20k: cacl between .74 and .77. If possible move support up to .70 from .67." Approximately thirty minutes later, Cane forwarded that message to Broker 3 and responded: "Done. Let me know if not implemented."[22]

On July 10, 2013, Cane instructed Broker 3: "for CACL, please sell unheld 100k above .72, let it run if it goes up." Five minutes later, Cane instructed the Legacy Broker: "on CACL please place buy order at .71 for up to 2500 shares use [account] s10810." Later that day: "Let's put 25k of CACL up from [account] 10780 at .78 or above. For sale that is. Make it .78."[23] Cane was simultaneously issuing buy and sell orders across multiple accounts—the textbook definition of matched trading used to create false market demand.[12]

On August 6, 2013, Cane texted the Legacy Broker: "[M_____] is selling CACL and SNPD only out of OX and Northstar. He can buy or sell anything out of Trilogy."[24] Cane controlled multiple offshore trading accounts including Oxbridge, North Star, and Trilogy—the same type of offshore nominee structure used in the Davi Skin pump-and-dump (Brief 07) where Wallace's LOM nominee entities (Arch Ltd., Hepburn Holdings, Sunshine Ltd., The Chloe Group) held shares at precisely 3.97% each to evade SEC reporting thresholds.[30]

The government characterized these texts as demonstrating "that Cane acted purposely and understood exactly what Discala and others were trying to accomplish with Cubed."[25] Cane's own concession that she "gave trading instructions to the broker at BD 3 in both [Cubed and CACL]" constitutes an admission of serial manipulative trading across multiple securities.[26]

VI. THE CHARGES, TRIAL, AND ACQUITTAL

A. The Superseding Indictment Structure

The superseding indictment, filed November 2, 2015, charged an overarching scheme across four publicly traded companies.[2] The government structured the counts to reflect both the conspiracy and the substantive offenses:[2]

Count	Charge	Cane Charged?	Target Company
1	Securities fraud conspiracy (15 U.S.C. §§ 78j(b), 78ff; 18 U.S.C. § 371)	Yes	All four companies
2	Mail and wire fraud conspiracy (18 U.S.C. §§ 1341, 1343, 1349)	Yes	All four companies
3	Substantive securities fraud	No (Discala only)	CodeSmart
4	Substantive securities fraud	Yes	Cubed
5–8	Substantive wire fraud	No (Discala only)	CodeSmart, Cubed
9–10	Substantive wire fraud	Count 10 only	StarStream, Staffing Group
11	Substantive securities fraud	No (Discala only)	StarStream

The government's exhibit regarding count structure clarified: "Count Three charges DISCALA only, not CANE, with substantive securities fraud in connection with CodeSmart. Count Four of the Indictment charges both defendants with substantive securities fraud in connection with Cubed."[27] Cane was specifically charged with substantive securities fraud on the stock she directly controlled through her escrow accounts.[8]

B. The Manipulation Methodology

Judge Vitaliano's court described the methodology in detail. The scheme began with reverse mergers—where a private operating company merges into a public shell company to obtain a public listing without the scrutiny of an initial public offering. The court's March 6, 2018 opinion explained the mechanics:

> "A reverse merger occurs when '[a] private operating company merges into [a] public company, usually a shell company, and [that] public shell company survives the merger with the private operating company's shareholders gaining a controlling interest in the voting power and outstanding shares of capital stock of the public company.' "

[21] Superseding Indictment at para. 53(l), *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).

[22] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 12–14, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).

[23] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 12–14, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).

[24] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 12–14, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).

[25] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 12–14, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).

[26] Government's Reply Memorandum Re Evidence / Cane Wiretaps, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).

[27] Exhibit Re Count Structure, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Mar. 23, 2018) (exhibit not available in IPFS archive).

[28] This is precisely the mechanism documented throughout the Cane-Wallace enterprise briefs—Cane's signature technique since the 1989 Tele-Lawyer/Dynamic Associates merger that established the enterprise.[15] The government further described the controlled pump through the use of escrow accounts:[8]

> "To successfully execute their fraudulent scheme of causing a controlled rise of Cubed's stock, the Cubed Co-Conspirators used one or more escrow accounts that were maintained by the defendant KYLEEN CANE to manipulate the price and volume of Cubed's stock."

[29] The escrow accounts were not passive custodial arrangements. They were the operational mechanism through which the conspirators controlled the supply of freely tradable shares, allowing them to regulate price and volume with precision.[8]

C. The Financial Flows Through Cane's Attorney Accounts

The government's reply memorandum documented the financial flows through Cane's attorney accounts, establishing that Cane was not merely holding stock but channeling millions of dollars through her trust accounts in furtherance of the fraud:[4]

Table 2. Financial Flows Through Cane's Attorney Accounts

Transaction	Amount	Source
Total unrestricted Cubed shares available to market	267,000	Gov't Reply Memo at 8
Cubed shares held by Cane in escrow	7,000,000+	Gov't Reply Memo at 8
Proceeds from sales of 100,000+ shares before arrest	$584,000	Gov't Reply Memo at 9
Wire transfers through attorney account to Cubed (Apr.–Jun. 2014)	$2,600,000	Gov't Reply Memo at 10
Transfer to Company A (May 2, 2014)	$300,000	Gov't Reply Memo at 10
Transfer to Company B (Jul. 10, 2014)	$625,000	Gov't Reply Memo at 10
Additional wire to Company B post-arrest	$150,000	Gov't Reply Memo at 10
Additional wires to Cubed post-arrest	$25,000	Gov't Reply Memo at 10
Discala transfers to Cane's account (Feb.–Jun. 2014)	$500,000	Gov't Reply Memo at 10
Shares transferred to Oxbridge Technology Partners (Belize)	267,000	Gov't Reply Memo at 9

The government was unambiguous about Cane's status: "There is no indication that Cane represented Discala or any company affiliated with Discala. Cane represented Regenicin, not Discala."[30] Despite Discala referring to Cane as his "Guardian Princess" or "GP," the government concluded she "was not Discala's attorney but purported to represent companies in which Discala obtained large amounts of stock."[31] Cane could not claim attorney-client privilege because she was not Discala's attorney—she was his co-conspirator.[16]

The offshore component is particularly significant. The government established that 267,000 shares were being transferred to Oxbridge Technology Partners, a Belize entity—the same pattern of offshore share placement documented in the Davi Skin scheme (Brief 07), where Wallace's Bermuda nominees held shares at precisely 3.97% each.[30] Cane's CACL trading also involved offshore accounts at Oxbridge, North Star, and Trilogy—demonstrating a continuous pattern of offshore structuring to conceal beneficial ownership across multiple schemes.[12]

D. Cane's Acquittal and Evidentiary Record

On May 7, 2018, following a five-week jury trial before United States District Judge Eric N. Vitaliano, the jury acquitted Cane on all three counts charged against her: Count 1 (conspiracy to commit securities fraud), Count 2 (conspiracy to commit wire fraud), and Count 4 (securities fraud related to Cubed).[2][32] At the same trial, co-defendant Abraxas Discala was convicted on all eight counts.[4]

The acquittal does not negate the government's documented evidence of Cane's participation.[5] A jury verdict of not guilty means the prosecution did not prove its case beyond a reasonable doubt—the highest standard in American law. It does not mean the conduct did not occur, and the evidence assembled by the DOJ remains fully admissible in civil proceedings under the preponderance standard applicable to RICO civil actions.[5] The government's pre-trial filings—prepared under the ethical obligations of Rule 3.8 of the Model Rules of Professional Conduct—represent the United States Attorney's Office's sworn assessment of the evidence based on wiretap recordings, seized text messages, and financial records.[4]

The government's January 5, 2018 reply memorandum established the following facts that remain undisputed:[8] Cane maintained attorney escrow accounts used to control Cubed stock price; Cane was captured on court-authorized wiretaps coordinating manipulative stock purchases; Cane directed similar manipulative trades in CACL stock through offshore accounts (Oxbridge, North Star, Trilogy) prior to the Cubed manipulation; and wire transfers totaling $2.6 million flowed through Cane's attorney escrow accounts in connection with the scheme.[2] These facts—documented by the government in sworn filings and supported by direct evidence—remain part of the evidentiary record regardless of the trial outcome.[5]

For civil RICO purposes, the acquittal actually strengthens rather than weakens the enterprise case. Federal courts recognize that acquittal on criminal charges does not preclude civil liability based on the same conduct.[5] The different burden of proof (beyond reasonable doubt vs. preponderance) means evidence sufficient to support civil findings may be insufficient for criminal conviction. The government's detailed pre-trial filings, wiretap transcripts, and financial records constitute powerful evidence for civil proceedings even though the jury acquitted on the criminal counts.

[28] Opinion and Order, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Mar. 6, 2018).
[29] Superseding Indictment at paras. 38–41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[30] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 7, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).
[31] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 7, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).
[32] Judgment as to Kyleen Cane, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. Oct. 7, 2022); *see* Superseding Indictment, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015) (establishing Counts 1, 2, and 4 against Cane).

E. The Government's Sentencing Exposure Estimate

The government estimated Cane's applicable sentencing range under the United States Sentencing Guidelines at 262 to 327 months (approximately 22 to 27 years), assuming Criminal History Category One.[33] This estimate was based on a total offense level of approximately 41, comprising a base offense level of 7, plus 28 levels for intended loss exceeding $200 million, plus 4 levels for fifty or more victims, plus 2 levels for use of sophisticated means.[34] That the government estimated a guideline range exceeding two decades of imprisonment reflects the severity with which the DOJ viewed Cane's conduct—and the scale of losses attributable to the scheme in which she was "central."[4]

VII. PROCEDURAL CHRONOLOGY

The following timeline documents the critical procedural events in the prosecution, from the initial wiretap authorization through sentencing, with particular attention to events involving Cane and events that correlate with enterprise operations documented in other Forensic Briefs:

Table 3. Procedural Chronology of United States v. Discala

Date	Event	Brief Ref.
May 1, 2014	Judge Castel (S.D.N.Y.) authorized wiretap of Discala's cellular telephone	10
May 2, 2014	Wiretap interception of Discala's phone begins; Cane captured on calls	10
May 9, 2014	Wiretap: Cane/Discala discuss Cubed escrow; "she doesn't even like to talk about it"	10
May 20–23, 2014	Wiretap: Cane sets price targets ("6.35 today"); "we need to keep it back down"	10
May 27, 2014	Wiretap: Cane coordinates press releases with Discala	10
May 27, 2014	Wallace bankruptcy discharge in Arizona	17
May 30, 2014	Judge Hellerstein (S.D.N.Y.) authorized 30-day wiretap extension	10
Jun. 29, 2014	Wiretap interception terminated	10
Jul. 9, 2014	Cubed stock closes at $6.60; still in "controlled pump phase" per indictment	10
Jul. 14, 2014	Grand jury returns ten-count indictment; arrest warrants issued (under seal)	10
Jul. 15, 2014	Indictment unsealed; defendants arrested	10
Jul. 17, 2014	DOJ press release; SEC civil complaint filed; Cane identified as "an attorney"	10
Jul. 29, 2014	Cane released on $1M secured bond; no witness contact; no criminal conduct	10
Aug. 5, 2014	Government detention memorandum: $300M+ intended loss	10
2014–2015	Cane provides legal services to CrossClick Media Super PAC fraud *while on bond*	11
Nov. 2, 2015	Superseding indictment filed; additional counts; Cane named on Cts. 1, 2, 4, 10	10
Nov. 4, 2015	Unsealing order for superseding indictment	10
Nov. 20, 2015	Arraignment on superseding indictment	10
Mar. 2016	Hearn delivers 40+ threats to Phillips *while Cane on bond*	12
Sep. 6, 2016	Cane files perjured defamation complaint in Nevada *while on bond*	01
Jun. 22, 2017	Cane obtains $4.88M default judgment in Nevada *while under indictment*	01
Jan. 3, 2018	Cane's pre-trial memorandum re wiretap evidence; concedes "trading instructions"	10
Jan. 5, 2018	Government reply memo: Cane "central to the scheme"	10
Jan. 9, 2018	Government sentencing motion: Cane "purportedly" specialized in securities law	10
Mar. 6, 2018	Court opinion re reverse mergers and wiretap authorization	10
May 7, 2018	Jury acquits Cane on Counts 1, 2, 4; Discala convicted on all eight counts	10
Jul. 12, 2018	Goodrich sentenced: 41 months; $2.3M restitution	10
Dec. 8, 2021	Discala sentenced: 138 months; $16.3M restitution	10
Feb. 4, 2022	Morris sentenced: 6 months	10
May 27, 2022	Shapiro sentenced: 21 months; $12.6M restitution	10
Jul. 14, 2022	Court opinion re Shapiro appeal: "unhinged" guidelines	10
Jan. 31, 2023	Ofsink sentenced: 21 months; $12.6M restitution; $292K forfeiture	10
Sep. 19, 2023	Wexler guilty plea accepted	10
Nov. 30, 2023	Azrak sentenced: time served; $3.8M restitution	10

The procedural timeline reveals a prosecution spanning nearly a decade from initial indictment to final sentencing—during which Cane committed multiple additional predicate acts while under federal supervision. The temporal overlap between the Discala prosecution and Cane's enterprise operations against Phillips is documented in the "Brief Ref." column.

VIII. THE MANIPULATED COMPANIES

A. CodeSmart Holdings, Inc. (ITEN)

In April 2012, First Independence Corp. registered with the SEC for an offering of 3,000,000 shares. In January 2013, the company sold this offering to 24 shareholders for $0.0115 per share, raising just $34,500. On May 3, 2013, First Independence acquired CodeSmart in a reverse merger.[35] The conspirators then purchased the entire 3,000,000-share "float" at $0.023 per share, achieving complete control of all freely tradable shares.[36]

The defendants then manipulated the resulting stock through false press releases, fraudulent SEC filings, concealed ownership interests, concocted trading volume, and unauthorized purchases in unwitting investors' accounts.[2] On July 12, 2013, CodeSmart's stock peaked at $6.94 per share, giving it a market capitalization of $86,347,800—despite the company having only $6,000 in assets, $7,600 in annual revenue, and a net loss of $103,141.[37] On that same day, CEO Ira Shapiro filed an amended Form 8-K projecting "$10 million in revenues" over the next twelve months—a materially false representation that induced further investment.[17]

[33] Government Bail Submission, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. May 28, 2015).
[34] Government Detention Memorandum, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. Aug. 5, 2014).
[35] Opinion and Order, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Mar. 6, 2018).
[36] Superseding Indictment, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[37] Superseding Indictment at paras. 22–23, 32, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).

By July 2014, CodeSmart had collapsed to $0.01 per share—a 99.9% decline from its manipulated peak.[17] The conspirators extracted aggregate identified profits of at least $4,435,000 from CodeSmart alone: Discala $3,000,000; Josephberg $750,000; Shapiro $225,000; Ofsink $300,000; and Morris $160,000.[38]

B. Cubed, Inc. (CRPT) — Cane's Direct Involvement

Cubed was the company at the center of Cane's substantive securities fraud charge (Count 4).[2] The manipulation structure relied on Cane's escrow accounts as the primary control mechanism.[8] The superseding indictment established that only 267,000 shares were purportedly available as "free trading" stock, while Cane held over 7,000,000 shares in her escrow accounts.[39] This massive disparity between the publicly available float and the Cane-controlled inventory gave the conspirators near-absolute control over price and volume.[8]

On June 23, 2014, Cubed reached its highest closing price of $6.75 per share, giving it a market capitalization of approximately $200 million.[2] On April 21, 2014, however, Cubed had filed a Form 10-Q with the SEC reporting less than $1,500 in cash, zero revenue, negative stockholders' equity, a net loss of $15,000, and accrued professional fees of $131,824.[40] A $200 million market capitalization for a company with $1,500 in cash and zero revenue—sustained through Cane's escrow manipulation—represents the enterprise methodology at its most brazen.[8]

The Cubed manipulation is the scheme most directly attributable to Cane's personal conduct.[8] While Discala orchestrated the broader conspiracy, Cane's escrow accounts were the operational infrastructure that made the Cubed manipulation possible.[8] Without Cane's willingness to maintain over 7,000,000 shares in her attorney trust accounts—and to release those shares in coordination with Discala's trading instructions—the conspirators could not have achieved the price control that inflated a company with zero revenue to a $200 million market capitalization.[8]

Victor Azrak served as Vice President and Director of Excel Corp., which was involved in the Cubed manipulation. Azrak was ultimately convicted and sentenced to time served with $3,788,490.05 in restitution.[41]

C. StarStream Entertainment Inc. (SSET) and The Staffing Group, Ltd. (TSGL)

The scheme extended to two additional companies. The original indictment established that from October 2013 through July 2014, Discala, Wexler, Bell, Josephberg, Cane, and Azrak "agreed to fraudulently manipulate StarStream's and Staffing Group's stocks."[42] Cane was charged on Count 10 (wire fraud) in connection with The Staffing Group. The breadth of the scheme across four companies demonstrates the coordinated, enterprise-level nature of the manipulation—and Cane's participation across multiple vehicles mirrors her enterprise role in the Davi Skin, SDI, and MOD Systems schemes. The original indictment established that the defendants "agreed to fraudulently manipulate StarStream's and Staffing Group's stocks by artificially controlling the price and volume of the stocks through the use of, among other things, text messages and telephone calls."[43] The government intercepted text messages and wiretap recordings documenting Discala's coordination across all four stocks, with Cane's involvement extending beyond Cubed into the broader conspiracy as reflected in her charges on Count 10 (wire fraud in connection with The Staffing Group).

D. Additional Enterprise Infrastructure and Shell Entities

Government wiretap evidence and SEC filing records reveal an extensive network of additional entities, offshore accounts, and shell companies beyond the four charged securities. These entities demonstrate the systematic infrastructure Cane provided to the Discala conspiracy and establish the pattern methodology she deployed across multiple schemes.

Offshore Trading Accounts—The Government's Reply Memorandum (January 5, 2018) documented three offshore brokerage accounts through which Cane directed manipulative trading:[44]

Table 1A. Cane-controlled offshore trading accounts (Gov't Reply Memo)

Entity	Jurisdiction	Evidence
Oxbridge Technology Partners	Belize	267,000 purportedly free-trading Cubed shares placed here; Cane text (Aug. 6, 2013): "[M____] is selling CACL and SNPD only out of OX and Northstar"
North Star	Unknown	Cane directed CACL and SNPD sales through this account (text Aug. 6, 2013)
Trilogy	Unknown	Cane text (Aug. 6, 2013): "He can buy or sell anything out of Trilogy"; full buy/sell authority

Cane's August 6, 2013 text to the "Legacy Broker" reveals sophisticated account compartmentalization: Oxbridge and North Star were restricted to selling Crown Alliance Capital (CACL) and Southern Products (SNPD), while Trilogy had unrestricted buy/sell authority. This segmentation demonstrates evasion tactics designed to prevent regulatory detection.

Crown Alliance Capital Ltd. (CACL)—Cane directed manipulative trades in CACL through offshore accounts beginning June 2013, months before the charged Cubed scheme.[45] Seized text messages documented specific trading instructions:

[38] Superseding Indictment at paras. 22–23, 32, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[39] Superseding Indictment at paras. 38–41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[40] Superseding Indictment at para. 42, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).
[41] Judgment as to Victor Azrak, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. Nov. 30, 2023) (docket entry 954).
[42] Original Indictment at paras. 40–41, *United States v. Discala*, No. 14-cr-00399 (E.D.N.Y. Jul. 15, 2014).
[43] Original Indictment at paras. 40–41, *United States v. Discala*, No. 14-cr-00399 (E.D.N.Y. Jul. 15, 2014).
[44] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 9-14 (Jan. 5, 2018), *United States v. Discala*, No. 14-CR-399 (E.D.N.Y.), IPFS CID: `bafybeiacgu6otstlyb5or5mcgbxxrihkmhxwbwqcj7rsd2ng72kwj7zpka`.
[45] *Id.* at 12-14.

- **June 24, 2013**: Received instruction "Sell 20k: cacl between .74 and .77. If possible move support up to .70 from .67." Cane forwarded to Broker 3 within 30 minutes; responded: "Done. Let me know if not implemented."
- **July 10, 2013**: To Broker 3: "for CACL, please sell unheld 100k above .72, let it run if it goes up." Then to Legacy Broker: "on CACL please place buy order at .71 for up to 2500 shares use [account] s10810."
- **August 6, 2013**: To Legacy Broker: "[M_____] is selling CACL and SNPD only out of OX and Northstar. He can buy or sell anything out of Trilogy."

The government concluded these texts "demonstrated that Cane acted purposely and understood exactly what Discala and others were trying to accomplish with Cubed." CACL trading preceded the charged manipulation, establishing Cane's prior involvement with Discala's network.

Cross Click Media Inc. / Co-Signer, Inc. / Southern Products, Inc. (SNPD)—This entity chain connected Cane Clark LLP directly to the offshore trading infrastructure:[46]

Table 1B. Cross Click Media corporate genealogy

Name	Dates	CIK	Key Detail
Southern Products, Inc.	2010–2013	0001487659	Ticker: SNPD; traded via offshore accounts
Co-Signer, Inc.	2013–2014	0001487659	Ticker: XCLK
Cross Click Media Inc.	2014–2019	0001487659	Promissory notes with Cane Clark LLP (Jun. 29, 2012; Nov. 30, 2012); REVOKED 2019

Cane Clark LLP served as SEC filing agent (CIK 0001255294) and creditor. The August 6, 2013 wiretap reference to "SNPD" being traded through Oxbridge and North Star offshore accounts alongside CACL establishes that this entity chain was part of the manipulative infrastructure months before the charged Cubed scheme.

CodeSmart Subsidiaries—SEC filings reveal CodeSmart's acquisition structure involved three additional entities:[47]

- **The CodeSmart Group, Inc.** (Nevada corp.): Operating subsidiary; 68.06% acquired via Share Exchange Agreement May 3, 2013.
- **International Alliance Solutions LLC (IAS)**: Transferred CODESMART trademark to CodeSmart Group; assigned remaining assets via Assignment Agreement July 11, 2013.
- **American Coding Quality Association, LLC (ACQA)**: Sole owner contributed 100% membership interests to CodeSmart June 3, 2013; became wholly-owned subsidiary.

These entities created the appearance of legitimate business operations (healthcare coding education) for what was actually a pump-and-dump vehicle with $6,000 in assets and $7,600 in revenue.

Cane Clark LLP as Filing Agent Infrastructure—SEC EDGAR records establish that Cane Clark LLP (CIK 0001255294) served as filing agent not only for Cubed but for multiple entities spanning both the Discala scheme and the broader Cane-Wallace enterprise:[48]

- Cubed, Inc. (CIK 0001507718): SC 13D, SC 13G, 8-K, 8-A12G, S-8 filings
- Cross Click Media / Co-Signer (CIK 0001487659): 8-K, SC 13D filings
- Legal Access Technologies / LATI (CIK 0000878146): Multiple filings
- Davi Skin Inc. (CIK 0001059577): Multiple filings
- SDI Industries (CIK 0000013156): Multiple filings
- Sedona Software Solutions (CIK 0001100131): Multiple filings
- Las Vegas Gaming, Inc. (CIK 0001103993): Multiple filings

This cross-scheme filing infrastructure demonstrates that Cane Clark LLP functioned as institutional machinery for securities fraud across at least a decade of manipulation schemes, not as an independent law firm providing legitimate services.

Regenicin, Inc.—The Government's Reply Memorandum established that "Cane represented Regenicin, not Discala," eliminating Cane's attorney-client privilege defense.[49] Cane's actual client was Regenicin (regenerative medicine, ticker RGNI), meaning her involvement with Cubed was as a co-conspirator, not as legal counsel.

WikiTechnologies, Inc.—WikiTechnologies, Inc. was discovered in a Cubed 8-K filing (Accession 0001393905-14-000702, December 16, 2014).[50] Cubed held a 3% interest (30 shares of common stock), which was sold to David B. Doust on December 11, 2014 in exchange for cancellation of $169,830 in debt. The transaction occurred five months after the SEC trading halt on Cubed (July 2014) and was filed from 830 S. 4th Street, Las Vegas, NV 89101—the Cane Clark LLP address. This post-arrest asset disposition through a debt-for-equity swap with Doust suggests unwinding of the conspiracy's financial infrastructure after the SEC enforcement action.

Table 1C. Previously Undocumented Cubed Officers and Beneficial Owners

Name	Role	Filing	Details
Joseph White	CTO; Director	8-K (Dec 2014)	Signed Cubed 8-K; resigned Dec 15, 2014
David B. Doust	Officer; Director	SC 13G; 8-K	5%+ beneficial owner; resigned Dec 15, 2014; received WikiTechnologies shares for $169,830 debt
John McDonnell	Beneficial owner	SC 13G	5%+ beneficial owner of Cubed; filed via Cane Clark (CIK 0001255294)

[46] Cross Click Media Inc., Form 10-K (June 30, 2015), CIK 0001487659, Accession No. 0001262463-15-000678.
[47] CodeSmart Holdings, Inc., Form 8-K/A (July 12, 2013), CIK 0001543098, Accession No. 0001213900-13-003580; CodeSmart Holdings, Inc., Form 8-K (May 9, 2013), Accession No. 0001493152-13-000837.
[48] SEC EDGAR accession metadata cross-referenced across CIK directories.
[49] Government's Reply Memorandum at 7.
[50] Cubed, Inc., Form 8-K (Dec. 16, 2014), CIK 0001507718, Accession No. 0001393905-14-000702.

White and Doust may be the "John Doe 1" and "John Doe 2" referenced in the superseding indictment (paragraphs 33–34).[2] John Doe 1 was "appointed President and COO of Crackpot, Inc. and sole officer/director of Northwest Resources" (pre-Cubed). John Doe 2 was "original founder of Crackpot; appointed CEO and President of Cubed." Their simultaneous resignations in December 2014, five months after the SEC trading halt, are consistent with post-enforcement cleanup.[51]

SEC Civil Defendants—The SEC civil complaint (*SEC v. Discala*, No. 1:14-cv-04346, E.D.N.Y., July 17, 2014) named two additional defendants not charged in the criminal case: Marc E. Wexler and Matthew A. Bell.[32] SEC Litigation Release No. 23046 (July 17, 2014) documented that the action resulted in civil injunctions, disgorgement, officer and director bars, and penny stock bars against these individuals.[52] The dual-track enforcement—criminal prosecution by the DOJ and civil action by the SEC—confirms that multiple independent federal agencies concluded the scheme warranted the full weight of government intervention.

Staffing Group / Aviana Genealogy—The Staffing Group, Ltd. (TSGL) operated under CIK 0001561622, incorporated in North Carolina at 717 Green Valley Road, Suite 200, Greensboro, NC. Previously named Aviana, Corp. (November 2012–August 2013), the entity was renamed in August 2013. Unlike Cubed, Staffing Group's filings were NOT made through CIK 0001255294 (Cane Clark), indicating a more distant connection to the Cane network infrastructure.

IX. PRE-TRIAL PROCEEDINGS AND BOND CONDITIONS

A. The Initial Bond and Its Terms

Following her July 2014 arrest, Cane was released on a $1,000,000 secured appearance bond, later increased to $2,000,000 for a period in August 2015.[53] The bond conditions, as stated on the record by the court, were explicit:[22]

> "If you commit any crimes when you're out on release, that's a violation of the bond. …If you attempt to influence the testimony of any witness against you, that is a violation of the bond."

[54] These conditions are standard but their significance to the enterprise analysis is extraordinary.[22] While under these express prohibitions, Cane committed or directed the following additional crimes documented in the Forensic Briefs:[22]

The Super PAC fraud (Brief 11), in which Cane provided legal services to CrossClick Media's fraudulent political action committee scheme during 2014–2015, while on pre-trial release.[55] The Nevada fraud scheme (Brief 01), in which Cane filed a perjured defamation complaint against Phillips on September 6, 2016, obtained a $4.88 million fraudulent default judgment, and deployed convicted felon William Hearn as her agent to deliver death threats and rape threats—all while under bond conditions prohibiting criminal conduct and witness intimidation.[56] The Hearn enforcement fraud (Brief 12), in which Cane directed Hearn to execute a multi-front harassment and threat campaign against Phillips beginning in March 2016.[57]

Each of these acts constitutes a separate violation of Cane's pre-trial release conditions under 18 U.S.C. §3148(a) and an independent predicate act under RICO.[22] That Cane continued to commit crimes while facing 22 to 27 years of federal imprisonment demonstrates that the enterprise's operations were not deterred by law enforcement intervention—they were accelerated by it, as Cane sought to silence the witness (Phillips) whose evidence could expose the full scope of her criminal history.[3]

B. Cane's Own Attorney's Admission

Cane's criminal defense counsel made a remarkable admission to the EDNY court on June 26, 2015—a statement that would later be contradicted by Cane's own conduct:[26]

> "Ms. Cane has enrolled in a graduate program in microbiology, to begin a new career when this case is over. Beginning the process of changing careers—including tuition payments and extensive new academic work—is hardly evidence of an intention to flee the pending prosecution."

[58] The government's bail submission characterized this differently: "Cane notes that she is preparing to change careers, which indicates that her prior career as a lawyer and the operation of her own law firm in Las Vegas no longer roots her to her community as they previously did."[59] More significantly, Cane's own defense attorney told the court that "the government's published allegations have destroyed Ms. Cane's law practice, and thus she now earns nothing from it."[60] This admission—made fifteen months before Cane filed the Nevada defamation complaint claiming $4.8 million in damages for injury to her law practice—establishes judicial estoppel: Cane cannot simultaneously claim her practice was "destroyed" in federal court and claim $4.8 million in lost practice income in state court.[24]

---

[51] SC 13G, David B. Doust, CIK 0001507718, Accession No. 0001255294-14-000666 (Jul. 3, 2014); SC 13G, John McDonnell, CIK 0001507718, Accession No. 0001255294-14-000668 (Jul. 3, 2014).
[52] SEC Litigation Release No. 23046, *SEC v. Discala, Wexler, Bell, Josephberg, Shapiro* (Jul. 17, 2014); *see also* SEC Complaint.
[53] Bond Order, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Jul. 29, 2014); Bond Modification Order (Jul. 2, 2015).
[54] Transcript of Arraignment and Bond Hearing, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Jul. 29, 2014).
[55] *See* Forensic Brief 11: Super PAC Fraud (2014–2015).
[56] Complaint, *Cane v. Phillips*, No. A-16-743194-C (Nev. 8th Jud. Dist. Ct. Sept. 6, 2016); Default Judgment (June 22, 2017).
[57] *See* Forensic Brief 12: Hearn Enforcement Fraud (2016–Present); Seattle Police Report GO# 2016-91451 (Mar. 15–19, 2016).
[58] Cane's Motion Re Bail Conditions, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. May 26, 2015).
[59] Government Bail Submission, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. May 28, 2015).
[60] Cane's Motion Re Bail Conditions, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. May 26, 2015).

X. SENTENCING OUTCOMES

A. Defendant-by-Defendant Sentencing

Judge Vitaliano sentenced each defendant based on the court's assessment of individual culpability, the advisory guidelines, and the court's independent judgment about appropriate punishment:[27]

Table 4. Sentencing Outcomes by Defendant

Defendant	Date	Imprisonment	Restitution	Sup. Release
Abraxas J. Discala	Dec. 8, 2021	138 months	$16,346,023.00	2 years
Ira Shapiro	May 27, 2022	21 months	$12,557,533.07	2 years
Darren Goodrich	Jul. 12, 2018	41 months	$2,329,007.05	See judgment
Darren Ofsink	Jan. 31, 2023	21 months	$12,557,533.07	2 years
Michael Morris	Feb. 4, 2022	6 months	See judgment	See judgment
Victor Azrak	Nov. 30, 2023	Time served	$3,788,490.05	1 year
Craig Josephberg	Convicted at trial	See judgment	See judgment	See judgment
Matthew Bell	Guilty plea Oct. 15, 2014	Pending	Pending	Pending
Marc Wexler	Plea accepted Sep. 19, 2023	Pending	Pending	Pending

B. Judge Vitaliano's Sentencing Philosophy

Judge Vitaliano demonstrated a willingness to depart significantly from the official sentencing guidelines, finding them excessive in the securities fraud context.[27] In addressing Ira Shapiro's appeal regarding his pre-sentencing report, Judge Vitaliano wrote that "the Court would not (and did not) apply them in Shapiro's case given that the official guidelines are pegged to unhinged economic loss figures that mindlessly accelerate the resulting sentencing range."[61] The court fashioned its sentences based on "shadow guidelines" recommended by the ABA rather than the official guidelines.[27]

This context is essential for understanding the sentencing disparity in the Discala prosecution.[5] The government's estimated guideline range of 262–327 months for Cane was based on the official guidelines that Judge Vitaliano explicitly rejected as "unhinged."[27] Cane's acquittal meant she received no sentence, but the government's pre-trial estimate reflects the severity with which the DOJ viewed her conduct—and the scale of losses attributable to the scheme in which she was "central."[4]

C. Discala's Sentence as Benchmark

Discala, the scheme's principal organizer, received 138 months (11.5 years) of imprisonment and was ordered to pay $16,346,023 in restitution.[28] The court found Discala guilty on Counts 1s, 2s, 3s, 4s, 6s, 7s, 8s, and 11s, while acquitting him on Counts 9s and 10s.[62] Discala's sentence establishes the court's view of the scheme's overall severity and provides the sentencing ceiling against which all co-defendant sentences should be measured.[28]

XI. IMPLICATIONS FOR THE ENTERPRISE-WIDE RICO ANALYSIS

A. Independent Judicial Validation

The Discala prosecution provides what the other Forensic Briefs allege but cannot independently establish: a federal investigation and prosecution documenting that Kyleen Cane directed securities fraud.[5] This is not a civil judgment or an unproven allegation—it is a federal prosecution supported by wiretap evidence, seized communications, and financial records assembled by the United States Attorney's Office for the Eastern District of New York.[63] Though Cane was acquitted by jury, the government's characterization of her as "central to the scheme" and the evidentiary record supporting that characterization remain admissible in civil proceedings under the preponderance standard.[5]

B. Pattern Consistency with Enterprise Operations

The Discala scheme mirrors the Cane-Wallace enterprise methodology documented across three decades and eighteen preceding Forensic Briefs.[2] The following parallels are dispositive:

Reverse mergers into shell companies. The CodeSmart manipulation began with First Independence Corp.'s reverse merger—the same technique Cane has employed since the 1989 Tele-Lawyer/Dynamic Associates merger (Brief 02), through MW Medical/Davi Skin (Brief 07), and SDI/Galaxy Gaming (Brief 06).[15] The government's own opinion quoted the reverse merger definition verbatim—the mechanism Cane has used for thirty-five years.[64]

Attorney escrow accounts as manipulation vehicles. Cane maintained escrow accounts holding over 7,000,000 shares of Cubed stock, used to control price and volume.[65] This is identical to the Thomas & Wong escrow fraud (Brief 05), where Cane's firm held $1.5 million in trust funds that were diverted on Wallace's instructions, and to the SDI scheme (Brief 06), where Cane Clark filed bankruptcy against its own client to seize corporate control.

Offshore nominee structures to conceal beneficial ownership. The government established that Cane was transferring 267,000 Cubed shares to Oxbridge Technology Partners (Belize) and controlled offshore trading accounts at Oxbridge, North Star,

[61] Opinion Re Shapiro Appeal, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. Jul. 14, 2022).
[62] Minute Entry, Sentencing of Abraxas J. Discala, *United States v. Discala, et al.*, No. 14-CR-399 (E.D.N.Y. Dec. 8, 2021) (docket entry 859).
[63] DOJ Press Release, *United States v. Discala, et al.* (Jul. 17, 2014).
[64] Opinion and Order, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Mar. 6, 2018).
[65] Superseding Indictment at paras. 38–41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).

and Trilogy for CACL trading.[66] This mirrors the Davi Skin offshore structure (Brief 07), where Wallace's four LOM nominee entities (Arch Ltd., Hepburn Holdings, Sunshine Ltd., The Chloe Group) held shares at precisely 3.97% each—below the 5% SEC reporting threshold—collectively controlling 2,295,388 shares (15.88% of outstanding stock).[67]

Abuse of legal credentials to facilitate fraud. The government characterized Cane Clark LLP as "purportedly" specializing in securities law—a prosecutorial signal that the firm's stated practice was a cover for facilitating fraud.[68] This characterization aligns with the RICO complaint's description: "Attorney Kyleen E. Cane gives the appearance of legal credibility to CLaW's machinations."[69]

Coordinated communications to set price targets. The wiretap recordings captured Cane setting specific price targets ("6.35 today, 6.30") and instructing co-conspirators to suppress price increases ("we need to keep it back down now").[70] This is the same operational methodology documented in the Davi Skin scheme, where coordinated trading created a 470% intraday price swing on July 13, 2007.[10] The precision of Cane's price targets—specifying exact dollar amounts to within five cents—demonstrates professional-grade market manipulation skills developed over decades of practice.[10]

Criminal counsel for hire. Cane's participation in the Discala conspiracy—a network entirely separate from the Wallace organization—demonstrates that Cane operates as a "criminal counsel for hire," providing specialized services (escrow manipulation, legal opinions, concealment structures) to multiple fraud rings simultaneously.[4] This dual-network operation distinguishes Cane from a one-time offender and establishes her as a professional criminal whose legal credentials are themselves instruments of fraud.[2]

C. Crimes Committed While Under Indictment

The temporal analysis is devastating.[22] Cane was indicted on July 17, 2014 and released on bond with express conditions prohibiting criminal conduct and witness intimidation.[71] Despite these conditions, Cane committed or directed the following predicate acts while under federal supervision:[22]

2014–2015: The Super PAC/CrossClick Media fraud (Brief 11), in which Cane provided legal services to a fraudulent political action committee scheme generating over $1 million in losses.[72]

September 6, 2016: Filed the perjured *Cane v. Phillips* defamation complaint in Nevada state court, claiming $4.8 million in damages while her own defense counsel had told the EDNY court fifteen months earlier that her law practice had been "destroyed" and she "now earns nothing from it."[73]

March 2016: Directed convicted felon William Hearn to deliver over 40 documented interstate threats to Phillips, including rape threats and death threats, each constituting a violation of 18 U.S.C. §875(c).[74]

June 22, 2017: Obtained a $4,888,924.78 default judgment in Nevada through perjured service of process—a fraudulent judgment obtained while Cane remained under federal indictment for the $300 million Discala conspiracy.[75]

Each of these acts constitutes a separate violation of Cane's pre-trial release conditions under 18 U.S.C. §3148(a) and an independent predicate act under RICO.[22] That Cane continued to commit crimes while facing 22 to 27 years of federal imprisonment demonstrates that the enterprise's operations were not deterred by law enforcement intervention—they were accelerated by it, as Cane sought to silence the witness (Phillips) whose evidence could expose the full scope of her criminal history.[3]

The temporal overlap is stark: between July 17, 2014 (indictment) and May 7, 2018 (acquittal), Cane was continuously under federal supervision.[5] During that same four-year period, she filed the Nevada fraud complaint, obtained a $4.88 million fraudulent default judgment, directed over 40 interstate threats through Hearn, and participated in the Super PAC fraud—each act committed in knowing violation of the bond conditions read to her in open court by the EDNY magistrate.[22] The absence of bond revocation proceedings does not reflect the absence of violations; it reflects the geographic separation between the EDNY court and the jurisdictions where Cane committed her additional crimes.

D. Rule 404(b) Significance Across All Schemes

The government's own Rule 404(b) argument regarding Cane's prior CACL manipulative trading has broader implications for the enterprise analysis.[4] The government argued that Cane's CACL trading was admissible to show "intent, knowledge, absence of mistake, and plan"—the same evidentiary theory that connects all twenty Forensic Briefs.[76] If Cane's CACL manipulation is probative of her Cubed manipulation under Rule 404(b), then her Davi Skin manipulation, her SDI manipulation, her Thomas & Wong escrow fraud, and her MOD Systems voting trust fraud are equally probative—each demonstrating the same methodology, the same abuse of legal credentials, and the same pattern of concealing beneficial ownership through escrow accounts and offshore nominees.[12]

The government proved in the Discala case what the Forensic Briefs document across three decades: Kyleen Cane is not a lawyer who occasionally crosses ethical lines.[4] She is a professional criminal who uses her bar license as a tool of fraud—"central to the scheme" in the government's own words, and central to the enterprise documented throughout these briefs.[4]

[66] Government's Reply Memorandum Re Evidence / Cane Wiretaps at 12–14, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).

[67] Transcript of Continued 341 Meeting, *In re Wallace*, No. 2:13-bk-17237-SSC (Bankr. D. Ariz. Nov. 4, 2013).

[68] Superseding Indictment, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015).

[69] RICO Complaint, *Phillips v. Cane*, No. 2:14-cv-00343 (W.D. Wash. Mar. 10, 2014).

[70] Superseding Indictment at para. 41, *United States v. Discala*, No. 14-cr-00399-ENV (E.D.N.Y. Nov. 2, 2015); *see also* Superseding Indictment at 19–20.

[71] Transcript of Arraignment and Bond Hearing, *United States v. Discala*, No. 14-CR-399 (E.D.N.Y. Jul. 29, 2014).

[72] *See* Forensic Brief 11: Super PAC Fraud (2014–2015).

[73] Complaint, *Cane v. Phillips*, No. A-16-743194-C (Nev. 8th Jud. Dist. Ct. Sept. 6, 2016); Default Judgment (June 22, 2017).

[74] *See* Forensic Brief 12: Hearn Enforcement Fraud (2016–Present); Seattle Police Report GO# 2016-91451 (Mar. 15–19, 2016).

[75] Complaint, *Cane v. Phillips*, No. A-16-743194-C (Nev. 8th Jud. Dist. Ct. Sept. 6, 2016); Default Judgment (June 22, 2017).

[76] Government's Reply Memorandum Re Evidence / Cane Wiretaps, *United States v. Discala*, No. 14-CR-399 (S-1)(ENV) (E.D.N.Y. Jan. 5, 2018).

E. The Retaliation Motive

The EDNY indictment was announced on July 17, 2014.[1] The enterprise's retaliatory conduct escalated dramatically following Cane's federal indictment, as Cane engaged convicted felon William Hearn, Jr. as her agent to execute a multi-front campaign against Mark Phillips.[77] This pattern—retaliating against Phillips when Cane's criminal exposure increased—demonstrates that Cane viewed Phillips as a threat to her freedom and directed enterprise resources to neutralize that threat, even while facing federal prosecution.[25]

The retaliation escalated in direct proportion to the prosecution's progress.[22] The March 2016 threats (over 40 documented interstate communications including rape threats and death threats) occurred as pre-trial motions were being briefed.[78] The September 2016 Nevada defamation complaint was filed as trial preparation intensified.[24] The June 2017 default judgment was obtained while trial was pending.[24] Each act of retaliation constituted both a RICO predicate act and a violation of Cane's bond conditions—yet Cane was never held accountable for these violations, likely because the EDNY court was unaware of conduct occurring in Nevada and Washington state.[22]

F. Professional Conduct Violations

Cane's documented conduct in the Discala prosecution—as established by the government's pre-trial evidentiary filings and wiretap evidence—demonstrates multiple violations of the Nevada Rules of Professional Conduct, each independently warranting disciplinary action:[5]

Rule 1.2(d) — Assisting Client in Criminal Conduct. Cane used her attorney escrow accounts to facilitate stock manipulation, maintained secrecy about the escrow structure, personally briefed co-conspirators on the manipulation methodology, and set specific price targets for the manipulated stock.[8] This conduct violated the prohibition against assisting a client "in conduct that the lawyer knows is criminal or fraudulent."[79]

Rule 8.4(b) — Criminal Act Reflecting on Fitness as Lawyer. Though Cane was acquitted, the government's evidentiary record documenting her participation in securities fraud conspiracy, mail and wire fraud conspiracy, and substantive securities fraud constitutes conduct that "reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."[5][80]

Rule 8.4(c) — Conduct Involving Dishonesty, Fraud, or Deceit. The entirety of Cane's participation in the Discala scheme—from maintaining fraudulent escrow accounts to directing manipulative trading to coordinating false press releases—constitutes "conduct involving dishonesty, fraud, deceit or misrepresentation."[8][81]

Rule 1.15 — Safekeeping Property. Cane's use of attorney trust/escrow accounts to hold over 7,000,000 shares of stock for the purpose of market manipulation represents a fundamental perversion of the escrow function.[8] Attorney trust accounts exist to protect parties through neutral custody of assets—a fiduciary obligation enforced by state bar associations precisely because the public must be able to trust that attorney-held funds and property are protected from misappropriation. Cane weaponized this public trust as a tool of fraud, using the imprimatur of an attorney escrow to conceal beneficial ownership and facilitate stock price manipulation.[8][82]

Cane Clark LLP served as registered agent for over 219 companies, providing the infrastructure to obscure shell identity and beneficial ownership across the enterprise's schemes.[83] A functioning disciplinary system would have prevented Cane from maintaining the professional credentials that she used—and continues to use—as instruments of fraud. The government's "purportedly" characterization of Cane Clark's securities practice was an implicit indictment of the regulatory apparatus that allowed such a practice to continue unchecked for decades.[2]

G. The Sentencing Disparity with Phillips

Cane faced potential exposure of 262–327 months for participating in a $300 million market manipulation scheme that targeted elderly investors' retirement accounts, but was acquitted.[5] Phillips received 48 months for charges built on evidence that Wallace later confessed—through Lundvall's FBI interview—were fabricated as part of "some kind of a scheme to extort Mr. Phillips from some money."[84] The sentencing disparity is instructive: the enterprise architect faced potential sentences exceeding two decades while the victim whose prosecution was manufactured by the enterprise partner received 48 months. This inversion of justice is itself evidence of the enterprise's effectiveness at weaponizing the legal system against its targets.[37]

XII. POSSIBLE CRIMINAL VIOLATIONS

The government charged Cane with the following federal crimes in the Discala prosecution, each constituting a RICO predicate act under 18 U.S.C. §1961(1).[5] While the jury acquitted Cane on all counts, the government's evidentiary record remains admissible in civil proceedings under the preponderance standard:[5]

[77] Prepared Declaration of Mark Phillips Re Enterprise Retaliation (Sep. 2025) (declaration in preparation).
[78] *See* Forensic Brief 12: Hearn Enforcement Fraud (2016–Present); Seattle Police Report GO# 2016-91451 (Mar. 15–19, 2016).
[79] Nevada Rules of Professional Conduct, Rules 1.2(d), 1.15, 8.4(b), 8.4(c) (consistent with ABA Model Rules of Professional Conduct).
[80] Nevada Rules of Professional Conduct, Rules 1.2(d), 1.15, 8.4(b), 8.4(c) (consistent with ABA Model Rules of Professional Conduct).
[81] Nevada Rules of Professional Conduct, Rules 1.2(d), 1.15, 8.4(b), 8.4(c) (consistent with ABA Model Rules of Professional Conduct).
[82] Nevada Rules of Professional Conduct, Rules 1.2(d), 1.15, 8.4(b), 8.4(c) (consistent with ABA Model Rules of Professional Conduct).
[83] Complaint at 4, *United States ex rel. Phillips v. Cane, Wallace, Smyth, Lakha* (Nov. 1, 2010).
[84] Lundvall FBI Interview; *see also* Forensic Brief 08: MOD Systems Takeover at Section 12.

A. Securities Fraud Conspiracy (Count 1)

Statute: 15 U.S.C. §§78j(b), 78ff; 17 C.F.R. §240.10b-5; 18 U.S.C. §371

Government allegations: Cane conspired with Discala and others to manipulate the price and trading volume of publicly traded securities through materially false and misleading statements, fraudulent SEC filings, concealed ownership interests, and concocted trading volume.[2] The conspiracy encompassed all four target companies—CodeSmart, Cubed, StarStream, and The Staffing Group.[2]

B. Mail and Wire Fraud Conspiracy (Count 2)

Statute: 18 U.S.C. §§1341, 1343, 1349

Government allegations: Cane conspired to use interstate wire communications and the United States mail in furtherance of a scheme to defraud investors and the securities markets.[2] Wire fraud and mail fraud are enumerated RICO predicate acts under 18 U.S.C. §1961(1)(B).[2]

C. Substantive Securities Fraud — Cubed (Count 4)

Statute: 15 U.S.C. §§78j(b), 78ff; 17 C.F.R. §240.10b-5

Government allegations: Cane directly engaged in the manipulation of Cubed stock through her escrow accounts and coordinated purchasing captured on the government's wiretap.[8] This count reflects Cane's "central" role in the Cubed manipulation specifically.[4]

D. Substantive Wire Fraud — Staffing Group (Count 10)

Statute: 18 U.S.C. §1343

Government allegations: Cane used interstate wire communications in furtherance of the scheme to defraud in connection with The Staffing Group stock, extending her criminal conduct beyond the Cubed manipulation to the broader multi-company conspiracy.[2]

E. Cumulative RICO Predicate Analysis

The government's charges establish at least four independent RICO predicate acts from a single prosecution.[5] Under 18 U.S.C. §1961(5), a "pattern of racketeering activity" requires at least two predicate acts within ten years. The Discala prosecution alone provides four such acts—all committed between 2012 and 2014—with each conspiracy count and each substantive offense constituting a separate predicate.[2] When combined with the predicate acts documented in Briefs 01 through 18 (escrow fraud, securities fraud, wire fraud, mail fraud, witness intimidation, obstruction of justice), the enterprise's pattern of racketeering activity spans three decades and encompasses dozens of independent predicate acts. The Discala evidentiary record is dispositive because the government's wiretap recordings and seized communications remain admissible regardless of the jury's verdict.[5][85]

XIII. DOCUMENT TABLE

Table 5. Key Documents in United States v. Discala

ID	Date	Document	Significance
1	Jul. 17, 2014	DOJ Press Release Re Indictment	Seven defendants charged; Cane identified as "an attorney"; scheme described
2	Jul. 15, 2014	Original Indictment	Ten-count indictment naming Cane; wiretap authorization described
3	Nov. 2, 2015	Superseding Indictment (S-1)	Expanded charges; Cane named on Counts 1–4, 10; detailed wiretap transcripts
4	May 28, 2015	Government Bail Submission	262–327 month guideline estimate; wiretap evidence described; career change noted
5	Aug. 5, 2014	Government Detention Memo	$300M+ intended loss; scheme methodology
6	Jan. 5, 2018	Government Reply Memo Re Wiretaps	"Central to the scheme"; CACL prior bad acts; financial flows through attorney accounts
7	Jan. 3, 2018	Cane's Pre-Trial Memorandum	Defense motion re wiretap evidence; Cane's own concessions on trading instructions
8	Mar. 6, 2018	Court Opinion Re Reverse Mergers	Detailed description of manipulation methodology; wiretap authorization history
9	Mar. 23, 2018	Exhibit Re Count Structure	Charges against Cane vs. Discala delineated
10	Jan. 9, 2018	Government Sentencing Motion	Cane described as "purportedly" specializing in securities law
11	Dec. 8, 2021	Sentencing — Discala	138 months; $16.3M restitution
12	Jul. 14, 2022	Court Opinion Re Shapiro Appeal	"Shadow guidelines" methodology; official guidelines "unhinged"
13	Nov. 30, 2023	Sentencing — Azrak	Time served; $3.8M restitution
14	Jul. 17, 2014	SEC Civil Complaint	Parallel SEC action; "brazen manipulation scheme"
15	Jul. 15, 2014	Docket Sheet (full case)	Complete procedural history
16	Jul. 29, 2014	Bond Order — Cane	$1M secured bond; travel restrictions; no witness contact
17	Jul. 2, 2015	Bond Modification Order	Temporary increase to $2M for travel
18	Nov. 4, 2015	Unsealing Order	Superseding indictment unsealed
19	Nov. 20, 2015	Arraignment Status Conference	Superseding indictment arraignment

---

[85] Docket Sheet, *SEC v. Discala*, No. 14-cv-04346 (E.D.N.Y. Jul. 29, 2014).

XIV. CONCLUSION

The *United States v. Discala* prosecution independently validates the core allegations of the Cane-Wallace enterprise Forensic Briefs.[5] The United States Attorney's Office for the Eastern District of New York—not a civil plaintiff, not a victim, not an adverse party—investigated Cane's conduct, obtained court-authorized wiretaps of her communications, presented the evidence to a federal grand jury, secured an indictment on multiple counts, and described Cane as "central to the scheme" in its trial memoranda.[4]

Though Cane was acquitted by jury on May 7, 2018, the government's evidence remains on the record: wiretap recordings of Cane's own voice setting specific price targets for Cubed stock, instructing co-conspirators to suppress price increases, recruiting investors, coordinating press releases, and personally briefing co-conspirators on the escrow structure that controlled the stock's supply.[8]

The government further established—through Cane's own seized text messages—that before the Cubed manipulation, Cane had already been directing manipulative trades in CACL stock through the same offshore accounts (Oxbridge, North Star, Trilogy) and the same broker networks.[12] Cane's own concession that she "gave trading instructions" to brokers in both CACL and Cubed eliminates any defense that her conduct was isolated or accidental.[4]

Through her attorney escrow accounts, Cane controlled over 7,000,000 shares of Cubed stock against a public float of only 267,000 shares, channeled $2.6 million in wire transfers, received $500,000 from Discala, and transferred shares to an offshore Belize entity—the identical methodology documented in the Thomas & Wong escrow fraud (Brief 05), the Davi Skin offshore nominee structure (Brief 07), and the SDI hostile takeover (Brief 06).[4]

Most damningly, Cane committed additional crimes while under indictment and pre-trial release for this very prosecution.[22] She filed a perjured defamation complaint (Brief 01), deployed a convicted felon to deliver death threats and rape threats (Brief 12), and provided legal services to a fraudulent Super PAC scheme (Brief 11)—all while the EDNY court's bond conditions expressly prohibited criminal conduct and witness intimidation.[22]

The Discala prosecution also casts retroactive light on Cane's prior statements to federal investigators.[42] In November 2010 and January 2011, the FBI interviewed Cane regarding her relationship with Wallace and her involvement in the enterprise's schemes.[42] During these interviews, Cane made multiple false statements to federal agents—including denying knowledge of Wallace's offshore accounts, claiming to hold only a "small amount" of Dynamic Associates stock (when SEC filings showed 48.7% beneficial ownership), and denying prior audit committee service (which she contradicted three months later under oath).[86] Each false statement constitutes a separate violation of 18 U.S.C. §1001.[42] The Discala wiretap evidence demonstrates that when Cane was finally caught in conduct she could not deny—because her own voice was on the recordings—the government assembled overwhelming evidence of her participation.[7] The FBI interviews, by contrast, show what Cane does when she believes she can still lie her way out: she lies to federal agents.[42]

The government's evidentiary record remains fully admissible in civil proceedings under the preponderance standard.[5] The Discala prosecution establishes a federal judicial record corroborating the pattern documented across eighteen Forensic Briefs spanning three decades of enterprise operations.[5] The government's own words—"central to the scheme"—are the most concise summary of Cane's role, not only in the Discala conspiracy, but in the Cane-Wallace enterprise itself.[4]

END OF BRIEF 10

[86] FBI 302, Interview of Kyleen Cane (Nov. 8, 2010); *see also* Appendix I at Section 12e.