

## **The Prosecution of Michael Segal – A Timeline**

**January 20, 2002** – Michael Segal and Near North Insurance Brokerage act to protect the company by filing a lawsuit against members of the Takeover Group who were stealing confidential documents. The Takeover Group had unsuccessfully attempted to extort \$40 million in stock that would give them control of the company in return for fixing accounting issues they created. Segal was unaware that some members of the Takeover Group were secretly working with federal prosecutors.

**January 26, 2002** – Former Near North employee Tim Gallagher lured Segal to a surprise meeting with federal prosecutor Dean Polales and FBI Agent Patrick Murphy at the Westin Hotel in Chicago. Segal was asked to wear a wire to record unidentified individuals targeted by the prosecution. Segal refused to wear a wire and was arrested. Simultaneously, FBI agents raided Near North's offices and Segal's residences, carting off 6,000 boxes of records as well as computers and hard drives containing thousands of pages of attorney-client privileged documents.

**February 14, 2002** – A one-count indictment is returned against Segal charging him with making a false statement to the Illinois Department of Insurance by asserting on a renewal application for his insurance producer's license that he properly maintained a Premium Fund Trust Account. The charge was based solely on the false claims of the Takeover Group and came after Segal sued the Takeover Group and ultimately was among several such counts that were dismissed by Judge Ruben Castillo after the jury verdict.

**February 25, 2002** – At Segal's arraignment, after his attorneys subpoenaed the Takeover Group, rather than allow those witnesses to be questioned in court, the prosecution dismissed the indictment. However, the prosecution continued the grand jury investigation of Segal and Near North.

**April 24, 2002** – David Cheley, a former temporary employee of Near North, is confronted with the evidence of his cyber-hacking of Near North computers. The confrontation occurs during a meeting at Kemper Insurance where Cheley then worked following an investigation by former FBI agent David Grossman that uncovered the theft of hundreds of documents from Near North. The investigation showed that Cheley passed stolen confidential and attorney client privileged

documents to members of the Takeover Group. The investigation also showed that FBI Agent Patrick Murphy received documents at his personal home email and that copies of confidential Near North documents were on the server of the Aon Corporation, a Near North competitor that hired some of the Takeover Group members.

**September 17, 2002** – Near North attorney Joshua Buchman met with the prosecution team to inform them that Near North was filing an amended complaint in its civil lawsuit to include the cyber-crimes that included attorney-client privilege documents. Prosecutor William Hogan responded by asserting that the government witnesses had nothing to do with the cybercrimes and threatened to file a RICO indictment against Segal if Near North filed the amended complaint.

**September 23, 2002** – Despite denials from FBI Agent Murphy and the prosecution that no such records existed, the prosecution disclosed a file that allegedly had been missing for 18 months that confirmed not only the cyber-hacking, but also the wiretapping of Segal’s defense attorney Harvey Silets.

**October 31, 2002** –The first superseding indictment was returned against Segal and—as threatened by Hogan—it contains a RICO count. The 16-count indictment charged Segal with using millions of dollars in insurance premiums to pay his own personal and business expenses. The indictment also contained charges of mail and wire fraud and making false statements to the Illinois Department of Insurance.

**November 1, 2002** – Segal appeared before U.S. District Judge Ruben Castillo and entered a plea of not guilty to the charges. He remained free on a \$750,000 bond secured by his signature.

**November 22, 2002** – Segal defense files a motion seeking the return of all privileged information and to bar the prosecution from using any of that information in preparation for trial or during the trial itself. This includes more than 11,000 emails to and from Segal, at least 1,300 emails between Segal and a number of his attorneys and approximately 9,400 emails and faxes that had been seized from the office of Segal’s legal counsel at Near North.

**February 2, 2003** – Judge Ruben Castillo expressed misgivings about the government’s failure to establish a “taint team” to review privileged documents. “I’m concerned that that doesn’t seem to have happened in this case,” the judge declared. “(T)he Court is going to order the government to return all privileged information.”

**May 13, 2003** – After the prosecution for the first time claimed that it had treated potentially privileged material with “extreme caution,” despite not having a taint team in place, Castillo reversed himself. Without an explanation, Castillo denied the defense motion to return the documents.

**June 10, 2003** – The defense filed a motion requesting an evidentiary hearing to consider evidence that the prosecution witnesses—David Cheley and the Takeover Group—were acting as government agents and thereby violating Segal’s Fourth Amendment right to freedom from illegal searches.

**June 13, 2003** – Another superseding indictment was returned against Segal and Near North, which was further part of prosecutor Hogan’s threat of retaliation for Near North proceeding with its civil suit against the Takeover Group. This indictment, based on the same charge cited in the previous indictment, would put Near North out of business. One count charged former Near North employee Daniel Watkins, who admitted stealing from Near North, with embezzlement.

**July 3, 2003** – Prosecution files opposition to the motion for evidentiary hearing saying that “Cheley was completely unknown to the government, and nothing caused the agents to believe that any information being provided was a result of stolen or improper access to this corporation’s computer network....Cheley was completely independent of the government and unknown to the government. There is not the slightest indication that any government agent knew of unauthorized intrusions into the Near North system let alone an illegal hacking of the system by Cheley or anyone else.”

**July 10, 2003** – The prosecution admitted that Cheley was in fact known and claimed that it had learned “for the first time” that FBI Agent Jane Higgins had

suddenly remembered that she had a set of notes from a January 14, 2002, conversation with members of the Takeover Group. To Segal, this was ample proof that the government was hiding evidence and attempting to cover up improper conduct.

**August 1, 2003** –The defense responded: “Before its amended filing, the government unequivocally stated that it knew nothing about the hacking activity and that it never received any hacked information from its witnesses. The Court and the defense now know that both of these statements were 100 percent false.”

**August 7, 2003** – Judge Castillo denied the defense motion for an evidentiary hearing. The judge did concede that there were “many detailed and specific facts” showing that the Takeover Group members were acting as agents of the prosecution. However, Castillo ruled the facts were “too conjectural, speculative, and attenuated to warrant what is presently framed as an extensive, invasive, and far-reaching inquiry.”

**February 4, 2004** – Near North attorney Sal Cagnetti, Jr., filed a motion asking Judge Castillo to reconsider his denial of a hearing. The motion noted that Segal and Near North “were the victims of thousands of unlawful hacking intrusions; that the hacker specifically targeted and accessed confidential attorney-client privileged communications, many of which relate to the subject matter of the criminal charges; that least one of the cooperating witnesses affirmatively solicited information from the hacker; that the Government was aware of the unlawful computer access; and that there were frequent (approximately 400) undocumented contacts between the cooperating witnesses and the Government during the relevant period.” That motion was denied.

**March 17, 2004** –A fourth superseding indictment is filed against Segal and Near North.

**March 23, 2004** – Admitted embezzler Daniel Watkins pleaded guilty to charges that he stole between \$70,000 and \$120,000 from Near North. In a signed plea agreement, Watkins said he withdrew money for Segal and recorded the

withdrawals as postage expenses. Years later, he would admit he chose to record the money in that fashion without any direction from Segal.

**April 19, 2004** – Jury selection begins in the trial of Michael Segal and Near North Insurance.

**June 21, 2004** – Jury returns verdicts of guilty against Segal and Near North. The charge of making a false statement when he said he was unaware that Watkins had been embezzling was dismissed by the prosecution prior to the jury's deliberation. One charge had been dismissed at the conclusion of the evidence. Judge Castillo would later dismiss seven of the counts relating to making misrepresentations to the Illinois Department of Insurance.

**June 22, 2004** –Forfeiture hearing concludes with the jury ordering Near North to be forfeited and Segal to forfeit \$30 million. Segal is taken into custody and transferred to the Metropolitan Correctional Center.

**July 1, 2004** –On the prosecution's motion, Judge Castillo appointed a trustee and attorneys for the trustee to operate Near North. The trustee would be ordered by prosecutor Hogan to withdraw Near North's civil lawsuit against the Takeover Group, although one law firm had estimated the suit could have generated around \$50 million in damages. At Hogan's direction, the trustee rejected offers by qualified buyers for Near North's insurance business which, if accepted, could have hundreds of jobs and generated \$100 million for the prosecution. The trustee and attorneys were still in place in 2017 even though Near North was long gone.

**November 30, 2005** –Judge Castillo sentenced Segal to 121 months in prison—10 years and one month—and ordered him to make restitution of \$841,527. Segal is designated for the Federal Correctional Institution in Oxford, Wisconsin.

**December 13, 2005** – Judge Castillo sentenced Watkins to two years of supervised release with six months spent in home confinement. Watkins also was ordered to

pay \$109,000 in restitution (although it likely was never paid) and a \$5,000 fine. Judge Castillo also imposed a \$1.4 million fine on Near North.

**August 2, 2007** –The U.S. Court of Appeals for the Seventh Circuit upholds the convictions of Segal and Near North. The appeals court vacated the \$30 million forfeiture order and remanded the case back to Judge Castillo to make sure there was no double-counting and that Segal was not unfairly penalized.

**August 31, 2009** – Judge Castillo cut the forfeiture to \$15 million. The prosecution had claimed the proper amount was \$18 million. Segal’s lawyers presented evidence it should be at most \$1.5 million and that perhaps the prosecution actually owed Segal money.

**June 8, 2010** – Segal attorneys James Cole and Will Olson co-authored a 122-page filing with Lanny Breuer, then head of the Criminal Division of the US Attorney’s office that detailed egregious and unlawful misconduct before and after the Segal grand jury proceedings, the trial and appeal, as well as post-trial forfeiture proceedings. The filing ultimately was ignored.

**June 24, 2010** – U. S. Supreme Court issues ruling in U.S. v. Skilling finding that honest services fraud—which the prosecution had accused Segal of committing—was listed to bribery or kickback schemes. Segal appeals his convictions arguing there was no bribery or kickback scheme involved in his case.

**December 2010** – After the Justice Department responded to the filing from Cole and Olson by asserting that the misconduct had been dealt with by the courts, Segal lawyer Stanley Brand responded, “That is incorrect. The issues we have raised regard prosecutorial misconduct by the U.S. Attorney’s Office in Chicago that has caused a grave injustice to Mr. Segal. We request that our concerns be submitted to the Office of Professional Responsibility for consideration.” At a subsequent court hearing, Hogan approached members of Segal’s legal team and essentially said Segal “would be sorry” for filing his complaint (including more than 150 pages of evidentiary support) with the Justice Dept. and OPR.

**May 3, 2011** –The U.S. Court of Appeals for the Seventh Circuit remands the case back to Judge Castillo for a hearing to determine whether Segal should be resentenced in the event any honest services conviction affected his 10-year prison term. The appeals court also upheld Castillo’s decision that the forfeiture amount was \$15 million.

**May 2011** – Nearly a year after Segal’s complaint was filed with Breuer, an attorney for the Office of Professional Responsibility, replied to Brand with a two-page letter saying that no action would be taken.

**May 29, 2012** – One year and 26 days after the appeals court ruling remanded the case for resentencing, Judge Castillo finally reduced Segal’s sentence to allow him to be released from prison immediately, approximately four months early.

**August 21, 2012** – Judge Castillo orders a two-step hearing for January 5, 2013 to determine which of Segal’s restrained assets would be used to satisfy the \$15 million judgment. The first hearing was to determine ownership of the restrained assets; the second was to determine the value of all assets owned by Segal. Segal would then use \$15 million of his assets to satisfy his forfeiture obligation.

**January 2, 2013** –As the hearing approached, Prosecutor Hogan offered to settle by returning \$8 million of the Segal’s frozen assets. Segal had been fighting for years for the return of his financial records and computers to no avail. Asset holders were restrained from talking to Segal and there were no independent appraisals. Under economic duress with the only apparent alternative even more years of litigation, a desperate Segal accepted the deal.

**February 2014**—Admitted embezzler Daniel Watkins testified under oath in a civil tax proceeding brought against Segal that he never conspired with Segal to defraud the IRS and had no knowledge of Segal ever cheating on his taxes. When Segal rejected an IRS offer to end the case and insisted on questioning Hogan, The

IRS dismissed the case on its own. As a result, a \$1.1 million tax lien was vacated and Segal received a refund of more than \$25,000.

**August 2015** – Dennis Burke, former U.S. Attorney for the District of Arizona, and John Sandweg, former Acting Director of U.S. Immigration and Customs Enforcement and former Acting General Counsel of the Dept. of Homeland Security, send a seven-page letter to Jay Macklin, General Counsel for the Executive Office of United States Attorneys, requesting that the forfeiture proceedings be removed from the U.S. Attorney’s Office in Chicago. The letter accused Hogan of engaging in a “hyper-zealous and exceptionally unusual campaign that strains the boundaries of ethical conduct.”

**October 5, 2016** – Segal filed a motion to modify the settlement agreement. After three years of fighting false evidence filed by Hogan, the motion said that the government had taken more than \$40 million in personal assets from Segal—\$32 million more than the \$8 million settlement agreement and \$25 million more than the \$15 million that Castillo had ruled was owed. The defense accused Hogan of numerous vindictive post-trial actions including falsely claiming that Near North owned property that was in fact owned by Segal, withholding documents and accounting evidence that showed Segal’s ownership of assets, undervaluing Segal’s assets and deliberately running out Segal’s option to purchase life insurance policies that could not be replaced. Hogan ignored the court records and court ruling showing that Segal had put more money in than any benefit he received from his company.

**July 12, 2017** – Judge Castillo denied Segal’s motion to modify the settlement agreement. Segal immediately appealed.

