

Atty's Restitution Reduced By \$12.2M In Stock Scheme

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Law360 (August 28, 2018, 9:50 PM EDT) -- A Florida federal judge on Tuesday reduced by \$12.2 million the restitution owed by an attorney for allegedly conspiring with former [NFL](#) player Willie Gault to inflate a heart-monitor company's stock, finding the attorney was responsible for only \$1 million in losses.

U.S. District Judge Kenneth A. Marra filed two orders that reduced the restitution ordered for Mitchell J. Stein but also denied his motions to dismiss or get a new trial on claims that he created false documents as part of a scheme involving the stock of Signalife Inc. Stein was convicted in May 2013 and sentenced to spend 17 years in prison, forfeit \$5 million and pay \$13.2 million in restitution, but the Eleventh Circuit **vacated the sentence** over questions around the calculations in the restitution order.

The appellate court rejected Stein's arguments that prosecutors **suppressed evidence** and presented false information at his trial, and thus upheld Stein's conviction, but found that the district court erred in concluding that all 2,415 investors who bought stock in Signalife during the relevant period had relied on Stein's false information.

The government suggested in June a new restitution figure of \$8.7 million after calculating that investors lost just over \$2 million and Signalife lost \$6.7 million. In the alternative, the government suggested using Stein's gain of more than \$5 million from the scheme as another measure of loss.

Stein has continued to fight the government's loss calculations, arguing that the \$2 million in investor losses was still too high and that both the restitution order and 17-year sentence should be substantially reduced given the lowered loss calculations. He also moved to vacate the \$5 million forfeiture.

The judge Tuesday found that the government's \$2 million investor loss calculation was in fact too high because it included losses incurred by shareholders who sold their shares before Stein's fraud was disclosed to the market. The correct loss amount, based on 616 investor victims, was actually \$1,029,570, the judge said, and restitution was set to that

amount.

Judge Marra rejected Stein's motion to vacate the forfeiture, however, finding that Stein had not challenged the amount on appeal.

The two orders did not mention the 17-year prison sentence, losses incurred by Signalife or whether Signalife was among the "victims" in the court's loss calculations, but court records indicate a sentencing hearing is scheduled for Wednesday.

Counsel for Stein did not immediately respond to a request for comment. The [U.S. Department of Justice](#) does not comment on pending litigation.

Stein, who was outside counsel to Signalife, was convicted by a federal jury in May 2013 of the scheme involving stock in Signalife, now known as Heart Tronics Inc. The government accused him of artificially inflating the company's stock as part of the scheme that also involved Gault, the company's co-CEO. Gault was not charged criminally, but he was named with Stein and others as co-defendants in the [SEC's](#) parallel civil case.

Stein's wife owned 85 percent of Signalife's shares, according to Stein's indictment. To pump up the stock price, the company repeatedly announced millions of dollars in phony sales from 2006 to 2008 and used fake documents to make the sales appear legitimate, prosecutors said.

The government is represented by Henry Van Dyck, Caitlin Cottingham and Michelle Pascucci of the U.S. Department of Justice.

Stein is represented by Benjamin Gruenstein of [Cravath Swaine & Moore LLP](#) and Richard Carroll Klugh Jr. of Richard C. Klugh PA.

The case is U.S. v. Stein, case number [9:11-cr-80205](#), in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Carolina Bolado and Nathan Hale. Editing by Joe Phalon.