

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	INFORMATION NO.
	)	1:18-CR-395-2-ELR
TIMOTHY MCMENAMIN	)	
Defendant.	)	
	)	
	)	
	)	
	)	

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**TIMOTHY McMENAMIN'S SUPPLEMENTAL  
SENTENCING MEMORANDUM**

Comes now the defendant, Timothy McMenamin, and hereby files this supplemental sentencing memorandum with exhibits attached.

The Government, in its sentencing memorandum, has provided the Court with emails that show that the defendants were attempting to get as much money as they could from this scheme. That is true. However, consistent with the Government's contention that the defendants, Dr. Kothari and Mr. McMenamin, wanted to maximize profits by billing for patients tested was the understanding that the amount billed was not going to be the amount received. Attached as Exhibit One is the declaration of Christine Krause, biller for Fi-Med. In the declaration, Ms. Krause states that the defendants knew they would receive only a percentage of the amount billed. In fact, the amount received was consistently a small

percentage of amount billed. See, Government Sentencing Memorandum (doc. 28), Exhibit 1, pg 1. In that exhibit, the Court can see that in April 2016, the amount charged and the amount paid by the insurance company are vastly and consistently different. That remained the pattern throughout the year. So while the defendants' goal was to make money by finding ways to bill effectively, the amount billed is not an accurate reflection of what the defendants intended to receive.

Also, attached as Exhibit Two are letters of support from Mr. McMenamin's family and friends who know him the best and who know what he is capable of doing once he finishes serving his sentence in this case. Attached are the letters from:

- a. Brian McMenamin (Brother)
- b. Joseph McKinnon (Stepfather)
- c. Cassie Hamilton (Friend)
- d. Curry Carter (Friend)
- e. Samantha Gilreath (Friend)

Together, these letters of support paint a picture of Mr. McMenamin as someone with possibilities and potential to do good. Undersigned counsel would ask this Court to consider that Mr. McMenamin is not just a fraudster; he is also a

son, brother, friend, and someone who has given of himself to others. At some point, the length of the sentence ceases to accomplish its goal and becomes simply warehousing. An effective sentence is one that sufficient, but not greater than necessary to carry out its goal.

Respectfully submitted this 11<sup>th</sup> day of March, 2019.

s/\_\_\_\_\_  
Robert G. Rubin  
Georgia Bar No. 618635  
PETERS, RUBIN, & SHEFFIELD, P.A.  
2786 N. Decatur Road, Suite 245  
Decatur, Georgia 30033  
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Counsel for Timothy McMenamin

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA : CRIMINAL INFORMATION  
:   
: CASE NO. 1:18-CR-395-2-ELR  
v. :   
:   
TIMOTHY MCMENAMIN :

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>th</sup> day of March, 2019, I electronically filed with the Clerk of Court the aforementioned Timothy McMenamin's Supplemental Sentencing Memorandum by using the CM/ECF system and emailed a courtesy copy to the Government with the following attorney of record:

Mr. Chris Huber  
chris.huber@usdoj.gov

Respectfully submitted,

s/  
\_\_\_\_\_  
Robert G. Rubin  
Georgia Bar No. 618635  
2786 N. Decatur Road, Suite 245  
Decatur, Georgia 30033  
Telephone: (404) 296-5300  
Counsel for Timothy McMenamin

# EXHIBIT ONE

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
v.	)	CRIMINAL INFORMATION NO.
	)	1:18-CR-395-2-ELR
	)	
TIMOTHY MCMENAMIN,	)	
	)	
Defendant.	)	
_____	)	

DECLARATION OF CHRISTINE KRAUSE

I, Christin Krause, declare as follows:

1) My name is Christine Krause. I am over 18 years of age and competent in all respects to testify regarding the matters set forth herein. I have personal knowledge of the matters stated herein and know them to be true. I have no interest in the outcome in the above-styled action.

2) I currently work for Fi-Med and have worked for the company since 1993. Fi-Med is a healthcare support firm that provides billing and coding expertise, among other services and worked with Primera Medical Group, Inc. (PMG) to provide billing support services in 2016.

3) From April through December 2016, I supervised a team of Fi-Med employees who handled billing for our customers including PMG. It was my understanding based on speaking with PMG personnel that PMG conducted food and airborne allergy tests and immunotherapy. The CPT codes used for those tests and treatment was 86003, 86001, and 95165. It is my experience as a biller and coder that insurance carriers rarely pay what is billed. Private insurance companies pay their usual and customary rate, which is usually a fraction of what is actually billed.

4) In PMG's case, FiMed typically collected substantially less than the amount billed. Based on my conversations with them, it was my understanding that Dr. Kothari and Mr. McMenamin were aware that PMG would receive only a percentage of the amount billed based on each insurance company's usual and customary rate.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 7 day of March, 2019.

  
\_\_\_\_\_  
CHRISTINE KRAUSE

# EXHIBIT TWO



Brian McMenamin  
1525 Weaver Drive  
Valdosta, GA 31601

February 20, 2019

To Whom it May Concern

My name is Brian McMenamin and I live in Valdosta, GA; my brother is Timothy McMenamin. Please use this letter as a character reference for Timothy. Timothy has, for me, always proven himself as a reliable and trustworthy person. He has always taken care of not only me, but our entire family. Although very troubling to hear that he has gotten himself into legal issues regarding both work and family, he has always been someone I admired.

Timothy can not help it, but he puts on a "tough guy" demeanor. Although his aggressive personality can be off-putting, he is without a doubt my best friend. He has given me his support through every one of my major life events. He has been a presence in my life so much I believe if the tables were turned, he would do everything he could to ensure my safety and well-being.

I cannot speak for Timothy's actions, nor can I even clearly articulate how he came to be in his current predicament, but I can speak on the type of person he is. Timothy is a hard worker, thoughtful, and undoubtedly remorseful.

I understand that Timothy must pay for his transgressions, but my family and I truly believe that he is a good person. We pray every day that he comes home as soon as possible. Please accept my thanks for considering this letter in determining my brother's future.

Sincerely

A handwritten signature in dark ink, appearing to read "Brian P. McMenamin". The signature is fluid and cursive, with the first name "Brian" being more prominent and the last name "McMenamin" following in a similar style.

Brian P McMenamin

To whom it may concern;

I am writing in regards to Timothy John McMenamin and his current case. I am his step dad and have known him since he was 9 years old. Tim was very competitive and outgoing as a child and always made a point to look after his younger brother and sister as their mom and dad were divorced early in their lives. Tim has a compassionate side and a very sharing one and always did throughout his life. Many times over the years as a teen and a young man he always offered to assist others both family and friends financially and emotionally in whether by sharing his paycheck from various jobs to outright gifts of cash to both family and friends with no expectation of repayment.

Tim did ok academically in high school and definitely excelled in football in high school with his team going to the state playoffs at the Georgia Dome in Atlanta. He did complete his high school work at a private school which offered him a more structured set of courses. This did allow him to obtain a scholarship to attend the University of the Cumberlands in Kentucky to pursue college studies. I firmly believed in his ability otherwise would not have cosigned the student loans to allow him to pay the balance of his tuition bill there. Tim does have a firm grasp of responsibility and organization. His late mother Lisa opened a personal care home for indigent and elderly clients some years ago and he did help prepare the business plan and assist to organize the financial end off of things concerning taxes and banking matters as this was not her skill set.

I do realize Tim has made some serious errors in judgement in things over the years but I do think he has seen the price he has to pay for it and is willing to own up and accept whatever responsibility is his and the consequences as well. I would ask the court to consider the above when reviewing this case and deciding whatever action is needed. He has been and will be a productive member of society once this matter has been resolved.

Sincerely;

A handwritten signature in black ink, appearing to read 'Joe McKinnon', written over a horizontal line.

Joseph McKinnon

To whom it may concern,

My name is Cassie Hamilton and I have known Tim since we were children. We were neighbors and lived down the street from one another and grew up together. As we got older, Tim and I grew more distant when he moved away and I got married and started a family. I always thought about Tim in the back of my mind and was happy to hear from mutual friends that he was living a full and wonderful life. Back in August of 2018 I believe it was when I had learned that Tim was in prison. I reached out to his sister to ask for his address to write and send him letters and was surprised when I received a call from him later that day. Since Tim and I began talking in the Fall of 2018, we have spoken almost daily and most days we have talked numerous times throughout the day.

Tim has addressed to me numerous times that he wishes that he could go back in time and start over. After the passing of his mom and losing most of his friends that he thought had cared about him I truly believe that Tim has hit rock bottom. Most days that we talk he always remains very positive but there have been a few days where he has let the reality of his circumstances really sink in. Sometimes we have to hit rock bottom and although it feels like a curse, it is actually a blessing in disguise. Tim has shown remorse and I trust believe that he is not the same person that was arrested.

I could say that this is the Tim that I knew when we were kids and that was my neighbor but instead, I am writing to tell you today that this is a new Tim that I have never met before. A Tim that is even better. A wonderful man that his mother would be so proud of. Tim has found God. He is a strong christian, he has dreams to start a family, a restaurant and a non-profit organization to help other inmates and families of inmates. Tim has shown remorse and I truly believe that he will be an outstanding citizen and will only make a positive impact when he is released.

I ask that you consider today to be lenient when giving his sentencing. Tim has so many hopes and dreams that he would like to accomplish and he is so eager to end his sentence and start his life over from scratch. Thank you for your time today and for reading my letter.

-Cassie Hamilton

Curry Carter  
1123 Rolling Green Drive  
Acworth, Ga 30102

February 27, 2019

To whom it may concern,

I have known Timothy Mcmenamin for many years and he has always been a good friend. I was both troubled and surprised to hear about his recent case as he has always been a rather solid person. It is for this reason I am happy to write a letter of reference for Mr. Mcmenamin regarding this matter, however, I hope the court will show some leniency.

Tim has always been an upright character. In our friendship, he has really been there for me, especially when the company I worked for downsized and I was laid off. He made it a point to be there and show

a significant amount of support during a sudden and arduous job search. Elt was Tim that was a source of camaraderie for both me and my family. He has truly been an amazing friend over the years.

While it is unfortunate that he has made some bad decisions, thus resulting in this case, El was surprised to hear of the misconduct, but it comes as no surprise that he is ready to accept responsibility for his poor decisions. El believe that as we move forward, he will emerge a better person. Eln short, Tim expressed deep remorse in making such a serious mistake and El believe in his ability to pay his debt to society.

Elt is my sincere hope the court takes this letter into consideration at the time of sentencing. Despite the current case, El still believe ~~Timothy~~ Timothy



McMenamin to be an honorable individual, a valuable member of the community, and a great human being.

Sincerely,

Curry Carter

Curry Carter

TO WHOM IT MAY CONCERN:

MY NAME IS JAMANTHA GILBERT,  
AND THE PURPOSE OF THIS LETTER  
IS TO INFORM THE READERS THAT  
TIMOTHY MEMENAWIN IS A  
GOOD ~~CITIZEN~~ CITIZEN THAT IS  
HUMAN AND ALL HUMANS MAKE  
MISTAKES. I'VE KNOWN TIMOTHY  
AND HIS FAMILY FOR YEARS. HE  
IS AN AWESOME PERSON THAT CARES  
GREATLY FOR HIS FAMILY. SINCE  
BEING INCARCERATED TIM HAS  
~~BE~~ LOST HIS MOTHER AND MANY  
OF HIS FRIENDS HAVE FORGOT  
ABOUT HIM. HOWEVER, HE HAS  
REMAINED POSITIVE.

As well came to an under-  
standing his wrong doing.  
This understanding has  
helped Tim realize that  
he wants to help others  
overcome their weaknesses.

Everyone makes mistakes in  
life, however, it is our drive  
to change that makes  
a difference. All we can  
do as humans is learn  
from our mistakes and  
change ~~our~~. Timothy has  
learned and changed.

Sincerely

Danisha Gilman