

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) No. 14 CR 417
 vs.)
)
 AAMIR H. KHAN)

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and defendant AAMIR H. KHAN, and his attorneys, JAMES S. MONTANA, JR., and ANTHONY J. ASHLEY, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The information in this case charges defendant with filing a false tax return in violation of Title 26, United States Code, Section 7206(1).
3. Defendant has read the charge against him contained in the information, and that charge has been fully explained to him by his attorneys.
4. Defendant fully understands the nature and elements of the crime with which he has been charged.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the information, which charges defendant with filing a false federal income tax return for the 2008 calendar year, in violation of Title 26, United States Code, Section 7206(1).

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in the information. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

During calendar year 2008, defendant, a United States citizen, was employed by Unicorn Investment Bank BSC as the Managing Director-Head of Private Equity in Manama, Bahrain. During 2008, defendant received approximately \$2,029,331 in wages and compensation from his employer. Defendant directed his employer to deposit these funds into an account he controlled at Ahli Bank. Defendant utilized the services of an accountant to prepare his 2008 federal income tax returns; however, the defendant did not provide his accountant with complete information about the

income he earned that year, reporting that he earned only \$107,252 in wages and compensation.

On or about October 29, 2010, in the Northern District of Illinois, Eastern Division, defendant filed a materially false and fraudulent U. S. Individual Income Tax Return (Form 1040 with schedules and attachments) for calendar year 2008 with the Internal Revenue Service in which he willfully failed to report all of the income he received from Unicorn Investment Bank BSC, reporting only \$107,252 in total income on Line 22 of that return, when he knew and believed that he had received substantially more income of at least \$2,029,331 that year in wages and compensation from his employer. Based upon the above facts, the federal tax loss for 2008 is approximately \$671,990.

Relevant Conduct

7. Defendant also acknowledges that for the purpose of computing his sentence under the Sentencing Guidelines, the following conduct, to which he stipulates, constitutes relevant conduct under Guideline §1B1.3:

Filing a False 2006 Individual Tax Return

a. During calendar year 2006, defendant was employed by Unicorn Investment Bank BSC as the Managing Director-Head of Private

Equity in Manama, Bahrain. During 2006, defendant received approximately \$518,394 in wages and compensation from his employer. Defendant directed his employer to deposit these funds into an account he controlled at Ahli Bank. Defendant utilized the services of an accountant to prepare his 2006 federal income tax returns; however, the defendant did not provide his accountant with complete information about the income he earned that year, reporting that he earned only \$122,119 in wages and compensation. On or about January 15, 2008, in the Northern District of Illinois, defendant filed a materially false and fraudulent U. S. Individual Income Tax Return (Form 1040 with schedules and attachments) for calendar year 2006 with the Internal Revenue Service in which he willfully failed to report all of the income he received, reporting only \$122,119 in total income on Line 22 of that return, when he knew and believed that he had received substantially more income of at least \$518,394 that year in wages and compensation from his employer. Based upon the above facts, the federal tax loss for 2006 is approximately \$126,511.

Filing a False 2007 Individual Tax Return

b. During calendar year 2007, defendant was employed by Unicorn Investment Bank BSC as the Managing Director-Head of Private

Equity in Manama, Bahrain. During 2007, defendant received approximately \$801,390 that year in wages and compensation from his employer. Defendant directed his employer to deposit these funds into an account he controlled at Ahli Bank. Defendant utilized the services of an accountant to prepare his 2007 federal income tax returns; however, the defendant did not provide his accountant with complete information about the income he earned that year, reporting that he earned only \$68,051 in wages and compensation. On or about December 1, 2008, in the Northern District of Illinois, Eastern Division, defendant filed with the Internal Revenue Service a materially false and fraudulent U.S. Individual Income Tax Return (Form 1040 with schedules and attachments) for the calendar year 2007, in which he willfully failed to report all of the income he received from Unicorn Investment Bank BSC, reporting only \$68,051 in total income on Line 22 of that return, when he knew and believed that he had received substantially more income of at least \$801,390 that year in wages and compensation from his employer. Based upon the above facts, the federal tax loss for 2007 is approximately \$208,286.

Failing to File a 2009 Individual Tax Return

c. During calendar year 2009, defendant was employed by Unicorn Investment Bank BSC as the Managing Director-Head of Private

Equity in Manama, Bahrain. During calendar year 2009, defendant earned gross income of approximately \$1,138,604 from his employer. By reason of that income, defendant was required following the close of calendar year 2009 and on or before April 15, 2010, to make an income tax return to the IRS and pay the income tax due and owing thereon; however, he willfully failed to do so. Based upon the above facts, the federal tax loss for 2009 is approximately \$312,632.

Therefore, the total federal tax loss for both the charged and related conduct is approximately \$1,319,419.

Maximum Statutory Penalties

8. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 3 years' imprisonment, a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater. Defendant further understands that the Court must order costs of prosecution, estimated not to exceed \$500. Defendant further understands that the judge also may impose a term of supervised release of not more than one year.

b. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

9. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, and that the Court must consider the Guidelines in addition to the factors set forth in Title 18, United States Code, Section 3553(a), in determining a reasonable sentence.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2013 Guidelines Manual.

Offense Level Calculations.

i. The base offense level is 22, pursuant to Guidelines § 2T1.1(a)(1) and § 2T4.1(I), because the tax loss is approximately \$1,319,419, which is more than \$1,000,000 but less than \$2,500,000.

ii. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

iii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction

for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

b. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

c. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 19, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 30 to 37 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

d. Defendant and his attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court

ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

e. Both parties expressly acknowledge that this Agreement is not governed by Fed.R.Crim.P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

11. The government agrees to recommend a sentence at the low end of the applicable guideline range, and the defendant is free to recommend whatever sentence he deems appropriate.

12. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

13. Regarding restitution, defendant agrees pursuant to Title 18, United States Code, Section 3663(a)(3), to the entry of an order requiring him to make restitution in the amount of \$1,391,419 to the United States Treasury, which reflects the amount of his unpaid federal income tax exclusive of penalties and interest, with credit for any funds prepaid prior to sentencing, for the charged and related conduct set forth in paragraphs 6 and 7 above. Defendant understands that the amount of tax loss as calculated by the Internal Revenue Service may exceed the amount of tax due as calculated for restitution in the criminal case.

14. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material

change in economic circumstances that might affect his ability to pay restitution.

15. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

16. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 14 CR 417.

17. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

18. Defendant understands that nothing in this Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant and his spouse.

Waiver of Rights

19. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Right to be charged by indictment.** Defendant understands that he has a right to have the charges prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert at trial or on appeal any defects or errors arising from the information, the information process, or the fact that he has been prosecuted by way of information.

b. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by

the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

c. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

d. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of

the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

20. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

21. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be

prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

22. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

23. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

24. Regarding matters relating to the Internal Revenue Service, defendant agrees that nothing in this paragraph, however, precludes defendant and his spouse from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS:

a. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant and his spouse which directly or indirectly relates to or arises out of the course of conduct that defendant has acknowledged in this Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records that the IRS may request.

b. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure to the Internal Revenue Service of documents, testimony, and related investigative materials that may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(I). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the IRS for use in civil or administrative proceedings or

investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or administrative proceeding involving, or investigation of, defendant and his spouse.

25. Defendant further agrees to pay the United States Treasury, a civil money penalty in the amount of \$724,574.62, which represents 50% of the highest cumulative balance on March 27, 2011, of defendant's offshore accounts at Ahli Bank QSC, Doha, Qatar, Ahli United Bank Q.S.C., Dawood Islamic Bank, Mashreq Bank PSC, and Noor Islamic Bank, in order to resolve his civil liability for failing to file annual Reports of Foreign Bank and Financial Accounts for calendar years 2007 through 2012.

26. Defendant further agrees to file any tax returns which are due and have not been filed including Forms 1040 and Forms 5471 (if applicable) on or before the date of sentencing. The United States agrees not to seek additional criminal charges in the Northern District of Illinois against the defendant regarding his failure to file the Reports of Foreign Bank Accounts described in paragraph 25 above or for any true and accurate Forms 1040 and Forms 5471 filed on or before the date of sentencing. However, nothing in this Agreement limits the United States in any prosecution of defendant in other districts or for other offenses unrelated to his failure to file the above

described forms, and does not limit the Internal Revenue Service from assessment of any fines, interest, or penalties for defendant's failure to file these forms for those years except as expressly set forth in this Agreement.

Conclusion

27. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

28. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations

on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

29. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

30. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

ZACHARY T. FARDON
United States Attorney

AAMIR H KHAN
Defendant

PATRICK J. KING, JR.
Assistant U.S. Attorney

JAMES S. MONTANA, JR.
Attorney for Defendant

ANTHONY J. ASHLEY
Attorney for Defendant