

c. As of the date of this agreement, Defendant has timely notified authorities of an intention to enter a plea of guilty. If the offense level is 16 or greater and Defendant enters a plea of guilty pursuant to this agreement, the government will move the sentencing Court for an additional decrease of one level, pursuant to U.S.S.G. § 3E1.1(b)(2), unless Defendant indicates an intention not to enter a plea of guilty, thereby requiring the government to prepare for trial.

d. The government is free to recommend any combination of supervised release, fines, and restitution which it deems appropriate.

e. The government will, at the time of sentencing, move to dismiss Count Two and Four, conspiracy to violate the Hobbs Act (extortion), and Count Six and Seven, Travel in Aid of Racketeering of the Indictment.

3. Pursuant to Rule 11(c)(1)(C) the United States and defendant stipulate and agree to the following facts and particular provisions and applications of the sentencing guidelines:

a. Defendant admits that he was a member of the enterprise as charged in the Second Superseding Indictment during the time of the conspiracy and agreed to the multiple acts of extortion as alleged in Count One of the Second Superseding Indictment. Moreover, this stipulation and agreement includes any similar extortion related conduct alleged in Counts 1,2,4,6 and 7 and defendant admits to all such conduct alleged in those counts of the Second Superseding Indictment. More specifically, Defendant knowingly assisted in the charged racketeering conspiracy by his involvement in the

oversight and receipt of monthly protection payments, paid in cash by the owners and operators of certain adult entertainment businesses in Rhode Island including, but not limited to, the strip clubs known as the Satin Doll and Cadillac Lounge. These extortion payments commenced at least as early as the early 1990s and continued until the date of the Indictment. Defendant also specifically admits to his involvement together with the others charged in Count Four of the Second Superseding Indictment with a scheme to extort money from a person identified as Person A. This scheme involved implied threats of violence , thereby extorting from Person A the total sum of \$25,000. In September or October of 2011, co-conspirators met with Person A and collected the sum of \$20,000 from Person A , the sum of which had been withdrawn from an IRA held by Person A's spouse. The money was later shared with other members and associates of the conspiracy including defendant.

- b. As the Defendant's underlying racketeering activity in this case involved extortion through the use of implied threats of injury or serious damage, the relevant base offense level is 18, pursuant to U.S.S.G. § 2B3.2(a) and U.S.S.G. §§ 2E1.1(a)(1) and (2); and U.S.S.G. § 2E1.1 Application Note 1. As the offense involved implied threats of death or bodily injury, a two-level increase is appropriate, pursuant to U.S.S.G. § 2B3.2(b)(1), thereby making the resulting offense level 20.
- c. The parties further stipulate that, pursuant to U.S.S.G. § 2B3.2(b)(2), the extortion conduct resulted in a loss to the victims of the extortion. This loss

exceeds \$800,000 but is not more than \$1,500,000 resulting in a four-level increase pursuant to U.S.S.G. § 2B3.1(b)(7)(F). The resulting offense level is 24.

- d. The parties further stipulate that pursuant to U.S.S.G. § 3B1.1(a), defendant was an organizer or leader of the criminal activity in this case, and that the criminal activity involved five or more participants or was otherwise extensive. These participants include other members and associates of the charged enterprise. Based upon Defendant's role in the offense, his offense level would be increased by four levels, and the resulting total offense level would be level 28.
- e. Pursuant to the grouping rules of U.S.S.G. § 3D1.4, a total of one unit would be added based on the multiple extortions resulting in a total offense level of 29.

4. The parties agree that provided defendant accepts responsibility for the offense and is awarded a three level reduction for acceptance of responsibility, the resulting total offense level in this case will be a level 26. Based upon these agreed to stipulated facts and application of the sentencing guidelines, the parties further agree that pursuant to Rule 11(c)(1)(C), an offense level of 26 and Criminal History IV is the appropriate disposition of this case. Accordingly, pursuant to Rule 11(c)(1)(C), defendant's range of imprisonment will be 92-115 months, plus any lawful fine imposed by the Court, lawful term of supervised release and special assessment.

5. Consistent with Rule 11(c)(1)(C), the Court may accept the plea agreement or reject the plea agreement. In the event the Court rejects this plea agreement, either party may elect to declare the agreement null and void. In such an event, the defendant may withdraw his plea

pursuant to the provisions of Federal Rule of Criminal Procedure 11(c)(5).

6. Defendant further agrees that there is no basis to seek a downward departure or variance from the agreed to advisory guideline range of 92-115 months. Additionally, Defendant explicitly agrees that a sentence within the applicable guideline range is reasonable under 18 U.S.C. § 3553.

7. The maximum statutory penalties for the offense to which Defendant is pleading are as follows:

- a. 20 years' imprisonment;
- b. A fine of \$ 250,000;
- c. A term of supervised release not to exceed 3 years; and
- d. A mandatory special assessment of \$100.

8. Defendant agrees that, after he and Defendant's counsel sign this agreement, counsel will return it to the United States Attorney's Office along with a money order or certified check, payable to the Clerk, United States District Court, in payment of the special assessments. Failure to do so, unless the Court has made a previous finding of indigence, will relieve the government of its obligation to recommend a reduction in the offense level under the guidelines for acceptance of responsibility.

9. Defendant is advised and understands that:

- a. The government has the right, in a prosecution for perjury or making a false statement, to use against Defendant any statement that Defendant gives under oath;
- b. Defendant has the right to plead not guilty, or having already so pleaded, to persist in that plea;

- c. Defendant has the right to a jury trial;
- d. Defendant has the right to be represented by counsel – and if necessary have the Court appoint counsel – at trial and every other stage of the proceeding;
- e. Defendant has the right at trial to confront and cross-examine adverse witnesses, to be protected from self-incrimination, to testify and present evidence, and to compel the attendance of witnesses; and
- f. Defendant waives these trial rights if the Court accepts a plea of guilty.

10. The government reserves its full right of allocution, including the right to present any information to the Court for its consideration in fashioning an appropriate sentence, the right to correct misstatements, misrepresentations, or omissions by Defendant, and to answer any questions asked by the Court.

11. Defendant hereby waives his right to appeal the conviction and sentence imposed by the Court, if the sentence imposed by the Court is within the sentencing guideline range of 92-115 months. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b), and the government retains its right to appeal any of the Court's sentencing determinations.

12. This agreement is binding on the government only if Defendant pleads guilty, fulfills all his obligations under the agreement, does not engage in any conduct constituting obstruction of justice under § 3C1.1 of the guidelines, and does not commit any new offenses. Defendant understands that if he violates this agreement in any way, the government shall be released from its obligations under the agreement and will be free to make any recommendations that it deems appropriate. If that occurs, Defendant shall not have the right to withdraw his guilty

plea.

13. This agreement is limited to the District of Rhode Island and does not bind any other federal, state, or local prosecutive authorities.

14. This agreement constitutes the entire agreement between the parties. No other promises or inducements have been made concerning the plea in this case. Defendant acknowledges that no person has, directly or indirectly, threatened or coerced Defendant to enter this agreement. Any additions, deletions, or modifications to this agreement must be made in writing and signed by all the parties in order to be effective.

15. Counsel for Defendant states that Counsel has read this agreement, been given a copy of it for Counsel's file, explained it to his client, and states that to the best of Counsel's knowledge and belief, his client understands the agreement.

16. Defendant states that he has read the agreement or has had it read to him, has discussed it with his Counsel, understands it, and agrees to its provisions.

Edward Lato

Edward Lato, Jr.
Defendant

2-10-12

Date

Mark L. Smith

Mark L. Smith
Counsel for Defendant

2-10-12

Date

William J. Ferland

William J. Ferland
Assistant U.S. Attorney
District of Rhode Island

2/13/2012

Date

Stephen G. Dambruch

Stephen G. Dambruch
Assistant U.S. Attorney
Chief, Criminal Division
District of Rhode Island

02/13/2012

Date

Sam G. Nazzari

Sam G. Nazzari
Trial Attorney,
Organized Crime Gang Section
Criminal Division
Department of Justice
Washington, DC

15 Feb 2012

Date