

**FILED**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

FEB 13 2012

**U.S. DISTRICT COURT  
DISTRICT OF R.I.**

**UNITED STATES OF AMERICA**

**v.**

**ALFRED SCIVOLA, JR.  
a/k/a "Chippy"**

:  
:  
:  
:  
:  
:

**CR. No. 11-004-06 S**

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the United States and Defendant, Alfred Scivola have reached the following agreement:

1. Defendant's Obligations.
  - a. Defendant will plead guilty to Count One of the Second Superceding Indictment, which charges Defendant with conspiracy to participate in a racketeering enterprise, in violation of 18 U.S.C. § 1962(d).
2. Government's Obligations. In exchange for Defendant's plea of guilty:
  - a. If Defendant enters a plea of guilty to Count One of the Second Superceding Indictment, the government has agreed to recommend a sentence at the mid range of the applicable guideline range of the United States Sentencing Guidelines (the "guidelines" or "U.S.S.G.").
  - b. For purposes of determining the offense level, the government agrees to recommend a two-level reduction in the offense level for acceptance of responsibility under § 3E1.1(a) of the guidelines if Defendant continues to demonstrate acceptance of responsibility through sentencing.

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, conspiracy to violate the Hobbs Act (extortion).

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 charged in the Second Superseding Indictment during the time of the conspiracy and since June of 2002 agreed to the multiple acts of extortion as alleged in the Indictment. More specifically, Defendant knowingly assisted other members and associates in the charged racketeering conspiracy through his involvement in assisting in the collection 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.

- b. The parties further stipulate the base offense level for a violation of 18 U.S.C. § 1962(d) is 19 or the offense level applicable to the underlying racketeering activity, whichever is greater. U.S.S.G. §§ 2E1.1(a)(1) and (2); and U.S.S.G. § 2E1.1 Application Note 1.
        - c. 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). The parties further stipulate that the offense involved implied threats of death or bodily injury, and thus a two-level increase is appropriate, pursuant to U.S.S.G. § 2B3.2(b)(1).
        - d. The parties further stipulate that pursuant to U.S.S.G. § 2B3.2(b)(2) the extortion conduct resulted in a loss to the victim. 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)(E). The resulting total offense level is 24.
4. The parties agree that provided defendant accepts responsibility for the offense and is awarded a three level reduction for acceptance of responsibility, the total offense level in this case will be a level 21. Based upon these agreed to stipulated facts and application of the sentencing guidelines , the parties further agree that pursuant to Rule 11(c)(1)an offense level of 21 and Criminal History category II is the appropriate disposition of this case. Accordingly, pursuant to Rule 11(c)(1)(C), defendant's range of imprisonment will be 41 to 51 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 any such 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 range of 41 to 51 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. Except for paragraphs 2 and 4 above, the parties have made no agreement concerning the application of the guidelines in this case.

12. Defendant understands that the Court alone makes all sentencing decisions, including the application of the guidelines and the sentence to be imposed. The Court is not bound by the parties' stipulations of fact, offense level adjustments, or the government's recommendations. The Court is free to impose any sentence it deems appropriate up to and including the statutory maximum. Defendant also understands that even if the Court's guideline determinations and sentence are different than Defendant expects, Defendant will not be allowed to withdraw his plea of guilty.

13. 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 41 to 51 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.

14. 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.

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

16. 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.

17. 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.

18. 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.

Alfred Scivola, Jr.  
Alfred Scivola, Jr.  
Defendant

2/9/12  
Date

Victor Berjeta  
Victor Berjeta  
Counsel for Defendant

2/9/12  
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

02/15/2012  
Date

Sam G. Nazzaro  
Sam G. Nazzaro  
Trial Attorney  
Criminal Division  
Department of Justice, Washington D.C.

15 Feb. 2012  
Date