

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-20052-CR-LENARD

UNITED STATES OF AMERICA

vs.

ALEJANDRO CURBELO,
a/k/a "Alex Curbelo,"

Defendant.

PLEA AGREEMENT

The United States of America and ALEJANDRO CURBELO, a/k/a "Alex Curbelo," (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to Count I of the Indictment, which charges the defendant with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349.

2. The defendant agrees to a reasonable statement of offense to be filed with this plea agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of offense, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

3. The United States agrees to seek dismissal of the remaining Counts of the Indictment at the time of sentencing.

4. The defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory

sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's Probation Office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

5. The defendant also understands and acknowledges that the Court shall impose a statutory maximum term of imprisonment of up to twenty (20) years, followed by a term of supervised release of up to five (5) years. In addition to a term of imprisonment and supervised release, the Court also may impose a fine of up to \$250,000, or twice the gross gain to the defendant or twice the gross loss to victims, whichever is greater, and may also order restitution.

6. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph five (5) of this agreement, a special assessment in the amount of \$100 will be imposed on the defendant. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing.

7. The Office of the United States Attorney for the Southern District of Florida and the Criminal Division of the United States Department of Justice (hereinafter "Office") reserves the right to inform the Court and the Probation Office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

8. This Office agrees that it will recommend at sentencing that the Court reduce by three levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1 of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. However, this Office will not be required to make this sentencing recommendation if the defendant: (1) fails or refuses to make full, accurate and complete disclosure to the Probation Office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

9. This Office and the defendant agree that, although not binding on the Probation Office or the Court, they will jointly recommend that the Court make the following findings and conclusions as to the sentence to be imposed:

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- (a). That the base offense level is seven (7) under U.S.S.G. § 2B1.1(a);

(b). Loss: That the parties agree that the defendant's loss will be calculated as the actual loss to the United States Housing and Urban Development related to the mortgage fraud scheme as of the date of this plea agreement, and in no event more than \$6,587,561. Therefore, the relevant amount of actual, probable or intended loss under Section 2B1.1(b)(1)(J) of the Sentencing Guidelines resulting from the offense committed in this case is more than \$2,500,000 but less than \$7,000,000, resulting in a 18-level enhancement;

(c). Aggravating Role: That the defendant was an organizer and leader of the fraud scheme under Section 3B1.1(c) of the Sentencing Guidelines resulting in a two-level enhancement; and,

(d). Total Offense Level: That the applicable offense level under all of the circumstances of the offense(s) committed by the defendant, and assuming a three-level departure for acceptance of responsibility under Section 3E1.1 of the Sentencing Guidelines, is Level 24.

10. The defendant agrees to pay restitution of as determined by the Court.

11. The defendant agrees that he shall cooperate fully with this Office by:

(a). providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other court proceeding;

(b). appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and,

(c). if requested by this Office, working in an undercover role to contact and negotiate with others suspected and believed to be involved in criminal misconduct under the supervision of, and in compliance with, law enforcement officers and agents.

12. This Office reserves the right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the court at the time of sentencing. If in the sole and unreviewable judgment of this Office the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the court's downward departure from the sentence required by the Sentencing Guidelines, this Office may at or before sentencing make a motion pursuant to Section 5K1.1 of the Sentencing Guidelines, 18 U.S.C. §3553(e), or a Rule 35 motion subsequent to sentencing, reflecting that the defendant has provided substantial assistance and recommending sentence reduction. The defendant acknowledges and agrees, however, that nothing in this Agreement may be construed to require this Office to file such a motion and that this Office's assessment of the nature, value, truthfulness, completeness, and accuracy of the defendant's cooperation shall be binding on the defendant.

13. The defendant understands and acknowledges that the court is under no obligation to grant a government motion pursuant to Title 18, United States Code, Section 3553(e), 5K1.1 of the Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, as referred to in paragraph 11 of this agreement, should the government exercise its discretion to file such a motion.

14. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, this Office, or the Probation Office, is a prediction, not a promise, and is not binding on this Office, the Probation Office or the Court. The defendant understands further that any recommendation that this Office makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant

understands and acknowledges, as previously acknowledged in paragraph four (4) above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, this Office, or a recommendation made jointly by both the defendant and this Office.

15. In the event the defendant withdraws from this agreement prior to or after pleading guilty to the charges identified in paragraph one (1) above or otherwise fails to fully comply with any of the terms of this plea agreement, this Office will be released from its obligations under this agreement, and the defendant agrees and understands that: (a) he thereby waives any protection afforded by the proffer letter agreement between the parties, signed by the defendant on February 7, 2012, Section 1B1.8 of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence, and that any statements made by him as part of plea discussions, any debriefings or interviews, or in this agreement, whether made prior to or after the execution of this agreement, will be admissible against him without any limitation in any civil or criminal proceeding brought by the government; and, (b) the defendant stipulates to the admissibility and authenticity, in any case brought by the United States in any way related to the facts referred to in this agreement, of any documents provided by the defendant or his representatives to any state or federal agency and/or this Office.

16. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by this Office in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum

permitted by statute or is the result of an upward departure from the guideline range that the Court establishes at sentencing. The defendant further understands that nothing in this agreement shall affect this Office's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if this Office appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney. The defendant further agrees, together with this Office, to request that the Court enter a specific finding that the defendant's waiver of his right to appeal the sentence to be imposed in this case was knowing and voluntary.

17. This is the entire agreement and understanding between this Office and the defendant. There are no other agreements, promises, representations, or understandings.

WIFREDO A. FERRER
UNITED STATES ATTORNEY

Date: 3/13/2012

By: Maryann McCarthy
MARY ANN McCARTHY
TRIAL ATTORNEY

Date: 3-8-12

By: Humberto Dominguez
HUMBERTO DOMINGUEZ
ATTORNEY FOR DEFENDANT

Date: 3/8/12

By: Alejandro Curbelo
ALEJANDRO CURBELO, a/k/a "Alex Curbelo,"
DEFENDANT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-20052-CR-LENARD

UNITED STATES OF AMERICA

vs.

STATEMENT OF OFFENSE

ALEJANDRO CURBELO,

Defendant.

At the time of the offense, Defendant ALEJANDRO a/k/a/ "ALEX" CURBELO was a Miami-Dade County resident. From at least in or around December 2006, and continuing through at least in or around September 2008, in Miami-Dade County, in the Southern District of Florida, and elsewhere, Defendant CURBELO and others perpetrated a conspiracy to use Great Country Mortgage Brokers ("GCMB") to fund real property mortgage loans to unqualified buyers.

GCMB was a Florida corporation doing business as a mortgage lender. It was owned by H.H. Defendant CURBELO was hired by H.H. as a loan officer for GCMB, beginning in or around February 2006 through at least in or around July 2008. As such, Defendant was paid and received a commission to recruit borrowers and process loan applications for units at condominium complexes, to include, but not limited to, Dadeland and Pelican Cove. Dadeland was located at 9001 SW 77th Avenue, Miami, Florida, and was owned and developed by H.H. Pelican Cove was located at 250 N. Banana River Drive, Merritt Island, Florida 32952, and was owned and developed by Pelican Cove on the Bay, LLC.

The Federal Housing Administration ("FHA") was a division of the United States Department of Housing and Urban Development ("HUD") that provided mortgage insurance to

approved commercial lending institutions to enable low and moderate income home buyers to obtain loans to purchase homes. FHA insured loans were only for potential home buyers who intended to be a primary resident in the home to be purchased. GCMB was a direct endorsement FHA lender, which meant that HUD granted the lender the authority to determine whether the home buyer was eligible for an FHA insured loan. HUD would then insure the loan, protecting GCMB in the event of default.

A HUD-1 Settlement Statement ("HUD-1") was a standard form required to be executed for the closing of all real estate transactions. The HUD-1 itemized for the lenders all aspects of the closing, including an itemized list of payments to be made by the borrower, money due to the seller, and any fees paid to third-parties in connection with the closing.

To be eligible to receive a FHA insured loan, home buyers were required to establish that their incomes were sufficient to meet the mortgage payments. HUD required the lenders to verify the home buyers' employment for the two most recent years. These verifications could be accomplished by having the home buyers' employers complete and sign "Verification of Employment" ("VOE") forms. The lender, and in particular the loan processor, was responsible for verifying the authenticity of the VOE and ensuring that the VOE was not handled by or transmitted from or through interested third-parties, such as real estate agents, builders, or sellers. HUD also required the buyers to provide copies of their most recent pay stubs.

To be eligible to receive an FHA loan, home buyers were also required to make a minimum equity investment in their homes of at least 3% of the cost of the home. Home buyers were permitted to use gifts from relatives, employers, unions, charitable organizations, or governmental agencies to meet this 3% equity investment. Home buyers were not, however,

permitted to meet the equity requirement with gifts from persons or entities with an interest in the sale of the home, such as sellers of the homes.

NCA and HDGF were non-profit organizations that provided assistance to borrowers who qualified for FHA residential loans by funding the borrowers' down payment obligations at closing in exchange for a charitable donation in the amount of the down payment plus a funding fee.

Many, if not all, of the individuals Defendant CURBELO and other co-conspirators recruited as borrowers for the Dadeland and Pelican Cove units were unqualified to purchase due to insufficient income and assets, high levels of debt, and outstanding collection amounts.

Defendant CURBELO knew these borrowers were unqualified, but told many of them he would "get them qualified." Some of the borrowers were complicit in creating and submitting the false and fraudulent documents, while others were unaware that their personal information was altered by the Defendant and others in order to qualify.

As an incentive, Defendant CURBELO and other co-conspirators offered the borrowers cash-back at closing, purportedly to complete necessary renovations to their units. These payments were not disclosed during the mortgage loan application process or on the HUD-1, and were often added to the sales contract as "other" thereby fraudulently increasing the sales price of the unit.

Defendant CURBELO also recruited individuals to buy at Pelican Cove by soliciting them to invest in a "rental property," and putting them in touch with a property manager, even though he knew and understood that they were applying for and receiving FHA mortgage loan applications that required the borrower to be the primary resident of the unit.

In order to help the buyers qualify for the loans, the loan officers, including Defendant CURBELO, and other co-conspirators, prepared and caused to be prepared false and fraudulent mortgage loan applications and other related documents, including, but not limited to, VOEs, bank records, paystubs, driver's licenses, and credit explanation letters. Defendant CURBELO created many of these false documents on behalf of the borrowers at Dadeland and Pelican Cove. On some occasions, Defendant paid individuals to act as "employers" and falsify the VOEs for the borrowers. The loan officers, including Defendant CURBELO, submitted those documents to GCMB's loan processors, including co-conspirators M.M., J.D.R., J.S., C.R., and R.A., for processing and approval.

Between at least in or around December 2006 and continuing through at least in or around September 2008, Defendant CURBELO recruited at least 121 borrowers to purchase units at Dadeland, including L.V., E.B., Y.G., V.B., and Gerald Saitta. By way of example, Defendant CURBELO was involved in the following transactions at Dadeland, among others:

(a) Defendant CURBELO recruited L.V. to purchase unit B-402 at Dadeland. Defendant informed L.V. that he would not qualify for the mortgage loan without a co-borrower. L.V.'s son agreed to sign as a co-borrower. Defendant then told L.V.'s son that they still did not qualify. Defendant increased L.V.'s son's monthly income to help them to qualify. L.V. did not know the income was altered. A year after closing, the employer received a copy of the false VOE as part of a quality assurance audit and confronted L.V.'s son about the inflated income.

(b) Defendant CURBELO recruited E.B. to purchase unit B-103 at Dadeland. Defendant knew that E.B. made \$400/month as a marble installer and would not qualify for the loan even with his wife as a co-borrower. Defendant asked E.B. to falsify documents for his loan.

application. E.B. agreed and signed several false documents, including a letter that Defendant CURBELO wrote that falsely stated that E.B. was in a car accident to account for a period of unemployment. Defendant made false paystubs for E.B. When Defendant gave E.B. a VOE that was filled in with a false income of \$21.30/hour or approximately \$3400/month, E.B. refused to falsify his employer's signature. Defendant CURBELO then falsified the VOE and continued to process the loan. Defendant promised E.B. \$20,000 cash-back after closing, which was not disclosed on the HUD-1.

(c) Defendant CURBELO recruited co-conspirator Gerald Saitta to purchase unit C-102 at Dadeland. Defendant CURBELO knew that Gerald Saitta would not qualify for the loan; Saitta was self-employed as a landscaper and his tax return for 2007 showed he made \$16,000 per year. Defendant told Gerald Saitta that he could find an employer to falsify his employment and income on his VOE. Defendant promised a cash-back incentive and also told Saitta he would not be responsible for closing costs. Gerald Saitta agreed and signed and submitted a loan application and closing documents at the direction of Defendant CURBELO. Both Defendant and Gerald Saitta knew the loan application and supporting documents included false and fraudulent representations. Gerald Saitta did not work at L.C.S. and did not make \$1,427.12/week as a business manager as stated on his VOE.

Of the 121 fraudulent FHA mortgage loans for units at Dadeland, 26 foreclosed and 91 are currently in default. HUD realized an actual loss of \$3,519,961 on these units, as of February 10, 2012.

Between at least in or around May 2007 and continuing through at least in or around May 2008, Defendant CURBELO recruited at least 37 borrowers to purchase "rental" units at Pelican

Cove, including Y.V., G.R., R.P., A.P., Y.V.#1, and Y.V.#2, among others. By way of example, Defendant was involved in the following transactions at Pelican Cove, among others:

(a) Defendant CURBELO recruited Y.V. to purchase unit C-3 at Pelican Cove.

Defendant knew that Y.V. was a housekeeper, earning \$8.33/hour, and did not qualify for a mortgage loan. Defendant falsified her VOE, which said she worked at Spot-B-Gone. This employer was used fraudulently by Defendant in other loan files, including G.R.'s loan file. In addition, Defendant created a false driver's license for Y.V. in order to change her address to a Merritt Island address, making it appear more likely that she would purchase a unit at Pelican Cove. Y.V. received cash-back at closing, but it was not disclosed on the HUD-1.

(b) Defendant CURBELO recruited A.P. to purchase unit F-4 at Pelican Cove.

Defendant knew he was an electrician, making \$1000-\$2000 per month and would not qualify for the loan. Defendant suggested that A.P. buy the unit as a rental property. Defendant falsified his VOE and paystubs so it appeared that A.P. worked at R.C.T. and made \$5700/month. The fax headers on the VOE indicated that Defendant sent it to the employer to falsify and then sent it to the loan processor at GCMB. Defendant asked A.P. to get a new driver's license and provided A.P. with a Merritt Island address to use on it as his own. In addition, Defendant falsified A.P.'s bank records, making it appear that A.P. made purchases in the Merritt Island area, when he did not. Defendant promised A.P. cash-back at closing. A.P. was paid approximately \$19,000, which was not disclosed on the HUD-1.

(c) Gerald Saitta purchased two additional units, F-10 and C-12, as "rental"

properties at Pelican Cove by using the names of his two minor sons, Y.V.#1 and Y.V.#2.

Saitta provided Defendant CURBELO with false and fraudulent employers, including R.L. and

N.B.B., to include on his sons' VOEs. Defendant used these employers in other borrowers' applications as well. Saitta paid individuals to use false identification cards with his sons' names and to sit-in at closing to sign as his sons behalf. Defendant CURBELO refunded Saitta for these expenses. Gerald Saitta received \$9,000 cash-back incentive for each of these purchases, which was not listed on the HUD-1 as required.

Of the 37 fraudulent FHA mortgage loans for units at Pelican Cove, 20 foreclosed and 15 are currently in default. HUD realized an actual loss of \$3,067,600, as of February 10, 2012.

On some occasions, Defendant CURBELO agreed to pay borrowers to refer other borrowers to him. For instance, Gerald Saitta referred three other individuals to purchase units at Pelican Cove and was paid approximately \$2500 in cash per unit by Defendant CURBELO.

Based on the materially false and fraudulent representations in the buyers' loan applications, GCMB approved the FHA mortgage applications and funded the purchases of the condominium units.

In order to further the conspiracy, Defendant's co-conspirators arranged for non-profit organizations, including NCA and HDGF, to pay the buyer's closing obligations. Those organizations wired the funds in interstate commerce to GCMB's bank account in Florida.

After the closing, the unqualified buyers failed to make mortgage payments, causing the units to default and to go into foreclosure. HUD was required to take title to the units and pay the outstanding loan balances to the lenders, resulting in substantial losses to the agency.

The actual loss to HUD associated with the fraudulent loan transactions at Dadeland and Pelican Cove in which Defendant CURBELO was the loan officer is approximately \$6,587,561, as of February 10, 2012.

The acts taken by the defendant in furtherance of the offense charged in this case, including the acts described above, were done willfully and knowingly with the specific intent to violate the law and not because of accident, mistake, or other innocent reason.

This Statement of Offense includes facts sufficient to support a plea of guilty to the charge described in the plea agreement and to establish the Sentencing Guideline factors. It is not meant to be a complete recitation of all facts relevant to the underlying criminal conduct or all facts known to the Fraud Section or Defendant that relate to that conduct.


Alejandro Curbelo
Defendant

3/9/12
Date


Mary Ann McCarthy, Esq.
U.S. Department of Justice

3/13/2012
Date


Humberto Dominguez, Esq.
Counsel for Alejandro Curbelo

3/9/12
Date