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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 CR 670 (VSB)

5 MICHAEL ROSS CURTLER,

6 Defendant.

7 -----x
8 New York, N.Y.
9 October 8, 2015
11:15 a.m.

10 Before:

11 HON. VERNON S. BRODERICK,

12 District Judge
13

14 APPEARANCES

15 United States Department of Justice
16 Criminal Division

JENNIFER L. SAULINO

16 BRENT S. WIBLE

17 ALISON L. ANDERSON

RICHARD POWERS

18 BUCKLEY SANDLER, LLP

Attorneys for Defendant Curtler

19 DAVID S. KRAKOFF

20 LAUREN R. RANDELL

MEHUL N. MADIA

21 Also present: Pretrial Services Officer John Moscato
22
23
24
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(In open court; case called)

THE DEPUTY CLERK: Counsel, please state your appearance for the record.

MS. ANDERSON: Good morning, your Honor.

THE COURT: Let me just say there are a lot of people. Go ahead.

MS. ANDERSON: Yes. I will have to take a deep breath. I am Alison Anderson for the government, along with my colleagues Jennifer Saulino, Richard Powers and Brent Wible.

THE COURT: For the defendant?

MR. KRAKOFF: Good morning, your Honor. David Krakoff of Buckley Sandler, along with my colleagues Lauren Randell and Mehul Madia for Mr. Curtler.

THE COURT: You may be seated.

Good morning, Mr. Curtler.

Mr. Krakoff, it has been a long time.

MR. KRAKOFF: It has been a long time, your Honor. It is a pleasure to be in your courtroom.

THE COURT: Well, I am glad that you can make it.

For the government's purpose, when I was in private practice I had been a defense counsel and Mr. Krakoff and I were represented defendants in a case out in Montana. Although I didn't try the case, I was involved in much of the pretrial and some of the activities while the trial was ongoing. It doesn't present any issue here, but I say that just for the

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1 purposes of disclosure.

2 Am I correct, Mr. Krakoff, that it is your client's
3 initial appearance?

4 MR. KRAKOFF: It is, your Honor. As a preliminary
5 matter, I would ask the Court to accept our admission --
6 myself, Ms. Randell, Mr. Madia -- pro hac vice. We have forms
7 to submit to the Court. We were unable to actually file them
8 because we didn't have a Pacer number.

9 THE COURT: Okay.

10 MR. KRAKOFF: We would ask to be admitted for this
11 proceeding, and then we'll be filing with the Court in formal
12 papers.

13 THE COURT: That's fine. I understand. This
14 proceeding because we're proceeding by information has not been
15 docketed and so it doesn't have a number. So you cannot get a
16 Pacer number. I will admit all of you pro hac for purposes of
17 today and you can take care of filing the paperwork for future
18 proceedings.

19 MR. KRAKOFF: Thank you, your Honor.

20 THE COURT: Mr. Curtler, my name is Vernon Broderick.
21 The purpose of this proceeding is to inform you of the rights
22 you have and inform you of the charge against you. You have
23 counsel, but it is also to consider whether counsel should be
24 appointed; and to decide under what conditions you should be
25 released or detained.

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1 So you have a right to remain silent. You are not
2 required to make any statements. Even if you have made any
3 statements to the authorities, you need not make any further
4 statements. Anything you say can be used against you. You
5 have a right to be released, either conditionally or
6 unconditionally, pending trial. Unless I find there are no
7 conditions that would reasonably assure your presence in court
8 and the safety of the community. You have a right to be
9 represented by counsel. I note that you are represented by
10 Mr. Krakoff and his firm at this proceeding and all proceedings
11 going forward. Obviously if you could not afford an attorney,
12 one would be appointed for you.

13 Do you understand what I have just said to you?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: You may be seated.

16 So I understand, Mr. Krakoff, your client wishes to
17 plead guilty to an information?

18 MR. KRAKOFF: That's correct, your Honor.

19 THE COURT: Ms. Williams, if you could just take a
20 moment and show Mr. Curtler a copy of the waiver of indictment.

21 Mr. Curtler, does your signature appear on the waiver
22 of indictment form?

23 You can be seated. That's fine. Just be sure you
24 speak into the microphone so that the court reporter can take
25 down everything that is said.

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1 Is that your signature on the waiver of indictment
2 form?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Before you signed it, did you discuss it
5 with your lawyer?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Did he explain it to you?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Mr. Krakoff, if you could just hand that
10 back to my deputy and she will take care of getting that filed.

11 Now, Mr. Curtler, am I pronouncing your name correctly
12 by the way?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Do you understand that you are under no
15 obligation to waive indictment?

16 THE DEFENDANT: Yes, I am, your Honor.

17 THE COURT: Do you understand that if you do not waive
18 indictment and the government wants to prosecute you, it would
19 have to present this case to a grand jury, which may or may not
20 indict you?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you understand that by waiving
23 indictment, you are giving up your right to have this case
24 presented to a grand jury?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Do you have an understanding of what a
2 grand jury is?

3 THE DEFENDANT: Yes, I do, your Honor.

4 THE COURT: I was going to say do either counsel, but
5 it is a bevy of counsel. Do counsel know of any reason why I
6 should not find that Mr. Curtler has knowingly and voluntarily
7 waived his right to be indicted by a grand jury?

8 MS. ANDERSON: No, your Honor.

9 MR. KRAKOFF: No, your Honor.

10 THE COURT: So I find that Mr. Curtler has knowingly
11 and voluntarily waived his right to be indicted by a grand
12 jury, and I authorize the filing of the information.

13 Now, Mr. Curtler, before I accept your guilty plea, I
14 am going to ask you certain questions so that I can establish
15 to my satisfaction that you wish to plead guilty because you
16 are in fact guilty and not for some other reason and also to
17 establish that you know what you will be giving up by pleading
18 guilty. If you don't understand anything I say or if you have
19 any questions or you want to speak to your lawyer, just let us
20 know. We'll take time out and you can speak with your lawyer
21 or I will do my best to answer any questions you have.

22 Okay?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Ms. Williams, please swear Mr. Curtler.

25 THE DEFENDANT: Mr. Curtler, please raise your right

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1 hand.

2 (Defendant sworn)

3 THE COURT: Mr. Curtler, you are now under oath, which
4 means that if you answer any of my questions falsely, you may
5 be prosecuted for the separate crime of perjury. Do you
6 understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: What is your full name?

9 THE DEFENDANT: Michael Ross Curtler.

10 THE COURT: How old are you?

11 THE DEFENDANT: 43 years old.

12 THE COURT: How far did you go in school?

13 THE DEFENDANT: To the equivalent of high school, 18
14 years old, your Honor.

15 THE COURT: Have you ever been treated or hospitalized
16 for any mental illness?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Are you now or have you recently been
19 under the care of a doctor or a psychiatrist?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Have you ever been treated or hospitalized
22 for any addiction of any type, including drug or alcohol
23 addiction?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Have you taken any drugs, medicine or

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1 pills or drunk any alcoholic beverages in the past two days?

2 THE DEFENDANT: Yes, your Honor. I had one beer last
3 night with dinner and I am currently on a low dosage of
4 antidepressants.

5 THE COURT: The dosage of antidepressants, does that
6 affect your mind at all? In other words, do you understand
7 what is going on today?

8 THE DEFENDANT: I do, your Honor.

9 THE COURT: Mr. Krakoff, have you discussed this
10 matter with your client?

11 MR. KRAKOFF: Yes, your Honor.

12 THE COURT: Does he understand the rights that he will
13 be waiving by pleading guilty?

14 THE DEFENDANT: He does, your Honor.

15 THE COURT: Is he capable of understanding the nature
16 of these proceedings?

17 THE DEFENDANT: Yes, he is.

18 THE COURT: Do either counsel have any doubt that Mr.
19 Curtler is competent to plead guilty at this time?

20 MS. ANDERSON: No, your Honor.

21 MR. KRAKOFF: No, your Honor.

22 THE COURT: Mr. Curtler, have you received a copy of
23 the information?

24 THE DEFENDANT: I have, your Honor.

25 THE COURT: And did you read it?

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1 THE DEFENDANT: I did, your Honor.

2 THE COURT: Do you waive its public reading?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Have you had enough of a chance to discuss
5 with your lawyer the charge to which you intent to plead guilty
6 and any possible defenses to that charge?

7 THE DEFENDANT: Yes, I have, your Honor.

8 THE COURT: It says charges. I understanding it is
9 conspiracy that involves bank fraud and mail fraud or wire
10 fraud?

11 MS. ANDERSON: Wire fraud.

12 THE COURT: Wire fraud.

13 Has your lawyer explained the consequences of entering
14 a plea of guilty?

15 THE DEFENDANT: He has, your Honor.

16 THE COURT: Are you satisfied with Mr. Krakoff's
17 representation?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: I am now going to explain to you certain
20 constitutional rights that you have. These are rights that you
21 will be giving up if you enter a plea of guilty. So please
22 listen carefully to everything I am about to say. Again, stop
23 me if you don't understand something or if you want something
24 explained in more detail.

25 Okay?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Under the Constitution and laws of the
3 United States, you have a right to plead not guilty to the
4 charge in the information. Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: If you were to plead not guilty, you would
7 be entitled to a speedy and public trial by a jury on the
8 charges contained in the information. Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: At that trial, you would be presumed
11 innocent and the government would be required to prove you
12 guilty by competent evidence beyond a reasonable doubt before
13 you could be found guilty. Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Now, a jury of 12 people would have to
16 agree unanimously that you were guilty and you would not have
17 to prove that you were innocent if you were to go to trial. Do
18 you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: At that trial and every stage of the case
21 as I mentioned earlier, you are entitled to be represented by a
22 lawyer. If you could not afford a lawyer, one would be
23 appointed at public expense to represent you.

24 Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: During the trial the witnesses for the
2 government would have to come to court and testify in your
3 presence and your attorney would have the opportunity to
4 cross-examine those witnesses for the government, object to any
5 evidence offered by the government and offer evidence on your
6 own behalf if you so desired. You would also have the right to
7 have subpoenas issued or other process to compel witnesses to
8 attend and testify in your defense.

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: At a trial, although you would have the
12 right to testify if you chose to do so, you would also have the
13 right not to testify. If you decided not to testify, no one,
14 not the jury could draw any inference or suggestion of guilt
15 from the fact that you did not testify.

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Have you had a full opportunity to discuss
19 with your lawyers whether or not there is a basis to seek
20 suppression of some or all of the evidence against you on the
21 ground that your constitutional rights were violated?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that by pleading guilty,
24 you are giving up your right to seek suppression of any of the
25 evidence against you?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: If you were convicted after a trial, you
3 would have a right to appeal that verdict. Do you understand
4 that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Now, even now as you sit here today as you
7 are entering your guilty plea, you have a right to change your
8 mind and to plead not guilty and go to trial on the charge
9 contained in the information. Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Now, if you plead guilty and I accept your
12 plea, you will be giving up your right to a trial and the other
13 rights I have just discussed, other than the right to the
14 lawyer, which you will have no matter whether or not you plead
15 guilty. But there will not be a trial and I will enter a
16 judgment of guilty and sentence on the basis of your plea after
17 I have considered the presentence report and whatever
18 submissions I get from the government and from your lawyer with
19 regard to the case. There will be no appeal with respect to
20 whether or not the government could have used the evidence
21 against you or with respect to whether you did or did not
22 commit the crime.

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: If you plead guilty, you will also give up

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1 your right not to incriminate yourself because I am going to
2 ask you questions about what you did that makes you believe
3 that you are in fact guilty to satisfy myself that you are
4 guilty of the charge. Do you understand?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand each and every one of
7 the rights I have just discussed with you?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Mr. Curtler, are you willing to give up
10 your right to trial and the other rights I have just discussed?

11 THE DEFENDANT: Yes, I am, your Honor.

12 THE COURT: Do you understand that you are charged
13 with conspiracy to commit bank fraud and wire fraud?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Ms. Anderson, would you please state the
16 elements of the offense in question.

17 MS. ANDERSON: Yes, your Honor. The elements of the
18 offense in question, Title 18, United States Code, 1349,
19 conspiracy to commit wire and bank fraud, the first is that two
20 or more persons agreed to try to accomplish a common and
21 unlawful plan to commit a fraud crime. The second element is
22 that the defendant knew of the unlawful purpose of the plan and
23 willfully joined it.

24 THE COURT: Mr. Curtler, do you understand that if you
25 were to go to trial, the government would have to prove all of

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1 the elements that the prosecutor just mentioned to the crime
2 beyond a reasonable doubt?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Now, I am going to explain to you certain
5 maximum penalties that you have that relate to this charge.
6 The maximum means that it is the most that could possibly be
7 imposed. It does not mean that that is what you will
8 necessarily receive; but you have to understand that by
9 pleading guilty, you are exposing yourself to the possibility
10 of receiving any combination of punishments up to the maximum
11 that I am about to describe.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: First I am going to explain to you
15 restrictions on your liberty. The maximum term of imprisonment
16 for Count One of the information is 30 years' imprisonment,
17 which could be followed by a maximum fine of five years'
18 supervised release. Now, supervised release means that when
19 you are released from prison, you will have to abide by certain
20 rules that will be provided to you by the Probation Department.
21 If you violate the rules, you can be returned to prison without
22 a trial to serve additional time with no credit for the time
23 that you served in prison as a result of your sentence and no
24 credit for the time that you spent on postrelease supervision.

25 Do you understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: The other thing that you should understand
3 is that there is no longer any parole in the federal system.
4 So if you are sentenced to a term of imprisonment, you will not
5 be released on parole. Now, there is an opportunity, and it is
6 limited, to get what is called good-time credit for good
7 behavior while you're in prison; but you will have to serve at
8 least 85 percent of the time to which you are sentenced.

9 Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Now, in addition to the restrictions on
12 your liberty, there are certain financial penalties also that
13 you could face. Now, the maximum allowable fine on Count One
14 is \$1 million or twice the gain derived from the offense or
15 twice the loss to persons, other than yourself, as a result of
16 the offense.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: In addition, I can order restitution to
20 any person or entity injured as a result of your criminal
21 conduct. I understand pursuant to the agreement that I have
22 here that you have agreed to make restitution; is that correct?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: In addition, I can also order you to
25 forfeit all property derived from the offense or used to

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1 facilitate the offense. I note also that as part of the plea
2 agreement you agree to admit to the forfeiture allegation as it
3 relates to Count One of the information. You have agreed to
4 forfeit a sum of money representing the amount of proceeds
5 obtained directly or indirectly as a result of committing the
6 acts charged in Count One.

7 Is that correct?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Finally, I must order a \$100 special
10 assessment and that special assessment will be due at the time
11 of sentencing. Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Now, do you understand all of the maximum
14 penalties that I have just explained to you?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Mr. Curtler, I read that you are not a
17 resident of the United States; is that correct?

18 THE DEFENDANT: That is correct, your Honor.

19 THE COURT: Do you understand that by pleading guilty,
20 it may affect your immigration status? So it may affect your
21 immigration status and your ability to travel in and out of the
22 United States at some point in the future.

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Now, have you discussed any possible

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1 immigration consequences with your lawyer?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you want to plead guilty regardless of
4 whatever immigration consequences there might be?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that you will not have a
7 right to withdraw your guilty plea based on any actual
8 perceived adverse immigration consequences resulting from your
9 plea and conviction?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand that as a result of your
12 guilty plea, you may also lose certain civil rights? Some of
13 them you may not actually have because you are not a citizen;
14 but some of them you may be able to obtain, and that includes
15 the right to vote, the right to hold public office, the right
16 to serve on a jury, and the right to possess any kind of
17 firearm.

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Mr. Curtler, are you currently serving any
20 sentence, whether it is here in the U.S. or in the U.K. or
21 anywhere else?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: Are you currently on parole of any sort?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Do you understand that if your lawyer has

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1 predicted or attempted to predict for you what your sentence
2 would be that that prediction could be wrong?

3 THE DEFENDANT: I understand, your Honor.

4 THE COURT: Do you understand no one -- not your
5 lawyer, not the government's lawyer -- no one can give you any
6 assurance as to what your sentence will be because I am going
7 to decide your sentence and that is not going to happen today.
8 I am going wait until as I mentioned I receive the presentence
9 report prepared by the Probation Department. And then I am
10 required and I will do my own independent calculation of the
11 sentencing guideline range. I will consider any possible
12 departures from that guideline range, consider the submissions
13 of your attorney and of the government's and also determine
14 what a reasonable sentence will be for you based upon the
15 sentencing factors contained in 18, U.S.C., 3553(a).

16 Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Have you discussed the issue of sentencing
19 and sentencing guidelines with your attorney?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: So even if your sentence is different from
22 what anyone else has told you it might be, even if it is
23 different from what you expect, you will still be bound by your
24 guilty plea and will not be allowed to withdraw your guilty
25 plea. Do you understand that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Now, I have a copy of the plea agreement
3 here, the original. It is dated October 6th. I will hand it
4 to my deputy clerk just to confirm your signature on this, Mr.
5 Curtler.

6 Mr. Curtler, is that your signature on the second to
7 last page?

8 THE DEFENDANT: Yes, it is, your Honor.

9 THE COURT: Thank you.

10 Did you sign that agreement on the 6th of October?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Before you signed it, did you read it?

13 THE DEFENDANT: Yes, I did, your Honor.

14 THE COURT: Did you fully understand it before you
15 signed it?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Now, one thing you should understand is
18 that that agreement is binding on you and it is binding on the
19 government, but it is not binding on me. I have my own
20 obligation to determine a sentencing guideline range and what
21 the appropriate sentence is for you.

22 Do you understand that your plea agreement is not
23 binding on me?

24 THE DEFENDANT: I do, your Honor.

25 THE COURT: Do you understand that under the

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1 agreement -- this is only a summary of some of the things that
2 you have agreed to do -- that you agree to truthfully and
3 completely disclose all information with respect to your
4 activity and the activities of others about which you are asked
5 by the Department of Justice, including the Antitrust Division;
6 you are to cooperate fully with the authorities, including the
7 Antitrust Division, the FBI, and any other law enforcement
8 agency that they direct you to cooperate with, including the
9 Serious Fraud Office of the United Kingdom; you are to attend
10 all meetings that they request your presence at; you are to
11 provide them with any documents, records or tangible evidence
12 that they request of you; you are to truthfully testify at any
13 proceedings at which they ask you to testify; you are to
14 disclose to them all crimes that you have committed both in the
15 past and any that you commit even after today; and you are also
16 to provide them information about others who have committed
17 crimes?

18 Do you understand that is a summary of what you have
19 agreed to?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that one provision of
22 the agreement also requires that you provide the Department of
23 Justice and the Antitrust Division with advanced notice if you
24 discuss this case or the charges in Count One of the
25 information with anyone other than the Antitrust Division in

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1 the United States Department of Justice, your attorney or
2 someone designated by the United States Department of Justice
3 or the Antitrust Division; do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Have you discussed the nature of
6 cooperation that you agreed to with your attorney?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you understand that if you comply with
9 all of the terms of the agreement, including by providing
10 substantial assistance, the government will make a motion on
11 your behalf pursuant to Section 5k1.1 of the sentencing
12 guidelines and 18, United States Code, Section 3553(e) that
13 would request that I sentence you in light of the factors under
14 Section 5K1.1 of the sentencing guidelines; do you understand
15 that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that if the government
18 determines -- again, this is in their sole discretion -- that
19 if you have not complied with the terms of your agreement, that
20 it is relieved of its obligation to make a motion on your
21 behalf but you cannot withdraw your guilty plea?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that if even if such a
24 motion is filed, the sentence you receive remains in my sole
25 discretion? In other words, I am going to determine your

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1 sentence and no one else; do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Now, does this written agreement contain
4 your complete understanding of your agreement with the
5 government?

6 MR. KRAKOFF: Excuse me, your Honor.

7 THE COURT: With one exception.

8 MR. KRAKOFF: With one exception and that is this: We
9 signed another copy of this this morning when it was determined
10 that there has been a provision of the potential fine, the
11 Alternative Fines Act, that had not been in the original. We
12 wrote it in and everyone initialed it and we redated it. Other
13 than that, it is identical to what the Court has.

14 THE COURT: That's right. I should have noted that.
15 The original that I did receive has that interlineal change and
16 it has the initials of all the parties involved. In addition,
17 I believe I allocuted Mr. Curtler with regard to that.

18 Actually, I did have a question and it related to the
19 portion of the agreement that says agreement to -- now, is
20 there an agreement with regard to extradition? Obviously Mr.
21 Curtler is here and therefore consenting to this proceeding.

22 MR. KRAKOFF: He is consenting to this proceeding. We
23 have not had a formal waiver of extradition, but he is here and
24 he has effectively waived extradition. We're of course happy
25 to put that in writing.

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1 THE COURT: There is a reference to that effect or at
2 least a reference to the government's agreement to provide me
3 with information with regard to Mr. Curtler's waiver of
4 extradition. I do note that obviously he is here and therefore
5 consenting to this proceeding.

6 Now, does this agreement constitute your complete and
7 total understanding of the entire agreement that you have with
8 the government, Mr. Curtler?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Has anything been left out?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Now, other than what is written in the
13 agreement, has anyone made any promise or offered you any
14 inducement to plead guilty or sign this agreement?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: Has anyone threatened you or forced you to
17 plead guilty or sign the plea agreement?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Has anyone promised you what your sentence
20 will be?

21 THE DEFENDANT: No, your Honor.

22 THE COURT: Mr. Curtler, how do you plead?

23 THE DEFENDANT: Guilty, your Honor.

24 THE COURT: Now, I am going to ask you, Mr. Curtler,
25 to describe in your own words what it is that you did that

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1 makes you believe that you are guilty of the charge in the
2 information.

3 THE DEFENDANT: Should I stand up, your Honor?

4 THE COURT: No, you can remain seated.

5 THE DEFENDANT: I worked at Deutsche Bank from 1993
6 until December 2012. Starting in approximately 2000 I traded a
7 variety of financial instruments that were tied to the U.S.
8 dollar Libor, London InterBank Offered Rate, also known as
9 LIBOR. From approximately 2002 until I left Deutsche Bank in
10 2012, I also, on occasion, submitted Deutsche Bank's U.S.
11 dollar Libor rates to the British Bankers Association. I
12 understood that Deutsche Bank's U.S. dollar Libor submissions
13 were supposed to reflect only the rate at which Deutsche Bank
14 perceived it could borrow U.S. dollars in the London interbank
15 market.

16 During a portion of the time when I submitted Deutsche
17 Bank's U.S. dollar Libor rates, I received or was copied ons
18 request from Deutsche Bank traders to alter the bank's Libor
19 submission in such a manner as to benefit the trading positions
20 of the bank and individual traders and I altered the bank's
21 Libor submissions consistent with these requests.

22 I also solicited requests from traders on where they
23 would like the Libor submission to be and I altered the bank's
24 Libor submissions consistent with these solicited requests.

25 I was also aware that the bank's primary U.S. dollar

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1 Libor submitter received requests to manipulate U.S. dollar
2 Libor and submitted Deutsche Bank's U.S. dollar Libor rates
3 consistent with these trader requests in order to benefit the
4 bank and its trading positions.

5 I never disclosed to Deutsch Bank's trading
6 counterparties my efforts alter U.S. dollar Libor or my
7 knowledge of others engaging in this behavior.

8 When I altered Libor to support Deutsch Bank's trading
9 positions, I understood that the counterparties on the opposite
10 side of these trades could be negatively affected. I knew that
11 some of the affected parties were American financial
12 institutions and that some of these trades would involve wire
13 transfers beginning or ending in the United States.

14 I knew that what I was doing was wrong. I accept
15 responsibility for and regret my conduct. I am truly sorry for
16 what I did and I want to apologize to the affected trading
17 counterparties for my actions.

18 THE COURT: At the time that you did these things, did
19 you know what you were doing was wrong?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Let me ask this of the government with
22 regard to venue, if you could just provide a proffer with
23 regard to the venue issue.

24 MS. ANDERSON: Yes, your Honor. With regard to the
25 venue issue, the scheme involved multiple international wires

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1 into and out of the Southern District of New York. And just by
2 way of an example, the Libor rate was published everyday by
3 Thompson Reuters here in the Southern District of New York.
4 Also, there were derivative traders that worked at Deutsche
5 Bank who submitted requests that were working here in the
6 Manhattan office.

7 THE COURT: Thank you.

8 Mr. Krakoff, do you know of any valid defense that
9 will prevail at trial or do you know of any reason why your
10 client should not be permitted to plead guilty?

11 MR. KRAKOFF: No, your Honor.

12 THE COURT: Ms. Anderson, are there any additional
13 questions that you want me to ask Mr. Curtler?

14 MS. ANDERSON: No, your Honor.

15 THE COURT: I saw you looked down the table. We have
16 unanimity on that.

17 Ms. Anderson, if you could describe or summarize what
18 the government's evidence would be had Mr. Curtler gone to
19 trial.

20 MS. ANDERSON: Yes, your Honor. The government's
21 evidence would show that between the years of 2003 and 2011 the
22 defendant worked for Deutsche Bank AG London branch as a senior
23 trader and supervised the U.S. dollar cash desk. In this role
24 he was involved in both submitting U.S. dollar Libor as well as
25 trading U.S. dollar Libor-based derivative products. As he

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1 said the Libor is the London InterBank Offered Rate, which is a
2 benchmark interest rate based on a rate that panel banks
3 believed that they could borrow money in London at 11:00 a.m.
4 London time and that rate was then published daily in trillions
5 of dollars and financial actions were linked to that rate.

6 In his role as a senior trader and supervisor of the
7 U.S. dollar cash desk, the defendant agreed with other Deutsche
8 Bank employees to manipulate the U.S. dollar Libor rate to
9 benefit his trading positions and the positions of other
10 traders at Deutsche Bank. By manipulating that submission and
11 thereby intending to manipulate the Libor rate, the defendant
12 and his coconspirators defrauded the bank's counterparties,
13 namely to those certain derivative products, namely interest
14 rate swaps. There were numerous overt acts throughout that
15 time, basically which includes what was allocuted to regarding
16 venue.

17 The government would prove this through witness
18 testimony, through chats, e-mails, as well as Deutsche Bank's
19 submission data of the Libor rate.

20 THE COURT: Mr. Curtler, did you hear what the
21 prosecutor just said?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that by pleading guilty
24 you are giving up the right to challenge all of the evidence
25 that the prosecutor just mentioned?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Did you do those things that the
3 prosecutor just mentioned?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do both counsel agree that there is a
6 sufficient factual predicate for the plea?

7 MS. ANDERSON: Yes, your Honor.

8 MR. KRAKOFF: Yes, your Honor.

9 THE COURT: Mr. Curtler, because you acknowledge that
10 you are in fact guilty as charged in Count One of the
11 information, because I am satisfied that you know your rights
12 including your right to go to trial and that you are aware the
13 consequences of your plea including the sentence that may be
14 imposed, and because I find that you are knowingly and
15 voluntarily pleading guilty, I am going to accept your guilty
16 plea and I will enter a judgment to Count One of the
17 information.

18 Now, at some point the Probation Department is going
19 to want to interview you to prepare a presentence report.

20 Mr. Krakoff, do you wish to be present for that
21 interview?

22 MR. KRAKOFF: Yes.

23 THE COURT: So that interview will not occur unless
24 Mr. Krakoff is there.

25 Mr. Curtler, let me say this: When you do speak to

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1 the Probation Department, if you choose to speak to them, make
2 sure that anything you say to them is truthful and accurate.
3 The presentence report is something that I am going to look at
4 very carefully before I impose sentence. You and Mr. Krakoff
5 and your other attorneys will have a right to examine the
6 report and to make comments both prior to the time of
7 sentencing, in which case your comments will go to the
8 Probation Department and they will make whatever corrections or
9 adjustments they feel are appropriate but also at the time you
10 are sentenced. So I urge you to read very carefully and
11 discuss it with Mr. Krakoff and your other attorneys and if
12 there are any mistakes in it, be sure you point them out so
13 that they can be corrected or point them out to me and I can
14 resolve them at the time of sentencing.

15 Now, in light of your agreement with the government,
16 what I will do is set a control date for your sentencing.

17 THE DEPUTY CLERK: January 19th.

18 THE COURT: January 19th will be the control date.
19 What that means, Mr. Curtler, is you will not be sentenced on
20 that day; but in order to make sure that this matter is on our
21 calendar, we set it down for the 19th. When it is time,
22 though, for you to be sentenced, we'll set a real sentencing
23 date and you will be interviewed by the Probation Department.

24 In connection with that, I direct counsel to my
25 individual rules. Rule 10 of my criminal rules indicate what

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1 typically I require for any presentencing submissions.

2 Now, is there an agreement with regard to bail? Does
3 everybody have a copy of the Pretrial Services report?

4 MS. ANDERSON: Yes, your Honor.

5 THE COURT: Is there an agreement with regard to bail
6 for Mr. Curtler?

7 MS. ANDERSON: Yes, your Honor. The parties have
8 agreed to a bond amount of \$500,000 secured by \$40,000 and also
9 some additional conditions that we can address now.

10 THE COURT: The \$500,000 bond, is that with Mr.
11 Curtler's signature, and are there other cosigners?

12 MR. KRAKOFF: No, your Honor.

13 THE COURT: That's fine. So \$500,000 secured by
14 \$40,000 in cash. In light of the fact that Mr. Curtler resides
15 in the United Kingdom, I am not going to require that Pretrial
16 Services supervise him. However, what I will ask is that since
17 Mr. Curtler is cooperating is that the government and its
18 agents keep in contact with him to make sure that he is abiding
19 by his conditions of release.

20 I should note that as I understand it, and you can
21 supply me with the details, in addition to the bond and the
22 secured cash component that there are travel restrictions that
23 will be to the U.S., the U.K., France, Spain, Germany, Portugal
24 and Dubai. As I understand it there may be previously vacation
25 time scheduled. So if I am missing any places, you should let

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1 me know.

2 If at some point in the future, Mr. Curtler, you
3 believe or want to travel somewhere else, you should contact
4 your attorneys so that they can contact the government and let
5 the Pretrial Services officer know and we can make arrangements
6 to extend your conditions.

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Assuming that I find that they are
9 appropriate at that time.

10 Is there anything else that we need to do today, Ms.
11 Anderson?

12 MS. ANDERSON: No, your Honor.

13 THE COURT: Mr. Krakoff?

14 MR. KRAKOFF: No, your Honor.

15 THE COURT: Ms. Williams, we usually don't do bail
16 here. Is there anything else that we need?

17 THE DEPUTY CLERK: For the bond I have to call
18 arraignment. We don't have that form.

19 THE COURT: If there are any additional things, we'll
20 contact the parties, but we'll fill out the forms.

21 THE DEPUTY CLERK: They have to stick around.

22 THE COURT: You have to sign the bond.

23 Ms. Anderson, with regard to the secured component is
24 there a time frame within which Mr. Curtler should have that
25 security posted?

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1 MS. ANDERSON: It would be the government's position
2 that it is done right away and definitely before he leaves the
3 country.

4 MR. KRAKOFF: That is exactly what we're going to do.
5 We're going to go to the office and we have the appropriate
6 checks with us. We'll be providing them to the Court.

7 THE COURT: Fantastic. I think where you'll end up
8 going, Mr. Krakoff, is the 5th Floor of 500 Pearl Street where
9 they will take care of the bond and Mr. Curtler will be able to
10 sign the bond.

11 I am not sure where the cash gets posted.

12 THE DEPUTY CLERK: Well, I think you have to fill out
13 something first and then they walk over.

14 THE COURT: Anything else, Ms. Anderson?

15 MS. ANDERSON: No, your Honor.

16 THE COURT: Mr. Krakoff?

17 MR. KRAKOFF: No, your Honor.

18 THE COURT: Thank you very much.

19 Mr. Curtler, I will see you at some point in the
20 future.

21 MS. ANDERSON: Thank you, your Honor.

22 MR. KRAKOFF: Thank you, your Honor.

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