

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 18 CR 60190

UNITED STATES OF AMERICA

vs.

EUGENE MAROTTA,

Defendant.

SCANNED

PLEA AGREEMENT

The Office of the United States Attorney for the Southern District of Florida and the United States Department of Justice, Consumer Protection Branch, (hereinafter referred to as the "government") and EUGENE MAROTTA (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to waive indictment and plead guilty to a one count INFORMATION, which charges him with conspiracy to commit mail fraud in violation of 18 U.S.C. § 371.
2. The defendant is aware that a factual basis for his guilty plea exists, that the facts of his offense meet the elements of conspiracy to commit mail fraud under 18 U.S.C. § 371, and that, had this case proceeded to trial, the government would have proven those facts, and satisfied each of the offense's elements, to a jury beyond a reasonable doubt.
3. The defendant is aware that his sentence on Count One 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

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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 a sentence within that advisory range; 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 offense identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

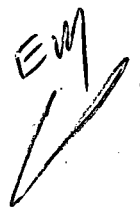
4. The defendant understands and acknowledges that the Court may impose a statutory maximum term of imprisonment of up to 5 years for Count One of the Information (conspiracy to commit mail fraud pursuant to 18 U.S.C. § 371), followed by a maximum of up to 3 years of supervised release (18 U.S.C. § 3583(b)(2)). The defendant also understands and acknowledges that, for Count One, the Court may impose a fine of up to \$250,000 or twice the pecuniary loss or gain to persons as a result of the defendant's offense, whichever is greater (18 U.S.C. § 3571(b)(3) and (d)), and shall order restitution to the victims (18 U.S.C. § 3663A). The defendant further agrees that restitution for Count One is not limited to his specific acts set forth in the Information.



5. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 4 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. If the Defendant is financially unable to pay the special assessment, the Defendant agrees to present evidence to the government and the Court at the time of sentencing as to the reasons for the Defendant's failure to pay.

6. The government 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, the government further reserves the right to make any recommendation as to the quality and quantity of punishment.

7. The government agrees that it will recommend at sentencing that the Court reduce by two levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing the defendant's offense level is determined to be 16 or greater, the government will make a motion requesting an additional one-level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently. The government further agrees to recommend that the defendant be sentenced to a term of imprisonment at the low end of the



advisory guideline range, as that range is determined by the Court. The government, however, will not be required to make this motion and these recommendations if the defendant: (1) fails or refuses to make a 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 into this plea agreement; (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; or (4) makes any statement or takes any action inconsistent with acceptance of responsibility for his criminal conduct.

8. The defendant agrees to assist the government in all proceedings, whether administrative or judicial, involving the forfeiture to the United States of all rights, title, and interest, regardless of their nature or form, in all assets, including real and personal property, cash and other monetary instruments, wherever located, which the defendant or others to the defendant's knowledge have accumulated as a result of illegal activities. Such assistance will involve the defendant's agreement to the entry of an order enjoining the transfer or encumbrance of assets that may be identified as being subject to forfeiture. Additionally, defendant agrees to identify as being subject to forfeiture all such assets, and to assist in the transfer of such property to the United States by delivery to the government upon the government's request, all necessary and appropriate documentation with respect to said assets, including consents to forfeiture, quit claim deeds and any and all other documents necessary to deliver good and marketable title to said property.



9. The defendant knowingly and voluntarily agrees to waive any claim or defense the defendant may have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeited assets.

10. The government 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:

a. Base offense level: The relevant base offense level is six under Section 2B1.1(a)(2) of the Sentencing Guidelines.

b. Loss: The relevant amount of actual, probable or intended loss under Section 2B1.1(b)(1)(H) of the Sentencing Guidelines resulting from the offense committed in this case is more than \$550,000, resulting in an offense level increase of 14.

c. Victim enhancement: The defendant's offense victimized more than ten people, resulting in a two-point enhancement under Section 2B1.1(b)(2)(A) of the Sentencing Guidelines.

d. Vulnerable victims: The government intends to argue at sentencing that the defendant knew or should have known that a victim of the offense was a vulnerable victim and the offense involved a large number of vulnerable victims, resulting in a four-point enhancement under Section 3A1.1(b)(1) and (2). The defendant intends to argue that this guideline does not apply.

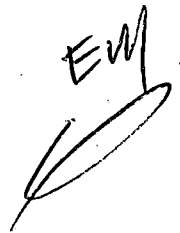
e. Overall guideline range: Under the government's recommendation, the applicable guideline range under all of the circumstances of the offense committed by the defendant, before consideration of acceptance of responsibility under paragraph 7 above, is Level 26. Under the defendant's recommendation, the applicable guideline range under all of the

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circumstances of the offense committed by the defendant, before consideration of acceptance of responsibility under paragraph 7 above, is Level 22.

11. The defendant is aware that Title 18, United States Code, Section 3742, and Title 28, United States Code, Section 1291, afford the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the government in this plea agreement, the defendant hereby waives all rights conferred by Sections 3742 and 1291 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 and/or an upward variance from the Guideline range that the Court establishes at sentencing. The defendant further understands that nothing in this plea agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b), and Title 18, United States Code, Section 1291. However, if the government appeals the defendant's sentence pursuant to Section 3742(b) and 1291, the defendant shall be released from the above waiver of appellate rights. By signing this plea agreement, the defendant acknowledges that he has discussed the appeal and collateral attack waiver set forth in this plea agreement with defendant's attorney.

12. 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, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government 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 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, the government, or a recommendation made jointly by both the defendant and the government.

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

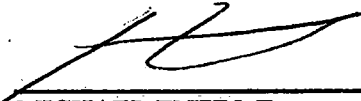
BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY

Date: 9/24/18

By: 
RICHARD GOLDBERG
SENIOR COUNSEL FOR COMPLEX LITIGATION

EHREN REYNOLDS
TRIAL ATTORNEY
U.S. DEPARTMENT OF JUSTICE

Date: 5/7/18

By: 
MICHAEL ENTIN, Esq.
ATTORNEY FOR DEFENDANT

Date: 5/7/18

By: 
EUGENE MAROTTA
DEFENDANT

