

United States District Court  
Southern District of Texas  
FILED

NOV 06 2018

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

KRISHNA MOHAN

Defendant.

CRIMINAL NO. 4:18CR610

**PLEA AGREEMENT**

The United States of America, by and through Sandra Moser, Acting Chief of the Fraud Section, Criminal Division, United States Department of Justice ("Fraud Section"), and Ryan K. Patrick, United States Attorney for the Southern District of Texas (collectively, the "United States"); and the defendant, KRISHNA MOHAN ("Defendant"), and Defendant's counsel, pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure, state that they have entered into an agreement ("Agreement"), the terms and conditions of which are as follows:

**Defendant's Agreement**

1. Defendant agrees to plead guilty to Count One of the Criminal Information filed in this case, which charges Defendant with one count of conspiracy, in violation of Title 18, United States Code, Section 371, to commit: (a) wire fraud, in violation of Title 18, United States Code, Section 1343; (b) commodities fraud, in violation of Title 18, United States Code, Section 1348; and (c) spoofing, in violation of Title 7, United States Code, Sections 6c(a)(5)(C) and 13(a)(2). Defendant, by entering this plea, agrees that he is waiving any right to have the facts that the law makes essential to the punishment either charged in an indictment, or proved to a jury, or proven beyond a reasonable doubt.

2. Defendant has read the charges against him contained in the Criminal Information, and those charges have been fully explained to him by his attorney.

3. Defendant fully understands the nature and elements of the crimes with which he has been charged.

**Punishment Range**

4. The statutory maximum penalty for a violation of Title 18, United States Code, Section 371, is imprisonment of not more than five years and a fine of not more than \$250,000, or twice the gross gain or gross loss resulting from the offense, whichever is greater. Additionally, Defendant may receive a term of supervised release after imprisonment of up to three years. *See* 18 U.S.C. §§ 3559(a)(3) and 3583(b)(2). Defendant acknowledges and understands that if he should violate the conditions of any period of supervised release which may be imposed as part of his sentence, then Defendant may be imprisoned for the entire term of supervised release, without credit for time already served on the term of supervised release prior to such violation. *See* 18 U.S.C. §§ 3559(a)(3) and 3583(e)(3). Defendant understands that he cannot have the imposition or execution of the sentence suspended, nor is he eligible for parole.

5. Defendant further understands that, pursuant to 18 U.S.C. § 3663A, the Court must order restitution for persons directly and proximately harmed as a result of Defendant's violation of Count One (Conspiracy), in an amount determined by the Court. Defendant understands that the forfeiture of property, real or personal, which constitutes or is derived from proceeds traceable to the offense, is part of the sentence that must be imposed in this case, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

### **Mandatory Special Assessment**

6. Pursuant to 18 U.S.C. § 3013(a)(2)(A), immediately after sentencing, Defendant agrees pay to the Clerk of the United States District Court a special assessment in the amount of one hundred dollars (\$100.00) per count of conviction. The payment will be by cashier's check or money order, payable to the Clerk of the United States District Court, c/o District Clerk's Office, P.O. Box 61010, Houston, Texas 77208, Attention: Finance.

### **Immigration Consequences**

7. Defendant recognizes that pleading guilty may have consequences with respect to his immigration status. Defendant understands that if he is not a citizen of the United States, by pleading guilty he may be removed from the United States, denied citizenship, and denied admission to the United States in the future. Defendant understands that if he is a naturalized United States citizen, pleading guilty may result in immigration consequences, such as denaturalization and potential deportation or removal from the United States. Defendant's attorney has advised Defendant of the potential immigration consequences resulting from Defendant's plea of guilty, and Defendant affirms that he wants to plead guilty regardless of any immigration consequences that may result from the guilty plea and conviction.

### **Cooperation**

8. Defendant agrees he will fully and truthfully cooperate in any matter in which he is called upon to cooperate by a representative of the Fraud Section and/or the United States Attorney's Office for the Southern District of Texas. This cooperation shall include making himself physically available in the Southern District of New York, the Southern District of Texas, or any other District, and providing complete and truthful information during any investigation

and pre-trial preparation and complete and truthful testimony in any criminal, civil, or administrative proceeding. Defendant further agrees to make himself available by telephone within seven (7) calendar days of any request by the Fraud Section and/or the United States Attorney's Office for the Southern District of Texas.

9. Defendant understands and agrees that "fully cooperate," as that term is used herein, includes providing all information relating to any criminal activity known to Defendant, including but not limited to wire fraud, commodities fraud, and spoofing in the futures contracts markets. Defendant understands that such information includes both state and federal offenses arising therefrom. In that regard:

a. Defendant agrees that this Agreement binds only the Fraud Section, the United States Attorney for the Southern District of Texas, and Defendant; it does not bind any other United States Attorney or any other section of the Department of Justice;

b. Defendant agrees to testify fully and truthfully as a witness before a grand jury or in any other judicial or administrative proceeding when called upon to do so by the United States. Defendant further agrees to waive his Fifth Amendment privilege against self-incrimination for the purpose of this Agreement;

c. Defendant agrees to voluntarily attend any interviews and conferences as the United States may request;

d. Defendant agrees to provide truthful, complete, and accurate information and testimony and understands any false statements made by Defendant to the Grand Jury or at any court proceeding (criminal or civil), or to a government agent or attorney, can and will be prosecuted under the appropriate perjury, false statement, or obstruction statutes;

e. Defendant agrees to provide to the United States all documents and other evidence in his possession or under his control relating to all areas of inquiry and investigation; and

f. Should the recommended departure, if any, not meet Defendant's expectations, Defendant understands that he remains bound by the terms of this Agreement and cannot, for that reason alone, withdraw his plea.

#### **Agreements Relating to Sentencing**

10. At the time of sentencing, the United States shall make known to the sentencing judge the extent of Defendant's cooperation. The parties understand this Agreement carries the potential for a motion for departure under Sentencing Guideline § 5K1.1. Defendant understands and agrees that whether such a motion is filed will be determined solely by the United States through the United States Attorney's Office for the Southern District of Texas and the Fraud Section. If the United States determines, in its sole judgment and discretion, that Defendant has provided full and truthful cooperation as required by this Agreement, and has rendered "substantial assistance," then the United States reserves the sole right to move the Court, pursuant to Guideline § 5K1.1, to depart downward from the low end of the applicable Guideline range. Defendant further agrees to persist in that plea through sentencing and to fully cooperate with the United States. Defendant understands and agrees that the United States will request that sentencing be deferred until that cooperation is complete.

11. If the United States does not move the Court, pursuant to Guideline § 5K1.1, to depart from the applicable Guideline range, the preceding paragraph of this Agreement will be inoperative, both parties shall be free to recommend any sentence, and the Court shall impose a

sentence taking into consideration the factors set forth in 18 U.S.C. § 3553(a) as well as the Sentencing Guidelines without any downward departure for cooperation pursuant to Guidelines § 5K1.1. Defendant may not withdraw his plea of guilty because the United States has failed to make a motion pursuant to Guideline § 5K1.1.

12. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, Defendant will have no right to withdraw his guilty plea.

#### **The United States' Agreements**

13. The United States agrees to each of the following:

a. If Defendant pleads guilty to Count One of the Criminal Information and persists in that plea through sentencing, and if the Court accepts this Agreement, the Fraud Section and the United States Attorney's Office for the Southern District of Texas agree that they will not further criminally prosecute Defendant for offenses arising from conduct set forth in the Criminal Information and this Agreement;

b. If the Court determines that Defendant qualifies for an adjustment under Guideline § 3E1.1(a) of the United States Sentencing Guidelines, and the offense level prior to operation of Guideline § 3E1.1(a) is 16 or greater, the United States will move under Guideline § 3E1.1(b) for an additional one-level reduction because Defendant timely notified authorities of his intent to plead guilty, thereby permitting the United States to avoid preparing for trial and permitting the United States and the Court to allocate their resources more efficiently; and

c. The Fraud Section and the United States Attorney's Office for the Southern District of Texas will bring this Agreement and the full extent of Defendant's cooperation to the attention of other prosecuting offices, if requested.

**Agreement Binding – Fraud Section and Southern District of Texas Only**

14. This Agreement binds only the Fraud Section, the United States Attorney's Office for the Southern District of Texas, and Defendant. This Agreement does not bind any other United States Attorney's Office or any other section of the United States Department of Justice.

15. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against Defendant or any other person or entity. The obligations of this Agreement are limited to the Fraud Section and the United States Attorney's Office for the Southern District of Texas and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

**United States' Non-Waiver of Appeal**

16. The United States reserves the right to carry out its responsibilities under the United States Sentencing Guidelines. Specifically, the United States reserves the right:

- a. To bring its version of the facts of this case, including its evidence file and any investigative files, to the attention of the Probation Office in connection with that office's preparation of a presentence report;
- b. To set forth or dispute sentencing factors or facts material to sentencing;

- c. To seek resolution of such factors or facts in conference with Defendant's counsel and the Probation Office;
- d. To file a pleading relating to these issues, in accordance with Guideline § 6A1.2 and 18 U.S.C. § 3553(a); and
- e. To appeal the sentence imposed or the manner in which it was determined.

**Waiver of Rights**

17. Defendant understands that by entering into this Agreement, he surrenders certain rights as provided in this Agreement.

18. **Waiver of Trial Rights.** Defendant understands that the rights of a defendant include the following:

- a. If Defendant persisted in a plea of not guilty to the charges, Defendant would have the right to a public and speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if Defendant, the United States, and the Court all agree.
- b. At a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.
- c. If the trial is a jury trial, the jury would be instructed that Defendant is presumed innocent, that the United States has the burden of proving Defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all



the evidence, it was persuaded of his guilt beyond a reasonable doubt. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

d. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded that the United States had established Defendant's guilt beyond a reasonable doubt.

e. At a trial, whether by a jury or a judge, the United States would be required to present witnesses and other evidence against Defendant. Defendant would have the opportunity to confront those government witnesses and his attorney would be able to cross-examine them.

f. At a trial, Defendant could, but would not be required to, present witnesses and other evidence on his own behalf. If the witnesses for Defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court.

g. At a trial, Defendant could rely on a privilege against self-incrimination and decline to testify, and no inference of guilt could be drawn from his refusal to testify. However, if Defendant desired to do so, he could testify on his own behalf.

19. **Waiver of Appellate and Collateral Review Rights.** Defendant understands that he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that 28 U.S.C. § 1291, and 18 U.S.C. § 3742, afford a defendant the right to appeal the conviction and sentence imposed. Defendant is also aware that 28 U.S.C. § 2255, affords the right to contest or "collaterally attack" a conviction or sentence after the judgment of conviction and sentence has become final.

a. Acknowledging this, Defendant knowingly and voluntarily waives the right to appeal or “collaterally attack” his conviction and sentence, and his right to challenge his sentence, and the manner in which the sentence was determined, including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution or forfeiture, except that Defendant does not waive the right to raise a claim of ineffective assistance of counsel on direct appeal, if otherwise permitted, or on collateral review in a motion under 28 U.S.C. § 2255. Defendant’s knowing and voluntary waiver of the right to appeal or collaterally attack the conviction and sentence includes waiving the right to raise on appeal or on collateral review any argument that (i) the statute to which Defendant is pleading guilty is unconstitutional and (ii) the admitted conduct does not fall within the scope of the statute.

b. In the event Defendant files a notice of appeal following the imposition of the sentence or later collaterally attacks his conviction or sentence, the United States will assert its rights under this Agreement and seek specific performance of these waivers.

20. Defendant hereby waives any and all objections, motions, and defenses based upon the Statute of Limitations.

21. Defendant agrees that venue exists in the Southern District of Texas for the charge against him in the Criminal Information. Defendant hereby waives any and all objections, motions, and defenses based upon venue, and waives the right to challenge or appeal venue.

22. Defendant understands and agrees that each and all waivers contained in the Agreement are made in exchange for the concessions made by the United States in this Agreement.

23. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

#### **Sentence Determination**

24. In agreeing to these waivers in paragraphs 18 – 21 above, Defendant is aware that a sentence has not yet been determined by the Court. Defendant is also aware that any estimate of the possible sentencing range under the United States Sentencing Guidelines that he may have received from his counsel, the United States, or the Probation Office, is a prediction and not a promise, did not induce his guilty plea, and is not binding on the United States, the Probation Office, or the Court. The United States does not make any promise or representation concerning what sentence Defendant will receive. Defendant further understands and agrees that the United States Sentencing Guidelines are "effectively advisory" to the Court. *See United States v. Booker*, 543 U.S. 220 (2005). Accordingly, Defendant understands that, although the Court must consult the Sentencing Guidelines and consider them when sentencing Defendant, the Court is not bound to follow the Sentencing Guidelines nor sentence Defendant within the calculated Guideline range.

25. Defendant is aware that the sentence will be imposed after consideration of the United States Sentencing Guidelines and Policy Statements, which are only advisory, as well as the provisions of 18 U.S.C. § 3553(a). Defendant nonetheless acknowledges and agrees that the Court has authority to impose any sentence up to and including the statutory maximum set for the offense to which Defendant pleads guilty, and that the sentence to be imposed is within the sole discretion of the sentencing judge after the Court has consulted the applicable Sentencing

Guidelines. Defendant understands and agrees that the parties' positions regarding the application of the Sentencing Guidelines do not bind the Court and that the sentence imposed is within the discretion of the sentencing judge. If the Court should impose any sentence up to the maximum established by statute, Defendant cannot, for that reason alone, withdraw a guilty plea, and will remain bound to fulfill all of the obligations under this Agreement.

**Presentence Investigation Report/Post-Sentence Supervision**

26. Defendant understands that the United States, in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing, shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of Defendant's conduct regarding the charge against him, and related matters. The United States will make known all matters in aggravation and mitigation relevant to sentencing, including the nature and extent of Defendant's cooperation.

27. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, the Fraud Section, and the United States Attorney for the Southern District of Texas regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of 18 U.S.C. § 1001 or as a contempt of the Court.

28. For the purpose of monitoring Defendant's compliance with his obligations to pay a fine, restitution, and/or forfeiture during any term of supervised release or probation to which defendant is sentenced, Defendant further consents to the disclosure of his tax returns (together with extensions, correspondence, and other tax information) and related tax filings and materials to the Probation Office, the Fraud Section, and the United States Attorney for the Southern District of Texas filed subsequent to Defendant's sentencing, to and including the final year of any period of supervised release or probation to which Defendant is sentenced.

#### **Other Terms**

29. Defendant agrees to cooperate with the United States in collecting any unpaid fine, forfeiture, and restitution for which Defendant is liable, including, upon request, providing financial statements under oath or affirmation and supporting records and submitting to interviews by the United States and the U.S. Probation Office regarding Defendant's capacity to satisfy any fines, restitution, or forfeiture.

30. Defendant understands that any person convicted of a felony under 7 U.S.C. § 13 shall be suspended from registration under that chapter and shall be denied registration or re-registration for five years or such longer period as the U.S. Commodity Futures Trading Commission ("CFTC") may determine, and barred from using, or participating in any manner in, any market regulated by the CFTC for five years or such longer period as the CFTC shall determine, on such terms and conditions as the CFTC may prescribe, unless the CFTC determines otherwise. Defendant understands that nothing in this Agreement alters the CFTC's statutory authority or discretion to effect any such suspension, denial, or bar against him, or otherwise binds the CFTC in any way. Defendant nevertheless affirms that Defendant wants to plead guilty

regardless of any collateral consequences that Defendant's plea may entail under 7 U.S.C. § 13, or other applicable laws relating to the CFTC's authority over Defendant.

**Factual Basis for Guilty Plea**

31. Defendant is pleading guilty because he is in fact guilty of the charges contained in Count One of the Criminal Information. In pleading guilty, Defendant admits the facts alleged in Count One of the Criminal Information as well as the facts set forth in paragraph 32 of this Agreement (collectively, the "Facts"). Defendant further admits that, if this case were to proceed to trial, the United States could prove each element of the offense beyond a reasonable doubt and that the Facts establish his guilt beyond a reasonable doubt.

32. The following facts, among others, would be offered to establish Defendant's guilt:

Criminal Offenses

a. During the period from approximately March 2012 and continuing through approximately March 2014 (the "Relevant Period"), in the Southern District of Texas and elsewhere, Defendant did willfully, that is, with the intent to further the objects of the conspiracy, knowingly combine, conspire, confederate, and agree with others to commit certain offenses against the United States, that is:

i. wire fraud, that is, to knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowingly transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce,

writings, signs, signals, pictures, and sounds for the purpose of executing the scheme and artifice, in violation of Title 18, United States Code, Section 1343;

ii. commodities fraud, that is, to knowingly and with the intent to defraud, execute and attempt to execute a scheme and artifice to defraud a person in connection with a commodity for future delivery, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property in connection with the purchase and sale of a commodity for future delivery, that is, E-Mini Dow futures contracts, E-Mini NASDAQ 100 (“E-Mini NASDAQ”) futures contracts, and E-Mini S&P 500 (“E-Mini S&P”) futures contracts, in violation of Title 18, United States Code, Section 1348; and

iii. spoofing, that is, to knowingly engage in trading, practice, and conduct, on and subject to the rules of registered entities, namely the Chicago Mercantile Exchange (“CME”) and the Chicago Board of Trade (“CBOT”), that was “spoofing,” that is, bidding and offering with the intent, at the time the bid and offer was entered, to cancel the bid and offer before execution, in violation of Title 7, United States Code, Sections 6c(a)(5)(C) and 13(a)(2);

All in violation of Title 18, United States Code, Section 371.

b. In furtherance of the conspiracy and to effect its unlawful objects, Defendant committed and caused to be committed, in the Southern District of Texas and elsewhere, the following overt acts, among others:

i. On or about December 11, 2013, at approximately 3:34:15.001 a.m. Central Time, Defendant placed a Spoof Order to buy 40 E-Mini NASDAQ futures contracts at the price of \$3,508.75;

ii. On or about December 11, 2013, at approximately 3:34:15.135 a.m. Central Time, Defendant placed a Spoof Order to buy 40 E-Mini NASDAQ futures contracts at the price of \$3,508.75; and

iii. On or about December 11, 2013, at approximately 3:34:15.783 a.m. Central Time, Defendant placed a Spoof Order to buy 40 E-Mini NASDAQ futures contracts at the price of \$3,509.00.

#### Defendant and Relevant Entities

c. From in or about August 2010 to in or about March 2014, Defendant was employed as a programmer and trader at a proprietary trading firm with offices in Chicago, Illinois and New York, New York (hereinafter “Trading Firm A”).

d. During the Relevant Period, Defendant worked with two co-conspirators, Trader 1 and Trader 2, on a trading team (hereinafter the “Trading Team”) that traded, among other things, futures contracts on the CME and CBOT. When Defendant joined the Trading Team, at times he worked to support Trader 1 and Trader 2 by developing



automated trading tools and strategies. Subsequently, Trader 1 (with the agreement of Trader 2) began training Defendant to manually trade futures contracts.

e. The CME Group Inc. (“CME Group”) was a commodities marketplace made up of several exchanges, including CME and the CBOT, which were based in Chicago, Illinois. At all relevant times, CME and CBOT were entities registered with the CFTC, operating as Designated Contract Markets. CME and CBOT utilized an electronic trading system called “Globex.”

f. Victim 1 is a quantitative finance company with offices located in Houston, Texas, in the Southern District of Texas.

#### Futures Contracts Trading on the CME

g. Globex was a global electronic trading platform operated by CME Group, which utilized computer servers located in Chicago and Aurora, Illinois. Trading on Globex was conducted electronically using a visible “order book” that displayed quantities of anonymous orders (*i.e.*, offers to sell futures contracts and bids to buy futures contracts) at various price points, or “levels.” Globex allowed market participants to trade futures contracts either at the exchange itself or from a location virtually anywhere in the world. Through Globex, markets operated by the CME Group offered trading opportunities in various futures contracts, including E-Mini Dow, E-Mini NASDAQ, and E-Mini S&P.

h. CME and CBOT, through the Globex system, allowed traders to place orders in the form of “bids” to buy or “offers” to sell a futures contract. An order was “filled” or “executed” when a buyer and seller bought and sold a particular contract. The minimum price increment at which a futures contract could trade on CME and CBOT was

called a “tick,” and the value of a tick for each contract was set by CME and CBOT. Futures contracts traded on set, periodic expiration cycles (*i.e.*, monthly or quarterly).

i. An “iceberg” order was a type of order that traders could place when trading futures contracts on the CME and CBOT. In an iceberg order, the total amount of the order was divided into a certain pre-set quantity that was visible to other market participants, and the remainder of the order that was not visible to other market participants. Whenever the visible portion of the order was filled, the same, pre-set quantity of the remaining, hidden portion automatically became visible; this process repeated until the remainder of the order was either executed or canceled.

j. In order to trade futures contracts on the CME or CBOT, a trader utilized a unique identifier called a Tag 50 that connected a particular market participant with a specific order, modification, or cancellation placed on the CME or CBOT. During the Relevant Period, YB01 and YB04 were assigned to Defendant, and YB02 was assigned to Trader 1. During the Relevant Period, the Tag 50s YB01, YB02, and YB04 were used interchangeably by Defendant, Trader 1, and Trader 2 at various times to place orders for futures contracts on the CME or CBOT. All orders placed using the Tag 50s YB01, YB02, and YB04 are traceable to the Trading Team.

k. A futures contract was a standardized, legally binding agreement that, once executed, obligated the parties to the contract to buy or to sell a specific product or financial instrument in the future. That is, the buyer and seller of a futures contract agreed on a price today for a product or financial instrument to be delivered (by the seller), in exchange for money (to be provided by the buyer), on a future date.

l. Futures contracts were traded on markets designated and regulated by CFTC, the federal agency established by federal statute to regulate, among many other things, transactions related to and involving the purchase and sale of futures contracts.

m. E-Mini Dow was a stock market index futures contract that represented an agreement to buy or sell the future cash value of the Dow Jones Industrial Average, which was an index of 30 U.S. stocks, at a specified date and traded on the CBOT.

n. E-Mini NASDAQ was a stock market index futures contract that represented an agreement to buy or sell the future cash value of the NASDAQ 100, which was an index of 100 U.S. stocks, at a specified date and traded on the CME.

o. E-Mini S&P was a stock market futures contract that represented an agreement to buy or sell the future cash value of the S&P 500, which was an index of 500 U.S. stocks, at a specified date and traded on the CME.

#### Overview of the Conspiracy

p. During and in furtherance of the conspiracy, and in order to make money for themselves and for Trading Firm A, the Trading Team, from Trading Firm A's offices located in New York, New York, and Chicago, Illinois, placed electronic trading orders with the CME and CBOT, through Globex, whose servers were located in and around Chicago, Illinois. Such wire communications travelled in interstate commerce because the Trading Team executed such wire communications from locations outside of Illinois, which ultimately traveled to Trading Firm A's servers located in Chicago and Aurora, Illinois. The information in these wires was transmitted to, and relied upon by, market participants, including market participants located in the Southern District of Texas.

q. The Trading Team, while employed by Trading Firm A, placed, and conspired to place, thousands of orders to buy or to sell E-Mini Dow, E-Mini NASDAQ, and E-Mini S&P futures contracts that the Trading Team intended, at the time the orders were placed, to cancel before they could be executed (the “Spoof Orders”).

r. The Trading Team’s purpose, intent, and motivation in placing the Spoof Orders was to create a materially false and misleading impression of supply (when they were placing Spoof “sell” orders) and demand (when they were placing Spoof “buy” orders) in order to induce other market participants, including those located in the Southern District of Texas, to react to the Spoof Orders and to engage in transactions to buy or to sell futures contracts at prices, quantities, and/or times that, but for the Trading Team’s Spoof Orders, they would not otherwise have traded. In placing the Spoof Orders, the Trading Team intended to transmit false and misleading liquidity and price signals into the CME and/or CBOT in order to induce other market participants, including those located in the Southern District of Texas, to react to this false and misleading information and trade against genuine orders placed by the Trading Team on the opposite side of the market (the “Primary Orders”) at prices more favorable to the Trading Team. In thousands of instances, the Trading Team sought to induce, and in certain instances did induce, other market participants, including those located in the Southern District of Texas, to react, and artificially increase the number of market participants willing to transact in futures contracts at an existing price, or artificially depress (in the case of Spoof “sell” orders) or artificially inflate (in the case of Spoof “buy” orders) the price of E-Mini Dow, E-Mini NASDAQ, and E-Mini S&P futures contracts—all so that the Trading Team and Trading

Firm A could profit, mitigate potential losses, and/or liquidate Primary Orders at a more favorable price, quantity, and/or time than was otherwise available before the Spoof Orders were placed.

s. The Trading Team was able to generate trading profits (or mitigate losses)—which benefitted them and Trading Firm A—by executing their Primary Orders close in time with the placement of their Spoof Orders.

t. Defendant personally benefited from deceiving and manipulating the market using Spoof Orders in numerous ways, including by way of continued employment and compensation from Trading Firm A, which compensation was based in part on his trading profits. At all times during and in furtherance of the conspiracy, Defendant (i) was an employee of Trading Firm A, (ii) acted with the intent, at least in part, to benefit Trading Firm A, and (iii) acted within the scope of his authority and employment at Trading Firm A. Trading Firm A benefitted from the Trading Team's deception and manipulation of the market using Spoof Orders by realizing greatly increased profits from the Trading Team's trading activity.

u. During the Relevant Period, the Trading Team placed thousands of Spoof Orders for E-Mini Dow futures contracts on the CBOT, and for E-Mini NASDAQ and E-Mini S&P futures contracts on the CME. Defendant agrees that the United States has calculated that Spoof Orders that Defendant himself placed generated trading gains to the Trading Team and Trading Firm A of approximately \$157,000 and caused market losses of approximately \$160,000, and that the Trading Team's Spoof Orders collectively

generated trading gains to the Trading Team and Trading Firm A of approximately \$15,800,000, and caused market losses of approximately \$61,500,000.

Defendant's Method of Spoofing

v. A common technique employed by Defendant was to place and cancel one or more Spoof Orders on one side of the market at the prevailing market price. The intent of these Spoof Orders was to facilitate the execution of an existing Primary Order on the opposite side of the market. By placing Spoof Orders opposite the Primary Order, Defendant intended to create a false appearance of supply or demand and induce other market participants, including those located in the Southern District of Texas, to react to this false information in order to move the market price and/or increase the available quantity at the desired price of the relevant futures contract. During the time the Spoof Order was live in the market, or shortly after it was cancelled, Defendant's Primary Order on the other side of the market often would execute at a more favorable price than was otherwise available before the Spoof Order had been placed.

w. At all times during the Relevant Period, Defendant's purpose, intent, and motivation in conspiring with others in the placement of Spoof Orders was to create a false sense of supply or demand for purposes of inducing other market participants, including those located in the Southern District of Texas, to react, and artificially drive up or down the price of the E-Mini Dow and E-Mini NASDAQ futures contracts, or artificially increase the number of market participants willing to transact at the existing price, all so that the Trading Team, and, ultimately, Trading Firm A, could profit or mitigate their potential loss

by executing their positions at more favorable prices, quantities, and/or times than were otherwise available before the Trading Team placed the Spoof Orders.

x. While it was the intent of the conspiracy to use Spoof Orders in order to facilitate the execution of Primary Orders at a more favorable price than was otherwise available before the Spoof Order had been placed, the spoofing techniques described herein did not always achieve the outcome desired by the Trading Team. In some instances, the placement of Spoof Orders would not induce other market participants to trade at the level desired by the Trading Team, and the Trading Team would execute the Primary Order at the prevailing market price. In other instances, while it was the intent of the Trading Team to cancel a Spoof Order prior to its execution, all or part of the Spoof Order would execute, and the Trading Team would then act to reverse the unintended position, which reversal could generate a loss.

y. As one example of Defendant's pattern of trading activity that is summarized above:

i. On December 11, 2013, at approximately 3:34:13.990 a.m. Central Time, Defendant placed an iceberg Primary Order to sell 40 E-mini NASDAQ futures contracts, with only 1 order visible to the market, at the price of \$3,509.25, which was the best prevailing bid price at that point in time.

ii. At approximately 3:34:15.001 a.m. Central Time, Defendant placed a Spoof Order, which was not an iceberg, to buy 40 E-mini NASDAQ futures contracts at the price of \$3,508.75, which was the second best prevailing bid price at that point in time. At approximately 3:34:15.135 a.m. Central Time, Defendant

placed a second Spoof Order, which was not an iceberg, to buy 40 E-mini NASDAQ futures contracts at the same price, \$3,508.75. Together, Defendant's two Spoof Orders constituted approximately 59% of the order book to buy E-mini NASDAQ futures contracts at that price level. At approximately 3:34:15.783 a.m. Central Time, Defendant placed a third Spoof Order, which was not an iceberg, to buy 40 E-mini NASDAQ futures contracts at the price of \$3,509.00, which was the best prevailing bid price at that point in time. Defendant's third Spoof Order, alone, constituted over 75% of the order book to buy E-mini NASDAQ futures contracts at that price level.

iii. Third, less than one second after placing the third Spoof Order, Defendant's iceberg Primary Order to sell began to be filled and was completely filled at approximately 3:34:16.088 a.m. Central Time, giving Defendant an overall short position of 40 lots in the E-mini NASDAQ market.

iv. Defendant's Spoof Orders were capable of influencing, and did influence, other market participants' decision to trade E-mini NASDAQ futures contracts. For example, approximately 304 milliseconds after Defendant placed the third Spoof Order, at 3:34:16.087 a.m. Central Time, Victim One placed an order to buy one E-mini NASDAQ futures contract at the price of \$3,509.25, which was executed immediately. This one futures contract purchased by Victim One was sold by Defendant as part of the 40 futures contracts from his iceberg Primary Order referenced in the paragraph above.



v. Approximately 718 milliseconds after the last fill of Defendant's Primary Order, at approximately 3:34:16.806 a.m. Central Time, Defendant cancelled his Spoof Order of 40 lots to buy at the best prevailing bid price without any of the Spoof Order being filled. This Spoof Order to buy had been active in the market for approximately 1.0 seconds before Defendant cancelled it. Likewise, at approximately 3:34:17.487 a.m. Central Time, Defendant cancelled his two Spoof Orders of 40 lots to buy at the second best prevailing bid price without any of the Spoof Orders being filled. These two Spoof Orders to buy had been active in the market for approximately 2.4 and 2.5 seconds, respectively, before Defendant cancelled them.

z. From in or about November through December 2013, Defendant actively traded in the E-Mini Dow and E-Mini NASDAQ futures markets on the CBOT and CME, respectively, on behalf of the Trading Team and Trading Firm A. During this period, Defendant placed thousands of Spoof Orders for E-Mini Dow and E-Mini NASDAQ futures contracts.

#### **Breach of Plea Agreement**

33. If Defendant should fail in any way to fulfill completely all of the obligations under this Agreement, the United States will be released from its obligations under the Agreement, and Defendant's plea and sentence will stand. If at any time Defendant retains, conceals, or disposes of assets in violation of this Agreement, or if Defendant knowingly withholds evidence or is otherwise not completely truthful with the United States, then the United States may move the Court to set aside the guilty plea and reinstate prosecution. Any information and documents that

have been disclosed by Defendant, whether prior to or subsequent to this Agreement, and all leads derived therefrom, will be used against Defendant in any prosecution.

**Restitution, Forfeiture, and Fines – Generally**

34. This Agreement is being entered into by the United States on the basis of Defendant's express representation that he will make a full and complete disclosure of all assets over which he exercises direct or indirect control, or in which he has any financial interest. Defendant agrees not to dispose of any assets or take any action that would effect a transfer of property in which he has an interest, unless Defendant obtains the prior written permission of the United States.

35. Defendant agrees to make complete financial disclosure by truthfully executing a sworn financial statement (Form OBD-500 or similar form) within 30 days of signing this Agreement. Defendant agrees to authorize the release of all financial information requested by the United States, including, but not limited to, executing authorization forms permitting the United States to obtain tax information, bank account records, credit histories, and social security information. Defendant agrees to discuss and answer any questions by the United States relating to Defendant's complete financial disclosure.

36. Defendant agrees to take all steps necessary to pass clear title to forfeitable assets to the United States and to assist fully in the collection of restitution and fines, including, but not limited to, surrendering title, executing a warranty deed, signing a consent decree, stipulating to facts regarding the transfer of title and the basis for the forfeiture, and signing any other documents necessary to effectuate such transfer. Defendant also agrees to direct any banks that have custody of his forfeitable assets to deliver all funds and records of such assets to the United States.

37. Defendant understands that forfeiture, restitution, and fines are separate components of sentencing and are separate obligations.

### **Restitution**

38. Defendant agrees to pay restitution to the victims of Count One of the Criminal Information. Defendant stipulates and agrees that the United States has calculated that, as a result of the criminal conduct of the Trading Team, the victims incurred a monetary loss of at least \$61,500,000. Defendant understands and agrees that the Court will determine the amount of restitution to fully compensate the victims. Pursuant to 18 U.S.C. § 3664(h), if the Court finds that more than one defendant has contributed to the loss of the victims, the Court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victims' losses and economic circumstances of each defendant. Defendant agrees that restitution imposed by the Court will be due and payable on a schedule determined by the Court and that Defendant will not attempt to avoid or delay payment. Pursuant to 18 U.S.C. § 3664(f)(3)(B), the Court's restitution order may direct Defendant to make nominal periodic payments if the Court finds from facts on the record that the economic circumstances of Defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments. Subject to the provisions of paragraph 19, Defendant waives the right to challenge in any manner, including by direct appeal or in a collateral proceeding, the restitution order imposed by the Court, except that, in connection with Defendant's sentencing by the Court, Defendant may seek to have the Court impose a restitution order consistent with 18 U.S.C. §§ 3664(f)(3)(B) & 3664(h).

39. If the Court should order restitution, Defendant agrees to the entry of a Restitution Order in the amount determined by the Court as described above in paragraph 38. Pursuant to 18 U.S.C. § 3663A(c)(2), Defendant agrees that an offense listed in § 3663A(c)(1) gave rise to this Agreement and as such, victims of the conduct described in the Criminal Information, Facts, or any related or similar conduct shall be entitled to restitution. The parties further acknowledge, however, that pursuant to 18 U.S.C. § 3663A(c)(3), and based on information currently available to the United States:

a. determining complex issues of fact relating to the amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim may be outweighed by the burden on the sentencing process; and

b. the number of identifiable victims may be so large as to make restitution impracticable.

To that end, Defendant agrees, pursuant to 18 U.S.C. § 3664(d)(5), that the Court may defer the imposition of restitution, if any, until after the sentencing; however, Defendant specifically waives the 90-day provision found at 18 U.S.C. § 3664(d)(5). Defendant further acknowledges that, pursuant to 18 U.S.C. § 3664(k), he is required to notify the Court and the United States of any material change in economic circumstances that might affect his ability to pay restitution

#### **Forfeiture**

40. Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), Defendant agrees to forfeit to the United States voluntarily and immediately any and all right, title, and interests in any property, real or personal, which constitutes or is derived from proceeds that Defendant obtained

directly and indirectly from the offense alleged in Count One (with respect to the conspiracy to commit wire fraud and commodities fraud), in violation of 18 U.S.C. § 371. Defendant agrees to waive the right to notice of any forfeiture proceeding involving the forfeiture of assets, and agrees not to file a claim or assist others in filing a claim in that forfeiture proceeding.

41. Defendant knowingly and voluntarily waives the right to a jury trial on the forfeiture of assets. Defendant knowingly and voluntarily waives all constitutional, legal, and equitable defenses to the forfeiture in any proceeding. Defendant agrees to waive any claim or defense under the Eighth Amendment to the United States Constitution, including any claim of excessive fine, to the forfeiture of assets by the United States or its subdivisions. Defendant agrees to waive any and all interest in any asset which is the subject of a related administrative or judicial forfeiture proceeding, whether criminal or civil, federal, or state.

42. Defendant waives the requirements of Rules 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of forfeiture in the charging instrument, announcement of forfeiture at sentencing, and incorporation of forfeiture in the judgment.

43. Subject to the provisions of paragraph 19, Defendant waives the right to challenge the forfeiture of assets in any manner, including by direct appeal or in a collateral proceeding, except that, in connection with Defendant's sentencing by the Court, Defendant does not waive his right to challenge the amount of proceeds subject to forfeiture under *Honeycutt v. United States*, 137 S. Ct. 1626 (2017), and its progeny.

44. Defendant and defendant's attorney also understand that the United States may file motions for preliminary and final orders of forfeiture of assets, and they agree that the United States may file such motions unopposed and may state in the certificates of conference for the

motions that Defendant has no objection to the relief sought without having to further contact Defendant or Defendant's attorney.

45. If the Court should order restitution and in the event that Defendant submits a financial affidavit to the United States and the United States determines, in its sole judgment and discretion, that Defendant meets the criteria for restoration under the restoration policy of the Money Laundering and Asset Recovery Section ("MLARS") of the U.S. Department of Justice, including an inability to pay both restitution and forfeiture, the Fraud Section will submit a restoration request to MLARS that any amount obtained through forfeiture be applied towards any restitution ordered. If, however, the United States determines, in its sole discretion, that Defendant does not meet those criteria, the United States shall be under no obligation to make any such request. Defendant further understands that MLARS, which is not bound by this Agreement, retains ultimate discretion regarding whether to grant or deny any restoration request. Moreover, Defendant acknowledges that Defendant has no right to an offset against restitution for any property forfeited, *United States v. Sanjar*, 876 F.3d 725, 751 (5th Cir. 2017), and agrees not to challenge any decision made by the United States or MLARS with respect to any decision with respect to any restoration recommendation. Defendant also agrees not to request that the Court reduce or otherwise offset any forfeiture order entered by the amount of restitution ordered or any restitution order entered by the amount of any forfeiture ordered.

#### **Fines**

46. Defendant understands that under the Sentencing Guidelines the Court is permitted to order Defendant to pay a fine that is sufficient to reimburse the United States for the costs of any imprisonment or term of supervised release, if any. Defendant agrees that any fine imposed

by the Court will be due and payable immediately, and Defendant will not attempt to avoid or delay payment. Subject to the provisions of paragraph 19, Defendant waives the right to challenge the fine in any manner, including by direct appeal or in a collateral proceeding.

### **Conclusion**

47. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

48. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the United States, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute Defendant not subject to any of the limits set forth in this Agreement, or may move to resentence Defendant or require Defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or Defendant breaches any of its terms and the United States elects to void the Agreement and prosecute Defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against Defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

49. Defendant further understands that, should Defendant violate any of the conditions of this Agreement, or move to withdraw his plea of guilty:

a. the “Factual Basis” set forth in this Agreement shall be admissible as substantive evidence in any criminal or civil proceeding brought against Defendant;

b. all (i) statements made by Defendant to the United States Attorney’s Office for the Southern District of Texas and/or Fraud Section or other designated law enforcement agents, and (ii) testimony given by Defendant before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony, shall be admissible in evidence in any criminal or civil proceeding brought against Defendant; and

c. Defendant shall assert no claim under the United States Constitution, the United States Sentencing Guidelines, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other federal rule that the Factual Basis or any statements made by Defendant or any leads derived from such statements should be suppressed or are otherwise inadmissible. It is the intent of this Agreement to waive all rights in the foregoing respects.

50. Should the Court refuse to accept Defendant’s plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

51. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.



**Complete Agreement**

52. This written Agreement, consisting of 35 pages, including the attached addendum of Defendant and his attorney, constitutes the complete plea agreement between the United States, Defendant, and Defendant's counsel. Defendant and his attorney acknowledge that no promises or representations have been made by the United States except as set forth in this Agreement. Defendant acknowledges that no threats have been made against him and that he is pleading guilty freely and voluntarily because he is guilty.

53. Any modification of this Agreement must be in writing and signed by all parties.

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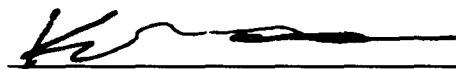
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Filed at Houston, Texas, on NOVEMBER 16, 2018.



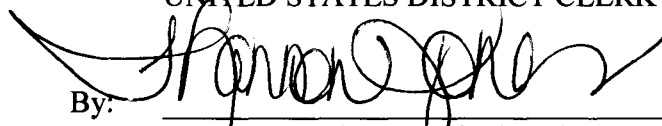
KRISHNA MOHAN  
Defendant



MARC WEINSTEIN  
Attorney for Defendant

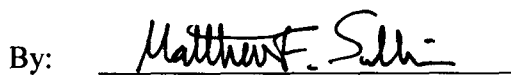
Subscribed and sworn to before me on NOVEMBER 16, 2018.

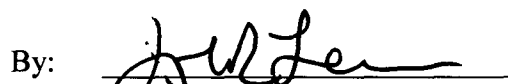
DAVID J. BRADLEY, Clerk  
UNITED STATES DISTRICT CLERK

By:   
Deputy United States District Clerk

SANDRA MOSER  
Acting Chief, Fraud Section

RYAN K. PATRICK  
United States Attorney

By:   
MARK CIPOLLETTI  
JEFFERY S. LE RICHE  
MATTHEW F. SULLIVAN  
Trial Attorneys  
Fraud Section  
U.S. Department of Justice

By:   
JOHN LEWIS  
Assistant United States Attorney  
Southern District of Texas

Approved by:

  
BRIAN KIDD  
Acting Chief  
Securities & Financial Fraud Unit

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**UNITED STATES OF AMERICA**

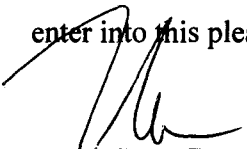
**v.**

**KRISHNA MOHAN,  
Defendant.**

**CRIMINAL NO.**

**PLEA AGREEMENT – ADDENDUM**

I have fully explained to Defendant his rights with respect to the Criminal Information filed in this case. I have reviewed the provisions of the United States Sentencing Commission's Guidelines Manual and Policy Statements and I have fully and carefully explained to Defendant the provisions of those Guidelines which may apply in this case. I have also explained to Defendant that the Sentencing Guidelines are only advisory and the Court may sentence Defendant up to the maximum allowed by statute per count of conviction. Further, I have carefully reviewed every part of this plea agreement with Defendant. To my knowledge, Defendant's decision to enter into this plea agreement is an informed and voluntary one.

  
\_\_\_\_\_  
MARC WEINSTEIN  
Attorney for Defendant

8/24/18  
\_\_\_\_\_  
Date

I have consulted with my attorney and fully understand all my rights with respect to the indictment pending against me. My attorney has fully explained, and I understand, all my rights with respect to the provisions of the United States Sentencing Commission's Guidelines Manual which may apply in my case. I have read and carefully reviewed every part of this plea agreement with my attorney. I understand this plea agreement and I voluntarily agree to its terms.

  
\_\_\_\_\_  
KRISHNA MOHAN  
Defendant

8/24/18  
\_\_\_\_\_  
Date