UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 2:16-cr-109-FtM-29CM

RONALD JOHN MENDLESKI

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by A. Lee Bentley, III, United States Attorney for the Middle District of Florida, and the defendant, Ronald John Mendleski, and the attorney for the defendant, David Richard Bires, mutually agree as follows:

A. Particularized Terms

1. Count(s) Pleading To

The defendant shall enter a plea of guilty to Count Four of the Indictment. Count Four charges the defendant with wire fraud and with aiding and abetting wire fraud, in violation of 18 U.S.C. §§ 1343 and 2.

2. Maximum Penalties

Count Four carries a maximum sentence of twenty years of imprisonment, a fine of $1,000,000.00, or twice the gross gain caused by the offense, or twice the gross loss caused by the offense, whichever is greater, a term of supervised release of not more than three years, and a special assessment of $100 per felony count for individuals, and $400 per felony count for persons other than individuals, such as corporations. With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense(s), and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

3. Elements of the Offense(s)

The defendant acknowledges understanding the nature and elements of the offense(s) with which defendant has been charged and to which defendant is pleading guilty. The elements of Count Four are:

First: The defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme or artifice as described in the indictment, and for the purpose of executing such scheme and artifice and aiding and abetting such scheme and artifice;

Second: knowingly transmitted a wire communication on May 26, 2014, as described in the indictment.

4. Counts Dismissed

At the time of sentencing, the remaining counts against the defendant, Counts One, Two, and Three, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

5. No Further Charges

If the Court accepts this plea agreement, the Fraud Section of the United States Department of Justice's Criminal Division and the United States Attorney's Office for the Middle District of Florida agree not to charge the defendant with committing any other federal criminal offenses known to the Fraud Section or to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. Mandatory Restitution to Victim of Offense of Conviction

Pursuant to 18 U.S.C. § 3663A(a) and (b), the defendant agrees to make full restitution to D.S., M.E.M., and J.B., in the following amounts: $61,000 to D.S., $30,000 to M.E.M., and $1,000 to J.B.

7. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines, as adjusted by any departure the United States has agreed to recommend in this plea agreement.

8. Adjusted Offense Level - Estimate Only

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States, based on the information now available to it, estimates that the defendant's adjusted offense level is 28, as determined below:

Guideline	Description	Levels
U.S.S.G. § 2B1.1(a)	Base Offense	7
U.S.S.G. § 2B1.1(b)(1)(I)	Specific Offense Characteristic—loss of more than $1.5 million but less than $3.5 million	16
U.S.S.G. § 2B1.1(b)(2)(A)	Specific Offense Characteristic—more than 10 victims	2
U.S.S.G. § 2B1.1(b)(2)(A)	Specific Offense Characteristic—scheme committed outside U.S./sophisticated means	2
U.S.S.G. § 3A1.1(b)	Victim-related adjustment—large number of vulnerable victims	4
U.S.S.G. § 3E1.1(a)	Acceptance of Responsibility	-3
Total Adjusted Offense Level		28

The defendant understands that this estimate is not binding on the court or the United States, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

9. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG § 3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG §3E1.1(b) and all terms of this Plea Agreement, including but not limited to, the timely submission of the financial affidavit referenced in Paragraph B.5., the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests with the Fraud Section of the United States

Department of Justice's Criminal Division and the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

10. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(8) and (a)(8)(A), and 28 U.S.C. § 2461(c), whether in the possession or control of the United States, the defendant or the defendant's nominees. The assets to be forfeited specifically include the following: a money judgment of no more than $1,550,000, representing the amount of proceeds obtained as a result of aiding and abetting wire fraud (in violation of Title 18, United States Code, Sections 2 and 1343) as charged in Count Four of the Indictment, as well as $150,000.00 in United States currency, which assets constitute the proceeds of the wire fraud charged in Count Four of the Indictment, and which assets were seized by agents during pertinent searches. The net proceeds of the forfeiture of the $150,000 in United States currency will be credited first to restitution, and any remainder will be credited to the money judgment.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil, judicial or administrative forfeiture action. The defendant also agrees to waive all constitutional, statutory and procedural challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is omitted from the judgment, the defendant agrees that the forfeiture order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees that the United States shall, at its option, be entitled to the forfeiture of any property (substitute assets) of the defendant up to the value of the money judgment. The defendant further agrees that the United States is seeking a money judgment because, as a result of the defendant's actions, the criminal proceeds cannot be located despite the exercise of due diligence. In addition, the defendant agrees that the United States is not limited to forfeiture of the property specifically identified for forfeiture in this Plea Agreement. If the United States determines that the specific property identified for forfeiture in this Plea Agreement cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty; then the United States shall, at its option, be entitled to forfeiture of any other property (substitute assets) of the defendant up to the value of any property described above. The Defendant expressly consents to the forfeiture of any substitute asset sought by the Government. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

The defendant agrees to take all steps necessary to identify and locate all property subject to forfeiture (including substitute assets) and to transfer custody of such property to the United States before the defendant's sentencing. To that end, the defendant agrees to make a full and complete disclosure of all assets over which defendant exercises control directly or indirectly, including all assets held by nominees, to execute any documents requested by the United States to obtain from any other parties by lawful means any records of assets owned by the defendant, and to consent to the release of the defendant's tax returns for the previous five years. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets and their connection to criminal conduct. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant agrees that Federal Rule of Criminal Procedure 11 and USSG § 1B1.8 will not protect from forfeiture assets disclosed by the defendant as part of the defendant's cooperation.

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to the forfeitable assets before the defendant's sentencing. In addition to providing full and complete information about forfeitable assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

The defendant agrees that, in the event the Court determines that the defendant has breached this section of the Plea Agreement, the defendant may be found ineligible for a reduction in the Guidelines calculation for acceptance of responsibility and substantial assistance, and may be eligible for an obstruction of justice enhancement.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture, except as explicitly provided above.

B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (28 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the

Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. To ensure that this obligation is satisfied, the defendant agrees to deliver a check or money order to the Clerk of the Court in the amount of $100, payable to "Clerk, U.S. District Court" within ten days of the change of plea hearing.

The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense(s) to which the defendant is pleading provide(s) for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count(s) to which the defendant pleads, to respond to comments made by the defendant or the defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that his financial statement and disclosures will be complete, accurate and truthful and will include all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United

States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States

Probation Office. The defendant further understands and acknowledges that any discussions between the defendant or the defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, the defendant will not be permitted to withdraw the defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal the defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the

Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida and Fraud Section Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and the Fraud Section of the United States Department of Justice's Criminal Division. It cannot bind other federal, state, or local prosecuting authorities, although this office will bring the defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of the defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that the defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and the defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges the defendant's understanding of the nature of the offense or offenses to which the defendant is pleading guilty and the elements thereof, including the penalties provided by law, and the defendant's complete satisfaction with the representation and advice received from the defendant's undersigned counsel (if any). The defendant also understands that the defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that the defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against the defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in the defendant's defense; but, by pleading guilty, the defendant waives or gives up those rights and there will be no trial. The defendant further understands that if the defendant pleads guilty, the Court may ask the defendant questions about the offense or offenses to which the defendant pleaded, and if the defendant answers those questions under oath, on the record, and in the presence of counsel (if any), the defendant's answers may later be used against the defendant in a prosecution for perjury or false statement. The defendant also understands that the defendant will be adjudicated guilty of the offenses to which the defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

The defendant is pleading guilty because the defendant is in fact guilty. The defendant certifies that the defendant does hereby admit that the facts set forth below are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

FACTS

From at least 2009 until at least 2014, Ronald John Mendleski—the defendant in this case—specialized in selling a telemarketing product called a "sweepstakes lead." To originate these leads, individuals and small companies mass mailed documents notifying the recipients that they had won, or were about to win, expensive prizes and enormous cash payouts. These mailings varied in style but are similar in substance—essentially, all asserted that the recipient was a winner in a sweepstakes with a large cash payout. To claim the putative prize, the recipient was asked to mail in an attached slip of paper, on which the respondent lists various personal information, such as a name, phone number, and address.

The slips of paper containing the recipients' personal information, known as "hard copy leads" or "coupon leads," were usually received by the party who originally sent the mailing. The leads were then sold to Mendleski, the lead broker. Once Mendleski received the hard copy leads, he sold them to telemarketing clients, who called the people named on these leads.

Specifically, Mendleski's scheme was as follows: at all times relevant to this case, Mendleski schemed to enrich himself by selling hard copy leads to telemarketing scammers, knowing that the individuals to whom he sold the leads intended to use them to defraud and victimize the people named thereon.

Before selling leads to his clients, Mendleski often—but not always—asked purchasers to provide him a script of the telemarketing pitch they intended to use. Several clients sent scripts to Mendleski touting brazen scams. Despite this, and with an awareness of the fraudulent intent of his clients, Mendleski knowingly sold tens of thousands of victim names to telemarketing scammers. Many of these clients used the leads to defraud individuals.

One client chose not to send a fraudulent script but instead directly stated to Mendleski that he intended to use Mendleski's leads for dishonest purposes. After revealing the improper nature of his business, this customer—a Costa Rican client named D. G. —bought thousands of leads from Mendleski over the course of at least one year.

For instance, in one email communication, D.G. told Mendleski that "NO BODY calls [the people named on the leads] for something good and real," and the buyers are instead "banging the customers over the head." On another occasion, D.G. stated to Mendleski that "what we do is wrong... Really wrong... And I think you know and you're just playing blind :)" D.G. further emphasized that his business involved "calling the leads and ripping people off their $." Despite these communications, and with D.G.'s fraudulent intent made wholly explicit, Mendleski sold D.G. numerous batches of leads.

On May 26, 2014, subsequent to these communications with D.G., and in furtherance of the scheme described above, Mendleski sent an email from his home in Lee County, Florida, to D.G. in Costa Rica containing a Microsoft Excel spreadsheet with the names and contact information of 951 people.

During an interview with federal agents in 2010, Mendleski revealed his awareness that the leads he was selling were being used to defraud victims. At that time, an agent asked Mendleski about a previous, but materially similar, telemarketing lead business Mendleski helped to operate. Mendleski acknowledged that there was a "high probability" that many of the customers of that business were engaged in fraud.

Mendleski primarily communicated with his clients via email from a computer located in his home in Lee County, Florida. Once the leads were purchased, they would be transferred to the client by Mendleski, again from his home in Lee County, Florida.

After receiving the leads, many of Mendleski's clients called the individuals named therein, pushed scam pitches, and defrauded the people in question.

To advance his scheme, Mendleski engaged in a variety of practices that, taken collectively, concealed his identity and hid the nature of his business. For instance, Mendleski operated over a dozen bank accounts under a variety of business names, through which he would shuffle his profits. Mendleski also changed his email address frequently and conduct business from several addresses at any one time. Additionally, Mendleski received most of his payments via Western Union and MoneyGram, and he employed a network of individuals to pick up this money on his behalf.

In total, between 2009 and 2014, Mendleski gained approximately $1,550,000 pursuant to this scheme.

12. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorney with regard to such guilty plea. Certain additional terms, if any, included in the sealed document filed on March 31, 2017 (ECF No. s-40), are hereby incorporated by reference into this plea agreement.

13. Certification

The defendant and the defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that the defendant fully understands its terms.

DATED this 17th day of ~~April~~ MAY, 2017.

W. STEPHEN MULDROW
Acting United States Attorney

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Defendant

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