

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

GENE LEE

No. 13 CR 499

Judge John W. Darrah

**PLEA AGREEMENT**

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and defendant GENE LEE, and his attorney, ANTHONY MASCIOPINTO, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

**Charges in This Case**

2. The information in this case charges defendant with theft from a program receiving federal funds, in violation of Title 18, United States Code, Section 666(a)(1)(A) (Count One), and filing a false tax return, in violation of Title 26, United States Code, Section 7206(1) (Count Two).

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

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

### **Charges to Which Defendant Is Pleading Guilty**

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the information: Count One, which charges defendant with theft from a program receiving federal funds, in violation of Title 18, United States Code, Section 666(a)(1)(A); and Count Two, which charges defendant with filing a false tax return, in violation of Title 26, United States Code, Section 7206(1).

### **Factual Basis**

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts One and Two of the information. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline § 1B1.3:

a. With respect to Count One of the information:

Beginning no later than October 2, 2007, and continuing until at least on or about January 2, 2008, at Chicago, in the Northern District of Illinois, Eastern Division, defendant GENE LEE ("LEE"), being an agent of the Chinese Consolidated Benevolent Association, an organization which received federal benefits in excess of \$10,000 from October 1, 2007 to September 30, 2008, embezzled, stole, obtained by fraud, and without authority knowingly converted to his use and intentionally misapplied, at least \$5,000, that was owned by, or was under the care, custody, and control of the Chinese Consolidated Benevolent Association, in violation of Title 18, United States Code, Section 666(a)(1)(A).

Specifically, in 2007 and 2008, the Chinese Consolidated Benevolent Association (“CCBA”) was a federally tax-exempt 501(c)(3) organization and was the main sponsor of and oversaw the Chicago Chinatown Summer Fair (“Summer Fair”), a single-day community event held each July in the Chicago Chinatown community. The CCBA was an organization that received federal benefits in excess of \$10,000 from October 1, 2007 to September 30, 2008.

From 2007 through 2010, the Chicago Dragons Athletic Association (“Chicago Dragons”) was a federally tax-exempt 501(c)(3) organization that, among other things, sponsored basketball teams for youth and adults and formed teams to share traditional dancing and music for the community. In 2009, the Chicago Dragons became the entity that oversaw the Summer Fair.

From 2007 through 2010, LEE served as the chairman of the Summer Fair and was the president of the Chicago Dragons. In this role, LEE was responsible for soliciting and obtaining donations to the Summer Fair and the Chicago Dragons.

From approximately 2007 through early 2010, LEE converted a portion of the donations he solicited for the Summer Fair and used the money for personal expenses. LEE accomplished this misapplication of funds, in part, by creating and sending two invoice forms to donors to and sponsors of the Summer Fair. One form indicated that the CCBA was the Summer Fair event sponsor, that the Chinatown Special Events Committee was the event coordinator, and that all donation checks were to be made payable to the CCBA. The second form indicated that the Chinatown Special Events Committee, care of the Chicago Dragons, was the

sponsoring organization. The second version of the invoice form requested that all donation checks be made payable to the Chicago Dragons. Having some of the donation checks made payable to his organization, the Chicago Dragons, facilitated LEE's ability to convert donations to the Summer Fair to his own personal use.

LEE also cashed donation checks intended for the Summer Fair at Restaurant A, with the assistance of Individual A, a family friend who worked at Restaurant A. Specifically, from approximately 2007 through early 2010, LEE cashed approximately 161 checks, totaling approximately \$132,000, at Restaurant A, which were made payable to the CCBA and/or the Chicago Dragons, including checks that were intended to be sponsorships of or donations to the Summer Fair. LEE used a portion of these cashed checks for his own personal use, rather than for the benefit of the Summer Fair or the Chicago Dragons. Lee used the remaining portion of these cashed checks for legitimate expenses associated with the Summer Fair and Chicago Dragons.

One of the donations to the Summer Fair that was cashed at Restaurant A was a donation from Comcast to the 2007 Summer Fair. Specifically, in or about October 2007, LEE received a \$5,000 donation to the Summer Fair from Comcast, via a check made out to the CCBA. On or about January 2, 2008, the \$5,000 donation by Comcast to the 2007 Summer Fair was deposited into Restaurant A's checking account. The check was endorsed with "CCBA" and LEE's signature. LEE then converted a portion of this \$5,000 donation and spent it on personal expenses.

From October 1, 2007 to September 30, 2008, LEE knowingly converted to his use at least \$5,000 in Summer Fair donations that belonged to the CCBA.

In order to hide his activity with respect to the Summer Fair donations, LEE provided to the CCBA's accountant an expense summary that contained false information about donations made to the 2008 Summer Fair, including, for example, false statements that: (1) Home Depot and Western Union had donated \$3,000, when each business had actually donated \$5,000. In addition, the expense summary omitted additional donations received, including a \$10,000 donation by McDonalds, a \$5,000 donation by ComEd, and a \$3,500 donation by Nielsen Media. LEE maintained a separate spreadsheet of donations made to the 2008 Summer Fair that included some of the information omitted from the expense summary provided to the CCBA's accountant, including the \$10,000 donation from McDonalds, the \$5,000 donation from ComEd, and the \$3,500 donation from Nielson Media.

b. With respect to Count Two of the information:

On or about April 15, 2008, in the Northern District of Illinois, Eastern Division, and elsewhere, GENE LEE, willfully made, subscribed, and caused to be made and subscribed, a United States Individual Income Tax Return (Form 1040 with schedules and attachments), for the calendar year 2007, which return was verified by written declaration that it was made under penalty of perjury, and filed with the Internal Revenue Service, which return defendant did not believe to be true and correct as to every material matter, in that the return stated on Line 22

that his total income was \$83,913, and on Line 43 that his taxable income was \$59,949, when defendant knew that his total income and taxable income were in excess of those amounts, in that defendant failed to report additional gross income received in calendar year 2007 from diverting funds meant for the Chicago Dragons Athletic Association and/or the Chinese Consolidated Benevolent Association to his personal use, in violation of Title 26, United States Code, Section 7206(1).

Specifically, in 2007, LEE cashed through Restaurant A approximately \$27,400 in checks intended for the Summer Fair or the Chicago Dragons. It is the government's position that LEE took approximately \$19,180 of that money for his own use, which should have been reported as income on his 2007 tax return. LEE admits that he failed to report additional income on his 2007 tax return, but disputes this amount and believes that a lower income figure should have been reported. Based on this additional income, it is the government's position that LEE failed to pay approximately \$4,423 in federal income taxes, an amount that LEE disputes as too high.

In addition, on or about April 15, 2009, LEE willfully filed a tax return for calendar year 2008, which was verified by written declaration that it was made under penalty of perjury that stated on Line 22 that his total income was \$81,187, and on Line 43 that his taxable income was \$60,309, whereas, in truth and fact, as LEE knew, his total income was in excess of that amount, in that LEE failed to report additional gross income received in calendar year 2008, including gross income received from cashing donation checks to the Chicago Dragons and/or the

CCBA. Specifically, in 2008, LEE cashed through Restaurant A approximately \$38,100 in checks intended for the Summer Fair or the Chicago Dragons. It is the government's position that LEE took approximately \$26,670 of that money for his own use, which should have been reported as income on his 2008 tax return. LEE admits that he failed to report additional income on his 2008 tax return, but disputes this amount and believes that a lower income figure should have been reported. Based on this additional income, it is the government's position that LEE failed to pay approximately \$6,323 in federal income taxes, an amount that LEE disputes as too high.

On or about April 15, 2010, LEE willfully filed a tax return for calendar year 2009, which was verified by written declaration that it was made under penalty of perjury that stated on Line 22 that his total income was \$80,123, and on Line 43 that his taxable income was \$59,924, whereas, in truth and fact, as LEE knew, his total income was in excess of that amount, in that LEE failed to report additional gross income received in calendar year 2009, including gross income received from cashing donation checks to the Chicago Dragons and/or the CCBA. Specifically, in 2009, LEE cashed through Restaurant A approximately \$56,600 in checks intended for the Summer Fair or the Chicago Dragons. It is the government's position that LEE took approximately \$39,620 of that money for his own use, which should have been reported as income on his 2009 tax return. LEE admits that he failed to report additional income on his 2009 tax return, but disputes this amount and believes that a lower income figure should have been reported. Based on this additional

income, it is the government's position that, LEE failed to pay approximately \$9,239 in federal income taxes, an amount that LEE disputes as too high.

On or about April 15, 2011, LEE willfully filed a tax return for calendar year 2010, which was verified by written declaration that it was made under penalty of perjury that stated on Line 22 that his total income was \$78,490, and on Line 43 that his taxable income was \$54,693, whereas, in truth and fact, as LEE knew, his total income was in excess of that amount, in that LEE failed to report additional gross income received in calendar year 2010, including gross income received from cashing donation checks to the Chicago Dragons and/or the CCBA. Specifically, in 2010, LEE cashed through Restaurant A approximately \$10,530 in checks intended for the Summer Fair or the Chicago Dragons. It is the government's position that LEE took approximately \$7,371 of that money for his own use, which should have been reported as income on his 2010 tax return. LEE admits that he failed to report additional income on his 2010 tax return, but disputes this amount and believes that a lower income figure should have been reported. Based on this additional income, it is the government's position that LEE failed to pay approximately \$1,192 in federal income taxes, an amount that LEE disputes as too high.

### **Maximum Statutory Penalties**

7. Defendant understands that the charges to which he is pleading guilty carry the following statutory penalties:

a. Count One carries a maximum sentence of 10 years' imprisonment. Count One also carries a maximum fine of \$250,000. Defendant

further understands that with respect to Count One the judge also may impose a term of supervised release of not more than three years.

b. Count Two carries a maximum sentence of 3 years' imprisonment. Count Two also carries a maximum fine of \$250,000. Defendant further understands that the Court must order costs of prosecution, estimated not to exceed \$500. Defendant further understands that with respect to Count Two, the judge also may impose a term of supervised release of not more than one year.

c. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court

d. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty or restitution imposed.

e. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 13 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$500,000, mandatory costs of prosecution, a period of supervised release, and special assessments totaling \$200, in addition to any restitution ordered by the Court.

### **Sentencing Guidelines Calculations**

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specified below:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2013 Guidelines Manual.

b. **Offense Level Calculations.**

Count One

i. The base offense level for Count One is 6, pursuant to Guideline § 2B1.1(a)(2).

ii. It is the government's position that the offense level is increased by 8-levels, pursuant to Guideline §2B1.1(b)(1)(E), because the loss amount attributable to Count One and the relevant conduct is approximately \$92,800, which is more than \$70,000 and less than \$120,000. Defendant disagrees.

iii. The offense level is increased by 2-levels, pursuant to Guideline §3B1.3, because the defendant abused positions of public and private trust in a manner that significantly facilitated the commission and concealment of the offense.

iv. Therefore, the total offense level for Count One is 16.

### Count Two

v. It is the government's position that the base offense level for Count Two and the relevant conduct is 12, pursuant to Guideline §2T1.1 and §2T1.4, because the total tax loss was approximately \$21,177, which is greater than \$12,500, but less than \$30,000. Defendant disagrees.

vi. The offense level is increased by 2-levels, pursuant to Guideline §2T1.1(b)(1), because the defendant failed to report the source of income exceeding \$10,000 in a year from criminal activity.

vii. Therefore, the total offense level for Count Two is 14.

### Grouping

viii. Counts One and Two, and their respective relevant conduct, are not grouped.

ix. Count One carries the highest offense level and thus is counted as one unit, pursuant to Guideline §3D1.4(a).

x. Count Two counts as one additional unit because it is 2 levels less serious than Count One, pursuant to §3D1.4(a).

xi. Therefore, the total offense level is increased by 2-levels because there are two units, pursuant to §3D1.4, and the total offense level is 18.

### Acceptance of Responsibility

xii. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and

if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

xiii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 15, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 18 to 24 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

10. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

### **Agreements Relating to Sentencing**

11. Each party is free to recommend whatever sentence it deems appropriate.

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.

13. Regarding restitution, with respect to Count One of the information, defendant acknowledges that pursuant to Title 18, United States Code, § 3663A, the Court must order defendant to make full restitution to the victims of the offense in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing.

14. Defendant also agrees to pay additional restitution, arising from the relevant conduct set forth above with respect to Count One in an amount to be determined by the Court at sentencing, to the CCBA and the Chicago Dragons, pursuant to Title 18, United States Code, §§ 3663(a)(3) and 3664.

15. Defendant also agrees to pay additional restitution, arising from the offense conduct set forth above with respect to Count Two of the information and the relevant conduct, in an amount to be determined by the Court at sentencing, to the Internal Revenue Service, pursuant to Title 18, United States Code, §§ 3663(a)(3) and 3664. Defendant understands that the amount of tax loss as

calculated by the Internal Revenue Service may exceed the amount of tax due as calculated for restitution in the criminal case.

16. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

17. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

### **Acknowledgments and Waivers Regarding Plea of Guilty**

#### **Nature of Agreement**

This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 13 CR 499.

18. 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 United States Attorney's Office for the Northern District of Illinois and cannot bind any other

federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

19. Defendant understands that nothing in this Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant and his spouse. Defendant understands that the amount of tax as calculated by the IRS may exceed the amount of tax due as calculated for the criminal case.

### **Waiver of Rights**

20. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Right to be charged by indictment.** Defendant understands that he has a right to have the charges prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert at trial or on appeal any defects or errors arising from the information, the information process, or the fact that he has been prosecuted by way of information.

b. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge

sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is 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.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government 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 and that it was to consider each count of the information separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

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

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

c. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

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

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

22. Defendant understands that the United States Attorney's Office 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 charges against him,

and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

23. 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, and the United States Attorney's Office 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 Title 18, United States Code, Section 1001 or as a contempt of the Court.

24. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) 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. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS

to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

### **Other Terms**

25. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

26. Regarding matters relating to the Internal Revenue Service, defendant agrees as follows (nothing in this paragraph, however, precludes defendant and his spouse from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS):

a. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant and his spouse which directly or indirectly relates to or arises out of the course of conduct that defendant has acknowledged in this Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records that the IRS may request.

b. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or

other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency (including but not limited to the Internal Revenue Service), for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or administrative proceeding involving, or investigation of, defendant and his spouse. Nothing in this paragraph or the preceding paragraph precludes defendant and his spouse from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

### **Conclusion**

27. 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.

28. 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 government, 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 government 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.

29. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

30. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

31. 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.

AGREED THIS DATE: \_\_\_\_\_

\_\_\_\_\_  
ZACHARY T. FARDON  
United States Attorney

\_\_\_\_\_  
GENE LEE  
Defendant

\_\_\_\_\_  
MARGARET J. SCHNEIDER  
Assistant U.S. Attorney

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ANTHONY MASCIOPINTO  
Attorney for Defendant