

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MOHAMMED SHARIFF

No. 16 CR 448-1

Judge Harry D. Leinenweber

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant MOHAMMED SHARIFF, and his attorney, RALPH MECZYK, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with conspiracy to dispense controlled substances outside the scope of professional practice and without a legitimate medical purpose, in violation of Title 21, United States Code, Section 846 (Count One); dispensing oxycodone outside the scope of professional practice and without a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1) (Counts Two through Nine); dispensing hydrocodone outside the scope of professional practice and without a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1) (Counts Ten through Fifteen); and

conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349 (Count Sixteen).

3. Defendant has read the charges against him contained in the indictment, 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.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following count of the indictment: Count One, which charges defendant with conspiracy to dispense a quantity of mixtures and substances containing oxycodone, a Schedule II Controlled Substance; a quantity of mixtures and substances containing hydrocodone, a Schedule III Controlled Substance; a quantity of mixtures and substances containing alprazolam, a Schedule IV Controlled Substance; and a quantity of mixtures and substances containing promethazine with codeine, a Schedule V Controlled Substance, outside of the usual course of professional practice and without a legitimate medical purpose, in violation of Title 21, United States Code, Section 846. In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the indictment. 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, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

Beginning in or about February 2012, and continuing until on or about March 7, 2013, at Chicago, in the Northern District of Illinois, and elsewhere, defendant MOHAMMED SHARIFF, together with Theodore Galvani, Irfan Mohammed, and others known and unknown, conspired to knowingly and intentionally dispense controlled substances, namely, a quantity of mixtures and substances containing oxycodone, a Schedule II Controlled Substance; a quantity of mixtures and substances containing hydrocodone, a Schedule III Controlled Substance; a quantity of mixtures and substances containing alprazolam, a Schedule IV Controlled Substance; and a quantity of mixtures and substances containing promethazine with codeine, a Schedule V Controlled Substance, outside of the usual course of professional practice and without a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1), all in violation of Title 21, United States Code, Section 846.

Specifically, between in or about August 2009 and March 7, 2013, SHARIFF owned and managed a medical practice called the Midtown Medical Center, located in Chicago, Illinois. Between in or about December 2010 and March 2012, SHARIFF employed Doctor A as the clinic's sole physician. Doctor A was a physician licensed to practice medicine in Illinois, and he held a Drug Enforcement Administration

registration number that permitted him to prescribe controlled substances. Sometime no later than February 2012, SHARIFF began accepting patients in greater numbers from outside of the clinic's immediate neighborhood. These patients came to the clinic presenting the same, vague ailments, seeking pain and anxiety medication, including oxycodone, hydrocodone, alprazolam, and promethazine with codeine.

Doctor A advised SHARIFF that these new patients were pill seekers, that he (Doctor A) refused to prescribe the pills they requested, and that SHARIFF should refund their office visit fees. Doctor A also advised SHARIFF that drug tests revealed that some of the patients to whom he (Doctor A) had prescribed controlled substances were not taking the prescribed drugs, and that Doctor A believed those patients were trading their prescriptions for other illicit substances. Doctor A told SHARIFF to stop accepting patients from outside the neighborhood because he thought these patients were seeking drugs for which they had no legitimate medical need. While SHARIFF initially honored Doctor A's request, he later asked Doctor A to prescribe these controlled substances to individuals who had no legitimate medical need for the drugs. Doctor A refused and eventually quit the Midtown Medical Center in or around April 2012.

In June 2012, SHARIFF hired Galvani to work at Midtown Medical Center. Galvani was a physician licensed to practice medicine in Illinois, and he held a Drug Enforcement Administration registration number that permitted him to prescribe

controlled substances. Galvani was also enrolled as a physician provider with the Medicare program and was assigned a provider number, under which SHARIFF, Galvani, and others acting at their direction submitted claims to Medicare. SHARIFF asked Galvani to prescribe controlled substances – including oxycodone, hydrocodone, alprazolam, and promethazine with codeine – to clinic visitors who had no legitimate medical need for those drugs.

Between June 2012 and March 7, 2013, Galvani regularly met with patients at Midtown Medical Center. SHARIFF knew that Galvani often met with more than 70 patients per day, often in groups of two or more at the same time. SHARIFF understood that, during these visits, Galvani prescribed the patients oxycodone, hydrocodone, alprazolam, and promethazine with codeine, among other drugs, without providing them with an appropriate physical examination or performing any medical tests. At the direction of SHARIFF, Galvani prescribed these controlled substances, knowing that the patients had no legitimate medical need for the drugs.

SHARIFF arranged for Galvani to meet with, and write controlled substance prescriptions for, groups of people led by crew leaders, who paid the office visit fee for each member of their group. SHARIFF and Galvani understood that the members of these groups were actually obtaining the prescriptions for their crew leaders, who intended to sell those drugs illegally to others. As SHARIFF knew, Galvani prescribed oxycodone, hydrocodone, alprazolam, and promethazine with codeine to

the members of these groups, despite knowing that they had no medical need for the drugs and that those drugs were truly intended for subsequent resale to others.

At SHARIFF's direction, Galvani also wrote prescriptions for oxycodone, hydrocodone, alprazolam, and promethazine with codeine to people who did not even meet with Galvani at Midtown Medical Center. SHARIFF and Mohammed brought Galvani medical charts for patients with whom Galvani had neither met nor provided a medical exam, and SHARIFF asked Galvani to write prescriptions for these individuals for oxycodone, hydrocodone, alprazolam, and promethazine with codeine. SHARIFF was often accompanied by a crew leader who, in the presence of SHARIFF, told Galvani which prescriptions to write. Galvani wrote the prescriptions that the crew leader requested.

On days when the clinic was busy, and at the direction of SHARIFF, Mohammed filled out controlled substance prescriptions for patients using Galvani's prescription pad. Mohammed filled out the type and amount of drugs prescribed – including oxycodone, hydrocodone, alprazolam, and promethazine with codeine – and Galvani signed the prescriptions without examining the patients. Mohammed also falsified the medical files of individuals who received prescriptions for controlled substances from Galvani, including prescriptions for oxycodone, hydrocodone, alprazolam, and promethazine with codeine, in an effort to substantiate the prescriptions that Galvani wrote outside of the usual course of professional practice and without a legitimate medical purpose.

SHARIFF and Galvani agreed to prescribe controlled substances to individuals who had no medical need for the drugs in exchange for a cash fee between \$100 and \$200. When individuals insured by Medicare sought prescriptions for controlled substances for which they had no legitimate medical need, SHARIFF and Galvani agreed to falsely bill Medicare for services that were not rendered to these individuals. Specifically, SHARIFF and Galvani submitted, and caused others to submit, false and fraudulent claims to Medicare, seeking reimbursement for purported office visits with individuals who received these improper prescriptions, using procedure codes (referred to as “CPT codes”) that paid out at higher rates than were justified by the services actually rendered by Galvani (*e.g.*, CPT codes 99204, 99213, and 99214). SHARIFF and Galvani knew when they submitted these claims to Medicare that Galvani had not rendered services sufficient to justify those claims.

All of the funds that Medicare paid as a result of these claims were deposited into account XXXXX6526 held at TCF Bank under the name Midtown Medical Center. SHARIFF was the sole signatory on this account and used checks from this account to pay Galvani his share of the Medicare proceeds. SHARIFF and Galvani agreed to split evenly the cash fees and Medicare reimbursements generated by these improper prescriptions.

Between in or about June 2012 and on or about March 7, 2013, Galvani, at the request of SHARIFF, prescribed at least 2,122 grams of oxycodone, at least 595,425 units of Schedule III hydrocodone of various strengths, at least 193,341 units of

Schedule IV alprazolam, and at least 211,413 units of Schedule V promethazine with codeine, to individuals who had no legitimate medical need for those drugs. SHARIFF and Galvani knew that these patients had no legitimate medical need for the controlled substances that Galvani prescribed. SHARIFF and Galvani also knew that Galvani prescribed these drugs outside the scope of professional medical practice and without a legitimate medical purpose.

In exchange for these medically unnecessary prescriptions, SHARIFF and Galvani received more than \$403,920 in cash fees. In furtherance of the conspiracy, SHARIFF and Galvani also fraudulently billed Medicare approximately \$351,958 for services that were not rendered, and fraudulently obtained from Medicare at least \$180,268 in satisfaction of those claims. In total, SHARIFF and Galvani received at least \$584,188 through the improper prescription of controlled substances to individuals who had no legitimate medical need for those drugs. Of that amount, SHARIFF personally kept at least \$292,094 as his share of the proceeds.

7. Defendant, for purposes of computing his sentence under Guideline § 1B1.2, stipulates to having committed the following additional offense:

On or about May 26, 2016, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant MOHAMMED SHARIFF knowingly and willfully offered and paid remuneration in the amount of approximately \$500 to Physician A to induce the referral of patients to Home Health Resource LLC for the furnishing and arranging for the furnishing of services for which payment may be made in whole

or in part under a Federal health care program, namely, Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A).

Specifically, SHARIFF was an owner of Home Health Resource LLC, which was a company in the business of providing home health services to Medicare beneficiaries. Home Health Resource LLC was located in Elgin, Illinois. Physician A was a medical doctor in Illinois.

On or about February 11, 2016, SHARIFF met with Physician A at Physician A's office in Chicago, Illinois. Unbeknownst to SHARIFF, at the time of this meeting, Physician A was cooperating with law enforcement. During this meeting, SHARIFF offered to pay Physician A \$500 each time the doctor certified a Medicare beneficiary as eligible for home health services and referred a patient to SHARIFF's company, Home Health Resource LLC. SHARIFF also offered to pay Physician A \$350 each time the doctor recertified a Medicare beneficiary as eligible for home health services, allowing such patients to continue to receive home health services from SHARIFF's home health company for additional intervals of time. SHARIFF asked Physician A to certify at least five patients per month as eligible for Home Health Resource LLC's services. Physician A agreed to certify two or three patients a month in exchange for \$500 per patient, and the two men agreed to meet again later.

On or about May 26, 2016, SHARIFF met again with Physician A at Physician A's office in Chicago. During this meeting, SHARIFF slid a white envelope that contained approximately \$500 in cash across Physician's A's desk to Physician A.

SHARIFF attempted to conceal the envelope under his arm as he moved it across the desk. Rather than accept the envelope immediately, Physician A stood up, walked over to his office door, and closed the door so that SHARIFF could hand over the money in private. After the door was closed, SHARIFF again slid the envelope across the desk to Physician A, who removed the cash from the envelope and counted the money in front of SHARIFF.

Following this kickback, Physician A asked, "Can you do five hundred for certification and three-fifty for re-certification?" SHARIFF responded, "Yes sir. Okay." Physician A stated, "I'm going to sign all those four-eight-fives," which SHARIFF understood to mean Medicare Form 485 forms, which doctors must use to certify a patient's eligibility for home health services. SHARIFF responded, "Okay, but can you put a couple other diagnoses on there? Just like, uh, homebound? Justify for homebound," meaning that SHARIFF wanted Physician A to falsify the certification forms to make it appear on paper that the patients were eligible for home health services that his company would later provide. Physician A responded, "On paper, I can falsify that they are homebound." SHARIFF responded, "Okay, that's it." Physician A stated, "I can say that, um, patient's mobility is restricted." SHARIFF responded, "Okay, that's enough." Physician A continued, "Or a patient has arthritis and it is difficult for him to walk." SHARIFF responded, "Right, that's good enough. That's a lot."

During this meeting, SHARIFF stated that he instructed the nurses that worked for Home Health Resource LLC to “tell the patient you are homebound, if anybody asks you are homebound” and that “when the doctor come, don’t say that you go out and drive and this and that.” SHARIFF also stated, “I can tell the nurse, go and tell them . . . ‘Don’t tell anybody you drive, don’t tell anybody you’re taking the bus, even going to the groceries. . . . If anybody asks, I stay home. I’m homebound,’” meaning that he made arrangements with his home health company’s employees to conceal the fact that its home health clients were not truly eligible for home health services.

SHARIFF gave Physician A this \$500 payment on May 25, 2016 to induce Physician A to refer a Medicare beneficiary to SHARIFF’s company, Home Health Resource LLC. SHARIFF acknowledges that this \$500 payment violated the law.

Maximum Statutory Penalties

8. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 20 years’ imprisonment. This offense also carries a maximum fine of \$1,000,000. Defendant further understands that the judge also may impose a term of supervised release of at least three years and up to any number of years, including life.

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

c. Pursuant to Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

9. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense.

10. 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 the offense. The following

statements regarding the calculation of the Sentencing Guidelines are based on the November 2012 Guidelines Manual.

b. Offense Level Calculations.

i. Count One

(a) The amount of controlled substances involved in the offense of conviction for which defendant is accountable is at least 2,122 grams of Schedule II Controlled Substance oxycodone (the equivalent of approximately 14,217.4 kilograms of marijuana, pursuant to Guideline § 2D1.1, Application Note 8(D)), at least 595,425 units of Schedule III Controlled Substance hydrocodone (the equivalent of approximately 595.425 kilograms of marijuana, pursuant to Guideline § 2D1.1, Application Note 8(D)), at least 193,341 units of Schedule IV alprazolam (the equivalent of approximately 12.083 kilograms of marijuana, pursuant to Guideline § 2D1.1, Application Note 8(D)), and at least 211,413 units of Schedule V Controlled Substance promethazine with codeine (the equivalent of more than 1.321 kilograms of marijuana, pursuant to Guideline § 2D1.1, Application Note 8(D)). Pursuant to Guideline § 2D1.1, Application Note 8(D), the combined equivalent weight of all Schedule IV and V substances shall not exceed 4.99 kilograms of marijuana. The combination of marijuana equivalents for the oxycodone, hydrocodone, alprazolam, and promethazine with codeine, for which the defendant is accountable, equals at least 14,817 kilograms of marijuana. Therefore, the base offense level for Count One

is 34, pursuant to Guideline §§ 2D1.1(a)(5) and (c)(3), because the offense involved the equivalent of between 10,000 and 30,000 kilograms of marijuana.

(b) It is the government's position that the offense level for Count One is increased two levels, pursuant to Guideline § 3B1.1(c), because defendant was an organizer, leader, manager, and supervisor of a criminal activity that involved less than five participants. The defendant's position is that this enhancement does not apply. Each party is free to present evidence and argument to the Court on this issue.

ii. **Stipulated Offense:**

iii. The base offense level for the Stipulated Offense is 8, pursuant to Guideline § 2B4.1(a).

iv. **Grouping:** The offenses under Count One and the Stipulated Offense do not group, pursuant to Guideline § 3D1.2. The group with the highest offense level is Count One, which has an adjusted offense level of 36, prior to any adjustment for acceptance of responsibility. The offense of conviction for the Stipulated Offense has an adjusted offense level, prior to any adjustment for acceptance of responsibility, of 8. Because the offense level for the Stipulated Offense is 9 or more levels less serious than the group with the highest offense level (*i.e.*, Count One), pursuant to Guideline § 3D1.4(c), the Stipulated Offense does not increase the applicable offense level. Therefore, the total offense level, prior to any adjustment for acceptance of responsibility, is 36.

v. If the Court determines at the time of sentencing that defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct 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 will be appropriate. The government reserves the right to take whatever position it deems appropriate at the time of sentencing with respect to whether defendant has accepted responsibility within the meaning of Guideline § 3E1.1(a).

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, it is the government's position that the anticipated offense level is 34, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 151 to 188 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. It is the defendant's position that the anticipated offense level is 32, which, when combined with the

anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 121 to 151 months' imprisonment, in addition to any supervised release and fine 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.

11. Both parties expressly acknowledge that this Agreement is not governed by Federal Rule of Criminal Procedure 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

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

13. 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.

14. Regarding restitution, defendant agrees to pay restitution, owed to Medicare and arising from the offense conduct set forth above, totaling \$180,268, pursuant to Title 18, United States Code, Sections 3663(a)(3) and 3664.

15. 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.

16. The parties further agree, pursuant to Title 18, United States Code, Section 3583(d), that the sentence to be imposed by the Court shall include, as a

condition of any term of supervised release or probation imposed in this case, a requirement that defendant repay the United States \$1,675 as compensation for government funds that defendant received during the investigation of the case.

17. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

18. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

19. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to defendant.

Forfeiture

20. Defendant understands that by pleading guilty, he will subject to forfeiture to the United States all right, title, and interest that he has in any property constituting or derived from proceeds obtained, directly or indirectly, as a result of the offense.

21. Defendant agrees to the entry of a personal money judgment in the amount of \$292,094, which represents the total amount of funds that defendant received from the offense. Defendant consents to the immediate entry of a

preliminary order of forfeiture setting forth the amount of the personal money judgment he will be ordered to pay.

22. Defendant admits that because the directly forfeitable property is no longer available for forfeiture as described in Title 21, United States Code, Section 853(p)(1), the United States is entitled to seek forfeiture of any other property of defendant, up to the value of the personal money judgment, as substitute assets pursuant to Title 21, United States Code, Section 853(p)(2).

23. Defendant understands that forfeiture shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment. In this case, however, the United States Attorney's Office will recommend to the Attorney General that any net proceeds derived from any forfeited assets be remitted or restored to eligible victims of the offense pursuant to Title 18, United States Code, Section 981(e), Title 28, Code of Federal Regulations, Part 9, and other applicable law.

24. Defendant agrees to waive all constitutional, statutory, and equitable challenges in any manner, including but not limited to direct appeal or a motion brought under Title 28, United States Code, Section 2255, to any forfeiture carried out in accordance with this agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

25. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 16 CR 448-1.

26. 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.

Waiver of Rights

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

a. **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 indictment 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.

b. **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.

28. 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

29. 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.

30. 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.

31. 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

32. 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.

33. Defendant understands that, if convicted, 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.

Conclusion

34. 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.

35. 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.

36. 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.

37. 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.

38. 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: _____

JOHN R. LAUSCH, JR.
United States Attorney

MOHAMMED SHARIFF
Defendant

PETER M. FLANAGAN
Assistant U.S. Attorney

RALPH MECZYK
Attorney for Defendant