

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

HERMAN L. DOSS, JR.

No. 17 CR 50002-3

Judge Philip G. Reinhard

**PLEA AGREEMENT**

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

**Charges in This Case**

2. The superseding information in this case charges defendant with conspiracy to commit Hobbs Act robberies, in violation of Title 18, United States Code, Section 1951(a) (Count 1), Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951(a) (Counts 2-4) and using, carrying and brandishing a firearm during and in relation to a crime of violence, in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii) (Count 5).

3. Defendant has read the charges against him contained in the superseding 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 superseding information: Count 1, which charges defendant with conspiracy to commit Hobbs Act robberies, in violation of Title 18, United States Code, Section 1951(a); Counts 2 through 4, which charge defendant with committing Hobbs Act robberies, in violation of Title 18, United States Code, Section 1951(a); and Count 5, which charges defendant with using, carrying and brandishing a firearm during and in relation to a crime of violence, in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii). 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 charges contained in Counts 1 through 5 of the superseding information. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

a. With respect to Count 1 of the superseding information:

Between at least December 10, 2016 and January 6, 2017, at Cherry Valley, in the Northern District of Illinois, Western Division, and elsewhere, defendant

conspired with Narcellus J. Taylor, Jr., also known as “J.T.” (“Taylor”) and Mario J. Anderson (“Anderson”), and with others, to obstruct, delay, and affect commerce by robbery, as “commerce” and “robbery” are defined in Title 18, United States Code, Section 1951(b), that is to unlawfully take and obtain property from the person and in the presence of employees of several businesses against those employees’ will, by means of actual and threatened force, violence, and fear of injury to those employees. It was further part of the conspiracy that:

i. Taylor and others identified certain cellular telephone and electronic stores to target for robberies of cellular phones and computers, and selected and paid others including defendant and Anderson, to commit the robberies at Taylor’s direction.

ii. Taylor directed and traveled with others, including defendant and Anderson, to the robbery locations, and conducted surveillance and communicated with other individuals by cellular telephone while the robberies were ongoing.

iii. Defendant, Taylor, Anderson, and others entered cellular telephone stores in order to steal cellular telephones and computers from the person and presence of store employees.

iv. After the robberies had been completed, Taylor collected the stolen cellular phones and laptop computers from defendant, Anderson, and

others and transported the stolen items to Chicago where Taylor sold the stolen items to other individuals.

v. Taylor determined the amounts that each individual, including defendant and Anderson, received from the proceeds of the sales of the cellular phones and computers taken during the robberies based on their respective roles in the robberies.

vi. On August 5, 2016, defendant, Taylor, and others attempted to rob Best Buy, located at 7600 South Cicero Avenue, Burbank, Illinois.

vii. On November 29, 2016, defendant, Taylor, and others, robbed Best Buy, located at 11840 71st Street, Kenosha, Wisconsin.

viii. On December 16, 2016, defendant, Taylor, Anderson, and others robbed Simply Mac, located at 7200 Harrison Avenue, Cherry Valley, Illinois.

ix. On December 17, 2016, defendant, Taylor, Anderson, and others robbed Simply Mac, located at 2710 LaPorte, Suite 140, Valparaiso, Indiana.

x. On January 6, 2017, defendant, Taylor, and Anderson robbed Simply Mac, located at 7200 Harrison Avenue, Cherry Valley, Illinois.

All in violation of Title 18, United States Code, Section 1951(a).

b. With respect to Count 2 of the superseding information:

On or about August 5, 2016, at Burbank, in the Northern District of Illinois, defendant obstructed, delayed, and affected commerce by robbery, as “commerce” and “robbery” are defined in Title 18, United States Code, Section 1951(b), in that

defendant, attempted to unlawfully take and obtain property from the person and in the presence of employees of Best Buy, located at located at 7600 South Cicero Avenue, Burbank, Illinois, against those employees' will, by means of actual and threatened force, violence, and fear of injury to those employees, in violation of Title 18, United States Code, Section 1951(a).

c. With respect to Count 3 of the superseding information:

On December 16, 2016, at Cherry Valley, in the Northern District of Illinois, Western Division, defendant obstructed, delayed, and affected commerce by robbery, as "commerce" and "robbery" are defined in Title 18, United States Code, Section 1951(b), in that defendant, unlawfully took and obtained property from the person and in the presence of employees of Simply Mac, located at 7200 Harrison Avenue, Cherry Valley, Illinois, against those employees' will, by means of actual and threatened force, violence, and fear of injury to those employees, in violation of Title 18, United States Code, Section 1951(a).

d. With respect to Count 4 of the superseding information:

On January 6, 2017, at Cherry Valley, in the Northern District of Illinois, Western Division, defendant obstructed, delayed, and affected commerce by robbery, as "commerce" and "robbery" are defined in Title 18, United States Code, Section 1951(b), in that defendant, unlawfully took and obtained property from the person and in the presence of employees of Simply Mac, located at 7200 Harrison Avenue, Cherry Valley, Illinois, against those employees' will, by means of actual and

threatened force, violence, and fear of injury to those employees, in violation of Title 18, United States Code, Section 1951(a).

e. With respect to Count 5 of the superseding information:

On or about January 6, 2017, at Cherry Valley, in the Northern District of Illinois, Western Division, defendant, during and in relation to a crime of violence, namely the offense described in Count Four of this superseding information, knowingly used, carried and brandished firearms, namely, a chrome Smith and Wesson, 9mm semi-automatic pistol, Model 659 bearing serial number A806493, a black Glock 19, 9mm semi-automatic pistol bearing serial number PPX492, a black Armscor of the Philippines Model M1911-A1 FS, .45 caliber semi-automatic pistol, bearing serial number RIA1582610, and a Charter Arms Bulldog, model 44 special, revolver, bearing serial number 920166, in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

f. Specifically, regarding Counts 1 through 5 of the superseding information, between August 5, 2016 and January 6, 2017, defendant conspired with Taylor, Anderson, and others to commit robberies of retail stores and obtain computers and cell phones that defendant, Taylor, and Anderson, then sold to other individuals in Chicago, Illinois for cash. Taylor determined the amounts that each conspirator, including defendant and Anderson, would receive from the proceeds of the sales of the computers and cell phones taken during the robberies based on their respective roles in the robberies.

g. As part of the conspiracy and with respect to Count 2 of the superseding indictment, on August 5, 2016, defendant, Taylor, C.T. and T.H. drove to the Burbank Best Buy in a 2016 Dodge Charger that defendant had stolen a few days prior to August 5, 2016. Defendant and Taylor entered the Best Buy while C.T. and T.H. remained in the Dodge Charger. Once inside, defendant and Taylor attempted to steal two laptops by grabbing them and attempting to run out of the store. When a security guard attempted to grab defendant when Taylor and defendant were attempting to flee with the two laptops, Taylor struck the security guard with a closed fist. Defendant and Taylor dropped the laptops and ran back to the Dodge Charger. Defendant, Taylor, C.T. and T.H. fled in the Dodge Charger with Taylor driving as a Crestwood Police squad car pursued them. Taylor drove at a high rate of speed out of the Best Buy parking lot and drove through a stop sign and then a red light without stopping in an attempt to elude the squad car. Taylor drove through a red light at an intersection near the 4700 block of Cal Sag Road in Crestwood and caused a collision with numerous other vehicles. Defendant, Taylor, C.T. and T.H then fled on foot. Taylor, C.T. and T.H. were apprehended by police officers a short time later.

h. As part of the conspiracy, on November 29, 2016, defendant, Taylor, B.P., P.W. and C.T. drove to the Kenosha Best Buy from Chicago in defendant's Ford Taurus and Y.O.'s Oldsmobile. Y.O. allowed them to use his vehicle even though he was not present for this robbery. Defendant, Taylor, and B.P. entered

the store while P.W. and C.T. stayed in the vehicles. After asking an employee for a Mac Book which that store kept in a locked cage in its warehouse, defendant, Taylor, and B.P. entered the warehouse area of the store with the employee. Defendant told the employee that defendant had a gun and B.P. threatened the employee with pepper spray. Defendant, Taylor, and B.P. then took fifteen Apple MacBook laptop computers valued at more than \$20,000 from the presence of the employee and placed them into camouflage colored laundry bags. Although defendant told the Best Buy employee that he had a gun, defendant did not possess a gun during this robbery. After putting the fifteen MacBooks into the laundry bags, defendant, Taylor, and B.P. fled the store. As they were leaving the store, B.P. left behind a slipper and Taylor dropped the blue flip-style cellphone he was talking on when he entered the store. Defendant, Taylor, B.P., P.W. and C.T. then fled in the Taurus and Oldsmobile.

i. As part of the conspiracy and with respect to Count 3 of the superseding information, on December 16, 2016, defendant, Taylor, Anderson, B.P., P.W., H.D., T.H., C.T., K.B., and Y.O. traveled from Chicago to the Cherry Valley Simply Mac in Taylor's Equinox, defendant's Ford Taurus and Odom's Oldsmobile sedan. Defendant, Taylor, and Anderson waited outside in the vehicles while B.P., P.W., T.H., K.B., and Y.O. entered the store wearing masks and with their hands in their pockets to imply that they had guns. After entering the store, B.P., P.W., H.D., T.H., K.B., and Y.O. forced the employees to the back of the store and pepper sprayed some of the employees. They took two computers and fled when one of the employees

told them he triggered the silent alarm. C.T. remained outside the store during the robbery and punched an employee who was returning to the store as the robbery was occurring. C.T. took the employee's cell phone after punching him.

j. As part of the conspiracy, after the December 16, 2016 robbery, defendant, Taylor, Anderson, and B.P. returned to Taylor's residence in Chicago where they discussed robbing the Valparaiso Simply Mac again on December 17, 2016. After they discussed the fact that the store may have additional security after the first robbery, defendant suggested that they bring a gun for this robbery. Taylor agreed with defendant's suggestion and defendant agreed to bring defendant's Smith and Wesson 9mm handgun to the robbery. On December 17, 2016, defendant, Taylor, Anderson, P.W., T.H., C.T., and B.P. drove from Chicago to the Valparaiso Simply Mac in Taylor's Chevy Equinox and defendant's Ford Taurus. On the way from Chicago to Valparaiso, Anderson stated that they needed to tie up the employees in the store during the robbery, so they stopped and bought zip ties at a home repair store on the way. When they arrived at the Valparaiso Simply Mac, P.W. went into the store first and reported to B.P. that there was a security guard in the store. B.P. then used Anderson's cellphone to call the police and report a false emergency at a local gas station to divert police attention away from the Valparaiso Simply Mac. Defendant, Taylor, Anderson, C.T. and T.H. entered the store wearing masks. Taylor entered the store first and was carrying defendant's Smith and Wesson 9mm handgun. Defendant, Taylor and Anderson immediately approached the security

guard and Taylor held defendant's gun on the security guard while defendant took the security guard's .40 caliber Glock handgun and then gave it to Taylor. After obtaining the security guard's gun, defendant, Taylor, Anderson, C.T. and T.H. forced the security guard and other employees to the back room. Anderson and T.H. tied up the store employees using the zip ties. Defendant, Taylor, Anderson, C.T. and T.H. obtained 30 Mac Books, 15 iPads, 2 iPhones and 2 iWatches valued at approximately \$69,500 in addition to the security guard's .40 caliber Glock handgun. C.T. carried one of the camouflage bags containing the stolen items out of the store during the robbery.

k. As part of the conspiracy and with respect to Counts 4 and 5 of the superseding information, on January 5, 2017, defendant, Taylor, Anderson and S.G. planned to rob the Cherry Valley Simply Mac on January 6, 2017. Anderson recruited S.G. because they wanted another driver. S.G. was supposed to be paid between \$300 and \$500 for her role in the robbery. On January 6, 2017, defendant, Taylor, Anderson and S.G. drove from Chicago to the Cherry Valley Simply Mac in Anderson's Jeep Cherokee and Taylor's Cadillac sedan. Taylor drove the Jeep Cherokee with defendant as a passenger and followed Anderson who was driving the Cadillac with S.G. as a passenger. Defendant, Taylor, and Anderson, each brought firearms for use in the robbery. Taylor brought his black Glock 19, 9mm semi-automatic pistol bearing serial number PPX492 and black Armscor of the Philippines Model M1911-A1 FS, .45 caliber semi-automatic pistol, bearing serial number

RIA1582610, Anderson brought his Charter Arms Bulldog, model 44 special, revolver, bearing serial number 920166 and defendant brought his chrome Smith and Wesson, 9mm semi-automatic pistol, Model 659 bearing serial number A806493. When they arrived at the Cherry Valley Simply Mac, S.G. went inside to check the security and while she was inside, she was on the phone with Anderson. S.G. then left the store for a brief period before going back in a second time. While S.G. was inside the store, defendant, Taylor, and Anderson sat in the Jeep Cherokee and discussed taking one of the four handguns into the store. Defendant agreed to take Taylor's Glock 9mm pistol into the store and Taylor and Anderson agreed to carry the four laundry style bags into the store.

l. After S.G. came out of the store the second time and returned to the Cadillac, defendant, Taylor, and Anderson entered the store. Defendant displayed the Glock 9mm handgun and ordered the employees and customers in the store to go into the back room of the store. In the back room, Defendant forced the three employees and two customers to face the wall. Taylor and Anderson went into an inventory room where they stole approximately 86 Apple products, including I-Phones and Apple computers, with a retail value in excess of \$80,000. They also took an I-Phone from each of the customers and from an employee.

m. After defendant, Taylor, and Anderson left the Simply Mac store, they loaded the stolen items into the Jeep Cherokee. Taylor drove the Jeep Cherokee with Anderson and defendant as passengers. S.G. followed them in the Cadillac.

They drove back towards Chicago and stopped for gas at a gas station in Carpentersville. Defendant got out of the Jeep Cherokee at the gas station and left with S.G. in Taylor's Cadillac. When Taylor then began driving away from the gas station with Anderson, in the Jeep Cherokee, a state police vehicle followed Taylor. The Jeep Cherokee eventually became disabled and stopped in the middle lane of Interstate Highway 90 (I- 90). Taylor and Anderson were taken into custody at that time and were searched. Law enforcement officers seized a 30 round Glock extended magazine containing 9 mm rounds from Taylor's person.

n. The Jeep Cherokee that Taylor and Anderson were driving that day contained Taylor's loaded Glock 9mm pistol between the front passenger seat and the center console and defendant's loaded Smith and Wesson 9mm pistol in a drawstring bag on the floor board area of the front passenger area. The Smith and Wesson firearm had previously been reported as stolen. Taylor's Armscor pistol and Anderson's Charter Arms revolver were in the rear of the Jeep Cherokee, wrapped together in a scarf. Taylor's Armscor pistol had previously been reported as stolen. The rear cargo area of the Jeep Cherokee, also contained 86 boxes of Apple products that defendant, Taylor, and Anderson took from the Cherry Valley Simply Mac on January 6, 2017. The Jeep Cherokee also contained 5 cellphones that defendant, Taylor, and Anderson had taken from the victims of the robbery on January 6, 2017.

o. Defendant admits that the businesses that defendant and his co-conspirators robbed and attempted to rob as part of the conspiracy as charged in

Count 1 of the superseding information were all engaged in the sale of products, including laptop computers and cellphones that were previously transported in interstate commerce and the robberies and attempted robberies alleged as part of the conspiracy alleged in Count One of the superseding information and in Counts Two, Three, and Four of the superseding indictment obstructed, delayed and affected commerce, as commerce is defined in Title 18, United States Code, Section § 1951(b)(3).

7. The foregoing facts are set forth solely to assist the Court in determining whether a factual basis exists for defendant's plea of guilty and criminal forfeiture, and are not intended to be a complete or comprehensive statement of all the facts within defendant's personal knowledge regarding the charged crimes and related conduct.

#### **Maximum Statutory Penalties**

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

a. Counts 1 through 4 each carry a maximum sentence of 20 years' imprisonment. Counts 1 through 4 also each carry a maximum fine of \$250,000. Defendant further understands that with respect to Counts 1 through 4 the judge also may impose a term of supervised release of not more than three years.

b. Count 5 carries a maximum sentence of life imprisonment, and a statutory mandatory minimum sentence of 7 years. The sentence of imprisonment on

Count 5 is required to be consecutive to any other sentence imposed. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation on this count. Count 5 also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count 5, the judge also may impose a term of supervised release of not more than five years.

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

d. Pursuant to 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 life imprisonment, and the minimum sentence is 7 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$1,250,000, a period of supervised release, and special assessments totaling \$500, in addition to any restitution ordered by the Court.

### **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, and 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:

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 2018 Guidelines Manual.

b. **Offense Level Calculations.**

i. Pursuant to Guideline § 1B1.2(d), a conviction on a count charging conspiracy to commit more than one offense shall be treated as if the defendant had been convicted on a separate count of conspiracy for each offense that the defendant conspired to commit. In pleading guilty to Count 1 of the amended superseding information, defendant has admitted to conspiring to commit 5 separate

robberies, including the robberies charged in Counts 2 through 4. Therefore, pursuant to § 1B1.2(d), each robbery that defendant conspired to commit as charged in Count 1 will be counted as a separate offense.

**Count 2 – August 5, 2016 Burbank Best Buy Robbery**

ii. The base offense for Count 2 is 20, pursuant to Guideline § 2B3.1(a)(1).

iii. The offense level for Count 2 is increased by 2 levels to level 22 pursuant to Guideline § 2B3.1(b)(3)(A) because a victim sustained a bodily injury.

iv. The offense level for Count 2 is increased by 2 levels to level 24 pursuant to Guideline § 3C1.2 because defendant recklessly created a substantial risk of death or serious bodily injury in the course of fleeing from a law enforcement officer.

**Count 3 – December 16, 2016 Cherry Valley Simply Mac Robbery**

v. The base offense for Count 3 is 20, pursuant to Guideline § 2B3.1(a)(1).

vi. The offense level for Count 3 is increased by 2 levels to level 22 pursuant to Guideline § 2B3.1(b)(3)(A) because a victim sustained a bodily injury.

vii. The offense level for Count 3 is increased by 2 levels to level 24 pursuant to Guideline § 2B3.1(b)(4)(B) because a victim was physically restrained.

**Count 4 – January 6, 2017 Cherry Valley Simply Mac Robbery**

viii. The base offense for Count 4 is 20, pursuant to Guideline § 2B3.1(a)(1).

ix. Pursuant to Application Note 4 of Guideline § 2K2.1, the enhancement for the use of a firearm in the offense pursuant to Guideline § 2B3.1(b)(2) is not applied to Count 4 because defendant is also subject to a sentence for Count 5 under Guideline § 2K2.4.

x. The offense level for Count 4 is increased by 2 levels to level 22 pursuant to Guideline § 2B3.1(b)(4)(B) because a victim was physically restrained.

xi. The offense level for Count 4 is increased by 1 level to level 23 pursuant to Guideline § 2B3.1(b)(7)(C) because the loss was more than \$20,000.

**Conspiracy Offense 1 – November 29, 2016 Kenosha Best Buy Robbery**

xii. The base offense for Conspiracy Offense 1 is 20, pursuant to Guideline § 2B3.1(a)(1).

xiii. The offense level for Conspiracy Offense 1 is increased by 1 level to level 21 pursuant to Guideline § 2B3.1(b)(7)(C) because the loss was more than \$20,000.

**Conspiracy Offense 2 – December 17, 2016 Valparaiso Simply Mac Robbery**

xiv. The base offense for Conspiracy Offense 2 is 20, pursuant to Guideline § 2B3.1(a)(1).

xv. The offense level for Conspiracy Offense 2 is increased by 6 levels to level 26 pursuant to Guideline § 2B3.1(b)(2)(B) because a firearm was otherwise used as part of the offense.

xvi. The offense level for Conspiracy Offense 2 is increased by 2 levels to level 28 pursuant to Guideline § 2B3.1(b)(4)(B) because a victim was physically restrained.

xvii. The offense level for Conspiracy Offense 2 is increased by 1 level to level 29 pursuant Guideline § 2B3.1(b)(6) because a firearm was taken as part of the offense.

xviii. The offense level for Conspiracy Offense 2 is increased by 1 level to level 30 pursuant to Guideline § 2B3.1(b)(7)(C) because the loss was more than \$20,000.

### **Grouping**

xix. Pursuant to Guideline § 3D1.2, the offenses are not grouped and are treated as separate groups. Pursuant to Guideline § 3D1.4(a), Conspiracy Offense Two comprises one unit as the group with the highest offense level (30). Pursuant to Guideline § 3D1.4(b), Counts Two through Four each comprise one-half unit, as they are each from 5 to 8 levels less serious than Conspiracy Offense Two. Pursuant to Guideline § 3D1.4(c), Conspiracy Offense One does not comprise any units because it is 9 or more levels less serious than Conspiracy Offense Two. Together, Counts Two through Four Conspiracy Offenses One and Two comprise 2.5

units, mandating a 3 level increase to Conspiracy Offense Two, the group with the highest offense level, pursuant to Guideline § 3D1.4. Thus, defendant's combined offense level is 33.

xx. 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.

xxi. 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 and stipulated below, defendant's criminal history points equal 12 and defendant's criminal history category is V:

i. On December 12, 2012, in case number 2013C55001401 in the Circuit Court of Cook County, Illinois, defendant was convicted of retail theft, a felony, and was sentenced to 18 months' imprisonment, resulting in the assignment of 3 criminal history points pursuant to Guideline § 4A1.1(a).

ii. On September 23, 2013, in case number 2013 CF 2046 in the Circuit Court of Will County, Illinois, defendant was convicted of retail theft, a felony, and was sentenced to 2 years' imprisonment, resulting in the assignment of 3 criminal history points pursuant to Guideline § 4A1.1(a).

iii. On September 23, 2013, in case number 2013CR1931001 in the Circuit Court of Cook County, Illinois, defendant was convicted of retail theft, a felony, and was sentenced to 2 years' imprisonment, resulting in the assignment of 3 criminal history points pursuant to Guideline § 4A1.1(a).

iv. On February 24, 2015, in case number 2015CR0509701 in the Circuit Court of Cook County, Illinois, defendant was convicted of retail theft, a felony, and was sentenced to 2 years' imprisonment, resulting in the assignment of 3 criminal history points pursuant to Guideline § 4A1.1(a).

**d. Anticipated Advisory Sentencing Guidelines Range.**

Therefore, based on the facts now known to the government, the anticipated offense level for Counts 1 through 4 is 30, which, when combined with the anticipated

criminal history category of V, 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. Defendant also acknowledges that he is subject to a statutory minimum sentence of 7 years' imprisonment on Count 5.

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.

f. 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.

### **Cooperation**

11. Defendant agrees he will fully and truthfully cooperate in any matter in which he is called upon to cooperate by a representative of the United States Attorney's Office for the Northern District of Illinois. This cooperation shall include providing complete and truthful information in any investigation and pre-trial preparation and complete and truthful testimony in any criminal, civil, or administrative proceeding. Defendant agrees to the postponement of his sentencing until after the conclusion of his cooperation.

### **Agreements Relating to Sentencing**

12. At the time of sentencing, the government shall make known to the sentencing judge the extent of defendant's cooperation. If the government determines that defendant has continued to provide full and truthful cooperation as required by this Agreement, then the government shall move the Court, pursuant to Guideline § 5K1.1 and 18 U.S.C. § 3553(e), to depart from the combined total of the following: (a) the low end of the applicable guideline range on Counts 1 through 4 and Conspiracy Offenses 1 and 2; and (b) the statutory minimum consecutive term of imprisonment of 7 years on Count 5, and to impose the specific sentence agreed to by

the parties as outlined below. Defendant understands that the decision to depart from the applicable guideline range and statutory minimum sentence rests solely with the Court.

13. If the government moves the Court, pursuant to Guideline § 5K1.1 and 18 U.S.C. § 3553(e), to depart from the applicable guideline range and the statutory minimum sentence, as set forth in the preceding paragraph, this Agreement will be governed, in part, by Fed. R. Crim. P. 11(c)(1)(C). That is, the parties have agreed that the sentence imposed by the Court shall include a term of imprisonment in the custody of the Bureau of Prisons of 60 percent of the combined total of the following: (a) the low end of the applicable guideline range on Counts 1 through 4 and Conspiracy Offenses 1 and 2; and (b) the statutory minimum consecutive term of imprisonment of 7 years on Count 5. Other than the agreed term of incarceration, the parties have agreed that the Court remains free to impose the sentence it deems appropriate. If the Court accepts and imposes the agreed term of incarceration set forth, defendant may not withdraw this plea as a matter of right under Fed. R. Crim. P. 11(d) and (e). If, however, the Court refuses to impose the agreed term of incarceration set forth herein, thereby rejecting this Agreement, or otherwise refuses to accept defendant's plea of guilty, either party has the right to withdraw from this Agreement.

14. If the government does not move the Court, pursuant to Guideline § 5K1.1 and 18 U.S.C. § 3553(e), to depart from the applicable guideline range and

the statutory minimum sentence, as set forth above, this Agreement will not be governed, in any part, by Fed. R. Crim. P. 11(c)(1)(C), the preceding paragraph of this Agreement will be inoperative, both parties shall be free to recommend any sentence, and the Court shall impose a sentence taking into consideration the factors set forth in 18 U.S.C. § 3553(a) as well as the Sentencing Guidelines, and the statutory minimum sentence without any downward departure for cooperation pursuant to § 5K1.1. Defendant may not withdraw his plea of guilty because the government has failed to make a motion pursuant to Guideline § 5K1.1 and 18 U.S.C. § 3553(e).

15. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant, together with any jointly liable co-defendants, to make full restitution to Best Buy and Simply Mac in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing.

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 \$500 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.

### **Forfeiture**

19. 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 used or intended to be used, in any manner or part, to commit or facilitate commission of the offense.

20. Defendant agrees to forfeiture of the following specific property to the United States: a chrome Smith and Wesson, 9 mm semi-automatic pistol, Model 659 bearing serial number A806493, a black Glock 19, 9mm semi-automatic pistol bearing serial number PPX492, a black Armscor of the Philippines Model M1911-A1 FS, .45 caliber semi-automatic pistol, bearing serial number RIA1582610, and a Charter Arms Bulldog, model 44 special, revolver, bearing serial number 920166. In doing so, defendant admits that the property described above represents property which was involved in or used the offense, as alleged in the superseding information. Defendant consents to the immediate entry of a preliminary order of forfeiture as to this specific property, thereby extinguishing any right, title, or interest defendant has in it. If any of the specific property is not yet in the custody of the United States, defendant agrees to seizure of that property so that it may be disposed of according to law.

21. 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.

22. 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**

23. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 17 CR 50002-3.

24. 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**

25. 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 superseding 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.

viii. With respect to forfeiture, defendant understands that if the case were tried before a jury, he would have a right to retain the jury to determine whether the government had established the requisite nexus between defendant's offense and any specific property alleged to be subject to forfeiture.

c. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, if the government makes a motion at sentencing for a downward departure pursuant to Guideline § 5K1.1, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution or forfeiture, in exchange for the concessions made by the United States in this

Agreement. In addition, if the government makes a motion at sentencing for a downward departure pursuant to Guideline § 5K1.1, defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

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

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

27. 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, including the nature and extent of defendant's cooperation.

28. 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.

29. 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**

30. 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.

31. 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**

32. 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.

33. 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.

34. 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.

35. 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

\_\_\_\_\_  
HERMAN L. DOSS, JR.  
Defendant

\_\_\_\_\_  
JOSEPH C. PEDERSEN  
Assistant U.S. Attorney

\_\_\_\_\_  
MICHAEL PHILLIPS  
Attorney for Defendant