



U.S. Department of Justice

*United States Attorney
District of New Jersey*

970 Broad Street, Suite 700 (973) 645-2700
Newark, New Jersey 07102

LJW/PL AGR
2012R00672

August 31, 2015

Robert Fettweis, Esq.
Tressler LLP
744 Broad Street, Suite 1510
Newark, New Jersey 07102

Re: Plea Agreement with Muhammad Sohail Qasmani

Dear Mr. Fettweis:

This letter sets forth the plea agreement between your client, Muhammad Sohail Qasmani, a/k/a "Sam Jee," a/k/a "Alvi Khan," and the United States Attorney for the District of New Jersey ("this Office"). Should your client wish to accept this agreement, the executed original must be received by this Office no later than close of business on Friday, September 19, 2015. If an executed agreement is not returned to this Office by that date, this offer will expire.

The Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from Muhammad Sohail Qasmani to a one-Count Information charging that he knowingly and intentionally conspired and agreed with others to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice to defraud, to transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce certain writings, signs, signals, pictures and sounds, contrary to 18 U.S.C. § 1343, in violation of 18 U.S.C. § 1349.

If Muhammad Sohail Qasmani enters a guilty plea and is sentenced on this charge, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against Muhammad Sohail Qasmani for fraud, money laundering, or computer hacking offenses arising from a scheme that generated illicit proceeds using Revenue

Share Numbers and hacked Private Branch Exchange Systems between January 1, 2008, and December 31, 2012. However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, defendant agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by Muhammad Sohail Qasmani may be commenced against him, notwithstanding the expiration of the limitations period after Muhammad Sohail Qasmani signs the agreement.

Sentencing

The violation of 18 U.S.C. § 1349 to which Muhammad Sohail Qasmani agrees to plead guilty carries a statutory maximum prison sentence of twenty (20) years' imprisonment, and a statutory maximum fine equal to the greatest of: (1) \$1,000,000; (2) twice the gross amount of any pecuniary gain that any persons derived from the offense; or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The sentence to be imposed upon Muhammad Sohail Qasmani is within the sole discretion of the sentencing judge, subject to the provisions of the Sentencing Reform Act, 18 U.S.C. §§ 3551-3742, and the sentencing judge's consideration of the United States Sentencing Guidelines. The United States Sentencing Guidelines are advisory, not mandatory. The sentencing judge may impose any reasonable sentence up to and including the statutory maximum term of imprisonment and the maximum statutory fine. This Office cannot and does not make any representation or promise as to what guideline range may be found by the sentencing judge, or as to what sentence Muhammad Sohail Qasmani ultimately will receive.

Fines imposed by the sentencing judge may be subject to the payment of interest.

Further, in addition to imposing any other penalty on Muhammad Sohail Qasmani, the sentencing judge: (1) will order Muhammad Sohail Qasmani to pay an assessment of \$100 pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) must order Muhammad Sohail Qasmani to pay restitution pursuant to 18 U.S.C. § 3663, *et seq.*; (3) must order forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C); and (4) pursuant to 18 U.S.C. § 3583 may require Muhammad Sohail Qasmani to serve a term of supervised release of not more than 3 years, which will begin at the expiration of any term of imprisonment imposed. Should Muhammad Sohail Qasmani be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Muhammad Sohail Qasmani may be sentenced to not more than 2 years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time

previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed on Muhammad Sohail Qasmani by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of Muhammad Sohail Qasmani's activities and relevant conduct with respect to this case.

Stipulations

This Office and Muhammad Sohail Qasmani agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations entered into by the parties. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate on the part of this Office is based on the information and evidence that this Office possesses as of the date of this agreement. Thus, if this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in the attached Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or Muhammad Sohail Qasmani from any other portion of this agreement, including any other stipulation. If the sentencing court rejects a stipulation, both parties reserve the right to argue on appeal or at postsentencing proceedings that the sentencing court was within its discretion and authority to do so. These stipulations do not restrict this Office's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

Waiver of Appeal and Post-Sentencing Rights

As set forth in Schedule A, this Office and Muhammad Sohail Qasmani waive certain rights to file an appeal, collateral attack, writ, or motion after sentencing, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255.

Forfeiture

The defendant agrees that as part of his acceptance of responsibility and pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, he will consent to the entry of a forfeiture money judgment in the amount of \$25,000 in United States currency (the "Forfeiture Money Judgment"). Defendant acknowledges that the \$25,000 is subject to forfeiture as property, real or personal, that constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 1343, or a conspiracy to commit such offense, which constitutes a specified unlawful activity within the meaning of 18 U.S.C. § 981(a)(1)(C), and/or substitute assets for property subject to forfeiture, as described in 21 U.S.C. § 853(p).

The defendant agrees that the \$17,823 in United States currency and 3,300 Thai bhat (having an agreed value of \$104.00 (U.S.)) that the Federal Bureau of Investigation obtained from him at Los Angeles International Airport on or about December 22, 2014, in connection with his arrest (the "Unreturned Arrest Currency") shall be applied in partial satisfaction of the Forfeiture Money Judgment as set forth below. Payment of the remaining \$7,073 in United States currency shall be made by certified or bank check payable to the United States Marshals Service. On or before the date he enters his plea of guilty pursuant to this agreement, the defendant shall cause said check to be hand-delivered to the Asset Forfeiture and Money Laundering Unit, United States Attorney's Office, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102. Upon receipt of said check, the Federal Bureau of Investigation will turn over the Unreturned Arrest Currency to the United States Marshals Service in partial satisfaction of the Forfeiture Money Judgment.

The defendant further agrees to waive all interest in any other property forfeited in partial or full satisfaction of the Forfeiture Money Judgment in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for any other property forfeited in partial or full satisfaction of the Forfeiture Money Judgment and waives the requirements of Rules 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. The defendant understands that the forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the court to advise him of this pursuant to Rule 11(b)(1)(J) of the Federal Rules of Criminal Procedure at the guilty plea proceeding.

The defendant hereby waives any and all claims that this forfeiture constitutes an excessive fine and agrees that this forfeiture does not violate the Eighth Amendment.

Immigration Consequences

The defendant understands that, if he is not a citizen of the United States, his guilty plea to the charged offenses will likely result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. The defendant understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. The defendant wants and agrees to plead guilty to the charged offenses regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. The defendant understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, the defendant waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested to do so.

This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against Muhammad Sohail Qasmani. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service) or any third party from initiating or prosecuting any civil or administrative proceeding against Muhammad Sohail Qasmani.

No provision of this agreement shall preclude Muhammad Sohail Qasmani from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack, writ, or motion claiming that Muhammad Sohail Qasmani received constitutionally ineffective assistance of counsel.

No Other Promises

This agreement constitutes the plea agreement between Muhammad Sohail Qasmani and this Office and supersedes any previous agreements


between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

PAUL J. FISHMAN
United States Attorney


By: L. JUDSON WELLE
Assistant U.S. Attorney

APPROVED:


Anthony Moscato
Chief, National Security Unit

I have received this letter from my attorney, Robert Fettweis, Esq. It has been translated for me into Urdu. My attorney and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, forfeiture, and immigration consequences. I understand this letter fully. I hereby accept its terms and conditions and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:


Muhammad Sohail Qasmani

Date: 9-23-15

I have discussed with my client this plea agreement and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, forfeiture, and immigration consequences. My client understands this plea agreement fully and wants to plead guilty pursuant to it.


Robert Fettweis, Esq.

Date: 9-23-15

Plea Agreement with Muhammad Sohail Qasmani

Schedule A

1. This Office and Muhammad Sohail Qasmani recognize that the United States Sentencing Guidelines are not binding upon the Court. This Office and Muhammad Sohail Qasmani nevertheless agree to the stipulations set forth herein, and agree that the Court should sentence Muhammad Sohail Qasmani within the Guidelines range that results from the total Guidelines offense level set forth below. This Office and Muhammad Sohail Qasmani further agree that neither party will argue for the imposition of a sentence outside the Guidelines range that results from the agreed total Guidelines offense level.

2. The version of the United States Sentencing Guidelines effective November 1, 2014 applies in this case.

Count One – Conspiracy to Commit Wire Fraud
(18 U.S.C. § 1349)

3. The applicable guidelines are U.S.S.G. § 2X1.1 (Attempt, Solicitation, or Conspiracy) and § 2B1.1(a) (Theft, Embezzlement, Receipt of Stolen Property, Property Destruction, and Offenses Involving Fraud or Deceit).

4. Under § 2X1.1(b)(2), the defendant and his co-conspirators completed all of the acts the conspirators believed necessary on their part for the successful completion of the substantive offense.

5. The substantive violation charged is a violation of Title 18, United States Code, Section 1343, and the applicable guideline for that offense is § 2B1.1(a)(1), resulting in a Base Offense Level of 7.

6. Specific Offense Characteristic § 2B1.1(b)(1)(K) applies because the offense involved loss exceeding \$7,000,000 but not more than \$20,000,000 based on illicit proceeds transferred to the defendant by his co-conspirators and then distributed by the defendant to other participants in the scheme between January 1, 2008 and December 31, 2012. This Specific Offense Characteristic results in an increase of 20 levels.

7. Specific Offense Characteristic § 2B1.1(b)(2)(B) applies because the offense involved 50 or more victims. This Specific Offense Characteristic results in an increase of 4 levels.

8. Specific Offense Characteristics § 2B1.1(b)(10)(B) & (C) apply because a substantial part of the fraudulent scheme involved in the offense was committed from outside the United States, and the offense involved

sophisticated means. These Specific Offense Characteristics result in a total increase of 2 levels.

Role Adjustment

9. Aggravating Role Adjustment § 3B1.1(c) applies because the defendant was a manager in the criminal activity. This Aggravating Role Adjustment results in an increase of 2 levels.

Acceptance of Responsibility

10. As of the date of this letter, Muhammad Sohail Qasmani has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offenses charged. Therefore, a downward adjustment of 2 levels for acceptance of responsibility is appropriate if Muhammad Sohail Qasmani's acceptance of responsibility continues through the date of sentencing. U.S.S.G. § 3E1.1(a).

11. As of the date of this letter, Muhammad Sohail Qasmani has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting this Office to avoid preparing for trial and permitting this Office and the court to allocate their resources efficiently. At sentencing, this Office will move for a further 1 point reduction in Muhammad Sohail Qasmani's offense level pursuant to U.S.S.G. § 3E1.1(b) if the following conditions are met: (a) Muhammad Sohail Qasmani enters a plea pursuant to this agreement, (b) this Office in its discretion determines that Muhammad Sohail Qasmani's acceptance of responsibility has continued through the date of sentencing and Muhammad Sohail Qasmani therefore qualifies for a 2 point reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), and (c) Muhammad Sohail Qasmani's offense level under the Guidelines prior to the operation of § 3E1.1(a) is 16 or greater.

Agreed Guidelines Range

12. In accordance with the above, the parties agree that the total Guidelines offense level applicable to Muhammad Sohail Qasmani is 32 (the "agreed total Guidelines offense level").

13. The parties agree not to seek or argue for any upward or downward departure, adjustment, or variance not set forth herein. The parties further agree that a sentence within the Guidelines range that results from the agreed total Guidelines offense level of 32 is reasonable.

Waiver of Appeal and Collateral Attack

14. Muhammad Sohail Qasmani knows that he has and, except as noted below in this paragraph, voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the sentence imposed by the sentencing court if that sentence falls within or below the Guidelines range that results from the agreed total Guidelines offense level of 32. This Office will not file any appeal, motion, or writ that challenges the sentence imposed by the sentencing court if that sentence falls within or above the Guidelines range that results from the agreed total Guidelines offense level of 32. The parties reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, if the sentencing court accepts a stipulation, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so.

15. This Office will not file any appeal, motion, or writ that challenges the sentence imposed by the sentencing court if that sentence falls within or above the agreed Guidelines range. The parties reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, if the sentencing court accepts a stipulation, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so.

16. Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion barred by the preceding paragraph and to file or to oppose any appeal, collateral attack, writ, or motion not barred by the preceding paragraph.