



U.S. Department of Justice

*United States Attorney
District of New Jersey*

*Paul A. Murphy
Assistant United States Attorney*

*970 Broad Street, 7th floor
Newark, New Jersey 07102*

973-645-2700

December 10, 2015

Priya Chaudhry, Esquire
Eric Kanefsky, Esquire
Harris, O'Brien, St. Laurent & Chaudhry LLP
111 Broadway, Suite 1502
New York, NY 10006

Re: Plea Agreement with Joshua B. Newman

Dear Ms. Chaudhry and Mr. Kanefsky:

This letter sets forth the plea agreement between your client, JOSHUA B. NEWMAN ("NEWMAN"), and the United States Attorney for the District of New Jersey ("this Office"). This plea offer will expire if not accepted in writing by December 11, 2015.

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from NEWMAN to an information charging him with one count of wire fraud, in violation of 18 U.S.C. §§ 1343 and 2. If NEWMAN enters a guilty plea and is sentenced on this felony charge, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against NEWMAN for his involvement in schemes to defraud investors in connection with potential investments in various CrossFit-related and other business ventures. 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 NEWMAN may be commenced against him, notwithstanding the expiration of the limitations period after NEWMAN signs the agreement.

Priya Chaudhry, Esq.
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Sentencing

The violation of 18 U.S.C. § 1343 to which NEWMAN agrees to plead guilty carries a statutory maximum prison sentence of 20 years and a statutory maximum fine equal to the greatest of: (1) \$250,000; or (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. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon NEWMAN 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 NEWMAN ultimately will receive.

Further, in addition to imposing any other penalty on NEWMAN, the sentencing judge: (1) will order NEWMAN 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 NEWMAN to pay restitution pursuant to 18 U.S.C. § 3663A *et seq.*; (3) may order NEWMAN, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offense; (4) must order forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461; and (5) pursuant to 18 U.S.C. § 3583, may require NEWMAN to serve a term of supervised release of not more than three years, which will begin at the expiration of any term of imprisonment imposed. Should NEWMAN be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, NEWMAN may be sentenced to not more than two 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.

In addition, NEWMAN agrees to make full restitution to all the victims of his schemes to defraud potential investors in CrossFit Businesses 1 through 3 for all losses resulting from the offenses of conviction or from the scheme, conspiracy or pattern of criminal activity underlying those offenses in an

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amount to be determined by the sentencing judge and not to exceed \$3,125,500.

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 NEWMAN 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 NEWMAN's activities and relevant conduct with respect to this case.

Stipulations

This Office and NEWMAN 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 NEWMAN 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 post-sentencing 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 NEWMAN waive certain rights to file an appeal, collateral attack, writ, or motion after sentencing, including

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but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255.

Forfeiture

NEWMAN agrees that as part of his acceptance of responsibility and pursuant to 18 U.S.C. § 981 and 28 U.S.C. § 2461, he will consent to the entry of an order of forfeiture as described below.

NEWMAN will consent to the entry of an order of forfeiture in the amount of the loss determined by the sentencing judge and not to exceed \$3,125,500 in United States currency (the "Forfeiture Order"). If the Forfeiture Order is not paid on or before the date NEWMAN enters his plea of guilty pursuant to this agreement, interest shall accrue from that date on any unpaid portion thereof at the rate and in accordance with the procedures set forth in 28 U.S.C. §§ 1961(a) and (b). Furthermore, if NEWMAN fails to pay any portion of the Forfeiture Order on or before the date of his guilty plea, NEWMAN consents to the forfeiture of any other property alleged to be subject to forfeiture in the Information, including substitute assets, in full or partial satisfaction of the money judgment, and remains responsible for the payment of any deficiency until the Forfeiture Order is paid in full.

NEWMAN 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. NEWMAN understands that the forfeiture 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.

Furthermore, NEWMAN waives any and all claims that this forfeiture constitutes an excessive fine and agrees that this forfeiture does not violate the Eighth Amendment.

This Office will recommend to the Attorney General that any forfeited money and the net proceeds derived from the sale of forfeited property be remitted or restored to eligible victims of the offense, pursuant to 18 U.S.C. § 981(e), 21 U.S.C. § 853(i), 28 C.F.R. Pt. 9, and other applicable law, it being understood that this Office has authority only to recommend such relief and that the final decision of whether to grant relief rests with the Department of Justice, which will make its decision in accordance with applicable law.

Priya Chaudhry, Esq.
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Immigration Consequences

NEWMAN understands that, if he is not a citizen of the United States, his guilty plea to the charged offense may 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. NEWMAN 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 offense regardless of any immigration consequences of this plea, even if this plea will cause him removal from the United States. NEWMAN understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, NEWMAN 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 NEWMAN. This agreement does not prohibit the United States, any agency thereof (including, but not limited to, the Internal Revenue Service, the Federal Deposit Insurance Corporation, the Federal Reserve or the Securities and Exchange Commission), or any third party from initiating or prosecuting any civil or administrative proceeding against NEWMAN.

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

Priya Chaudhry, Esq.
Eric Kanefsky, Esq.
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No Other Promises

This agreement constitutes the plea agreement between NEWMAN 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.

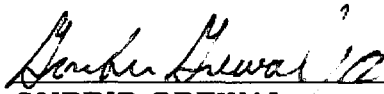
Very truly yours,

PAUL J. FISHMAN
United States Attorney



By: PAUL A. MURPHY
Assistant United States Attorney

APPROVED:


GURBIR GREWAL
Chief, Economic Crimes Unit

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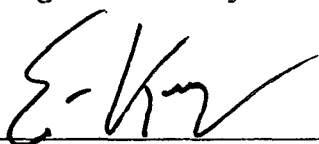
I have received this letter from my attorneys, Priya Chaudhry, Esq. and Eric Kanefsky, Esq. I have read it. My attorneys and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, forfeiture, and immigration consequences. I understand this 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:


JOSHUA B. NEWMAN

Date: 12/11/2015

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.


PRIYA CHAUDHRY, ESQ.
ERIC KANEFSKY, ESQ.

Date: 12/11/2015

Plea Agreement with JOSHUA B. NEWMAN

Schedule A

1. This Office and JOSHUA B. NEWMAN ("NEWMAN") agree to stipulate to the following facts:
 - a. Between in or about 2012 and continuing through in or about April 2015, NEWMAN knowingly and intentionally made and caused others to make material misrepresentations to multiple victims to induce them to give him money purporting to be for investments or loans in connection with various CrossFit-related business ventures and other business ventures.
 - b. The Government stipulates that the loss amount for purposes of calculating NEWMAN's advisory Guidelines range under the United States Sentencing Guidelines is no more than \$3,125,500 and the defendant stipulates that the Guidelines loss amount is no less than \$976,500.
 - c. In order to accomplish the scheme to obtain money from his victims based on his material misrepresentations, NEWMAN sent and caused to be sent wire communications in interstate or foreign commerce.
 - d. The parties do not agree on the precise number of victims at this time. The Government contends that the offense of conviction involved 10 or more victims; the defendant contends that the number of victims is less than 10.
 - e. The parties agree that the offense here did not involve "sophisticated means" as applied in section 2B1.1(b)(10)(C) of the U.S. Sentencing Guidelines. The parties further agree that, other than an enhancement under section 2B1.1(b)(1) of the U.S. Sentencing Guidelines for the loss amount and, if applicable, an enhancement under section 2B1.1(b)(2)(A) of the U.S. Sentencing Guidelines relating to victims, no other enhancements, adjustments or departures apply under the U.S. Sentencing Guidelines.
 - f. As of the date of this letter, NEWMAN has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offense charged. Therefore, a downward adjustment of 2 levels for NEWMAN's acceptance

of responsibility is appropriate if NEWMAN's acceptance of responsibility continues through the date of sentencing. See U.S.S.G. § 3E1.1(a).

- g. As of the date of this letter, NEWMAN 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 NEWMAN's offense level pursuant to U.S.S.G. § 3E1.1(b) if the following conditions are met: (a) NEWMAN enters a plea pursuant to this agreement, (b) this Office in its discretion determines that NEWMAN's acceptance of responsibility has continued through the date of sentencing and NEWMAN therefore qualifies for a 2-point reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), and (c) NEWMAN's offense level under the Guidelines prior to the operation of § 3E1.1(a) is 16 or greater.

- 2. In exchange for the undertakings made by the Government in entering this plea agreement, if the sentencing judge accepts these stipulations, except for appellate rights reserved elsewhere in this agreement, NEWMAN voluntarily and expressly waives all rights to appeal or collaterally attack his conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law. Notwithstanding this waiver provision, the parties reserve any right they may have under 18 U.S.C. § 3742 to challenge any aspect of the sentence that falls outside of any applicable statutory minimum or maximum term of imprisonment, term of supervised release, or fine. The parties also reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category.