

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

**FEB 02 2024**

**MITCHELL R. ELFERS  
CLERK**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**UCHENNA NLEMCHI,**

Defendant.

**Cr. No. 17-1362-WJ**

**PLEA AGREEMENT**

Pursuant to Rule 11, Fed. R. Crim. P., the parties notify the Court of the following agreement between the United States Attorney for the District of New Mexico, the Defendant, UCHENNA NLEMCHI, and the Defendant's counsel, MARTIN JUAREZ:

**REPRESENTATION BY COUNSEL**

1. The Defendant understands the Defendant's right to be represented by an attorney and is so represented. The Defendant has thoroughly reviewed all aspects of this case with the Defendant's attorney and is fully satisfied with that attorney's legal representation.

**RIGHTS OF THE DEFENDANT**

2. The Defendant further understands the Defendant's rights:
- a. to plead not guilty, or having already so pleaded, to persist in that plea;
  - b. to have a trial by jury; and
  - c. at a trial:
    - i. to confront and cross-examine adverse witnesses,
    - ii. to be protected from compelled self-incrimination,

- iii. to testify and present evidence on the Defendant's own behalf, and
- iv. to compel the attendance of witnesses for the defense.

**WAIVER OF RIGHTS AND PLEA OF GUILTY**

3. The Defendant agrees to waive these rights and to plead guilty to the following charges:

- a. Count 7 of the indictment, charging a violation of 18 U.S.C. § 1343, that being wire fraud; and
- b. Count 28 of the indictment, charging a violation of 18 U.S.C. § 1956(h), that being conspiracy to commit money laundering.

**SENTENCING**

4. The Defendant understands that the minimum and maximum penalties provided by law for these offenses are:

- a. As to Count 7 of the indictment, charging a violation of 18 U.S.C. § 1343, that being wire fraud, imprisonment for a period of not more than twenty years; a fine not to exceed the greater of \$250,000 or twice the pecuniary gain to the Defendant or pecuniary loss to the victim; a term of supervised release of not more than three years to follow any term of imprisonment (If the Defendant serves a term of imprisonment, is then released on supervised release, and violates the conditions of supervised release, the Defendant's supervised release could be revoked — even on the last day of the term — and the Defendant could then be returned to another period of incarceration and a new term of supervised release.); a mandatory special penalty assessment of \$100.00; and restitution as may be ordered by the Court.

- b. As to Count 28 of the indictment, charging a violation of 18 U.S.C. § 1956(h), that being conspiracy to commit money laundering, imprisonment for a period of not more than ten years; a fine not to exceed the greater of \$250,000 or twice the pecuniary gain to the Defendant or pecuniary loss to the victim; a term of supervised release of not more than three years to follow any term of imprisonment (If the Defendant serves a term of imprisonment, is then released on supervised release, and violates the conditions of supervised release, the Defendant's supervised release could be revoked — even on the last day of the term — and the Defendant could then be returned to another period of incarceration and a new term of supervised release.); a mandatory special penalty assessment of \$100.00; and restitution as may be ordered by the Court.

5. The parties recognize that the federal sentencing guidelines are advisory, and that the Court is required to consider them in determining the sentence it imposes. The Defendant further recognizes that while the Defendant's attorney may have made a prediction or estimate of the sentence that the Court may impose, the Defendant understands that the Court is not bound by any such estimate or prediction.

#### **ELEMENTS OF THE OFFENSE**

6. If this matter proceeded to trial, the Defendant understands that the United States would be required to prove, beyond a reasonable doubt, the following elements for violations of the charges listed below:

Count 7: 18 U.S.C. § 1343, that being wire fraud,

- First:* the defendant devised or willfully participated in a scheme to defraud or to obtain money or property by materially false or fraudulent pretenses;
- Second:* the defendant acted with the specific intent to defraud;
- Third:* the defendant transmitted or caused to be transmitted a writing, signal, or sound by wire in interstate commerce in furtherance of the fraud;
- Fourth:* the defendant used false or fraudulent pretenses, representations, or promises that were material.

Count 28: 18 U.S.C. § 1956(h), that being conspiracy to commit money laundering,

- First:* the defendant agreed with at least one other person to violate Title 18 U.S. Code, Section 1957;
- Second:* the defendant knew the essential objective of the conspiracy;
- Third:* the defendant knowingly and voluntarily participated; and
- Fourth:* there was interdependence among the members of the conspiracy; that is, the members, in some way or manner, intended to act together for their shared mutual benefit within the scope of the conspiracy charged.

**DEFENDANT'S ADMISSION OF FACTS**

7. By my signature on this plea agreement, I am acknowledging that I am pleading guilty because I am, in fact, guilty of the offense(s) to which I am pleading guilty. I recognize and accept responsibility for my criminal conduct. Moreover, in pleading guilty, I acknowledge that if I chose to go to trial instead of entering this plea, the United States could prove facts sufficient to establish my guilt of the offense(s) to which I am pleading guilty beyond a reasonable doubt, including any facts alleged in the indictment that increase the statutory minimum or maximum penalties. I specifically admit the following facts related to the charges against me, and declare under penalty of perjury that all of these facts are true and correct:

- a. In 2015 and 2016, I was living in Houston, Texas and attending Texas Southern University. I am a Nigerian national and was in the United States on a student visa.
- b. In 2015, a person I knew from Nigeria asked me for help receiving and sending money. I agreed. At first, I thought the money was being siphoned from the proceeds of political corruption in Nigeria, and I understood that my bank account would be used to conceal the source and destination of the funds.
- c. On September 25, 2015, I opened a bank account at Amegy Bank in the name of Jay Auto & Machine Parts, listing myself as sole owner of the business. In fact, there was no such business as Jay Auto & Machine Parts, and I opened the account for the purpose of generating, receiving, and transferring the proceeds of fraud. I used the name “Jay Auto & Machine Parts” for the account so that the victims of fraud would believe they were transferring money to a legitimate business. I provided the name and account number for the Jay Auto & Machine Parts account at Amegy Bank to my co-conspirators for the purpose of facilitating fraud and money laundering.
- d. On October 9, 2015, two weeks after I opened the Jay Auto & Machine Parts account, I began to receive the proceeds of romance fraud by way of wire transfers into the account. Specifically, I received transfers of proceeds of fraud as described in overt acts i, j, m, n, r, and dd of Count 1, and Counts 3, 4, 5, 6, 7, and 13 of the indictment.

- e. All told, I received \$868,295 into the Jay Auto & Machine Parts account between September 2015 and February 2016. All of that money was the proceeds of fraud. I have learned and admit that, of that amount, \$374,000 came from victim D.L. and \$150,000 came from victim A.B. The balance came from other victims of a similar nature.
- f. Of the money that flowed into the Jay Auto & Machine Parts account, I withdrew \$167,000 in cash in person (including the withdrawal described in overt act p and Count 19), I withdrew \$32,000 in cash at ATMs (including the withdrawal described in overt act jj), and I transferred \$75,000 to my personal bank account. I transferred the rest of the money to various businesses and individuals, as directed by my co-conspirators and as described in overt acts k, l, o, q, s, t, u, ff, gg, hh, and ii of Count 1, and Counts 16, 17, 18, 20, 24, 25, 26, and 27 of the indictment.
- g. I performed the financial transactions described in Counts 16, 17, 18, 20, 24, 25, 26, and 27 of the indictment, each through a financial institution and affecting interstate and foreign commerce, each in an amount exceeding \$10,000 in U.S. currency, and each comprised of criminally derived property that was the proceeds of wire fraud, and I did so while acting in concert with my co-conspirators.
- h. I have learned and admit that my co-conspirators committed a romance scam in which they tricked victim D.L. into transferring money to my bank account and other accounts for romantic reasons, as charged in Counts 1-7

and 10, 11, 13, and 14 of the indictment. By providing my bank account name and number, I facilitated this activity.

- i. I have learned and admit that my co-conspirators committed a business email compromise in which they tricked victim A.B. to send money to D.L. by sending emails in which my co-conspirators used victim R.O.'s name, address, telephone number, facsimile number, and email address, without R.O.'s knowledge or consent, as charged in Counts 7, 8, 9, 12, and 15 of the indictment. By providing my bank account name and number, I facilitated this activity.

8. By signing this agreement, the Defendant admits that there is a factual basis for each element of the crime(s) to which the Defendant is pleading guilty. The Defendant agrees that the Court may rely on any of these facts, as well as facts in the presentence report, to determine the Defendant's sentence, including, but not limited to, the advisory guideline offense level.

#### **RECOMMENDATIONS**

9. Pursuant to Rule 11(c)(1)(B), the United States and the Defendant recommend as follows:

- a. As of the date of this agreement, the Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the Defendant's criminal conduct. Consequently, pursuant to USSG § 3E1.1(a), so long as the Defendant continues to accept responsibility for the Defendant's criminal conduct, the Defendant is entitled to a reduction of two levels from the base offense level as calculated under the sentencing

guidelines, and if applicable, a reduction of an additional offense level pursuant to USSG § 3E1.1(b). This reduction is contingent upon the Defendant personally providing to the United States Probation Officer who prepares the presentence report in this case an appropriate oral or written statement in which the Defendant clearly establishes the Defendant's entitlement to this reduction. Further, the United States is free to withdraw this recommendation if the Defendant engages in any conduct that is inconsistent with acceptance of responsibility between the date of this agreement and the sentencing hearing. Such conduct would include committing additional crimes, failing to appear in Court as required, and/or failing to obey any conditions of release that the Court may set.

- b. The Defendant understands that the above recommendations are not binding on the Court and that whether the Court accepts these recommendations is a matter solely within the discretion of the Court after it has reviewed the presentence report. Further, the Defendant understands that the Court may choose to vary from the advisory guideline sentence. If the Court does not accept any one or more of the above recommendations and reaches an advisory guideline sentence different than expected by the Defendant, or if the Court varies from the advisory guideline range, the Defendant will not seek to withdraw the Defendant's plea of guilty. In other words, regardless of any of the parties' recommendations, the Defendant's final sentence is solely within the discretion of the Court.



10. Apart from the recommendations set forth in this plea agreement, the United States and the Defendant reserve their rights to assert any position or argument with respect to the sentence to be imposed, including but not limited to the applicability of particular sentencing guidelines, adjustments under the guidelines, departures or variances from the guidelines, and the application of factors in 18 U.S.C. § 3553(a).

11. Regardless of any other provision in this agreement, the United States reserves the right to provide to the United States Pretrial Services and Probation Office and to the Court any information the United States believes may be helpful to the Court, including but not limited to information about the recommendations contained in this agreement and any relevant conduct under USSG § 1B1.3.

**DEFENDANT'S ADDITIONAL AGREEMENT**

12. The Defendant understands the Defendant's obligation to provide the United States Pretrial Services and Probation Office with truthful, accurate, and complete information. The Defendant represents that the Defendant has complied with and will continue to comply with this obligation.

13. The Defendant agrees that any financial records and information provided by the Defendant to the Probation Office, before or after sentencing, may be disclosed to the United States Attorney's Office for use in the collection of any unpaid financial obligation.

14. The Defendant agrees that, upon the Defendant's signing of this plea agreement, the facts that the Defendant has admitted under this plea agreement as set forth above, as well as any facts to which the Defendant admits in open court at the Defendant's plea hearing, shall be admissible against the Defendant under Federal Rule of Evidence 801(d)(2)(A) in any subsequent proceeding, including a criminal trial, and the Defendant expressly waives the

Defendant's rights under Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 with regard to the facts the Defendant admits in conjunction with this plea agreement.

15. By signing this plea agreement, the Defendant waives the right to withdraw the Defendant's plea of guilty pursuant to Federal Rule of Criminal Procedure 11(d) unless (1) the court rejects the plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(5) or (2) the Defendant can show a fair and just reason as those terms are used in Rule 11(d)(2)(B) for requesting the withdrawal. Furthermore, the Defendant understands that if the court rejects the plea agreement, whether or not the Defendant withdraws the guilty plea, the United States is relieved of any obligation it had under the agreement and the Defendant shall be subject to prosecution for any federal, state, or local crime(s) which this agreement otherwise anticipated would be dismissed or not prosecuted.

#### **RESTITUTION**

16. The parties agree that, as part of the Defendant's sentence, the Court will enter an order of restitution pursuant to the Mandatory Victim's Restitution Act, 18 U.S.C. § 3663A, if applicable; if § 3663A is not applicable, the Court will enter an order of restitution pursuant to 18 U.S.C §§ 3663 and 3664. The Defendant agrees and acknowledges that, as part of the Defendant's sentence, the Court is not limited to ordering restitution only for the amount involved in the particular offense or offenses to which the Defendant is entering a plea of guilty, but may and should order restitution resulting from all of the Defendant's criminal conduct related to this case.

17. In this case, the Defendant agrees to pay restitution in the total principal amount of \$524,000, which is the amount of money that victims D.L. and A.B. lost that passed through the Defendant's hands, and which is payable to the United States District Court Clerk. No later

than July 1 of each year after sentencing, until restitution is paid in full, the Defendant shall provide the Asset Recovery Unit, United States Attorney's Office, P.O. Box 607, Albuquerque, New Mexico 87103, (1) a completed and signed financial statement provided to the Defendant by the United States Attorney's Office and/or the United States Probation Office and (2) a copy of the Defendant's most recent tax returns.

**FORFEITURE**

18. The Defendant agrees to forfeit, and hereby forfeits, whatever interest the Defendant may have in any asset derived from or used in the commission of the offense(s) in this case. The Defendant agrees to cooperate fully in helping the United States (a) to locate and identify any such assets and (b) to the extent possible, to obtain possession and/or ownership of all or part of any such assets. The Defendant further agrees to cooperate fully in helping the United States locate, identify, and obtain possession and/or ownership of any other assets about which the Defendant may have knowledge that were derived from or used in the commission of offenses committed by other persons.

19. The Defendant agrees to the imposition of a money judgment against the Defendant in the amount of \$868,295, representing the proceeds derived from the offenses charged in Counts 2 through 15 and the money involved in the offenses charged in Counts 16 through 28 of the indictment, this amount being due at the time of the Defendant's sentencing.

20. The Defendant agrees to fully assist the United States in the forfeiture of the above-described property and to take whatever steps are necessary to pass clear title to the United States, including but not limited to execution of any documents necessary to transfer the Defendant's interest in the above-described property to the United States.

21. The Defendant agrees to waive the right to notice of any forfeiture proceeding involving the above-described property.

22. The Defendant knowingly and voluntarily waives the right to a jury trial on the forfeiture of the above-described property. The Defendant knowingly and voluntarily waives all constitutional, legal, and equitable defenses to the forfeiture of said property in any proceeding. The Defendant agrees to waive any jeopardy defense or claim of double jeopardy, whether constitutional or statutory, and agrees to waive any claim or defense under the Eighth Amendment to the United States Constitution, including any claim of excessive fine, to the forfeiture of said property by the United States or any State or its subdivisions.

**IMMIGRATION REMOVAL AND OTHER IMMIGRATION CONSEQUENCES**

23. The Defendant recognizes that pleading guilty may have consequences with respect to the Defendant's immigration status if the Defendant is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense(s) to which the Defendant is pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including the Defendant's attorney or the district court, can predict to a certainty the effect of the Defendant's conviction on the Defendant's immigration status. The Defendant nevertheless affirms that the Defendant wants to plead guilty regardless of any immigration consequences that the Defendant's plea may entail, even if the consequence is the Defendant's automatic removal from the United States.

**CONSENT TO REMOVAL**

24. The Defendant consents to removal from the United States following the completion of the Defendant's sentence. The Defendant further agrees to waive rights relating to

any and all forms of relief from removal or exclusion, to abandon any pending applications for such relief, and to cooperate with the Department of Homeland Security during removal proceedings.

**WAIVER OF APPEAL AND POST-CONVICTION RIGHTS**

25. The Defendant is aware that 28 U.S.C. § 1291 and 18 U.S.C. § 3742 afford the right to appeal a conviction and the sentence imposed. Acknowledging that, the Defendant knowingly waives the right to appeal the Defendant's conviction(s) and sentence, as well as any order of restitution entered by the Court. This waiver extends to any challenge to the manner in which the sentence was determined or imposed, including the district court's authority to make findings supporting the sentence.

26. The Defendant also waives the right to appeal any sentence imposed below or within the Guideline range upon a revocation of supervised release in this cause number but may nonetheless appeal the determination of the revocation Guideline range.

27. The Defendant also waives the right to appeal the denial of any motion filed under 18 U.S.C. § 3582(c)(1)(A) where such denial rests upon the court's determination that a sentence reduction is not warranted under the factors set forth in 18 U.S.C. § 3553(a).

28. In addition, the Defendant agrees to waive any collateral attack to the Defendant's conviction(s) and any sentence, pursuant to 28 U.S.C. §§ 2241, 2255, or any other extraordinary writ, except on the issue of defense counsel's ineffective assistance.

**GOVERNMENT'S ADDITIONAL AGREEMENT**

29. Provided that the Defendant fulfills the Defendant's obligations as set out above, the United States agrees that:

- a. Following sentencing, the United States will move to dismiss Counts 1 through 6 and 8 through 27 of the indictment as to this Defendant.
- b. The United States will not bring additional criminal charges against the Defendant arising out of the facts forming the basis of the present indictment.

30. This agreement is limited to the United States Attorney's Office for the District of New Mexico and does not bind any other federal, state, or local agencies or prosecuting authorities.

#### **VOLUNTARY PLEA**

31. The Defendant agrees and represents that this plea of guilty is freely and voluntarily made and is not the result of force, threats, or promises (other than the promises set forth in this agreement and any addenda). There have been no promises from anyone as to what sentence the Court will impose. The Defendant also represents that the Defendant is pleading guilty because the Defendant is in fact guilty.

#### **VIOLATION OF PLEA AGREEMENT**

32. The Defendant agrees that if the Court finds that the Defendant has violated any provision of this agreement, the United States may declare this agreement null and void, and the Defendant will thereafter be subject to prosecution for any criminal violation, including but not limited to any crime(s) or offense(s) contained in or related to the charges in this case, as well as perjury, false statement, obstruction of justice, and any other crime committed by the Defendant during this prosecution.

#### **SPECIAL ASSESSMENT**

33. At the time of sentencing, the Defendant will tender to the United States District Court, District of New Mexico, 333 Lomas Blvd. NW, Suite 270, Albuquerque, New Mexico


87102, a money order or certified check payable to the order of the **United States District Court** in the amount of \$200 in payment of the special penalty assessment described above.

**ENTIRETY OF AGREEMENT**

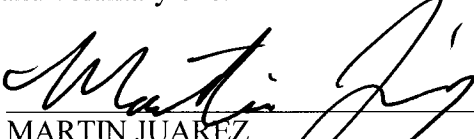
34. This document and any addenda are a complete statement of the agreement in this case and may not be altered unless done so in writing and signed by all parties. This agreement is effective upon signature by the Defendant and an Assistant United States Attorney.

AGREED TO AND SIGNED this 2 day of February, 2024. *mf JP N.U*

ALEXANDER M.M. UBALLEZ  
United States Attorney

  
\_\_\_\_\_  
JEREMY PEÑA  
Assistant United States Attorney  
Post Office Box 607  
Albuquerque, New Mexico 87102  
(505) 346-7274

I have carefully discussed every part of this agreement with my client. Further, I have fully advised my client of my client's rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of the relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. In addition, I have explained to my client the elements to each offense to which she/he is pleading guilty. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

  
\_\_\_\_\_  
MARTIN JUAREZ  
Attorney for the Defendant

This agreement has been read to me in a language I understand. I have carefully discussed every part of this agreement with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of the relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement.



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UCHENNA NLEMCHI  
Defendant