

1 (Case called; both sides ready.)

2 THE COURT: The record should reflect that the
3 members of the public have gone. Mr. Jackson, my courtroom
4 deputy, is now in the process of sealing the portholes that
5 give visual sight into this courtroom. I assume the court
6 security officers have done a sweep to make sure no one has
7 left behind any recording devices, cameras or other means of
8 swinging by tomorrow to hear what's said and, if they have
9 not, I would encourage them to do that.

10 (Pause.)

11 THE COURT: All right. Are we ready to proceed from
12 this point?

13 MS. HECTOR: Yes, your Honor.

14 THE COURT: All right. Is the defense ready?

15 MR. SERCARZ: Yes, your Honor.

16 THE COURT: Should we bring in the defendant, now
17 that the courtroom has been secured?

18 MR. SERCARZ: Please.

19 (Defendant present.)

20 THE COURT: Mr. Jackson, would you announce that the
21 defendant is here, who we will refer to throughout as John
22 Doe.

23 Would you please call the case again, have counsel
24 identify themselves again, and then swear the witness.

25 THE CLERK: We are here for a criminal guilty plea,

1 docket number 13-CR-402, USA vs. John Doe.

2 Counsel, please state your appearance for the
3 record.

4 MS. HECTOR: Your Honor, for the government, Amanda
5 Hector, Evan Norris and Darren Laverne. Good afternoon,
6 again.

7 THE COURT: Good evening.

8 MR. SERCARZ: For the defendant -- who is still
9 named John Doe, your Honor?

10 THE COURT: Yes.

11 MR. SERCARZ: -- Maurice Sercarz. The defendant is
12 present in court.

13 THE COURT: Mr. Jackson, would you now swear the
14 defendant.

15 (Defendant sworn.)

16 THE COURT: Would you please sit in the witness
17 stand.

18 BY THE COURT:

19 Q Please have a seat, sir?

20 Sir, throughout this proceeding we're going to refer
21 to you, when we refer to you by name, as John Doe. You
22 understand we're talking to you and with you? Do you
23 understand that, sir.

24 A Yes, sir.

25 Q Sir, how old are you?

1 A 39 years old.

2 Q And beginning with secondary school, would you please
3 briefly describe your educational background?

4 A I have high school education, but back in Trinidad where
5 I'm from. I did my first degree in sociology and my studies
6 -- I did my MBA in finance at Howard University.

7 Q Yes, sir?

8 Now, have you taken any drugs, any medications, any
9 medicine, any pills or consumed any alcoholic beverages within
10 the past 24 hours.

11 A No, sir.

12 Q Do you understand what is happening here today, sir?

13 A Yes, sir.

14 THE COURT: Defense counsel and the prosecutor, do
15 either of you have any doubt that the defendant is competent
16 at this time?

17 MS. HECTOR: No, your Honor.

18 MR. SERCARZ: No, your Honor.

19 THE COURT: The court hereby finds, based on the
20 record of the defendant's representation and the
21 representation of counsel, that the defendant is competent to
22 proceed.

23 Q Sir, I will now read the charge set forth in the signed
24 but undated information. Let me first ask you: Have you seen
25 the information in this case?

1 A Yes, sir.

2 Q Okay. The United States Attorney charges: Introduction
3 to count one. At all times relevant to count one of this
4 information, unless otherwise indicated, the mortgage fraud
5 scheme:

6 One. From in or about and between November 2005 and
7 January 2006, both dates being approximate and inclusive, the
8 defendant John Doe together with others, participated in a
9 scheme to obtain a mortgage loan on the basis of false
10 information and to use the proceeds of the loan to finance the
11 purchase of a residential property located at 21501 Brookdale
12 Avenue, unit number 3504, in Miami Florida.

13 Two. Mr. Doe, a dual citizen of the United States
14 and Trinidad and Tobago, who resided in Trinidad and Tobago,
15 sought to purchase the Miami condominium on behalf of himself
16 and two family members, the identities of whom are known to
17 the United States Attorney, who agrees that the purchase would
18 be in Doe's name. Doe and the two family members ultimately
19 agreed to purchase the Miami condominium for a contract sales
20 price of nine hundred ninety thousand dollars financed in part
21 by a mortgage.

22 Three. In furtherance of the scheme, Doe caused the
23 preparation of a fraudulent mortgage application which was
24 submitted to Lender One, a mortgage lender with offices in
25 Plantation, Florida, the identity of which is known to the

1 United States Attorney. The mortgage application sought to
2 obtain a mortgage loan totaling approximately six hundred
3 ninety thousand dollars to be used to purchase the Miami
4 condominium. The mortgage application was materially false in
5 that it contained false resident's employment, income and
6 asset information as to Doe. The mortgage application also
7 was materially false in that it included a representation that
8 the source of the down payment of the Miami condominium would
9 be the checking and savings accounts of Doe.

10 Four. It was further part of the scheme that Doe
11 provided Lender One with a business telephone number with a
12 New York area code representing it to be associated with his
13 employer and arranged with another individual to answer the
14 telephone number and falsely confirm details regarding Doe's
15 employment.

16 Five. After reviewing the mortgage application
17 containing the false information, Lender One approved funding
18 for the mortgage loan in the amount of six hundred ninety
19 thousand dollars. Closing was scheduled for December 28 of
20 2005.

21 Six: It was further part of the scheme that on or
22 about December 26, 2005 Doe sent an e-mail from Trinidad and
23 Tobago to a loan officer employed by Lender One in Florida
24 seeking to delay the closing by one day. Doe sent the e-mail
25 because he needed additional time to obtain funds representing

1 the contribution toward the closing costs of the Miami
2 condominium made by the two family members.

3 Seven. It was further part of the scheme that Doe
4 obtain two closing checks and travel from Trinidad and Tobago
5 to Florida, attend the closing on the Miami condominium which
6 took place on or about December 29, 2005. At the closing Doe
7 provided the closing checks to a representative of settlement
8 agent one, a real estate settlement services company, with
9 offices in Fort Lauderdale, Florida, the identity of which is
10 known to the United States Attorney. The first of the closing
11 checks was a one hundred thousand dollar cashiers check drawn
12 on a bank in Trinidad and Tobago with the remittitur listed as
13 Concaf Centre of Excellence. The second of the closing checks
14 was a two hundred thousand dollar cashiers check drawn at the
15 same bank with the remittitur listed as Nature Crew, Ltd.
16 Neither of the closing checks was drawn on a checking or
17 savings account of Doe.

18 Count one. Wire Fraud.

19 Eight. The allegations contained in paragraphs one
20 through seven are realleged and incorporated as if fully set
21 forth in this paragraph.

22 Nine. In or about and between November 2005 and
23 January 2006, both dates being approximate and inclusive,
24 within the Southern District of Florida, the defendant John
25 Doe, together with others, did knowingly and intentionally

1 devise a scheme and artifice to defraud Lender One and to
2 obtain money and property from Lender One by means of
3 materially false and fraudulent pretenses, representations and
4 promises and for the purpose of executing such scheme and
5 artifice did transmit and cause to be transmitted in
6 interstate and foreign commerce writings, signs, signals,
7 pictures and sounds, to wit, an e-mail dated December 26, 2005
8 sent from Trinidad and Tobago to a representative of Lender
9 One located in the United States.

10 Introduction to count 2: At all times relevant to
11 count 2 of this information, the currency reporting
12 requirements provided as follows:

13 Structuring and currency reporting requirements.

14 Ten. Transactions and currencies were defined as
15 transactions involving the fiscal transfer of money as defined
16 in Title 31, Code of Federal Regulations, section 101.100
17 (BBB).

18 Eleven. Domestic financial institutions were
19 required to file a currency transaction report (FinCen), a
20 form 104, hereinafter referred to as a CTR, with the United
21 States Department of the Treasury where each transaction in
22 currency, such as a deposit, withdrawal, exchange of currency
23 or other payment or transfer by through or to such financial
24 institution in excess of \$10,000 as required by Title 31,
25 United States Code section 5313 and Title 31, Code of Federal

1 Regulations, section 1010.311.

2 Twelve: CTR's were filed with the Internal Revenue
3 Service on forms which required, among other things, the
4 identity of the individual who conducted the transaction, part
5 one of the CTR, and the individual or organization for whom
6 the transaction was completed, part two of the CTR. CTR's
7 were required to be filed to assist the United States in
8 criminal, tax and regulatory investigations and proceedings as
9 stated in Title 31, United States Code section 5311.

10 Fourteen. Structuring. A financial transaction was
11 defined in Title 31, Code of Federal Regulations, section
12 1010.10 (XX), as conducting or attempting to conduct one or
13 more transactions in currency in any amount at one or more
14 financial institutions, on one or more days in any manner for
15 the purpose of evading the currency reporting requirements,
16 including without limitation, by breaking down a sum of
17 currency exceeding \$10,000 into smaller sums, including sums
18 at or below \$10,000 and conducting a currency transaction or a
19 series of currency transactions at or below \$10,000.

20 Count 2. Structuring.

21 Fifteen. The allegations contained in paragraphs
22 ten through fourteen are realleged and incorporated as if
23 fully set forth in this paragraph.

24 Sixteen. In or about and between July 2011 and
25 December 2011, both dates being approximate and inclusive,

1 within the Southern District of Florida, the defendant John
2 Doe, together with others, for the purpose of evading the
3 reporting requirements of the Title 31, United States Code,
4 section 5313(a), and the regulations prescribed thereunder,
5 did knowingly and intentionally structure, assist in
6 structuring and attempt to restructure one or more
7 transactions with one or more domestic financial institutions
8 by, A, breaking down sums of currency exceeding \$10,000 into
9 smaller sums including sums at or below \$10,000 and depositing
10 the smaller sums of currency into accounts with one or more
11 domestic financial institutions and, B, conducting a series of
12 currency transactions, including transactions at or below
13 \$10,000 at one or more domestic financial institutions, all as
14 a part of a pattern of illegal activity involving more than
15 \$100,000 in a twelve-month period.

16 Criminal Forfeiture Allegations as to Count 2.

17 Seventeen. The United States hereby gives notice to
18 the defendant that upon conviction of the offense charged in
19 count 2 the government will seek forfeiture in accordance with
20 Title 31, United States Code, sections 5317 (c)(1), which
21 requires any person convicted of such offense to forfeit any
22 property, real or personal property, involved in such offense
23 and any property traceable to such property.

24 Eighteen. If any of the above described forfeitable
25 property as a result of any act or omission of the defendant,

1 A, cannot be located upon the exercise of due diligence, B,
2 has been transferred or sold to or deposited with a third
3 party, C, has been placed beyond the jurisdiction of this
4 court, D, has been substantially diminished in value or, E,
5 has been commingled with other property which cannot be
6 divided without difficulty, it is the intent of the United
7 States, pursuant to 21 United States Code, Section 853(p) to
8 seek forfeiture of any other property of the defendant up to
9 the value of the forfeitable property described in this
10 forfeitable allegation.

11 Signed by Loretta Lynch, United States Attorney,
12 Eastern District of New York.

13 The charge I have just read is serious, sir. This
14 charge is a felony charge. And because it is a felony charge,
15 you have a constitutional right to be charged by way of an
16 indictment brought against you by a grand jury. A grand jury
17 is a group of at least 16 and not more than 23 people who
18 listen to evidence presented by the government and at least
19 twelve of them must find that there is probable cause to
20 believe that you committed the crime that the government is
21 seeking to charge you with. So, the government could present
22 the evidence to the grand jury and the grand jury could vote
23 to indict you or they could vote not to indict you. But the
24 only way the government can proceed against you on this charge
25 is either by presenting it to a grand jury and having the

1 grand jury vote to indict you or, if you agree, you can give
2 up your right to have the case presented to the grand jury and
3 in that case what would happen would be that the government
4 would proceed against you on the charge in the information
5 just as if the grand jury heard the evidence and voted to
6 indict you.

7 Do you understand all of that, sir.

8 A Yes, sir.

9 Q Have you discussed waiving your right to be indicted by
10 the grand jury?

11 A Yes, I have.

12 Q Sir, do you wish at this time to waive your right to be
13 indicted by the grand jury?

14 A Yes, I do.

15 Q Has anyone made any threats or promises to get you to
16 waive indictment, sir?

17 A No, sir.

18 Q I have before plea a waiver of indictment form?

19 Have you signed the form, sir.

20 A Yes, sir.

21 Q I have before me what has been marked as Court Exhibit 4
22 for identification and is a waiver of indictment and has been
23 signed by the defendant and counsel for the defendant. Is
24 that correct?

25 A Yes, sir.

1 THE COURT: Is that correct, counsel?

2 MR. SERCARZ: Yes, your Honor.

3 THE COURT: I'm signing it as a judicial officer.
4 Do I have a motion to have it admitted under seal,
5 please?

6 MS. HECTOR: Yes. Motion so made, your Honor.

7 THE COURT: Any objection?

8 MR. SERCARZ: No, your Honor.

9 THE COURT: It is admitted under seal. And to make
10 sure that it stays that way, I'm giving it back to
11 Mr. Jackson.

12 THE CLERK: Thank you, your Honor.

13 THE COURT: Admitted.

14 Q Did you have an opportunity to discuss this form with
15 your attorney before you signed it?

16 A Yes, sir.

17 Q And did you, in fact, discuss this form with your
18 attorney before you signed it, the waiver of indictment?

19 A Yes, sir.

20 THE COURT: I also understand that the defendant is
21 waiving any challenge to and is consenting to venue in the
22 Eastern District of New York and is waiving any applicable
23 statute of limitations with respect to the counts in the
24 information. Is that accurate, counsel?

25 MS. HECTOR: Yes, your Honor.

1 THE COURT: Is that accurate?

2 MR. SERCARZ: Yes, your Honor.

3 THE COURT: Counsel, do you know of any reason why
4 the defendant should not waive indictment?

5 MS. HECTOR: No, your Honor.

6 MR. SERCARZ: No, your Honor.

7 THE COURT: I'm making the express finding that the
8 defendant has been advised of the nature of the charge in the
9 information and his right to be indicted by the grand jury
10 with respect to that charge, that he has waived presentation
11 of the charge to the grand jury and thus has agreed to proceed
12 by way of information rather than indictment and has signed
13 the waiver for that purpose.

14 BY THE COURT:

15 Q You understand, sir, that on count one, the wire fraud
16 count, the maximum penalty that could be imposed upon you is a
17 maximum term of imprisonment of 20 years? Do you understand
18 that, sir?

19 A Yes, sir.

20 Q That's under 18 USC 1343 and that the minimum term of
21 imprisonment under that provision could be zero years. Do you
22 understand that?

23 A Yes, sir.

24 Q Do you understand, sir, on count one, the maximum
25 supervised release term would be three years to follow any

1 term of imprisonment?

2 A Yes, sir.

3 Q If a condition of release is violated then you, as the
4 defendant, may be sentenced to up to two years without credit
5 for pre-release imprisonment or time previously served on
6 post-release supervision under 18 USC Section 3583(b) and (e).
7 Do you understand that, sir?

8 A Yes, sir.

9 Q Do you understand, sir, that on count one, the maximum
10 fine is the greater of \$250,000 or twice the gross gain or
11 loss under 18 USC Section 3571(b)(3) and (d). Do you
12 understand that?

13 A Yes, sir.

14 Q Do you understand that on count one restitution is
15 mandatory in an amount to be determined by this court under
16 Section 18 USC Section 3663 and 3663(a). Do you understand
17 that?

18 A Yes, sir.

19 Q Do you understand, sir, that on count one there is a one
20 hundred dollar special assessment that you must pay pursuant
21 to 18 USC Section 3013. Do you understand that?

22 A Yes, sir.

23 Q Do you understand that on count 2, structuring, the
24 maximum penalty that could be imposed upon you is a maximum
25 term of imprisonment of ten years under 31 USC Section

1 5324(d)(2) and that the minimum term of imprisonment under
2 that provision would be zero years.

3 Do you understand that?

4 A Yes, sir.

5 Q And do you understand that on count 2 the maximum
6 supervised release term would be three years to follow any
7 term of imprisonment? If a condition of release is violated,
8 then you as the defendant may be sentenced to up to two years
9 without credit for pre-release imprisonment or time previously
10 served on post-release supervision pursuant to 18 USC sections
11 3583(b) and (d). Do you understand that?

12 A Yes, sir.

13 Q Do you understand that on count 2 the maximum fine is
14 \$500,000 under 31 USC 5324(d)(2)?

15 A Yes, sir.

16 Q Do you understand that on count 2 restitution with
17 respect to your tax liability may be ordered by this court
18 pursuant to 18 USC Section 3663?

19 A Yes, sir.

20 Q Do you understand that on count 2 there is a one hundred
21 dollar special assessment you must pay under 18 USC Section
22 3013?

23 A Yes, sir.

24 Q And do you understand that on count 2 the government may
25 seek criminal forfeiture?

1 A Yes, sir.

2 THE COURT: Now, I'm going to turn our attention to
3 the cooperation agreement. I also have a cooperation
4 agreement. I do not have the version that's been signed by
5 the defendant.

6 Do we have a signed copy of it?

7 I have been handed the cooperation agreement which
8 has been marked Court Exhibit 5 for identification, as of this
9 date. It's been signed by the United States Attorney, by
10 Mr. Norris, is that right?

11 MR. NORRIS: Yes, your Honor.

12 THE COURT: It's been approved by Daniel Silver, the
13 Supervising Assistant United States Attorney. It has been
14 signed by John Doe, the defendant, and by his counsel. Is
15 that correct?

16 MR. SERCARZ: Yes, your Honor.

17 Q Is that correct?

18 A Yes, your Honor.

19 THE COURT: Do I have a motion to have Court Exhibit
20 5 admitted into evidence under seal?

21 MS. HECTOR: Motion so made, your Honor.

22 THE COURT: Any objection?

23 MR. SERCARZ: None, your Honor.

24 THE COURT: All right. Exhibit 5 is in in its
25 entirety.

1 The cooperation agreement reads as follows:
2 Pursuant to Rule 11 of the Federal Rules of Criminal
3 Procedure, the United States Attorney's Office for the Eastern
4 District of New York and John Doe agree to the following: The
5 defendant will waive indictment, venue and, where applicable,
6 any statute of limitations and plead guilty to a two-count
7 information, to be filed in this district charging violation
8 of 18 USC Section 1343, count one, and 31 USC Section
9 5324(a)(3), count 2. The foregoing counts carry the following
10 statutory penalties: Count one, wire fraud, maximum term of
11 imprisonment 20 years. Minimum term of imprisonment, zero
12 years. Maximum term of supervised release, three years to
13 follow any term of imprisonment. If a condition of release is
14 violated the defendant may be sentenced to up to two years
15 imprisonment without credit for pre-release imprisonment or
16 time previously served on post-release supervision. The
17 maximum fine is the greater of \$250,000 or twice the gross
18 gain or gross loss. Restitution is mandatory in an amount to
19 be determined by this court and the 100 dollar special
20 assessment.

21 Count 2 for structuring, maximum term of
22 imprisonment ten years. Minimum term of imprisonment zero
23 years. Maximum supervised release three years to follow any
24 term of imprisonment. If a condition of release is violated
25 the defendant may be sentenced to up two years imprisonment

1 without credit for pre-release imprisonment or time previously
2 served on post-release supervision pursuant to 18 USC
3 3583(b)(e).

4 Maximum fine, \$500,000. Restitution. The parties
5 agree that restitution with respect to the defendant's tax
6 liabilities may be ordered by this court. A one hundred
7 dollar special assessment. Criminal forfeiture. The
8 defendant consents to criminal forfeiture as set forth below
9 in paragraphs 7 through 14, pursuant to 21 USC Section 853(p)
10 and 31 USC Section 5317(c)(1).

11 The sentence imposed on each count may run
12 consecutively. The defendant understands that although
13 imposition of a sentence in accordance with the United States
14 Sentencing Guidelines is not mandatory, the guidelines are
15 advisory and the court is required to consider any applicable
16 guidelines provision as well as other factors enumerated in 18
17 USC Section 3553(a) to arrive at an appropriate sentence in
18 this case.

19 The United States Attorney's Office will advise this
20 court and the probation department of information relevant to
21 sentencing, including all criminal activities engaged in by
22 the defendant and such information may be used by the court in
23 determining the defendant's sentence. If the defendant
24 clearly demonstrates acceptance of responsibility through
25 allocutions and subsequent conduct prior to the imposition of

1 sentence, a two-level reduction will be warranted pursuant to
2 USSG, section 3E1.1A.

3 Furthermore, if the defendant has accepted
4 responsibility as described above and if the defendant pleads
5 guilty on or before --

6 The date I have here is July 12. Was that changed
7 to July 15, counsel?

8 MS. HECTOR: Yes.

9 MR. SERCARZ: It should have been. Yes.

10 THE COURT: Do we have it in the document as July 12
11 or July 15? I'll double-check that.

12 MS. HECTOR: I'm sorry. That seems to be a mistake.
13 We can change it by hand and initial it.

14 THE COURT: What do you have on the actual document
15 that's court five? What page is that on?

16 MS. HECTOR: I think your Honor has court five.

17 THE COURT: Right. I've got it.

18 MS. HECTOR: Page three.

19 THE COURT: All right. In court five it has July
20 15. That's correct. Thank you.

21 An additional one-level reduction will be awarded
22 if the guilty plea is taken on or before today's date, July 15
23 of 2013. The defendant will provide truthful, complete and
24 accurate information and will cooperate fully with the United
25 States Attorney's Office. His cooperation will include but is

1 not limited to the following: A, the defendant agrees to be
2 fully debriefed and to attend all meetings at which his
3 presence is requested concerning his participation in and
4 knowledge of all criminal activities; B, the defendant agrees
5 to furnish the United States Attorney's Office with all
6 documents and other material that may be relevant to the
7 investigation and that are in the defendant's possession or
8 control and to participate in undercover activities pursuant
9 to the specific instructions of law enforcement agents or of
10 the U.S. Attorney's Office; C, the defendant agrees not to
11 reveal his cooperation or any information derived therefrom to
12 any third party without prior consent of the United States
13 Attorney; D, the defendant agrees to testify at any proceeding
14 in the Eastern District of New York or elsewhere as requested
15 by the U.S. Attorney; E, the defendant consents to
16 adjournments of his sentence as requested by the U.S.
17 Attorney; F, the defendant agrees to cooperate fully with the
18 Internal Revenue Service in the ascertainment, computation and
19 payment of his correct federal income tax liability for the
20 years 2007 through 2011. To that end the defendant will file
21 amended tax returns as directed by the IRS prior to imposition
22 of sentence and consents to the disclosure to the IRS of
23 information relating to his financial affairs that is in the
24 possession of third parties; G, the defendant agrees to comply
25 with the forfeiture provision set forth in paragraphs seven

1 through fourteen below.

2 Now, the United States agrees, A, except as provided
3 in paragraphs one, 16 and 17, no criminal charges will be
4 brought against the defendant for his heretofore disclosed
5 participation in:

6 One. Fraud in connection with obtaining a mortgage
7 loan on property located at 2101 Brickell Avenue, unit 3504,
8 in Miami Florida, in or about and between November 2005 and
9 January 2006 as alleged in count one.

10 Two. Structuring financial transactions in or about
11 and between July 2011 and December 2011 as alleged in count 2.

12 Three. Engaging in bulk cash smuggling in or about
13 and between January 2008 and May 2012.

14 Four. Fraud in connection with obtaining a mortgage
15 loan on a property located in Miramar, Florida, in or about
16 2011 on 33rd Street.

17 Five. No statements made by the defendant during
18 the course of this cooperation will be used against him except
19 as provided in paragraphs two, 16 and 17.

20 The defendant agrees that the office may meet with
21 and debrief him without the presence of counsel unless the
22 defendant specifically requests counsel's presence at such
23 debriefings and meetings. Upon request of the defendant, the
24 office will endeavor to provide advance notice to counsel of
25 the place and time of meetings and debriefings. It being

1 understood that the office's ability to provide such notice
2 will vary according to time constraints and other
3 circumstances. The office may accommodate requests to alter
4 the time and place of such debriefings. It is understood,
5 however, that any cancellations or reschedulings of
6 debriefings or meetings requested by the defendant that hinder
7 the office's ability to prepare adequately for trial, hearings
8 or other proceedings may adversely affect the defendant's
9 ability to provide substantial assistance. Matters occurring
10 in any meetings or debriefings may be considered by the U.S.
11 Attorney in determining whether the defendant has provided
12 substantial assistance or otherwise complied with this
13 agreement and may be considered by the court in imposing
14 sentence, regardless of whether counsel was present at the
15 meeting or debriefing.

16 Six. If the U.S. Attorney determines that the
17 defendant has cooperated fully, provided substantial
18 assistance to law enforcement authorities and otherwise
19 complied with the terms of this agreement, the U.S. Attorney
20 will file a motion pursuant to USSG Section 5K1.1 with the
21 sentencing court, setting forth the nature and extent of his
22 cooperation. Such a motion would allow this court in applying
23 the sentencing guidelines to consider a range below the
24 guidelines range that would otherwise apply. In this
25 connection it is understood that a good-faith determination by

1 the U.S. Attorney as to whether or not the defendant has
2 cooperated fully and provided substantial assistance and has
3 otherwise complied with the terms of this agreement, including
4 the demonstration of acceptance of responsibility described in
5 paragraph two and the U.S. Attorney's good-faith assessment of
6 the value, truthfulness, completeness and accuracy of the
7 cooperation shall be binding upon the defendant.

8 The defendant agrees that in making this
9 determination the U.S. Attorney may consider facts known to it
10 at the time. The U.S. Attorney will not recommend to this
11 court a specific sentence to be imposed. Further, the U.S.
12 Attorney cannot and does not make any promise or
13 representation as to what sentence will be imposed by this
14 court.

15 Seven. The defendant acknowledges that the money
16 subject to forfeiture as a result of his violation of 31 USC
17 Section 5324(a)(3) as alleged in the information pursuant to
18 31 USC Section 5317(c), the defendant consents to the
19 forfeiture of an unspecified amount of United States currency
20 to be determined by the court at sentencing as property
21 involved in or traceable property involved in the defendant's
22 violation of 31 USC Section 5324(a)(3) and/or substitute
23 assets in accordance with the provisions of 21 USC Section
24 853(p) as incorporated by 31 USC Section 5317(c)(b)(1), the
25 forfeiture money judgment.

1 The defendant consents to the entry of an order of
2 forfeiture pursuant to Rule 32.2 of the Federal Rules of
3 Criminal Procedure forfeiting the amount of forfeiture money
4 judgment. The defendant consents to the entry of the
5 forfeiture money judgment and the defendant shall pay the
6 forfeiture money judgment in full on or before the date of
7 sentencing, the due date.

8 All payments toward the forfeiture money judgment
9 shall be made by certified or bank check payable to the United
10 States Marshals Service and delivered by hand or overnight
11 courier on or before the due date to the Assistant United
12 States Attorney Brian Morris, United States Attorneys Office,
13 Eastern District of New York, 271 Cadman Plaza East, seventh
14 floor, Brooklyn New York, 11201, with the criminal docket
15 number noted on the face of the check.

16 If the forfeiture money judgment is not paid in full
17 on or before the due date interest shall accrue on any unpaid
18 portion thereof at the judgment rate of interest from that
19 date. If the defendant fails to pay the forfeiture money
20 judgment in full on or before the due date the defendant
21 consents to the forfeiture of any other property of his up to
22 the amount of the forfeiture money judgment pursuant to 21 USC
23 Section 853(p) of the Federal Debt Collection Procedure Act or
24 any other applicable law. The defendant agrees to fully
25 assist the government in effectuating the payment of the

1 forfeiture money judgment by, among other things, executing
2 any documents necessary to effectuate the transfer of title to
3 the United States of any substitute assets. The defendant
4 agrees not to file or interpose any claim or to assist others
5 to file or interpose any claim to any property against which
6 the government seeks to execute the forfeiture money judgment
7 in any administrative or judicial proceeding. The failure of
8 the defendant to forfeit any monies and/or properties as
9 required under this agreement, including the failure of the
10 defendant to execute any documents that will accomplish the
11 same on timely notice to do so, shall constitute a material
12 breach of this agreement. Upon such a breach the defendant
13 will not be entitled to withdraw the guilty plea, but the
14 office may bring additional criminal charges against the
15 defendant. The defendant knowingly and voluntarily waives his
16 right to any required notice concerning the forfeiture of the
17 monies and/or properties forfeited hereunder, including notice
18 set forth in an indictment or information. In addition, the
19 defendant knowingly and voluntarily waives his rights, if any,
20 to a jury trial on the forfeiture of the said monies and/or
21 properties and waives all constitutional, legal and equitable
22 defenses to the forfeiture of said monies and/or properties,
23 including but not limited to any defense based on principles
24 of double jeopardy, the ex post facto clause of the
25 constitution, the statute of limitations, venue or any defense

1 under the 8th amendment, including a claim of excessive funds.

2 The defendant agrees that the entry or payment of
3 forfeiture money judgment is not to be considered a fine or a
4 payment on any income taxes or civil penalties that may be
5 due. The defendant agrees that with respect to all charges
6 referred to in paragraphs one and 4(a) he is not a prevailing
7 party within the meaning of the Hyde Amendment, 18 USC Section
8 30006(a) note and will not file any claim under that law.

9 The defendant waives any right to additional
10 disclosure from the government in connection with the guilty
11 plea. The defendant agrees to pay the special assessment by
12 check payable to the clerk of the court at or before
13 sentencing.

14 The defendant must at all times give complete,
15 truthful and accurate information and testimony and must not
16 commit or attempt to commit any further crimes. Should it be
17 judged by the United States Attorney that the defendant has
18 failed to cooperate fully, has intentionally given false,
19 misleading or incomplete information or testimony, has
20 committed or attempted to commit any further crimes or has
21 otherwise violated any provision of this agreement, the
22 defendant will not be released from his plea of guilty. But
23 the United States will be released from its obligation under
24 the agreement, including, A, not to oppose a downward
25 adjustment of two levels for acceptance of responsibility

1 described in paragraph two above and to make the motion for an
2 additional one-level reduction described in paragraph two
3 above and, B, to file the motion described in paragraph six
4 above.

5 Moreover, the U.S. Attorney may withdraw the motion
6 described in paragraph six above if such motion has been filed
7 prior to sentencing. The defendant would also be subjected to
8 prosecution for any federal criminal violation of which the
9 U.S. Attorney has knowledge, including but not limited to the
10 criminal activity described in paragraph four above, perjury
11 and obstruction of justice.

12 BY THE COURT:

13 Q Do you understand that, sir?

14 A Yes, your Honor.

15 Q Any prosecution resulting from the defendant's failure to
16 comply with the terms of this agreement may be premised upon,
17 among other things, A, any statements made by the defendant to
18 the United States Attorney or to other law enforcement agent
19 on or after December 2, 2012; B, any testimony given by the
20 defendant before any grand jury or any other tribunal, whether
21 before or after the date this agreement is signed by the
22 defendant and; C, any leads derived from such statements or
23 testimony, prosecutions that are not time-barred by the
24 applicable statute of limitations on the date of this
25 agreement, the date the agreement is signed, may be commenced

1 against the defendant in accordance with this paragraph,
2 notwithstanding the expiration of the statute of limitations
3 between the signing of this agreement and the commencement of
4 any such prosecution?

5 Furthermore, the defendant waives all claims under
6 the United States Constitution, Rule 11(f) of the Federal
7 Rules of Criminal procedure, Rule 410 of the Federal Rules of
8 Evidence or any other federal statute or rule that statements
9 made by him on or after December 2, 2012 or leads derived
10 therefrom should be suppressed.

11 This agreement does not bind any federal, state or
12 local prosecuting authority other than the United States
13 Attorney for the Eastern District of New York and does not
14 prohibit that office from initiating or prosecuting any civil
15 or administrative proceedings directly or indirectly involving
16 the defendant.

17 Apart from the written proffer agreement dated
18 December 2, 2012, December 3, 2012, December 10, 2012,
19 December 19, 2012, January 18, 2013, February 27, 2013, March
20 19, 2013, May 28, 2013, May 30, 2013, June 11, 2013 and July
21 8, 2013, no promises, agreements or conditions have been
22 entered into other than those set forth in this agreement and
23 none will be entered into unless memorialized in writing and
24 signed by all parties. This agreement supersedes any
25 promises, agreements or conditions between the parties and to

1 become effective the agreement must be signed by all the
2 signatories.

3 Is this the agreement that you have signed, sir, the
4 cooperation agreement.

5 A Yes, your Honor.

6 Q Mr. Doe, unless counsel wishes to be heard or has an
7 objection, the court believes we may now turn to the
8 procedures for taking your plea in this case?

9 Mr. Doe, your attorney advises this court that you
10 wish to plead guilty to the information pursuant to the
11 cooperation agreement, both of which I have just read to you.

12 Do you need me to read them again to you?

13 A No, your Honor.

14 Q I say again, this is a serious decision and I must be
15 certain that you make it understanding your rights and the
16 consequences of your plea. Do you understand that having been
17 sworn to tell the truth you must do so? If you were to lie to
18 this court deliberately in response to any question I ask you,
19 you would face further criminal charges for perjury. Do you
20 understand that?

21 A Yes, your Honor.

22 Q If you need me to repeat anything, you have only to ask.
23 It is important that you understand everything that goes on in
24 these proceedings today. Is that clear?

25 A Yes, your Honor.

1 Q Sir, in order to make certain that whatever decisions you
2 make today you make with a clear head, I'm going to ask you
3 some additional questions about your health. We talked
4 earlier about the alcohol and medications question. First,
5 sir, are you presently or have you recently been under the
6 care of a doctor, physician, psychiatrist, psychologist or any
7 other medical professional for any reason?

8 A No, your Honor.

9 Q Secondly, sir, in the past 24 hours, have you taken any
10 pills or any drugs or any medicines of any kind?

11 A No, your Honor.

12 Q Next, have you ever been hospitalized or treated for any
13 drug-related problem?

14 A No, your Honor.

15 Q Next, is your mind clear as you sit here today, sir?

16 A Yes, your Honor.

17 Q Do you understand everything that is being said to you?

18 A Yes, your Honor.

19 THE COURT: Defense counsel, have you discussed the
20 question of a guilty plea with your client?

21 MR. SERCARZ: I have, your Honor.

22 THE COURT: In your view, sir, does he understand
23 the rights he would be waiving by pleading guilty?

24 MR. SERCARZ: Yes, your Honor.

25 THE COURT: Do you have any question, sir, as to his

1 competence to proceed today?

2 MR. SERCARZ: I do not.

3 BY THE COURT:

4 Q Sir, are you satisfied with the assistance that your
5 counsel has provided you thus far?

6 A Very much so, your Honor.

7 THE COURT: Counsel for the defendant, do you feel
8 you need may more time to discuss the question of a guilty
9 plea with your client?

10 MR. SERCARZ: No, your Honor.

11 Q Again, sir, I have previously read the charges. Do you
12 need to hear them again?

13 A No, your Honor.

14 Q Now, sir, you have a right to plead not guilty to these
15 charges. No one can be forced to plead guilty. Do you
16 understand that?

17 A Yes, your Honor.

18 Q If you plead not guilty to these charges or if you
19 persist in your plea of not guilty, you have a right under the
20 constitution and the laws of the United States of America to a
21 speedy and a public trial before a jury of your peers with the
22 assistance of your attorney. Do you understand?

23 A Yes, your Honor.

24 Q At any trial you would be presumed to be innocent. You
25 would not have to prove that you were innocent. This is

1 because under our system of law it is the government that must
2 come forward with proof that establishes beyond a reasonable
3 doubt that you are guilty of the crimes charged. If the
4 government fails to meet that burden of proof, the jury would
5 have the duty to find you not guilty?

6 Do you understand that, sir?

7 A Yes, your Honor.

8 Q In the course of a trial witnesses for the government
9 would have to come here to this court and to testify in your
10 presence. Your lawyer would have the right to cross-examine
11 these witnesses. He could raise legal objections to the
12 evidence the government sought to offer against you. He could
13 offer evidence on your behalf if you thought there was
14 evidence that might help you in this case. He could compel
15 witnesses to come to court and to testify in your defense if
16 you thought it would help your case.

17 Do you understand that, sir?

18 A Yes, your Honor.

19 Q At a trial, sir, you would have the right to testify on
20 your own behalf if you wished to do so and elected to do so.
21 On the other hand, you could never be forced to be a witness
22 at your trial. This is because under the constitution and the
23 laws of the United States of America no person can be
24 compelled to be a witness against himself. If you wished to
25 go to trial but chose not to testify this court would instruct

1 the jury that it could not hold that against you. Do you
2 understand?

3 A Yes, your Honor.

4 Q If instead of going to trial, however, you plead guilty
5 to the crimes charged, and if I accept your guilty plea, you
6 will be giving up your right to a trial and all the other
7 rights I have just discussed. There will be no trial in this
8 case. There will be no appeal on the question of whether you
9 did or whether you did not commit the crimes set forth in the
10 information. While this court is not bound by the sentencing
11 guidelines that we've discussed, this court will take them
12 into consideration in determining what would be a reasonable
13 sentence under all the circumstances available to me in this
14 case.

15 Do you understand that, sir?

16 A Yes, your Honor.

17 Q If you do plead guilty I will have to ask you certain
18 questions about what you did in order to satisfy myself that
19 you are, in fact, guilty of the charges. You will have to
20 answer my questions and to acknowledge your guilt. If you do
21 this you will be giving up your right not to incriminate
22 yourself.

23 Do you understand that, sir?

24 A Yes, your Honor.

25 Q Sir, are you willing to give up ore right to a trial and

1 all the other rights that I have just discussed with you?

2 A Yes, your Honor.

3 Q The cooperation agreement which you have signed and to
4 which this plea is being offered is being filed under seal.

5 THE COURT: Defense counsel, is it your
6 understanding that the agreement that was reached with the
7 government is, in fact, the totality of the agreement in this
8 case?

9 MR. SERCARZ: Yes, your Honor.

10 Q Sir, did you see and hear and understand everything the
11 prosecutor and your attorney just said?

12 A Yes, your Honor.

13 Q And you did read and sign the cooperation agreement?

14 A Yes, your Honor.

15 Q Did you understand it?

16 A Yes, your Honor.

17 Q Did you have an opportunity to discuss that agreement
18 with your counsel before you signed it?

19 A Yes, your Honor.

20 Q Did you, in fact, discuss it with your attorney before
21 you signed it?

22 A Yes, your Honor.

23 Q Is there any other agreement that has been reached or
24 that has been made in order to get you to plead guilty other
25 than the written agreement?

1 A No, your Honor.

2 THE COURT: Now, this court has marked the waiver of
3 indictment as Court Exhibit 4 for identification.

4 May I please have a motion to have the waiver of
5 indictment admitted into evidence under seal?

6 MS. HECTOR: Motion made, your Honor.

7 THE COURT: Any objection?

8 MR. SERCARZ: No objection.

9 THE COURT: This court has marked the waiver as
10 Court Exhibit 3 for identification. May I have a motion to
11 admit it under seal?

12 MS. HECTOR: So made.

13 MR. SERCARZ: No objection.

14 THE COURT: It is admitted.

15 Finally, this court has marked the cooperation
16 agreement -- I believe it's in -- Court Exhibit 5 for identification.
17 May I have a motion to admit that document into evidence under
18 seal?

19 MS. HECTOR: So made.

20 MR. SERCARZ: No objection.

21 THE COURT: It is admitted.

22 BY THE COURT:

23 Q Sir, do you understand the consequence of pleading guilty
24 to the charges in terms of incarceration?

25 A Yes, your Honor.

1 Q Again, the cooperation agreement discusses that important
2 information and sets it forth. In count one, wire fraud, you
3 face a maximum term of 20 years. You face a minimum term of
4 imprisonment of zero years.

5 Do you understand that, sir?

6 A Yes, your Honor.

7 Q You face a maximum supervised release term of three years
8 for count one. Do you understand that?

9 A Yes, your Honor.

10 Q You face a minimum supervised release term of zero years.
11 Do you understand that?

12 A Yes, your Honor.

13 Q You face a maximum fine as well in the amount of the
14 greater of \$250,000 or twice the gross gain or gross loss for
15 count one. Do you understand that?

16 A Yes, your Honor.

17 Q Restitution is applicable to this case. Do you
18 understand that?

19 A Yes, your Honor.

20 Q You also face a mandatory special assessment of \$100 on
21 count one which I'm required to impose in all cases. Do you
22 understand that?

23 A Yes, your Honor.

24 Q In one count, structuring, you face a maximum term of ten
25 years in prison and a minimum term of zero years on that

1 count. Do you understand that?

2 A Yes, your Honor.

3 Q You face a maximum supervised release term of three years
4 for count 2 and a minimum supervised release term of zero
5 years. Do you understand that?

6 A Yes, your Honor.

7 Q And you face a maximum fine as well in the amount of
8 \$500,000 in count 2 and restitution is applicable. You also
9 face the mandatory special assessment of \$100 which I'm
10 required to impose?

11 Do you understand that?

12 A Yes, your Honor.

13 Q Now, sir, as I've said repeatedly, this is a sentencing
14 guidelines case, so in sentencing you the court will have to
15 consider the guidelines. The guidelines do not control the
16 court but they do inform the court. Has your counsel
17 discussed with you the sentencing guidelines?

18 A Yes, he has.

19 THE COURT: Is that accurate, sir?

20 MR. SERCARCZ: Yes, your Honor.

21 Q When the court sentences you the court will have to
22 consider certain factors about you and the counts in the
23 indictment and that inquiry will lead the court to a guideline
24 range having a sentencing range. The court is not required to
25 sentence you within that range. The court is empowered to

1 impose a sentence which is less than, equal to or greater than
2 that provided by the guidelines. But in all cases, including
3 there one, this court must and will consult the guidelines
4 concerning the range of sentences before this court in this
5 case and before this court imposes sentence the court will
6 receive a report prepared by the probation department which
7 will recommend a particular guideline to the court. You and
8 your attorney will have the opportunity to see that report,
9 sir. And if you think that report is mistaken, incomplete or
10 simply wrong in any way, you will have the opportunity to
11 bring those observations to the attention of this court?

12 Now, sir, do you have any questions at all that you
13 would like to ask this court?

14 A No, your Honor.

15 THE COURT: Does defense counsel have any questions?

16 MR. SERCARZ: No, your Honor.

17 But I would request a brief opportunity to approach
18 my client. He has prepared some notes regarding his statement
19 of guilt and he left them with me. I didn't realize you would
20 be putting him on the witness stand.

21 THE COURT: We'll get to that in a minute. Before
22 he allocutes, we'll get there.

23 MR. SERCARZ: That's fine.

24 THE COURT: Is there anything else that you would
25 like to say to the court?

1 MR. SERCARZ: No. Thank you.

2 THE COURT: Does the United States have anything
3 else that it would like to say to the court?

4 MS. HECTOR: No. Thank you, your Honor.

5 THE COURT: Do you have any additional questions
6 that you would like me to pose at this point?

7 MS. HECTOR: No, your Honor.

8 THE COURT: I'm going to ask defense counsel: Sir,
9 do you know of any reason why your client should not enter a
10 plea of guilty to the charge in the information?

11 MR. SERCARZ: I do not, your Honor.

12 THE COURT: Sir, are you aware of any viable legal
13 defense against to those charges?

14 MR. SERCARZ: No, your Honor.

15 BY THE COURT:

16 Q Sir, are you ready to plead?

17 A Yes, your Honor.

18 Q Sir, how do you plead to the charges contained in count
19 one of the information, filed against you in this case?

20 Guilty or not guilty.

21 A Guilty.

22 Q Sir, how do you plead to the charges contained in count 2
23 of the information filed against you in this case? Guilty or
24 not guilty.

25 A Guilty.

1 Q Are you making this plea, sir, of guilty voluntarily and
2 of your own free will?

3 A Yes, your Honor.

4 Q Has anyone threatened or forced you to plead guilty?

5 A No, your Honor.

6 Q Other than the agreement with the government, has anyone
7 made you any promises that caused you to plead guilty?

8 A No, your Honor.

9 Q Has anyone made you any promise about the sentence you
10 will receive?

11 A No, your Honor.

12 THE COURT: All right. Assisted by your counsel's
13 notes, the notes that you made in connection with your counsel
14 -- Mr. Jackson would you hand them up, please?

15 Your counsel has asked that your notes be handed to
16 you. Mr. Jackson has done that without reading them.

17 Q Would you please, sir, describe briefly, in your own
18 words, what you did to commit the crime charged in count one
19 of the information and where you did it?

20 A Yes, your Honor.

21 In late 2005 I sought to purchase a condominium in
22 Miami, Florida. The apartment was intended for use by my
23 father, my brother and myself. We determined that I would be
24 the one to purchase the apartment and that I would seek
25 mortgage financing for the apartment. In October 2005 I began

1 the process of obtaining a mortgage loan to be secured for the
2 condo. For that purpose I applied for a loan with Sunbelt
3 Lending Services. In the effort to qualify for the loan I
4 provided the mortgage lender with inaccurate information
5 regarding the location of my employment and the amount of my
6 monthly income, among other things. I did so with the
7 knowledge that the information was false and with the intent
8 to qualify for a loan for which I knew I might not qualify if
9 I provided accurate information.

10 In furtherance of closing on the condominium on
11 December 26, 2005, I sent an e-mail from Trinidad and Tobago,
12 where I was at the time, to my loan officer who was based in
13 Florida. In the e-mail I sought to delay the closing by a few
14 days because I needed additional time to obtain the fund
15 necessary to close on the condominium. I ultimately closed on
16 the condominium several days later.

17 Q You stated, sir, that you might not qualify had you
18 provided accurate information. Did you think that there was a
19 possibility that you would have qualified had you provided
20 accurate information?

21 A No, your Honor.

22 Q Did you understand that you would not qualify for the
23 loan if you provided the truth?

24 A Yes, your Honor.

25 Q All right. Would you please briefly describe in your own

1 words what you did to commit the crimes charged in count 2 of
2 the information and where you did that?

3 A Yes, your Honor.

4 Between July 2011 and December 2011, I engaged in a
5 number of transactions at financial institutions in the Miami,
6 Florida area. During this period I had a general
7 understanding that making a cash deposit of more than 10,000
8 U.S. dollars into a bank account would trigger a requirement
9 on the part of the bank to issue -- to issue a report which
10 would include information regarding the source of funds.

11 Based upon this understanding and in connection with some of
12 the transactions I made, during the above six-month period, I
13 took steps intended to avoid this reporting requirement. For
14 example, in some instances I deliberately broke up deposits
15 into amounts of less than 10,000 U.S. dollars in order to
16 avoid the filing of the requisite report. I engaged in such
17 deposits and other transactions intending to avoid the
18 reporting requirements in connection with more than \$100,000
19 in transactions in the above six-month period.

20 THE COURT: Are there any questions that either
21 counsel would like me to pose to the defendant at this point?

22 MR. SERCARZ: No. None by the defense, your Honor.

23 MS. HECTOR: No, your Honor, not by the government.

24 THE COURT: I'll make my findings.

25 Based upon the information given to me, I find that

1 the defendant is acting voluntarily, that he fully understands
2 the charges, his rights and the consequences of his plea.
3 There is, moreover, a factual basis for the plea. I,
4 therefore, accept the plea of guilty to count one and count
5 two of the information.

6 Now, there a bail application? What is the
7 situation?

8 MS. HECTOR: Your Honor, we would propose -- and the
9 defense has agreed -- to maintain the same bail conditions
10 that were previously imposed upon the defendant by Magistrate
11 Judge Go.

12 MR. SERCARZ: That's correct, your Honor.

13 THE COURT: All right. I hereby order that those
14 conditions be continued. I also hereby order the probation
15 department to set an appropriate date for sentencing in
16 consultation with this court and obviously in consultation
17 with the United States Attorney and defense counsel as well.

18 Is there anything further that counsel wishes to
19 state to the court this evening?

20 MS. HECTOR: No, your Honor. Thank you.

21 MR. SERCARZ: No. Thank you, your Honor.

22 THE COURT: Thank you.

23 We are adjourned.

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