

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

THOMAS MANNING

No. 15 CR 50007

Judge Frederick J. Kapala

**PLEA AGREEMENT**

1. This Plea Agreement between the Acting United States Attorney for the Northern District of Illinois, JOEL R. LEVIN, and defendant THOMAS MANNING, and his attorney, DEAN POLALES, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

**Charges in This Case**

2. The indictment in this case charges defendant with mail fraud, in violation of Title 18, United States Code, Section 1341 (Counts One-Five), false statements and concealment of facts in relation to documents required by the Employment Retirement Income Security Act, in violation of Title 18, United States Code, Section 1027 (Counts Six-Ten), willful failure to collect or pay taxes, in violation of Title 26, United States Code, Section 7202 (Counts Eleven-Twenty-Six), and obstruction of internal revenue laws, in violation of Title 26, United States Code, Section 7212 (Count Twenty-Seven).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

### **Charges to Which Defendant Is Pleading Guilty**

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the indictment: Count Six, which charges defendant with false statements and concealment of facts in relation to documents required by the Employment Retirement Income Security Act, in violation of Title 18, United States Code, Section 1027; and Count Eleven, which charges defendant with willful failure to collect or pay taxes, in violation of Title 26, United States Code, Section 7202.

### **Factual Basis**

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts Six and Eleven of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline § 1B1.3:

Since at least 2007, defendant Thomas Manning was the president of T. Manning Concrete, Inc. (“T. Manning Concrete”), a corporation located in Huntley, Illinois that was engaged in the construction business. Defendant hired laborers and cement masons from different unions in northern Illinois, including Laborers’ Local

96, headquartered in Glen Ellyn, Laborers' Local 288, headquartered in Westmont, Laborers' Local 118, headquartered in Arlington Heights, Laborers' Local 582, headquartered in Elgin, and Laborers' Local 1035, headquartered in Marengo, and Cement Masons and Plasters Local 502, headquartered in Bellwood, Illinois (collectively, "the Unions"). The Unions provided their members with certain employee healthcare and pension benefits through the Fox Valley Benefit Funds, the Chicago Regional Council of Carpenters Benefit Funds, the Lake County Masons Benefit Funds, and the DuPage County Cement Masons Benefit Funds (collectively, "the Funds"). The Funds were "employee benefit plans" and subject to Title I of the Employee Retirement Income Security Act of 1974, as amended, (hereafter "ERISA"), Title 29, United States Code, Section 1001, *et seq.* Pursuant to Title I of ERISA, the Funds were required to publish and file truthful annual reports, namely United States Department of Labor Form 5500s, also known as the Annual Return/Report of Employee Benefit Plan ("Form 5500"), with the United States Department of Labor and Treasury. The report, among other things, detailed the total contributions received by such Funds. Pursuant to Title I of ERISA, the Funds were required to keep copies of the monthly remittance reports submitted by T. Manning Concrete as part of their records.

T. Manning Concrete and the Unions entered into and were bound by collective bargaining agreements (the "CBAs"). Among other things, the CBAs required T. Manning Concrete to make monthly contributions to the Funds for each employee

covered by the CBAs. The CBAs also required T. Manning Concrete to provide the Funds with monthly remittance reports identifying the total contribution amount due for all covered employees.

Pursuant to its obligations under the CBAs, T. Manning Concrete was required to submit monthly remittance reports to the Funds and identify the covered employees who had worked at T. Manning Concrete during the previous month and the number of hours worked by each employee and to submit the monthly contribution amount owed by T. Manning Concrete to the Funds for each of the covered employees based on the number of hours worked. In each monthly remittance report an authorized officer, partner or agent of T. Manning Concrete was required to warrant that the document accurately reported the names and all hours worked by covered members of the Union.

T. Manning Concrete maintained weekly time sheets that listed the hours reported as being worked by each covered employee. Payroll checks were issued from T. Manning Concrete's bank account at Harris N.A. The payroll checks issued to T. Manning Concrete employees made deductions for all federal payroll taxes and Union dues. On a monthly basis, defendant, or someone at his direction, calculated the monthly hours worked by each of T. Manning Concrete's Union member employees and prepared the monthly remittance reports. A check was then drawn on T. Manning Concrete's Harris bank account, which represented T. Manning Concrete's contribution to the Funds.

In addition to the hours reported by T. Manning Concrete on monthly remittance reports submitted to the Funds, T. Manning Concrete employees also worked a substantial number of hours, including regular and overtime hours, that defendant did not report to the Funds. In order to conceal from the Funds that T. Manning Concrete employees were working these additional hours, and to defraud the Funds of the contributions due for those hours under the CBAs, defendant caused T. Manning Concrete employees to be paid for these additional hours “under the table,” with checks from non-payroll accounts under defendant’s control. Defendant, or someone at his direction, entered onto the monthly remittance reports submitted to the Funds only those hours for which T. Manning Concrete employees were paid by T. Manning Concrete payroll checks, thereby causing the remittance reports to fraudulently understate the number of hours worked by the covered employees and the total amount due from T. Manning Concrete to the Funds, and concealing from the Funds the hours for which T. Manning Concrete employees were paid “under the table.”

Starting at least as early 2007 and continuing on a monthly basis through the end of 2010, defendant, or someone at his direction, prepared remittance reports that contained false statements or representations of fact, and, at defendant’s direction, the fraudulent monthly remittance reports were sent to the Funds. These fraudulent monthly remittance reports were then used by the Funds to complete the Form 5500 Reports. For example, on or about May 11, 2009, defendant sent via United States

mail a remittance report for the month of April 2009, which report defendant knew falsely reported the number of hours worked by T. Manning Concrete employees, on whose behalf T. Manning Concrete was required to make contributions to the Funds, and which defendant knew falsely reported the amount of money owed to such Funds from T. Manning Concrete. Between 2007 and 2010, defendant, or someone at his direction, prepared monthly remittance reports that underreported the number of hours worked by covered employees and failed to report and contribute \$1,903,505.74 (\$1,130,784.57 in 2007, \$156,949.76 in 2008, \$390,592.54 in 2009, and \$225,178.87 in 2010) that was due to the Funds as part of the CBA.

During the same time that defendant submitted false monthly remittance reports to the Funds, defendant was also required by law to collect, account for, and pay over FICA taxes from the wages of T. Manning Concrete employees. Defendant, however, failed to collect and pay over to the Internal Revenue Service FICA taxes for monies paid to employees “under the table,” that being, for monies paid to T. Manning Concrete employees from T. Manning Concrete’s non-payroll account. Specifically, defendant failed to collect and pay over to the Internal Revenue Service trust fund FICA taxes for the following quarters in the following amounts:

<b>Period:</b>	<b>Additional Tax Due and Owing:</b>
2007 1st Quarter	\$104,463.15
2007 2nd Quarter	\$48,375.39
2007 3rd Quarter	\$56,704.91
2007 4th Quarter	\$94,363.52
2008 1st Quarter	\$85,793.76
2008 2nd Quarter	\$28,509.79
2008 3rd Quarter	\$1,016.41

2008 4th Quarter	\$596.55
2009 1st Quarter	\$41,562.68
2009 2nd Quarter	\$22,939.90
2009 3rd Quarter	\$6,737.51
2009 4th Quarter	\$43,466.85
2010 1st Quarter	\$28,270.04
2010 2nd Quarter	\$18,256.95
2010 3rd Quarter	\$16,285.40
2010 4th Quarter	\$3,337.31

**Total: \$600,680.12**

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

**Maximum Statutory Penalties**

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

a. Count Six carries a maximum sentence of 5 years' imprisonment. Defendant may also be sentenced between 1 and 5 years' probation. Count Six also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count Six the judge also may impose a term of supervised release of not more than three years.

b. Count Eleven carries a maximum sentence of 5 years' imprisonment. Defendant may also be sentenced between 1 and 5 years' probation. Count Eleven also carries a maximum fine of \$250,000. Defendant further

understands that the Court must order costs of prosecution, estimated not to exceed \$500. Defendant further understands that with respect to Count Eleven, the judge also may impose a term of supervised release of not more than three years.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty or restitution imposed.

d. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 10 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$500,000, mandatory costs of prosecution, a period of supervised release, and special assessments totaling \$200.

#### **Sentencing Guidelines Calculations**

9. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the



kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense..

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2016 Guidelines Manual.

b. **Offense Level Calculations.**

i. The base offense level for Count Six is 6, pursuant to Guideline § 2E5.3(a)(2) and § 2B1.1(a)(2).

ii. Pursuant to Guideline §§ 2E5.3(a)(2) and 2B1.1(b)(1), the offense level is increased by sixteen levels to level 22, because the loss to the Funds exceeded \$1,500,000.

iii. The base offense level for Count Eleven is 20, pursuant to Guideline § 2T1.6(a) and § 2T4.1(H).

iv. Pursuant to Guideline § 3D1.4, the base offense level for Counts Six and Eleven is 24.

v. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vi. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense

level is 21, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 37 to 46 months' imprisonment, in addition to any supervised release and fine the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by

such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

### **Cooperation**

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

### **Agreements Relating to Sentencing**

12. At the time of sentencing, the government shall make known to the sentencing judge the extent of defendant's cooperation. If the government determines that defendant has continued to provide full and truthful cooperation as required by this Agreement, then the government shall move the Court, pursuant to Guideline § 5K1.1, to depart from the low end of the applicable guideline range, and shall recommend a sentence that includes a term of imprisonment in the custody of the Bureau of Prisons of 50 percent of the low end of the applicable guideline range. Defendant shall be free to recommend any sentence. Defendant understands that the decision to depart from the applicable guideline range rests solely with the Court.

13. If the government does not move the Court, pursuant to Guideline § 5K1.1, to depart from the applicable guideline range, as set forth above, the preceding paragraph of this Agreement will be inoperative, both parties shall be free to recommend any sentence, and the Court shall impose a sentence taking into consideration the factors set forth in 18 U.S.C. § 3553(a) as well as the Sentencing Guidelines without any downward departure for cooperation pursuant to § 5K1.1. Defendant may not withdraw his plea of guilty because the government has failed to make a motion pursuant to Guideline § 5K1.1.

14. Regarding restitution, defendant agrees to pay \$1,909,956.32 (\$1,309,276.20 to the Funds and \$600,680.12 to the Internal Revenue Service) in restitution, arising from the offense conduct and relevant conduct set forth above in paragraph 6 hereof, in pursuant to Title 18, United States Code, Sections 3663(a)(3) and 3664. Defendant understands that the amount of tax loss as calculated by the Internal Revenue Service may exceed the amount of tax due as calculated for restitution in the criminal case.

15. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

16. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

17. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

18. After sentence has been imposed on the counts to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to defendant.

### **Acknowledgments and Waivers Regarding Plea of Guilty**

#### **Nature of Agreement**

19. This Agreement is entirely voluntary and represents the entire agreement between the Acting United States Attorney and defendant regarding defendant's criminal liability in case 15 CR 50007

20. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other

federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

21. Defendant understands that nothing in this Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant or defendant's partnership or corporations. Defendant understands that the amount of tax as calculated by the IRS may exceed the amount of tax due as calculated for the criminal case.

### **Waiver of Rights**

22. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove

prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.



vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

b. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, in exchange for the concessions made by the United States in this Agreement. In addition, defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, and (in any case in which the term of imprisonment and fine are within the maximums provided by statute) his attorney's alleged failure or refusal to file a notice of appeal, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply if the Court sentences defendant to a term of imprisonment above the advisory-Guidelines range. The waiver in this paragraph also does not apply to a

claim of involuntariness, or ineffective assistance of counsel, which relates directly to this agreement or to its negotiation, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

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

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

24. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing, including the nature and extent of defendant's cooperation.

25. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income

tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

26. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

#### **Other Terms**

27. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

28. Regarding matters relating to the Internal Revenue Service, defendant agrees as follows (nothing in this paragraph, however, precludes defendant or defendant's partnerships or corporations from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS):

a. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant and defendant's partnerships or corporations which directly or indirectly relates to or arises out of the course of conduct that defendant has acknowledged in this Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records that the IRS may request.

b. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency (including but not limited to the Internal Revenue Service), for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or

administrative proceeding involving, or investigation of, defendant or defendant's partnerships or corporations. Nothing in this paragraph or the preceding paragraph precludes defendant or defendant's partnerships or corporations from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

29. Defendant understands that pursuant to Title 29, United States Code, Section 1111, his conviction in this case will prohibit him from serving or being permitted to serve in certain offices, positions, and capacities relating to employee benefit plans, as described in Title 29, United States Code, Section 1111, for the period of thirteen years after conviction or after the end of any incarceration, whichever is later, unless the Court, pursuant to the Sentencing Guidelines and policy statements under Title 28, United States Code, Section 994(a), determines that defendant's direct or indirect service with or to an employee benefit plan would not be contrary to the purposes of Title 29, United States Code, Section 1111. Defendant further understands that if he violates this prohibition, he may be punished by imprisonment for up to five years and a fine of up to \$250,000.

### **Conclusion**

30. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

31. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

32. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

33. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

34. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: \_\_\_\_\_

\_\_\_\_\_  
JOEL R. LEVIN  
Acting United States Attorney

\_\_\_\_\_  
THOMAS MANNING  
Defendant

\_\_\_\_\_  
SCOTT R. PACCAGNINI  
Assistant U.S. Attorney

\_\_\_\_\_  
DEAN POLALES  
Attorney for Defendant