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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NOV 09 2016
11-9-16
JUDGE VIRGINIA M. KENDALL
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

vs.

NAVINDER SINGH SARAO

No. 15 CR 75

Judge Virginia M. Kendall

PLEA AGREEMENT

1. This Plea Agreement between the Chief of the Fraud Section, Criminal Division, United States Department of Justice, ANDREW WEISSMANN (the "government") and defendant NAVINDER SINGH SARAO, and his attorney, ROGER A. BURGLINGAME, of Kobre & Kim LLP, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The Indictment in this case charges defendant with one count of wire fraud, in violation of Title 18, United States Code, Section 1343; ten counts of commodities fraud, in violation of Title 18, United States Code, Section 1348; ten counts of commodity price manipulation, in violation of Title 7, United States Code, Section 13(a)(2); and one count of spoofing, in violation of Title 7, United States Code, Sections 6c(a)(5)(C) and 13(a)(2).

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.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to Count 1 of the Indictment, which charges defendant with wire fraud, in violation of Title 18, United States Code, Section 1343, and Count 22 of the Indictment, which charges defendant with spoofing, in violation of Title 7, United States Code, Sections 6c(a)(5)(C) and 13(a)(2).

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts 1 and 22 of the Indictment. In pleading guilty, defendant admits the facts alleged in Counts 1 and 22 of the Indictment as well as the facts set forth in Paragraph 7 of this Plea Agreement (collectively, the "Facts"). The defendant further admits that the Facts establish his guilt beyond a reasonable doubt.

Criminal Offenses

7. From in or around at least January 1, 2009, through in or around at least April 30, 2014 (the "Scheme" or "Relevant Period"), in the Northern District of Illinois, Eastern Division, and elsewhere, defendant NAVINDER SINGH SARAO, having knowingly and with the intent to defraud devised and intending to devise, and participated in, a scheme and artifice to defraud participants in the market for E-mini S&P 500 futures contracts (the "E-mini") on the Chicago Mercantile Exchange ("CME") of money and property by means of materially false and fraudulent pretenses, representations, and promises, transmitted and

caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing the scheme and artifice, that is, the defendant did transmit and cause to be transmitted, via interstate and foreign wire communications, (1) orders to buy and to sell futures contracts of the E-mini that originated in the United Kingdom and which were received by the CME's electronic trading platform, Globex, which utilized computer servers located in Chicago, Illinois, and surrounding areas within the Northern District of Illinois, and (2) email and telephonic communications that were received by employees of the CME and others located in Chicago, Illinois, within the Northern District of Illinois.

In addition, on March 10, 2014, defendant SARAO knowingly engaged in trading, practice, and conduct on, and subject to the rules of, a registered entity that was known to the trade as "spoofing." That is, at approximately 9:34 AM Central Time, the defendant knowingly placed and caused to be placed, at nearly the exact same time, five unique orders to sell 300 lots of futures contracts of the E-mini (the "sell orders"), each at five different price points (ranging from four to eight levels away from the best offer to sell), with a combined face value of approximately \$140,306,250. The sell orders were placed on and through the CME's Globex exchange, in the Northern District of Illinois. At the time the sell orders were placed, defendant SARAO intended to cancel all of the sell orders before they were executed. In addition, at the time the sell orders were placed, defendant SARAO did not place the orders as part of any legitimate, good-faith attempt to execute any part of

the sell orders. All the sell orders ultimately were cancelled, at nearly the exact same time, without being executed, at approximately 11:00 AM Central Time that same day.

Defendant and Relevant Entities

During the Scheme, defendant SARAO was a futures trader living in the United Kingdom who traded from proprietary trading companies in London and from his residence in the Hounslow borough of West London, England. Defendant SARAO traded predominantly futures contracts of the E-mini on the CME.

During the Relevant Period, the CME was a registered entity with the Commodity Futures Trading Commission (“CFTC”). Specifically, the CME was registered with the CFTC as both a “Derivatives Clearing Organization” and a “Board of Trade Designated as a Contract Market.”

During the Relevant Period, the CFTC was the federal agency that, among many others things, regulated entities and individuals who traded futures contracts (such as the E-mini) and enforced federal laws and regulations covering the trading of futures contracts (such as the E-mini).

Overview of SARAO’s Scheme and Artifice to Defraud

During and in furtherance of the Scheme, and in order to make money, defendant SARAO placed thousands of orders to buy or to sell futures contracts of the E-mini that he did not intend to execute at the time he placed the orders (the “Spoof Orders”). At various

points in time during the Scheme, the combined face value of these Spoof Orders ranged from approximately one million dollars to hundreds of millions of dollars.

The purpose and intent motivating defendant SARAO to place all of these Spoof Orders was to create a materially false and misleading impression of supply (when he was placing Spoof “sell” orders) and demand (when he was placing Spoof “buy” orders) in order to induce other market participants to react to his false Spoof Order information and to buy or sell E-mini futures contracts at prices, quantities, and/or times that, but for defendant SARAO’s Spoof Orders, they would not otherwise have traded. In thousands of instances, defendant SARAO was able to induce other market participants into buying or selling E-mini futures contracts by placing the Spoof Orders, which had the additional purpose and effect of artificially depressing (in the case of Spoof “sell” orders) or artificially inflating (in the case of Spoof “buy” orders) the price of E-mini futures contracts.

In instances when a market reaction occurred, defendant SARAO frequently executed real, genuine orders (the “Genuine Orders”) to buy (typically at artificially low prices) or sell (typically at artificially high prices) E-Mini futures contracts.

Defendant SARAO frequently was able to generate significant trading profits from buying and selling his Genuine Orders close in time with the placement of his Spoof Orders. By way of one example (among many different examples): defendant SARAO would and did: (1) sell high to establish a “short” position; (2) artificially depress the price by placing sell-

side Spoof Orders; and (3) execute a Genuine Order to buy at a lower, artificial price, covering his short position and profiting from the placement of his Spoof Orders.

Specific Methods Used by SARAQ to Defraud Market Participants

Defendant SARAQ generated Spoof Orders in two principal ways: (1) manually and (2) using automated programs. In the case of a typical manual Spoof Order, defendant SARAQ physically clicked his computer mouse to enter an order and physically clicked his mouse to cancel the order. Defendant SARAQ used at least two different manual techniques to place and ultimately cancel Spoof Orders, as described further below.

In the case of a typical automated Spoof Order, defendant SARAQ physically clicked his mouse to activate the automated program and clicked his mouse to deactivate the automated program. Defendant SARAQ used at least two different automated programs to generate Spoof Orders, as described below.

Automated Technique #1 – Dynamic Layering

One of the automated programs defendant SARAQ used to place Spoof Orders generated a block of typically 5 “sell” orders (the “Layered Sell Orders”) that appeared in unison at different sequential price points above the then-prevailing E-mini market sell price (the “Dynamic Layering Technique”). The Layered Sell Order in the block that was closest to the best market sell price typically was placed at least 2 price points (or “ticks”) from the then-prevailing best market sell price. As the best sell price in the order book fluctuated, the Dynamic Layering Technique quickly (typically in less than 500

milliseconds) shifted the Layered Sell Orders up (in the case of an upward book movement) or down (in the case of a downward book movement) in symmetry with the best market sell price, so that the Layered Sell Orders remained the same distance away from the then-prevailing best market sell price, thus significantly reducing the likelihood that the Layered Sell Orders would be executed.

During and in furtherance of the Scheme, defendant SARAO activated the Dynamic Layering Technique approximately 3,653 times, resulting in the placement of some 19,888 Layered Orders. Defendant SARAO activated the Dynamic Layering Technique on, for example, the following days:

- April 27, 2010
- May 4, 2010
- May 5, 2010
- May 6, 2010
- January 28, 2011
- February 22, 2011
- March 4, 2011
- July 29, 2011
- August 4, 2011
- March 10, 2014.

On May 6, 2010, defendant SARAO used the Dynamic Layering Technique, and other Spoof Orders, extensively. Specifically, on May 6, 2010, defendant SARAO activated the Dynamic Layering Technique approximately 14 times, generating approximately 85 Layered Orders. On average, at the times the Dynamic Layering Technique was activated that day, the Layered Orders represented over 20 percent of the sell-side of the order book.

During the course of the Scheme, defendant SARA O profited at least \$9,667,258.22 as a result of the Dynamic Layering Technique.

At all times during the Scheme, the purpose and intent motivating defendant SARA O's activation of the Dynamic Layering Technique was to introduce the Layered Sell Orders, which were Spoof Orders, into the E-mini market to create a false sense of supply, induce other market participants to react to this false sense of supply, and drive the price of E-mini futures contracts down, all so that defendant SARA O could profit, mitigate his potential loss, or open or liquidate his position at a more favorable price than was otherwise available before he activated the Dynamic Layering Technique.

Automated Technique #2 – “Back of Queue” Function

Another of the automated programs defendant SARA O used to place Spoof Orders modified a particular designated order by adding one lot to the order, thereby increasing the size of the designated order by one lot. This automated program was triggered when other market participants entered their order: (1) at a point in time after the defendant entered his designated order; and (2) at the same price point as the defendant's designated order (the “Back of Queue Function”). The effect of the automatic one-lot modification “up” was to revert defendant's order to the back of the order line or “queue” (while also increasing his order size by one lot), behind all other orders entered at that given price point, thus significantly reducing the risk that defendant's Back-of-Queue orders would be executed.

The operational effectiveness of the Back of Queue Function allowed defendant SARAO to place Spoof Orders close to or at the best price on either side of the market with a high degree of confidence that the orders would not be executed. This is because defendant's orders remained at the back of the queue and would not be filled unless all of the orders in front of defendant's Back-of-Queue order were first executed.

During and in furtherance of the Scheme, defendant SARAO activated the Back of Queue Functionality approximately 758 times, resulting in the placement of approximately 2,136 Back-of-Queue orders.

During the course of the Scheme (and excluding instances when the Dynamic Layering Technique was also active), defendant SARAO profited at least \$1,319,791.54 as a result of the Back of Queue Function.

At all times during the Scheme, the purpose and intent motivating defendant SARAO's activation of the Back of Queue Function was to introduce the Back-of-Queue orders, which were Spoof Orders, into the market to create a false sense of supply (in the case of a sell-side Back-of-Queue order) or demand (in the case of a buy-side Back-of-Queue order), induce other market participants to react, and drive the price of E-mini futures contracts down or up, all so that he could profit, mitigate his potential loss, or open or liquidate his position at a more favorable price than was otherwise available before he activated the Back of Queue Function.

Manual Technique #1 – “2,000-Lot Spoofing”

One of the manual spoofing techniques defendant SARAO employed was to place one or more 2,000-lot orders¹ for E-mini futures contracts at the best sell price or best buy price (the “2,000-Lot Spoof Orders”). These orders were placed in an attempt to induce other market participants to enter orders to buy and sell at prices and at times that, but for the 2,000-Lot Spoof Order, they otherwise would not have. The 2,000-Lot Spoof Orders also had the purpose and, in the vast majority of instances, the effect, of allowing defendant SARAO to trade Genuine Orders to buy at artificially low prices (if the 2,000-Lot Spoof Order was an order to “sell”) or to sell at artificially high prices (if the 2,000-Lot Spoof Order was an order to “buy”). Defendant SARAO accomplished this by placing orders that he intended to execute, and did execute, on the opposite side of the market from his 2,000-Lot Spoof Orders. By successfully executing these Genuine Orders opposite his 2,000-Lot Spoof Orders, defendant SARAO would and did profit by either closing or opening his position at artificial prices, for example, (1) closing a short position by buying at artificially low prices contracts that he had previously sold “short” at higher prices and (2) opening a short position by selling at artificially high prices contracts that he subsequently purchased at lower prices.

For example, one specific 2,000-Lot Spoofing strategy that defendant SARAO

¹ During the Relevant Period, a 2000-lot order was the largest possible order that could be placed on the CME for the purchase or sale of E-mini futures contracts.

employed involved: (1) placing a 2,000-Lot Spoof Order at the best bid or offer price; and (2) trading a Genuine Order opposite his 2,000-Lot Spoof Order either (a) while his 2,000-Lot Spoof Order was active or (b) within one second of canceling his 2,000-Lot Spoof Order. The majority of these 2,000-Lot Spoof Orders were canceled within two seconds of placement. When defendant SARAO's Genuine Orders were fully filled opposite his 2,000-Lot Spoof Orders, the defendant typically cancelled the 2,000-Lot Spoof Order within two seconds of fully filling his Genuine Orders. By monitoring the time and market movements immediately following the placement of his 2,000-Lot Spoof Orders, SARAO nearly always succeeded in canceling these 2,000-Lot Spoof Orders before they were executed.

During and in furtherance of the Scheme, defendant SARAO placed approximately 802 of the type of 2,000-Lot Spoof Orders that are described in the preceding paragraph and that occurred in instances where neither the Dynamic Layering Technique nor the Back of Queue Function was also active. With respect to these 802 2,000-Lot Spoof Orders, defendant SARAO profited approximately \$1,884,537.50 by causing artificial movement in the price of E-mini futures contracts and trading Genuine Orders opposite his Flash 2,000-Lot Spoof Orders.

At all times during the Scheme, the purpose and intent motivating defendant SARAO's placement of 2,000-Lot Spoof Orders was to introduce the 2,000-Lot Spoof Order into the market to create a false sense of supply or demand, induce other market

participants to react, and artificially drive the price of E-mini futures contracts down or up, or artificially increase the number of market participants willing to transact at the existing price, all so that he could profit, mitigate his potential loss, or open or liquidate his position at a more favorable price and/or quantity than was otherwise available before he placed the 2,000-Lot Spoof Order.

Manual Technique #2 – Resting Spoof Orders

Another manual technique the defendant SARAO used to place Spoof Orders was to place resting orders in quantities of hundreds of lots, at least one or two levels away from the best bid or offers (“Resting Orders”). Defendant SARAO often placed these Resting Orders in combination with other Spoof Orders, and would trade Genuine Orders opposite and close in time with the Resting Orders. Defendant SARAO typically canceled his Resting Order close in time with the execution of his Genuine Order and before the Resting Order was executed.

At all times during the Scheme, the purpose and intent motivating defendant SARAO’s placement of Resting Orders was to introduce the Resting Orders, which were Spoof Orders, into the market to create a false sense of supply (in the case of a sell-side Resting Order) or demand (in the case of a buy-side Resting Order), induce other market participants to react, and drive the price of E-mini futures contracts down or up, all so that he could profit, mitigate his potential loss, or open or liquidate his position at a more favorable price than was otherwise available before he placed the Resting Order.

SARAO's Unlawful Gain

During times relevant to the Scheme, and using just the four unlawful techniques described above, defendant SARAO made at least \$12,871,587.26 in unlawful gain from trading opposite his Spoof Orders.

Affirmative False Representations Made by SARAO to the CME and CFTC

During and in furtherance of the Scheme, defendant SARAO made materially false, fraudulent, and misleading statements and misrepresentations to CME and CFTC representatives. For example, on or about May 29, 2014, defendant SARAO sent an email to a representative of the UK Financial Conduct Authority ("FCA") providing written responses to a questionnaire that had been submitted to him by the FCA, at the request of the CFTC. In this response, which was ultimately transmitted from the UK to representatives of the CFTC in the United States, SARAO fraudulently stated that he "sometimes place[d]" orders "slightly away from the market price [that] move up and down as the market moves with it" (a reference to the Dynamic Layering Technique), and also falsely claimed that he placed these orders "rarely" when, in truth and in fact, and as defendant SARAO well knew, he had placed nearly 20,000 Layered Sell Orders (by activating the Dynamic Layering Technique over 3,600 times) between January 2010 and April 2014.

8. 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 crime and related conduct.

Maximum Statutory Penalties

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

a. A maximum sentence of 30 years' imprisonment. The statutory maximum period of imprisonment for Count 1 (wire fraud) is 20 years. The statutory maximum period of imprisonment for Count 22 (spoofing) is 10 years. Defendant further understands that the judge also may impose a term of supervised release of not more than three years for each of these offenses.

b. A criminal fine of: (1) for Count 1 (wire fraud), \$250,000 or twice the gross gain or gross loss resulting from the offense, whichever is greater; and (2) for Count 22 (spoofing), \$1,000,000 or twice the gross gain or loss resulting from the offense, whichever is greater.

c. Defendant further understands that, pursuant to Title 18, United States Code, Section 3663A, the Court must order restitution for persons directly and proximately harmed as a result of the defendant's violation of Count 1 (wire fraud), in an amount determined by the Court.

d. The defendant understands that the forfeiture of property in the amount of \$12,871,587.26, as set forth in paragraph 18 below, is part of the sentence that

must be imposed in this case pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

e. In accord with Title 18, United States Code, Section 3013, defendant must pay a mandatory special assessment of \$200 (\$100 on each count to which he has pled guilty), in addition to any other penalty, forfeiture, or restitution imposed.

Sentencing Guidelines Calculations

10. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must 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.

11. 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 1, 2016 Guidelines Manual.

b. **Offense Level Calculations.**

i. Grouping: Counts 1 and 22 are grouped together into a single Group because they are closely related counts involving the substantially the same harm, pursuant to Guideline §§ 3D1.2(a) and (d). Accordingly, the offense level applicable to the Group is the offense level for Count 1, pursuant to Guideline § 3D1.3.

ii. For Count 1, the base offense level is 7, pursuant to Guideline § 2B1.1(a)(1).

iii. Pursuant to Guideline § 2B1.1(b)(1)(K), defendant's offense level is increased by 20 levels because the gain that resulted from the offense (which the Court may use an alternative measure of loss in this case under Application Note 3(B)) exceeds \$9,500,000 but is less than \$25,000,000. The defendant's unlawful gain in this case is at least \$12,871,587.26.

iv. Pursuant to Guideline § 2B1.1(b)(2)(A), defendant's offense level is increased by 2 levels because the offense involved 10 or more victims.

v. Pursuant to Guideline §§ 2B1.1(b)(10)(B) and (C), defendant's offense level is increased by 2 levels because a substantial part of the fraudulent scheme was committed from outside the United States, the offense otherwise involved sophisticated means, and the defendant intentionally engaged in and caused the conduct constituting sophisticated means.

vi. 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 Fraud Section and the Probation Office with all requested financial information relevant to his ability to satisfy any fine, forfeiture, or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vii. 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 adjusted offense level is 28, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 78 to 97 months' imprisonment, in addition to any supervised release, fine, forfeiture, and restitution 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

12. Defendant agrees he will fully and truthfully cooperate in any matter in which he is called upon to cooperate by a representative of the Fraud Section. 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. Defendant further agrees to make himself available within seven (7) calendar days of any request by the Fraud Section.

Agreements Relating to Sentencing

13. 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 provided full and truthful cooperation as required by this Agreement, and

has rendered substantial assistance, then the government shall move the Court, pursuant to Guideline § 5K1.1, to depart downward from 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.

14. 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 within the applicable Guideline range set forth above in paragraph 11 (without prejudice to the defendant's ability to recommend a downward variance from that agreed-upon Guideline range), 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.

15. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

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. If the Court should order restitution, defendant agrees to the entry of a Restitution Order for the full amount of the victims' losses as determined by the Court. Pursuant to 18 U.S.C. § 3663A(c)(2), the defendant agrees that an offense listed in § 3663A(c)(1) gave rise to this Plea Agreement and as such, victims of the conduct described in the Indictment, Factual Basis, or any related or similar conduct shall be entitled to restitution. The parties further acknowledge, however, that pursuant to 18 U.S.C. 3663A(c)(3), and based on information currently available to the government, (i) determining complex issues of fact relating to the amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim may be outweighed by the burden on the sentencing process; and (ii) the number of identifiable victims may be so large as to make restitution impracticable. To that end, defendant agrees, pursuant to 18 U.S.C. § 3664(d)(5), that the court may defer the imposition of restitution, if any, until after the sentencing; however, defendant specifically waives the 90-day provision found at 18 U.S.C. § 3664(d)(5). Defendant further acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the Fraud Section of any material change in economic circumstances that might affect his ability to pay restitution.

18. Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), the defendant agrees to forfeit to the United States voluntarily and immediately any and all right, title, and interests in any property, real or personal, which constitutes or is derived from proceeds directly and indirectly traceable to the wire fraud alleged in Count 1, in violation of Title 18, United States Code, Section 1343, including but not limited to:

- a. Money Judgment – Judgment in favor of the United States of America for the sum of \$12,871,587.26 (USD), which constitutes or is derived from the value of the property, real or personal, that the defendant obtained from the wire fraud alleged in Count 1, in violation of Title 18, United States Code, Section 1343, or property traceable to such property.
- b. Personal Property – (i) All funds and monies contained in the bank account in the name of Kobre & Kim LLP IOLA Account, at HSBC Bank USA, with account number ending in 0009, to be credited against the above money judgment; and (ii) all bank accounts, brokerage accounts, investments, trusts, or financial interests of any kind wherever located, in the name of NAVINDER SINGH SARAO, NAV SARAO FUTURES LIMITED, in which NAVINDER SINGH SARAO has signatory authority, or over which the defendant exercises

any degree of control. The defendant agrees to assist the United States in locating the aforementioned bank accounts, brokerage accounts, investments, trusts, or financial interests of any kind – including such funds and monies contained in or previously restrained from bank accounts located overseas – and agrees to assist the United States in personally repatriating these funds to the United States, to the extent of the defendant’s right, title, and interest in such accounts, up to the value of \$12,871,587.26 (USD), to be credited against the above money judgment.

- c. Substitute Assets – (i) Any and all membership, right, title, interest, or “seat” on the Chicago Mercantile Exchange held by NAVINDER SINGH SARA0 or any entity over which the defendant exercises any degree of control; and (ii) any other property owned by the defendant up to the value of \$12,871,587.26 (USD), whether real or personal, if the above-described property, as a result of any act or omission of the defendant: (1) cannot be located upon the exercise of due diligence; (2) has been transferred or sold to, or deposited with, a third party; (3) has been placed beyond the jurisdiction of the court; (4) has been substantially diminished in value; or (5) has been commingled with other property which cannot be divided without difficulty, pursuant to

Title 21 United States Code, Section 853(p), as incorporated by Title 18, United States Code, Sections 982(b)(1) and 1028(g), and Title 28, United States Code, Section 2461(c).

Defendant agrees that the above-described property is subject to forfeiture pursuant to the aforementioned statutes. Defendant agrees to fully assist the United States in the forfeiture of the listed property and to take whatever steps are necessary to pass clear title to the United States, including but not limited to surrender of title and execution of any documents necessary to transfer defendant's interest in any of the above property to the United States, to voluntarily repatriate forfeited funds contained in the overseas bank accounts referenced above in subparagraph (b), and take whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. Defendant agrees not to file a claim to the listed property in any civil proceeding, administrative or judicial, which may be initiated. Defendant agrees to waive the right to notice of any forfeiture proceeding involving the above described property, and agrees not to file a claim or assist others in filing a claim in that forfeiture proceeding. Defendant knowingly and voluntarily waives the right to a jury trial on the forfeiture of assets. Defendant knowingly and voluntarily waives all constitutional, legal and equitable defenses to the forfeiture of these assets in any proceeding. Defendant 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 assets by the United States or its subdivisions. Forfeiture of assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the Defendant in addition to the forfeiture. Defendant waives the requirements of Rules 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of forfeiture in the charging instrument, announcement of forfeiture at sentencing, and incorporation of forfeiture in the judgment. Defendant and defendant's attorney also understand that the United States may file motions for preliminary and final orders of forfeiture regarding the property described herein, and they agree that the United States may file such motions unopposed and may state in the certificates of conference for the motions that the defendant has no objection to the relief sought without having to further contact the defendant or defendant's attorney.

19. 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 in the Indictment against the defendant.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

20. This Agreement is entirely voluntary and represents the entire agreement between the Fraud Section and defendant regarding defendant's criminal liability in case 15 CR 75.

21. 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 Fraud Section and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

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. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

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, 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 on 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 on 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, pre-trial rulings by the Court, and his right to challenge his sentence, and the manner in which the sentence was determined, including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution and forfeiture, 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, in exchange for the concessions made by the government in this Agreement. The waiver in

this paragraph 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 Fraud Section, 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 charge 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 Fraud Section, 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, restitution, and forfeiture during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure of his tax returns (together with extensions, correspondence, and other tax information) and related tax filings and materials to the Probation Office and the Fraud Section 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.

Other Terms

27. Defendant agrees to cooperate with the Fraud Section in collecting any unpaid fine, forfeiture, and restitution for which defendant is liable, including, upon request, providing financial statements under oath or affirmation and supporting records and submitting to interviews by the United States and the U.S. Probation Office regarding the defendant's capacity to satisfy any fines, restitution, or forfeiture.

28. Defendant understands that any person convicted of a felony under Title 7, United States Code, Section 13—which includes the offense charged in Count 22 to which

defendant is pleading guilty—shall be suspended from registration under that chapter and shall be denied registration or reregistration for five years or such longer period as the Commodity Futures Trading Commission (the “Commission”) may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for five years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines otherwise. Defendant understands that nothing in this agreement alters the Commission’s statutory authority or discretion to effect any such suspension, denial, or bar against him, or otherwise binds the Commission in any way. Defendant nevertheless affirms that defendant wants to plead guilty regardless of any collateral consequences that defendant’s plea may entail under Title 7, United States Code, Section 13, or other applicable laws relating to the Commission’s authority over the defendant.

29. Defendant understands that, when convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future. Under federal law, a broad range of crimes are removable offenses, including the offense to which defendant is pleading guilty. Because removal and other immigration consequences are the subjects of a separate proceeding, the defendant understands that no one, including defendant’s attorney or the District Court, can predict to a certainty the effect of the defendant’s conviction on defendant’s immigration status. Defendant nevertheless affirms that defendant wants to

plead guilty regardless of any immigration consequences that defendant's plea may entail, even if the consequence is the defendant's automatic removal from the United States.

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. Defendant further understands that, should defendant violate any of the conditions of this Agreement, or move to withdraw his plea of guilty: (a) the “Factual Basis” set forth in this Plea Agreement shall be admissible as substantive evidence in any criminal or civil proceeding brought against the defendant; (b) all (i) statements made by the defendant to the Fraud Section or other designated law enforcement agents and (ii) testimony given by the defendant before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony, shall be admissible in evidence in any criminal or civil proceeding brought against the defendant; and (c) the defendant shall assert no claim under the United States Constitution, the United States Sentencing Guidelines, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other federal rule that the Factual Basis or any statements made by the defendant or any leads derived from such statements should be suppressed or are otherwise inadmissible. It is the intent of this Agreement to waive all rights in the foregoing respects.

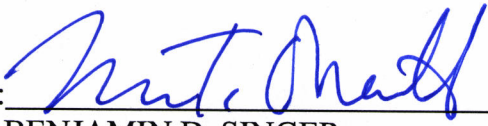
33. Should the judge refuse to accept defendant’s plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

34. 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.

35. 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: 11/9/2016

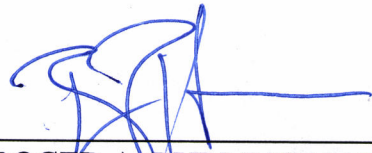
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