



U.S. Department of Justice  
United States Attorney  
District of New Jersey

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VK/PL AGR  
2013R00069

August 17, 2017

Anthony J. Iacullo, Esq.  
Iacullo Martino LLC  
247 Franklin Avenue  
Nutley, NJ 07110

Re: Plea Agreement with PHILIP D. ZACCHE

Dear Mr. Iacullo:

This letter sets forth the plea agreement between your client, PHILIP D. ZACCHE, and the United States Attorney for the District of New Jersey ("this Office"). Should your client wish to accept this agreement, the executed agreement must be received by this Office no later than close of business on August 25, 2017. If an executed agreement is not returned to this Office by that date, this offer will expire.

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from PHILIP D. ZACCHE to an Information, which charges him with embezzling, stealing, obtaining by fraud, misapplying, and without authority knowingly converting to the use of other persons other than the rightful owner \$5,000 and more owned by, and under the care, custody and control of, the Jersey City Housing Authority, in violation of Title 18, United States Code, Section 666(a)(1)(A). If PHILIP D. ZACCHE enters a guilty plea and is sentenced on this charge, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against PHILIP D. ZACCHE for embezzling, stealing,

obtaining by fraud, misapplying, and knowingly converting, property owned by and under the care, custody and control of the Jersey City Housing Authority in connection with off-duty work for Jersey City police officers from in or about 2010 to in or about 2014. However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, PHILIP D. ZACCHE agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by PHILIP D. ZACCHE may be commenced against him, notwithstanding the expiration of the limitations period after PHILIP D. ZACCHE signs the agreement.

Sentencing

The violation of 18 U.S.C. § 666 to which PHILIP D. ZACCHE agrees to plead guilty carries a statutory maximum prison sentence of 10 years, and a statutory maximum fine equal to the greatest of: (1) \$250,000; (2) twice the gross amount of any pecuniary gain that any persons derived from the offense; or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon PHILIP D. ZACCHE is within the sole discretion of the sentencing judge, subject to the provisions of the Sentencing Reform Act, 18 U.S.C. § 3551-3742, and the sentencing judge's consideration of the United States Sentencing Guidelines. The United States Sentencing Guidelines are advisory, not mandatory. The sentencing judge may impose any reasonable sentence up to and including the statutory maximum term of imprisonment and the maximum statutory fine. This Office cannot and does not make any representation or promise as to what guideline range may be found by the sentencing judge, or as to what sentence PHILIP D. ZACCHE ultimately will receive.

Further, in addition to imposing any other penalty on PHILIP D. ZACCHE, the sentencing judge: (1) will order PHILIP D. ZACCHE to pay an assessment of \$100 pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) must order PHILIP D. ZACCHE to pay restitution to all victims of the offense, pursuant to 18 U.S.C. § 3663 et seq.;

(3) may order PHILIP D. ZACCHE, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offense; (4) must order forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461; and (5) pursuant to 18 U.S.C. § 3583, the Court may require PHILIP D. ZACCHE to serve a term of supervised release of not more than 3 years, which will begin at the expiration of any term of imprisonment imposed. Should PHILIP D. ZACCHE be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, PHILIP D. ZACCHE may be sentenced to not more than 2 years' imprisonment, in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

#### Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed on PHILIP D. ZACCHE by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of PHILIP D. ZACCHE's activities and relevant conduct with respect to this case.

#### Stipulations

This Office and PHILIP D. ZACCHE agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations entered into by the parties. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate on the part of this Office is based on the information

and evidence that this Office possesses as of the date of this agreement. Thus, if this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in the attached Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or PHILIP D. ZACCHE from any other portion of this agreement, including any other stipulation. If the sentencing court rejects a stipulation, both parties reserve the right to argue on appeal or at post-sentencing proceedings that the sentencing court was within its discretion and authority to do so. These stipulations do not restrict this Office's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

#### Waiver of Appeal and Post-Sentencing Rights

As set forth in Schedule A, this Office and PHILIP D. ZACCHE waive certain rights to file an appeal, collateral attack, writ, or motion after sentencing, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255.

#### Forfeiture

PHILIP D. ZACCHE agrees that as part of his acceptance of responsibility and pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, he will consent to the entry of a forfeiture money judgment in the amount of \$24,700 (the "Forfeiture Money Judgment"), representing the property constituting or derived, directly and indirectly, from proceeds traceable to the commission of the offense, in violation of 18 U.S.C. § 666(a)(1)(A), charged in the Information (an offense constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7)).

PHILIP D. ZACCHE understands and agrees that this office intends to seek forfeiture of substitute assets pursuant to 21 U.S.C. § 853(p) (incorporated by 28 U.S.C. § 2461(c)) as to any unpaid portion of the Forfeiture Money Judgment and any specific property if the criteria set forth in 21 U.S.C. § 853(p) are met.

PHILIP D. ZACCHE agrees to consent to the entry of orders of forfeiture for the Forfeiture Money Judgment and waives the requirements of Rules 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. PHILIP D. ZACCHE understands that the forfeiture of the Forfeiture Money Judgment is part of the sentence that may be imposed in this case and waives any failure by the court to advise him of this pursuant to Rule 11(b)(1)(J) of the Federal Rules of Criminal Procedure at the guilty plea proceeding.

PHILIP D. ZACCHE hereby waives any and all claims that this forfeiture constitutes an excessive fine and agrees that this forfeiture does not violate the Eighth Amendment.

PHILIP D. ZACCHE represents that he will disclose all of his assets to the United States in a Financial Disclosure Statement. PHILIP D. ZACCHE agrees that if this Office determines that he has intentionally failed to disclose assets on that Financial Disclosure Statement, that failure constitutes a material breach of this agreement. In addition, PHILIP D. ZACCHE consents to the administrative, civil, and/or criminal forfeiture of his interests in any assets that he failed to disclose on the Financial Disclosure Statement. Should undisclosed assets that PHILIP D. ZACCHE owns or in which PHILIP D. ZACCHE has an interest be discovered, PHILIP D. ZACCHE knowingly and voluntarily waives his right to any required notice concerning the forfeiture of said assets. PHILIP D. ZACCHE further agrees to execute any documents necessary to effectuate the forfeiture of said assets. PHILIP D. ZACCHE further understands that any forfeiture of his assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon him in addition to forfeiture.

### Immigration Consequences

PHILIP D. ZACCHE understands that, if he is not a citizen of the United States, his guilty plea to the charged offense will likely result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. PHILIP D. ZACCHE understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. PHILIP D. ZACCHE wants and agrees to plead guilty to the charged offense regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. PHILIP D. ZACCHE understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, PHILIP D. ZACCHE waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

### Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested to do so.

This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against PHILIP D. ZACCHE. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service) or any third party from initiating or prosecuting any civil or administrative proceeding against PHILIP D. ZACCHE.

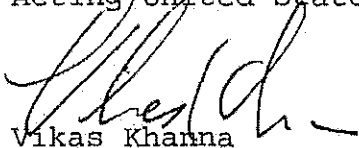
No provision of this agreement shall preclude PHILIP D. ZACCHE from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack, writ, or motion claiming that PHILIP D. ZACCHE received constitutionally ineffective assistance of counsel.

No Other Promises

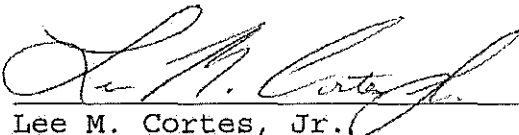
This agreement constitutes the plea agreement between PHILIP D. ZACCHE and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

WILLIAM E. FITZPATRICK  
Acting United States Attorney

  
By: Vikas Khanna  
Assistant U.S. Attorney

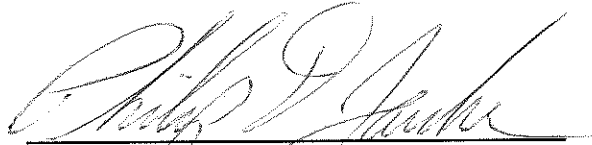
APPROVED:



Lee M. Cortes, Jr.  
Deputy Chief, Special Prosecutions Division

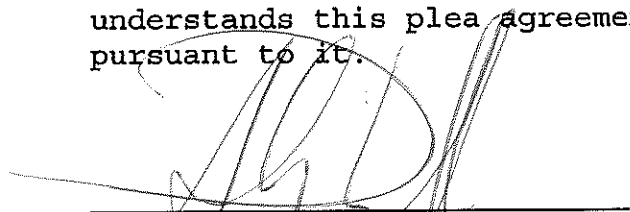
I have received this letter from my attorney, Anthony J. Iacullo, Esq. I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, forfeiture, restitution, and immigration consequences. I understand this letter fully. I hereby accept its terms and conditions and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:

  
PHILIP D. ZACCHE

Date: 8/9/17

I have discussed with my client this plea agreement and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, forfeiture, restitution, and immigration consequences. My client understands this plea agreement fully and wants to plead guilty pursuant to it.

  
Anthony J. Iacullo, Esq.

Date: 8/19/17



Plea Agreement With PHILIP D. ZACCHE

Schedule A

1. This Office and PHILIP D. ZACCHE recognize that the United States Sentencing Guidelines are not binding upon the Court. This Office and PHILIP D. ZACCHE nevertheless agree to the stipulations set forth herein.

2. The version of the United States Sentencing Guidelines effective as of November 1, 2016 applies in this case.

3. Because PHILIP D. ZACCHE has been charged with violating 18 U.S.C. § 666(a)(1)(A), the applicable guideline for that offense is U.S.S.G. § 2B1.1. This guideline carries a Base Offense Level of 6. See U.S.S.G. § 2B1.1(a)(2)

4. Specific Offense Characteristic U.S.S.G. § 2B1.1(b)(1)(C) applies because the loss caused by the fraudulent off-duty compensation that PHILIP D. ZACCHE received was greater than \$15,000 but less than or equal to \$40,000. This results in an increase of 4 levels.

5. Specific Offense Characteristic U.S.S.G. § 3B1.3 applies because PHILIP D. ZACCHE abused a position of public trust in a manner that significantly facilitated the commission and concealment of the offense. This results in an increase of 2 levels.

6. As of the date of this letter, PHILIP D. ZACCHE has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offense charged. Therefore, a downward adjustment of 2 levels for acceptance of responsibility is appropriate if PHILIP D. ZACCHE's acceptance of responsibility continues through the date of sentencing. See U.S.S.G. § 3E1.1(a).

7. In accordance with the above, the parties agree that the total Guidelines offense level applicable to PHILIP D. ZACCHE is 10 (the "agreed total Guidelines offense level").

8. Pursuant to Title 18, United States Code, Section 3553(a), PHILIP D. ZACCHE reserves the right to move for a

variance. This Office reserves the right to oppose such a motion. The parties agree not to seek or argue for any upward or downward departure or adjustment not set forth herein.

9. PHILIP D. ZACCHE knows that he has and, except as noted below in this paragraph, voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the sentence imposed by the sentencing court if that sentence falls within or below the Guidelines range that results from the agreed total Guidelines offense level of 10. This Office will not file any appeal, motion, or writ which challenges the sentence imposed by the sentencing court if that sentence falls within or above the Guidelines range that results from the agreed total Guidelines offense level of 10. The parties reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, if the sentencing court accepts a stipulation, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so.

10. Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion barred by the preceding paragraph and to file or to oppose any appeal, collateral attack, writ or motion not barred by the preceding paragraph.