



U.S. Department of Justice

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JM/PL AGR  
2012R00108

July 15, 2016

Steven D. Altman, Esq.  
247 Livingston Avenue  
New Brunswick, NJ 08901

Re: Plea Agreement with John Cheng

Dear Mr. Altman:

This letter sets forth the plea agreement between your client, John Cheng, and the United States Attorney for the District of New Jersey ("the Office"). This offer will expire if it is not accepted in writing by July 29, 2016.

Charge

Conditioned on the understandings specified below, the Office will accept a guilty plea from John Cheng to a one-count information, which charges loan application fraud in violation of 18 U.S.C. § 1014. If John Cheng enters a guilty plea and is sentenced on this charge, and otherwise fully complies with all of the terms of this agreement, the Office will not initiate any further criminal charges against John Cheng for loan application fraud for the years 2005-2014. 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, defendant 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 John Cheng may be commenced against him, notwithstanding the expiration of the limitations period after John Cheng signs the agreement.

### Sentencing

The violation of 18 U.S.C. § 1014 to which John Cheng agrees to plead guilty carries a statutory maximum prison sentence of 30 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 John Cheng 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. The 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 John Cheng ultimately will receive.

Further, in addition to imposing any other penalty on John Cheng, the sentencing judge: (1) will order John Cheng 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 John Cheng to pay restitution pursuant to 18 U.S.C. § 3663 et seq.; (3) may order John Cheng, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offense; and (4) pursuant to 18 U.S.C. § 3583, may require John Cheng to serve a term of supervised release of not more than 5 years, which will begin at the expiration of any term of imprisonment imposed. Should John Cheng be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, John Cheng may be sentenced to not more than 3 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.

In addition, John Cheng agrees to make full restitution in the amount of \$2,657,687.15 to BNB Hana Bank.

#### Rights of The Office Regarding Sentencing

Except as otherwise provided in this agreement, the Office reserves its right to take any position with respect to the appropriate sentence to be imposed on John Cheng 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, the Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of John Cheng's activities and relevant conduct with respect to this case.

#### Stipulations

The Office and John Cheng 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 the Office is based on the information and evidence that the Office possesses as of the date of this agreement. Thus, if the 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, the Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either the Office or John Cheng 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 the Government's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

### Forfeiture

As part of his acceptance of responsibility, and pursuant to 18 U.S.C. § 982(a)(2), defendant John Cheng consents to the entry of a criminal forfeiture money judgment in the amount of \$1,696,506 (the "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. § 1014 charged in the Information (an offense constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7)). Payments of the Money Judgment shall be made by certified or bank check, with the criminal docket number noted on the face of the check, payable to the United States Marshals Service and delivered to the United States Attorney's Office, District of New Jersey, 970 Broad Street, Newark, New Jersey 07102, Attention; Asset Forfeiture and Money Laundering Unit.

Defendant John Cheng further 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. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, the defendant consents to the entry of judgment of forfeiture that will be final as to the defendant prior to sentencing. The defendant understands that criminal forfeiture pursuant to 21 U.S.C. § 853 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. It is further understood that any forfeiture of the defendant's 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. The defendant hereby waives any and all claims that this forfeiture constitutes an excessive fine and agrees that this forfeiture does not violate the Eighth Amendment.

### Waiver of Appeal and Post-Sentencing Rights

As set forth in Schedule A, the Office and John Cheng 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.

### Immigration Consequences

John Cheng understands that, if he is not a citizen of the United States, his guilty plea to the charged offense may 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. John Cheng understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. John Cheng 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. John Cheng understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, John Cheng 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, the Office will bring this agreement to the attention of other prosecuting Office, 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 John Cheng. 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 John Cheng.

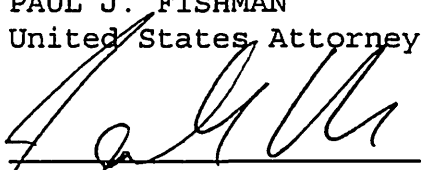
No provision of this agreement shall preclude John Cheng from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack, writ, or motion claiming that John Cheng received constitutionally ineffective assistance of counsel.

No Other Promises


This agreement constitutes the plea agreement between John Cheng and the 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,

PAUL J. FISHMAN  
United States Attorney

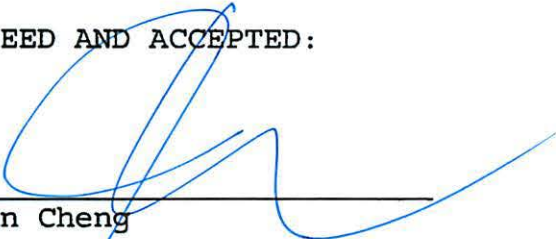
  
By: JOSEPH MACK  
Assistant U.S. Attorney

APPROVED:

  
\_\_\_\_\_  
Jacob T. Elberg  
Unit Chief, Health Care and Government Fraud

I have received this letter from my attorney, Steven D. Altman, Esq., and I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, restitution, forfeiture, waiver, immigration consequences, and other provisions. 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:

  
\_\_\_\_\_  
John Cheng

Date: *8/11/16*

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

  
\_\_\_\_\_  
Steven D. Altman, Esq.

Date: *8/11/16*

Plea Agreement With John Cheng

Schedule A

1. The Office and John Cheng recognize that the United States Sentencing Guidelines are not binding upon the Court. The Office and John Cheng nevertheless agree to the stipulations set forth herein, and agree that the Court should sentence John Cheng within the Guidelines range that results from the total Guidelines offense level set forth below. The Office and John Cheng further agree that neither party will argue for the imposition of a sentence outside the Guidelines range that results from the agreed total Guidelines offense level.

2. The version of the United States Sentencing Guidelines effective November 1, 2015 applies in this case. The defendant is pleading guilty to a violation of 18 U.S.C. § 1014, which is referenced to U.S.S.G. § 2B1.1 and has a statutory maximum term of imprisonment of 20 years or more; accordingly, pursuant to U.S.S.G. § 2B1.1(a)(1), the Base Offense Level is 7.

3. The offense of conviction and relevant conduct resulted in losses of more than \$1,500,000 but less than \$3,500,000 and therefore an upward adjustment of 16 levels is appropriate pursuant to U.S.S.G. § 2B1.1(b)(1)(I).

4. As of the date of this letter, John Cheng 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 John Cheng's acceptance of responsibility continues through the date of sentencing. See U.S.S.G. § 3E1.1(a).

5. As of the date of this letter, John Cheng has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently. If John Cheng enters a plea pursuant to this agreement and qualifies for a 2-point reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), and if in addition John Cheng's offense level under the Guidelines prior to the operation of U.S.S.G. § 3E1.1(a) is 16 or greater, John Cheng will be entitled to a



further 1-point reduction in his offense level pursuant to U.S.S.G. § 3E1.1(b).

6. In accordance with the above, the parties agree that the total Guidelines offense level applicable to John Cheng is 20 (the "agreed total Guidelines offense level").

7. The parties agree not to seek or argue for any upward or downward departure, adjustment or variance not set forth herein. The parties further agree that a sentence within the Guidelines range that results from the agreed total Guidelines offense level of 20 is reasonable.

8. John Cheng 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 20. The 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 20. 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.

9. 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.