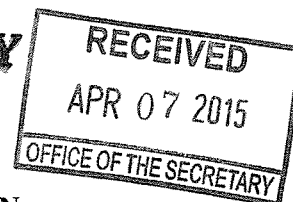


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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16380

In the Matter of

JORDON MCCARTY,

Respondent.

**DIVISION OF ENFORCEMENT'S MOTION
FOR SUMMARY DISPOSITION AGAINST RESPONDENT
JORDON MCCARTY AND SUPPORTING MEMORANDUM OF LAW**

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RULES

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I. Introduction

Pursuant to Rule 250 of the Commission's Rules of Practice, the Division of Enforcement (the "Division") respectfully moves for summary disposition and the imposition of an industry bar from association and a penny stock bar against Respondent Jordon McCarty ("Respondent") pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 ("Exchange Act"). The Division sets forth its grounds below.

II. History of the Case

The Commission issued the Order Instituting Proceedings ("OIP") on February 6, 2015, pursuant to Section 15(b) of the Exchange Act. In summary, the OIP alleges that Respondent solicited investors on the false representation that he would invest their funds in purported land developments in the Bahamas when, in fact, he did not invest the funds but instead used them for personal spending. These facts led to Respondent's guilty plea in the criminal case against him.

On March 9, 2015, a telephonic pre-hearing conference was held, but due to circumstances beyond the control of the parties, Respondent was unable to join the conference. A second pre-hearing conference was held on March 17, 2015 and all parties were present. At that pre-hearing conference, the Law Judge set a briefing schedule, including a filing deadline of April 6, 2015 for the Division's motion for summary disposition.

III. Memorandum of Law

A. Respondent's Criminal Case

On May 2, 2013, a federal grand jury returned a superseding indictment against Respondent, charging him with conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349 and wire fraud in violation of 18 U.S.C. § 1343 (D.E. 72, Superseding Indictment, *United States v. Foster, et al.*, No. 1:13-cr-20063 (S.D. Fla.) (attached as Exhibit 1)).

On September 13, 2013, Respondent entered into a plea agreement pursuant to which he pled guilty to one count of conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349. (D.E. 147, Plea Agreement (attached as Exhibit 2)). In exchange for his guilty plea, the United States dismissed the wire fraud charges against Respondent. On November 26, 2013, the district court judge sentenced Respondent to 78 months imprisonment followed by a three-year term of supervised release. (D.E. 249, Judgment (attached as Exhibit 3)).

B. Facts Determined Against Respondent

As an initial matter, Respondent's conviction estops him from disputing the facts relevant to this matter. *Eric S. Butler*, Exchange Act Release No. 65204, at 7 n.23, 2011 WL 3792730 (Aug. 26, 2011); *see also Elliott v. SEC*, 36 F.3d 86, 86 (11th Cir. 1994) (refusing in a follow-on proceeding to "entertain the collateral attack on the criminal conviction"). When, as here, the conviction results from a guilty plea, the respondent is bound by the facts admitted in the plea agreement. *See Don Warner Reinhard*, 100 S.E.C. Docket 731, 2011 WL 121451, *7 (Jan. 14, 2011) (respondent who pleaded guilty "cannot now dispute the accuracy of the findings set out in the Factual basis for Plea Agreement"); *Gary M. Kornman*, Securities Exchange Act Release No. 59403 (Feb. 13, 2009), 95 SEC Docket 14246, 14257 (criminal conviction based on guilty plea precludes litigation of issues in Commission proceedings). The Law Judge may also consider the indictment as part of "the factual framework for [an] analysis of the conviction[]." *Butler*, Exchange Act Release No. 65204, at 7 n.23, 2011 WL 3792730 (Aug. 26, 2011).

Here, the indictment and plea agreement¹ establish the following: from 2009 through 2012, Respondent "willfully and knowingly" conspired with others with the intent to devise a fraudulent scheme. Respondent induced investors to invest in purported land developments in

¹The undersigned's review of the plea colloquy transcript revealed no further details regarding Respondent's conduct, and the presentence report is "confidential." S.D. Fla. Gen. R. 88.1.

the Bahamas through investments in Paradise is Mine, LLC (“Paradise is Mine”), a Florida-registered company. Plea Agr., D.E. 147, p.14; Indictment, D.E. 72, p.1 ¶ 1, p.4 ¶ 4. Respondent led investors to believe that Paradise is Mine was a successful real estate company that was developing a celebrity-filled residential community in the Bahamas. Respondent gave investors the option to buy real estate in the community or make loans to Paradise is Mine. Indictment, D.E. 72, p.4 ¶ 4. Respondent promised investors a fixed interest rate of 10% to 20% of their investment, and in some instances guaranteed that investors would receive a return of their full principal. Plea Agr., D.E. 147, p.14. To further induce investors, Respondent and his co-conspirators held investor calls and meetings and distributed promotional materials, including fabricated newspaper articles about Paradise is Mine. Plea Agr., D.E. 147, p.14; Indictment, D.E. 72, p.5 ¶ 7.

Despite these representations, Respondent did not invest money in a residential development in the Bahamas. Instead, Respondent and his co-conspirators used the money to fund their personal expenses. Plea Agr., D.E. 147, p.14. Indeed, in a recorded conversation between Respondent and his co-conspirator, Respondent was urged to raise more money from one investor “so that they could split that money 50/50 between them.” *Id.* at 15. Respondent failed to disclose to potential investors that: (1) the investor money would not be used to purchase or develop land in the Bahamas; (2) investor money would be withdrawn as cash for the personal use of Respondent and his co-conspirators, and would not be invested in the manner explained to investors; or (3) Respondent fabricated news articles regarding the development successes of Paradise is Mine. Indictment, D.E. 72, pp. 6-7, ¶ 12. In addition, Respondent admitted to participating in a second scheme to defraud investors. Combined, Respondent induced approximately 100 investors to invest \$6.5 million. Plea Agr., D.E. 147, p.14.

C. Summary Disposition is Appropriate

1. Because of Respondent's Conviction, There are No Disputed Facts

The Law Judge should grant a motion for summary disposition if there is “no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law.” 17 C.F.R. § 201.250(b). Here, since “[a]ll material facts that concern the activities for which [Respondent] was convicted were decided against him in the criminal case,” summary disposition is appropriate. *Adam Harrington*, Initial Decision Release No. 484, at 1, 2013 WL 1655690 (Apr. 17, 2013), *review dismissed*, Exchange Act Release No. 70149, 2013 WL 4027264 (Aug. 8, 2013); *Alan Brian Baiocchi*, Initial Decision Release No. 382, at 1, 2009 WL 2030524 (July 14, 2009).

2. The Undisputed Facts Entitle the Division to Summary Disposition as a Matter of Law

The facts determined in Respondent's criminal case entitle the Division to summary disposition as a matter of law. The Division seeks relief under Section 15(b)(6)(A) of the Exchange Act, which provides in relevant part:

With respect to any person . . . at the time of the alleged misconduct, who was associated with a broker . . . the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person—

* * * *

(ii) has been convicted of any offense specified in [Exchange Act Section 15(b)(4)(B)] within 10 years of the commencement of the proceedings under this paragraph

15 U.S.C. § 78o(b)(6)(A). Each of the requirements of Section 15(b)(6)(A)—timely issuance of the OIP, conviction under a qualifying statute, and misconduct committed while Respondent was associated with a broker or dealer—is satisfied here.

a. The Division Timely Filed this Action

The Division must commence a proceeding under Section 15(b)(6)(A)(ii) within “10 years” of the criminal conviction. *See Joseph Contorinis*, Exchange Act Release No. 72031, at 4-6, 2014 WL 1665995 (Apr. 25, 2014) (10-year limitations period governs Section 15(b)(6)(A)(ii) proceeding; limitations period runs from date of conviction, not underlying conduct). Here, Respondent was convicted in 2013, and the OIP was issued in 2015. Therefore, this matter was timely filed.

b. Respondent Was Convicted of a Qualifying Offense

Respondent’s conspiracy to commit wire fraud conviction triggers the Commission’s ability to sanction him under Section 15(b)(6)(A)(ii), which permits the Commission to seek the relief requested here if a person has been convicted of an offense set forth in Exchange Act Section 15(b)(4)(B). *See* 15 U.S.C. §§ 78o(b)(4)(B), 78o(b)(6)(A)(ii). Here, Respondent’s conviction and the conduct underlying his conviction involved the sale of securities, arose out of the conduct of the business of a broker, and involved fraudulent concealment and misappropriation of funds and thus fall squarely within the requirements of Exchange Act Section 15(b)(4)(B)(i)-(iii).

c. Respondent Was Associated with a Broker at the Time of the Misconduct

Section 15(b)(6)(A) requires that Respondent have been a “person . . . associated with a broker” at the time of the misconduct.² The broker in question need not have been a registered broker. *See Jenny E. Coplan*, Initial Decision Release No. 595, at 2 n.3, 2014 WL 1713067 (May 1, 2014). Moreover, if Respondent was a broker at the time of the misconduct, he will also be a “person controlling . . . such broker,” thus satisfying the requirement that he have been a person associated with a broker. 15 U.S.C. § 78c(a)(18); *cf. Anthony J. Benincasa*, Admin. Proc. File No. 3-8825, 2001 WL 99813, *2 (Feb. 7, 2001) (individual acting as investment adviser would also control investment adviser and therefore meet definition of “person associated with an investment adviser”).

With respect to Respondent’s broker status, Exchange Act Section 3(a)(4)(A) defines a “broker” as “any person engaged in the business of effecting transactions in securities for the account of others.” 15 U.S.C. § 78c(a)(4)(A). The definition connotes “a certain regularity of participation in securities transactions at key points in the chain of distribution.” *Mass. Fin. Serv., Inc. v. Sec. Investor Prot. Corp.*, 411 F. Supp. 411, 415 (D. Mass.), *aff’d*, 545 F.2d 754 (1st Cir. 1976); *see also SEC v. Martino*, 255 F. Supp. 2d 268, 283 (S.D.N.Y. 2003) (citing, among other cases, *SEC v. Margolin*, No. 92-Civ-6307 (PKL), 1992 WL 279735, at *5 (S.D.N.Y. Sept. 30, 1992) (“‘brokerage’ conduct may include receiving transaction-based income, advertising for clients, and possessing client funds and securities”)).

²Although the misconduct here did not involve penny stocks, a penny stock bar is nevertheless authorized because Davis was associated with a broker at the time of the misconduct. *See George Louis Theodule*, Initial Decision Release No. 607, at 6 n.6, 2014 WL 2447731 (June 2, 2014).

Because neither of the phrases “engaged in the business” or “effecting transactions” is defined in the Exchange Act, courts and the Commission have examined a variety of factors considered in determining whether a person acted as a broker. For example, the Southern District of Florida listed the following factors: “[W]hether the person: 1) actively solicited investors; 2) advised investors as to the merits of an investment; 3) acted with a ‘certain regularity of participation in securities transactions’; 4) received commissions or transaction-based remuneration; 5) is an employee of the issuer; 6) is selling, or previously sold, the securities of other issuers; 7) is involved in negotiations between the issuer and the investor; 8) analyzes the financial needs of an issue; 9) recommends or designs financing methods; 10) discusses the details of securities transactions; and 11) makes investment recommendations.” *SEC v. U.S. Pension Trust Corp* 2010 WL 3894082, at *21 (S.D. Fla. Sept. 30, 2010) (citations omitted). The factors listed above are not exclusive, and not all of them, or any particular number of them, must be satisfied for a person to be a broker. *See SEC v. Bengler*, 697 F. Supp. 2d 932, 945 (N.D. Ill. 2010) (explaining that six factors listed in *SEC v. Hansen*, 1984 WL 2413, at *10 (S.D.N.Y. Apr. 6, 1984) as relevant to determinations of whether a person acted as a broker “were not designed to be exclusive”).

The Commission has looked at solicitation as “one of the most relevant factors in determining whether a person is effecting transactions.” *Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934*, Interim Final Rule Release No. 34-44291, 2001 WL 1590253, at *20 n.124. The Sixth Circuit similarly held that a defendant’s involvement in communications with and recruitment of investors for the purchase of securities was strongly indicative of broker conduct. *SEC v. George*, 426 F.3d 786, 793 (6th Cir. 2005). Courts and the

Commission have also looked at the receipt of transaction-based compensation as a strong indicator of broker-dealer activity. *See, e.g., Cornhusker Energy Lexington, LLC v. Prospect St. Ventures*, 2006 WL 2620985 at *6; *see also SEC v. Margolin*, 1992 WL 279735; *Persons Deemed Not To Be Brokers*, (SEC Adopting Release for Rule 3a4-1 of the Exchange Act) Rel. No. 34-22172 (June 27, 1985). Although a person need not receive transaction-related compensation to be a broker, transaction-based compensation can include investor funds misappropriated by a person regularly involved in the active solicitation of investors. *See George*, 426 F.3d at 793; *see also SEC v. Vestron Fin. Corp.* Case No. 01-4269-CIV-SEITZ (S.D. Fla. Oct. 16, 2001) (defendant acted as an unregistered broker and received transaction-related compensation in the form of misappropriated offering proceeds); *United States v. Elliott*, 62 F.3d 1304, 1310-11 (11th Cir. 1995) (two managers of a Ponzi scheme “received ‘transaction-based compensation’ whenever a customer implemented their advice by purchasing” one of the investment products they offered: one received a commission, and the other “received the investment principal, which he commingled with his personal funds”).

Here, Respondent pled guilty to conspiring to commit wire fraud for his misconduct while engaged in the offer and sale of unregistered securities. Respondent held himself out as a broker, solicited investors, and received transaction-based compensation. As detailed in the superseding indictment and the plea agreement, from 2009 to at least 2012, Respondent solicited investors by telling them that their money would be invested in Paradise is Mine for the development of real estate in the Bahamas, promised investors fixed rates of return between 10% and 20%, and in some instances guaranteed that investors would receive a return of their full principal after a certain amount of time. Plea Agr., D.E. 147, p.14; Indictment, D.E. 72, p.4 ¶ 4. Respondent regularly and routinely engaged in securities transactions by soliciting at least ninety

investors and promising fixed interest rates between 10 and 20%. Plea Agr., D.E. 147, p.14. Further, Respondent received transaction-based compensation in the form of misappropriated funds. According to the plea agreement, Respondent taped a conversation in which Respondent's co-conspirator urged him to solicit additional investors so they could split the money 50/50. Plea Agr., D.E. 147, p.15. Therefore, Respondent was a broker and a person associated with a broker during the time of the misconduct.

d. Industry and Penny Stock Bars Are Appropriate Sanctions

In determining whether an administrative sanction is in the public interest, the Commission considers: (1) the egregiousness of a respondent's actions; (2) the isolated or recurrent nature of the violations; (3) the degree of scienter involved; (4) the respondent's assurances against future violations; (5) the respondent's recognition of the wrongful nature of his conduct; and (6) the likelihood the respondent's occupation will present opportunities for future violations. See *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979); *Patrick G. Rooney*, Initial Decision Release No. 638, at 5, 2014 WL 3588060 (July 22, 2014). "Absent 'extraordinary mitigating circumstances,' an individual who has been convicted cannot be permitted to remain in the securities industry." *Frederick W. Wall*, Exchange Act Release No. 52467 at 8 (Sept. 19, 2005) (citing *John S. Brownson*, 77 SEC Docket 3636, 3640 (July 3, 2002)).

Here, these factors weigh in favor of industry and penny stock bars. First, Respondent's actions were egregious. His conviction establishes that he knowingly and willfully executed not just one, but *two* fraudulent investment schemes, fraudulently guaranteeing investors large short-term profits on investments that he never made. Rather, Respondent used the investors' money

to pay himself. In short, Respondent ran an egregious scam that harmed approximately 100 investors.

Second, this was not a one-time lapse in judgment. Respondent's actions extended over a matter of years and involved at least 100 investors. Third, Respondent's level of scienter was extremely high. He knew he was not investing the money in a celebrity-filled land development in the Bahamas and was simply misappropriating investor money. His scienter was so substantial it gave rise to a criminal conviction.

With respect to the fourth and fifth factors, notwithstanding his guilty plea, Respondent has provided no assurances that he will avoid *future* violations of the law. Although “[c]ourts have held that the existence of a past violation, without more, is not a sufficient basis for imposing a bar[,] . . . ‘the existence of a violation raises an inference that it will be repeated.’” *Tzemach David Netzer Korem*, Exchange Act Release No. 70044, 2013 SEC LEXIS 2155, at *23 n.50 (July 26, 2013 (quoting *Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004)). McCarty has offered no evidence to rebut that inference.

Sixth, although Respondent is serving a 78 month sentence, he will eventually be released, and unless he is barred from the securities industry he will have the chance to again harm investors.

Finally, it serves the public interest to collaterally bar Respondent from all association with the securities industry. The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted on July 21, 2010, added collateral bars as sanctions under Exchange Act Section 15(b)(6). The Commission has held that Dodd-Frank's collateral bars “are prospective remedies whose purpose is to protect the investing public from future harm,” and therefore applying the bars to address pre-Dodd-Frank conduct is “not impermissibly retroactive.” *John W. Lawton*,

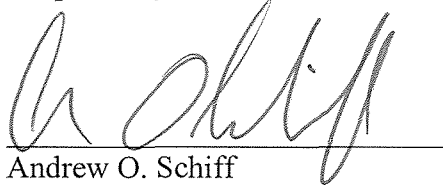
Advisers Act Release No. 3513, at 16, 2012 WL 6208750 (Dec. 13, 2012). Accordingly, the Law Judge should bar Respondent from the securities industry, even though certain of his conduct occurred prior to Dodd-Frank's enactment.

IV. Conclusion

For the reasons discussed above, the Division asks the Law Judge to sanction Respondent by issuing a penny stock bar and barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or NRSRO.

April 6, 2015

Respectfully submitted,



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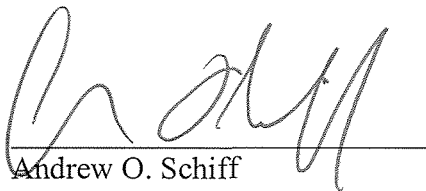
CERTIFICATE OF SERVICE

I hereby certify that an original and three copies of the foregoing were filed with the Securities and Exchange Commission, Office of the Secretary, 100 F Street, N.E., Washington, D.C. 20549-9303, and that a true and correct copy of the foregoing has been served by overnight, on this 6th day of April, 2015, on the following persons entitled to notice:

Honorable James E. Grimes
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557

Mr. Jordon McCarty

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



Andrew O. Schiff
Regional Trial Counsel

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 13-CR-20063-Graham(s)

- 18 U.S.C. § 1349
- 18 U.S.C. § 1343
- 18 U.S.C. § 1957
- 18 U.S.C. § 1956(a)(1)(B)(i)
- 31 U.S.C. § 5324(a)(1)
- 31 U.S.C. § 5324(d)(2)
- 21 U.S.C. § 981(a)(1)(C)
- 18 U.S.C. § 982(a)(1)
- 31 U.S.C. § 5317(c)(1)
- 18 U.S.C. § 2

UNITED STATES OF AMERICA

vs.

LAWRENCE FOSTER
 a/k/a "Lorenzo Foster,"
JORDON McCARTY, and
JOHANA LEON,

Defendants.

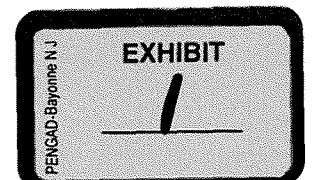
SUPERSEDING INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At various times relevant to this Superseding Indictment:

1. Paradise Is Mine was a limited liability corporation incorporated in the State of Florida. Its principal place of business was located in Miami Beach, Florida. It purported to offer the general public investment opportunities in a residential real estate development project in Rum Cay in the Bahamas.



2. Defendant **JOHANA LEON** was the registered agent and a corporate officer of Paradise Is Mine. **LEON** had sole signatory authority over Paradise Is Mine's bank accounts.

3. Defendant **LAWRENCE FOSTER** represented himself to be the President of Paradise Is Mine.

4. **LAWRENCE FOSTER** resided in Miami Beach, Florida. In September 2008, U.S. Bank, N.A., filed a lawsuit in Miami-Dade County seeking to foreclose on a \$1,630,000 mortgage on **FOSTER's** residence.

5. **LAWRENCE FOSTER** was involved in several other lawsuits during the previous five years in which he was ordered to pay money to other parties. In February 2008, for instance, Wachovia Bank obtained a judgment against **FOSTER** in the amount of \$522,849.

6. In December 2012, **LAWRENCE FOSTER** filed for bankruptcy in federal court in the Southern District of Florida. In his bankruptcy filings, **FOSTER** sought relief from various legal judgments entered against him during the previous five years and from the outstanding mortgage on his Miami Beach residence.

7. Defendant **JORDON McCARTY** was a resident of Miami-Dade County, Florida.

8. B.W.D. was a resident of Kennesaw, Georgia. B.W.D. purported to own real estate located in Rum Cay in the Bahamas. In 1994, B.W.D. was convicted in the Northern District of Alabama of providing false information on a loan application concerning land he purportedly owned in the Bahamas, in violation of Title 18, United States Code, Section 1014. B.W.D. filed for bankruptcy protection in Florida in 2004, and in Georgia in 2010.

9. Various websites on the internet contained information that reflected poorly on

the character and truthfulness of B.W.D. and contained information that raised doubt about B.W.D.'s claim to own land in Rum Cay in the Bahamas. This information was easily accessible to individuals with access to the internet.

COUNT 1
Conspiracy to Commit Wire Fraud
(18 U.S.C. § 1349)

1. Paragraphs 1 through 9 of the General Allegations section of this Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From at least as early as December 2009, the exact date being unknown to the Grand Jury, continuing to on or about January 31, 2013, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

LAWRENCE FOSTER
a/k/a "Lorenzo Foster,"
JORDON McCARTY, and
JOHANA LEON,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree with each other, and others known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1343, that is, knowingly and with the intent to defraud devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and, for the purpose of executing such scheme and artifice, transmitting and causing to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds.

PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for the defendants and their conspirators to unlawfully enrich themselves and others by misappropriating monies from investors by making materially false representations, and concealing and omitting to state material facts concerning, among other things, expected rates of return, the true ownership of the property in the Bahamas that the defendants used to induce investments, the collateralization of the investments, the availability of an asset exchange program, the financial stability of **LAWRENCE FOSTER**, pending and potential litigation against **LAWRENCE FOSTER** and the use of investor money for personal benefit.

MANNER AND MEANS

The manner and means by which the defendants and their conspirators sought to accomplish the purpose and object of the conspiracy included, among others, the following:

4. **LAWRENCE FOSTER** and **JORDON McCARTY**, directly and indirectly, solicited individuals to invest in Paradise Is Mine. Investors were provided with the option of either buying real estate in Rum Cay in the Bahamas or making loans to Paradise Is Mine collateralized by land located in Rum Cay. Investors were led to believe that Paradise Is Mine was a successful real estate company that was in the process of developing a celebrity filled residential community in Rum Cay. Investors were not told that the land in Rum Cay that Paradise Is Mine was selling to investors or using as collateral for loans was in fact not owned by Paradise Is Mine, but instead was claimed to be owned by B.W.D.

5. To generate interest in Paradise Is Mine's sales efforts, **LAWRENCE FOSTER** caused Paradise Is Mine to issue press releases on the internet that falsely portrayed Paradise Is Mine as having a successful real estate project in Rum Cay. The press releases frequently

contained materially false information relating to Paradise Is Mine's purported project including a press release issued in February 2011 that falsely and fraudulently represented that a Super Bowl MVP Quarterback purchased an oceanfront lot in Paradise Is Mine's development in Rum Cay. In truth, Paradise Is Mine had signed a contract with the quarterback pursuant to which Paradise Is Mine agreed to provide an oceanfront lot to the quarterback as compensation for his agreeing to provide promotional services on behalf of Paradise Is Mine. The quarterback never provided promotional services and never approved or authorized the press release.

6. **LAWRENCE FOSTER** further caused Paradise Is Mine to maintain a website on the internet that gave the false and fraudulent appearance that Paradise Is Mine was a successful real estate company. The website falsely represented that since its inception Paradise Is Mine had amassed over \$4 billion in real estate throughout the world and that it currently owned over 16,000 acres in the Caribbean, the United States, and South America. The website also contained copies of some of the press releases issued by Paradise Is Mine. **FOSTER** caused Paradise Is Mine to portray these press releases in a false and misleading light by making it appear that they were legitimate news articles published by well known and reputable media companies when they were nothing more than press releases that Paradise Is Mine itself created and caused to be broadcast on the internet.

7. During telephone calls and investor meetings, **LAWRENCE FOSTER** and **JORDON McCARTY** further made, and caused others to make, false and fraudulent representations about rates of returns that the investors could expect on their investments in Paradise Is Mine. Specifically, **FOSTER** and **McCARTY** falsely and fraudulently promised and caused others to promise investors above-market fixed rates of return, and further guaranteed and caused others to guarantee that investors would receive their full principal back

after the expiration of a certain term.

8. **LAWRENCE FOSTER** and **JORDON McCARTY** additionally offered potential investors the ability to fund their investments using personal assets, such as stocks.

9. To induce investors to invest in Paradise Is Mine, **LAWRENCE FOSTER** and **JORDON McCARTY** sent and caused others to send, via U.S. mail, false and fraudulent promotional materials, including the purported news articles containing the false and misleading stories about Paradise Is Mine's development in Rum Cay.

10. During telephone calls and investor meetings, **LAWRENCE FOSTER** and **JORDON McCARTY** induced, and caused others to induce, investors to wire money into bank accounts controlled by Paradise Is Mine.

11. **JOHANA LEON** withdrew investor money as cash from the bank accounts of Paradise Is Mine for the benefit of herself and her conspirators.

12. To induce customers to provide money to Paradise Is Mine, **LAWRENCE FOSTER** and **JORDON McCARTY** made, and caused others to make, numerous materially false and fraudulent statements to customers, and concealed and omitted to state, and caused others to conceal and omit to state, material facts to customers, including, among others, the following:

Materially False Statements

(a) That investors would be purchasing land in the Bahamas held by Paradise Is Mine;

(b) That investor money would be used to develop land in the Bahamas owned by Paradise Is Mine;

(c) That certain well known and reputable media companies had published positive

news stories about the land development of Paradise Is Mine in the Bahamas;

(d) That Paradise Is Mine had no business dealings with B.W.D. or the company associated with B.W.D.

(e) That a Super Bowl MVP Quarterback and other celebrities purchased real estate in the residential development project in Rum Cay from Paradise Is Mine.

Concealment and Omission of Material Facts

(f) That the real estate in Rum Cay that Paradise Is Mine was selling or using as collateral for loans was not owned by Paradise Is Mine, but instead was purportedly owned by B.W.D. who had previously been convicted of a federal felony for providing false information on a loan application relating to the value of land that he purportedly owned in Rum Cay;

(g) That **LAWRENCE FOSTER** was subject to various legal proceedings in Miami-Dade County including foreclosure proceedings against his primary residence in Miami Beach and that he eventually filed for bankruptcy as a result;

(h) That **LAWRENCE FOSTER** used investor funds to pay for personal expenses including the lease of his Bentley Continental automobile, landscaping for his residence in Miami Beach, and attorney fees for legal representation in some of his personal lawsuits;

(i) That investor money would not be invested in the manner explained to investors, and that, instead, a significant portion of investor money would be withdrawn as cash by **JOHANA LEON** and would be used for the personal use of the conspirators, including to make payments relating to the foreclosure proceedings associated with **LAWRENCE FOSTER**'s house in Miami Beach; and

(j) That **LAWRENCE FOSTER** fabricated and had fabricated false articles purporting to be from legitimate news sources regarding the development successes of Paradise

Is Mine.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-8
Wire Fraud
(18 U.S.C. § 1343)

1. Paragraphs 1 through 9 of the General Allegations section of this Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From at least as early as December 2009, the exact date being unknown to the Grand Jury, continuing to on or about January 31, 2013, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

LAWRENCE FOSTER a/k/a
“Lorenzo Foster,” and
JORDON McCARTY,

did knowingly and with intent to defraud devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that the pretenses, representations and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds for the purpose of executing the scheme and artifice.

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was the purpose of the scheme and artifice for the defendants and their accomplices to unlawfully enrich themselves and others by misappropriating monies from investors by making materially false representations, and concealing and omitting to state material facts concerning, among other things, expected rates of return, the true ownership of the

property in the Bahamas that the defendants used to induce investments, the collateralization of the investments, the availability of an asset exchange program, the financial stability of **LAWRENCE FOSTER**, pending and potential litigation against **LAWRENCE FOSTER** and the use of investor money for personal benefit.

MANNER AND MEANS

4. The allegations contained in paragraphs 4 through 12 of the Manner and Means section of Count 1 of this Superseding Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the manner and means.

USE OF THE WIRES

5. On or about the dates specified below as to each count, **LAWRENCE FOSTER** and **JORDON McCARTY**, for the purpose of executing the aforesaid scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds as more specifically described below:

COUNT	APPROXIMATE DATE OF TRANSMISSION	DESCRIPTION OF WIRE COMMUNICATION
2	February 1, 2010	Wire in the approximate amount of \$25,000 by "R.B." from an account at Bank of America located in California, to the Paradise Is Mine account ending in 6335 at Bank of America located in the Southern District of Florida
3	October 28, 2010	Wire in the approximate amount of \$40,000 by "M.C.M." from an account at Toronto Dominion Bank located in Canada, to the Paradise Is Mine account ending in 6335 at Bank of America located in the Southern District of Florida

COUNT	APPROXIMATE DATE OF TRANSMISSION	DESCRIPTION OF WIRE COMMUNICATION
4	September 2, 2011	Wire in the approximate amount of \$15,000 by "R.B." from an account at Bank of America located in California, to the Paradise Is Mine account ending in 6335 at Bank of America located in the Southern District of Florida
5	September 8, 2011	Wire in the approximate amount of \$31,000 by "R.B." from an account at Bank of America located in California, to the Paradise Is Mine account ending in 6335 at Bank of America located in the Southern District of Florida
6	September 8, 2011	Wire in the approximate amount of \$19,000 by "R.B." from an account at Bank of America located in California, to the Paradise Is Mine account ending in 6335 at Bank of America located in the Southern District of Florida
7	January 27, 2012	Wire in the approximate amount of \$77,000 by "L.N." from an account at NorthStar Bank in Minnesota, to the Paradise Is Mine account ending in 6335 at Bank of America located in the Southern District of Florida
8	February 10, 2012	Wire in the approximate amount of \$77,750 by "L.N." from an account at CitiBank, N.A. located in New York, to the Paradise Is Mine account ending in 6335 at Bank of America located in the Southern District of Florida

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS 9-12
Money Laundering
(18 U.S.C. § 1956(a)(1)(B)(i))

On or about the dates specified below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JOHANA LEON,

did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, which financial transaction involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds

of some form of unlawful activity, and knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of specified unlawful activity, as more specifically described below:

COUNT	APPROXIMATE DATE	FINANCIAL TRANSACTION
9	August 4, 2010	Deposit of check number 6321 from the Paradise Is Mine account at Bank of America ending in 6635 payable to "B.D." or "Cash" in the approximate amount of \$9,500
10	August 27, 2010	Deposit of check number 6359 from the Paradise Is Mine account at Bank of America ending in 6635 payable to "B.D." or "Cash" in the approximate amount of \$9,000
11	September 6, 2011	Deposit of check number 6653 from the Paradise Is Mine account at Bank of America ending in 6635 payable to "Jordon McCarty" or "Cash" in the approximate amount of \$8,000
12	July 23, 2012	Deposit of check number 7036 from the Paradise Is Mine account at Bank of America ending in 6635 payable to "S.F." or "Cash" in the approximate amount of \$8,125

It is further alleged that the specified unlawful activity is wire fraud, in violation of Title 18, United States Code, Section 1343.

In violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

COUNTS 13-15
Structuring to Avoid Reporting Requirements
(31 U.S.C. § 5324(a)(1) and (d)(2))

1. A "currency transaction report" ("CTR") is a report that is submitted on United States Department of Treasury ("Treasury"), Financial Crimes Enforcement Network Form 104. A domestic financial institution is required by federal law to file a CTR with Treasury for each

financial transaction that involves United States currency in excess of \$10,000. Such financial transactions include deposits, withdrawals, or exchanges of currency, or other transactions involving the physical transfer of currency from one person to another.

2. On or about the dates specified below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JOHANA LEON,

did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a), and any regulation prescribed thereunder, attempt to cause Bank of America, a domestic financial institution, to fail to file a report required under Title 31, United States Code, Section 5313(a), and any regulation prescribed thereunder, while violating another law of the United States and as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period:

COUNT	APPROXIMATE DATE OF TRANSACTIONS	TRANSACTIONS
13	January 30, 2012	\$9,500 cash withdrawal \$5,500 cash withdrawal \$1,430 cash withdrawal \$1,000 cash withdrawal \$400 cash withdrawal
14	July 9, 2012	\$6,000 cash withdrawal \$3,995 cash withdrawal \$500 cash withdrawal
15	September 20, 2012	\$9,846 cash withdrawal \$300 cash withdrawal

In violation of Title 31, United States Code, Sections 5324(a)(1) and (d)(2), and Title 31, Code of Federal Regulations, Part 103 and Title 18, United States Code, Section 2.

FORFEITURE

(18 U.S.C. §§ 981(a)(1)(C), 982(a)(1) and 31 U.S.C. § 5317(c)(1))

1. The allegations of this Superseding Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendants, **LAWRENCE FOSTER, JORDON McCARTY**, or **JOHANA LEON**, have an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1349 or 1343, as alleged in Counts 1 through 8 of this Superseding Indictment, defendants **LAWRENCE FOSTER** and **JORDON McCARTY** shall forfeit to the United States all of their right, title and interest in any property, real or personal, which constitutes or is derived from proceeds traceable to the offenses, pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by Title 28, United States Code, Section 2461(c). The assets subject to forfeiture include, but are not limited to, the following:

- a. The contents of Bank of America Account number 898032366335 in the name of Paradise is Mine;
- b. the contents of Bank of America Account number 898053927957 in the name of Paradise is Mine;
- c. the contents of JP Morgan Account number 872715800 in the name of Paradise is Mine;
- d. one 2010 Bentley Continental GT Speed VIN: SCBDP3ZA3AC063252, FL Tag BNBX88; and
- e. a sum of money equal in value to any property, real or personal, that

constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the violations alleged in this Indictment, which the United States will seek as a forfeiture money judgment against each defendant jointly and severally as part of their respective sentence.

3. Upon conviction of a violation of Title 18, United States Code, Section 1956, as alleged in Counts 9 through 12 of this Superseding Indictment, defendant **JOHANA LEON** shall forfeit to the United States all of her right, title and interest in any property, real and personal, which was involved in such violation and any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. Upon conviction of a violation of Title 31, United States Code, Section 5324, as alleged in Counts 13 through 15 of this Superseding Indictment, defendant **JOHANA LEON** shall forfeit to the United States all of his right, title and interest in all property, real or personal, which was involved in the violation and any property traceable thereto, pursuant to Title 31, United States Code, Section 5317(c)(1).

5. If the property described above as being subject to forfeiture, as a result of any act or omission of defendants, **LAWRENCE FOSTER, JORDON McCARTY, or JOHANA LEON,**

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to or deposited with a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as


made applicable through Title 18, United States Code, Section 982(b)(1) to seek forfeiture of any other property of defendants, up to the value of the above forfeitable property. Said property includes, but is not limited to, the following:

- (a) one 2009 Cadillac Escalade, VIN 1GYFK53229R119167;
- (b) one 2005 Mercedes-Benz Roadster, VIN WDBSK75F45F106768; and
- (c) 2009 Land Rover, VIN SALSF25479A213753.

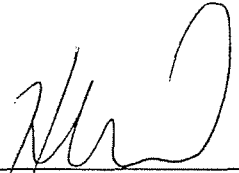
All pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by Title 28, United States Code, Section 2461(c), Title 18, United States Code, Section 982(a)(1), Title 31, United States Code, Section 5317(c)(1), and the procedures set forth at Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON



WIFREDO A. FERRER
UNITED STATES ATTORNEY



H. RON DAVIDSON
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Lawrence Foster a/k/a "Lorenzo Foster"

Case No: 13-CR-20063-Graham(s)

Count #: 1

Conspiracy to Commit Wire Fraud

Title 18, United States Code, Section 1349

* **Max. Penalty:** 20 years' imprisonment

Counts #: 2-8

Wire Fraud

Title 18, United States Code, Section 1343

* **Max. Penalty:** 20 years' imprisonment as to each count

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Jordon McCarty

Case No: 13-CR-20063-Graham(s)

Count #: 1

Conspiracy to Commit Wire Fraud

Title 18, United States Code, Section 1349

* **Max. Penalty:** 20 years' imprisonment

Counts #: 2-8

Wire Fraud

Title 18, United States Code, Section 1343

* **Max. Penalty:** 20 years' imprisonment as to each count

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Johana Leon

Case No: 13-CR-20063-Graham(s)

Count #: 1

Conspiracy to Commit Wire Fraud

Title 18, United States Code, Section 1349

* **Max. Penalty:** 20 years' imprisonment

Counts #: 9-12

Money Laundering

Title 18, United States Code, Section 1956(a)(1)(B)(i)

* **Max. Penalty:** 20 years' imprisonment as to each count

Counts #: 13-15

Structuring to Avoid Reporting Requirements

Title 31, United States Code, Section 5324(a)(1) and (d)(2)

* **Max. Penalty:** 5 years' imprisonment as to each count

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 13-20063-Cr-Graham

UNITED STATES OF AMERICA

vs.

JORDON McCARTY,

Defendant.

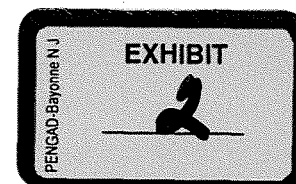
PLEA AGREEMENT

The United States of America and Jordon McCarty (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to Count One of the Indictment, which charges the defendant with conspiring to commit wire fraud, in violation of Title 18, United States Code, Section 1349.
2. The United States agrees to seek dismissal of Counts Two and Three as to this defendant after sentencing.

PENALTIES

3. The defendant understands and acknowledges that, as to Count One, the court may impose a statutory maximum term of imprisonment of up to 20 years, followed by a term of supervised release of up to 3 years. In addition to a term of



imprisonment and supervised release, the court may impose a fine of up to \$250,000 or not more than the greater of twice the gross gains or gross loss resulting from the offense. *See* 18 U.S.C. § 3571(d).

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under the previous paragraph of this agreement, a special assessment in the amount of \$100 will be imposed on the defendant. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing.

5. The defendant understands that restitution under Title 18, United States Code, Section 3663A is mandatory and the defendant agrees that the restitution required as a result of the criminal conduct set forth in paragraph one above shall be equal to the amount of any actual victim loss attributable to the defendant's knowing participation in the criminal conduct, as determined at sentencing. The defendant agrees that the defendant committed offenses against property listed in Section 366A as part of the fraud scheme set forth in paragraph one above. The defendant further agrees to make restitution in the amount of loss arising from the relevant conduct related to this matter, not just from the offense of conviction. The parties jointly agree to recommend that the Court order the Defendant to pay restitution in the amount of \$1,103,183.48.

APPLICABLE SENTENCING PROCEDURES

6. The defendant is aware that the sentence will be imposed by the court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the

court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the illegal conduct to which the defendant has agreed to plead guilty (as described in paragraph 1) and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

7. The Office of the United States Attorney for the Southern District of Florida (hereinafter "Office") reserves the right to inform the court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon

sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

8. The United States further to recommend that the defendant be sentenced at the low end of the guideline range, as that range is determined by the court.

9. The United States agrees that it will recommend at sentencing that the court reduce by two levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing the defendant's offense level is determined to be 16 or greater, the government will make a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the defendant has assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the defendant's 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.

10. The United States and the defendant agree that, although not binding on the probation office or the court, they will jointly recommend that the court make the following findings and conclusions as to the sentence to be imposed:

Guideline: The offense involves fraud, and Guideline 2B1.1 applies.

Base offense: The base offense level is 7 because of the maximum penalty.

Loss amount: The level increases by 18 to reflect between \$2.5 million and \$7 million in intended loss.

Victims: The level increases by 4 to reflect over 50 but under 250 victims.

Sophisticated: The Defendant's actions were not sufficiently sophisticated to

warrant an increase.
Role: The Defendant deserves a 2-level increase to reflect his role in the criminal activity.
Variance: The Defendant reserves the right to argue for a downward variance and departure.

11. The defendant agrees to cooperate fully with this Office by (a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other court proceeding; (b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and (c) if requested by this Office, working in an undercover role to contact and negotiate with others suspected and believed to be involved in criminal misconduct under the supervision of, and in compliance with, law enforcement officers and agents. This Office reserves the right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the court at the time of sentencing. If in the sole and unreviewable judgment of this Office the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the court's downward departure from *the advisory sentence* calculated under the Sentencing Guidelines, this Office may at or before sentencing make a motion consistent with the intent of Section 5K1.1 of the Sentencing Guidelines prior to sentencing, or Rule 35 of the Federal Rules of Criminal Procedure subsequent to sentencing, reflecting that the defendant has provided substantial assistance and recommending that the defendant's

sentence be reduced from the advisory sentence suggested by the Sentencing Guidelines. The defendant acknowledges and agrees, however, that nothing in this Agreement may be construed to require this Office to file any such motion(s) and that this Office's assessment of the nature, value, truthfulness, completeness, and accuracy of the defendant's cooperation shall be binding insofar as the appropriateness of this Office's filing of any such motion is concerned. The defendant understands and acknowledges that the Court is under no obligation to grant any motion referred to in this agreement should the government exercise its discretion to file any such motion. The defendant also understands and acknowledges that the court is under no obligation to reduce the defendant's sentence because of the defendant's cooperation.

12. The United States, however, will not be required to make any motions or recommendations if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering into this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official. The parties agree that the defendant does not deserve any reduction pursuant to Section 3E1.1 if the defendant is found to have refused to assist authorities in recovery of the fruits and instrumentalities of the offense.

FORFEITURE & FINANCIAL DISCLOSURE OBLIGATIONS

12. The defendant agrees to forfeit to the United States, voluntarily and immediately, all of the defendant's right, title and interest in all assets and/or their substitutes which are subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C) and the procedures of 21 U.S.C. § 853, including but not limited to the following: (a) The contents of Bank of America Account number 898032366335 in the name of Paradise is Mine; (b) the contents of Bank of America Account number 898053927957 in the name of Paradise is Mine; (c) the contents of JP Morgan Account number 872715800 in the name of Paradise is Mine; and (d) one 2010 Bentley Continental GT Speed VIN: SCBDP3ZA3AC063252, FL Tag BNBX88. The defendant agrees that the above-named property is directly or indirectly traceable to the proceeds of the wire fraud offense to which the defendant has agreed to plead guilty, and that it is therefore subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C). In addition, defendant agrees to the entry of a forfeiture money judgment in the amount of \$2,500,000, which represents the proceeds of the wire fraud offense to which he has agreed to plead guilty. The defendant knowingly and voluntarily agrees to waive any claims or defenses the defendant may have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeited asset. The defendant agrees to waive any appeal for the forfeiture. The defendant further agrees to waive any applicable time limits for the initiation of administrative forfeiture and/or any further notification of any judicial or administrative forfeiture proceedings brought

against said asset. The defendant also agrees that the defendant shall assist this Office in all proceedings, whether administrative or judicial, involving the forfeiture to the United States of all rights, title, and interest, regardless of their nature or form, in all assets, including real and personal property, cash and other monetary instruments, wherever located, which the defendant or others to the defendant's knowledge have accumulated as a result of illegal activities. Such assistance will involve an agreement on defendant's part to the entry of an order enjoining the transfer or encumbrance of assets which may be identified as being subject to forfeiture. Additionally, defendant agrees to identify as being subject to forfeiture all such assets, and to assist in the transfer of such property to the United States by delivery to this Office upon this Office's request, all necessary and appropriate documentation with respect to said assets, including consents to forfeiture, quit claim deeds and any and all other documents necessary to deliver good and marketable title to said property.

13. The defendant agrees to make a full and accurate disclosure of the defendant's financial affairs to the United States Attorney's Office and to the United States Probation Office. Specifically, the defendant agrees that, within 10 calendar days of the signing of this Plea Agreement, the defendant shall submit a completed Financial Disclosure Statement (provided by the United States Attorney's Office or the Probation Office), and shall fully and truthfully disclose and identify all assets in which the defendant has any interest and/or over which the defendant exercise control, whether directly or indirectly, including those held a spouse or significant other; a nominee or

shell owner; or a third party. The defendant further agrees to provide, in a timely manner, all financial information requested by the United States Attorney's Office and the United States Probation Office, and upon request, to meet in person to identify assets and monies that can be used to satisfy any order of restitution, forfeiture, or a fine judgment. In addition, the defendant expressly authorizes the United States Attorney's Office to obtain a credit report from all credit agencies.

14. The defendant agrees to not - without prior approval from the Government - sell, hide, waste, encumber, destroy, or otherwise devalue any asset until the defendant's restitution, fine, and forfeiture is paid in full. The defendant also shall identify any transfer of assets valued in excess of \$5,000 (US) after the date of the first charging document against the defendant or after the date that the defendant became aware of the nature of the criminal investigation (whichever is earlier). The defendant agrees to disclose the identity of the asset, the approximate value of the asset, the identity of the person to whom the asset was transferred and the current location of the asset.

15. The defendant agrees to cooperate fully in the investigation and the identification of assets to be applied towards forfeiture, restitution, and any fine. The defendant agrees that providing false or incomplete information about the defendant's financial assets; that hiding, selling, transferring or otherwise devaluing assets; or failing to cooperate fully in the investigation and identification of assets can be used as a basis for (1) separate prosecution, including under Title 18, United States Code, Section 1001;

(2) a recommendation of a denial of a reduction for acceptance of responsibility pursuant to Sentencing Guideline Section 3E1.1; and (3) a denial of any reduction for any cooperation.

16. The defendant agrees to liquidate assets, or complete any other tasks which will result in immediate payment of the forfeiture, restitution or fine in full, or full payment in the shortest amount of time, as requested by the government.

17. The defendant represents and agrees that all monies and properties deposited with the Clerk of Court to secure the defendant's release on bond in this case belong to the defendant and should be used as payment towards restitution, consistent with Title 28, United States Code, Section 2044.

WAIVER OF CERTAIN RIGHTS

18. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure and/or a variance from the guideline range that the court establishes at sentencing. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the

defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that the defendant has discussed the appeal waiver set forth in this agreement with defense counsel. The defendant further agrees, together with the United States, to request that the district court enter a specific finding that the defendant's waiver of the defendant's right to appeal the sentence to be imposed in this case was knowing and voluntary.

19. The defendant recognizes that pleading guilty may have consequences with respect to the defendant's immigration status, if the defendant is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, and, in some cases, removal is presumptively mandatory. Removal and other immigration consequences are the subject of a separate proceeding, however, and the defendant understands that no one, including the defendant's attorney or the district court, can predict to a certainty the effect of the defendant's conviction on the defendant's immigration status. In addition, the defendant's plea might have consequences with respect to whether the defendant is committed civilly. Defendant nevertheless affirms the desire to plead guilty regardless of any immigration or civil commitment consequences that the plea may entail, even if the consequence is automatic removal from the United States or civil commitment.

20. The defendant agrees to having consulted with the defendant's attorney and fully understands all rights with respect to the pending charges. Further, the

defendant was advised and fully understands all rights with respect to the provisions of the Sentencing Guidelines which may apply in this case. The defendant understands the constitutional rights associated with going to trial, including the right to be represented by counsel, the right to plead not guilty, the right to trial by jury, the right to confront and cross-examine adverse witnesses, the right to be protected from compelled self-incrimination, the right to testify and present evidence, and the right to compel the attendance of witnesses. By signing below, the defendant attests to having read this agreement, carefully reviewed every part of it with the defendant's attorney, and to being satisfied with the advice and representation of the defendant's attorney regarding the decision to enter into the agreement. The defendant voluntarily agrees to be bound by every term and condition set forth herein. The defendant affirms that the defendant has discussed this matter thoroughly with the defendant's attorney. The defendant further affirms that the defendant's discussions with defense counsel have included discussion of possible defenses that the defendant might raise if the case were to go to trial, as well as possible issues and arguments that the defendant may raise at sentencing. The defendant additionally affirms that the defendant is satisfied with the representation provided defense counsel.

ADMISSIBILITY OF FACTUAL PROFFER

21. In the event the defendant withdraws from this agreement prior to or after pleading guilty to the charges identified in paragraph one (1) above or otherwise fails to fully comply with any of the terms of this plea agreement, this Office will be released

from its obligations under this agreement, and the defendant agrees and understands that: (a) the defendant thereby waives any protection afforded by any proffer letter agreements between the parties, Section 1B1.8 of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence, and that any statements made by the defendant as part of plea discussions, any debriefings or interviews, or in this agreement, whether made prior to or after the execution of this agreement, will be admissible against the defendant without any limitation in any civil or criminal proceeding brought by the government; (b) the defendant's waiver of any defense based on the statute of limitations or any other defense based on the passage of time in filing an indictment or information, referred to herein, shall remain in full force and effect; and (c) the defendant stipulates to the admissibility and authenticity, in any case brought by the United States in any way related to the facts referred to in this agreement, of any documents provided by the defendant or the defendant's representatives to any state or federal agency and/or this Office. The defendant stipulates to the admissibility, in any case brought by the United States in any way related to the facts in this agreement, of the entire factual basis set forth below as being the defendant's own statement. The defendant voluntarily and knowingly adopts the factual basis as a post-plea discussion statement that is not protected by Federal Rule of Criminal Procedure 11(6) or Federal Rule of Evidence 410.

22. This Office and the defendant stipulate to and agree not to contest the following facts, and stipulate that such facts, in accordance with Rule 11(b)(3) of the

Federal Rules of Criminal Procedure, provide a sufficient factual basis for the plea of guilty in this case:

Between 2009 and 2012, in Miami-Dade County, in the Southern District of Florida and elsewhere, Jordon McCarty conspired with others, including Lawrence Foster and Johana Leon, to defraud investors by making material misrepresentations to induce those investors to send money, via interstate wires, to a company known as *Paradise is Mine*.

The scheme operated as follows: Lawrence Foster and McCarty solicited individuals to invest in *Paradise is Mine*, offering investment opportunities in a supposed land development deal in the Bahamas. Potential investors were also presented with the opportunity to supposedly purchase land in the Bahamas to fund their investments using personal assets, such as stocks.

During telephone calls and investor meetings, Foster and McCarty made false and fraudulent representations about rates of returns that the investors could expect on their investments in *Paradise is Mine*. Specifically, both men falsely and fraudulently promised and caused others to promise investors a fixed interest rate of between 10% and 20% of their investment, and further guaranteed and caused others to guarantee that investors would receive their full principal back after the expiration of a certain term. Foster and McCarty also sent and instructed others to send, via U.S. mail, false and fraudulent promotional materials, including purported newspaper articles containing positive stories about *Paradise is Mine*.

McCarty and Foster failed to disclose to potential investors that investor money would not be used to purchase or develop land in the Bahamas held by *Paradise is Mine*, that a significant portion of investor money would be withdrawn as cash by conspirator Johana Leon for the personal use of the conspirators and would not be invested in the manner explained to investors; or that Foster fabricated false and fraudulent articles purporting to be from legitimate news sources regarding the development successes of *Paradise is Mine*.

McCarty also participated in another scheme to defraud investors. Combined, McCarty induced investors to invest approximately \$6.5 million from approximately 100 victims.

After being confronted by law enforcement, McCarty agreed to cooperate

and recorded conversations with conspirator Lawrence Foster. In one particular conversation, conspirator Foster urged McCarty to raise more money from one investor so that they could split that money 50/50 between them. The investors who invested through McCarty's firm were never told that McCarty was keeping 50 percent of the proceeds of their investments.

The defendant agrees that above-styled factual basis is true and correct to the best of the defendant's knowledge. Because the factual basis set forth above has the limited purpose of supporting the defendant's guilty plea to the charges discussed in paragraph one, the factual basis set forth above does not purport to represent all facts and circumstances relating to the defendant's participation. Similarly, the factual basis contained above is not intended to identify all knowledge the defendant might have of the unlawful activity of other individuals.

BOND

23. If the Court does not remand the defendant after the change of plea, the defendant agrees that the government may search the defendant's residence, vehicle, or person at any time. In addition, the defendant agrees that the government may detain the defendant without prior judicial approval at the sole discretion of the government based on reasonable suspicion that the defendant violated or attempted to violate any of the terms or conditions of his bond or the plea agreement, and can direct any member of law enforcement, whether state, federal, or immigration, to detain the defendant if such reasonable suspicion exists. Should the government's detention of the defendant occur, the defendant will be returned to the custody of the United States Marshals, and the

government agrees to file a Motion for Revocation of Bond with the Court within 14 days of the government's detention of the defendant. The defendant reserves the right to oppose the government's Motion for Revocation and may argue to the Court that no reasonable suspicion existed that the defendant violated or attempted to violate any of the terms or conditions of his bond or the plea agreement.

24. By signing this agreement, the defendant waives his right to extradition from any country or state should the defendant flee the Southern District of Florida. The defendant agrees that he was fully informed by his attorney of his rights to extradition, and voluntarily waives his right to extradition should the defendant fail to appear before the court as required in this matter. Further, through the waiver contained herein, the defendant agrees to petition the Court to expedite the defendant's return, in custody, to the United States of America to answer to the charges contained in this case. The defendant concedes that he is the individual against whom charges are pending in this case, and for whom process is outstanding there. The defendant agrees to waive all rights under the extradition treaty or agreement, including the right to a hearing and agree to return to the United States without any promise or threats being made or any other form of inducement or intimidation being exercised on the part of any representatives, officials, or officers of the United States, or of any person whatsoever. The defendant agrees that this waiver of rights is entirely of his own free will and accord.

ADMISSION OF GUILT

25. The defendant confirms that the defendant is guilty of the offense to which the defendant is pleading guilty; that the defendant's decision to plead guilty is the decision that the defendant has made; and that nobody has forced, threatened, or coerced the defendant into pleading guilty. The defendant accordingly affirms that the defendant is entering into this agreement knowingly, voluntarily, and intelligently, and with the benefit of full, complete, and effective assistance by the defendant's attorney.



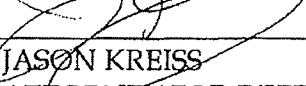
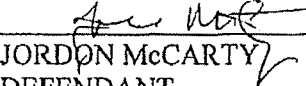
26. Defense counsel, by signing below, attests to explaining fully to the defendant all rights with respect to the pending charges, to reviewing with the defendant the provisions of the Sentencing Guidelines and to explaining to the defendant the provisions which may apply in this case. Counsel for the defendant carefully reviewed every part of this plea agreement with the defendant in the defendant's native language.

27. The defendant confirms that the defendant has read this plea agreement, or that this plea agreement has been read to the defendant. If the defendant does not understand English, the defendant confirms that this plea agreement has been translated into the defendant's native language and that the defendant has read this plea agreement, or that this plea agreement has been read to the defendant in the defendant's native language.

28. The defendant is aware that the sentence has not yet been determined by the court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the

defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the court. The defendant understands further that any recommendation that the government makes to the court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the court and the court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged above, that the defendant may not withdraw a plea based upon the court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

29. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Date: <u>9/13/13</u>	By: <u></u> WIFREDO A. FERRER UNITED STATES ATTORNEY
Date: <u>8/27/13</u>	By: <u></u> H. RON DAVIDSON ASSISTANT UNITED STATES ATTORNEY
Date: <u>8/27/13</u>	By: <u></u> JASON KREISS ATTORNEY FOR DEFENDANT
Date: <u>8/27/13</u>	By: <u></u> JORDON McCARTY DEFENDANT

United States District Court
Southern District of Florida
MIAMI DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number - 1:113C 13-20063-CR-GRAHAM-1

JORDON MCCARTY

USM Number: 02608-104

Counsel For Defendant: Jason W. Kreiss, Esq.
Counsel For The United States: H. Ron Davidson, AUSA
Court Reporter: Carly Horenkamp

The defendant pleaded guilty to Count One of the Indictment.
The defendant is adjudicated guilty of the following offense:

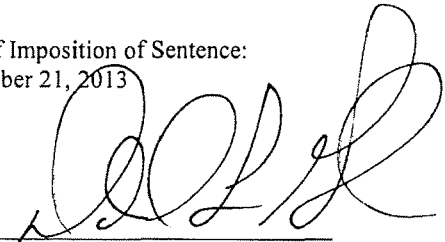
<u>TITLE/SECTION NUMBER</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
18 U.S.C. § 1349	Conspiracy to Commit Wire Fraud	December 2009	1

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The remaining Counts in the Indictment are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of any material changes in economic circumstances.

Date of Imposition of Sentence:
November 21, 2013



DONALD L. GRAHAM
United States District Judge

November 26, 2013



DEFENDANT: JORDON MCCARTY
CASE NUMBER: 1:113C 13-20063-CR-GRAHAM-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **78 months**. The defendant shall receive credit for time served as applicable by statute.

The Court makes the following recommendations to the Bureau of Prisons:

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons not later than **2:00p.m. January 22, 2014**.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

DEFENDANT: JORDON MCCARTY
CASE NUMBER: 1:113C 13-20063-CR-GRAHAM-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **three (3) years**.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

If this judgment imposes a fine or a restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first fifteen days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer **at least ten (10) days prior** to any change in residence or employment;
7. The defendant shall refrain from the excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: JORDON MCCARTY
CASE NUMBER: 1:113C 13-20063-CR-GRAHAM-1

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall also comply with the following additional conditions of supervised release:

Financial Disclosure Requirement - The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

Mental Health Treatment - The defendant shall participate in an approved inpatient/outpatient mental health treatment program. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

No New Debt Restriction - The defendant shall not apply for, solicit or incur any further debt, included but not limited to loans, lines of credit or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the United States Probation Officer.

Related Concern Restriction - The defendant shall not own, operate, act as a consultant, be employed in, or participate in any manner, in any related concern during the period of supervision.

Self-Employment Restriction - The defendant shall obtain prior written approval from the Court before entering into any self-employment.

Substance Abuse Treatment - The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

DEFENDANT: JORDON MCCARTY
CASE NUMBER: 1:113C 13-20063-CR-GRAHAM-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on the Schedule of Payments sheet.

Total Assessment

Total Fine

Total Restitution

\$100.00

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: JORDON MCCARTY
CASE NUMBER: 1:113C 13-20063-CR-GRAHAM-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

A. Lump sum payment of **\$100.00** due immediately, balance due

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

The assessment is payable immediately to the CLERK, UNITED STATES COURTS and is to be addressed to:

**U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716**

The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Forfeiture of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement of forfeiture. The United States shall submit a proposed order of forfeiture within three days of this proceeding.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.