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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JUN 16 2006
JUN 16 2006
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

UNITED STATES OF AMERICA)	
)	
v.)	No. 04 CR 633
)	
)	Judge Milton I. Shadur
HATEM FARIZ)	

PLEA AGREEMENT

This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant, HATEM FARIZ, and his attorney, LUIS GALVAN, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case number 04 CR 633.

This Plea Agreement concerns criminal liability only, and nothing herein shall limit or in any way waive or release any administrative or judicial civil claim, demand or cause of action, whatsoever, of the United States or its agencies. Moreover, this Agreement is limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities except as expressly set forth in this Agreement.

By this Plea Agreement, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, and defendant, HATEM FARIZ, and his attorney, LUIS GALVAN, have agreed upon the following:

1. Defendant acknowledges that he has been charged in a ten-count Superseding Indictment in this case with wire fraud (Counts One to Four) and money laundering (Counts Five to Ten).

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

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

4. Defendant will enter a voluntary plea of guilty to Counts One and Seven of the Superseding Indictment in this case.

5. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts One and Seven of the Superseding Indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt and relevant sentencing facts beyond a reasonable doubt:

Count One

Defendant owned and operated T & T Foods, a neighborhood grocery store located at 2738 W. North Avenue, Chicago, Illinois. The store had only one check out counter. It did not have any grocery carts or baskets and did not have any optical scanners to facilitate the quick check out of food purchases.

On March 9, 1999, defendant submitted to the USDA an application for T & T Foods to become a store eligible to redeem food stamp benefits. On the application, defendant represented, among other things, that he was the on-site manager and the store's annual program eligible food sales estimate was \$149,000. On the same day, a Food Nutrition Service Food Stamp Program

Specialist completed a Pre-Authorization Visit and interviewed defendant. The Program Specialist reviewed with defendant FARIZ many Food Stamp Program regulations, including the regulations prohibiting the exchange of cash for food stamp benefits.

On April 15, 1999, T & T Foods was authorized to accept USDA food stamp benefits. Defendant used a LaSalle Bank account, opened on March 1, 1999, to accept wire transfers associated with Link card transactions.

Between May 1999 and December 2000, T & T Foods redeemed approximately \$1,662,354.01 in USDA electronic food stamp benefits. T & T Foods redeemed such a high amount of food stamp benefits by trading cash for food stamp benefits. Defendant knew that trading cash for benefits was illegal and was prohibited under the program rules.

In order to process the improper cash for benefit transactions, defendant or other individuals working at the store defendant owned and operated, "swiped" the customer's link card through the authorized Link card machine assigned to the defendant and his store, which made a 1-800 number telephone call to Transactive Corp. located in Austin, Texas to authorize the transaction. After the transaction was authorized and accepted, Company A caused a wire transfer in the amount of the sale to be made from Austin, Texas into defendant's bank account at LaSalle Bank located in the Chicago area.

In addition, defendant allowed certain individuals who operated stores that were not authorized as food stamp program vendors, to redeem benefits for cash at their stores by calling T & T Foods to process the transaction. A vendor in an unauthorized store would provide a food stamp program beneficiary's Link card number to T & T Foods. T & T Foods would then process the

transaction through the Link card machine assigned to defendant and T & T Foods, by inputting the transaction information provided by the unauthorized store vendor. If the transaction was approved, then program funds received by T & T Foods account at LaSalle Bank for that transaction would be transferred to the unauthorized vendor.

Defendant withdrew the money received into the LaSalle Bank account for the Link card transactions and used a portion of those funds to purchase additional food stamp benefits for cash. Defendant also made payments from the LaSalle Bank account to certain individuals who operated unauthorized stores, to reimburse them for transactions that defendant permitted to be processed unlawfully through the T & T Foods Link card machine. Each such withdrawal or payment from the the T & T Foods account at LaSalle Bank involved the proceeds of a specified unlawful activity, namely the above-described wire fraud, with the intent to promote the carrying on of that specified unlawful activity, and thus constituted a violation of Title 18, United States Code, Section 1956 (a)(1)(A)(i) as further detailed below in the factual basis respecting Count Seven.

By way of example, the following transactions, each of which resulted in a wire communication between Chicago, Illinois and Austin, Texas, occurred using the T & T Foods Link Card machine:

(a) On January 13, 2000, an undercover agent went into T & T Foods and exchanged \$135.20 in Link card benefits for \$100 in cash with defendant.

(b) On January 25, 2000, an undercover agent went into "Store A," a store not authorized to exchange benefits, and exchanged \$299.98 in Link card benefits for \$210 in cash. The employee in Store A processed the transaction by placing a telephone call to T & T Foods and providing the

information for the transaction so that it could be manually processed using the T & T Foods Link card machine.

(c) On April 4, 2000, a cooperating individual exchanged \$70.85 in Link card benefits for \$35 in cash with an employee at T & T Foods.

(d) On April 11, 2000, a cooperating individual exchanged \$201.33 in Link card benefits for \$100 in cash with an employee at T & T Foods.

Between May 1999 and December 2000 defendant received into his T & T Foods account at LaSalle Bank a total of \$1,662,354.01 in proceeds for Link card benefits redeemed through the Link card machine assigned to defendant and T & T Foods. After deducting defendant's stated estimate of annual program eligible food sales for the period of \$248,333.33 (\$149,000 / 12 months in a year X 20 months), the actual loss resulting from defendant's fraud was approximately \$1,414,020.68.

Count Seven

On or about November 7, 2000, at Chicago, in the Northern District of Illinois, Eastern Division, defendant did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, namely the payment of \$4,500 to Individual A by a check drawn on the T & T Foods account at LaSalle Bank, which involved the proceeds of a specified unlawful activity, namely wire fraud in violation of Title 18, United States Code Section 1343, with the intent to promote the carrying on of that specified unlawful activity, and while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that

is \$4,500, represented the proceeds of some form of unlawful activity; in violation of Title 18, United States Code, Section 1956 (a)(1)(A)(i).

More specifically, on November 7, 2000, defendant signed a check payable to Individual A in the amount of \$4,500. Individual A operated Store A, which was not authorized to redeem food stamp benefits. However, Individual A and others working at Store A redeemed food stamp benefits in exchange for cash by calling T & T Foods and providing the information for the transaction so it could be manually entered and processed through the T & T Foods Link card machine. After the money from the food stamp redemptions was deposited into defendant's LaSalle Bank account, defendant transferred the money to the individuals who conducted the transactions at ineligible stores by writing checks to them, including the \$4,500 check payable to Individual A dated November 7, 2000.

6. For purposes of applying the advisory guidelines promulgated by the United States Sentencing Commission pursuant to Title 28, United States Code, Section 994, the parties agree on the following points:

(a) This plea agreement is governed by the November 2000 edition of the Guidelines Manual.

Wire Fraud

(b) Pursuant to Guideline 2F1.1(a) the base offense level is 6.

(c) Pursuant to Guideline 2F1.1(b)(1)(L) the base offense level is increased by 11 levels because the amount of actual loss exceeded \$800,000.

(d) Pursuant to Guideline 2F1.1(b)(2) the base offense level is increased by 2 levels because the offense involved more than minimal planning.

Money Laundering

(e) Pursuant to Guideline 2S1.1(a)(1) the base offense level is 23.

Combined Offense Level

(f) Pursuant to Guideline 3D1.2 the offenses are treated as a single group.

(g) Pursuant to Guideline 3D1.3 the offense level from the offenses is 23.

(h) Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if the defendant continues to accept responsibility for his actions, within the meaning of Guideline 3E1.1, a two-level reduction in the offense level is appropriate.

(i) Defendant has provided timely complete information concerning his own involvement in the offense, and notified the government timely of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently, within the meaning of Guideline 3E1.1(b); an additional one-point reduction in the offense level is therefore appropriate, provided the Court determines the offense level to be 16 or greater prior to the operation of Guideline 3E1.1(a).

(j) Based on the information known to the government, the defendant presently has 0 criminal history points and is in criminal history category I.

(h) The defendant and his attorney and the government acknowledge that the above calculations are preliminary in nature and based on facts known to the government as of the time of this Agreement. The defendant understands that the Probation Department will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and

that the Court's determinations govern the final Sentencing Guidelines calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations.

7. Errors in calculations or interpretation of any of the guidelines may be corrected by either party prior to sentencing. The parties may correct these errors or misinterpretations either by stipulation or by a statement to the probation office and/or court setting forth the disagreement as to the correct guidelines and their application. The validity of this Agreement will not be affected by such corrections, and the defendant shall not have a right to withdraw his plea on the basis of such corrections.

8. Defendant understands that, in imposing the sentence, the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines and take them into account in determining a reasonable sentence.

9. Defendant understands that each count to which he will plead guilty carries a maximum penalty of 20 years imprisonment, a maximum fine in the amount of the greater of \$500,000 or twice the value of the property involved in the transaction, any restitution ordered by the Court, and a term of supervised release of at least two but not more than three years.

10. Defendant understands that in accord with federal law, Title 18, United States Code, Section 3013, upon entry of judgment of conviction, the defendant will be assessed \$100 on each count, in addition to any other penalty imposed. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a check or money order made payable to the Clerk of the U.S. District Court.

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

(a) If defendant persisted in a plea of not guilty to the charges against him, he would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by the judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

(b) If the trial is a jury trial, the jury would be composed of twelve laypersons selected at random. Defendant and his attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising so-called peremptory challenges. The jury would have consider each charge separately, and agree unanimously before it could return a verdict of either guilty or not guilty on each count. The jury would be instructed that defendant is presumed innocent, and that it could not convict him unless, after hearing all the evidence and considering each count separately, it was persuaded of defendant's guilt beyond a reasonable doubt.

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

(d) At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence in his own behalf. If the witnesses for

defendant would not appear voluntarily, he could require their attendance through the subpoena power of the court.

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

12. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraph. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights. Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial.

13. Defendant understands that the Superseding Indictment and this Plea Agreement are matters of public record and may be disclosed to any party.

14. The defendant is aware that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Acknowledging this, the defendant knowingly waives his right to appeal any sentence within the maximum provided in the statute of conviction (or the manner in which the sentence was determined).

15. Defendant understands that the United States Attorney's Office will fully apprise the District Court and the United States Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against him, and related matters, including all matters in aggravation and mitigation relevant to the issue of sentencing.

16. At the time of sentencing, the parties shall recommend a sentence within the applicable guideline range. Neither party shall file a motion for departure. If at the time of

sentencing defendant is subject to any other undischarged term of imprisonment, the parties are free to make any recommendation with regard to this sentence pursuant to Guideline 5G1.3(c).

17. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and, subject to the limitations of the sentencing guidelines, may impose the maximum penalties as set forth in paragraph 9 above. The defendant further acknowledges that if the court does not accept the sentencing recommendation of the parties, the defendant will have no right to withdraw his guilty plea.

18. Regarding restitution, the parties agree, pursuant to 18 U.S.C. § 3663(a)(3) that defendant shall pay restitution in the amount of \$1,414,020.68 to the United States and that the Court must order defendant to make restitution in this amount, minus any credit for funds repaid prior to sentencing. Defendant agrees to provide complete and truthful information to the Court and the United States Probation Officer regarding all details of his economic circumstances, including all tax returns and related information which may be requested, in order to determine the manner in which and the schedule by which restitution should be paid. Furthermore, defendant understands that he is required to notify the Court and the Attorney General of any material change in his economic circumstances that might affect his ability to pay restitution. Defendant understands that providing false or incomplete information may be prosecuted as a violation of Title 18, United States Code, Section 1001, or as contempt of court.

19. With regard to the forfeiture allegation in the Superseding Indictment the parties agree:

(a) The Superseding Indictment charges that defendant is liable to the United States for \$1,414,020.68 which funds are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(c)

and 28 U.S.C. § 2461 as a result of the violation alleged in Count One of the Superseding Indictment. By entry of a guilty plea to Count One of the Superseding Indictment, defendant understands that the property identified above is subject to forfeiture.

(b) Defendant agrees to the entry of a forfeiture judgment in the amount of \$1,414,020.68 at sentencing. Prior to sentencing, defendant agrees to the entry of a preliminary order of forfeiture relinquishing any right, title or ownership interest he has in the above property.

(c) Defendant understands that the United States shall satisfy this forfeiture judgment with substitute assets pursuant to 21 U.S.C. § 853(p). Any attempt on the part of defendant to transfer, convey, or otherwise conceal property prior to the satisfaction of this judgement shall be deemed to violate this plea agreement. If such conveyances are discovered prior to the imposition of the sentence, defendant understands that there will be no two-level reduction in the base offense level for acceptance of responsibility.

(d) Defendant understands that pursuant to 18 U.S.C. § 3663(a)(3), as agreed above, this Court shall order restitution in the amount of \$1,414,020.68. It is agreed by the parties that any payments made towards the restitution obligation shall be credited to the outstanding forfeiture judgment.

20. Defendant understands that his compliance with each part of this Plea Agreement extends throughout and beyond the period of his sentence, and failure to abide by any term of the Plea Agreement is a violation of the Agreement. He further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Plea Agreement, rendering it null and void, and thereafter prosecute the defendant not subject to any of the limits set forth in this Agreement, or to resentence the defendant. Defendant understands and agrees that in the event

that this Plea Agreement is breached by the defendant, and the Government elects to void the Plea Agreement and prosecute the defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

21. After sentence has been imposed on the counts to which defendant pleads guilty herein, the government will move to dismiss the remaining counts of the Superseding Indictment.

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

23. Defendant agrees this Plea Agreement shall be filed and become a part of the record in this case.

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

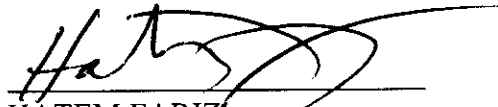
25. Defendant acknowledges that he has read this Agreement and carefully reviewed each

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

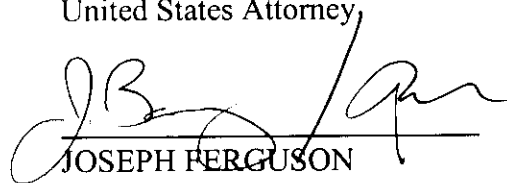
AGREED THIS DATE: June 8, 2006



PATRICK J. FITZGERALD
United States Attorney



HATEM FARIZ
Defendant



JOSEPH FERGUSON
JAMES E. BARZ
Assistant United States Attorneys



LUIS GALVAN
Attorney for Defendant