



U.S. Department of Justice

United States Attorney

District of New Jersey

Economic Crimes Unit

Aaron Mendelsohn  
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November 16, 2011

Via Electronic Mail

Patrick McMahon, Esq.  
Assistant Federal Public Defender  
Federal Public Defender's Office  
1002 Broad Street  
Newark, New Jersey 07102

Re: Plea Agreement with Jorge Abbud

12-26 (wthw)

Dear Mr. McMahon:

This letter sets forth the plea agreement between your client, Jorge Abbud, and the United States Attorney for the District of New Jersey ("this Office"). This offer will remain open until Wednesday, November 30, 2011, and if an executed agreement is not received in this Office on or before that date, this offer will expire.

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from Jorge Abbud to a one-count information, charging him with wire fraud, in violation of 18 U.S.C. § 1343. If Mr. Abbud enters a guilty plea and is sentenced on this charge, and otherwise fully complies with the terms of this agreement, this Office will not initiate any further criminal charges against Mr. Abbud for his mortgage-related business activities from in or about January 2006 through in or about December 2008. However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, defendant agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by Mr. Abbud may be commenced against him, notwithstanding the expiration of the limitations period after Mr. Abbud signs the agreement.

Sentencing

The violation of 18 U.S.C. § 1343 to which Mr. Abbud agrees to plead guilty carries a statutory maximum prison sentence of 20 years and a statutory maximum fine equal to the greatest of: (1) \$250,000; (2) twice the gross amount of any pecuniary gain that

any persons derived from the offense; or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense. Fines imposed by the sentencing judge may be subject to the payment of interest.

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

Further, in addition to imposing any other penalty on Mr. Abbud, the sentencing judge: (1) will order Mr. Abbud to pay an assessment of \$100, pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) must order Mr. Abbud to pay restitution, pursuant to 18 U.S.C. §§ 3663 *et seq.*; (3) may order Mr. Abbud, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offense; (4) may order defendant to pay the costs of prosecution; and (5) pursuant to 18 U.S.C. § 3583, may require Mr. Abbud to serve a term of supervised release of not more than 3 years, which will begin at the expiration of any term of imprisonment imposed. Should Mr. Abbud be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Mr. Abbud may be sentenced to not more than 2 years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

In addition, Mr. Abbud agrees to make full restitution for all losses resulting from the offense of conviction or from the scheme, conspiracy, or pattern of criminal activity underlying that offense, in the amount of approximately \$138,402.

#### Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed on Mr. Abbud by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United

States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of Mr. Abbud's activities and relevant conduct with respect to this case.

#### Stipulations

This Office and Mr. Abbud agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations entered into by the parties. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate on the part of this Office is based on the information and evidence that this Office possesses as of the date of this agreement. Thus, if this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in the attached Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or Mr. Abbud from any other portion of this agreement, including any other stipulation. If the Court rejects a stipulation, both parties reserve the right to argue on appeal or at post-sentencing proceedings that the sentencing court was within its discretion and authority to do so. These stipulations do not restrict the Government's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

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

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

#### Forfeiture

Defendant agrees that, as part of his acceptance of responsibility and pursuant to 18 U.S.C. § 981(a)(1)(c) and 28 U.S.C. § 2461, he will forfeit to the United States approximately \$138,402 in United States currency (collectively the "Forfeitable Property"). Mr. Abbud acknowledges that the Forfeitable Property is subject to forfeiture as property, real or personal, that

constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 1343, which constitutes a specified unlawful activity within the meaning of 18 U.S.C. § 981(a)(1)(C), or a conspiracy to commit such offense. All right, title, and interest in the Forfeitable Property shall be transferred or delivered to the Federal Bureau of Investigation on or before the date Mr. Abbud enters his guilty plea pursuant to this agreement.

Defendant further agrees to waive all interest in the Forfeitable Property in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. Mr. Abbud agrees to consent to the entry of orders of forfeiture for the Forfeitable Property and waives the requirements of Rules 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Mr. Abbud understands that the forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the court to advise his of this pursuant to Rule 11(b)(1)(J) of the Federal Rules of Criminal Procedure at the guilty plea proceeding.

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

#### Immigration Consequences

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

Other Provisions

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

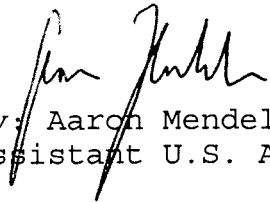
This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against Mr. Abbud. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service), or any third party from initiating or prosecuting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

No Other Promises

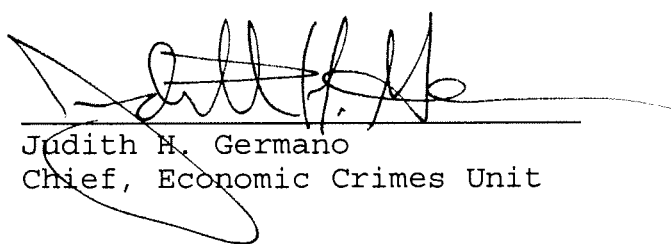
This agreement constitutes the plea agreement between Mr. Abbud and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

PAUL J. FISHMAN  
United States Attorney

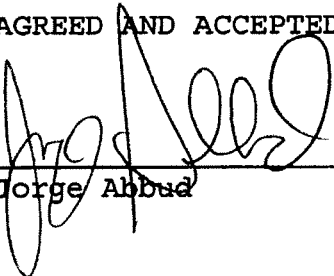
  
By: Aaron Mendelsohn  
Assistant U.S. Attorney

APPROVED:

  
Judith H. Germano  
Chief, Economic Crimes Unit


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

AGREED AND ACCEPTED:

  
\_\_\_\_\_  
Jorge Abbad

Date: 12-9-11

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

  
\_\_\_\_\_  
Patrick McMahon, Esq.

Date: 12/9/11

Plea Agreement With Jorge Abbud

Schedule A

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

2. The version of the United States Sentencing Guidelines effective November 1, 2011 applies in this case. The applicable guideline is U.S.S.G. § 2B1.1. This guideline carries a Base Offense Level of 7.

3. Because this offense involved losses totaling more than \$120,000 but less than \$200,000, the Specific Offense Characteristic results in an increase of 10 levels. See U.S.S.G. § 2B1.1(b)(1)(F).

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

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

6. In accordance with the above, the parties agree that the total Guidelines offense level applicable to Jorge Abbud is 14 (the "agreed total Guidelines offense level").

7. The parties agree not to seek or argue for any upward or downward departure or adjustment not set forth herein. The parties agree, however, that either party may seek and argue for an upward or downward variance, and that either party may oppose same. The parties further agree that a sentence within the Guidelines range that results from the agreed total Guidelines offense level of 14 is reasonable.

8. Jorge Abbud knows that he has and, except as noted below in this paragraph, voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the sentence imposed by the sentencing court if that sentence falls within or below the Guidelines range that results from the agreed total Guidelines offense level of 14. This Office will not file any appeal, motion or writ which challenges the sentence imposed by the sentencing court if that sentence falls within or above the Guidelines range that results from the agreed total Guidelines offense level of 14. The parties reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, if the sentencing court accepts a stipulation, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so.

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