

U.S. Department of Justice



United States Attorney  
District of Connecticut

Connecticut Financial Center

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December 23, 2010

**VIA ELECTRONIC MAIL**

Leo E. Ahern, Esq.  
50 Elm Street  
New Haven, CT 06511

2010 JAN 21 PM 3:00  
FBI/DOJ

Re: **United States v. Alicia Martineau**  
**Criminal No. 3:11cr 20 (AWT)**

Dear Mr. Ahern:

This letter confirms the plea agreement entered into between your client, Alicia Martineau (the "defendant"), and the United States Attorney's Office for the District of Connecticut (the "Government") concerning the referenced criminal matter.

**THE PLEA AND OFFENSE**

The defendant agrees to waive her right to be indicted and to plead guilty to a one-count Information charging her with conspiracy to commit wire fraud in violation of 18 U.S.C. § 371. She understands that to be guilty of Count One of the Information, the following essential elements of the offense must be satisfied:

1. That the defendant Alicia Martineau entered into an unlawful agreement with at least one other person, as charged in Count One of the Information, namely that the defendant knowingly, willfully and corruptly conspired to execute and attempt to execute a scheme and artifice to defraud mortgage lenders out of money and property by means of interstate wire communications;
2. That the defendant knowingly and willfully became a member of the conspiracy.
3. That a member of the conspiracy committed at least one of the overt acts charged in the Information; and
4. That the overt acts were committed to further some objective of the conspiracy.

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## **THE PENALTIES**

Count One of the Information carries a maximum penalty of 5 years' imprisonment and a \$250,000 fine. In addition, under 18 U.S.C. § 3583, the Court may impose a term of supervised release of not more than three years, to begin at the expiration of any term of imprisonment imposed. The defendant understands that should she violate any condition of the supervised release during its term, she may be required to serve a further term of up to two years' imprisonment with no credit for the time already spent on supervised release.

The defendant also is subject to the alternative fine provision of 18 U.S.C. § 3571. Under this section, the maximum fine that may be imposed on the defendant is the greatest of the following amounts: (1) twice the gross gain to the defendant resulting from the offense; (2) twice the gross loss resulting from the offense; or (3) \$250,000.

In addition, the defendant is obligated by 18 U.S.C. § 3013 to pay a special assessment of \$100.00 on each count of conviction. The defendant agrees to pay the special assessment to the Clerk of the Court on the day the guilty plea is accepted.

Finally, unless otherwise ordered, should the Court impose a fine of more than \$2,500 as part of the sentence, interest will be charged on the unpaid balance of a fine amount not paid within 15 days after the judgment date. 18 U.S.C. § 3612(f). Other penalties and fines may be assessed on the unpaid balance of a fine pursuant to 18 U.S.C. §§ 3572 (h), (I) and § 3612(g).

### **Restitution**

In addition to the other penalties provided by law, the Court must also order that the defendant make restitution under 18 U.S.C. § 3663A. The scope and effect of the order of restitution are set forth in the attached Rider Concerning Restitution. Restitution is payable immediately unless ordered otherwise by the Court. The total amount of restitution to be made by the defendant will be presented to the Court before the date of sentencing.

### **Forfeiture**

The Defendant agrees that she hereby forfeits all right, title, and interest in any and all property, real or personal up, and all proceeds traceable to and derived from the scheme charged in Count One of the Information in violation of 18 U.S.C. § 371. The Defendant agrees to take all steps as requested by the United States to transfer custody of and pass clear title to all of the forfeitable assets to the United States, to share truthful information with agents and representatives of the United States about any facts and claims concerning the assets, and to testify truthfully in any judicial forfeiture proceeding.

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## THE SENTENCING GUIDELINES

### 1. Applicability

The defendant understands that although application of the United States Sentencing Guidelines is not mandatory, they are advisory and the Court is required to consider any applicable Sentencing Guidelines as well as other factors enumerated in 18 U.S.C. § 3553(a) to tailor an appropriate sentence in this case. *See United States v. Booker*, 543 U.S. 220 (2005). The defendant expressly understands and agrees that the Sentencing Guideline determinations will be made by the Court, by a preponderance of the evidence, based upon input from the defendant, the Government, and the United States Probation Officer who prepares the presentence investigation report. The defendant further understands that she has no right to withdraw her guilty plea if her sentence or the Guideline application is other than she anticipated.

### 2. Acceptance of Responsibility

At this time, the Government agrees to recommend that the Court reduce by two levels the defendant's Adjusted Offense Level under § 3E1.1(a) of the Sentencing Guidelines, based on the defendant's prompt recognition and affirmative acceptance of personal responsibility for the offense. Moreover, the Government intends to file a motion with the Court pursuant to § 3E1.1(b) recommending that the Court reduce defendant's Adjusted Offense Level by one additional level based on the defendant's prompt notification of her intention to enter a plea of guilty. This recommendation is conditioned upon the defendant's full, complete, and truthful disclosure to the Probation Office of information requested, of the circumstances surrounding her commission of the offense, of her criminal history, and of her financial condition by submitting a complete and truthful financial statement. In addition, this recommendation is conditioned upon the defendant timely providing complete information to the Government concerning her involvement in the offense to which she is pleading guilty. The defendant expressly understands that the Court is not obligated to accept the Government's recommendation on the reduction.

The Government will not make this recommendation if the defendant engages in any acts which (1) indicate that the defendant has not terminated or withdrawn from criminal conduct or associations (Sentencing Guideline § 3E1.1); (2) could provide a basis for an adjustment for obstructing or impeding the administration of justice (Sentencing Guideline § 3C1.1); or (3) constitute a violation of any condition of release. Moreover, the Government will not make this recommendation if the defendant seeks to withdraw her plea of guilty. The defendant expressly understands that she may not withdraw her plea of guilty if, for the reasons explained above, the Government does not make this recommendation.

### 3. Guideline Stipulation

The Government and the defendant stipulate the defendant's applicable Sentencing Guidelines to be a range of 18 to 24 months of imprisonment and a fine range of \$ 4,000 to \$40,000.

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The defendant's sentencing guidelines range is calculated as follows: The base offense level under U.S.S.G. § 2B1.1(a)(1) is 6. The parties agree that 10 levels are added under § 2B1.1(b)(1)(F) because the loss foreseeable to the defendant from the offense exceeded \$120,000. Two levels are added under § 2B1.1(b)(9)(c) because the offense involved sophisticated means. Three (3) levels are subtracted under U.S.S.G. § 3E1.1 for acceptance of responsibility, as noted above, resulting in a total offense level of 15. A total offense level of 15 with a criminal history category I, which the parties estimate the defendant to have, results in a range of 18 to 24 months of imprisonment (sentencing table) and a fine range of \$4,000 to \$40,000, U.S.S.G. § 5E1.2(c)(3).

The defendant expressly understands that the Court is not bound by this agreement on the Guideline and fine ranges specified above. The defendant further expressly understands that she will not be permitted to withdraw the plea of guilty if the Court imposes a sentence outside the Guideline range or fine range set forth in this agreement.

In the event the Probation Office or the Court contemplates any sentencing calculations different from those stipulated by the parties, the parties reserve the right to respond to any inquiries and make appropriate legal arguments regarding the proposed alternate calculations. Moreover, the Government expressly reserves the right to challenge or defend any sentencing determination, other than that stipulated by the parties, in any post-sentencing proceeding.

4. Waiver of Right to Appeal or Collaterally Attack Sentence

The defendant acknowledges that under certain circumstances she is entitled to appeal her conviction and sentence. It is specifically agreed that the defendant will not appeal or collaterally attack in any proceeding, including but not limited to a motion under 28 U.S.C. § 2255 and/or § 2241, the conviction or sentence of imprisonment imposed by the Court if the sentenced of imprisonment does not exceed 24 months, a three-year term of supervised release, and a fine of \$40,000. The defendant expressly acknowledges that she is knowingly and intelligently waiving her appellate rights.

5. Information to the Court

The Government expressly reserves its right to address the Court with respect to an appropriate sentence to be imposed in this case. Moreover, it is expressly understood that the Government will discuss the facts of this case, including information regarding the defendant's background and character, 18 U.S.C. § 3661, with the United States Probation Office and will provide the Probation Officer with access to its file, with the exception of grand jury material.

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## **WAIVER OF RIGHTS**

### **Waiver of Right to Indictment**

The defendant understands that she has the right to have the facts of this case presented to a federal grand jury, consisting of between sixteen and twenty-three citizens, twelve of whom would have to find probable cause to believe that she committed the offense set forth in the information before an indictment could be returned. The defendant expressly acknowledges that she is knowingly and intelligently waiving her right to be indicted.

### **Waiver of Trial Rights and Consequences of Plea**

The defendant understands that she has the right to be represented by an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent her.

The defendant understands that she has the right to plead not guilty or to persist in that plea if it has already been made, the right to a public trial, the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against her, the right not to be compelled to incriminate herself, and the right to compulsory process for the attendance of witnesses to testify in her defense. The defendant understands that by pleading guilty she waives and gives up those rights and that, if the plea of guilty is accepted by the Court, there will not be a further trial of any kind.

The defendant understands that if she pleads guilty, the Court may ask her questions about each offense to which she pleads guilty, and if she answers those questions falsely under oath, on the record, and in the presence of counsel, her answers may later be used against her in a prosecution for perjury or making false statements.

### **Waiver of Statute of Limitations**

The defendant understands and agrees that should the conviction following defendant's plea of guilty pursuant to this plea agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this plea agreement (including any indictment or counts the Government has agreed to dismiss at sentencing pursuant to this plea agreement) may be commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement or reinstatement of such prosecution. The defendant agrees to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date the plea agreement is signed.

## **ACKNOWLEDGEMENT OF GUILT; VOLUNTARINESS OF PLEA**

The defendant acknowledges that she is entering into this agreement and is pleading guilty freely and voluntarily because she is guilty. The defendant further acknowledges that she

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is entering into this agreement without reliance upon any discussions between the Government and her (other than those described in the plea agreement letter), without promise of benefit of any kind (other than the concessions contained in the plea agreement letter), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges her understanding of the nature of the offense to which she is pleading guilty, including the penalties provided by law. The defendant also acknowledges her complete satisfaction with the representation and advice received from her undersigned attorney. The defendant and her undersigned counsel are unaware of any conflict of interest concerning counsel's representation of the defendant in the case.

The defendant expressly acknowledges that she is not a "prevailing party" within the meaning of Public Law 105-119, section 617 ("the Hyde Amendment") with respect to the count of conviction or any other count or charge that may be dismissed pursuant to this agreement. The defendant voluntarily, knowingly, and intelligently waives any rights she may have to seek reasonable attorney's fees and other litigation expenses under the Hyde Amendment.

#### **SCOPE OF THE AGREEMENT**

The defendant acknowledges and understands that this agreement is limited to the undersigned parties and cannot bind any other federal authority, or any state or local authority. The defendant acknowledges that no representations have been made to her with respect to any civil or administrative consequences that may result from this plea of guilty because such matters are solely within the province and discretion of the specific administrative or governmental entity involved. Finally, the defendant understands and acknowledges that this agreement has been reached without regard to any civil tax matters that may be pending or which may arise involving her.

#### **COLLATERAL CONSEQUENCES**

The defendant further understands that she will be adjudicated guilty of each offense to which she has pleaded guilty and will be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to possess firearms. The defendant understands that pursuant to section 203(b) of the Justice For All Act, the Bureau of Prisons or the Probation Office will collect a DNA sample from the defendant for analysis and indexing. Finally, the defendant understands that the Government reserves the right to notify any state or federal agency by which she is licensed, or with which she does business, as well as any current or future employer of the fact of her conviction.

#### **SATISFACTION OF FEDERAL CRIMINAL LIABILITY; BREACH**

The defendant's guilty plea, if accepted by the Court, will satisfy the federal criminal liability of the defendant in the District of Connecticut as a result of her participation in the offense conduct charged in the Information.

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The defendant understands that if, before sentencing, she violates any term or condition of this agreement, engages in any criminal activity, or fails to appear for sentencing, the Government may void all or part of this agreement. If the agreement is voided in whole or in part, defendant will not be permitted to withdraw her plea of guilty.

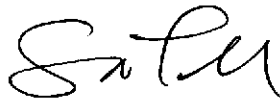
**NO OTHER PROMISES**

The defendant acknowledges that no other promises, agreements, or conditions have been entered into other than those set forth in this plea agreement, and none will be entered into unless set forth in writing, signed by all the parties.

This letter shall be presented to the Court, in open court, and filed in this case.

Very truly yours,

DAVID B. FEIN  
UNITED STATES ATTORNEY



SUSAN L. WINES  
ASSISTANT UNITED STATES ATTORNEY

The defendant certifies that she has read this plea agreement letter and its attachment(s) or has had it read or translated to her, that she has had ample time to discuss this agreement and its attachment(s) with counsel and that she fully understands and accepts its terms.



ALICIA MARTINEAU

The Defendant

1/31/2011  
Date

I have thoroughly read, reviewed and explained this plea agreement and its attachment(s) to my client who advises me that she understands and accepts its terms.



LEO E. AHERN, ESQ.

Attorney for the Defendant

1/31/2011  
Date

STIPULATION OF OFFENSE CONDUCT

The defendant ALICIA MARTINEAU and the Government stipulate and agree to the following offense conduct that gives rise to the defendant's agreement to plead guilty to the information:

1. The defendant conspired and agreed with Syed A. Babar and others to participate in a mortgage fraud scheme to defraud providers of residential real estate loans out of money by using nominee or "straw" buyers and by providing the lenders with false and fraudulent information about those straw buyers and the purpose of the loans being sought.

2. As part of her involvement in the scheme, the defendant conspired and agreed with Babar and others to act as a straw buyer, that is, a buyer in name only, of a house located at 211 Lloyd Street, New Haven, CT. Defendant worked with Babar and others to obtain an FHA-insured loan to buy the house at the fraudulently inflated price of \$160,000. The house was in extremely poor condition both before and after defendant purchased it on October 1, 2009.

3. Defendant stipulates that in connection with the closing of her purchase of 211 Lloyd Street, on or about October 1, 2009, approximately \$49,375.00 was sent by means of interstate wire from co-conspirator David Avigdor's lawyer's trust account at Citizen's Bank to a business checking account of Sheda Telle Construction, LLC at Bank of America.

4. Defendant had no intention of ever living at the 211 Lloyd Street property. Defendant had no intention of ever making mortgage payments on the property. In fact, at the closing, which was conducted by Morris Olmer, the defendant did not receive the keys to 211 Lloyd Street.

5. After the closing, Babar paid defendant \$10,000 in cash in a black plastic bag for serving as a straw buyer.

6. The loss suffered by the lender on 211 Lloyd Street was over \$120,000 and the scheme involved sophisticated means.

7. This stipulation does not attempt to set forth every aspect of the defendant's involvement in the mortgage fraud conspiracy led by Babar, but rather to set forth those necessary to serve as a factual basis for her guilty plea in this case.



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The written stipulation above is incorporated into the preceding plea agreement. It is understood, however, that the defendant and the Government reserve their right to present additional relevant offense conduct to the attention of the Court in connection with sentencing.



ALICIA MARTINEAU

The Defendant



SUSAN L. WINES

ASSISTANT UNITED STATES ATTORNEY



LEO E. AHERN, ESQ.

Attorney for the Defendant

RIDER CONCERNING RESTITUTION

The Court shall order that the defendant make restitution under 18 U.S.C. § 3663A. The order of restitution may include:

1. If the offense resulted in damage to or loss or destruction of property of a victim of the offense, the order of restitution shall require the defendant to:

A. Return the property to the owner of the property or someone designated by the owner; or

B. If return of the property is impossible, impracticable, or inadequate, pay an amount equal to:

The greater of -

(I) the value of the property on the date of the damage, loss, or destruction; or

(II) the value of the property on the date of sentencing, less the value as of the date the property is returned.

2. In the case of an offense resulting in bodily injury to a victim –

A. pay an amount equal to the costs of necessary medical and related professional services and devices related to physical, psychiatric, and psychological care; including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

B. pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

C. reimburse the victim for income lost by such victim as a result of such offense;

3. In the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

4. In any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

The order of restitution has the effect of a civil judgment against the defendant. In addition to the court ordered restitution, the court may order that the conditions of its order of restitution be made a condition of probation or supervised release. Failure to make restitution as ordered may result in a revocation of probation, or a modification of the conditions of supervised release, or in the defendant being held in contempt under 18 U.S.C. § 3583(e). Failure to pay restitution may also result in the defendant's re-sentencing to any sentence which might originally have been imposed by the Court. See 18 U.S.C. § 3614. The Court may also order that the defendant give notice to any victim(s) of her offense under 18 U.S.C. § 3555.