

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 10 CR 290
) Judge Harry D. Leinenweber
)
)
JOSEPH SCALISE)

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant JOSEPH SCALISE, and his attorney, EDWARD M. GENSON, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(C), as more fully set forth below.

The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The superseding indictment in this case charges defendant with conspiring to participate in the affairs of an enterprise through a pattern of racketeering activity, in violation of Title 18, United States Code, Section 1962(d) (Count One), conspiring to interfere with commerce through robbery, in violation of Title 18, United States Code, Section 1951 (Count Two), possession of firearms in furtherance of a crime of violence, in violation of Title 18, United States Code, Section 924(c) (Count Three), and felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g) (Count Four).

3. Defendant has read the charges against him contained in the superseding indictment, and those charges have been fully explained to him by his attorney.

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

Charges to Which Defendant is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the superseding indictment: Count One, which charges defendant with conspiring to participate in the affairs of an enterprise through a pattern of racketeering activity, in violation of Title 18, United States Code, Section 1962(d); Count Two, which charges defendant with conspiring to interfere with commerce through robbery, in violation of Title 18, United States Code, Section 1951; Count Three, which charges defendant with possession of firearms in furtherance of a crime of violence, in violation of Title 18, United States Code, Section 924(c); and Count Four, which charges defendant with being a felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g). In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts One, Two, Three and Four of the superseding indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

a. With respect to Count One of the superseding indictment:

Beginning no later than in or around February 2009 and continuing until 2010, defendant JOSEPH SCALISE was a member of a criminal organization that included, among

others, Robert Pullia and Arthur Rachel, and he agreed to commit criminal acts on its behalf that constituted federal and state felony violations, including but not limited to conspiring, by robbery, to obstruct and affect commerce, in violation of Title 18, United States Code, Section 1951, and acts and threats involving robbery chargeable under the law of the State of Illinois, 720 Illinois Compiled Statutes Annotated 5/18-2 and 720 Illinois Compiled Statutes Annotated 5/18-1. This group of individuals constituted an “enterprise” as that term is used in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact, which enterprise the defendant acknowledges was engaged in and the activities of which affected interstate commerce.

The defendant admits that multiple federal and state crimes were committed by himself and others in carrying out the criminal purposes of the enterprise. These crimes included but were not limited to the following:

Defendant SCALISE conspired to rob bulk cash in the possession of an armored truck company, namely, Davis Bancorp, as more fully described in subsection (b).

Beginning no later than the spring of 2010 and continuing until on or about April 8, 2010, defendant SCALISE conspired with co-defendants Robert Pullia and Arthur Rachel to break into a residence located in the vicinity of the intersection of 30th Street and South Princeton Avenue, in Chicago, Illinois (the “LaPietra Residence”), and through the use of force and imminent threats of force, take property from a person or persons.

Specifically, in March 2010 and April 2010, defendant SCALISE, together with co-defendants Robert Pullia and Arthur Rachel, conducted surveillance of the LaPietra Residence, for the purpose of identifying the individuals residing in and visiting the LaPietra

Residence. The three men conducted surveillance on a regular basis from defendant SCALISE's 2001 Ford Econoline Van (the "Ford Van"), including surveillance on April 2, 2010, and April 5 through April 7, 2010. During the course of this surveillance, defendant SCALISE and co-defendants Pullia and Rachel agreed to break into the LaPietra Residence by drilling a hole through the mortar surrounding a glass block window located on the side of the house, thereby gaining access to the basement of the LaPietra Residence. The defendants discussed taking money and property from the presence of another by threat of force. On the night of April 7, 2010, defendant SCALISE entered the grounds of the LaPietra Residence and began drilling a hole through the mortar surrounding a glass window on the side of the LaPietra Residence. Defendant SCALISE reported his progress to defendants Pullia and Rachel, who were also in the vicinity of the LaPietra Residence, waiting within the Ford Van. While they waited for defendant SCALISE, co-defendants Pullia and Rachel continued to conduct surveillance of the LaPietra Residence and monitored police radio traffic through the use of scanners located in the Ford Van.

In connection with the racketeering activity described above, the members of the enterprise, including defendant SCALISE, performed surveillance on other potential targets of illegal enterprise activity. For example, defendant SCALISE and co-defendant Pullia performed surveillance at the State Bank of Countryside, located at 6734 Joliet Road, in Countryside, Illinois, and co-defendant Rachel performed independent surveillance of the LaPietra Residence.

Furthermore, in connection with the racketeering activity described above, defendant SCALISE rented a garage, located in the Bridgeport area of Chicago, Illinois (the "Garage"),

for the purpose of storing stolen vehicles, firearms, magazines, ammunition and masks that would be used during the course of illegal enterprise activity. Defendant SCALISE rented the Garage under the alias, “John Martin.” The vehicles stored in the Garage were stolen in March 2009 and July 2009. The three firearms, magazines and ammunition stored within the Garage were: one Browning Hi Power 9 millimeter pistol bearing serial number 73C93956 and one magazine with five 9 millimeter cartridges; one Interarms M68 .38 caliber revolver, bearing serial number D525921 and five Smith and Wesson .38 special cartridges; and one SWD M11/9 9 millimeter pistol, bearing serial number 89-0049284, and three magazines containing thirty-four 9 millimeter cartridges. The defendant knew about and intended to utilize the vehicles and weapons stored in the Garage in the commission of the enterprise’s robberies.

b. With respect to Count Two of the superseding indictment:

Beginning in or around February 2009 and continuing until on or about April 8, 2010, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant SCALISE conspired with co-defendants Robert Pullia and Arthur Rachel to obstruct, delay, and affect commerce by robbery, that is, the robbery of bulk cash in the possession of an armored truck company, namely, Davis Bancorp, as “robbery” and “commerce” are defined in Title 18, United States Code, Section 1951(b), in violation of Title 18, United States Code, Section 1951(a).

Specifically, between December 2009 and April 2010, defendant SCALISE and his co-defendants conducted surveillance in the vicinity of the First National Bank of LaGrange, located in LaGrange, Illinois (“FNB”). This surveillance occurred regularly around 9:00 a.m.

on Thursday mornings. The purpose of this surveillance was to: identify the time and manner in which a Davis Bancorp armored truck made deliveries and pick-ups of bulk cash from FNB; determine the amount of money the armored truck collected from FNB; and determine whether the armored truck crew was attentive to its surroundings. This surveillance was performed in connection with preparing to rob the armored truck of bulk cash collected from FNB.

Davis Bancorp, an armored truck company, conducted operations in several States, including Illinois, and customarily purchased goods in interstate commerce in connection with its business. Davis Bancorp purchased supplies and armored trucks from various companies located in the United States and Canada, including Mississippi and Wisconsin. In the event a Davis Bancorp armored truck was robbed, the assets of the company would have been depleted, and Davis Bancorp maintained insurance for any loss suffered by robbery through Lloyd's of London, an insurance company located in the United Kingdom.

c. With respect to Count Three of the superseding indictment:

On or about April 8, 2010, at Chicago, in the Northern District of Illinois, Eastern Division, defendant SCALISE knowingly possessed firearms, namely, one Browning Hi Power 9 millimeter pistol bearing serial number 73C93956, one Interarms M68 .38 caliber revolver, bearing serial number D525921, and one SWD M11/9 9 millimeter pistol, bearing serial number 89-0049284 (the "Firearms"), in furtherance of a crime of violence for which he may be prosecuted in a court of the United States, namely, a violation of Title 18, United States Code, Section 1951(a), as further set forth in Count Two of the indictment, in violation of Title 18, United States Code, Sections 924(c)(1)(A) and 2.

Specifically, defendant SCALISE acknowledges that one of the Firearms located in the Garage was intended for his use in committing the robberies described above.

d. With respect to Count Four of the superseding indictment:

On or about April 8, 2010, at Chicago, in the Northern District of Illinois, Eastern Division, defendant SCALISE having previously been convicted of a crime punishable by a term of imprisonment exceeding one year, knowingly possessed the Firearms, which Firearms were in and affecting interstate commerce, in that the firearms had traveled in interstate commerce prior to the defendants' possession of the firearms, in violation of Title 18, United States Code, Sections 922(g)(1) and 2.

Specifically, on or about September 10, 1999, defendant was convicted of conspiracy to possess with intent to distribute cocaine in the United States District Court for the Northern District of Illinois, was and sentenced to a term of imprisonment of 108 months. Thereafter, SCALISE possessed the Firearms, at least one of which was stored within the Garage for his use in commission of the robberies described above. Each Firearm was manufactured outside the State of Illinois, and traveled in interstate commerce prior to the defendant's possession of the Firearms.

Maximum Statutory Penalties

7. Defendant understands that the charges to which he is pleading guilty carry the following statutory penalties:

a. Count One carries a maximum sentence of 20 years' imprisonment.

Count One also carries a maximum fine of \$250,000. Defendant further understands that with

respect to Count One the judge also may impose a term of supervised release of not more than three years.

b. Count Two carries a maximum sentence of 20 years' imprisonment. Count Two also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count Two, the judge also may impose a term of supervised release of not more than three years.

c. Count Three carries a maximum sentence of life imprisonment, and a statutory mandatory minimum sentence of 5 years. The sentence of imprisonment on Count Three is required to be consecutive to any other sentence. Pursuant to Title 18, United States Code, Section 3561, defendant may not be sentenced to a term of probation on this count. Count Three also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count Three the judge also may impose a term of supervised release of not more than five years.

d. Count Four carries a maximum sentence of ten years' imprisonment. Count Four also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count Four, the judge may also impose a term of supervised release of not more than three years.

e. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty imposed.

f. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is life imprisonment, and the minimum sentence is 5 years'

imprisonment. In addition, defendant is subject to a total maximum fine of \$1,000,000, a period of supervised release, and special assessments totaling \$400.

Sentencing Guidelines Calculations

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

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2011 Guidelines Manual.

b. **Offense Level Calculations.**

i. Count One (Racketeering Conspiracy). The guidelines for the racketeering conspiracy charged in Count One of the superseding indictment are determined by calculating the offense levels applicable to the underlying racketeering activities. USSG § 2E1.1(a)(2), and Application Note 1.

(1) Davis Bancorp Robbery. Pursuant to Guideline Section 2B3.1(a), the base offense level is 20.

(2) LaPietra Residence Robbery. Pursuant to Guideline Section 2B3.1(a), the base offense level is 20.

ii. Count Two (Davis Bancorp Robbery). Pursuant to Guideline Section 2B3.1(a), the base offense level is 20.

iii. Count Three (18 U.S.C. § 924(c)). Pursuant to Guideline Section 2K2.4, the guideline sentence is the minimum term of imprisonment required by statute, which is 60 months.

iv. Count Four (18 U.S.C. § 922(g)). Pursuant to Guideline Section 2K2.1, the base offense level is 22, because the offense involved a semiautomatic firearm capable of accepting a large capacity magazine and the defendant committed any part of the offense subsequent to sustaining one felony conviction for a controlled substance offense. The defendant's base offense level is increased by 2 levels because 3 firearms were involved in the offense. The resulting offense level is 24.

v. Grouping.

- (1) With respect to Count One, pursuant to Guideline Section 3D1.2, offenses covered by Guideline Section 2B3.1 are not grouped. Pursuant to Guideline Section 3D1.4, the combined offense level for the offense is 22, because the Davis Bancorp Robbery with offense level 20 is assigned one Unit, the La Pietra Robbery is assigned one Unit because it is equally serious.
- (2) Pursuant to Guideline 3D1.2(a), (b) and (c), Counts Two and Four are grouped with Count One. The total offense level for this group is therefore 24.
- (3) Pursuant to Guideline 2K2.4, Guideline 3D1.1(b)(1) and 18 U.S.C. § 924(c), Chapters Three and Four of the Sentencing Guidelines do not apply to Count Three, and Count Three is not grouped with the other counts of conviction.

vi. 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 defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine that may be imposed in this case, a two-level reduction in the offense level is appropriate.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government and stipulated below, defendant's criminal history points equal 3 and defendant's criminal history category is II:

i. On or about September 10, 1999, defendant was convicted of conspiracy to possess with intent to distribute cocaine in the United States District Court for the Northern District of Illinois, was and sentenced to a term of imprisonment of 108 months. Pursuant to Guideline 4A1.1(a) the defendant receives 3 points for this sentence.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 22, which, when combined with the anticipated criminal history category of II, results in an anticipated advisory Sentencing Guidelines range of 46 to 57 months' imprisonment, in addition to any supervised release and fine the Court may impose. With respect to Count Three, defendant is subject to a term of 60 months' imprisonment, which must be imposed to run consecutively with any other term of imprisonment imposed on the defendant.

e. Defendant and his attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office 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 Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this plea agreement is not governed by Fed.R.Crim.P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Plea Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Plea Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

10. This Agreement will be governed, in part, by Federal Rule of Criminal Procedure 11(c)(1)(C). That is, the parties have agreed that the sentence imposed by the Court shall include a term of imprisonment in the custody of the Bureau of Prisons within the

advisory Sentencing Guidelines range of 106 to 117 months. The parties are free to recommend a sentence at any point within the agreed sentencing range. Other than the agreed term of incarceration, the parties have agreed that the Court remains free to impose the sentence it deems appropriate. If the Court accepts and imposes the agreed term of incarceration set forth, defendant may not withdraw this plea as a matter of right under Federal Rule of Criminal Procedure 11(d) and (e). If, however, the Court refuses to impose the agreed term of incarceration set forth herein, thereby rejecting this plea agreement, or otherwise refuses to accept defendant's plea of guilty, either party has the right to withdraw from this plea agreement.

11. Defendant agrees to pay the special assessment of \$400 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

Forfeiture

12. The superseding indictment alleges that the defendant has subjected personal property to forfeiture, namely one Browning Hi Power 9 millimeter pistol bearing serial number 73C93956 and one magazine with five 9 millimeter cartridges; one Interarms M68 .38 caliber revolver, bearing serial number D525921 and five Smith and Wesson .38 special cartridges; and one SWD M11/9 9 millimeter pistol, bearing serial number 89-0049284 and three magazines containing thirty-four 9 millimeter cartridges, because that property was used to facilitate the commission of the offenses charged in Counts Three and Four. By entry of guilty pleas to Counts Three and Four of the superseding indictment, defendant acknowledges that the property identified above is subject to forfeiture.

13. Defendant agrees to the entry of a forfeiture judgment against the property identified above, in that this property is subject to forfeiture. Prior to sentencing, defendant agrees to the entry of a preliminary order of forfeiture relinquishing any right of ownership he has in the above-described property and further agrees to the seizure of the property.

14. Defendant understands that forfeiture of this property shall not be treated as satisfaction of any fine, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

15. 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 10 CR 290.

16. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver or release by the United States or any of its agencies of any administrative or judicial civil claim, demand or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are 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.

Waiver of Rights

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

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. 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.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the superseding indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. 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 that the government had established defendant's guilt beyond a reasonable doubt.

v. 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.

vi. At a trial, 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. A defendant is not required to present any evidence.

vii. 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.

viii. With respect to forfeiture, defendant understands that if the case were tried before a jury, he would have a right to retain the jury to determine whether the government had established the requisite nexus between defendant's offense and any specific property alleged to be subject to forfeiture.

b. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, defendant knowingly waives

the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of forfeiture, in exchange for the concessions made by the United States in this Plea Agreement. In addition, defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, and (in any case in which the term of imprisonment and fine are within the maximums provided by statute) his attorney's alleged failure or refusal to file a notice of appeal, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel, which relates directly to this waiver or to its negotiation, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

c. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

18. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of

defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

19. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

20. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

21. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

Conclusion

22. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record and may be disclosed to any person.

23. Defendant understands that his compliance with each part of this Plea Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute 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 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.

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

25. Defendant acknowledges that he has read this Plea 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: _____

PATRICK J. FITZGERALD
United States Attorney

JOSEPH SCALISE
Defendant

AMARJEET S. BHACHU
STEPHEN P. BAKER
Assistant United States Attorneys

EDWARD M. GENSON
Attorney for Defendant