



U.S. Department of Justice

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District of New Jersey

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April 2, 2013

Richard Coughlin, Esquire
Federal Public Defender
Federal Public Defender's Office
800 Hudson Square, Suite 350
Camden, NJ 08102

Re: Plea Agreement with Ryan E. Bird

13cr 406 (NLH)

Dear Mr. Coughlin:

This letter sets forth the plea agreement between your client, Ryan E. Bird, and the United States Attorney for the District of New Jersey ("this Office").

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from Ryan E. Bird to a two-count Information. Count 1 of the Information charges the defendant with conspiracy to commit mail fraud and wire fraud, contrary to 18 U.S.C. §§ 1341 and 1343, respectively, in violation of 18 U.S.C. § 1349. Count 2 of the Information charges the defendant with wire fraud, in violation of 18 U.S.C. § 1343. If Ryan E. Bird enters a guilty plea and is sentenced on these charges, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against Ryan E. Bird for his role (1) in the conspiracy to devise a scheme and artifice to defraud through the use of the mails and interstate wires in which false representations were made that the Vacation Ownership Group could pay off timeshare owners' "mortgages" on their timeshares, have timeshares cancelled, or have the owners' timeshares sold, as is more fully described in Count 1 of the Information; and (2) in the scheme and artifice to defraud the New Jersey Department of Labor and Workforce Development through the use of interstate wires in connection with unemployment compensation benefits Ryan E. Bird received to which he was not entitled, as is more fully described in Count 2 of the Information. 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 Ryan E. Bird may be commenced against him, notwithstanding the expiration of the limitations period after Ryan E. Bird signs the agreement.

Sentencing

The violation of 18 U.S.C. § 1349 charged in Count 1 of the Information, to which Ryan E. Bird agrees to plead guilty, carries a statutory maximum prison sentence of 20 years imprisonment 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.

The violation of 18 U.S.C. § 1343 charged in Count 2 of the Information, to which Ryan E. Bird agrees to plead guilty, carries a statutory maximum prison sentence of 20 years imprisonment 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. The sentence on each count may run consecutively. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon Ryan E. Bird 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 Ryan E. Bird ultimately will receive.

Further, in addition to imposing any other penalty on Ryan E. Bird, the sentencing judge: (1) will order Ryan E. Bird to pay an assessment of \$100 per count pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) must order Ryan E. Bird to pay restitution pursuant to 18

U.S.C. § 3663 et seq.; (3) may order Ryan E. Bird, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offenses; and (4) pursuant to 18 U.S.C. § 3583, may require Ryan E. Bird 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 Ryan E. Bird be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Ryan E. Bird 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, Ryan E. Bird agrees to make full restitution for all losses resulting from the offenses of conviction or from the scheme, conspiracy, or pattern of criminal activity underlying those offenses.

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 Ryan E. Bird 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 Ryan E. Bird's activities and relevant conduct with respect to this case.

Stipulations

This Office and Ryan E. Bird 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 Ryan E. Bird from any other portion of this agreement, including any other stipulation. If the sentencing 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 this Office'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 Ryan E. Bird 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.

Immigration Consequences

The defendant understands that, if he is not a citizen of the United States, his guilty plea to the charged offense(s) will likely result in him 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.

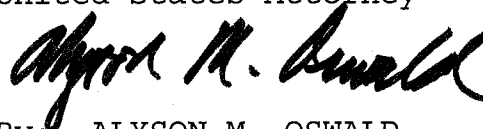
This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against Ryan E. Bird. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service), or any third party from initiating or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

No Other Promises

This agreement constitutes the plea agreement between Ryan E. Bird 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.

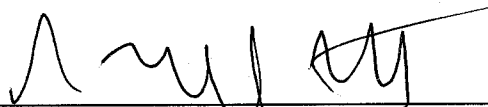
Very truly yours,

PAUL J. FISHMAN
United States Attorney



By: ALYSON M. OSWALD
R. DAVID WALK, JR.
Assistant U.S. Attorneys

APPROVED:

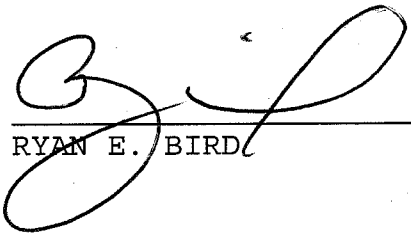


R. STEPHEN STIGALL
Attorney-in-Charge, Camden

I have received this letter from my attorney, Richard Coughlin, Esquire. 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, 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.

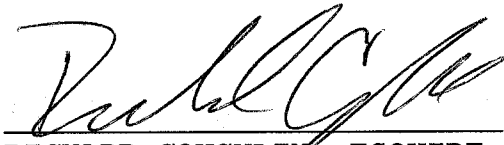
AGREED AND ACCEPTED:



RYAN E. BIRD

Date: 4/17/13

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



RICHARD COUGHLIN, ESQUIRE

Date: 4/17/13

Plea Agreement With Ryan E. Bird

Schedule A

1. This Office and Ryan E. Bird recognize that the United States Sentencing Guidelines are not binding upon the Court. This Office and Ryan E. Bird nevertheless agree to the stipulations set forth herein.

2. The version of the United States Sentencing Guidelines effective November 1, 2012 applies in this case.

3. With respect to the offense charged in Count One of the Information:

a. The applicable guideline is U.S.S.G. § 2B1.1. This guideline carries a Base Offense Level of 7.

b. The amount of the loss was more than \$200,000 but less than \$400,000. This results in an increase of 12 levels. See U.S.S.G. § 2B1.1(b)(1)(G).

c. The offense involved 10 or more victims. Therefore, an increase of 2 levels is appropriate. See U.S.S.G. § 2B1.1(b)(2)(A)(i).

d. The offense involved sophisticated means. Therefore, an increase of 2 levels is appropriate. See U.S.S.G. § 2B1.1(b)(10)(C).

e. The parties do not agree as to the applicability of U.S.S.G. § 3A1.1(b)(1). The government's position is that Ryan E. Bird knew or should have known that a victim of the offense was a vulnerable victim, and therefore a two-level enhancement applies under U.S.S.G. § 3A1.1(b)(1). Ryan E. Bird's position is that U.S.S.G. § 3A1.1(b)(1) does not apply. Both parties reserve their right to argue their respective positions at sentencing.

f. Based on the calculations in Paragraphs 3(a) through (e) above, the offense level for Count One is 23 if the Court finds that U.S.S.G. § 3A1.1(b)(1) does not apply, and 25 if the Court finds that U.S.S.G. § 3A1.1(b)(1) applies.

4. With respect to the offense charged in Count Two of the Information:

a. The applicable guideline is U.S.S.G. § 2B1.1. This guideline carries a Base Offense Level of 7.

b. The amount of the loss was more than \$10,000 but less than \$30,000. This results in an increase of 4 levels.

c. Based on the calculations in Paragraphs 4(a) through (b) above, the offense level for Count Two is 11.

5. Pursuant to U.S.S.G. § 3D1.2(d), both offenses charged in the Information are grouped together into a single group because the offense level is determined largely on the basis of the total amount of loss.

6. The offense level applicable to the Group is the offense level corresponding to the aggregated quantity, determined in accordance with Chapter Two and Parts A, B, and C of Chapter Three of the Sentencing Guidelines. See U.S.S.G. § 3D1.3(b). Thus, the grouped offense level is 23 if the Court finds that U.S.S.G. § 3A1.1(b)(1) does not apply, and 25 if the Court finds that U.S.S.G. § 3A1.1(b)(1) applies.

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

8. As of the date of this letter, Ryan E. Bird 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 this Office to avoid preparing for trial and permitting this Office and the court to allocate their resources efficiently. At sentencing, this Office will move for a further 1-point reduction in Ryan E. Bird's offense level pursuant to U.S.S.G. § 3E1.1(b) if the following conditions are met: (a) Ryan E. Bird enters a plea pursuant to this agreement, (b) this Office in its discretion determines that Ryan E. Bird's acceptance of responsibility has continued through the date of sentencing and Ryan E. Bird therefore qualifies for a 2-point reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), and (c) Ryan E. Bird's offense level under the Guidelines prior to the operation of § 3E1.1(a) is 16 or greater.

9. In accordance with the above, the parties agree that (a) if the Court finds that U.S.S.G. § 3A1.1(b)(1) does not apply, the total Guidelines offense level applicable to Ryan E. Bird will be 20, and (b) if the Court finds that U.S.S.G. § 3A1.1(b)(1) does apply, the total Guidelines offense level applicable to Ryan E. Bird will be 22 (collectively, the "agreed total Guidelines offense level").

10. Ryan E. Bird 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 20. 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 22. 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.

11. 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.