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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**1:10-cr-00168-JEC-LTW  
USA v. Ballard et al  
Honorable Julie E. Carnes**

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Minute Sheet for proceedings held In Open Court on 07/01/2013.

TIME COURT COMMENCED: 2:41 P.M.  
TIME COURT CONCLUDED: 3:32 P.M.  
TIME IN COURT: 00:51  
OFFICE LOCATION: Atlanta

COURT REPORTER: David Ritchie  
CSO/DUSM: CSO Orlando  
DEPUTY CLERK: Emily Bulat

DEFENDANT(S): [3]Guy Mitchell Present at proceedings  
ATTORNEY(S) Christopher Bly representing USA  
PRESENT: Douglas Gilfillan representing USA  
Patrick Sullivan representing Guy Mitchell

PROCEEDING CATEGORY: Change of Plea;

PLEADINGS FILED IN COURT: Plea Agreement; Sentencing Form

MINUTE TEXT: Also present on behalf of the Government, Agent Brian Harvey, FBI and Agent Jason Moran, FDIC. Defendant sworn. Plea of guilty entered to Count 1 of the Superseding Indictment. Sentencing set for Thursday, October 10, 2013, 10:00 AM. Defendant's current address is 7755 SW 86th Street, Miami, FL.

HEARING STATUS: Hearing Concluded

ORIGINAL

**GUILTY PLEA and PLEA AGREEMENT**

United States Attorney  
Northern District of Georgia

FILED IN OPEN COURT  
U.S.D.C. Atlanta

JUL 01 2013

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JAMES N. HATTEN, Clerk  
by *E. Hatten* Deputy Clerk

CRIMINAL NO. 1:10-CR-00168-JEC-LTW

The United States Attorney for the Northern District of Georgia ("the Government") and Defendant GUY MITCHELL, enter into this plea agreement as set forth below in Part IV pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure. GUY MITCHELL, Defendant, having received a copy of the above-numbered First Superseding Indictment and having been arraigned, hereby pleads GUILTY to Count One of the First Superseding Indictment.

**I. ADMISSION OF GUILT**

The Defendant admits that he is pleading guilty because he is in fact guilty of the crime charged in Count One of the First Superseding Indictment.

**II. ACKNOWLEDGMENT & WAIVER OF RIGHTS**

The Defendant understands that by pleading guilty, he is giving up the right to plead not guilty and the right to be tried by a jury. At a trial, the Defendant would have the right to an attorney, and if the Defendant could not afford an attorney, the Court would appoint one to represent the Defendant at trial and at every stage of the proceedings. During the trial, the Defendant would be presumed innocent and the Government would have the burden of proving him guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the witnesses against him. If the Defendant wished, he could testify on his own behalf and present evidence in his defense, and he could subpoena witnesses to testify on his behalf. If, however, the Defendant did

not wish to testify, that fact could not be used against him, and the Government could not compel him to incriminate himself. If the Defendant were found guilty after a trial, he would have the right to appeal the conviction.

The Defendant understands that by pleading guilty, he is giving up all of these rights and there will not be a trial of any kind.

By pleading guilty, Defendant also gives up any and all rights to pursue any affirmative defenses, Fourth Amendment or Fifth Amendment claims, and other pretrial motions that have been filed or could have been filed.

The Defendant also understands that he ordinarily would have the right to appeal his sentence and, under some circumstances, to attack the conviction and sentence in post-conviction proceedings. By entering this Plea Agreement, the Defendant may be waiving some or all of those rights to appeal and to collaterally attack his conviction and sentence, as specified below.

Finally, the Defendant understands that, to plead guilty, he may have to answer, under oath, questions posed to him by the Court concerning the rights that he is giving up and the facts of this case, and the Defendant's answers, if untruthful, may later be used against him in a prosecution for perjury or false statements.

### **III. ACKNOWLEDGMENT OF PENALTIES**

The Defendant understands that, based on his plea of guilty, he will be subject to the following maximum and mandatory minimum penalties:

#### **As to Count One in the First Superseding Indictment**

- (a) Maximum term of imprisonment: 5 years.
- (b) Mandatory minimum term of imprisonment: None.

- (c) Term of supervised release: 0 year(s) to 3 years.
- (d) Maximum fine: \$250,000.00, or not more than the greater of twice the gross gain or twice the gross loss, pursuant to 18 U.S.C. § 3571(d), resulting from the offense, due and payable immediately.
- (e) Full restitution, due and payable immediately, to all victims of the offense(s) and relevant conduct.
- (f) Mandatory special assessment: \$100.00, due and payable immediately.
- (g) Forfeiture of any and all proceeds from the commission of the offense and any and all property used to facilitate the offense.

The Defendant understands that, before imposing sentence in this case, the Court will be required to consider, among other factors, the provisions of the United States Sentencing Guidelines and that, under certain circumstances, the Court has the discretion to depart from those Guidelines. The Defendant further understands that the Court may impose a sentence up to and including the statutory maximum as set forth in this paragraph and that no one can predict his exact sentence at this time.

#### **IV. PLEA AGREEMENT**

The Defendant, his counsel, and the Government, subject to approval by the Court, have agreed upon a negotiated plea in this case, the terms of which are as follows:

##### **Dismissal of Counts**

The Government agrees that, upon the entry of the Judgment and Commitment Order, any and all remaining counts in the above-styled case still pending against Defendant shall be dismissed pursuant to Standing Order No. 07-04 of this Court and to Rule 48(a) of the Federal Rules of Criminal Procedure. The Defendant understands that the Probation Office and the Court may still

consider the conduct underlying such dismissed counts in determining relevant conduct under the Sentencing Guidelines and a reasonable sentence under Title 18, United States Code, Section 3553(a).

**No Additional Charges**

The United States Attorney for the Northern District of Georgia agrees not to bring further criminal charges against the Defendant related to the charges to which he is pleading guilty. The Defendant understands that this provision does not bar prosecution by any other federal, state, or local jurisdiction.

**Sentencing Guidelines Recommendations**

**Acceptance of Responsibility**

The Government will recommend that the Defendant receive the two-level adjustment for acceptance of responsibility pursuant to Section 3E1.1 of the Sentencing Guidelines. However, the Government will not be required to recommend acceptance of responsibility if, after entering this Plea Agreement, the Defendant engages in conduct inconsistent with accepting responsibility. Thus, by way of example only, should the Defendant falsely deny or falsely attempt to minimize Defendant's involvement in relevant offense conduct, give conflicting statements about Defendant's involvement, fail to pay the special assessment, fail to meet any of the obligations set forth in the Financial Cooperation Provisions set forth below, or participate in additional criminal conduct, including unlawful personal use of a controlled substance, the Government will not be required to recommend acceptance of responsibility.

**Right to Answer Questions, Correct Misstatements, and Make Recommendations**

The Government reserves the right to inform the Court and the Probation Office of all facts and circumstances regarding the Defendant and this case, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Except as expressly stated elsewhere in this Plea Agreement, the Government also reserves the right to make recommendations regarding application of the Sentencing Guidelines.

**Right to Modify Recommendations**

With regard to the Government's recommendation as to any specific application of the Sentencing Guidelines as set forth elsewhere in this Plea Agreement, the Defendant understands and agrees that, should the Government obtain or receive additional evidence concerning the facts underlying any such recommendation, the Government will bring that evidence to the attention of the Court and the Probation Office. In addition, if the additional evidence is sufficient to support a finding of a different application of the Guidelines, the Government will not be bound to make the recommendation set forth elsewhere in this Plea Agreement, and the failure to do so will not constitute a violation of this Plea Agreement.

**Sentencing Recommendations**

**Specific Sentence Recommendation**

The Government agrees to recommend that the Defendant be sentenced at the low end of the adjusted guideline range.

**Fine--Specific Recommendation**

The Government agrees to recommend that the Defendant be sentenced to pay a fine at the low end of the adjusted guideline range.

**Restitution**

The Defendant agrees to pay full restitution to all victims of the offense(s) to which he is pleading guilty and all relevant conduct, including, but not limited to, any counts dismissed as a result of this Plea Agreement. The Defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing. The Defendant also agrees to cooperate fully in the investigation of the amount of restitution and the identification of victims.

**Financial Cooperation Provisions**

**Special Assessment**

The Defendant agrees that, within 30 days of the guilty plea, he will pay a special assessment in the amount of \$100.00 by money order or certified check made payable to the Clerk of Court, U.S. District Court, 2211 U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303. The Defendant agrees to provide proof of such payment to the undersigned Assistant United States Attorney within 30 days of the guilty plea.

**Fine/Restitution - Terms of Payment**

The Defendant agrees to pay any fine and/or restitution imposed by the Court to the Clerk of Court for eventual disbursement to the appropriate account and/or victim(s). The Defendant also agrees that the full fine and/or restitution amount shall be considered due and payable immediately. If the Defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the Probation Office at any time, he agrees that the custodial agency and the Probation Office will have the authority to establish payment schedules to ensure payment of the fine and/or restitution. The Defendant understands that this payment schedule represents a minimum obligation and that, should Defendant's financial situation establish that he is able to pay more toward the fine

and/or restitution, the Government is entitled to pursue other sources of recovery of the fine and/or restitution. The Defendant further agrees to cooperate fully in efforts to collect the fine and/or restitution obligation by set-off of program payments, execution on non-exempt property, and any other means the Government deems appropriate. Finally, the Defendant and his counsel agree that Government officials may contact the Defendant regarding the collection of any fine and/or restitution without notifying and outside the presence of his counsel.

**Disclosure of Assets**

The Defendant agrees to make a full accounting of all assets and other real and personal property in which Defendant has any legal or equitable interest. The Defendant further agrees that Defendant will not sell, hide, waste, encumber, destroy, or otherwise devalue any such asset worth more than \$1,000.00 before sentencing, without the prior approval of the Government. The Defendant understands and agrees that Defendant's failure to comply with this provision of the Plea Agreement should result in Defendant receiving no credit for acceptance of responsibility.

**Financial Disclosure**

The Defendant agrees to cooperate fully in the investigation of the amount of restitution and in the identification of assets to be applied toward restitution. The Defendant's cooperation obligations include: (A) fully and truthfully completing the Department of Justice's Financial Statement of Debtor form, and any addenda to said form deemed necessary by the Government, within ten days of the change of plea hearing; (B) submitting to a financial deposition or interview (should the Government deem it necessary) prior to sentencing regarding the subject matter of said form; (C) providing any documentation within his possession or control requested by the Government regarding his financial condition and that of his household; and (D) fully and truthfully

answering all questions regarding his past and present financial condition and that of his household in such interview(s).

So long as the Defendant is completely truthful, the Government agrees that anything related by the Defendant during his financial interview or deposition or in the financial forms described above cannot and will not be used against him in the Government's criminal prosecution. However, the Government may use the Defendant's statements to identify and to execute upon assets to be applied to restitution in this case. Further, the Government is completely free to pursue any and all investigative leads derived in any way from the interview/deposition/financial forms, which could result in the acquisition of evidence admissible against the Defendant in subsequent proceedings. If the Defendant subsequently takes a position in any legal proceeding that is inconsistent with the interview/deposition/financial forms—whether in pleadings, oral argument, witness testimony, documentary evidence, questioning of witnesses, or any other manner—the Government may use the Defendant's interview/deposition/financial forms, and all evidence obtained directly or indirectly therefrom, in any responsive pleading and argument and for cross-examination, impeachment, or rebuttal evidence. Further, the Government may also use the Defendant's interview/deposition/financial forms to respond to arguments made or issues raised sua sponte by the Magistrate or District Court.

**Recommendations/Stipulations Non-binding**

The Defendant understands and agrees that the recommendations of the Government incorporated within this Plea Agreement, as well as any stipulations of fact or guideline computations incorporated within this Plea Agreement or otherwise discussed between the parties, are not binding on the Court and that the Court's failure to accept one or more of the

recommendations, stipulations, and/or guideline computations will not constitute grounds to withdraw his guilty plea or to claim a breach of this Plea Agreement.

**Limited Waiver of Appeal**

LIMITED WAIVER OF APPEAL: To the maximum extent permitted by federal law, the Defendant voluntarily and expressly waives the right to appeal his conviction and sentence and the right to collaterally attack his conviction and sentence in any post-conviction proceeding (including, but not limited to, motions filed pursuant to 28 U.S.C. § 2255) on any ground, except that the Defendant may file a direct appeal of an upward departure or a variance from the sentencing guideline range as calculated by the district court. The Defendant understands that this Plea Agreement does not limit the Government's right to appeal, but if the Government initiates a direct appeal of the sentence imposed, the Defendant may file a cross-appeal of that same sentence.

**Miscellaneous Waivers**

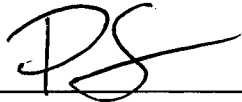
**FOIA/Privacy Act Waiver**

The Defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including, without limitation, any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act of 1974, Title 5, United States Code, Section 552a.

**No Other Agreements**

There are no other agreements, promises, representations, or understandings between the Defendant and the Government.

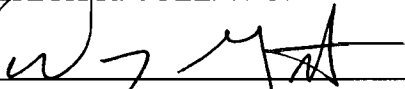
In Open Court this 1 day of July, 2013.



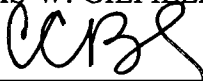
SIGNATURE (Attorney for Defendant)  
PATRICK R. SULLIVAN



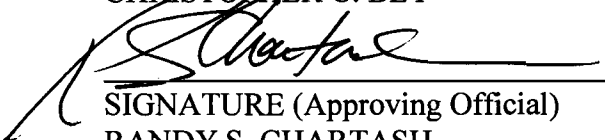
SIGNATURE (Defendant)  
GUY MITCHELL



SIGNATURE (Assistant U.S. Attorney)  
DOUGLAS W. GILFILLAN



SIGNATURE (Assistant U.S. Attorney)  
CHRISTOPHER C. BLY



SIGNATURE (Approving Official)  
RANDY S. CHARTASH

7/1/13

DATE

I have read the Indictment against me and have discussed it with my attorney. I understand the charges and the elements of each charge that the Government would have to prove to convict me at a trial. I have read the foregoing Plea Agreement and have carefully reviewed every part of it with my attorney. I understand the terms and conditions contained in the Plea Agreement, and I voluntarily agree to them. I also have discussed with my attorney the rights I may have to appeal or challenge my conviction and sentence, and I understand that the appeal waiver contained in the Plea

Agreement will prevent me, with the narrow exceptions stated, from appealing my conviction and sentence or challenging my conviction and sentence in any post-conviction proceeding. No one has threatened or forced me to plead guilty, and no promises or inducements have been made to me other than those discussed in the Plea Agreement. The discussions between my attorney and the Government toward reaching a negotiated plea in this case took place with my permission. I am fully satisfied with the representation provided to me by my attorney in this case.

Guy Mitchell  
SIGNATURE (Defendant)

7-1-2013  
DATE

I am GUY MITCHELL's lawyer. I have carefully reviewed the charges and the Plea Agreement with my client. To my knowledge, my client is making an informed and voluntary decision to plead guilty and to enter into the Plea Agreement.

PS  
SIGNATURE (Defense Attorney)

7-1-2013  
DATE

INFORMATION BELOW MUST BE TYPED OR PRINTED

PATRICK R. SULLIVAN  
NAME (Attorney for Defendant)

GUY MITCHELL  
NAME (Defendant)

3151 Maple Dr.  
STREET

P.O. Box 56-5335  
STREET

Atlanta, GA 30305  
CITY & STATE ZIP CODE

Miami, FL 33256  
CITY & STATE ZIP CODE

PHONE NUMBER 404-262-2225

PHONE NUMBER 828-506-2237

STATE BAR OF GEORGIA NUMBER 157957

Filed in Open Court

7/1/13

By Emily Gulati

U. S. DEPARTMENT OF JUSTICE  
Statement of Special Assessment Account

This statement reflects your special assessment only. There may be other penalties imposed at sentencing.

ACCOUNT INFORMATION	
CRIMINAL ACTION NO.:	1:10-CR-168-JEC-LTW
DEFENDANT'S NAME:	GUY MITCHELL
PAY THIS AMOUNT:	\$100.00

INSTRUCTIONS:

1. PAYMENT MUST BE MADE BY **CERTIFIED CHECK** OR **MONEY ORDER** PAYABLE TO:

CLERK OF COURT, U.S. DISTRICT COURT

**\*PERSONAL CHECKS WILL NOT BE ACCEPTED\***

2. PAYMENT MUST REACH THE CLERK'S OFFICE WITHIN 30 DAYS OF THE ENTRY OF YOUR GUILTY PLEA
3. PAYMENT SHOULD BE SENT OR HAND DELIVERED TO:

Clerk, U.S. District Court  
2211 U.S. Courthouse  
75 Spring Street, S.W.  
Atlanta, Georgia 30303

(Do not Send Cash)

4. INCLUDE DEFENDANT'S NAME ON **CERTIFIED CHECK** OR **MONEY ORDER**
5. ENCLOSE THIS COUPON TO INSURE PROPER AND PROMPT APPLICATION OF PAYMENT
6. PROVIDE PROOF OF PAYMENT TO THE ABOVE-SIGNED AUSA WITHIN 30 DAYS OF THE GUILTY PLEA