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U.S. DISTRICT COURT
NEW HAVEN, CT.

U.S. Department of Justice

United States Attorney
District of Connecticut

Connecticut Financial Center
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New Haven, Connecticut 06510

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August 13, 2013

Deirdre A. Murray
Assistant Federal Defender
10 Columbus Boulevard, 6th Floor
Hartford, CT 06106

Re: United States v. Henry J. Papale
Case No. 3:11CR187 (EBB)

Dear Ms. Murray:

This letter confirms the plea agreement between your client, Henry J. Papale (the "defendant"), and the United States Attorney's Office for the District of Connecticut (the "Government" or "this Office") concerning the referenced criminal matter.

THE PLEA AND OFFENSE

The defendant agrees to plead guilty to two counts of the twelve-count Superseding Indictment. Specifically, the defendant agrees to plead guilty to Count One, charging him with wire fraud in violation of 18 U.S.C. § 1343, and Count Nine, charging him with money laundering in violation of 18 U.S.C. § 1957.

18 U.S.C. § 1343

The defendant understands that, to be guilty of wire fraud in violation of 18 U.S.C. § 1343, the following essential elements of the offense must be satisfied:

- 1). That there was a scheme or artifice to defraud or to obtain money and property by materially false and fraudulent pretenses, representations or promises, as alleged in the Superseding Indictment;
- 2). That the defendant knowingly and willfully participated in the scheme or artifice to defraud, with knowledge of its fraudulent nature and with specific intent to defraud, as alleged in the Superseding Indictment; and
- 3). That in execution of that scheme, the defendant used or caused the use of interstate wires as specified in the Superseding Indictment.

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18 U.S.C. § 1957

The defendant understands that, to be guilty of money laundering in violation of 18 U.S.C. § 1957, the following essential elements of the offense must be satisfied:

- 1). That the defendant engaged (or attempted to engage) in a monetary transaction in or affecting interstate commerce, as alleged in the Superseding Indictment;
- 2). That the monetary transaction involved criminally derived property of a value greater than \$10,000;
- 3). That the property was derived from specified unlawful activity, as alleged in the Superseding Indictment;
- 4). That the defendant acted knowingly, that is with knowledge that the transaction involved proceeds of a criminal offense, as alleged in the Superseding Indictment; and
- 5). That the transaction took place in the United States.

THE PENALTIES

18 U.S.C. § 1343

The offense of wire fraud carries a maximum penalty of 20 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 3 years to begin at the expiration of any term of imprisonment. The defendant understands that, should he violate any condition of the supervised release, he may be required to serve a further term of imprisonment of up to 2 years with no credit for time already spent on supervised release.

18 U.S.C. § 1957

The offense of § 1957 money laundering carries a maximum penalty of 10 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 3 years to begin at the expiration of any term of imprisonment. The defendant understands that, should he violate any condition of the supervised release, he may be required to serve a further term of imprisonment of up to 2 years with no credit for time already spent on supervised release.

* * *

For each of the above offenses, in addition to the penalties described above, 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:

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(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 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.

The defendant is also subject to restitution, as discussed below. Unless otherwise ordered, should the Court impose a fine or restitution of more than \$2,500 as part of the sentence, interest will be charged on the unpaid balance of the fine or restitution 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 or restitution 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, and the Government reserves its right to seek restitution on behalf of victims consistent with the provisions of § 3663A. The scope and effect of the order of restitution are set forth in the attached Rider Concerning Restitution. Restitution is payable immediately unless otherwise ordered by the Court.

The defendant further understands and agrees to make the Court-ordered restitution and that, pursuant to 18 U.S.C. § 3663A, restitution is payable to all victims of his criminal conduct and not merely for those victims included in or referenced in the counts of the Superseding Indictment to which he agrees to plead guilty and contained in the stipulation of offense conduct. The defendant agrees that if he is unable to make the entire restitution payment within a time to be determined by the Court, that he hereby agrees that he will make scheduled payments as set by the sentencing Court. *See also* 18 U.S.C. § 3664 (procedures for issuance and enforcement of order of restitution).

THE SENTENCING GUIDELINES

Applicability

The defendant understands that 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 and is not bound by this plea agreement. The defendant 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 Office. The defendant further understands that he has no right to withdraw his guilty plea if his sentence or the Guideline application is other than he anticipated, including if the sentence is outside any of the ranges set forth in this agreement.

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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 his intention to enter a plea of guilty. The defendant understands that the Court is not obligated to accept the Government's recommendations on these reductions.

The above-listed recommendations are conditioned upon the defendant's affirmative demonstration of acceptance of responsibility by (1) truthfully admitting the conduct comprising the offense(s) of conviction and truthfully admitting or not falsely denying any additional relevant conduct for which the defendant is accountable under Sentencing Guideline § 1B1.3, and (2) truthfully disclosing to the Probation Office personal information requested, including the submission of a complete and truthful financial statement detailing the defendant's financial condition.

In addition, the Government expressly reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant engages in any acts, unknown to the Government at the time of the signing of this agreement, 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 reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant seeks to withdraw his plea of guilty or takes a position at sentencing, or otherwise, which, in the Government's assessment, is inconsistent with affirmative acceptance of personal responsibility. The defendant understands that he may not withdraw his plea of guilty if, for the reasons explained above, the Government does not make one or both of the recommendations or seeks denial of the adjustment for acceptance of responsibility.

Stipulation of Offense Conduct

Pursuant to § 6B1.4 of the Sentencing Guidelines, the defendant and the Government have entered into a stipulation of offense conduct which is attached to and made a part of this plea agreement. The defendant understands that this stipulation does not purport to set forth all of the relevant conduct and characteristics that may be considered by the Court for purposes of sentencing. The defendant understands that this stipulation is not binding on the Court. The defendant also understands that the Government and the United States Probation Office are obligated to advise the Court of any additional relevant facts that subsequently come to their attention.

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Guideline Stipulation

The parties agree as follows:

The Guidelines Manual in effect on the date of sentencing is used to determine the applicable Guidelines range.

The defendant's base offense level under U.S.S.G. § 2B1.1 is 7 based upon a plea of guilty to wire fraud, 18 U.S.C. § 1343, and money laundering, 18 U.S.C. § 1957. That level is increased under U.S.S.G. § 2B1.1(b)(1)(J) by 14 levels because the reasonably foreseeable loss from the offense was between \$400,000 and \$1,000,000. One additional level is added under U.S.S.G. § 2S1.1(b)(2)(A) because the defendant is pleading guilty to a charge of money laundering in violation of 18 U.S.C. § 1957. Three levels are subtracted under U.S.S.G. § 3E1.1(a) and (b) for acceptance of responsibility, as noted above. The resulting total offense level is 19.

Based on an initial assessment, the parties agree that the defendant falls within Criminal History Category I. The parties reserve the right to recalculate the defendant's Criminal History Category and corresponding sentencing ranges if this initial assessment proves inaccurate.

A total offense level of 19, assuming a Criminal History Category I, would result in a range of 30 to 37 months of imprisonment (Sentencing Table) and a fine range of \$6,000 to twice the gross loss resulting from the offense. U.S.S.G. § 5E1.2(c)(4). The defendant is also subject to a supervised release term of at least one year but not more than three years. U.S.S.G. § 5D1.2.

The parties agree that neither a downward nor an upward departure from the sentencing range set forth above is warranted and that a sentence within the agreed range is reasonable. Accordingly, neither party will seek a departure or seek any adjustment not set forth herein. Moreover, the defendant will not seek a non-Guidelines sentence. Nor will either party suggest that the Probation Department consider a departure or adjustment not set forth herein, or suggest that the Court *sua sponte* consider a departure or adjustment not identified above.

The defendant expressly understands that the Court is not bound by this agreement on the Guideline ranges specified above. The defendant further understands that he will not be permitted to withdraw the plea of guilty if the Court imposes a sentence outside any of the ranges 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 defend any sentencing determination, even if it differs from that stipulated by the parties, in any post-sentencing proceeding.

Waiver of Right to Appeal or Collaterally Attack Conviction and Sentence

The defendant acknowledges that under certain circumstances he is entitled to challenge

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his conviction and sentence. The defendant agrees not to 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 imposed by the Court if that sentence does not exceed 37 months, a 3-year term of supervised release, a fine of \$6,000, an order of restitution and a \$200 special assessment, even if the Court imposes such a sentence based on an analysis different from that specified above. The Government and the defendant agree not to appeal or collaterally attack the Court's imposition of a sentence of imprisonment concurrently or consecutively, in whole or in part, with any other sentence. The defendant acknowledges that he is knowingly and intelligently waiving these rights. Furthermore, the parties agree that any challenge to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) this waiver.

Information to the Court

The Government reserves its right to address the Court with respect to an appropriate sentence to be imposed in this case. Moreover, 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 material in its file, with the exception of grand jury material.

WAIVER OF RIGHTS

Waiver of Trial Rights and Consequences of Guilty Plea

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

The defendant understands that he 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 him, the right not to be compelled to incriminate himself, and the right to compulsory process for the attendance of witnesses to testify in his defense. The defendant understands that by pleading guilty he 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 he pleads guilty, the Court may ask him questions about each offense to which he pleads guilty, and if he answers those questions falsely under oath, on the record, and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or making false statements.

Waiver of Statute of Limitations

The defendant 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

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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.

ACKNOWLEDGMENT OF GUILT AND VOLUNTARINESS OF PLEA

The defendant acknowledges that he is entering into this agreement and is pleading guilty freely and voluntarily because he is guilty. The defendant further acknowledges that he is entering into this agreement without reliance upon any discussions between the Government and him (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 his understanding of the nature of the offense to which he is pleading guilty, including the penalties provided by law. The defendant also acknowledges his complete satisfaction with the representation and advice received from his undersigned attorney. The defendant and his undersigned counsel are unaware of any conflict of interest concerning counsel's representation of the defendant in the case.

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

SCOPE OF THE AGREEMENT

The defendant acknowledges 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 him 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 acknowledges that this agreement has been reached without regard to any civil tax matters that may be pending or which may arise involving him.

COLLATERAL CONSEQUENCES

The defendant further understands that he will be adjudicated guilty of the offense to which he is pleading 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 he is licensed, or with which he does business, as well as any current or future

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employer of the fact of his 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 his engaging in the scheme to defraud which forms the basis of the Superseding Indictment in this case. After sentencing, the Government will move to dismiss the Counts Two through Eight and Counts Ten through Twelve of the Superseding Indictment.

The defendant understands that if, before sentencing, he 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 his 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.

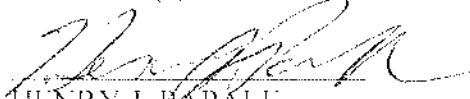
This letter shall be presented to the Court, in open court, and filed in this case.

Very truly yours,

DEIRDRE M. DALY
ACTING UNITED STATES ATTORNEY

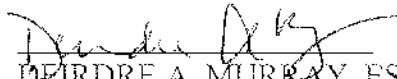

JONATHAN N. FRANCIS
ASSISTANT UNITED STATES ATTORNEY

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


HENRY J. PAPALE
The Defendant

8-12-2013
Date

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


DEIRDRE A. MURRAY, ESQ.
Attorney for the Defendant

8/13/13
Date

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STIPULATION OF OFFENSE CONDUCT

The Defendant Henry J. Papale and the Government stipulate and agree to the following offense conduct that gives rise to the defendant's agreement to plead guilty to Counts One and Nine of the Superseding Indictment:

- 1). The defendant assisted R.A. and L.M. ("Borrowers") in purchasing Florida residential properties (the "Properties").
- 2). The defendant knew that the sales price of each Property, and thus the amount of the corresponding mortgage financing, included funds to the Borrower for restorations or renovations to the Properties.
- 3). Transaction documents, including the purchase and sale agreements or HUD-1 forms submitted to the mortgage lenders, reflected that restoration or renovation to the Properties were to be performed by the B.K. LLC construction company.
- 4). B.K. LLC did not exist.
- 5). The defendant caused to be created and/or contributed information to transaction documents regarding B.K. LLC, including the following:
 - a. invoices under a B.K. LLC letterhead for amounts corresponding to the funds to Borrower for restoration or renovation to the Property;
 - b. work orders stating the restorations or renovations to be performed with itemized prices that added up to amount of the funds to the Borrower for restoration or renovation to the Property;
 - c. wire transfer authorizations purportedly signed by a representative of B.K. LLC and which contained information about a bank account that purportedly belonged to B.K. LLC, but was actually owned by family members of the defendant.
- 6). In connection with the purchase of the Properties, the defendant caused these and other documents and loan funds to be transmitted between Connecticut and Florida using interstate wires.
- 7). The loan funds intended by the lenders for restorations or renovations to the Properties were wired to a bank account belonging to the defendant's family members. The majority of those funds were deposited in the defendant's bank account, and then some portion in excess of \$10,000 was transferred to the defendant's trading account.
- 8). The defendant knew that there was no intention to perform immediate restorations or renovations to the Properties.


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- 9). Most of the restorations or renovations depicted by the transaction documents were never performed on the Properties.
- 10). This stipulation does not attempt to set forth every aspect of the defendant's conduct, but rather to set forth those facts necessary to serve as a basis for his guilty plea in this case.

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.


HENRY J. PAPALE
The Defendant


JONATHAN N. FRANCIS
ASSISTANT U.S. ATTORNEY


DEIRDRE A. MURRAY, ESQ.
Attorney for the Defendant

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RIDER CONCERNING RESTITUTION

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

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 his offense under 18 U.S.C. § 3555.