



U.S. Department of Justice

United States Attorney  
District of New Jersey

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SEP 18 2015  
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Newark, NJ 07102

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GSG/RAH/ZI/PL AGR  
2009R00421

July 19, 2015

Marc Agnifilo, Esq.  
Brafman & Associates, P.C.  
767 Third Avenue, 26<sup>th</sup> Floor  
New York, NY 10017

15-476(AET)-01

Re: Plea Agreement with Allen Pollak

Dear Mr. Agnifilo:

This letter sets forth the plea agreement between your client, Allen Pollak ("Pollak" or "defendant"), and the United States Attorney for the District of New Jersey ("this Office"). This offer will expire and shall be considered withdrawn if it is not executed by you and your client on or before the close of business on or before July 24, 2015.

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from Pollak to a one-count Information which charges that Pollak transacted in the proceeds of a scheme to commit wire fraud, in violation of 18 U.S.C. § 1957. If Pollak enters a guilty plea and is sentenced on this charge, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against Pollak for his involvement with Eliyahu Weinstein between in or about 2004 and in or about 2010 in (1) a scheme to defraud investors (including but not limited to investor "J.R.") in connection with purported real estate and other financial transactions, or (2) transacting in the proceeds of the scheme. 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, Pollak 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 Pollak may be commenced against him, notwithstanding the expiration of the limitations period after Pollak signs the agreement.

### Sentencing

The violation of 18 U.S.C. § 1957 to which Pollak agrees to plead guilty carries a statutory maximum prison sentence of 10 years 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. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon Pollak 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 Pollak ultimately will receive.

Further, in addition to imposing any other penalty on Pollak, the sentencing judge: (1) will order Pollak to pay an assessment of \$100 pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) must order Pollak to pay restitution pursuant to 18 U.S.C. § 3663 et seq.; (3) may order Pollak, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offense; (4) pursuant to 18 U.S.C. § 3583, may require Pollak 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; and (5) will order forfeiture in an amount to be determined at sentencing. Should Pollak be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Pollak 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.

### Forfeiture

In addition, with respect to the offense charged, criminal forfeiture of all property constituting or derived from proceeds traceable to the commission of the offenses is mandatory pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461. The defendant understands and agrees that in the event that the Court orders forfeiture, the amount of money the defendant will be ordered to forfeit will be determined by the Court prior to sentencing, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure. It is the Government's position that the property constituting or derived from proceeds traceable to the commission of the offense charged is an amount to be determined at sentencing (the "Money Judgment"). Accordingly, the Government will seek imposition of a criminal forfeiture money judgment in an amount to be determined at sentencing as part of the defendant's sentence. In addition, the Government will seek forfeiture of all right, title and interest of the defendant in the specific property listed in the Indictment as having the requisite nexus to the wire fraud conspiracy offense charged, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461 (the "Specific Property"), with the any forfeited money and the net proceeds derived from the sale of the forfeited Specific Property to be applied to the Money Judgment, in partial satisfaction thereof. The Government will also seek forfeiture of substitute assets, pursuant to 21 U.S.C. § 853(p).

### 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 Pollak 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 Pollak's activities and relevant conduct with respect to this case.

### Stipulations

This Office and Pollak 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 Pollak 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 Pollak 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

Pollak understands that, if he is not a citizen of the United States, his guilty plea to the charged offense will likely result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. Pollak understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. Pollak wants and agrees to plead guilty to the charged offense regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. Pollak understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, Pollak 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 Pollak. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service and the Federal Bureau of Investigation) or any third party from initiating or prosecuting any civil or administrative proceeding against Pollak.**

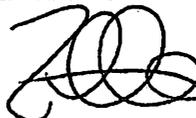
**No provision of this agreement shall preclude Pollak from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack, writ, or motion claiming that Pollak received constitutionally ineffective assistance of counsel.**

**No Other Promises**

This agreement constitutes the plea agreement between Pollak 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.

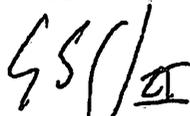
Very truly yours,

PAUL J. FISHMAN  
United States Attorney



By: RACHAEL A. HONIG  
GURBIR S. GREWAL  
ZACH INTRATER  
Assistant U.S. Attorneys

APPROVED:



GURBIR S. GREWAL  
Chief, Economic Crimes Unit

I have received this letter from my attorney, Marc Agnifilo, Esq. I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, forfeiture, 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:



Alan Yehuda Pollak

Date: 7/22/15

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



Marc Agnifilo, Esq.

Date: 7/22/15

Plea Agreement With Allen Pollak

Schedule A

1. This Office and Pollak agree to stipulate to the following facts:
  - a. Between in or about between in or about 2004 and in or about 2010, Allen Pollak knowingly and intentionally made, and caused others to make, material misrepresentations to Victim J.R. with respect to a loan in connection with a purported real estate transaction.
  - b. Based upon misrepresentations made by Allen Pollak and others, Victim J.R. loaned approximately \$965,000 toward the purported real estate transaction.
  - c. Based on the misrepresentations made by Allen Pollak and others, Victim J.R. sent or caused to be sent wire communications in interstate or foreign commerce.
  - d. Allen Pollak and others subsequently engaged in transactions of more than \$10,000 using the proceeds obtained from Victim J.R., including, on or about July 14, 2008, a wire transfer of approximately \$135,000 to an account at T.D. Bank ending in 9240 controlled by Eliyahu Weinstein.
  - e. As of the date of this letter, Allen Pollak has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offense charged.
  - f. As of the date of this letter, Allen Pollak 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 the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently.
2. Except for appellate rights reserved elsewhere in this agreement, Allen Pollak knows that he has and 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. 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.