

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 09-CR-20215

-vs-

Hon. Sean F. Cox

BASKARAN THANGARASAN,

Defendant.

F I L E D
DEC 09 2009
CLERK'S OFFICE
DETROIT

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant Baskaran Thangarasan and the United States agree as follows:

1. GUILTY PLEA

A. Count(s) of Conviction

Defendant will enter a plea of guilty to Count 1, which charge(s) conspiracy to commit health care fraud, and for which the penalty is a statutory maximum of ten years imprisonment, a fine of \$250,000, and a three-year term of supervised release. If the Court accepts this agreement, the government will dismiss Counts 2 through 12 of the Indictment, as to this defendant, after sentencing.

B. Elements of Offense(s)

The elements of Count 1 are:

First: That two or more persons, in some way or manner, came to a mutual understanding to try to accomplish a common and unlawful plan, as charged

in the Indictment; and;

Second: That the Defendant, knowing the unlawful purpose of the plan, willfully joined in it.

As set forth in the Indictment, the Defendant is charged with conspiring to violate the health care fraud statute, Title 18, United States Code, Section 1347, which makes it a Federal offense for anyone, in connection with the delivery of any health care benefits, items, or services, to knowingly and willfully execute, or attempt to execute, a scheme or artifice: (1) to defraud any health care benefit program; or (2) to obtain, by means of materially false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.

C. Factual Basis for Guilty Plea(s)

The following facts are a sufficient and accurate basis for defendant's guilty plea(s):

Beginning in approximately September 2003, and continuing through approximately May 2006, the defendant, Baskaran Thangarasan, willfully conspired with others to commit health care fraud, in violation of 18 U.S.C. § 1349. Medicare is a "health care benefit program" of the United States, as defined in 18 U.S.C. § 24. Furthermore, Medicare is a health care benefit program affecting commerce.

Beginning in approximately February 2003, the defendant, a physical therapist licensed in the state of Michigan, began working as a contract therapist for Shafiulla Abdul-Hanif. Hanif owned and controlled several companies operating in Warren, Michigan, including M&M Management, Inc. (M&M), and Hands-On Rehab Services, Inc. (HOR), that purported to provide physical and

occupational therapy services to Medicare beneficiaries. In reality, Hanif and his associates at M&M and HOR created fictitious therapy files, appearing to document physical and occupational therapy services provided to Medicare beneficiaries, when in fact no such services had taken place. The fictitious services reflected in the files were billed to Medicare through sham Medicare providers controlled by Hanif and his co-conspirators Mohammed Azeem and Suresh Chand. The fictitious therapy files Hanif and his co-conspirators created would appear to justify the billings to Medicare, when in fact no physical or occupational therapy services had occurred.

In order to create the fictitious therapy files, Hanif and his co-conspirators paid cash kickbacks and other inducements to Medicare beneficiaries, in exchange for the beneficiaries' Medicare numbers and signatures on documents falsely indicating that they had visited M&M or HOR for the purpose of receiving physical or occupational therapy. Hanif and his co-conspirators would also obtain fictitious therapy prescriptions and other documents from co-conspirator physician Jose Castro-Ramirez, falsely indicating that Castro-Ramirez had ordered and monitored physical or occupational therapy that was provided to the Medicare beneficiaries. To complete the file, Hanif and his co-conspirators would obtain signatures from licensed physical or occupational therapists on fictitious "progress notes" and other documents in the therapy files, falsely indicating that the therapists had provided therapy services to the Medicare beneficiaries on those dates. Defendant Thangarasan was one such therapist. In the course of the scheme charged in the Indictment, Thangarasan signed approximately 1011 fictitious physical therapy files, indicating that he had provided physical therapy services to Medicare beneficiaries, when in fact he had not. Thangarasan was paid approximately \$50 by Hanif per file that he falsified.

Between approximately September 2003 and May 2006, Hanif and his co-conspirators submitted claims to the Medicare program totaling approximately \$5,055,000 for services reflected in files that were falsified by Thangarasan. Medicare actually paid approximately \$2,325,300 on those claims. Throughout the conspiracy, Thangarasan was fully aware that Medicare was being billed for physical therapy services he had falsely indicated he had performed.

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for defendant's guilty plea to the charges against him. It does not include all of the facts known to him concerning criminal activity in which he and others engaged. Defendant makes this statement knowingly and voluntarily and because he is in fact guilty of the crime charged.

2. **SENTENCING GUIDELINES**

A. **Standard of Proof**

The Court will find sentencing factors by a preponderance of the evidence.

B. **Agreed Guideline Range**

There are no sentencing guideline disputes. Except as provided below, defendant's guideline range is 57-71 months imprisonment, as set forth on the attached worksheets. If the Court finds:

a) that defendant's criminal history category is higher than reflected on the attached worksheets, or

b) that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from his probation officer; otherwise demonstrated a lack of acceptance of responsibility for his offense(s); or

obstructed justice or committed any crime, and if any such finding results in a guideline range higher than 57-71 months imprisonment, the higher guideline range becomes the agreed range. However, if the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does *not* authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections a) and b), above.

3. SENTENCE

The Court will impose a sentence pursuant to 18 U.S.C. §3553, and in doing so must consider the sentencing guideline range.

A. Imprisonment

Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) the sentence of imprisonment in this case may not exceed the top of the sentencing guideline range as determined by Paragraph 2B.

B. Supervised Release

A term of supervised release, if imposed, follows the term of imprisonment. There is no agreement on supervised release. In other words, the Court may impose any term of supervised release up to the statutory maximum term, which in this case is 3 years. The agreement concerning

imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

C. Special Assessment(s)

Defendant will pay a special assessment of \$100.00 and must provide the government with a receipt for the payment before sentence is imposed.

D. Fine

The Court may impose a fine on each count of conviction in any amount up to \$250,000, or twice the pecuniary gain or loss, pursuant to 18 U.S.C. § 3571(d).

E. Restitution

The Court shall order restitution to every identifiable victim of defendant's offense(s).

The victims, and the full amounts of restitution in this case, are as follows:

U.S. Department of Health and Human Services: \$2,325,300.

F. Forfeiture

The defendant also agrees to forfeit to the United States, voluntarily and immediately, all assets and their substitutes which are subject to forfeiture, pursuant to Title 18, United States Code, Section 982(a)(7), including but not limited to the following:

The sum of \$2,325,300.00, which represents the amount of gross proceeds derived from the commission of the offense.

The defendant agrees that the above named property constitutes, or was derived from, gross proceeds traceable to the commission of the offense to which the defendant has pled guilty, and that it is therefore subject to forfeiture pursuant to 18 U.S.C. § 982(a)(7).

The defendant knowingly and voluntarily agrees to waive any claims or defenses he may have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeited assets. The defendant agrees to waive any appeal for the forfeiture.

The defendant further agrees to waive any applicable time limits for the initiation of administrative forfeiture and/or any further notification of any judicial or administrative forfeiture proceedings brought against said assets.

4. USE OF WITHDRAWN GUILTY PLEA

If the Court allows defendant to withdraw his guilty plea for a "fair and just reason" pursuant to Fed. R. Crim. P. 11(d)(2)(B), defendant waives his rights under Fed. R. Evid. 410, and the government may use his guilty plea, any statement made under oath at the change-of-plea hearing, and the factual basis statement in this plea agreement, against him in any proceeding.

5. EACH PARTY'S RIGHT TO WITHDRAW FROM THIS AGREEMENT

The government may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B.

Defendant may withdraw from this agreement, and may withdraw his guilty plea, if the Court decides to impose a sentence higher than the maximum allowed by Part 3. This is the only reason for which defendant may withdraw from this agreement. The Court shall advise defendant that if he does not withdraw his guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Part 3.

6. **WAIVER OF RIGHT TO APPEAL**

If the sentence imposed does not exceed the maximum allowed by Part 3 of this agreement, defendant waives any right he has to appeal his conviction or sentence. If the sentence imposed is within the guideline range determined by Paragraph 2B the government agrees not to appeal the sentence, but retains its right to appeal any sentence below that range.

7. **CONSEQUENCES OF VACATION OF CONVICTION/WITHDRAWAL OF PLEA**

If defendant is allowed to withdraw his guilty plea(s) or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing him to withdraw his guilty plea(s) becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea(s) or to any conduct reflected in the attached worksheets, defendant waives his right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

8. **PARTIES TO PLEA AGREEMENT**


Unless otherwise indicated, this agreement does not bind any government agency except the United States Department of Justice, Criminal Division, Fraud Section and the United States Attorney's Office for the Eastern District of Michigan.

9. **SCOPE OF PLEA AGREEMENT**

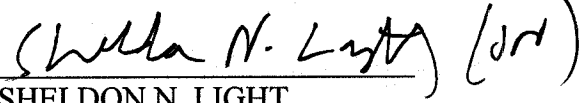
This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. It supersedes all other promises, representations, understandings, and agreements between the parties concerning the subject matter of this plea agreement that are made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to defendant or to the attorney for defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

This agreement does not prevent any civil or administrative actions against defendant, or any forfeiture claim against any property, by the United States or any other party.

TERRENCE BERG
United States Attorney




JOHN K. NEAL
Trial Attorney
U.S. Department of Justice
Criminal Division, Fraud Section

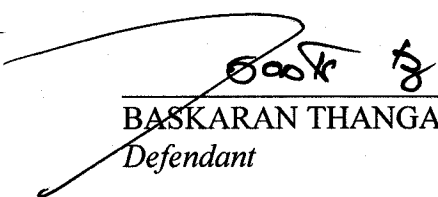


SHELDON N. LIGHT
Chief, Economic Crimes Unit
United States Attorney's Office
Eastern District of Michigan

By signing below, defendant acknowledges that he has read (or been read) this entire document, understands it, and agrees to its terms. He also acknowledges that he is satisfied with his attorney's advice and representation. Defendant agrees that he has had a full and complete opportunity to confer with his lawyer, and has had all of his questions answered by his lawyer.



LAURENCE SHULMAN
Attorney for Defendant



BASKARAN THANGARASAN
Defendant

Date: *December 6, 2009*

WORKSHEET A (Offense Levels)

Defendant: Baskaran Thangarasan Count(s): 1

Docket No.: 09-20215

Statute(s) 18 U.S.C. § 1349

Complete one Worksheet A for each count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction) before applying the multiple-count rules in U.S.S.G. ch. 3, pt. D. However, in any case involving multiple counts of conviction, if the counts of conviction are all "closely related" to each other within the meaning of U.S.S.G. § 3D1.2(d), complete only a single Worksheet A.

1. BASE OFFENSE LEVEL AND SPECIFIC OFFENSE CHARACTERISTICS (U.S.S.G. ch. 2)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
<u>2B1.1(a)(2)</u>	<u>Base Offense Level</u>	<input style="width: 40px; height: 20px;" type="text" value="6"/>
<u>2B1.1(b)(1)</u>	<u>Intended Loss greater than \$2.5 Million</u>	<input style="width: 40px; height: 20px;" type="text" value="18"/>
<u>2B1.1(b)(9)(C)</u>	<u>Sophisticated Means</u>	<input style="width: 40px; height: 20px;" type="text" value="2"/>
<u>3B1.3</u>	<u>Use of Special Skill</u>	<input style="width: 40px; height: 20px;" type="text" value="2"/>
		<input style="width: 40px; height: 20px;" type="text"/>

2. ADJUSTMENTS (U.S.S.G. ch. 3, pts. A, B, C)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
		<input style="width: 40px; height: 20px;" type="text"/>
		<input style="width: 40px; height: 20px;" type="text"/>
		<input style="width: 40px; height: 20px;" type="text"/>

3. ADJUSTED OFFENSE LEVEL

Enter the sum of the offense levels entered in Items 1 and 2. If this Worksheet A does not cover every count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction), complete one or more additional Worksheets A and a single Worksheet B.

28

If this is the only Worksheet A, check this box and skip Worksheet B.

X

If the defendant has no criminal history, check this box and skip Worksheet C.

X

WORKSHEET B (Multiple Counts)

Instructions (U.S.S.G. ch. 3, pt. D):

- Group the counts of conviction into distinct Groups of Closely Related Counts. “All counts involving substantially the same harm shall be grouped together into a single Group.” (See U.S.S.G. § 3D1.2.)
- Determine the offense level applicable to each Group. (See U.S.S.G. § 3D1.3.)
- Determine the combined offense level by assigning “units” to each Group as follows (see U.S.S.G. § 3D1.4):
 - assign 1 unit to the Group with the highest offense level,
 - assign 1 unit to each additional Group that is equally serious as, or 1 to 4 levels less serious than, the Group with the highest offense level,
 - assign ½ unit to each Group that is 5 to 8 levels less serious than the Group with the highest offense level,
 - assign no units to each Group that is 9 or more levels less serious than the Group with the highest offense level.

<p>1. GROUP ONE: COUNTS _____ ADJUSTED OFFENSE LEVEL _____</p>	<div style="border: 1px solid black; width: 80px; height: 40px; background-color: #cccccc;"></div>	<div style="border: 1px solid black; width: 80px; height: 40px; text-align: center; padding: 5px;">unit</div>
<p>2. GROUP TWO: COUNTS _____ ADJUSTED OFFENSE LEVEL _____</p>	<div style="border: 1px solid black; width: 80px; height: 40px; background-color: #cccccc;"></div>	<div style="border: 1px solid black; width: 80px; height: 40px; text-align: center; padding: 5px;">unit</div>
<p>3. GROUP THREE: COUNTS _____ ADJUSTED OFFENSE LEVEL _____</p>	<div style="border: 1px solid black; width: 80px; height: 40px; background-color: #cccccc;"></div>	<div style="border: 1px solid black; width: 80px; height: 40px; text-align: center; padding: 5px;">unit</div>
<p>4. GROUP FOUR: COUNTS _____ ADJUSTED OFFENSE LEVEL _____</p>	<div style="border: 1px solid black; width: 80px; height: 40px; background-color: #cccccc;"></div>	<div style="border: 1px solid black; width: 80px; height: 40px; text-align: center; padding: 5px;">unit</div>
<p>5. TOTAL UNITS</p>		<div style="border: 1px solid black; width: 80px; height: 40px; text-align: center; padding: 5px;">units</div>
<p>6. INCREASE IN OFFENSE LEVEL</p> <p>1 unit → no increase 2½-3 units → add 3 levels 1½ units → add 1 level 3½ -5 units → add 4 levels 2 units → add 2 levels >5 levels → add 5 levels</p>	<div style="border: 1px solid black; width: 80px; height: 40px; background-color: #cccccc;"></div>	
<p>7. ADJUSTED OFFENSE LEVEL OF GROUP WITH THE HIGHEST OFFENSE LEVEL</p>	<div style="border: 1px solid black; width: 80px; height: 40px; background-color: #cccccc;"></div>	
<p>8. COMBINED ADJUSTED OFFENSE LEVEL</p> <p>Enter the sum of the offense levels entered in Items 6 and 7.</p>		<div style="border: 1px solid black; width: 100px; height: 60px; background-color: #cccccc;"></div>

WORKSHEET C (Criminal History)

Date of defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses): _____

1. PRIOR SENTENCES

Prior Sentence of Imprisonment Exceeding 13 Months (U.S.S.G. §§ 4A1.1(a)): 3 POINTS

Enter 3 points for each prior adult sentence of imprisonment exceeding one year and one month that either (1) was imposed within 15 years of the defendant's commencement of the instant offenses (taking into account relevant conduct and stipulated offenses) or (2) resulted in the defendant's confinement during any part of that 15-year period. (See U.S.S.G. §§ 4A1.1(a), 4A1.2(d)(1), (e)(1).)

Prior Sentence of Imprisonment of at Least 60 Days (U.S.S.G. §§ 4A1.1(b)): 2 POINTS

Enter 2 points for each prior sentence of imprisonment of at least 60 days not counted under U.S.S.G. § 4A1.1(a) that either (1) resulted from an offense committed after the defendant turned 18 and was imposed within 10 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(b), 4A1.2(e)(2)) or (2) resulted from an offense committed before the defendant turned 18 and resulted in the defendant's confinement during any part of the 5-year period preceding the defendant's commencement of the instant offense (see U.S.S.G. §§ 4A1.1(b), 4A1.2(d)(2)(A)).

Other Prior Sentences (U.S.S.G. §§ 4A1.1(c)): 1 POINT

Enter 1 point for each prior sentence not counted under U.S.S.G. § 4A1.1(a) or (b) that either (1) resulted from an offense committed after the defendant turned 18 and was imposed within 10 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(c), 4A1.2(e)(2)) or (2) resulted from an offense committed before the defendant turned 18 and was imposed within 5 years of the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) (see U.S.S.G. §§ 4A1.1(c), 4A1.2(d)(2)(B)). NOTE: No more than 4 points may be added under this item.

<u>Date of Imposition</u>	<u>Status*</u>	<u>Offense</u>	<u>Sentence</u>	<u>Release Date**</u>	<u>Points</u>
_____	_____	_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	_____	_____	<input type="checkbox"/>
_____	_____	_____	_____	_____	<input type="checkbox"/>

* If the defendant committed the offense before turning 18, indicate whether he or she was sentenced as a juvenile (J) or as an adult (A).

** A release date is required in only three situations: (1) when a sentence covered under U.S.S.G. § 4A1.1(a) was imposed more than 15 years before the defendant's commencement of the instant offense (taking into account relevant conduct and stipulated offenses) but resulted in his or her confinement during any part of that 15-year period; (2) when a sentence counted under U.S.S.G. § 4A1.1(b) was imposed for an offense committed before the defendant turned 18 but resulted in his or her confinement during any part of the 5-year period preceding his or her commencement of the instant offense (taking into account relevant conduct and stipulated offenses); and (3) when 2 criminal history points are added pursuant to U.S.S.G. § 4A1.1(e) because the defendant committed the instant offense (taking into account relevant conduct and stipulated offenses) shortly after or during imprisonment resulting from a sentence counted under U.S.S.G. § 4A1.1(a) or (b) or while he or she was on escape status for such a sentence.

2. COMMISSION OF INSTANT OFFENSE WHILE UNDER PRIOR SENTENCE (U.S.S.G. § 4A1.1(d))

Enter 2 points if the defendant committed any part of the instant offense (taking into account relevant conduct and stipulated offenses) while under any criminal justice sentence having a custodial or supervisory component, including probation, parole, supervised release, imprisonment, work release, and escape status. (See U.S.S.G. §§ 4A1.1(d), 4A1.2(m), (n).) List the type of control and identify the sentence from which it resulted.

3. COMMISSION OF INSTANT OFFENSE SHORTLY AFTER OR DURING IMPRISONMENT (U.S.S.G. § 4A1.1(e))

Enter 2 points if the defendant committed any part of the instant offense (taking into account relevant conduct and stipulated offenses) either less than 2 years after release from imprisonment on a sentence counted under U.S.S.G. §§ 4A1.1(a) or 4A1.1(b) or while in imprisonment or escape status on such a sentence. However enter, only 1 point for this item if 2 points were added under Item 2. (See U.S.S.G. §§ 4A1.1(e), 4A1.2(n).) List the date of release and identify the sentence from which it resulted.

4. PRIOR SENTENCE RESULTING FROM CRIME OF VIOLENCE (U.S.S.G. § 4A1.1(f))

Enter 1 point for each prior sentence resulting from a conviction for a crime of violence that did not receive any points under U.S.S.G. § 4A1.1(a), (b), or (c) because such sentence was considered related to another sentence resulting from a conviction for a crime of violence. But enter no points where the sentences are considered related because the offenses occurred on the same occasion. (See U.S.S.G. §§ 4A1.1(f), 4A1.2(p).) Identify the crimes of violence and briefly explain why the cases are considered related. NOTE: No more than 3 points may be added under this item.

5. TOTAL CRIMINAL HISTORY POINTS

Enter the sum of the criminal history points entered in Items 1-4.

6. CRIMINAL HISTORY CATEGORY

Total Criminal History Points Criminal History Category

0 – 1	I
2 – 3	II
4 – 6	III
7 – 9	IV
10 – 12	V
≥ 13	VI

WORKSHEET D (Guideline Range)

1. (COMBINED) ADJUSTED OFFENSE LEVEL

Enter the adjusted offense level entered in Item 3 of Worksheet A or the combined adjusted offense level entered in Item 8 of Worksheet B.

28

2. ADJUSTMENT FOR ACCEPTANCE OF RESPONSIBILITY (U.S.S.G § 3E1.1)

-3

3. TOTAL OFFENSE LEVEL

Enter the difference between Items 1 and 2.

25

4. CRIMINAL HISTORY CATEGORY

Enter "1" if the defendant has no criminal history. Otherwise, enter the criminal history category entered in Item 6 of Worksheet C.

1

5. CAREER OFFENDER / CRIMINAL LIVELIHOOD / ARMED CAREER CRIMINAL (U.S.S.G. ch. 4, pt. B)

a. Total Offense Level: If the career offender provision (U.S.S.G. § 4B1.1), the criminal livelihood provision (U.S.S.G. § 4B1.3), or the armed career criminal provision (U.S.S.G. § 4B1.4) results in a total offense level higher than the total offense level entered in Item 3, enter the higher offense level total.

b. Criminal History Category: If the career offender provision (U.S.S.G. § 4B1.1) or the armed career criminal provision (U.S.S.G. § 4B1.4) results in a criminal history category higher than the criminal history category entered in Item 4, enter the higher criminal history category.

6. GUIDELINE RANGE FROM SENTENCING TABLE (U.S.S.G. ch. 5, pt. A)

Enter the guideline range in the Sentencing Table (see U.S.S.G. ch. 5, pt. A) produced by the total offense level entered in Item 3 or 5.a and the criminal history category entered in Item 4 or 5.b.

57-71
months

7. STATUTORY RESTRICTIONS ON OR SUPERSESSION OF GUIDELINE RANGE

If the maximum sentence authorized by statute is below, or a minimum sentence required by statute is above, the guideline range entered in Item 6, enter either the guideline range as restricted by statute or the sentence required by statute. (See U.S.S.G. § 5G1.1.) If the sentence on any count of conviction is required by statute to be consecutive to the sentence on any other count of conviction, explain why.

months

WORKSHEET E (Authorized Guideline Sentences)

1. PROBATION (U.S.S.G. ch. 5, pt. B)

a. Imposition of a Term of Probation (U.S.S.G. § 5B1.1)

1. Probation is not authorized by the guidelines (minimum of guideline range > 6 months or statute of conviction is a Class A or a Class B felony). If this box is checked, go to Item 2 (Split Sentence).

2. Probation is authorized by the guidelines (minimum of guideline range = zero months).

3. Probation is authorized by the guidelines, provided the court imposes a condition or combination of conditions requiring intermittent confinement, community confinement, or home detention satisfying the minimum of the guideline range (minimum of guideline range > 0 months but ≤ 6 months).

b. Length of Term of Probation (U.S.S.G. § 5B1.2)

1. At least 1 year but not more than 5 years (total offense level ≥ 6).

2. No more than 3 years (total offense level < 6).

c. Conditions of Probation (U.S.S.G. § 5B1.3)

The court must impose certain conditions of probation and may impose other conditions of probation.

2. SPLIT SENTENCE (U.S.S.G. § 5C1.1(c)(2), (d)(2))

a. A split sentence is not authorized (minimum of guideline range = 0 months or > 10 months).

b. A split sentence is authorized (minimum of guideline range > 0 months but ≤ 10 months). The court may impose a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention for imprisonment, provided that at least one-half of the minimum of the guideline range is satisfied by imprisonment (if the minimum of the guideline range is 8, 9, or 10 months), or that at least one month is satisfied by imprisonment (if the minimum of the guideline range is 1, 2, 3, 4, or 6 months). The authorized length of the term of supervised release is set forth below in Item 4.b

3. IMPRISONMENT (U.S.S.G. ch. 5, pt. C)

A term of imprisonment is authorized by the guidelines if it is within the applicable guideline range (entered in Item 6 of Worksheet D). (See U.S.S.G. § 5C1.1.)

4. SUPERVISED RELEASE (U.S.S.G. ch 5., pt. D)

a. Imposition of a Term of Supervised Release (U.S.S.G. § 5D1.1)

The court must impose a term of supervised release if it imposes a term of imprisonment of more than one year, or if it is required to do so by statute. The court may impose a term of supervised release if it imposes a term of imprisonment of one year or less.

b. Length of Term of Supervised Release (U.S.S.G. § 5D1.2)

1. At least 3 years but not more than 5 years, where the count of conviction is a Class A or a Class B felony, i.e., an offense carrying a maximum term of imprisonment ≥ 25 years.

2. At least 2 years but not more than 3 years, where the count of conviction is a Class C or a Class D felony, i.e., an offense carrying a maximum term of imprisonment ≥ 5 years but < 25 years.

3. 1 year, where the count of conviction is a Class E felony or a Class A misdemeanor, i.e., an offense carrying a maximum term of imprisonment > 6 months but < 5 years.

4. The statute of conviction requires a minimum term of supervised release of _____ months.

c. Conditions of Supervised Release (U.S.S.G. § 5D1.3)

The court must impose certain conditions of supervised release and may impose other conditions of supervised release.

5. RESTITUTION (U.S.S.G. § 5E1.1)

1. The court will determine whether restitution should be ordered and in what amount.

2. Full restitution to the victim(s) of the offense(s) of conviction is *required* by statute. (See, e.g., 18 U.S.C. §§ 3663A, 2327.) The parties agree that full restitution is **\$2,325,300**

3. The parties agree that the court may order restitution to the victim(s) of the offense(s) of conviction in any amount up to and including \$_____. (See 18 U.S.C. §§ 3663(a)(3).)

4. The parties agree that the court may *also* order restitution to persons other than the victim(s) of the offense(s) of conviction. (See 18 U.S.C. §§ 3663(a)(1)(A), 3663A(a)(3).)

5. Restitution is not applicable.

6. FINE (U.S.S.G. § 5E1.2)

a. Fines for Individual Defendants

The court must impose a fine unless “the defendant establishes that he [or she] is unable to pay and is not likely to become able to pay any fine.” (See U.S.S.G. § 5E1.2(a).) Generally, the fine authorized by the guidelines is limited to the range established in the Fine Table. (See U.S.S.G. § 5E1.2(b).) However, there are exceptions to this general rule. (See U.S.S.G. § 5E1.2(b), (c)(4).)

b. Fine Range from Fine Table (U.S.S.G. § 5E1.2(c)(3))

<u>Minimum Fine</u>	<u>Maximum Fine</u>
\$ <u>10,000</u>	\$ <u>250,000</u>

7. SPECIAL ASSESSMENT(S) (U.S.S.G. § 5E1.3)

The court must impose a special assessment on every count of conviction. The special assessments for individual defendants are

- \$100.00 for every count charging a felony (\$50.00 if the offense was completed before April 24, 1996)
- \$ 25.00 for every count charging a Class A misdemeanor,
- \$ 10.00 for every count charging a Class B misdemeanor, and
- \$ 5.00 for every count charging a Class C misdemeanor or an infraction.

The defendant must pay a special assessment or special assessments in the total amount of \$ _____.

8. ADDITIONAL APPLICABLE GUIDELINES, POLICY STATEMENTS, AND STATUTES

List any additional applicable guideline, policy statement, or statute.

9. UPWARD OR DOWNWARD DEPARTURE (U.S.S.G. ch. 5, pts. H & K)

List any applicable aggravating or mitigating circumstance that might support a term of imprisonment above or below the applicable guideline range. _____
