

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-CR-20698-LENARD
RELATED CASE NO. 17-CR-20194-LENARD

UNITED STATES OF AMERICA

vs.

ALVIN JAMES WARRICK,
a/k/a "Peter Candlewood,"

Defendant.

PLEA AGREEMENT

The United States Attorney's Office for the Southern District of Florida ("this Office") and
ALVIN JAMES WARRICK ("Defendant") enter into the following agreement:

1. Defendant agrees to plead guilty to Count 1 of the Indictment in *United States v. Alvin James Warrick*, Case No. 16-CR-20698-JAL, which charges Defendant with conspiracy to commit mail fraud and wire fraud, in violation of Title 18, United States Code, Section 1349. This Office agrees to seek dismissal of Counts 2, and 6 through 11 of *United States v. Alvin James Warrick*, Case No. 16-CR-20698-JAL, as to this Defendant, after sentencing.

2. Defendant also agrees to plead guilty to Count 21 of the Indictment in *United States v. Alvin James Warrick*, Case No. 17-CR-20194-JAL, which is a Rule 20 transfer case from the Eastern District of Texas. See *United States v. Alvin James Warrick*, Case No. 16-CR-74-CRONE. This case charges Defendant with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349. This Office agrees to seek dismissal of Counts 1 through 10 of *United States v. Alvin James Warrick*, Case No. 17-CR-20194-JAL, as to this Defendant, after sentencing.

3. Defendant is aware that the sentence will be imposed by the Court after considering the advisory Federal Sentencing Guidelines and Policy Statements (the "Sentencing Guidelines"). Defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a pre-sentence investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. Defendant is also aware that, under certain circumstances, the Court may depart from the advisory Sentencing Guidelines range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. Defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose a sentence within that advisory range; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines advisory range. Knowing these facts, Defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraphs 1 and 2, and that Defendant may not withdraw the plea solely as a result of the sentence imposed.

4. Defendant also understands and acknowledges that with regard to Case No. 16-CR-20698-JAL, as to Count 1, the Court may impose a statutory maximum term of imprisonment of up to twenty (20) years, followed by a term of supervised release of up to three (3) years. In addition to a term of imprisonment and supervised release, the Court may impose a fine of up to \$250,000 and must order restitution.

5. Defendant also understands and acknowledges that with regard to Case No. 17-CR-20194-JAL, as to Count 21, the Court may impose a statutory maximum term of imprisonment of up to twenty (20) years, followed by a term of supervised release of up to three (3) years. In

addition to a term of imprisonment and supervised release, the Court may impose a fine of up to \$250,000 and must order restitution.

6. Defendant further understands and acknowledges that, in addition to any sentence imposed under paragraphs 4 and 5 of this agreement, a special assessment in the amount of \$100 for each of the counts, for a total amount of \$200, will be imposed on the Defendant. The Defendant agrees that any special assessment imposed shall be paid at the time of sentencing. If the Defendant is financially unable to pay the special assessment, Defendant agrees to present evidence to this Office and the Court at the time of sentencing as to the reasons for the Defendant's failure to pay.

7. This Office reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning Defendant and Defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

8. This Office agrees that it will recommend at sentencing that the Court reduce by two levels the Sentencing Guidelines level applicable to Defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon Defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing, Defendant's offense level is determined to be 16 or greater, this Office will file a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that Defendant has assisted authorities in the investigation or prosecution of Defendant's own misconduct by timely notifying authorities of Defendant's 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. This Office, however, will not be required to make this motion and this recommendation if Defendant: (a) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (b) is found to have misrepresented facts to the government prior to entering into this plea agreement; or (c) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

9. This Office and Defendant agree that, although not binding on the probation office or the Court, they will jointly recommend that the Court make the following findings and conclusions as to the sentence to be imposed in Case No. 16-CR-20698-JAL and Case No. 17-CR-20194-JAL:

a. Loss Amount: Under Section 2B1.1(b)(1)(J) of the Sentencing Guidelines, the relevant amount of actual, probable, or intended loss attributed to the Defendant's participation in the overall combined offenses committed in these cases is greater than \$3,500,000 and less than or equal to \$9,500,000, resulting in an 18-level increase.

b. Restitution: Under Section 5E1.1 of the Sentencing Guidelines, the restitution amount that the Defendant shall be ordered to pay to the victims is \$4,401,005.

c. Victims: Under Section 2B1.1(b)(2)(A)(i) of the Sentencing Guidelines, the offense involved ten or more victims, resulting in a 2-level increase.

d. Role in the Offense: Under Section 3B1.2(b)(2)(A)(i) of the Sentencing Guidelines, the Defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive, resulting in a 4-level increase.

This Office specifically reserves the right to argue for the application of any other enhancements under the Sentencing Guidelines.

10. Defendant is aware that the sentence has not yet been determined by the Court. Defendant also is aware that any estimate of the probable sentencing range or sentence that Defendant may receive, whether that estimate comes from Defendant's attorney, this Office, or the probation office, is a prediction, not a promise, and is not binding on this Office, the probation office or the Court. Defendant understands and acknowledges, as previously acknowledged in

paragraph 3 above, that Defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by Defendant, this Office, or a recommendation made jointly by Defendant and this Office.

11. The Defendant agrees that he shall cooperate fully with this Office by: (a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other Court proceeding; (b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and (c) if requested by this Office, working in an undercover role under the supervision of, and in compliance with, law enforcement officers and agents. In addition, the Defendant agrees that he will not protect any person or entity through false information or omission, that he will not falsely implicate any person or entity, and that he will not commit any further crimes.

12. This Office reserves the right to evaluate the nature and extent of the Defendant's cooperation and to make that cooperation, or lack thereof, known to the Court at the time of sentencing. If in the sole and unreviewable judgment of this Office the Defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the Court's downward departure from the advisory sentencing range calculated under the Sentencing Guidelines and/or any applicable minimum mandatory sentence, this Office may make a motion prior to sentencing pursuant to Section 5K1.1 of the Sentencing Guidelines and/or Title 18, United States Code, Section 3553(e), or subsequent to sentencing pursuant to Rule 35 of the Federal Rules of Criminal Procedure, informing the Court that the Defendant has provided substantial assistance and recommending that the Defendant's sentence be reduced. The Defendant understands and agrees, however, that nothing in this agreement requires this Office to file any such motions, and that this Office's assessment of the quality and significance of the Defendant's

cooperation shall be binding as it relates to the appropriateness of this Office's filing or non-filing of a motion to reduce sentence.

13. The Defendant understands and acknowledges that the Court is under no obligation to grant a motion for reduction of sentence filed by this Office. In addition, the Defendant further understands and acknowledges that the Court is under no obligation of any type to reduce the Defendant's sentence because of the Defendant's cooperation.

14. The Defendant agrees to the entry of a forfeiture money judgment of \$4,401,005 in United States currency, and admits that this sum represents the gross proceeds of the offense to which Defendant will plead guilty. In partial satisfaction of this money judgment, the Defendant agrees to forfeit to the United States voluntarily and immediately all of his right, title and interest to any and all assets and their substitutes which are subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by Title 28, United States Code, Section 2461(c).

15. Defendant waives all interest in the above-named property in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal, and agrees to take all actions deemed necessary by the United States to transfer title of the above-identified assets to the United States. Defendant consents to the entry of orders of forfeiture for such property and waives the requirements of Rule 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of the forfeiture in the Indictment, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the Judgment. Defendant admits and agrees that the conduct described in the Indictments and Factual Proffers provide for a sufficient factual and statutory basis for the forfeiture money judgment.

16. Defendant knowingly and voluntarily waives any claim or defense 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 property, waives any forfeiture appeal, and waives further notification of forfeiture and any statutes regarding the timing and implementation of forfeiture.

17. Defendant is aware that Title 18, United States Code, Section 3742 and Title 28, United States Code, Section 1291 afford Defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, Defendant hereby waives all rights conferred by Sections 3742 and 1291 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure and/or an upward variance from the advisory guideline range that the Court establishes at sentencing. Defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b) and Title 28, United States Code, Section 1291. However, if the United States appeals Defendant's sentence pursuant to Sections 3742(b) and 1291, Defendant shall be released from the above waiver of appellate rights. By signing this agreement, Defendant acknowledges that Defendant has discussed the appeal waiver set forth in this agreement with Defendant's attorney.

18. Defendant recognizes that pleading guilty may have consequences with respect to Defendant's immigration status if Defendant is not a natural-born citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offenses to which Defendant is pleading guilty. In addition, under certain circumstances, denaturalization may also be a consequence of pleading guilty to a crime. Removal, denaturalization, and other immigration consequences are the subject of a separate proceeding, however, and Defendant understands that no one, including Defendant's attorney or the Court, can predict to a certainty the effect of Defendant's conviction on Defendant's immigration status. Defendant nevertheless affirms that

Defendant wants to plead guilty regardless of any immigration consequences that Defendant's plea may entail, even if the consequence is Defendant's denaturalization and automatic removal from the United States.

19. This is the entire agreement and understanding between this Office and the Defendant. There are no other agreements, promises, representations, or understandings.

BENJAMIN G. GREENBERG
ACTING UNITED STATES ATTORNEY

Date: 3/16/17

By: 
ANNE P. MCNAMARA
ASSISTANT UNITED STATES ATTORNEY

Date: 3/16/17

By: 
MARK O'BRIEN
ATTORNEY FOR DEFENDANT

Date: 3/16/17

By: 
ALVIN JAMES WARRICK
DEFENDANT