

This agreement also 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.

12. ACCEPTANCE OF AGREEMENT BY DEFENDANT

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by 5:00 p.m. on Thursday, December 15, 2011. The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

BARBARA L. MCQUADE
United States Attorney

JULIE A. BECK, CHIEF
FORFEITURE / FINANCIAL LITIGATION UNIT
ASSISTANT UNITED STATES ATTORNEY

CYNTHIA OBERG, CHIEF
WHITE COLLAR CRIME UNIT
ASSISTANT UNITED STATES ATTORNEY

DATE: DECEMBER 13, 2011

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 ATTORNEYS' 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 LAWYERS.

NEIL FINK
ATTORNEY FOR DEFENDANT

WISSAM AOUN
DEFENDANT

DATE:

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.

10. PARTIES TO PLEA AGREEMENT

Unless otherwise indicated, this agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.

11. SCOPE OF PLEA AGREEMENT

This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. This agreement supersedes all other promises, representations, understandings and agreements between the parties concerning the subject matter of this plea agreement that were 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 the defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

Notwithstanding the previous paragraph, if defendant has entered into a proffer agreement in writing or a cooperation agreement in writing with the government, this plea agreement does not supersede or abrogate the terms of any such prior written agreement.

6. OTHER CHARGES

If the Court accepts this agreement, the government will **dismiss all remaining charges** in this case at the time of sentencing, specifically, **Counts 5, 8 – 11, 14 – 16, and 18** of the Indictment.

7. 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.

8. WAIVER OF APPEAL

Defendant waives any right he may have to appeal his conviction. If the sentence imposed does not exceed the maximum allowed by Part 3 of this agreement, defendant also waives any right he may have to appeal his 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.

9. CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA(S) OR VACATION OF CONVICTION(S)

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,

The government will leave the determination of the amount of the downward departure to the sound discretion of the Court. Defendant understands and agrees that the court's failure to reduce defendant's sentence shall not constitute a valid basis for defendant to withdraw from this agreement or to withdraw his plea of guilty.

c. Use of Information Against Defendant. In exchange for defendant's agreement to cooperate with the government, as outlined above, the government agrees not to use new information that defendant provides (pursuant to this agreement) about defendant's own criminal conduct against defendant at sentencing in this case. Such information may be revealed to the Court but may not be used against the defendant in determining defendant's sentence range, choosing a sentence within the range, or departing from the range. There shall be no such restrictions on the use of information:

- (1) previously known to law enforcement agencies;
- (2) revealed to law enforcement agencies by, or discoverable through, an independent source;
- (3) in a prosecution for perjury or giving a false statement;
- or (4) in the event there is a breach of this agreement.

5. 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.

reasonably related to the subjects discussed in the debriefing. In other words, the defendant may not omit facts about crimes, participants, or defendant's involvement, and then claim not to have breached this agreement because defendant was not specifically asked questions about those crimes, participants, or involvement. Defendant will notify the U.S. Attorney in advance if defendant intends to offer a statement or debriefing to other persons other than defendant's attorney. Defendant is not prevented in any way from providing truthful information helpful to the defense of any person. Any actions or statements inconsistent with continued cooperation under this agreement, including but not limited to criminal activity, or a statement indicating a refusal to testify, or any other conduct which in any way undermines the effectiveness of defendant's cooperation, constitutes a breach of this agreement.

2. Government's Authority Regarding Substantial Assistance.

a. Substantial Assistance Determination. It is exclusively within the government's discretion to determine whether defendant has provided substantial assistance. Upon the government's determination that defendant's cooperation amounts to substantial assistance in the investigation or prosecution of others, the government will either seek a downward departure at sentencing under U.S.S.G. § 5K1.1, or a reduction of sentence pursuant to Fed. R. Crim. P. 35, as appropriate. If the government makes such a motion, the amount of the reduction, if any, will be determined by the Court.

b. Downward Departure. The parties agree that if the government makes such a motion at or before the time of sentencing, the government will fully advise the Court of the extent and value of the defendant's cooperation.

waives any failure by the court to advise him of this, pursuant to Rule 11(b)(1)(J), at the time his guilty plea is accepted.

4. Cooperation Agreement

Pursuant to paragraph 4 of the Rule 11 plea agreement entered into the parties this date, the parties agree as follows:

1. Cooperation. Defendant agrees to assist the United States Attorney's Office in the investigation and prosecution of others involved in criminal activities, as specified below.

a. Truthful Information and Testimony. Defendant will provide truthful and complete information concerning matters known to him. Defendant will provide full debriefings as requested to the U.S. Attorney, and federal, state, and local law enforcement agencies. Defendant will provide truthful testimony at all proceedings, criminal, civil, or administrative, as requested by the U.S. Attorney. Such testimony may include, but is not limited to, grand jury proceedings, trials, and pretrial and post-trial proceedings. Defendant agrees to be available for interviews in preparation of all testimony. Defendant further agrees to submit, upon request, to government-administered polygraph examinations to verify defendant's full and truthful cooperation. Defendant understands that this obligation to provide cooperation continues after sentencing and that failure to follow through constitutes a breach of this agreement.

b. Nature of Cooperation. The defendant agrees to cooperate in good faith, meaning that the defendant will not only respond truthfully and completely to all questions asked, but will also volunteer all information that is

- 1) **One 2002 Toyota Sequoia SUV VIN: 5TDZT38A12S098632;**
- 2) **One 2006 Bentley Continental VIN: SCBBR53W36C036545;**
and
- 3) **Thirty-Five Thousand Dollars in U.S. Currency (\$35,000).**

(d) Pursuant to 18 U.S.C. § 2323 (b)(2)(B), defendant will not object to the government seeking an order forfeiting any and all articles or components of an article bearing or consisting of a counterfeit mark so they may be destroyed or otherwise disposed of according to law.

In entering into this agreement with respect to forfeiture, defendant expressly waives his right to have a jury determine the forfeitability of his interest in the Subject Property as provided by Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure.

In entering into this agreement with respect to forfeiture, defendant knowingly, voluntarily, and intelligently waives any challenge to the above-described forfeiture based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution.

Defendant further waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant acknowledges that he understands that the forfeiture of assets is part of the sentence that may be imposed in this case and

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

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

There is no agreement as to fine.

E. Restitution

The Court shall order restitution to every identifiable victim of defendant's offense. Defendant agrees that the order of restitution will be **up to \$1,000,000**, the exact amount to be determined, liability to be joint and several with co-defendants. The government will provide a list of the victims and the amounts they are owed prior to sentencing.

F. Forfeiture

As part of this agreement, pursuant to 18 U.S.C. § 2323, defendant agrees to forfeit his interest in the following:

(a) any property, real or personal, constituting or derived from any proceeds obtained, directly or indirectly, as a result of violations Title 18, United States Code, Sections 371 and 2320 to; and/or

(b) any property, real or personal, involved in the commission of violations Title 18, United States Code, Sections 371 and 2320.

(c) This includes, but is not limited to,

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; or obstructed justice or committed any crime, and if any such finding results in a guideline range higher than **24 to 30 months**, the higher guideline range becomes the agreed upon 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 **midpoint 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

goods, including hundreds of pairs of Nike shoes, from Goodfellas and Da Hook Up, both stores he owned that were operated by his brothers. Nonetheless, Wissam Aoun permitted the stores to continue to operate, and to sell counterfeit merchandise.

Wissam Aoun brokered deals to purchase counterfeit clothing outside the State of Michigan, and offered guidance to his co-conspirators when they had problems with the Aoun Organization's business. Wissam Aoun obtained vehicles titled in his name for his co-conspirators. Wissam Aoun also operated Fresh Gear, a retail outlet for counterfeit merchandise, with Ghassan Aoun (D-5).

During the course of the conspiracy, the defendants sold goods that would have been valued at between \$400,000 and \$1,000,000, if they had been genuine.

2. SENTENCING GUIDELINES

A. Standard of Proof

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

B. Agreed Guideline Range

Except as provided below, defendant's guideline range is **24 to 30 months**, 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

conduct that violated a federal law, and one of the conspirators performed at least one overt act in furtherance of their illegal goal.

C. Factual Basis for Guilty Plea

The parties agree that the following facts are a sufficient and accurate basis for defendant's guilty plea:

From 2004 through the spring of 2010, **Wissam Aoun (D-3)** furthered the objects of the conspiracy by securing locations for the retail stores and warehouses used by the Aoun Organization to store and sell counterfeit merchandise. Although most of the retail locations used by the Aoun Organization were leased, **Wissam Aoun owned Goodfellas at 18334 W. Warren Avenue in Detroit, and Da Hook Up at 19316 Joy Road in Detroit.** Most of the merchandise sold at Goodfellas was genuine and not counterfeit; however, **Wissam Aoun allowed co-conspirators to unload large shipments of counterfeit merchandise at Goodfellas to await distribution to the various stores used by the Aoun Organization.**

On April 6, 2009, **Wissam Aoun** testified under oath in a deposition taken in the civil action he brought against Wayne County (08-018235 CZ) that he had purchased and leased commercial buildings which were used to sell merchandise. **Wissam Aoun** testified that he permitted several family members (including **Nithal Aoun (D-1)** and **Mohammad Aoun (D-2)**) to operate the stores. **Wissam Aoun** admitted that on **December 12, 2007, the Wayne County Sheriff recovered counterfeit and stolen**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

CRIMINAL NUMBER 2:10-cr-20458
HONORABLE NANCY G. EDMUNDS

v.

Violation: 18 U.S.C. § 371, Conspiracy
to Commit Federal Crimes

D-3 WISSAM AOUN,
Defendant.

Statutory maximum sentence: 5 years
in custody, \$250,000 fine, 3 years
supervised release, \$100 special
assessment

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant and the government agree as follows:

1. GUILTY PLEA

A. Counts of Conviction

Defendant will enter a plea of guilty to **Count 1 of the Indictment**, which charges Conspiracy to Commit Federal Crimes, in violation of 18 U.S.C. § 371. The government will move to dismiss all other counts as to this defendant at the time sentence is imposed.

B. Elements of Offenses

The elements of Conspiracy to Commit Federal Crimes, the offense charged in Count 1, are: Two or more people conspired and agreed to attempt to engage in