THE FOLLOWING IS THE PDF OF AN OFFICIAL TRANSCRIPT. OFFICIAL TRANSCRIPTS MAY ONLY BE FILED IN CM/ECF BY THE OFFICIAL COURT REPORTER AND WILL BE RESTRICTED IN CM/ECF FOR A PERIOD OF 90 DAYS. YOU MAY CITE TO A PORTION OF THE ATTACHED TRANSCRIPT BY THE DOCKET ENTRY NUMBER, REFERENCING PAGE AND LINE NUMBER, ONLY AFTER THE COURT REPORTER HAS FILED THE OFFICIAL TRANSCRIPT; HOWEVER, YOU ARE PROHIBITED FROM ATTACHING A FULL OR PARTIAL TRANSCRIPT TO ANY DOCUMENT FILED WITH THE COURT.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
-VS-	)	DOCKET NO. 1:20-cr-00296-JPB
	)	
BERN BENOIT,	)	
	)	
DEFENDANT.	)	

TRANSCRIPT OF CHANGE OF PLEA PROCEEDINGS
BEFORE THE HONORABLE J.P. BOULEE
UNITED STATES DISTRICT JUDGE
MARCH 11, 2021

APPEARANCES:

ON BEHALF OF THE GOVERNMENT:
TAL COHEN CHAIKEN, ESQ.
NATHAN PARKER KITCHENS, ESQ.
BABASIJIBOMI MOORE, ESQ.
ASSISTANT UNITED STATES ATTORNEY

ON BEHALF OF THE DEFENDANT:
ANTHONY O. EGBASE, ESQ.

STENOGRAPHICALLY RECORDED BY:

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

(PROCEEDINGS HELD VIA ZOOM AT 12:03 PM., ATLANTA, GEORGIA)

COURTROOM DEPUTY CLERK: This is case 20-CR-296, USA v. Benoit.

MS. CHAIKEN: Good afternoon, Judge. This is Assistant US Attorney Tal Chaiken for the government. And with me are Nathan Kitchens from my office, Siji Moore from the Department of Justice, and Special Agent Joe Stites.

THE COURT: Good to see all of you.

MR. EGBASE: Good afternoon, your Honor. Anthony Egbase on behalf of Bern Benoit. He's present via Zoom as well.

THE COURT: Good to see you, Mr. Egbase. And is it pronounced Mr. -- if the defendant could just pronounce his name for me.

THE DEFENDANT: Bern Benoit.

THE COURT: Benoit?

THE DEFENDANT: Yes, sir.

THE COURT: Of all the judges on this court, you would think Judge Boulee would be able to get that one correctly. So I will do my best, but I won't tell you what my grade was when I took French in college, okay? It wasn't good.

We are doing this by Zoom. So, Mr. Egbase and Mr. Benoit, I want to ask you both some questions.

First off, Mr. Egbase -- well, let's do this.

Ms. Walker, if you can swear him in first, please.

COURTROOM DEPUTY CLERK: Yes, your Honor.

Mr. Benoit, please raise your right hand.

(The defendant was duly sworn)

COURTROOM DEPUTY CLERK: State your name again for the record.

THE DEFENDANT: Bern Benoit.

THE COURT: Mr. Egbase, I just want to confirm that you have discussed the issue of having this hearing done by Zoom video conference versus in court, live in court with him before me, and have you discussed that with him and has he consented, to your knowledge, to doing this by Zoom?

MR. EGBASE: Yes, your Honor. I did, your Honor. And Mr. Benoit has consented, yes.

THE COURT: And, Mr. Benoit, let me ask you individually, sir, do you waive your personal appearance before me in court and consent to doing this hearing by Zoom video conference, sir?

THE DEFENDANT: I do, sir.

THE COURT: Ms. Chaiken, if you could please verify the signatures on the plea agreement.

MS. CHAIKEN: Ms. Walker, if you could navigate to page 19, please.

Mr. Benoit, this is a copy of a plea agreement which provides that you are pleading guilty to Count 7 against you

as charged in the indictment. Is that your signature on the right line above your name where it says "Bern Benoit"?

THE DEFENDANT: Yes, it is.

MS. CHAIKEN: Mr. Egbase, is that your signature above the line that says "Anthony Egbase" on the left side of the page?

MR. EGBASE: Yes, it is.

MS. CHAIKEN: And, Ms. Walker, if you could navigate to page 20.

Mr. Benoit, is that your signature on the line that says "Bern Benoit" on page 20 of the plea agreement?

THE DEFENDANT: Yes, it is.

MS. CHAIKEN: Ms. Walker, if you could navigate to page 21, please.

Mr. Egbase, is that your signature on the line on the left side of page 21 of the agreement above where it says "Anthony Egbase"?

MR. EGBASE: Yes, it is.

MS. CHAIKEN: Thank you.

THE COURT: Ms. Chaiken, I know we're doing this virtually, but do you want to just tender that?

MS. CHAIKEN: Yes, Judge. I virtually tender the plea agreement to the Court.

THE COURT: Very well.

Mr. Benoit, before I can accept your plea of guilty,

I need to go over several matters with you. As we go through this process, if anything I state is unclear, let me know and I will repeat or rephrase it for you. It's important that you understand not only my statements to you but also my questions.

You need to understand my questions so you can answer them truthfully. A failure to truthfully answer any question could result in additional charges being brought against you.

Also, as I ask questions, please answer the questions out loud. This will allow the court reporter to take down your responses so that we can have an accurate record of these proceedings.

Do you understand, sir?

THE DEFENDANT: Yes, I do.

THE COURT: All right. How old are you, sir?

THE DEFENDANT: Forty-five.

THE COURT: And how far did you go in school?

THE DEFENDANT: I graduated high school.

THE COURT: In the last 24 hours have you taken any drugs, medicine or pills or had any alcoholic beverages to drink?

THE DEFENDANT: No.

THE COURT: And have you been treated recently for any mental illness or addiction to alcohol or drugs?

THE DEFENDANT: No.

THE COURT: And, Mr. Egbase, are you aware of any issues regarding your client's competence to enter a plea this afternoon?

MR. EGBASE: No, your Honor.

THE COURT: I will now review with you the rights that you're guaranteed under the Constitution and laws of the United States. I want to be sure that you understand your rights and that by entering this plea of guilty you're giving up many of these rights.

Do you understand that under the Constitution and laws of the United States you have a right to plead not guilty and have a trial by jury?

THE DEFENDANT: Yes.

THE COURT: And do you understand that you're entitled to a speedy and public trial on the charge against you?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that you have the right to be represented by an attorney throughout all proceedings, and that if you cannot afford an attorney, one will be appointed to represent you at no cost to you, sir?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that if you pled not guilty and went to trial, at the trial you would be presumed to be innocent and the government would have to overcome that

presumption and prove you guilty beyond a reasonable doubt?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that at a trial you would not have to prove that you're innocent because the burden would be on the government to prove you're guilty beyond a reasonable doubt?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that at a trial you would have the right to subpoena witnesses, which would be an order from the Court compelling their appearance at trial to testify on your behalf?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that during a trial witnesses for the government must come to court and testify in your presence?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that your attorney would have the opportunity to cross-examine the witnesses for the government, object to evidence offered by the government and offer evidence on your behalf?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that at a trial, while you would have the right to testify if you chose to do so, you would also have the right not to testify? And do you understand if you chose not to testify or put on any evidence,

those facts could not be used against you?

THE DEFENDANT: Yes, I do.

THE COURT: Do you understand that in order to convict you at a trial the jury would have to reach a unanimous verdict that you were guilty of the crime with which you're charged?

THE DEFENDANT: Yes, I do.

THE COURT: If I accept your plea of guilty, you will not have a trial and a jury will not decide your guilt, but I will find you're guilty of the charge based on your admission that you're guilty, do you understand?

THE DEFENDANT: Yes, I do.

THE COURT: Are you willing to give up your right to a trial and proceed with a plea of guilty at this time?

THE DEFENDANT: Yes.

THE COURT: You earlier verified your signature on the plea agreement that you entered with the government. In a moment I will ask the Assistant USA Attorney to review the terms of the plea agreement, other than the potential penalties which we'll discuss a bit later in this proceeding.

After that, I will be asking you whether the agreement as presented accurately reflects your understanding of the agreement you've reached with the government.

Ms. Chaiken.

MS. CHAIKEN: Thank you, Judge.

The plea agreement provides that Mr. Benoit is pleading guilty to Count 7 of the indictment. And the terms of the plea are as follows:

Paragraph 11 provides that the government agrees to dismiss the remaining counts against Mr. Benoit.

Paragraph 12 provides that the government agrees not to bring further charges against Mr. Benoit related to the charges to which he's pleading guilty.

Paragraphs 13 to 15 set forth a series of guideline stipulations, including that the base offense level -- or the guideline section is 2B1.1, that a 14-level adjustment applies under 2B1.1(b)(1)(H) for an amount of loss more than $550,000 but less than $1.5 million, and that a two-level adjustment under 3C1.1 should not apply for an offense involving obstruction.

Paragraph 16 provides that the government recommends an adjustment for acceptance of responsibility to the maximum extent authorized by the guidelines subject to certain caveats that are set forth in that paragraph, including if the defendant engages in conduct inconsistent with acceptance of responsibility.

Paragraph 17 sets forth that the parties recognize that each party reserves the right to make recommendations for sentencing and that the only agreements as to the guidelines are those mentioned in the plea agreement.

Paragraph 18 provides that the United States reserves the right to modify its sentencing recommendation if it receives additional information.

Paragraph 19 sets forth a cooperation provision that the defendant agrees to cooperate truthfully and completely with the government, including producing all records requested, making himself available for interviews, responding truthfully to all government inquiries, and at the government's request testifying at trial or another proceeding.

Paragraph 20 provides that the defendant consents to direct contact with the government outside the presence of his counsel for purposes of cooperation.

Paragraph 21 provides that the government agrees to abide by Section 1B1.8 of the sentencing guidelines in that it will not use information previously unknown for sentencing purposes with the caveat that if the defendant is not truthful in his cooperation, he may be prosecuted for perjury, false statements, obstruction, and that all information he provided may be used against him.

Paragraph 22 provides that the government agrees to inform the Court of the defendant's cooperation. And if the government determines that the defendant's cooperation qualifies as substantial assistance, it will file a motion for a downward departure under 5K if that happens before

sentencing or Rule 35 if that happens after sentencing. And the defendant understands that the government alone determines if the defendant provided substantial assistance. And that while the government may recommend a sentence if it files such a motion, the ultimate decision on the defendant's sentence rests with the Court.

Paragraph 23 provides that the government agrees to a low-end guideline -- or to recommend a sentence at the low end of the applicable guideline range subject to the caveats in paragraph 16 regarding acceptance of responsibility.

Paragraph 24 provides that the United States agrees to make no specific recommendation as to the fine to be imposed.

Paragraph 25 provides that the defendant agrees to pay $1,105,217 plus applicable interest in restitution, which is $830,417 to Cross River Bank, and $274,800 to the United States Small Business Administration, plus the applicable interest for each of those.

Paragraph 26 provides that the defendant agrees to the forfeiture of $431,408.28 in funds seized from the JPMorgan Chase account for Transportation Management Services, Inc., and $30,025.08 in funds seized from the JPMorgan Chase account for Bern Benoit.

Paragraphs 27 through 31 provide that the defendant waives interest in the property and agrees to the forfeiture

procedure that's set forth in those provisions, those paragraphs.

Paragraph 32 provides that the defendant agrees to pay a special assessment of $100.

Paragraphs 33 through 37 provide that the defendant agrees to cooperate fully in the collection of any restitution and fine imposed by the Court subject to the terms that are laid out in paragraphs 33 to 37.

Paragraph 38 provides that the defendant understands that the recommendations in the plea agreement are not binding on the Court.

Paragraph 39 sets forth an appeal waiver, which I will read in full for the record.

It provides to the maximum extent permitted by federal law the defendant voluntarily and expressly waives the right to appeal his conviction and sentence and the right to collaterally attack his conviction and sentence in any post-conviction proceeding, including but not limited to motions filed pursuant to 28 United States Code, Section 2255 on any ground except that the defendant may file a direct appeal of an upward departure or upward variance above the sentencing guideline range as calculated by the district court.

Claims that the defendant's counsel rendered constitutionally ineffective assistance are excepted from this

waiver.

The defendant understands that this plea agreement does not limit the government's right to appeal, but if the government initiates a direct appeal of the sentence imposed, the defendant may file a cross-appeal of that same sentence.

Paragraph 40 sets forth that the defendant agrees to the standard FOIA Privacy Act waiver.

And paragraph 41 provides that there are no other agreements between the parties other than those set forth in the plea agreement.

THE COURT: Thank you, Ms. Chaiken.

Mr. Benoit, does that accurately reflect the agreement that you believe you've reached with the government?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that any provisions in the agreement regarding recommendations to be made by the government are not binding on the Court? In other words, if I choose not to follow some recommendation that the government makes, do you understand that you will still be bound by your plea of guilty and would not be entitled to withdraw the plea based on the Court not following that recommendation?

THE DEFENDANT: Yes.

THE COURT: Is this the only agreement that you've entered into with the government?

THE DEFENDANT: Yes.

THE COURT: Other than the terms of this agreement has any promise of any kind been made to you to cause you to plead guilty?

THE DEFENDANT: No.

THE COURT: Per the terms of the plea agreement the United States has agreed not to bring any additional charges relating to the offense to which you're pleading guilty. Other than those terms, has anyone threatened or forced you to plead guilty or told you that if you do not plead guilty, further charges will be brought against you or other adverse action taken against you?

THE DEFENDANT: No.

THE COURT: Mr. Egbase, are you aware of any plea agreement or promise being made to your client other than what's been discussed here in open court?

MR. EGBASE: No, your Honor.

THE COURT: In a moment I will ask the Assistant US Attorney to state the elements of the offense to which you're pleading guilty. The elements of the offense are those matters that the government must prove beyond a reasonable doubt in order to convict you of the charge.

Ms. Chaiken.

MS. CHAIKEN: Thank you, Judge. Mr. Benoit is pleading guilty to Count 7 of the indictment, which charges conspiracy to commit bank and wire fraud in violation of Title

18 United States Code, Section 1349.

The elements of conspiracy to commit bank fraud and wire fraud are, one, two or more persons in some way or manner agree to try to accomplish a common and unlawful plan to commit bank fraud and wire fraud as charged in the indictment.

And, two, the defendant knew the unlawful purpose of the plan and willfully joined in it.

The elements of bank fraud are as follows:

One, the defendant knowingly carried out or attempted to carry out a scheme to defraud a financial institution or to get money, assets or other property from a financial institution by using false or fraudulent pretenses, representations or promises about a material fact.

Two, the false or fraudulent pretenses, representations or promises were material.

Three, the defendant intended to defraud the financial institution.

And, four, the financial institution was federally insured.

And, finally, the elements of wire fraud are as follows:

One, the defendant knowingly devised and participated in a scheme to defraud someone by using false or fraudulent pretenses, representations or promises.

Two, the false pretenses, representations or promises

were about a material fact.

Three, the defendant acted with the intent to defraud.

And, four, the defendant transmitted or caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud.

THE COURT: Thank you.

Mr. Benoit, do you understand that those are the elements the government would have to prove beyond a reasonable doubt in order to convict you of the charge?

THE DEFENDANT: Yes.

THE COURT: In a moment I will ask the Assistant US Attorney to summarize the evidence that the government would expect to present at a trial to prove each of these elements. In other words, these are what the government contends are the facts of the case.

It's necessary for the government to state these facts because I must determine whether there's a factual basis for you to enter this plea of guilty.

After this statement I will ask you whether you disagree with any of the facts as stated by the prosecutor. If you do, tell me and we will discuss those facts at that time.

Ms. Chaiken.

MS. CHAIKEN: Thank you, Judge.

If this case were to go to trial, the United States would prove by admissible evidence and beyond a reasonable doubt the following facts:

The Paycheck Protection Program, which is also known as the PPP, was authorized as part of the Coronavirus Aid, Relief and Economic Security Act to provide forgivable loans to eligible small businesses.

Under the PPP small businesses could apply for loans that must be used for payroll expenses, interest on mortgage, rent and/or utilities.

The amount of the PPP loan that a business could receive was generally two-and-a-half times, or 250 percent, of the business's average monthly payroll cost.

While the United States Small Business Administration oversaw the PPP, individual PPP loans were issued by private approved lenders, including Cross River Bank, which is a federally insured financial institution.

The PPP borrower application form asks the applicant to provide information related to their loan application, including the amount of the business's average monthly payroll, the number of the business's employees and purpose of the loan, with options for payroll, lease or mortgage interest, utilities or other.

The lender then used this information to calculate the amount of the loan that the business was eligible to

receive.

The application form also included certain representations and certifications, including certifications as to the accuracy of the information included in the application itself and in any supporting documents. And the certification that the funds would be used to retain workers and maintain payroll or to make mortgage interest payments, lease payments and utilities payments.

Defendant Bern Benoit is the owner of Transportation Management Services, Inc., which I'll refer to as Transportation Management.

On or around May 20th, 2020, Transportation Management electronically submitted a PPP loan application to Bluevine Capital, LLC, which is a company based in Redwood City, California, that processes PPP loan applications on behalf of lenders.

In its PPP loan application Transportation Management represented that it had 66 employees and an average monthly payroll of $332,167 and that it would use the funds for payroll, lease payments or mortgage interest and utilities.

However, documents produced by Transportation Management show that Transportation Management does not have any employees. To support its payroll figures, Transportation Management submitted with its PPP application IRS Form --

(Technical difficulty.)

THE COURT: Ms. Chaiken, let me --

MS. CHAIKEN: I'm sorry. Did I lose you guys?

THE COURT: I think you did. We had a little bit of a pause there.

MS. CHAIKEN: I'm sorry. What was the last thing you heard? Say that again.

(Record read back by the court reporter.)

MS. CHAIKEN: To support its payroll figures Transportation Management submitted with its PPP application IRS Form 941s, which are the employer's quarterly federal tax return documents for each quarter of 2019.

Transportation Management's Form 941s had identical figures for employees and payroll costs as the Form 941 submitted by at least six other businesses with their PPP loan applications, including those forms submitted by Bellator Phront Group, Inc., which is owned by co-defendant Darrell Thomas.

A search of IRS records revealed that Transportation Management had not, in fact, filed any Form 941s in 2019.

Transportation Management also included with its PPP loan application a fraudulent bank statement from JPMorgan Chase. The bank statement purported to be for Transportation Management's bank account from February 1, 2020, through February 28, 2020, and reflected a beginning balance of $674,776.42 and an ending balance of $790,576.16.

In fact, however, Transportation Management opened that JPMorgan Chase bank account on April 21, 2020, such that Transportation Management had no bank statement for February 1, 2020, through February 28, 2020.

Based on the untrue statements in Transportation Management's PPP application and accompanying documents, Bluevine processed Transportation Management's loan and submitted it to Cross River Bank for funding.

On or about May 21, 2020, the PPP loan amount of $830,417 was deposited into Transportation Management's JPMorgan Chase bank account.

On or about May 29th, 2020, Mr. Benoit on behalf of Transportation Management sent a cashier's check for $185,000 to Bellator, Mr. Thomas's Atlanta-based company, for warehouse rent.

And on or about June 15th, 2020 --

(Technical difficulty.)

COURTROOM DEPUTY CLERK: I'm going to suggest that she call in.

MR. KITCHENS: I think she may be almost done.

COURTROOM DEPUTY CLERK: Okay.

(Clarification by the court reporter.)

MS. CHAIKEN: On or about May 29th, 2020, Mr. Benoit, on behalf of Transportation Management, sent a cashier's check for $185,000 to Bellator, Mr. Thomas's Atlanta-based company,

for warehouse rent.

On or about June 15th, 2020, Mr. Benoit, on behalf of Transportation Management, sent a $100,000 cashier's check to Bellator for warehouse rent and made a wire transfer for $169,998.72 to Elite Executive Services, Inc., which is another Atlanta-based company owned by Darrell Thomas.

Mr. Benoit knew that the payments from Transportation Management to Darrell Thomas's companies, Bellator and Elite, were not legitimate payments for payroll, mortgage interest or lease or utilities and were instead disseminations to other members of the conspiracy to conceal the true nature of the fraudulently-obtained funds.

THE COURT: Thank you, Ms. Chaiken. Anything else?

MS. CHAIKEN: No, Judge. And I apologize to everyone for my connectivity issues.

THE COURT: No, no apology necessary. I think we managed it okay.

Mr. Benoit, do you disagree with any of the facts as stated by the Assistant USA Attorney?

THE DEFENDANT: No.

THE COURT: Do you admit that you and at least one other person, one more person, in some way or manner agreed to try to accomplish a common and unlawful plan to commit bank fraud and wire fraud as charged in the indictment?

THE DEFENDANT: Yes.

THE COURT: And do you admit that you knew the unlawful purpose of the plan and willfully joined in it?

THE DEFENDANT: Yes.

THE COURT: Do you admit that you knowingly carried out or attempted to carry out a scheme to defraud a financial institution or to get money, assets or other property from a financial institution by using false or fraudulent pretenses, representations or promises about a material fact?

THE DEFENDANT: Yes.

THE COURT: Do you admit that the false or fraudulent pretenses, representations or promises were material?

THE DEFENDANT: Yes.

THE COURT: Do you admit that you intended to defraud the financial institution?

THE DEFENDANT: Yes.

THE COURT: And do you admit that the financial institution was federally insured?

THE DEFENDANT: Yes.

THE COURT: Do you admit that you knowingly devised or participated in a scheme to defraud someone by using false or fraudulent pretenses, representations or promises?

THE DEFENDANT: Yes.

THE COURT: Do you admit that the false pretenses, representations or promises were about a material fact?

THE DEFENDANT: Yes.

THE COURT: Do you admit that you acted with intent to defraud?

THE DEFENDANT: Yes.

THE COURT: And do you admit that you transmitted or caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud?

THE DEFENDANT: Yes.

THE COURT: Ms. Chaiken, if you could please state the potential penalties the defendant faces for the charge, including the maximum penalties and any mandatory minimums.

MS. CHAIKEN: Yes, your Honor.

Mr. Benoit faces the following maximum and mandatory minimum penalties:

The maximum term of imprisonment is 30 years. There is no mandatory minimum.

The possible term of supervised release is zero to five years.

The maximum fine is $1 million, or twice the gain or twice the loss, whichever is greatest, due and payable immediately.

There's full restitution to all victims of the offense and relevant conduct.

A mandatory special assessment of $100.

And forfeiture of any and all proceeds from the commission of the offense and any and all property used or

intended to be used to facilitate the offense and any property involved in the offense.

THE COURT: Thank you, Ms. Chaiken.

Mr. Benoit, do you understand that those are the possible penalties that you could receive in this case?

THE DEFENDANT: Yes, sir.

THE COURT: And you understand it's not possible for me to state to you today what your sentence will be?

THE DEFENDANT: Yes.

THE COURT: Do you understand that in deciding your sentence I will consider sentencing guidelines and that the guidelines are advisory, which means that I have the discretion to impose a sentence that is either within the guidelines, greater than the guidelines or less than the guidelines?

THE DEFENDANT: Yes.

THE COURT: In the plea agreement that was reviewed with you a few moments ago, you waived certain appeal rights. I want to be sure that you understand the meaning of that waiver.

Let me first state to you the rights you would have if you did not waive or give up those rights.

A defendant in every criminal case has the right to file a direct appeal immediately after his conviction and sentence. In that appeal you may raise any issues concerning

the handling of your case in this court that you wish to raise. Those issues would be reviewed by the Court of Appeals. If errors were found, the Court of Appeals could order that action be taken to correct those errors.

Besides that right to a direct appeal, you would have an additional opportunity for review of your case by filing a writ of habeas corpus, pursuant to 28 USC, Section 2255. That's another opportunity for you to challenge the legality of your conviction and/or your sentence. These are rights that every defendant has unless he waives or gives them up.

In your plea agreement you have, for the most part, given up these rights. Your right of review will be limited to three specific circumstances.

First, if after calculating the sentencing guidelines that apply to your case I then impose a sentence that is greater than the guidelines, you would have a right to file a direct appeal challenging that sentence.

Second, if the government files an appeal for any reason, you have a right to file a cross-appeal raising any issues that you wish to raise.

Finally, you always have -- you always reserve the right to challenge constitutionally ineffective assistance of counsel.

But aside from these three very narrow circumstances, you will have no right of appeal and will be essentially bound

by my decision. Do you understand all that, sir?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Egbase, have you reviewed the rights with your client such that you're comfortable he understands both his rights and the waiver of those rights?

THE DEFENDANT: Yes, I have, your Honor.

THE COURT: Thank you.

Mr. Benoit, do you understand that parole has been abolished in the federal system and that if you're sentenced to prison, you will not be released early on parole?

THE DEFENDANT: Yes.

THE COURT: Do you understand that you may be sentenced to a term of supervised release that will follow any term of imprisonment and will include rules governing your conduct that if you violate could result in more time in prison?

THE DEFENDANT: Yes.

THE COURT: Do you understand that you may be ordered to pay restitution to any victims of the offense?

THE DEFENDANT: Yes.

THE COURT: Sir, are you a citizen of the United States Government?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that as part of your sentence certain property that's been identified by the

government may be forfeited by you to the government?

THE DEFENDANT: Yes.

THE COURT: Is there anything that we've talked about today that you do not feel you fully understand?

THE DEFENDANT: No.

THE COURT: Have you had a sufficient opportunity to talk about your case with your attorney and have him answer any questions that you have before entering your plea?

THE DEFENDANT: Yes.

THE COURT: Are you satisfied with the representation that your attorney has provided to you?

THE DEFENDANT: Yes.

THE COURT: How do you plead to Count 7 of the indictment?

THE DEFENDANT: Guilty.

THE COURT: Mr. Egbase, do you feel that you've had a sufficient opportunity to investigate your client's case and advise him concerning the entry of this plea?

THE DEFENDANT: I do, your Honor.

THE COURT: Are you aware of any reason I should not accept the plea?

THE DEFENDANT: No, your Honor.

THE COURT: Is there anything else that you want me to address with your client on the record at this time?

MR. EGBASE: Not at this time, your Honor.

THE COURT: Ms. Chaiken, is there anything further that the government wishes the Court to address at this time?

MS. CHAIKEN: No, Judge.

THE COURT: Does the government object to the defendant remaining on bond subject to the previous conditions?

MS. CHAIKEN: No, Judge.

THE COURT: I find that the defendant understands the charge and the consequences of the plea. I've observed the defendant during this proceeding and he does not appear to be under the influence of any substance that might affect his judgment or actions in any manner.

The Court finds that the plea has a factual basis and is free of any coercive influence of any kind.

I find that there have been no promises made to the defendant except those set out in the plea agreement.

I find that the defendant is competent to understand these proceedings and enter a knowingly plea of guilty.

I find that the plea is freely and voluntarily entered.

It's, therefore, ordered that the plea of guilty of the defendant to Count 7 of the indictment is accepted and entered.

Mr. Benoit, you are hereby adjudged guilty of the charge contained in Count 7 of the indictment.

I will now be referring your case to a probation officer who will prepare a presentence report. Before I receive the report, you and your attorney will receive a copy of the report and will have an opportunity to object to any findings in the report.

At your sentencing hearing I will hear from the government and any witnesses it wishes to present, and from you, your attorney and any witnesses that you wish to present. At that time I will decide the proper sentence in your case.

Do you understand, sir?

THE DEFENDANT: Yes, sir.

THE COURT: Counsel, anything else?

MS. CHAIKEN: Not for the government, your Honor.

MR. EGBASE: No, your Honor.

THE COURT: All right. Good to see all of you.

And, Ms. Walker, Ms. Coudriet, thank you for your assistance this afternoon.

We are adjourned. You all take care.

(PROCEEDINGS REPORTED WERE CONCLUDED AT 12:38 PM.)

- - - - -

C E R T I F I C A T E

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This the 23rd Day of January, 2024.

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER

C E R T I F I C A T E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

I DO HEREBY CERTIFY THAT THE FOREGOING PAGES ARE A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN DOWN BY ME IN THE CASE AFORESAID.

THIS THE 20TH DAY OF JANUARY, 2024.

Penny Pritty Coudriet

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER