IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA	:	1:23CR79-1
	:	
v.	:	
	:	
JAVAR LAJUAN CLARK	:	PLEA AGREEMENT

NOW COME the United States of America, by and through Sandra J. Hairston, United States Attorney for the Middle District of North Carolina, and the defendant, JAVAR LAJUAN CLARK, in his own person and through his attorney, Ames C. Chamberlin, and state as follows:

1. The defendant, JAVAR LAJUAN CLARK, is presently under Indictment in case number 1:23CR79-1, which charges him in Count One with a violation of Title 18, United States Code, Section 1343, wire fraud; and which charges him in Count Two with a violation of Title 18, United States Code, Section 1957, money laundering.

2. The defendant, JAVAR LAJUAN CLARK, will enter a voluntary plea of guilty to Count One of the Indictment herein. The nature of this charge and the elements of this charge, which must be proved by the United States beyond a reasonable doubt before the defendant can be found guilty thereof, have been explained to him by his attorney.

a. The defendant, JAVAR LAJUAN CLARK, understands that the maximum term of imprisonment provided by law for Count One of the Indictment herein is not more than twenty years, and the maximum fine for Count One of the Indictment herein is $250,000, or both. If any person derived pecuniary gain from the offense, or if the offense resulted in pecuniary loss to a person other than the defendant, JAVAR LAJUAN CLARK, the defendant may, in the alternative, be fined not more than the greater of twice the gross gain or twice the gross loss unless the Court determines that imposition of a fine in this manner would unduly complicate or prolong the sentencing process. The fine provisions are subject to the provisions of Title 18, United States Code, Section 3571, entitled Sentence of Fine.

b. The defendant, JAVAR LAJUAN CLARK, also understands that, as to Count One of the Indictment herein, the Court may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release of not more than three years after imprisonment pursuant to Title 18, United States Code, Section 3583.

c. The defendant, JAVAR LAJUAN CLARK, understands that the Court shall order, in addition to any other penalty authorized by law,

that the defendant make restitution to any victim of the offense to which he is pleading guilty, pursuant to Title 18, United States Code, Section 3663A(a)(1).

d. The defendant, JAVAR LAJUAN CLARK, further understands that the sentence to be imposed upon him is within the discretion of the sentencing Court subject to the statutory maximum penalties set forth above. The sentencing court is not bound by the sentencing range prescribed by the United States Sentencing Guidelines. Nevertheless, the sentencing court is required to consult the Guidelines and take them into account when sentencing. In so doing, the sentencing court will first calculate, after making the appropriate findings of fact, the sentencing range prescribed by the Guidelines, and then will consider that range as well as other relevant factors set forth in the Guidelines and those factors set forth in Title 18, United States Code, Section 3553(a) before imposing the sentence.

e. The defendant, JAVAR LAJUAN CLARK, understands that if he is not a citizen of the United States that entering a plea of guilty may have adverse consequences with respect to his immigration status. The defendant, JAVAR LAJUAN CLARK, nevertheless wishes to enter a voluntary plea of guilty regardless of any immigration consequences his guilty plea might entail, even if such consequence might include automatic removal and possibly

permanent exclusion from the United States. The defendant, JAVAR LAJUAN CLARK, further understands that in the event he is a naturalized citizen, entering a plea of guilty may result in denaturalization proceedings being instituted against him leading to his removal and possible permanent exclusion from the United States.

3. By voluntarily pleading guilty to Count One of the Indictment herein, the defendant, JAVAR LAJUAN CLARK, knowingly waives and gives up his constitutional rights to plead not guilty, to compel the United States to prove his guilt beyond a reasonable doubt, not to be compelled to incriminate himself, to confront and cross-examine the witnesses against him, to have a jury or judge determine his guilt on the evidence presented, and other constitutional rights which attend a defendant on trial in a criminal case.

4. The defendant, JAVAR LAJUAN CLARK, is going to plead guilty to Count One of the Indictment herein because he is, in fact, guilty and not because of any threats or promises.

5. The extent of the plea bargaining in this case is as follows:

a. Upon the acceptance by the Court of a guilty plea by the defendant, JAVAR LAJUAN CLARK, to Count One of the Indictment herein, and at the conclusion of the sentencing hearing thereon, the United States will

not oppose a motion to dismiss the remaining count of the Indictment herein as to the defendant, JAVAR LAJUAN CLARK. This portion of the Plea Agreement is made pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure.

b. It is understood that if the Court determines at the time of sentencing that the defendant, JAVAR LAJUAN CLARK, qualifies for a 2-level decrease in the offense level under Section 3E1.1(a) of the Sentencing Guidelines and that the offense level prior to the operation of Section 3E1.1(a) is 16 or greater, then the United States will recommend a decrease in the offense level by 1 additional level pursuant to Section 3E1.1(b) of the Sentencing Guidelines. This portion of the Plea Agreement is made pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

c. The defendant, JAVAR LAJUAN CLARK, hereby abandons interest in, and consents to the official use, destruction, or other disposition of each item seized and/or maintained by any law enforcement agency during the course of the investigation, unless such item is specifically provided for in another section of the plea agreement. The defendant, JAVAR LAJUAN CLARK, waives any and all notice of any proceeding to implement the official use, destruction, or other disposition of such items.

d. The defendant, JAVAR LAJUAN CLARK, waives all rights, whether asserted directly or through a representative, to request or receive from any department or agency of the United States any record pertaining to the investigation or prosecution of this case under the authority of the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a, and all subsequent amendments thereto.

e. Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence ordinarily limit the admissibility of statements made by a defendant during the course of plea proceedings. The defendant, JAVAR LAJUAN CLARK, knowingly and voluntarily waives the protections of these rules as it relates to plea proceedings. If the defendant, JAVAR LAJUAN CLARK, pleads guilty and later seeks to withdraw such guilty plea (or seeks to directly appeal or collaterally attack such conviction), any statement made at the plea proceedings in connection with such plea, and any leads derived therefrom, shall be admissible for any and all purposes.

f. The defendant JAVAR LAJUAN CLARK, further agrees to pay restitution, as determined by the Court, to any victims harmed by the defendant's relevant conduct, as defined by U.S.S.G. § 1B1.3, pursuant to Title 18, United States Code, Section 3663A(a)(3).

6. With regard to forfeiture, the United States and the defendant, JAVAR LAJUAN CLARK, agree as follows:

a. The defendant, JAVAR LAJUAN CLARK, knowingly and voluntarily consents and agrees to forfeit to the United States any and all interest in property, real or personal, which constitutes or is derived from proceeds traceable to, or obtained directly or indirectly as a result of, the offense to which the defendant is pleading guilty. The property to be forfeited includes, but is not limited to:

> The real property known as 408 E. Sixteenth Street, Winston-Salem, NC 27105, with all appurtenances and improvements thereon, and described as follows:
>
> All that certain lot or parcel of land situated in the City of Winston-Salem, Forsyth County, North Carolina and more particularly described as follows:
>
> BEGINNING at a stake on the South side of Legerwood Street, said stake being 440 feet East of Patterson Avenue; thence Southwardly 140 feet to an iron stake on the North side of Alley, thence Westwardly along said Alley 41 feet to an iron stake; thence Northwardly on a line parallel with the first line 140 feet to a stake on the South side of Legerwood Street; thence Eastwardly with said Street 41 feet to the beginning; being part of Lot 12 on the map of Eagle Land Company Property and being the same property as that described in Deed to D.A. Bullard recorded in Book 176, Page 154, in the Office of Register of Deeds of Forsyth County, North Carolina; and also being the same as part of Lot 12 on the Map of J.L. Patterson Property recorded in Plat Book 1, Page 45, Office of the Register of Deeds, Forsyth County, North Carolina.

The defendant acknowledged that the defendant's interest in the foregoing property is subject to forfeiture based on the offense to which the defendant is pleading guilty.

b. The defendant, JAVAR LAJUAN CLARK, agrees to take all steps as requested by the government to pass clear title of any assets subject to forfeiture to the United States, including but not limited to surrender of title and execution of documents necessary to transfer their interests in such property. The defendant further agrees to take necessary steps to ensure that assets which may be subject to forfeiture, including substitute assets, are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture, and to testify truthfully in any judicial forfeiture proceeding.

c. The defendant, JAVAR LAJUAN CLARK, further agrees to waive all interest in any such asset in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property and 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.

The defendant acknowledges that the forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the court to advise them of this, pursuant to Rule 11(b)(1)(J), at the time the guilty plea is accepted.

d. The defendant, JAVAR LAJUAN CLARK, knowingly and voluntarily waives his right to a jury trial on the forfeiture of assets. The defendant further knowingly and voluntarily waives all constitutional, legal and equitable claims, defenses and challenges to the forfeiture of assets in any proceeding, administrative, criminal or civil, any jeopardy defense or claim of double jeopardy, and any claim or defense under the Eighth Amendment to the United States Constitution.

e. The defendant, JAVAR LAJUAN CLARK, knowingly and voluntarily agrees and understands the abandonment, civil administrative forfeiture, civil judicial forfeiture, or criminal forfeiture of the property shall not be treated as satisfaction of any assessment, fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the defendant in addition to the forfeiture.

f. The defendant, JAVAR LAJUAN CLARK, agrees that the forfeiture provisions of this plea agreement are intended to, and will, survive

him, notwithstanding the abatement of any underlying criminal conviction after the execution of this agreement. The forfeitability of any particular property pursuant to this agreement shall be determined as if defendant had survived, and that determination shall be binding upon defendant's heirs, successors and assigns.

7. The defendant, JAVAR LAJUAN CLARK, agrees that pursuant to Title 18, United States Code, Section 3613, all monetary penalties, including restitution imposed by the Court, shall be due immediately upon judgment and subject to immediate enforcement by the United States. The defendant agrees that if the Court imposes a schedule of payments, the schedule of payments shall be merely a schedule of minimum payments and shall not be a limitation on the methods available to the United States to enforce the judgment.

8. The defendant, JAVAR LAJUAN CLARK, agrees that his debt resulting from the criminal monetary penalties due under the criminal judgment will be submitted to the Treasury Offset Program even if he is current in his payments under any Court imposed payment schedule.

9. It is further understood that the United States and the defendant, JAVAR LAJUAN CLARK, reserve the right to bring to the Court's attention any facts deemed relevant for purposes of sentencing.

10. The defendant, JAVAR LAJUAN CLARK, further understands and agrees that pursuant to Title 18, United States Code, Section 3013, for any offense committed on or after October 11, 1996, the defendant shall pay an assessment to the Court of $100 for each offense to which he is pleading guilty. This payment shall be made at the time of sentencing by cash or money order made payable to the Clerk of the United States District Court. If the defendant is indigent and cannot make the special assessment payment at the time of sentencing, then the defendant agrees to participate in the Inmate Financial Responsibility Program for purposes of paying such special assessment.

11. No agreements, representations, or understandings have been made between the parties in this case other than those which are explicitly set forth in this Plea Agreement, and none will be entered into unless executed in writing and signed by all the parties.

This the 16th day of March, 2023.

SANDRA J. HAIRSTON
United States Attorney

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JAVAR LAJUAN CLARK
Defendant

/S/ STI