FILED
2024 Jun-05 AM 08:19
U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

UNITED STATES

v.

FRANCENE ARETHA GAYLE

Case 5:22-cr-113-LCB-HNJ

PLEA AGREEMENT

The Government and the defendant, **FRANCENE ARETHA GAYLE**, hereby acknowledge the following plea agreement in this case:

PLEA

The defendant agrees to (i) plead guilty to Counts 2, 3, 4, 5, 6, 7, and 16 of the superseding indictment filed in the above-numbered and -captioned matter; (ii) consent to forfeiture as described in section **XII** below; (iii), pay restitution as determined by the Court; and (iv) waive certain rights to direct appeal and collateral attack as outlined in section **IV** of this agreement. In exchange, the United States Attorney, acting on behalf of the Government and through the undersigned Assistant United States Attorney, agrees to dismiss Counts 1, 8-15, and 17-19 at the time of sentencing and recommend the disposition specified below, subject to the conditions in section **VII**.

Defendant's Initials

TERMS OF THE AGREEMENT

I. MAXIMUM PUNISHMENT

The defendant understands that the maximum statutory punishment that may be imposed for unlawful distribution of a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), as charged in Counts 2, 3, 4, 5, and 6, is:

A. Imprisonment for not more than 20 years;

B. A fine of not more than $1,000,000, or

C. Both A and B;

D. Supervised release of not less than three years; and

E. A special assessment of $100.

The defendant understands that the maximum statutory punishment that may be imposed for health care fraud conspiracy, in violation of Title 18, United States Code, Section 1349, as charged in Count 7, is:

A. Imprisonment for not more than 10 years;

B. A fine of not more than $250,000, or

C. Both A and B;

D. Supervised release of not more than three years; and

E. A special assessment of $100.

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The defendant understands that the maximum statutory punishment that may be imposed for wire fraud conspiracy, in violation of Title 18, United States Code, Section 1349, as charged in Count 16, is:

A. Imprisonment for not more than 20 years;

B. A fine of not more than $250,000, or

C. Both A and B;

D. Supervised release of not more than three years; and

E. A special assessment of $100.

II. FACTUAL BASIS FOR PLEA

The Government is prepared to prove, at a minimum, the following facts at the trial of this case:

A. Relevant Individuals and Entities

The defendant was, at all relevant times until March 2020, a licensed doctor in Alabama who, with Schara Monique Davis, operated clinics in the northern part of the state. She maintained a Drug Enforcement Administration (DEA) registration number that allowed her to write prescriptions for controlled substances. She maintained a Medicare Provider Identification Number (PIN) and National Provider Identifier (NPI) number under which the clinics submitted claims to health care benefit programs for reimbursement for services purportedly provided.

Davis is the defendant's wife and was the business manager for the medical practice operated with the defendant.

Complete Medical Health was the LLC through which Davis and the defendant operated their clinics during the conspiracy period. Complete Medical Health was wholly owned by Davis. Previously, Davis and the defendant had operated their clinics through a different LLC, Premier Family Medicine, which was

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wholly owned by the defendant. During most of the period between 2014 and 2020, Davis and the defendant operated three clinics—one in Huntsville, one in Athens, and one in Killen. The defendant was the only doctor in the practice. In 2019, the Killen clinic shut down. In March 2020, the Alabama Medical Licensure Commission revoked the defendant's license. Then the Athens clinic and the Huntsville clinic shut down.

The Medicare Program (Medicare) is a federal health care program that provides benefits to persons over the age of sixty-five and to qualifying persons with disabilities. Medicare is administered by the Centers for Medicare and Medicaid Services (CMS), a federal agency under the United States Department of Health and Human Services.

The Alabama Medicaid Program (Medicaid) is a joint federal and state health insurance program that provides free and below-cost insurance to low-income individuals and families. It is administered by Alabama in coordination with CMS.

Blue Cross Blue Shield of Alabama (Blue Cross) is an entity that provides private health insurance to individuals.

Medicare, Medicaid, and Blue Cross are "health care benefit programs" as defined in Title 18, United States Code, Section 24(b). These plans and others provide health benefits including for office visits and prescription drugs. Medicare and Medicaid are "federal health care programs" as defined in Title 42, United States Code, Section 1320a-7b(f).

The SBA is an executive branch agency of the United States government that provides support to entrepreneurs and small businesses. The SBA enables and provides for loans through banks, credit unions, and other lenders. These loans have government-backed guarantees.

Intuit Financing Inc. is a lender that participated in the Paycheck Protection Program (PPP) in 2020.

B. Unlawful Drug Distribution

The Controlled Substances Act (CSA) governs the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions for medical professionals, the CSA makes it unlawful for any person to knowingly

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or intentionally manufacture, distribute, or dispense a controlled substance. The CSA and its implementing regulations set forth which drugs and other substances are defined by law as "controlled substances," and assign those controlled substances to one of five schedules (Schedule I, II, III, IV, or V) depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

Although qualifying health care providers may be authorized under the CSA to prescribe, or otherwise distribute, controlled substances, to comply with the CSA any prescription for a controlled substance "must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of [her] professional practice."

Oxycodone, methadone, and hydrocodone are Schedule II opioid pain medications with a high potential for abuse and associated risk of overdose.

On or about each of the dates listed below, the defendant unlawfully distributed and dispensed a Schedule II controlled substance, through a prescription that was knowingly not issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice.

Count	Date on Prescription	Patient	Substance
2	July 14, 2017	D.C.	Oxycodone 10 mg
3	April 5, 2018	M.D.	Oxycodone HCL 15 mg
4	April 5, 2018	M.D.	Hydrocodone 10 mg
5	May 11, 2017	T.D.	Methadone HCL 10 mg
6	November 30, 2018	T.J.	Oxycodone HCL 30 mg

C. Health Care Fraud Conspiracy

Between at least 2015 and 2020, the defendant and Davis conspired to commit health care fraud by billing Medicare, Medicaid, and Blue Cross for services that were not provided, including medical office visits billed as if the defendant was the rendering provider when she was not.

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1. Insurance Program Rules

Insurance programs, including Medicare, Medicaid, and Blue Cross, will pay for certain medically reasonable and necessary services, such as office visits. When claims are submitted to health care benefit programs, health care providers or their designees are expected to use the proper identifier corresponding to the medical service provided, as well as any appropriate modifiers to designate personnel who performed the visit. Services provided by nurses or other medical staff may be reimbursed by health care benefit programs at a lower rate than services provided by physicians.

Medicare, Medicaid, and Blue Cross require health care providers enrolled with their programs to maintain complete and accurate patient medical records reflecting the medical assessment and diagnoses of their patients, as well as records documenting actual treatment of the patients to whom services were provided and for whom claims for payment were submitted by the physician or other health care provider. These records are required to be sufficient to permit the programs to review the appropriateness of payments made to the health care provider.

Claims submitted for payment under Medicare, Medicaid, or Blue Cross must be billed under the name and national provider identifier (NPI) of the physician, nurse practitioner, or physician assistant who actually rendered the service (or who directly supervised an employee's provision of such a service).

It is important that providers include accurate NPI information on the claims they submit to Medicare, Medicaid, and BCBS, because claims submitted with physician NPIs are generally eligible for higher reimbursement rates than claims submitted with nurse practitioner NPIs.

2. Health Care Fraud

Davis and the defendant conspired to and did willfully violate these insurance program rules. For several years, their three-clinic medical practice fraudulently billed insurance programs for millions of dollars in office visit claims using the defendant's NPI, as if the defendant had seen the patients—even when she had not seen the patients and was not in the same building or even in the same town. Between 2015 and 2020, none of the three clinics billed any office visits to Medicare or Medicaid under any NPI besides the defendant's. Between 2015 and mid-2019, none

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of the clinics billed any office visits to Blue Cross under any NPI besides the defendant's.

Davis and the defendant knew that their billing scheme was fraudulent. In 2015, Blue Cross audited the defendant's Huntsville clinic and discovered that she was not present and other staff were seeing patients. Blue Cross informed the defendant that services provided by nurse practitioners must be billed under the nurse practitioners' provider numbers—not the defendant's. The defendant and Blue Cross met in November 2015 to discuss the audit findings, and the defendant admitted that the false billing under her provider number was a concern and would stop. It did not stop. Davis and the defendant also signed insurance program documents certifying that they would comply with insurance program rules and acknowledging that falsification or concealment of material facts could be prosecuted under federal law.

Still, Davis and the defendant continued to cause the practice to bill Medicare, Medicaid, and Blue Cross for doctor office visits that the defendant had not conducted—including on days when the defendant was traveling outside the state.

In total, between 2015 and 2020, Medicare, Medicaid, and Blue Cross paid more than $2.3 million for office visits billed under the defendant's NPI. Medicare alone paid more than $1 million for such claims.

D. Wire Fraud Conspiracy

In about 2020—months after the defendant's medical license had been revoked and the defendant and Davis's medical practice was shutting down—the defendant and Davis conspired to defraud the United States Small Business Administration and financial institutions. Specifically, the defendant and Davis used false promises and misrepresentations to obtain funds intended to stabilize businesses struggling because of the COVID-19 pandemic, and then used those funds for other purposes.

1. COVID-19 Disaster Relief Programs

In March 2020, the President of the United States declared the COVID-19 pandemic to be a nationwide disaster. On March 27, 2020, the President signed The Coronavirus Aid, Relief, and Economic Security (CARES) Act into law.

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The CARES Act, along with the Coronavirus Preparedness and Response Supplemental Appropriations Act, authorized the SBA to extend Economic Injury Disaster Loans (EIDLs) of up to $2 million to eligible small businesses experiencing substantial financial disruption due to the COVID-19 pandemic. In addition, the CARES Act authorized the SBA to issue advances of up to $10,000 to small businesses within three days of applying for an EIDL. The amount of any advance was determined by the number of employees on the borrower's payroll. The advances did not have to be repaid.

The CARES Act also created the Paycheck Protection Program (PPP), which authorized the SBA to guarantee loans of up to $10 million to qualifying employers without collateral or personal guarantees from the borrowers. The PPP was designed to provide a direct incentive for small businesses to keep their workers on payroll. The CARES Act required lenders making loans under the PPP to defer all repayment obligations for not less than six months on such loans and required borrowers to certify, among other things, that the borrowed "funds [would] be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments."

To obtain EIDL or PPP funds, an applicant was required to provide personal identifying information and information about the subject business's operations, such as the number of employees and past revenues. Applicants were also required to make certain good-faith certifications. For example, the PPP application required the applicant to certify that economic uncertainty necessitated the loan request to support ongoing business operations, and that the PPP funds would be used for payroll, rent, utilities, and mortgage payments. The EIDL application required the applicant to certify that it would use the loan proceeds solely as working capital to alleviate economic injury caused by the pandemic.

2. Wire Fraud

In June 2020, the defendant and Davis conspired to fraudulently obtain PPP and EIDL funds intended for businesses struggling from the COVID-19 pandemic—even though the defendant's medical license had been revoked and their medical practice was shutting down. The defendant and Davis caused applications to be submitted for both PPP and EIDL relief. The defendant and Davis were aware that the funds were required to be used for authorized purposes, such as payroll, utilities, and other ongoing expenses of the medical practice. The defendant and Davis

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certified that they would use the funds for those purposes. The defendant and Davis knew that they would not use the funds for those purposes.

The PPP application was submitted to Intuit Financing Inc. through a platform within the medical practice's QuickBooks application. The application was e-signed by "SCHARA DAVIS." The application listed drfrangayle@gmail.com as the email address contact for the business, and Davis as the owner. The bank account information was for Complete Medical Health's operating account (x243) at Redstone Federal Credit Union. The application included certifications that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant," and that "[t]he funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule; I understand that if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud."

The EIDL application was submitted online directly to the SBA. The intake application listed drfrangayle@gmail.com as the email contact and the owner as Davis. It listed the same bank account information as in the PPP application. An EIDL loan agreement was submitted the following week, signed using DocuSign by Davis on behalf of Complete Medical. The agreement certified that the borrower would use "all the proceeds of this Loan solely as working capital to alleviate economic injury caused by disaster occurring in the month of January 31, 2020 and continuing thereafter." The agreement stated that whoever "wrongfully misapplies the proceeds of an SBA disaster loan" may face civil liability and criminal liability. The agreement was DocuSigned by Davis.

The Complete Medical Health account x243 received both PPP and EIDL funds in June 2020: first, an EIDL electronic deposit of $9,000 on about June 23; second, a PPP electronic deposit of $294,730 on about June 25; and third, an EIDL deposit of $149,900 on about June 26. Each of the three transactions included an interstate wire transmission. These amounts were promptly transferred to the practice's payroll account, also at Redstone Federal Credit Union. In the succeeding months, the defendant and Davis used the funds for unauthorized purposes.

E. Venue

The events described below occurred in the Northern District of Alabama. Venue is proper in this district.

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F. Other Stipulations

The parties stipulate, for purposes of calculating the defendant's drug Guidelines offense level, that: the attributable drug quantity is 5640 mg of oxycodone, 560 mg of hydrocodone, and 3600 mg of methadone, which equates to a converted drug weight of 43.34 kg and a base offense level 18; the defendant should receive a 2-level enhancement under U.S.S.G. § 3B1.3 for abuse of position of trust or use of special skill; the defendant should receive a 4-level enhancement under U.S.S.G. § 3B1.1 for being an organizer or leader; and the defendant should not receive a vulnerable-victim enhancement under U.S.S.G. § 3A1.1.

The parties stipulate, for purposes of calculating the defendant's fraud Guidelines offense level, that: the loss is between $1.5 million and $3.5 million; the defendant should receive a 4-level enhancement under U.S.S.G. § 3B1.1 for being an organizer or leader; and the defendant should receive a 2-level enhancement under U.S.S.G. § 2B1.1(b)(7) for a loss to a government health care program of more than $1 million.

The defendant hereby stipulates that the facts stated above are substantially correct and that the Court can use these facts in calculating the defendant's sentence. The defendant further acknowledges that these facts do not constitute all of the evidence of each and every act that the defendant and/or any co-conspirators may have committed.

Francene Gayle

FRANCENE ARETHA GAYLE

Defendant's Initials FG

III. RECOMMENDED SENTENCE

Subject to the limitations in section **VII** regarding subsequent conduct and pursuant to Fed. R. Crim. P. 11(c)(1)(B), the Government will recommend the following disposition:

A. That the defendant be awarded a two-level reduction in the defendant's adjusted offense level, based upon the defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for the defendant's criminal conduct. The Government agrees to make a motion pursuant to USSG §3E1.1(b) for an additional one-level decrease in recognition of the defendant's prompt notification to the Government of the intention to enter a plea of guilty. The Government may oppose any adjustment for acceptance of responsibility if the defendant: (1) fails to admit each and every item in the factual stipulation; (2) denies involvement in the offense; (3) gives conflicting statements about the defendant's involvement in the offense; (4) is untruthful with the Court, the Government, or the United States Probation Officer; (5) obstructs or attempts to obstruct justice prior to sentencing; (6) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (7) attempts to withdraw the defendant's plea of guilty for any reason other than those expressly enumerated in the "Waiver of Right to Appeal and Post-Conviction Relief" section of this Plea Agreement;

B. That the defendant be remanded to the custody of the Bureau of Prisons and incarcerated for a term consistent with the advisory United States Sentencing Guideline range as calculated by the Court at the time of sentencing;

C. That following the said term of imprisonment, the defendant be placed on supervised release for a period to be determined by the Court, subject to the Court's standard conditions of supervised release and the following special condition: not work in a job that involves billing health care insurance programs, and not apply for a new medical license;

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D. That the defendant be required to pay restitution to all the victims of the defendant's crimes as determined by the Court;

E. That the defendant be required to pay a fine in accordance with the Sentencing Guidelines should the Court determine that the defendant has the ability to pay a fine, said amount due and owing as of the date sentence is pronounced, with any outstanding balance to be paid in full by the expiration of the term of supervised release;

F. That the defendant be required to comply with the forfeiture provisions set forth in section **XII** of this agreement; and

G. That the defendant pay a special assessment of $700, said amount due and owing as of the date sentence is pronounced.

IV. WAIVERS

A. STATUTE OF LIMITATIONS WAIVER

In consideration of the recommended disposition of this case, I, FRANCENE ARETHA GAYLE, hereby understand, acknowledge, and agree that if this plea agreement is set aside for any reason, I will not assert any defense based on any applicable statute of limitations or the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, that includes the passage of time from and including the date of this plea agreement until and including the date of entry of any order setting this plea agreement aside.

B. RIGHT TO APPEAL AND POST-CONVICTION RELIEF

In consideration of the recommended disposition of this case, I, FRANCENE ARETHA GAYLE, hereby waive and give up my right to appeal

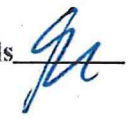
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my conviction and/or sentence in this case, as well as any fines, restitution, and forfeiture orders, the Court might impose. Further, I waive and give up the right to challenge my conviction and/or sentence, any fines, restitution, forfeiture orders imposed or the manner in which my conviction and/or sentence, any fines, restitution, and forfeiture orders were determined in any post-conviction proceeding, including, but not limited to, a motion brought under 28 U.S.C. § 2255, and any argument that (1) the statute(s) to which I am pleading guilty is or are unconstitutional or (2) the admitted conduct does not fall within the scope of the statute(s).

The defendant reserves the right to contest in an appeal or post-conviction proceeding(s) the following:

1. **Any sentence imposed in excess of the applicable statutory maximum sentence(s);**
2. **Any sentence imposed in excess of the Guidelines range determined by the Court at the time sentence is imposed; and**
3. **Ineffective assistance of counsel.**

The defendant acknowledges that before giving up these rights, the defendant discussed the United States Sentencing Guidelines and their application to the defendant's case with the defendant's attorney, who explained them to the defendant's satisfaction. The defendant further

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acknowledges and understands that the Government retains its right to appeal where authorized by statute.

I, FRANCENE ARETHA GAYLE, hereby place my signature on the line directly below to signify that I fully understand the foregoing paragraphs, and that I am knowingly and voluntarily entering into this waiver.

FRANCENE ARETHA GAYLE

V. UNITED STATES SENTENCING GUIDELINES

The defendant's counsel has explained to the defendant, that in light of the United States Supreme Court's decision in *United States v. Booker*, the federal sentencing guidelines are **advisory** in nature. Sentencing is in the Court's discretion and is not required to be within the guideline range. The defendant agrees that, pursuant to this agreement, the Court may use facts it finds by a preponderance of the evidence to reach an advisory guideline range, and the defendant explicitly waives any right to have those facts found by a jury beyond a reasonable doubt.

VI. AGREEMENT NOT BINDING ON COURT

The defendant fully and completely understands and agrees that it is the Court's duty to impose sentence upon the defendant and that any sentence recommended by the Government is **NOT BINDING UPON THE COURT,** and that the Court is not required to accept the Government's recommendation. Further,

the defendant understands that if the Court does not accept the Government's recommendation, the defendant does not have the right to withdraw the guilty plea.

VII. VOIDING OF AGREEMENT

The defendant understands that if the defendant (a) violates any federal, state, or local law or any condition of pretrial release after entering into this plea agreement, (b) moves the Court to accept a plea of guilty in accordance with, or pursuant to, the provisions of *North Carolina v. Alford*, 400 U.S. 25 (1970), (c) tenders a plea of *nolo contendere* to the charges, (d) violates any other term of this plea agreement, and/or (e) does or says anything that is inconsistent with the acceptance of responsibility, the plea agreement will become NULL and VOID at the election of the United States, and the United States will not be bound by any of the terms, conditions, or recommendations, express or implied, which are contained herein. Further, such election will not entitle the defendant to withdraw a previously entered plea.

VIII. OTHER DISTRICTS AND JURISDICTIONS

The defendant understands and agrees that this agreement **DOES NOT BIND** any other United States Attorney in any other district, or any other state or local authority.

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IX. COLLECTION OF FINANCIAL OBLIGATION

In order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the defendant agrees to:

- fully disclose all assets in which the defendant has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee or other third party;
- promptly submit a completed financial statement to the United States Attorney's Office, in a form that it provides and as it directs;
- identify all assets over which the defendant exercises or exercised control, directly or indirectly, within the past five years, or in which the defendant has or had during that time any financial interest;
- take all steps as requested by the Government to obtain from any other parties by any lawful means any records of assets owned at any time by the defendant;
- undergo any polygraph examination the Government may choose to administer concerning such assets and to provide and/or consent to the release of the defendant's tax returns for the previous five years.

The defendant further agrees that the above information, as well as any of the defendant's financial statements and disclosures, will be complete, accurate, and truthful. Finally, the defendant expressly authorizes the United States Attorney's

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Office to obtain a credit report on the defendant in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

X. AGREEMENT REGARDING RELEVANT CONDUCT AND RESTITUTION

As part of the defendant's plea agreement, the defendant admits to the above facts associated with the charges and relevant conduct for any other acts. The defendant understands and agrees that the relevant conduct contained in the factual basis will be used by the Court to determine the defendant's range of punishment under the advisory sentencing guidelines. The defendant admits that all of the crimes listed in the factual basis are part of the same acts, scheme, and course of conduct. This agreement is not meant, however, to prohibit the United States Probation Office or the Court from considering any other acts and factors, which may constitute or relate to relevant conduct. Additionally, if this agreement contains any provisions providing for the dismissal of any counts, the defendant agrees to pay any appropriate restitution to each of the separate and proximate victims related to those counts should there be any and waives objection to the inclusion of that restitution in any order issued by the Court.

XI. TAX, FORFEITURE AND OTHER CIVIL/ADMINISTRATIVE PROCEEDINGS

Unless otherwise specified herein, the defendant understands and acknowledges that this agreement does not apply to or in any way limit any pending

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or prospective proceedings related to the defendant's **tax liabilities**, if any, or to any pending or prospective **forfeiture** or other **civil** or **administrative** proceedings.

XII. FORFEITURE

The defendant agrees to consent to the immediate entry of a final order of forfeiture against the defendant, pursuant to Fed. R. Crim. P. 32.2(b)(l), in the amount of $226,815, which represents proceeds the defendant personally obtained, controlled, and benefitted from as a result of the offense alleged in Count 16 of the superseding indictment and to which the defendant is indicating the defendant's desire to plead guilty by way of this written Plea Agreement. For purposes of entering said order of forfeiture, the defendant acknowledges that a nexus exists between said amount and the criminal offense to which the defendant is pleading guilty.

The defendant acknowledges that if, due to an act or omission of the defendant, directly forfeitable property: (i) cannot be located upon the exercise of due diligence; (ii) have been transferred or sold to, or deposited with, a third party; (iii) have been placed beyond the jurisdiction of the Court; (iv) have been substantially diminished in value; or (v) have been commingled with other property which cannot be divided without difficulty, as a result, the Government is authorized under law to seek the forfeiture of any and all assets of the defendant as substitute assets for the purpose of satisfying the final order of forfeiture until same is satisfied

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in full. As a result, the defendant consents to the forfeiture of any and all of the defendant's property up to the value of $226,815, representing proceeds the defendant personally obtained, controlled, and benefitted from as a result of the offense alleged in Count 16 of the superseding indictment.

The defendant agrees to take all steps as requested by the Government to pass clear title to forfeitable assets to the Government, and to testify truthfully in any judicial forfeiture proceeding. The defendant hereby waives the requirements of Fed. R. Crim. P. 32.2 regarding notice of the forfeiture in the superseding indictment, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. The defendant also waives the requirements of Fed. R. Crim. P. 43(a) with respect to the imposition of any forfeiture sanction carried out in accordance with this plea agreement. The defendant acknowledges that the defendant understands 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 the defendant of this, pursuant to Fed. R. Crim. P. 11(b)(1)(J), at the time the defendant's guilty plea is accepted.

The defendant further waives all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including any Double Jeopardy challenges that the defendant may have to the entry of a Forfeiture

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Order before sentencing, and any claims, defenses or challenges arising under the Excessive Fines Clause of the Eighth Amendment resulting from the forfeiture imposed as a result of this superseding indictment and/or any pending or completed administrative or civil forfeiture actions based upon the course of conduct that provides the factual basis for the forfeiture.

Non-Abatement of Criminal Forfeiture

The defendant agrees that the forfeiture provisions of this plea agreement are intended to, and will, survive the defendant, 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 the defendant had survived, and that determination shall be binding upon the defendant's heirs, successors, and assigns until the agreed forfeiture, including any agreed money judgment amount, is collected in full. To the extent that forfeiture pursuant to this agreement requires the defendant to disgorge wrongfully obtained criminal proceeds for the benefit of the defendant's victims, the defendant agrees that the forfeiture is primarily remedial in nature.

XIII. IMMIGRATION STATUS

The defendant recognizes that pleading guilty may have consequences with respect to the defendant's immigration status if the defendant is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses,

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including the offense(s) to which the defendant is pleading guilty. The defendant's guilty plea and conviction make it practically inevitable and a virtual certainty that the defendant will be removed or deported from the United States if the defendant is not a citizen of the United States. Removal and other immigration consequences are the subject of a separate proceeding, however; and the defendant understands that no one, including his attorney or the district court, can predict to a certainty the effect of his conviction on his immigration status. Understanding all of this, the defendant nevertheless affirms that the defendant wants to plead guilty regardless of any immigration consequences that plea may entail, even if the consequence is automatic removal from the United States.

XIV. DEFENDANT'S ACKNOWLEDGEMENT

I have read and understand the provisions of this plea agreement consisting of 23 pages. I have discussed the case and my constitutional and other rights with my lawyer. I am satisfied with my lawyer's representation in this case. I understand that by pleading guilty, I will be waiving and giving up my right to continue to plead not guilty, to a trial by jury, to the assistance of counsel at that trial, to confront, cross-examine, or compel the attendance of witnesses, to present evidence on my behalf, to maintain my privilege against self-incrimination, and to the presumption of innocence. I agree to enter my plea as indicated above on the terms and conditions set forth herein.

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NO PROMISES OR REPRESENTATIONS OTHER THAN THOSE IN THE AGREEMENT HAVE BEEN MADE TO ME BY THE PROSECUTOR, OR BY ANYONE ELSE, NOR HAVE ANY THREATS BEEN MADE OR FORCE USED TO INDUCE ME TO PLEAD GUILTY.

I further state that I have not had any drugs, medication, or alcohol within the past 48 hours except as stated here:

_____

I understand that this plea agreement will take effect and will be binding as to the Parties **only** after all necessary signatures have been affixed hereto.

I have personally and voluntarily placed my initials on every page of this plea agreement and have signed the signature line below to indicate that I have read, understand, and approve all of the provisions of this plea agreement, both individually and as a total binding agreement.

6/4/24
DATE

FRANCENE ARETHA GAYLE
Defendant

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XV. COUNSEL'S ACKNOWLEDGMENT

I have discussed this case with my client in detail and have advised my client of all of my client's rights and all possible defenses. My client has conveyed to me that my client understands this plea agreement and consents to all its terms. I believe the plea and disposition set forth herein are appropriate under the facts of this case and are in accord with my best judgment. I concur in the entry of the plea agreement on the terms and conditions set forth herein.

6/4/24
DATE

Jonathan Meltz
JONATHAN MELTZ
Defendant's Counsel

XVI. GOVERNMENT'S ACKNOWLEDGMENT

I have reviewed this matter and this plea agreement and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

PRIM F. ESCALONA
United States Attorney

6/5/24
DATE

JOHN B. WARD
RYAN S. RUMMAGE
Assistant United States Attorneys

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