



U.S. Department of Justice

United States Attorney
District of New Jersey

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United States Attorney

Clarkson J. Fisher Federal Building
U.S. Courthouse
402 East State Street, Room 430
Trenton, New Jersey 08648

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March 12, 2018

Thomas R. Ashley, Esq.
50 Park Place, Suite 1400
Newark, New Jersey 07102

Re: Plea Agreement with CARLO AMATO

Dear Mr. Ashley:

Criminal No. 18-561 (MAS)

This letter sets forth the plea agreement between your client, CARLO AMATO, and the United States Attorney for the District of New Jersey ("this Office"). The government's offer to enter into this plea agreement will expire on March 23, 2018 if it is not accepted in writing by that date.

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from CARLO AMATO to a two-count Information charging him with one count of attempting to evade and defeat income tax due and owing to the United States of America for the year 2014, in violation of 26 U.S.C. § 7201, and one count of willful failure to report a financial interest in foreign financial accounts for the year 2014 while violating another law of the United States or as part of a pattern of illegal activity involving more than \$100,000 in a 12 month period, in violation of 31 U.S.C. §§ 5314 and 5322(b), 31 C.F.R. § 1010.350, and 18 U.S.C. § 2. If CARLO AMATO enters a guilty plea and is sentenced on these charges, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against CARLO AMATO relating to (1) attempting to evade and defeat part of the income tax due and owing by him and his spouse to the United States of America for the years 2012, 2013, 2014, and 2015, and (2) failure to report a financial interest in foreign financial accounts for the years 2012, 2013, 2014, and 2015, provided that CARLO AMATO admits under oath at the time of his guilty plea to attempting to evade and defeat part of the income tax

due and owing by him and his spouse to the United States of America for the years 2012, 2013, 2014, and 2015, which the parties agree should be taken into account as relevant conduct by the Court at the time of sentencing pursuant to U.S.S.G. § 1B1.2(c) or 1B1.3(a). However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, CARLO AMATO agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by CARLO AMATO may be commenced against him, notwithstanding the expiration of the limitations period after CARLO AMATO signs the agreement.

This plea agreement is contingent upon approval by the Department of Justice, Tax Division.

Sentencing

The violation of 26 U.S.C. § 7201 to which CARLO AMATO agrees to plead guilty carries a statutory maximum prison sentence of 5 years and a statutory maximum fine equal to the greatest of: (1) \$250,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The violation of 31 U.S.C. §§ 5314 and 5322(b), 31 C.F.R. § 1010.350, and 18 U.S.C. § 2 to which CARLO AMATO agrees to plead guilty carries a statutory maximum prison sentence of 10 years and a statutory maximum fine equal to the greatest of: (1) \$500,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The sentence on each count may run consecutively. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon CARLO AMATO is within the sole discretion of the sentencing judge, subject to the provisions of the Sentencing Reform Act, 18 U.S.C. §§ 3551-3742, and the sentencing judge's consideration of the United States Sentencing Guidelines. The United States Sentencing Guidelines are advisory, not mandatory. The sentencing judge may impose any reasonable sentence up to and including the statutory maximum term of imprisonment and the maximum statutory fine. This Office cannot and does not make any representation or promise as to what guideline range may be

found by the sentencing judge, or as to what sentence CARLO AMATO ultimately will receive.

Further, in addition to imposing any other penalty on CARLO AMATO, the sentencing judge: (1) will order CARLO AMATO to pay an assessment of \$100 per count pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) may order CARLO AMATO to pay restitution pursuant to 18 U.S.C. § 3663 et seq.; (3) may order CARLO AMATO to pay the costs of prosecution; and (4) pursuant to 18 U.S.C. § 3583, may require CARLO AMATO to serve a term of supervised release of not more than 3 years, which will begin at the expiration of any term of imprisonment imposed. Should CARLO AMATO be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, CARLO AMATO may be sentenced to not more than 2 years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Restitution

In addition to the foregoing, and pursuant to 18 U.S.C. § 3663(a)(3), CARLO AMATO agrees to pay restitution to the Internal Revenue Service in the amount of \$524,589 (comprising \$118,443 for calendar year 2012, \$124,450 for calendar year 2013, \$197,036 for calendar year 2014, and \$84,660 for calendar year 2015). The restitution amount shall be paid according to a plan established by the Court. If the Court orders CARLO AMATO to pay restitution to the Internal Revenue Service for the failure to pay tax, either directly as part of the sentence or as a condition of supervised release, the Internal Revenue Service will use the restitution order as the basis for a civil assessment. See 26 U.S.C. § 6201(a)(4). CARLO AMATO does not have the right to challenge the amount of this assessment. See 26 U.S.C. § 6201(a)(4)(C). Neither the existence of a restitution payment schedule nor CARLO AMATO's timely payment of restitution according to that schedule will preclude the Internal Revenue Service from administrative collection of the restitution-based assessment, including levy and distraint under 26 U.S.C. § 6331.

Within one month after the entry of his plea of guilty, CARLO AMATO agrees to provide this Office with a list of all assets CARLO AMATO inherited and/or will inherit pursuant to the Will of M.A., dated August 30, 2016, in which CARLO AMATO was bequeathed a portion of M.A.'s estate. Additionally, CARLO AMATO agrees that within one month after the entry of his plea of guilty, he will inform the Executrix of the Will in writing, providing a copy of

such writing to this Office, that no assets are to be distributed to CARLO AMATO until this Office has reviewed the list of assets and approves distribution of an asset to CARLO AMATO in its sole discretion. For those assets that, as determined in the sole discretion of this Office, are liquid or can be readily converted to liquid assets ("Liquid Assets"), CARLO AMATO agrees that prior to the date of sentencing, he will sign a consent garnishment authorizing the Executrix to distribute such Liquid Assets to this Office to be applied towards his restitution. CARLO AMATO further agrees that if any assets are distributed to him under the Will before this Office has received the aforementioned list of assets, he will refrain from transferring or otherwise disposing of those assets unless and until this Office has received such list and has informed CARLO AMATO in writing that such assets are not Liquid Assets. CARLO AMATO agrees that this paragraph does not relieve him of the obligation to pay the full amount of his restitution; however, if this Office is successful in obtaining and liquidating any Liquid Asset(s), this Office agrees that the proceeds of such Liquid Asset(s) will be applied to decrease CARLO AMATO's remaining restitution obligation. CARLO AMATO understands that his full compliance with the provisions of this paragraph is a material part of his acceptance of responsibility pursuant to this plea agreement.

Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed on CARLO AMATO by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of CARLO AMATO's activities and relevant conduct with respect to this case.

Stipulations

This Office and CARLO AMATO agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations entered into by the parties. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate on the part of this Office is based on the information and evidence that this Office

possesses as of the date of this agreement. Thus, if this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in the attached Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or CARLO AMATO from any other portion of this agreement, including any other stipulation. If the sentencing court rejects a stipulation, both parties reserve the right to argue on appeal or at post-sentencing proceedings that the sentencing court was within its discretion and authority to do so. These stipulations do not restrict this Office's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

Waiver of Appeal and Post-Sentencing Rights

As set forth in Schedule A, this Office and CARLO AMATO waive certain rights to file an appeal, collateral attack, writ, or motion after sentencing, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255.

Immigration Consequences

CARLO AMATO understands that, if he is not a citizen of the United States, his guilty plea to the charged offenses will likely result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. CARLO AMATO understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. CARLO AMATO wants and agrees to plead guilty to the charged offenses regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. CARLO AMATO understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, CARLO AMATO waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested to do so.

This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against CARLO AMATO. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service and Immigration and Customs Enforcement) or any third party from initiating or prosecuting any civil or administrative proceeding against CARLO AMATO.

Prior to the date of sentencing, CARLO AMATO shall: (1) file accurate amended personal returns for calendar years 2012, 2013, 2014, and 2015, and file accurate personal returns for calendar years 2016 and 2017; (2) provide all appropriate documentation to the Internal Revenue Service in support of such returns, upon request; (3) pay to the Internal Revenue Service all taxes and any penalties owed on those returns or, if unable to do so, make satisfactory repayment arrangements with the Internal Revenue Service; (4) file with the Department of Treasury accurate Reports of Foreign Bank and Financial Accounts, FinCEN Form 114 or the equivalent form, for calendar years 2012, 2013, 2014, 2015, 2016, and 2017, reporting CARLO AMATO's financial interest in or signature or other authority over any foreign financial accounts, including bank, securities, or other types of financial accounts in a foreign country if the aggregate value of these financial accounts exceed \$10,000 at any time during the respective calendar year; and (5) fully cooperate with the Internal Revenue Service and comply with the tax laws of the United States. Further, CARLO AMATO agrees to allow the contents of his IRS criminal file to be given to civil attorneys and support staff of the Internal Revenue Service to enable them to investigate any and all civil penalties that may be due and owing by CARLO AMATO. With respect to disclosure of the criminal file to the Internal Revenue Service, CARLO AMATO waives any rights under Title 26, United States Code, Section 7213 and Fed. R. Crim. P. 6(e), and any other right of privacy with respect to CARLO AMATO's tax returns and return information.

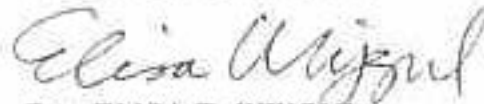
No provision of this agreement shall preclude CARLO AMATO from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack, writ, or motion claiming that CARLO AMATO received constitutionally ineffective assistance of counsel.

No Other Promises

This agreement constitutes the plea agreement between CARLO AMATO and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

CRAIG CARPENITO
United States Attorney



By: ELISA T. WIYGUL
Assistant U.S. Attorney

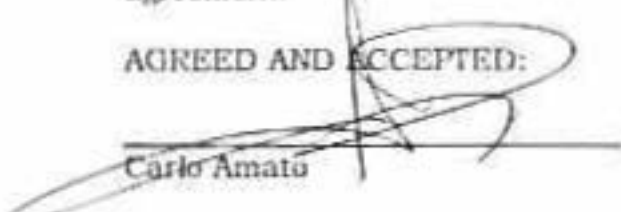
APPROVED:



FABIANA PIERRE-LOUIS
Attorney-in-Charge
Trenton Branch

I have received this letter from my attorney, Thomas R. Ashley, Esq. I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charges, sentencing, stipulations, waiver, restitution, and immigration consequences. I understand this letter fully. I hereby accept its terms and conditions and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:


Carlo Amato

Date: 4/12/18

I have discussed with my client this plea agreement and all of its provisions, including those addressing the charges, sentencing, stipulations, waiver, restitution, and immigration consequences. My client understands this plea agreement fully and wants to plead guilty pursuant to it.


Thomas R. Ashley, Esq.

Date: 4/12/18

Plea Agreement With CARLO AMATO

Schedule A

1. This Office and CARLO AMATO recognize that the United States Sentencing Guidelines are not binding upon the Court. This Office and CARLO AMATO nevertheless agree to the stipulations set forth herein, and agree that the Court should sentence CARLO AMATO within the Guidelines range that results from the total Guidelines offense level set forth below. This Office and CARLO AMATO further agree that neither party will argue for the imposition of a sentence outside the Guidelines range that results from the agreed total Guidelines offense level.

2. The version of the United States Sentencing Guidelines effective November 1, 2016 applies in this case.

Count One: Tax Evasion

3. The applicable guideline is U.S.S.G. § 2T1.1, with reference to the tax loss table contained in U.S.S.G. § 2T4.1.

4. Pursuant to U.S.S.G. §§ 1B1.2(c) and 1B1.3(a), CARLO AMATO is responsible for a tax loss of \$327,553 for the years 2012, 2013, and 2015 as a result of his willful attempt to evade or defeat personal income taxes due to the Internal Revenue Service for those years, in addition to the tax loss of \$197,036 for 2014 resulting from the charge that forms the basis for Count One of the Information. Therefore, the total tax loss involved in the offense was \$524,589.

5. The Base Offense Level applicable to Count One is 18 because the tax loss involved in the offense was more than \$250,000 but less than \$550,000. U.S.S.G. § 2T4.1(U).

6. Specific Offense Characteristic U.S.S.G. § 2T1.1(b)(1) applies because the defendant failed to report or to correctly identify the source of income exceeding \$10,000 in any year from criminal activity. This Specific Offense Characteristic results in an increase of 2 levels.

7. The Adjusted Base Offense Level applicable to Count One is therefore 20.

Count Two: Willful Failure to File Report of
Foreign Bank and Financial Accounts

8. The applicable guideline is U.S.S.G. § 2S1.3(a)(2). The Base Offense Level is 6 plus any increase in offense level required by the application of U.S.S.G. § 2B1.1.

9. The parties agree that pursuant to U.S.S.G. §§ 1B1.2(c) and 1B1.3(a), the value of the funds that the defendant is responsible for failing to report was more than \$1,500,000 but less than \$3,500,000. The Base Offense Level applicable to Count Two is therefore 22. U.S.S.G. §§ 2S1.3(a)(2), 2B1.1(b)(1)(I).

10. Specific Offense Characteristic U.S.S.G. § 2S1.3(b)(1)(A) applies because the defendant knew or believed that the funds were proceeds of unlawful activity, or were intended to promote unlawful activity. This Specific Offense Characteristic results in an increase of 2 levels.

11. Specific Offense Characteristic U.S.S.G. § 2S1.3(b)(2) applies because the defendant (A) was convicted of an offense under subchapter II of chapter 53 of title 31, United States Code and (B) committed the offense as part of a pattern of unlawful activity involving more than \$100,000 in a 12-month period. This Specific Offense Characteristic results in an increase of 2 levels.

12. The Adjusted Base Offense Level applicable to Count Two is therefore 26.

Grouping Multiple Counts

13. Pursuant to U.S.S.G. § 3D1.2(d), Counts One and Two group.

14. Pursuant to U.S.S.G. § 3D1.3(b), the offense guideline that produces the highest offense level applies. The Combined Base Offense Level for Counts One and Two is therefore 26.

Acceptance of Responsibility

15. As of the date of this letter, it is expected that CARLO AMATO will enter a plea of guilty prior to the commencement of trial, will truthfully admit his involvement in the offense and related conduct, and will not engage in conduct that is inconsistent with such acceptance of responsibility. If all of these events occur, and CARLO AMATO's acceptance of responsibility continues through the date of sentencing, a downward adjustment of 2 levels for acceptance of responsibility will be appropriate. See U.S.S.G. § 3E1.1(a) and Application Note 3.

16. As of the date of this letter, it is expected that CARLO AMATO will assist authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting this Office to avoid preparing for trial and permitting this Office and the court to allocate their resources efficiently. At sentencing, this Office will move for a further 1-point reduction in CARLO AMATO's offense level pursuant to U.S.S.G. § 3E1.1(b) if the following conditions are met: (a) CARLO AMATO enters a plea pursuant to this agreement, (b) this Office in its discretion determines that CARLO AMATO's acceptance of responsibility has continued through the date of sentencing and CARLO AMATO therefore qualifies for a 2-point reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), and (c) CARLO AMATO's offense level under the Guidelines prior to the operation of § 3E1.1(a) is 16 or greater.

17. In accordance with the above, the parties agree that the total Guidelines offense level applicable to CARLO AMATO is 23 (the "Agreed Total Guidelines Offense Level").

18. The parties agree not to seek or argue for any upward or downward departure, adjustment or variance not set forth herein. The parties further agree that a sentence within the Guidelines range that results from the agreed total Guidelines offense level is reasonable.

19. CARLO AMATO knows that he has and, except as noted below in this paragraph, voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion, including, but not limited to, an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the sentence imposed by the sentencing court if that sentence falls within or below the Guidelines range that results from the agreed total Guidelines offense level of 23. This Office will not file any appeal, motion, or writ which challenges the sentence imposed by the sentencing court if that sentence falls within or above the Guidelines range that results from the agreed total Guidelines offense level of 23. The parties reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, if the sentencing court accepts a stipulation, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so.

20. Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion barred by the preceding paragraph and to file or to oppose any appeal, collateral attack, writ or motion not barred by the preceding paragraph.