

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. \_\_\_\_\_  
18 U.S.C. Section 371

UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

LARRY BARROW,  
  
Defendant.

PLEA AGREEMENT

The United States of America and LARRY BARROW (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to waive indictment and to plead guilty to Count 1 of the Information, which charges the defendant with Conspiracy to Commit Mail and Wire Fraud, in violation of 18 U.S.C. § 371.

2. The defendant is aware that the sentence will be imposed in conformity with the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"), and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the applicable guideline range and impose a sentence that is either

more severe or less severe than the guidelines range. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

3. The defendant also understands and acknowledges that the Court may impose a statutory maximum term of imprisonment of up to five years on Count 1, followed by a term of supervised release and a fine of up to \$250,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 3 of this agreement, a special assessment in the amount of \$100.00 on each count of conviction will be imposed on the defendant, which will be paid by the defendant at the time of entry of this plea.

5. The Office of the United States Attorney for the Southern District of Florida (hereinafter "Office") reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further

reserves the right to make any recommendation as to the quality and quantity of punishment.

6. The relevant amount of loss attributable to defendant Barrow under Section 2F1.1(b)(1) of the Sentencing Guidelines was approximately \$12 million.

7. The United States and the defendant agree that, although not binding on the probation office and the court, the parties will jointly recommend that the court make the following finding and conclusions as to the sentence to be imposed:

- (a) Role in the offense: that the defendant should receive a two (2) level decrease as a minor participant in the offense, pursuant to U.S.S.G. § 3B1.1.

8. The United States agrees that it will recommend at sentencing that the Court reduce by 3 levels the sentencing guideline level applicable to the defendant's offense conduct, pursuant to Section 3E1.1 of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. However, the United States will not be required to make this sentencing recommendation if the defendant: (1) fails or refuses to make full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering this plea agreement; or, (3)

commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

9. The defendant agrees that he will cooperate fully with this Office by:

(a) providing truthful and complete information and testimony, and producing documents, records, recordings and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other Court proceeding;

(b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office.

10. This Office reserves the right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the Court at the time of sentencing. If, in the sole and unreviewable judgment of this Office, the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the Court's downward departure from the sentence required by the Sentencing Guidelines, this Office may at or before sentencing make a motion pursuant to Section 5K1.1 of the Sentencing Guidelines or a Rule 35 motion subsequent to sentencing, reflecting that the defendant has provided substantial assistance

and recommending sentence reduction. The defendant acknowledges and agrees, however, that nothing in this Agreement may be construed to require this Office to file such a motion and that this Office's assessment of the nature, value, truthfulness, completeness, and accuracy of the defendant's cooperation shall be binding on the defendant.

11. The United States agrees to recommend that the defendant be sentenced at the low end of the applicable guideline range determined by the Court.

12. This agreement resolves the defendant's federal criminal liability in the Southern District of Florida growing out of any criminal conduct by the defendant known to the United States Attorney's Office for the Southern District of Florida as of the date of this plea agreement.

13. The defendant understands and acknowledges that the Court is under no obligation to grant a government motion pursuant to 5K1.1 of the Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, as referred to in paragraph 9 of this agreement, should the government exercise its discretion to file such a motion.

14. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the

defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

15. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Title 18, United States Code, Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which that sentence was determined, unless (1) the sentence exceeds the maximum permitted by statute, (2) the sentence is the result of an upward departure from the guideline range the court establishes at sentencing, and/or (3) the court decides not to follow one or more of the sentencing recommendations made pursuant to paragraph 7

above. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in 18 U.S.C. § 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. The defendant understands that, although the defendant will be sentenced in conformity with the Sentencing Guidelines, by this agreement the defendant waives the right to appeal the sentence on the basis that the sentence is the result of an incorrect application of the Sentencing Guidelines.

16. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

GUY A. LEWIS  
UNITED STATES ATTORNEY

Date: 11/28/01

Paul F. Schwartz  
PAUL F. SCHWARTZ  
ASSISTANT UNITED STATES ATTORNEY

Date: 11/28/01

Patrice M. Mulkern  
PATRICE M. MULKERN  
TRIAL ATTORNEY  
UNITED STATES DEPARTMENT OF JUSTICE

Date: 12/11/01

Stephen Golembe  
STEPHEN GOLEMBE  
ATTORNEY FOR DEFENDANT

Date: 12/11/01

Larry Barrow  
LARRY BARROW  
DEFENDANT