



U.S. Department of Justice

Joshua S. Levy
Acting United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

August 3, 2023

Robert M. Goldstein, Esq.
20 Park Plaza #1000
Boston, MA 02116

Re: United States v. Joseph A. Padilla
Criminal No. 23-cr-10075

Dear Mr. Goldstein:

The United States Attorney for the District of Massachusetts (the "U.S. Attorney") and your client, Joseph A. Padilla ("Defendant"), agree as follows, pursuant to Federal Rule of Criminal Procedure ("Rule") 11(c)(1)(C):

1. Change of Plea

At the Court's earliest convenience, Defendant will plead guilty to counts One, Two, Three, and Four of the Indictment: Conspiracy to Commit Securities Fraud, in violation of 18 U.S.C. § 371 (Count One); Securities Fraud, in violation of 15 U.S.C. §§ 78j(b) and 78ff(a), 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2 (Counts Two and Three); and Attempt to Cause the Production of an Identification Document Without Lawful Authority, in violation of 18 U.S.C. §§ 1028(a)(1), (b)(2)(A), and (f), and 18 U.S.C. § 2. Defendant admits that Defendant committed the crimes specified in these counts and is in fact guilty of each one.

Defendant agrees to the accuracy of the attached statement of facts. Defendant also agrees to waive venue, to waive any applicable statute of limitations, and to waive any legal or procedural defects in the Indictment.

The U.S. Attorney agrees not to charge Defendant with any additional offense (beyond those already charged in the Indictment) based on the information about Defendant's conduct that is known to the U.S. Attorney at this time.

2. Penalties

Defendant faces the following maximum penalties on Count One: incarceration for five years; supervised release for three years; a fine of \$250,000 or twice the gross gain or loss, whichever is greater; a mandatory special assessment of \$100; restitution; and forfeiture to the extent charged in the Indictment.

Defendant faces the following maximum penalties on each of Counts Two and Three: incarceration for 20 years; supervised release for three years; a fine of \$5,000,000; a mandatory special assessment of \$100; restitution; and forfeiture to the extent charged in the Indictment.

Defendant faces the following maximum penalties on Count Four: incarceration for five years; supervised release for three years; a fine of \$250,000 or twice the gross gain or loss, whichever is greater; a mandatory special assessment of \$100; and forfeiture to the extent charged in the Indictment.

Defendant understands that, if Defendant is not a United States citizen by birth, pleading guilty may affect Defendant's immigration status. Defendant agrees to plead guilty regardless of any potential immigration consequences, even if Defendant's plea results in being automatically removed from the United States.

3. Rule 11(c)(1)(C) Plea

In accordance with Rule 11(c)(1)(C), if the Court accepts this Plea Agreement, the Court must include the agreed disposition in the judgment. If the Court rejects any part of this Plea Agreement, the U.S. Attorney may void the agreement and/or Defendant may withdraw from it. Defendant may not withdraw Defendant's plea for any other reason.

Should the U.S. Attorney void the agreement and/or Defendant moves to withdraw Defendant's guilty plea, Defendant agrees to waive any defenses based upon statute of limitations, the constitutional protection against pre-indictment delay, and the Speedy Trial Act for all charges that could have been brought as of the date of this Plea Agreement.

4. Sentencing Guidelines

The U.S. Attorney agrees to take the position that, based on the following calculations, the Defendant's total "offense level" under the Guidelines is at least 32:

- a) Counts One through Four are grouped together, because the offense level for Counts One, Two and Three are determined largely on the basis of the total amount of harm or loss and because Count Four embodies conduct that is treated as a specific offense characteristic in, or other adjustment to, the guideline applicable to the other counts (USSG §§ 3D1.2(c) and (d) and § 3C1.1, App. Note 8);

- b) Defendant's base offense level is 7, because the offenses of conviction in Counts Two and Three are referenced to Section 2B1.1 and have a statutory maximum term of imprisonment of 20 years or more (USSG § 2B1.1(a)(1));
- c) Defendant's offense level is increased by at least 22, because the loss from the offenses was at least \$25,000,000 (USSG § 2B1.1(b)(1)(L));
- d) Defendant's offense level is increased by 2, because the offenses involved 10 or more victims (USSG § 2B1.1(b)(2)(A)(i));
- e) Defendant's offense level is increased by 2, because a substantial part of the fraudulent scheme was committed from outside the United States and the offenses involved sophisticated means and the defendant intentionally engaged in or caused the conduct constituting sophisticated means (USSG § 2B1.1(b)(10)(B) and (C));
- f) Defendant's offense level is increased by 2, because the defendant attempted to impede the administration of justice with respect to the prosecution of Count Three (USSG § 3C1.1); and
- g) Defendant's offense level is decreased by 3, because Defendant has accepted responsibility for Defendant's crimes (USSG § 3E1.1).

The U.S. Attorney reserves the right to argue at sentencing that Defendant's total offense level is higher than 32 based on a higher amount of loss under USSG § 2B1.1(b)(1).

The parties otherwise have no agreement with respect to the calculation of the Sentencing Guidelines.

Defendant understands that the Court is not required to follow this calculation. Defendant also understands that the government may be released from the parties' agreed-upon disposition in Paragraph 5 if: (a) at sentencing, Defendant (directly or through counsel) indicates that Defendant does not fully accept responsibility for the conduct described in the attached statement of facts; or (b) by the time of sentencing, Defendant has committed a new federal or state offense, or has in any way obstructed justice.

Nothing in this Plea Agreement affects the U.S. Attorney's obligation to provide the Court and the U.S. Probation Office with accurate and complete information regarding this case.

5. Agreed Disposition

The parties agree on the following sentence:

- a) incarceration for a term of 66 months in total;

- b) supervised release not to exceed 24 months;
- c) a mandatory special assessment of \$400, which Defendant must pay to the Clerk of the Court by the date of sentencing;
- d) restitution in an amount to be determined at sentencing or thereafter pursuant to 18 U.S.C. § 3664(d)(5);
- e) forfeiture as set forth in Paragraph 7; and
- f) no fine.

Defendant agrees that all criminal monetary penalties, including special assessment, restitution, forfeiture, and/or fine imposed shall be due and payable immediately, and further agrees that any Court-ordered repayment schedule does not preclude further enforcement or collection by the United States.

6. Waiver of Appellate Rights and Challenges to Convictions or Sentence

Defendant has the right to challenge Defendant's convictions and sentence on "direct appeal." This means that Defendant has the right to ask a higher court (the "appeals court") to look at what happened in this case and, if the appeals court finds that the trial court or the parties made certain mistakes, overturn Defendant's convictions or sentence. Also, in some instances, Defendant has the right to file a separate civil lawsuit claiming that serious mistakes were made in this case and that Defendant's convictions or sentence should be overturned.

Defendant understands that Defendant has these rights, but now agrees to give them up. Specifically, Defendant agrees that:

- a) Defendant will not challenge Defendant's convictions on direct appeal or in any other proceeding, including in a separate civil lawsuit; and
- b) Defendant will not challenge Defendant's sentence, including any court orders related to forfeiture, restitution, or supervised release, on direct appeal or in any other proceeding, including in a separate civil lawsuit.

The U.S. Attorney agrees not to appeal the imposition of the sentence agreed to by the parties in paragraph 5.

Defendant understands that, by agreeing to the above, Defendant is agreeing that Defendant's convictions and sentence will be final when the Court issues a written judgment after the sentencing hearing in this case. That is, after the Court issues a written judgment, Defendant will lose the right to appeal or otherwise challenge Defendant's convictions and sentence regardless of whether Defendant later changes Defendant's mind or finds new information that would have led Defendant not to agree to give up these rights in the first place.

Defendant is agreeing to give up these rights in exchange for concessions the U.S. Attorney is making in this Agreement.

The parties agree that, despite giving up these rights, Defendant keeps the right to later claim that Defendant's lawyer rendered ineffective assistance of counsel, or that the prosecutor or a member of law enforcement involved in the case engaged in misconduct serious enough to entitle Defendant to have Defendant's convictions or sentence overturned.

7. Forfeiture

Defendant understands that the Court will, upon acceptance of Defendant's guilty plea, enter an order of forfeiture as part of Defendant's sentence, and that the order of forfeiture may include assets directly traceable to Defendant's offense, assets used to facilitate Defendant's offense, substitute assets and/or a money judgment equal to the value of the property derived from, or otherwise involved in, the offense.

The parties agree that the assets to be forfeited are the following:

- a. \$3,000,000 in United States currency, to be entered in the form of an Order of Forfeiture (Money Judgment).

Defendant admits that \$3,000,000 is subject to forfeiture on the grounds that it is equal to the amount of proceeds derived from the offense.

Defendant acknowledges and agrees that the amount of the forfeiture money judgment represents proceeds the Defendant obtained (directly or indirectly), and/or facilitating property and/or property involved in, the crimes to which Defendant is pleading guilty and that, due at least in part to the acts or omissions of Defendant, the proceeds or property have been transferred to, or deposited with, a third party, spent, cannot be located upon exercise of due diligence, placed beyond the jurisdiction of the Court, substantially diminished in value, or commingled with other property which cannot be divided without difficulty. Accordingly, Defendant agrees that the United States is entitled to forfeit as "substitute assets" any other assets of Defendant up to \$3,000,000.00.

Defendant agrees to consent to the entry of an order of forfeiture for \$3,000,000.00 and waives the requirements of Federal Rules of Criminal Procedure 11(b)(1)(J), 32.2, and 43(a) regarding notice of the forfeiture in the charging instrument, advice regarding the forfeiture at the change-of-plea hearing, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant understands and agrees that forfeiture shall not satisfy or affect any fine, lien, penalty, restitution, cost of imprisonment, tax liability or any other debt owed to the United States.

Pursuant to 28 C.F.R. Part 9, the U.S. Attorney agrees to submit a restoration request to the Money Laundering and Asset Recovery Section of the Department of Justice, seeking approval for any assets forfeited in satisfaction of the forfeiture money judgment to be restored back to the

victims in this case, which may, in turn, satisfy in full or in part any restitution order. The Defendant acknowledges that the Attorney General, or his designee, has the sole discretion to approve or deny the restoration request.

If the U.S. Attorney requests, Defendant shall deliver to the U.S. Attorney within 30 days after signing this Plea Agreement a sworn financial statement disclosing all assets in which Defendant currently has any interest and all assets over which Defendant has exercised control, or has had any legal or beneficial interest. Defendant further agrees to be deposed with respect to Defendant's assets at the request of the U.S. Attorney. Defendant agrees that the United States Department of Probation may share any financial information about the Defendant with the United States Attorney's Office.

Defendant also agrees to waive all constitutional, legal, and equitable challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement.

Defendant hereby waives and releases any claims Defendant may have to any vehicles, currency, or other personal property seized by the United States (with the exception of the Defendants' cell phones seized incident to his arrest), or seized by any state or local law enforcement agency and turned over to the United States, during the investigation and prosecution of this case, and consents to the forfeiture of all such assets.

8. Civil Liability

This Plea Agreement does not affect any civil liability, including any tax liability, Defendant has incurred or may later incur due to Defendant's criminal conduct and guilty plea to the charges specified in Paragraph 1 of this Agreement.

9. Breach of Plea Agreement

Defendant understands that if Defendant breaches any provision of this Agreement, violates any condition of Defendant's pre-trial release or commits any crime following Defendant's execution of this Plea Agreement, Defendant cannot rely upon such conduct to withdraw Defendant's guilty plea. Defendant's conduct, however, would give the U.S. Attorney the right to be released from the U.S. Attorney's commitments under this Agreement, to pursue any charges that were, or are to be, dismissed under this Agreement, and to use against Defendant any of Defendant's statements, and any information or materials Defendant provided to the government during investigation or prosecution of Defendant's case—even if the parties had entered any earlier written or oral agreements or understandings about this issue.

Defendant also understands that if Defendant breaches any provision of this Agreement or engages in any of the aforementioned conduct, Defendant thereby waives any defenses based on the statute of limitations, constitutional protections against pre-indictment delay, and the Speedy Trial Act, that Defendant otherwise may have had to any charges based on conduct occurring before the date of this Agreement.

10. Who is Bound by Plea Agreement

This Agreement is only between Defendant and the U.S. Attorney for the District of Massachusetts. It does not bind the Attorney General of the United States or any other federal, state, or local prosecuting authorities.

11. Modifications to Plea Agreement

This Agreement can be modified or supplemented only in a written memorandum signed by both parties, or through proceedings in open court.

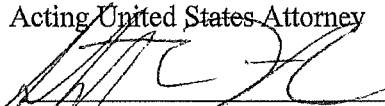
* * *

If this letter accurately reflects the agreement between the U.S. Attorney and Defendant, please have Defendant sign the Acknowledgment of Plea Agreement below. Please also sign below as Witness. Return the original of this letter to Assistant U.S. Attorney James R. Drabick.

Sincerely,

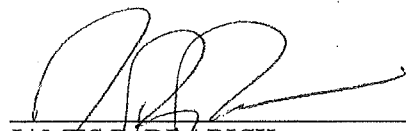
JOSHUA S. LEVY
Acting United States Attorney

By:



STEPHEN E. FRANK
Chief
Securities, Financial & Cyber Fraud Unit

SETH B. KOSTO
Deputy Chief
Securities, Financial & Cyber Fraud Unit



JAMES R. DRABICK
IAN J. STEARNS
Assistant U.S. Attorneys

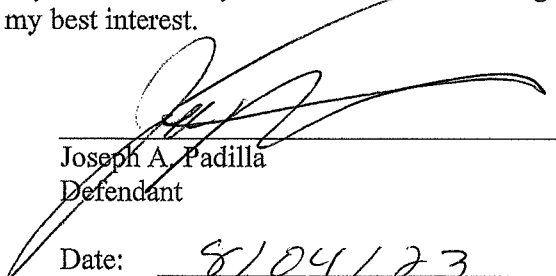
ACKNOWLEDGMENT OF PLEA AGREEMENT

I have read this letter and discussed it with my attorney. The letter accurately presents my agreement with the United States Attorney's Office for the District of Massachusetts. There are no unwritten agreements between me and the United States Attorney's Office, and no United States government official has made any unwritten promises or representations to me in connection with my guilty plea. I have received no prior offers to resolve this case.

I understand the crimes I am pleading guilty to, and the maximum penalties for those crimes. I have discussed the Sentencing Guidelines with my lawyer, and I understand the sentencing ranges that may apply.

I am satisfied with the legal representation my lawyer has given me, and we have had enough time to meet and discuss my case. We have discussed the charges against me, possible defenses I might have, the terms of this Agreement and whether I should go to trial.

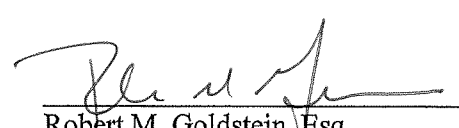
I am entering into this Agreement freely and voluntarily and because I am in fact guilty of the offenses. I believe this Agreement is in my best interest.



Joseph A. Padilla
Defendant

Date: 8/04/23

I certify that Joseph Padilla has read this Agreement and that we have discussed what it means. I believe Joseph Padilla understands the Agreement and is entering into it freely, voluntarily, and knowingly. I also certify that the U.S. Attorney has not extended any other offers regarding a change of plea in this case.



Robert M. Goldstein, Esq.
Attorney for Defendant

Date: 8/15/23

Attachment to Joseph A. Padilla Plea Agreement
United States v. Padilla, 23cr10075

Statement of Facts

As described further below, between 2020 and 2022, Joseph A. Padilla and others endeavored to make money by participating in stock manipulation schemes involving the concealed-control of significant amounts of stock of the microcap companies Oncology Pharma, Inc. and Charlestowne Premium Beverages, Inc.

Padilla's role was to act as the principal stock trader for the schemes. Padilla is a former stockbroker who was barred by the U.S. Securities & Exchange Commission in 2012. In this role, Padilla used brokerage accounts in his name and in others' names to trade in a manner designed, at least in part, to cause the companies' stock prices to artificially increase. Padilla thereafter orchestrated the sale of millions of shares of the companies' stock during promotional campaigns. The stock being sold was held in multiple different brokerage accounts for the benefit of Padilla's clients, thereby obscuring the fact that the stock was under common control.

Following his arrest on a criminal complaint relating to one of the schemes, Padilla also attempted to acquire a fraudulent Ukrainian passport bearing his photograph.

Padilla's Role as a Trader in the Oncology Pharma Scheme

During the relevant period, Oncology Pharma was a Nevada corporation based in San Francisco that described itself as involved in the licensing of therapeutic drugs and medical devices to treat cancer. It had no revenues and traded on the over-the-counter market under the ticker symbol ONPH.

In or about January 2021, Padilla's co-defendant Kevin C. Dills caused three million unrestricted free-trading ONPH shares to be transferred from two entities—Bright Star International, Inc. and Life Sciences Journeys, Inc.—to multiple brokerage accounts for the benefit of Padilla's clients at the Cayman Islands broker Valor Capital, with which Padilla had a close, unofficial association. The three million shares were under common control and represented the vast majority of Oncology Pharma's public float (*i.e.*, the shares available to be traded in the market) and nearly 12 percent of its issued and outstanding shares, the generally accepted threshold to be considered an affiliate.

On or about January 19, 2021, at nearly the same time Valor Capital received the three million shares, Padilla orchestrated a successful effort designed, at least in part, to artificially increase Oncology Pharma's stock price and trading volume through successive buy orders for thousands of ONPH shares at escalating prices. Specifically, over the course of approximately four hours, Padilla caused accounts in the names of three others to place multiple limit orders to buy thousands of ONPH shares at prices between \$0.60 and \$1.00 per share, nearly all of which were filled. Before that day, trading in Oncology Pharma's stock was minimal and its recent average closing price was approximately \$0.50 per share. ONPH's share price ultimately closed that day at \$1.09, on significantly higher volume.

Thereafter, Padilla helped facilitate Valor Capital's sale of the ONPH shares into the market, generating illicit proceeds. The Valor Capital accounts holding the ONPH shares were

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in multiple different accounts for the benefit of Padilla's clients and they were all under Padilla's control for trading purposes. Padilla directed the sale of ONPH shares during a promotional campaign designed to increase the demand for ONPH stock, which campaign included frequent press releases issued by Oncology Pharma. Padilla helped facilitate the payment of proceeds from the stock sales to his clients. Valor Capital also generated millions of dollars in commissions on the ONPH share sales, which commissions Padilla expected to share in.

Massachusetts residents purchased shares of ONPH shortly after Padilla's trading artificially increased ONPH's price and during the period in which Valor Capital was selling ONPH shares during the promotional campaign.

Padilla's Role as a Trader in the Charlestowne Scheme

Padilla engaged in similar conduct for a stock manipulation scheme involving shares of Charlestowne.

During the relevant period, Charlestowne was a Nevada corporation based in South Carolina that described itself as a beverage company that developed and distributed CBD-infused beverages, among others. It had nominal revenues and traded on the over-the-counter market under the ticker symbol FPWM.

Between January and October 2020, others with whom Padilla was working caused approximately five million unrestricted free-trading shares to be transferred to Valor Capital in the names of two nominees. The shares were under common control and represented the vast majority of Charlestowne's public float and more than 12 percent of its issued and outstanding shares.

As with Oncology Pharma, on or about February 18, 2021, Padilla orchestrated an effort designed, at least in part, to artificially increase Charlestowne's stock price through successive buy orders for thousands of FPWM shares at escalating prices. Padilla used his own brokerage account and accounts in the names of four others to cause FPWM's stock price to reach \$1.80 over the course of about two hours, representing an almost 500 percent increase over the prior day's closing price.

Thereafter, Padilla similarly helped facilitate Valor Capital's sale of the FPWM shares into the market during a promotional campaign, generating illicit proceeds. Massachusetts residents purchased shares of FPWM shortly after Padilla's trading artificially increased FPWM's price and during the period in which Valor Capital was selling FPWM shares.

Attempt to Acquire Fraudulent Passport

After being arrested in August 2022 on a criminal complaint concerning the Charlestowne scheme, Padilla attempted to acquire a fraudulent Ukrainian passport. Padilla attempted to acquire the passport from an individual who, unbeknownst to Padilla, was a confidential human source ("CHS") for the FBI. The steps Padilla took to acquire the fraudulent Ukrainian passport included sending passport pictures of himself to the CHS, as well as sending

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the fake name and false age Padilla wanted on the passport. Padilla also caused \$15,000 in Tether cryptocurrency to be sent to a cryptocurrency wallet in Massachusetts to pay for the passport's production.