

United States District Court  
Eastern District of Michigan  
Southern Division

United States of America,

Plaintiff,

Hon. Paul D. Borman

v.

Case No. 20-CR-20556

Michael Bischoff,

Defendant.

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**Plea Agreement**

The United States of America, by and through the United States Attorney's Office for the Eastern District of Michigan, and the Department of Justice, Criminal Division, Fraud and Money Laundering and Asset Recovery Sections (collectively, the "Offices"), and the defendant Michael Bischoff, have reached a plea agreement under Rule 11 of the Federal Rules of Criminal Procedure. The plea agreement's terms are:

**1. Count of Conviction**

The defendant will waive his right to an indictment and will plead guilty to Count 1 of the Information. Count 1 charges the defendant with Bank Fraud under 18 U.S.C. §1344(2).

**2. Statutory Maximum Penalties**

The defendant understands that the counts to which he is pleading guilty carry the following minimum and maximum statutory penalties:

Count 1	Term of imprisonment:	30 years
	Fine:	\$1,000,000 or twice the gross pecuniary gain or the gross pecuniary loss
	Term of supervised release:	5 years

**3. Agreement Not to Bring Additional Charges**

If the Court accepts this agreement and imposes sentence consistent with its terms, the Offices will not bring additional charges against the defendant for the conduct reflected in the factual basis of this Rule 11 Plea Agreement.

**4. Elements of Count of Conviction**

The elements of Count 1 are:

(A) First, that the defendant knowingly executed or attempted to execute a scheme to obtain any of the money, funds, or property under the custody or control of a bank by means of false or fraudulent pretenses, representations or promises.

(B) Second, that the scheme related to a material fact or included a material misrepresentation or concealment of a material fact.

(C) Third, that the defendant had the intent to deceive or cheat someone for the purpose of either causing a financial loss to another or bringing about a financial gain to himself or to another person.

(D) Fourth, that the bank was federally insured.

## **5. Factual Basis**

The parties agree that the following facts are true, accurately describe the defendant's role in the offense, and provide a sufficient factual basis for the defendant's guilty plea:

Beginning in approximately June 2020 and continuing through approximately August 2020, the defendant, Michael Bischoff, did knowingly devise and execute a scheme to obtain moneys, funds,

credits, assets, securities, or other property, owned by, or in the custody or control of, financial institutions by means of false and fraudulent pretenses, representations, or promises.

Bischoff, a resident of Macomb County, Michigan, owned and operated pizza restaurants in various locations in the County. The restaurants, which did business as “Passport Pizza,” “Little Dinos Pizza,” and “Motor City Pizza,” were operated through a number of corporate entities that Bischoff owned and controlled.

The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted on March 27, 2020 and designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) must state, among other things, the following: (a) average monthly payroll expenses; and (b) number of employees.

These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation showing their payroll expenses.

A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating lender funds the PPP loan using its own monies, which are 100% guaranteed by Small Business Administration ("SBA"). Data from the application, including information about the borrower, the total amount of the loan, and the

listed number of employees, is transmitted by the lender to the SBA in the course of processing the loan.

PPP loan proceeds must be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

Bischoff encountered various financial difficulties in 2019 and 2020 and devised a plan to obtain loans from the PPP based on false representations and promises. At that time, a receivership was approved over all of his entities. Beginning in June 2020 and continuing through August 2020, Bischoff submitted at least nine loan applications seeking PPP funds that contained materially false information. Six of these loan applications were submitted to either banks (Banks A or B) or a small business investment lender (Lender A), each of which were federally insured financial institutions at the time of the application. Three of the loan applications were submitted to a

financial services company (Bank Processor A), which then sold the loans to various federally insured financial institutions (including Bank A). A chart of the relevant PPP loan applications that Bischoff submitted is depicted below.

No.	Loan Date	Funding Financial Institution or Processor	Loan Amount
1	June 4, 2020	Lender A	\$50,000
2	June 6, 2020	Bank B	\$134,165.00
3	June 18, 2020	Bank A	\$90,410.00
4	June 19, 2020	Bank A	\$112,470.00
5	June 20, 2020	Bank A	\$119,791.00
6	June 24, 2020	Bank A	\$136,654.00
7	July 15, 2020	Bank Processor A	\$75,436.00
8	July 24, 2020	Bank Processor A	\$89,477.00
9	August 2, 2020	Bank Processor A	\$123,369.00

In each of the nine loan applications depicted above, Bischoff falsely represented the payroll and the number of employees working for the Bischoff entities. Additionally, in the applications for Loans 2–9, Bischoff submitted false and fraudulent IRS W-3 forms purporting to document his payroll. Furthermore, in the applications for Loan 1 and Loans 5–9, Bischoff fraudulently used the name and personal identification of another person to obtain approval for the loans. Each of these false representations was material, and Bischoff knowingly

made these false statements. As part of his fraud scheme, Bischoff sought a total of approximately \$931,772 in PPP funds and obtained approximately \$593,590.

## **6. Advice of Rights**

The defendant has read the Information, has discussed the charges and possible defenses with his attorney, and understands the crime charged. The defendant understands that, by pleading guilty, he is waiving many important rights, including the following:

- A. The right to plead not guilty and to persist in that plea;
- B. The right to a speedy and public trial by jury;
- C. The right to the assistance of an attorney at every critical stage of the proceedings, including trial;
- D. The right to an appointed attorney, if the defendant cannot afford to retain one;
- E. The right to be presumed innocent and to require the government to prove the defendant guilty beyond a reasonable doubt at trial;
- F. The right to confront and cross-examine adverse witnesses at trial;



G. The right to testify or not to testify at trial, whichever the defendant chooses;

H. If the defendant chooses not to testify, the right to have the jury informed that it may not treat that choice as evidence of guilt;

I. The right to present evidence or not to present evidence at trial, whichever the defendant chooses; and

J. The right to compel the attendance of witnesses at trial.

## **7. Collateral Consequences of Conviction**

The defendant understands that his conviction here may carry additional consequences under federal or state law. The defendant understands that, if he is not a United States citizen, his conviction here may require him to be removed from the United States, denied citizenship, and denied admission to the United States in the future. The defendant further understands that the additional consequences of his conviction here may include, but are not limited to, adverse effects on the defendant's immigration status, naturalized citizenship, right to vote, right to carry a firearm, right to serve on a jury, and ability to hold certain licenses or to be employed in certain fields. The defendant understands that no one, including the defendant's attorney or the

Court, can predict to a certainty what the additional consequences of the defendant's conviction might be. The defendant nevertheless affirms that the defendant chooses to plead guilty regardless of any immigration or other consequences from his conviction.

## **8. Defendant's Guideline Range**

### **A. Court's Determination**

The Court will determine the defendant's guideline range at sentencing.

### **B. Acceptance of Responsibility**

The government recommends under Federal Rule of Criminal Procedure 11(c)(1)(B) that the defendant receive a two-level reduction for acceptance of responsibility under USSG § 3E1.1(a). Further, if the defendant's offense level is 16 or greater and the defendant is awarded the two-level reduction under USSG § 3E1.1(a), the government recommends that the defendant receive an additional one-level reduction for acceptance of responsibility under USSG § 3E1.1(b). If, however, the government learns that the defendant has engaged in any conduct inconsistent with acceptance of responsibility—including, but not limited to, making any false statement to, or withholding

information from, his probation officer; obstructing justice in any way; denying his guilt on the offense(s) to which he is pleading guilty; committing additional crimes after pleading guilty; or otherwise demonstrating a lack of acceptance of responsibility as defined in USSG § 3E1.1—the government will be released from its obligations under this paragraph, will be free to argue that the defendant not receive *any* reduction for acceptance of responsibility under USSG § 3E1.1, and will be free to argue that the defendant receive an enhancement for obstruction of justice under USSG § 3C1.1.

### **C. Other Guideline Recommendations**

The parties recommend that the following guideline provisions apply to defendant's guideline calculation on Count 1:

- USSG Section 2B1.1(a)(1): Base Offense Level of 7
- USSG Section 2B1.1(b)(1)(H): Loss Greater than \$550,000 (add 14 Levels)
- USSG Section 2B1.1(b)(10)(C): Sophisticated Means (add 2 levels)

The parties have no other recommendations as to the defendant's guideline calculation.

### **D. Parties' Obligations**

Both the defendant and the government agree not to take any position or make any statement that is inconsistent with any of the guideline recommendations or factual stipulations in paragraphs 8.B or 8.C. Other than the guideline recommendations in those paragraphs, however, neither party is restricted in what it may argue or present to the Court as to the defendant's guideline calculation.

**E. Not a Basis to Withdraw**

The defendant understands that he will have no right to withdraw from this agreement or withdraw his guilty plea if he disagrees, in any way, with the guideline range determined by the Court, even if that guideline range does not incorporate the parties' recommendations in paragraphs 8.B or 8.C. The government likewise has no right to withdraw from this agreement if it disagrees with the guideline range determined by the Court.

**9. Imposition of Sentence**

**A. Court's Obligation**

The defendant understands that in determining his sentence, the Court must calculate the applicable guideline range at sentencing and must consider that range, any possible departures under the sentencing

guidelines, and the sentencing factors listed in 18 U.S.C. § 3553(a), and apply any applicable mandatory minimums.

**B. Imprisonment**

**1. Recommendation**

Under Federal Rule of Criminal Procedure 11(c)(1)(B), the government recommends that the defendant's sentence of imprisonment not exceed the midpoint of the defendant's guideline range as determined by the Court.

**2. No Right to Withdraw**

The government's recommendation in paragraph 9.B.1 is not binding on the Court. The defendant understands that he will have no right to withdraw from this agreement or withdraw his guilty plea if the Court decides not to follow the government's recommendation. The government likewise has no right to withdraw from this agreement if the Court decides not to follow the government's recommendation. If, however, the Court rejects or purports to reject any other term or terms of this plea agreement, the government will be permitted to withdraw from the agreement.

## **C. Supervised Release**

### **1. Recommendation**

Under Federal Rule of Criminal Procedure 11(c)(1)(B), the parties recommend that the Court impose a three-year term of supervised release.

### **2. No Right to Withdraw**

The parties' recommendation is not binding on the Court. The defendant understands that he will have no right to withdraw from this agreement or withdraw his guilty plea if the Court decides not to follow the parties' recommendation. The defendant also understands that the government's recommendation concerning the length of the defendant's sentence of imprisonment, as described above in paragraph 9.B.1, will not apply to or limit any term of imprisonment that results from any later revocation of the defendant's supervised release.

## **D. Fines**

There is no recommendation or agreement as to a fine.

**E. Restitution**

The Court must order restitution to every identifiable victim of the defendant's offense. The parties agree that restitution in this case shall total \$593,590.

Within 7 business days of the signing of this plea agreement, the defendant agrees to stipulate to the entry of an order providing for the deposit of \$593,590 with the Clerk of the Court. The order will provide for the prompt deposit of the funds with the Clerk of the Court, said funds to be held for application of these funds to the restitution, fine or special assessment imposed at sentencing. The Clerk of the Court will be allowed to deduct any fees authorized by the Judicial Conference of the United States.

**F. Forfeiture**

The defendant agrees, pursuant to 18 U.S.C. § 982(a)(2)(A), to forfeit all property constituting, or derived from, proceeds he obtained, directly or indirectly, as the result of his violation of 18 U.S.C. § 1344 including, but not limited to, a forfeiture money judgment in an amount to be determined at sentencing.

The defendant agrees to the entry of one or more orders of forfeiture, including the entry of a Preliminary Order of Forfeiture, incorporating the forfeiture of the above referenced property following his guilty plea, upon application by the United States as mandated by Federal Rule of Criminal Procedure 32.2. The defendant agrees that the forfeiture order will become final as to the defendant at the time entered by the Court.

The defendant knowingly, voluntarily, and intelligently waives any challenge to the above-described forfeiture based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution.

The defendant acknowledges that he understands that the forfeiture of assets is part of the sentence that may be imposed in this case and waives his right to challenge any failure by the court to advise him of his rights with respect to forfeiture, set forth in Federal Rule of Criminal Procedure 11(b)(1)(J). The defendant also expressly waives his right to have a jury determine the forfeitability of his interest in the above identified property, as provided by Rule 32.2(b)(5).



The defendant further waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, pronouncement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment.

The defendant agrees to hold the United States, its agents and employees, harmless from any claims whatsoever in connection with the seizure and forfeiture of any property referenced above.

**G. Special Assessment**

The defendant understands that he will be required to pay a special assessment of \$100, due immediately upon sentencing.

**10. Appeal Waiver**

The defendant waives any right he may have to appeal his conviction on any grounds. If the defendant's sentence of imprisonment does not exceed the top of the guideline range determined by the Court, the defendant also waives any right he may have to appeal his sentence on any grounds.

**11. Collateral Review Waiver**

The defendant retains the right to raise claims alleging ineffective assistance of counsel, as long as the defendant properly raises those

claims by collateral review under 28 U.S.C. § 2255. The defendant also retains the right to pursue any relief permitted under 18 U.S.C.

§ 3582(c), as long as the defendant properly files a motion under that section. The defendant, however, waives any other right he may have to challenge his conviction or sentence by collateral review, including, but not limited to, any right he may have to challenge his conviction or sentence on any grounds under 28 U.S.C. § 2255, 28 U.S.C. § 2241, or Federal Rule of Civil Procedure 59 or 60.

## **12. Consequences of Withdrawal of Guilty Plea or Vacation of Judgment**

If the defendant is allowed to withdraw his guilty plea, or if the defendant's conviction or sentence under this agreement is vacated, the government may reinstate any charges against the defendant that were dismissed as part of this agreement and may file additional charges against the defendant relating, directly or indirectly, to any of the conduct underlying the defendant's guilty plea or any relevant conduct. If the government reinstates any charges or files any additional charges as permitted by this paragraph, the defendant waives his right to challenge those charges on the ground that they were not filed in a

timely manner, including any claim that they were filed after the limitations period expired.

### **13. Use of Withdrawn Guilty Plea**

The defendant agrees that if he is permitted to withdraw his guilty plea for any reason, he waives all of his rights under Federal Rule of Evidence 410, and the government may use his guilty plea, any statement that the defendant made at his guilty plea hearing, and the factual basis set forth in this agreement, against the defendant in any proceeding.

### **14. Parties to Plea Agreement**

This agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan, the United States Department of Justice, Criminal Division, Fraud Section, and the United States Department of Justice, Money Laundering and Asset Recovery Section.

### **15. Scope of Plea Agreement**

This plea agreement is the complete agreement between the parties and supersedes any other promises, representations, understandings, or agreements between the parties concerning the

subject matter of this agreement that were made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to the defendant or to the attorney for the defendant at any time before the defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this plea agreement. If the parties have entered, or subsequently enter, into a written proffer or cooperation agreement, though, this plea agreement does not supersede or abrogate the terms of that agreement. This plea agreement also does not prevent any civil or administrative actions against the defendant, or any forfeiture claim against any property, by the United States or any other party.

**16. Acceptance of Agreement by Defendant**

This plea offer expires unless it has been received, fully signed, in the United States Attorney's Office by 5:00 PM on October 30, 2020.

The government may withdraw from this agreement at any time before the defendant pleads guilty.

MATTHEW J. SCHNEIDER  
United States Attorney  
Eastern District of Michigan

JOHN NEAL

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JOHN K. NEAL  
Chief, White Collar Crime Unit  
Assistant United States Attorney  
Eastern District of Michigan

DEBORAH CONNOR  
Chief  
Money Laundering and Asset Recovery  
Section  
United States Department of Justice

CHAD DAVIS

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Date: 2020.11.18 16:31:17 -05'00'

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CHAD DAVIS  
Trial Attorney

DANIEL S. KAHN  
Acting Chief  
Fraud Section, Criminal Division  
United States Department of Justice

PHILIP TROUT

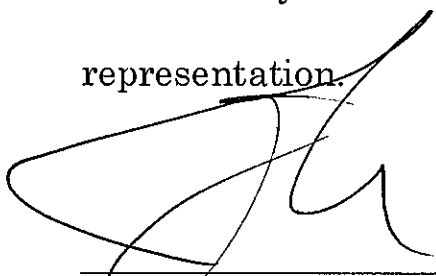
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PHILIP B. TROUT  
Trial Attorney

Dated:

By signing below, the defendant and his attorney agree that the defendant has read or been read this entire document, has discussed it with his attorney, and has had a full and complete opportunity to confer with his attorney. The defendant further agrees that he understands this entire document, agrees to its terms, has had all of his questions answered by his attorney, and is satisfied with his attorney's advice and representation.



James C. Thomas  
Attorney for Defendant



Michael Bischoff  
Defendant

Dated: 11/19/20