

U.S. DISTRICT COURT  
SAN JUAN, P.R.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

MAR 29 AM 9:05

**UNITED STATES OF AMERICA,**  
Plaintiff,

v.

**CRIMINAL NO. 16-483 (JAG)**

**[3] FRANCISCO CABRERA-ALVARADO,**  
Defendant.

**PLEA AGREEMENT**  
(Pursuant to Fed. R. Crim. P. 11(c)(1)(A) & (B))

**TO THE HONORABLE COURT:**

**COMES NOW**, the United States of America, by and through its attorneys for the District  
of Puerto Rico: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] along with defendant, Francisco Cabrera-Alvarado, and his counsel, Jorge Rivera-  
Ortiz, Esq., and pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A) & (B), state to this  
Honorable Court that they have reached a Plea Agreement, the terms and conditions of which are  
as follows:

**1. COUNTS TO WHICH THE DEFENDANT PLEADS GUILTY**

Defendant agrees to plead guilty to Count One of the Indictment.

**COUNT ONE:**

From on or about September 24, 2013, to on or about October 22, 2015, in the District of  
Puerto Rico, the defendant,

**[3] FRANCISCO CABRERA-ALVARADO**

*JR*  
*FCA*

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and other co-conspirators known and unknown to the Grand Jury, knowingly and willfully conspired and agreed together and with each other, to defraud the United States of and concerning its governmental functions and rights, that is, its right to have its business and its affairs, and particularly the transaction of the official business of the Social Security Administration (SSA), to be conducted honestly and impartially, free from corruption, fraud, improper and undue influence, dishonesty, unlawful impairment and obstruction.

**Object of the Conspiracy**

*OR*  
*FCA*  
It was the object of the conspiracy that the defendants would defraud the United States, by submitting false and/or fraudulent information to the SSA, an agency of the United States. The application would falsely claim that Person A was suffering from disabling psychiatric conditions which prevented him/her from working. This fraudulent claim would later be supported by the submission of a false and fraudulent medical report prepared by [1] AMERICO OMS-RIVERA, which would support the existence of the disabling psychiatric condition. The false and fraudulent documents would be submitted for the purposes of tricking or deceiving the SSA into approving the payment of disability insurance benefits for Person A, to which he was not legitimately entitled. Defendants, [1] AMERICO OMS-RIVERA, [2] MAYTE GONZALEZ-MUÑOZ and [3] FRANCISCO CABRERA-ALVARADO, would each derive financial gain and profit from the Conspiracy to defraud.

**Manner and Means of the Scheme and Artifice to Defraud and Deprive**

At times material to this indictment, a person hereinafter referred to as Person A visited [1] AMERICO OMS-RIVERA in an effort to obtain SSA disability insurance benefits.

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It was a part of the manner and means of the unlawful conspiracy that the defendant, [1] AMERICO OMS-RIVERA, created the appearance that he was treating Person A for alleged mental conditions, although Person A was generally in good health, and was not suffering from any physical or mental disabling condition.

It was further a part of the manner and means of the unlawful conspiracy that the defendant, [3] FRANCISCO CABRERA-ALVARADO, would assist Person A in applying for Social Security Disability Insurance Benefits.

It was further a part of the manner and means of the unlawful conspiracy that the defendant, [3] FRANCISCO CABRERA-ALVARADO, would coach Person A on how to fill out the SSA forms and what to say to get his disability benefits approved.

It was further a part of the manner and means of the unlawful conspiracy that the defendants, [1] AMERICO OMS-RIVERA and [2] MAYTE GONZALEZ-MUÑOZ, would charge a fee to Person A for the submission of a fraudulent Psychiatric Medical Report to the SSA, for backdating his/her medical file and creating fictitious medical appointments that never took place.

[1] AMERICO OMS-RIVERA and [2] MAYTE GONZALEZ-MUÑOZ would submit to Triple-S HCFA 1500 forms for services not rendered to Person A.

It was further a part of the manner and means of the unlawful conspiracy that the defendant, [1] AMERICO OMS-RIVERA and [2] MAYTE GONZALEZ-MUÑOZ would cause to be transmitted via facsimile transmission, to a number in the Continental United States, a Psychiatric Medical Report to the SSA, supporting the existence of an alleged psychiatric condition suffered by Person A, in spite of the fact that this psychiatric condition was contrived.

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Overt Acts

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the District of Puerto Rico:

On or about September 24, 2013, Person A was introduced to [1] AMERICO OMS-RIVERA to discuss his intentions of applying for disability insurance benefits. During said meeting, [1] AMERICO OMS-RIVERA informed Person A that he/she needed to seek treatment for a period of five (5) to six (6) months before the paperwork was submitted to the SSA. [1] AMERICO OMS-RIVERA told Person A that once Person A's disability benefits were approved [1] AMERICO OMS-RIVERA would take a percentage of the check as payment.

On or about January 14, 2014, Person A had the first medical appointment with [1] AMERICO OMS-RIVERA. During this visit, Person A informed [1] AMERICO OMS-RIVERA that he/she was interested in obtaining SSA disability insurance benefits. Person A reported that his/her medical conditions were high blood pressure and migraines from time to time. [1] AMERICO OMS-RIVERA prescribed Person A Prozac, a non-controlled narcotic, used for depression and panic disorders and Restoril, a Scheduled IV narcotic used to treat insomnia symptoms.

Person A made additional visits to the defendant, [1] AMERICO OMS-RIVERA, for purported medical treatment. During these visits [1] AMERICO OMS-RIVERA and Person A discussed the disability application process and [1] AMERICO OMS-RIVERA prescribed Person A with Prozac, a non-controlled narcotic, used for depression and panic disorders; Restoril, a Scheduled IV narcotic, used to treat insomnia symptoms; Ambien, a Scheduled IV narcotic, used to treat insomnia; and Xanax, a Scheduled IV narcotic, used to treat anxiety and panic disorders.

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[1] AMERICO OMS-RIVERA and [2] MAYTE GONZALEZ-MUÑOZ referred Person A to [3] FRANCISCO CABRERA-ALVARADO. [3] FRANCISCO CABRERA-ALVARADO would assist Person A in his application for SSA disability insurance benefits.

On May 21, 2014, [3] FRANCISCO CABRERA-ALVARADO met with Person A in order to assist him to fill out the Adult Function Report, SSA Form 3373 (hereinafter "Adult Function Report"). During said meeting [3] FRANCISCO CABRERA coached Person A as to what to write in the form in order to get Person A's disability benefits approved.

On June 10, 2014, [2] MAYTE GONZALEZ-MUÑOZ was recorded charging Person A \$600.00 for the Psychiatric Medical Report and \$1,440.00 for backdating his medical file and creating 24 fictitious medical appointments.

On or about October 22, 2015, the Psychiatric Medical Report signed by [1] AMERICO OMS-RIVERA ("Psychiatric Medical Report") was submitted to the SSA indicating that Person A was totally disabled to return to work now or in the near future.

In the Psychiatric Medical Report [1] AMERICO OMS-RIVERA represented to the SSA that the first medical visit of Person A was on October 15, 2013. [1] OMS-RIVERA further reported a total of approximately eleven (11) fictitious appointments that never took place. This was done to create the appearance of a longer history of medical treatment. All in violation of Title 18, United States Code, Section 371.

## 2. MAXIMUM PENALTIES

The maximum statutory penalty for the offense charged in Count One of the Indictment is a term of imprisonment of not more than five (5) years pursuant to 18 U.S.C. § 371; a fine not to exceed two hundred and fifty thousand dollars (\$250,000.00) pursuant to 18 U.S.C. § 3571(b)(3);

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a supervised release term of not more than three (3) years pursuant to 18 U.S.C. § 3583(b)(2); and a Special Monetary Assessment of one hundred dollars (\$100.00) per count of conviction pursuant to 18 U.S.C. § 3013(a)(2)(A).

**3. SENTENCING GUIDELINES APPLICABILITY**

Defendant acknowledges that the Court may impose a sentence in accordance with the applicable provision(s) of the Sentencing Guidelines, Title 18 U.S.C. § 3551, et seq. (hereinafter Guidelines), which are now advisory. Further, the defendant acknowledges and is aware that parole has been abolished and the imposition of sentence may not be suspended.

**4. SPECIAL MONETARY ASSESSMENT**

Defendant agrees to pay a special monetary assessment of one hundred dollars (\$100.00), per count of conviction, to be deposited in the Crime Victim Fund pursuant to 18 U.S.C. § 3013(a)(2)(A).

**5. FINES AND RESTITUTION**

The defendant is aware that the Court may, pursuant to Section 5E1.2 of the Sentencing Guidelines Manual, order the defendant to pay a fine sufficient to reimburse the government for the costs of any imprisonment, probation or supervised release ordered. As part of this Plea Agreement, the United States will make no recommendations as to the imposition of fines. The defendant agrees to produce complete information regarding all restitution victims and the defendant agrees to execute a financial statement to the United States (OBD Form 500).

The parties agree that the restitution in this case will be determined by the Court at sentencing. The defendant further acknowledges that this agreement does not impact the Social Security Administration's administrative policies or proceedings.

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**6. RULE 11(c)(1)(B) WARNINGS**

Defendant is aware that his sentence is within the sound discretion of the sentencing judge and of the advisory nature of the Guidelines, including the Guidelines Policy Statements, Application, and Background Notes. Further, defendant understands and acknowledges that the Court is not a party to this Plea Agreement and thus, is not bound by this agreement or the sentencing calculations and recommendations contained. Defendant specifically acknowledges that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense to which defendant is pleading guilty. Defendant is aware that the Court may accept or reject the Plea Agreement, or may defer its decision whether to accept or reject the Plea Agreement until it has considered the pre-sentence investigation report. See Fed. R. Crim. P. 11(c)(3)(A). Should the Court impose a sentence up to the maximum established by statute, defendant cannot, for that reason alone, withdraw his guilty plea, and will remain bound to fulfill all of the obligations under this Plea Agreement. See Fed. R. Crim. P. 11(c)(3)(B).

**7. APPLICABILITY OF UNITED STATES SENTENCING GUIDELINES**

Defendant is aware that pursuant to the decisions issued by the Supreme Court of the United States in the cases of United States v. Booker and United States v. Fanfan, 543 U.S. 220 (2005), the Guidelines are no longer mandatory and must be considered effectively advisory. Therefore, after due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the United States and Defendant submit the following advisory Guideline calculation:

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<b>PLEA AGREEMENT SENTENCING GUIDELINE CALCULATION TABLE</b>	
<b>COUNT ONE</b>	
<b>BASE OFFENSE LEVEL [U.S.S.G. § 2B1.1(a)(2)]</b>	<b>6</b>
<b>SPECIFIC OFFENSE CHARACTERISTICS [U.S.S.G. § 2B1.1(b)(1)(I)] Amount of loss greater than \$1,500,000.00</b>	<b>+16</b>
<b>Acceptance of Responsibility pursuant to U.S.S.G. § 3E1.1</b>	<b>-3</b>
<b>TOTAL OFFENSE LEVEL</b>	<b>19</b>
<b>Guideline Range: 30-37 Months of Imprisonment if Criminal History Category I</b>	

**8. NO STIPULATION AS TO CRIMINAL HISTORY CATEGORY**

The parties do not stipulate as to any Criminal History Category for defendant.

**9. SENTENCE RECOMMENDATION**

After due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the parties agree to recommend a sentence at the lower end of the applicable Guideline Sentencing Range for a total offense level of nineteen (19) when combined with defendant's criminal history category as determined by the Court. The parties further agree that defendant shall refrain from participating as a Non-Attorney Representative or in any role, form or manner in the submission of documents to or the request for benefits from the SSA on behalf or at the behest of others.

**10. WAIVER OF APPEAL**

The defendant knowingly and voluntarily waives the right to appeal the judgment and sentence in this case, provided that the defendant is sentenced in accordance with the terms and conditions set forth in the Sentence Recommendation provisions of this Plea Agreement.

**11. NO FURTHER ADJUSTMENTS OR DEPARTURES**

*FCR*

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The United States and defendant agree that no further adjustments or departures to defendant's total adjusted base offense level and no variance sentence under 18 U.S.C. § 3553 shall be sought by defendant. The parties agree that any request by defendant for an adjustment or departure will be considered a material breach of this Plea Agreement, and the United States will be free to ask for any sentence, either guideline or statutory.

**12. SATISFACTION WITH COUNSEL**

Defendant represents to the Court that he is satisfied with counsel, Jorge Rivera-Ortiz, and states that counsel has rendered effective legal assistance.

**13. RIGHTS SURRENDERED BY DEFENDANT THROUGH GUILTY PLEA**

Defendant understands that by entering into this Plea Agreement he surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

- A. If defendant had persisted in a plea of not guilty to the charges, defendant would have had the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if defendant, the United States and the judge agree.
- B. If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. Defendant and defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent, that it could not convict defendant unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.
- C. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established defendant's guilt beyond a reasonable doubt.
- D. At a trial, the United States would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, defendant could present witnesses

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and other evidence on defendant's own behalf. If the witnesses for defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court.

- E. At a trial, defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from defendant's refusal to testify. If defendant desired to do so, defendant could testify on his behalf.

**14. STIPULATION OF FACTS**

The accompanying Stipulation of Facts signed by defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Stipulation of Facts and agrees that the facts therein are accurate in every respect and that the United States would have proven those facts beyond a reasonable doubt at trial.

**15. LIMITATIONS OF PLEA AGREEMENT**

This Plea Agreement binds only the United States Attorney's Office for the District of Puerto Rico and defendant. It does not bind any other federal district, state, or local authorities.

**16. ENTIRETY OF PLEA AGREEMENT**

This written agreement constitutes the complete Plea Agreement between the United States, defendant, and defense counsel. The United States has made no promises or representations except as set forth in writing in this Plea Agreement and deny the existence of any other term and conditions not stated herein.

**17. AMENDMENTS TO PLEA AGREEMENT**

No other promises, terms, or conditions will be entered unless in writing and signed by all parties.

**18. VOLUNTARINESS OF GUILTY PLEA**

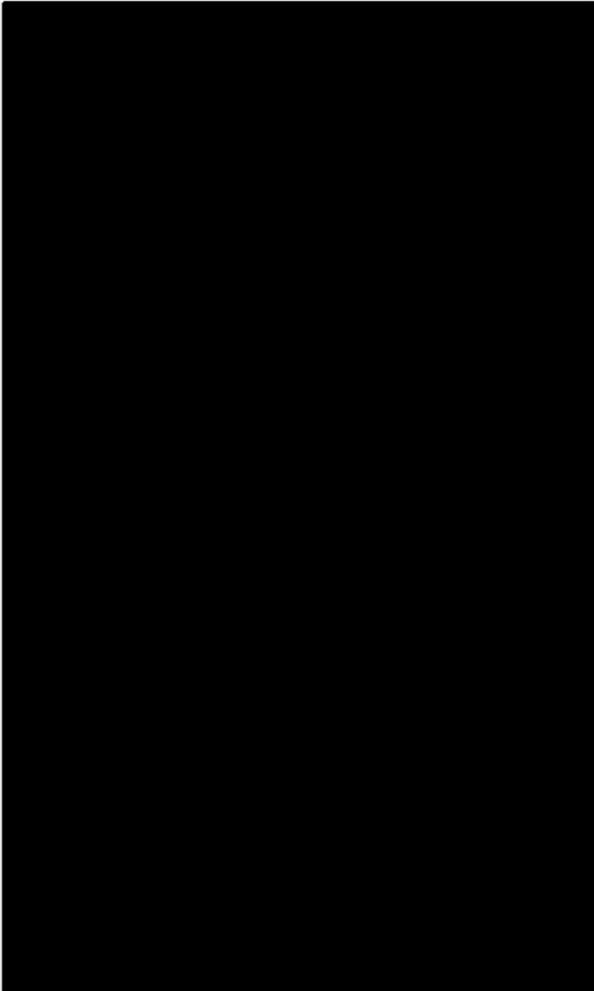
Defendant acknowledges that no threats have been made against him and that he is pleading guilty freely and voluntarily and only because he is guilty.

ga  
FCA

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**19. DISMISSAL OF REMANING COUNTS**

After sentencing, the United States of America will move the court to dismiss any remaining count of the Indictment.



A handwritten signature in black ink, appearing to read "Jorge E. Rivera-Ortiz", is written over a horizontal line.

Jorge Rivera-Ortiz, Esq.  
Counsel for Defendant  
Dated:

A handwritten signature in black ink, appearing to read "Francisco Cabrera", is written over a horizontal line.

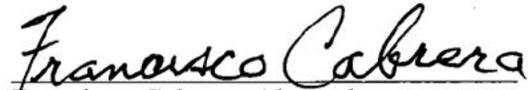
Francisco Cabrera-Alvarado  
Defendant  
Dated: 03/29/2017

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### UNDERSTANDING OF RIGHTS

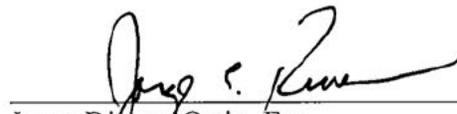
I have consulted with my counsel and fully understand all of my rights with respect to the Superseding Indictment pending against me. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines, Policy Statements, Application, and Background Notes which may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with your attorney. My counsel has translated the plea agreement to me in the Spanish language and I have no doubts to the contents of the agreement. I fully understand this agreement and I voluntarily agree to it.

Date: 03/29/2017

  
Francisco Cabrera-Alvarado  
Defendant

I am the attorney for the defendant. I have fully explained to the defendant her rights with respect to the pending Superseding Indictment. Further, I have reviewed the provisions of the Sentencing Guidelines, Policy Statements, Application, and Background Notes, and I have fully explained to the defendant the provisions of those guidelines which may apply in this case. I have carefully reviewed every part this Plea Agreement with the defendant. I have translated the plea agreement and explained it in the Spanish language to the defendant who has expressed having no doubts as to the contents of the agreement. To my knowledge, the defendant is entering into this agreement voluntarily, intelligently, and with full knowledge of all consequences of defendant's plea of guilty.

Date: 3/29/17

  
Jorge Rivera-Ortiz, Esq.  
Counsel for Defendant

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### STIPULATION OF FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, the United States of America and defendant Francisco Cabrera-Alvarado (hereinafter “defendant” or “CABRERA”) agree that the following recital provides a true and accurate summary of the facts leading to defendant’s acceptance of criminal responsibility for violation of Title 18, U.S.C., Section 371.

CABRERA admitted that starting on a date unknown but no later than on or about September 24, 2013, to on or about October 22, 2015, in the District of Puerto Rico, the defendant and other co-conspirators known and unknown to the Grand Jury, knowingly and willfully conspired and agreed together and with each other, to defraud the United States of and concerning its governmental functions and rights, that is, its right to have its business and its affairs, and particularly the transaction of the official business of the SSA, to be conducted honestly and impartially, free from corruption, fraud, improper and undue influence, dishonesty, unlawful impairment and obstruction.

As part of this conspiracy, the defendant, along with co-conspirators known and unknown to the grand jury, assisted individuals in fraudulently obtaining disability benefits by submitting false and/or fraudulent information to the SSA.

At times material to this Indictment, and as part of the law enforcement investigation, a confidential source (hereinafter “Person A”) was selected to act as a putative patient for [1] AMERICO OMS-RIVERA, among other things, because Person A was generally in good health, and was not suffering from any physical or mental disabling conditions.

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On or about January 14, 2014, Person A had his/her first medical appointment with [1] AMERICO OMS-RIVERA. On June 10, 2014, [2] MAYTE GONZALEZ-MUÑOZ, following instructions of [1] AMERICO OMS-RIVERA, charged Person A \$600.00 for a fraudulent Psychiatric Medical Report and \$1,440.00 for backdating his/her medical file and create twenty-four (24) fictitious medical appointments that never took place.

[1] AMERICO OMS-RIVERA and [2] MAYTE GONZALEZ-MUÑOZ referred Person A to [3] FRANCISCO CABRERA-ALVARADO, a Non-Attorney Representative for the SSA. [3] FRANCISCO CABRERA-ALVARADO would assist Person A in his/her application for disability benefits even though he was well aware of the fact that [1] AMERICO OMS-RIVERA backdated the medical record of Person A.

On May 21, 2014, [3] FRANCISCO CABRERA-ALVARADO met with Person A in order to assist him to fill out the Adult Function Report, SSA Form 3373. During said meeting [3] FRANCISCO CABRERA coached Person A as to what to write in the form in order to get Person A's disability benefits approved.

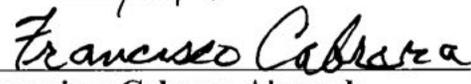
On or about October 22, 2015, a Psychiatric Medical Report signed by [1] AMERICO OMS-RIVERA was submitted to the SSA indicating that Person A was totally disabled to return to work. [1] OMS-RIVERA further reported a total of approximately eleven (11) fictitious appointments that never took place. This was done to create the appearance of a longer history of medical treatment that would increase Person A's chances of getting his/her disability benefits approved. The total amount of loss that resulted from the above-mentioned scheme is more than \$1,500,000.00.

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At trial, the United States would have proven beyond a reasonable doubt that the defendant is guilty as charged in Count One of the Indictment by presenting physical and documentary evidence, including, but not limited to, testimony of witnesses, recordings, documents, and other physical evidence. Full discovery was timely made available to defendant for review.



  
\_\_\_\_\_  
**Jorge Rivera-Ortiz, Esq.**  
Counsel for Defendant  
Date: 3/29/17

  
\_\_\_\_\_  
**Francisco Cabrera-Alvarado**  
Defendant  
Date: 03/29/2017