

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE R. HERNANDEZ GONZALEZ,

Defendant.

Criminal No. 13- 701 (FAB)

2013 OCT 28 PM 5:31 RECEIVED DISTRICT CLERK

PLEA AGREEMENT (Pursuant to Rule 11(c)(1)(A) and (B) FRCP)

TO THE HONORABLE COURT:

COMES NOW the United States of America, by and through its attorneys, Rosa Emilia Rodríguez-Vélez, United States Attorney for the District of Puerto Rico, [REDACTED] First Assistant United States Attorney, and the defendant, José R. Hernández González, and defendant's counsel, [REDACTED], and pursuant to Rule 11(c)(1)(A) and (B) of the Federal Rules of Criminal Procedure, state to this Honorable Court, that they have reached an agreement, the terms and conditions of which are as follows:

1. COUNT TO WHICH DEFENDANT PLEADS GUILTY

The defendant agrees to plead guilty to a Count One of an Information filed against him which charges the defendant, José R. Hernández González, with participating in a Conspiracy to make false statements to the Social Security Administration, in violation of Title 18, United States Code, Section 371.

[Handwritten signature]

[Handwritten initials]

## 2. STATUTORY PENALTIES

The statutory penalty for the offense charged in Count One of the Information is a term of imprisonment for up to five (5) years, a fine of not more than two hundred fifty thousand dollars (\$250,000.00), or both, and a term of supervised release of not more than three (3) years in addition to any term of incarceration.

## 3. SPECIAL MONETARY ASSESSMENT

Defendant understands that the Court must impose a mandatory penalty assessment of one hundred dollars (\$100.00) to be deposited in the Crime Victim Fund, pursuant to Title 18, United States Code, Section 3013. Prior to or at the time of sentencing, the defendant shall pay the special monetary assessment pursuant to Title 18, United States Code, Section 3013(a).

## 4. FINES AND RESTITUTION

The defendant is aware that the Court may, pursuant to Section 5E1.2(i) of the Sentencing Guidelines, Policy Statements, Application, and Background Notes, order the defendant to pay a fine sufficient to reimburse the government for the costs of any imprisonment, probation or supervised release, or restitution to the Social Security Administration.

## 5. SENTENCING GUIDELINE CALCULATIONS

Defendant acknowledges that the Court may impose a sentence in accordance with the applicable provisions of the Sentencing Guidelines, Title 18, United States Code, Section 3551, et. seq. (hereinafter Guidelines) as Guidelines are advisory in nature. Furthermore, the defendant acknowledges to be aware that parole has been abolished and that the imposition of sentence may not be suspended.



The United States and the defendant agree that the Sentencing Guidelines calculations will be calculated by the United States Probation Department, in accordance with the United States Sentencing Guidelines.

6. RULE 11(c)(1)(A) and (B)

The defendant is aware that the sentence to be imposed is within the sound discretion of the sentencing judge and may be imposed in accordance with the United States Sentencing Guidelines, Policy Statements, Application, and Background Notes, which are advisory. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense to which the defendant pleads guilty. If the Court should impose a sentence up to the maximum established by statute, the defendant cannot, for that reason alone, withdraw a guilty plea, and will remain bound to fulfill all of the obligations under this plea agreement.

7. SPECIFIC SENTENCE RECOMMENDATION

The government and the defendant may argue for the imposition of any sentences allowable by law, including adjustments or departures to the defendant's base offense, and sentencing factors pursuant to Title 18, United States Code, Section 3553.

8. STIPULATION AS TO CRIMINAL HISTORY CATEGORY

The parties stipulate that the defendant has no prior criminal history, and therefore is a Criminal History Category I.

9. SATISFACTION WITH COUNSEL

The defendant represents to the Court he is satisfied with counsel, [REDACTED] and indicates that counsel has rendered effective legal assistance.



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

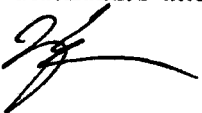
Defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

a. If the 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 the 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. The defendant and the defendant's attorneys 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 the defendant is presumed innocent, that it could not convict the defendant unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately, if there were multiple charges.

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 the 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 the defendant. The defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, the defendant could



*Seed*

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

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

**12. STATEMENT OF FACTS**

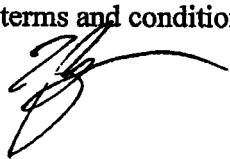
The accompanying Statement of Facts signed by the defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Statement of Facts and agrees that the facts therein are accurate in every respect and, had the matter proceeded to trial, that the United States would have proven those facts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

**13. LIMITATIONS OF PLEA AGREEMENT**

Defendant understands that this plea agreement extends only to the United States Attorney's Office for the District of Puerto Rico and the defendant; it does not bind any other federal district, state or local authorities.

**14. ENTIRETY OF PLEA AGREEMENT**

This written agreement constitutes the complete Plea Agreement between the United States, the defendant, and the defendant's counsels. 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 terms and conditions not stated herein.



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**15. AMENDMENTS TO PLEA AGREEMENT**

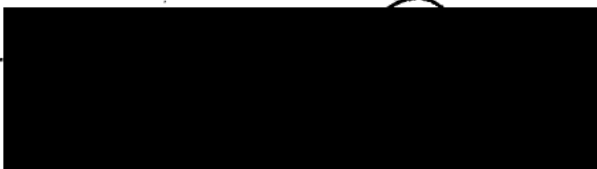
No other promises, terms or conditions will be entered unless in writing and signed by all of the parties.

**16. VOLUNTARINESS OF GUILTY PLEA**

The defendant understands that the defendant is entering into this plea agreement without compulsion, threats, or any other promises from the United States Attorney or any of its agents. The defendant acknowledges that no threats have been made against the defendant and that the defendant is pleading guilty freely and voluntarily because the defendant is guilty.


**17. WAIVER OF APPEAL**

The defendant hereby agrees that if this Honorable Court accepts this agreement and sentences him within the applicable guideline range, the defendant waives and surrenders his right to appeal the judgment and sentence in this case.

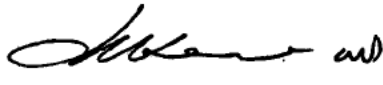


First Assistant U.S. Attorney  
Dated: 10-23, 2013

ROSA EMILIA RODRIGUEZ-VELEZ  
United States Attorney



Counsel for Defendant  
Dated: 28.X.2013 2013



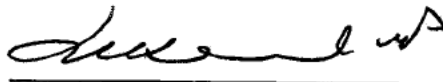
JOSÉ R. HERNÁNDEZ González  
DEFENDANT

DATED: 28 October 2013

*dent*

I have consulted with my counsel and fully understand all of my rights with respect to the 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 my attorney. I fully understand this agreement and I voluntarily agree to it.

Date: 25 October 2013



José R. Hernández González  
Defendant

I am the attorney for the defendant. I have fully explained to the defendant his rights with respect to the pending Indictment. Further, we 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. 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: 23-X-2013



Counsel for Defendant



**GOVERNMENT'S VERSION OF THE FACTS**

In conjunction with the submission of the accompanying Plea Agreement in this case, the United States of America submits the following statement setting forth the United States' version of the facts leading to the defendant's acceptance of criminal responsibility for defendant's violations of Title 18, United States Code, Section 371.

The defendant, José R. Hernández González, was a practicing neurologist with offices in Rio Piedras, Puerto Rico. Beginning in approximately the year 2008, Dr. Hernández changed the focus of his practice to treating many applicants for Social Security Administration disability insurance benefits. He associated himself with a non-attorney representative by the name of Samuel Torres Crespo, and they agreed to share in the proceeds Torres Crespo received as payment from approved beneficiaries. Dr. Hernández and Torres Crespo would exaggerate medical complaints and symptoms in order to maximize the probability that applicants would be approved for the disability benefits. Patients were also referred to medical specialists, including psychiatrists, for medical diagnosis and treatment, where the patient's condition did not warrant the referral. Two of these psychiatrists were Erica Rivera Castro, M.D., and Rafael Miguez Balseiro, among others. These referrals were made to particular doctors who would also exaggerate or fabricate conditions for the patients, in order to strengthen the application for DIB.

[Redacted]  
First Assistant U.S. Attorney  
Dated: 10-25-13, 2013

[Redacted]  
Counsel for Defendant  
Dated: 23-X-2013, 2013

José R. Hernández González  
JOSÉ R. HERNÁNDEZ GONZÁLEZ  
DEFENDANT

DATED: 28 October 2013

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