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U.S. DISTRICT COURT
DISTRICT OF PUERTO RICO
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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff,

v.

RAFAEL MIGUEZ BALSEIRO,
Defendant.

Criminal No. 14- 569 (FAB)

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, [REDACTED] Special Assistant U. S. Attorney, and the defendant, Rafael Miguez Balseiro, M.D., 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, Rafael Miguez Balseiro, agrees to plead guilty to a one count Information which charges him with having failed to keep documents or make required entries, which he was required by law to maintain, in violation of Title 26, United States Code, Section 5603(b). The absence of records was related to the monies paid by RMC for medical visits and a medical report submitted to the Social Security Administration.

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2. STATUTORY PENALTIES

Count One of the Information is a Class A Misdemeanor. The statutory penalty for Count One is a term of imprisonment of no more than one year, a fine of not more than one thousand dollars (\$1,000.00), or both.

3. SPECIAL MONETARY ASSESSMENT

Defendant understands that the Court must impose a mandatory penalty assessment of twenty-five dollars (\$25.00) per Class A Misdemeanor count of conviction, for twenty-five dollars (\$25.00) 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 5B1.2(f) 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. There were no actual losses to the Social Security Administration as a result of this case.

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 following Sentencing Guidelines calculations are reasonable for the imposition of sentence in this case:

SENTENCING GUIDELINES CALCULATION TABLE	
BASE OFFENSE LEVEL [U.S.S.G. § 2T2.2]	4
ACCEPTANCE OF RESPONSIBILITY [U.S.S.G. § 3E1.1]	-2
TOTAL OFFENSE LEVEL (0 - 6 months)	2

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

The defendant is aware that the sentence 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.

RHM

7. SPECIFIC SENTENCE RECOMMENDATION

The parties will jointly recommend that the defendant be sentenced to a term of one year of probation. The imposition of a fine will be left to the discretion of the Honorable Court.

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8. STIPULATION AS TO CRIMINAL HISTORY CATEGORY

The parties do not stipulate to Criminal History Category.

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.

10. 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, and 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

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.

11. 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.

12. 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.

13. 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.

14. **AMENDMENTS TO PLEA AGREEMENT**

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

15. **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.

16. **WAIVER OF APPEAL**

The defendant hereby agrees that if this Honorable Court accepts this agreement and sentences her according to its term, conditions and recommendations, defendant waives and surrenders his right to appeal the judgment and sentence in this case.

ROSA EMILIA RODRIGUEZ-VELEZ
United States Attorney

[Redacted Signature]

Dated: 9-23, 2014

[Redacted Signature]

Special Assistant U.S. Attorney
Dated: 9/23, 2014

[Redacted Signature]

Counsel for Defendant
Dated: 9/24, 2014

Rafael Miguez Balseiro

Rafael Miguez Balseiro, M.D.

Defendant
Dated: 9/24, 2014

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: 9/24/2014

Rafael Miguez Balseiro
 Rafael Miguez Balseiro, M.D.
 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: 9/24/2014



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 26, United States Code, Section 5603(b)(1) and (2).

Between in or about January, 2012 through in or about July, 2012, in the District of Puerto Rico, the defendant, the defendant, RAFAEL MIGUEZ BALSEIRO, a psychiatrist licensed to practice medicine in Puerto Rico, treated RCM as a psychiatric patient. During that period of time, the defendant received monies for medical visits from RCM, as well as money for a medical report to be submitted to the Social Security Administration.

The defendant failed to keep or make a required entry with respect to those payments, that is, he failed to maintain a cash ledger of the monies paid by RCM for medical visits and for a medical report filed with the Social Security Administration, for purposes of accurate reporting of these monies as income pursuant to IRS Form 1040PR, as required by regulations, without the intent to defraud the United States, in violation of Title 26, United States Code, Section 5603(b)(1) and (2).

[Redacted signature]

First Assistant U.S. Attorney
Dated: 9-23-14, 2014

[Redacted signature]

Special Assistant U.S. Attorney
Dated: 9/23, 2014

[Redacted signature]

Counsel for Defendant
Dated: 9/23/14, 2014

Rafael Miguez Balseiro
Rafael Miguez Balseiro, M.D.

Defendant
Dated: 9/23, 2014