

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 23-cr-00259-CNS

UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRICK ESCH,

Defendant.

PLEA AGREEMENT

The United States of America (the government), by and through Bryan David Fields, Assistant United States Attorney for the District of Colorado, and the defendant, Patrick Esch, personally and by counsel, Greg Goldberg, Esq., and John Sullivan, Esq., submit the following Plea Agreement pursuant to D.C.COLO.LCrR

11.1. This agreement binds only the Criminal Division of the United States Attorney's Office for the District of Colorado and the defendant.

I. AGREEMENT

A. Defendant's Plea of Guilty:

1. The defendant agrees
 - (a) to waive indictment and plead guilty to an Information charging conspiracy to defraud an agricultural insurance program in violation of 18 U.S.C. § 371;
 - (b) to waive certain appellate and collateral attack rights, as explained in detail below.

- (c) be liable for restitution to the United States in the amount of \$2,094,441.65 which could include joint and several liability for some or all of the amount with other as yet uncharged co-conspirators;
- (d) agree not to contest forfeiture, as more fully set forth below.

B. Government's Obligations:

2. This agreement is made pursuant to Fed.R.Crim.P.11(c)(1)(A) and (B).

The government agrees that the sentence in this case should be premised on a Total Offense Level of 21, before any applicable Chapter 5 departures and agrees that its recommended sentence in this case will not exceed the the bottom end of a sentencing range based on a Total Offense Level of 21. The government further agrees not to bring other charges against the defendant based on information currently known to the United States Attorney's Office, District of Colorado concerning the scheme to defraud an agricultural insurance program providing rainfall index policies by damaging rain gauges owned or operated by the United States government. Should the plea of guilty be vacated on the motion of the defendant, the government may, in its sole discretion, move to reinstate any or all of the counts dismissed pursuant to this agreement and potentially file a superseding indictment.

3. Provided the defendant does not engage in prohibited conduct or otherwise implicate USSG §§ 3C1.1 and 3E1.1, cmt. n.4 between the guilty plea and sentencing in this case, the government agrees that the defendant should receive a two-level reduction for acceptance of responsibility pursuant to USSG § 3E1.1(a)

and agrees to file a motion requesting that the defendant receive a one-level reduction for acceptance of responsibility pursuant to USSG §3E1.1(b).

4. The government agrees to recommend a sentence at the bottom end of the applicable guideline range based on the criminal history and total offense level, calculated by the Court at sentencing.

C. Defendant's Waiver of Appeal:

5. The defendant is aware that 18 U.S.C. § 3742 affords the right to appeal the sentence, including the manner in which that sentence is determined. Understanding this, and in exchange for the concessions made by the government in this agreement, the defendant knowingly and voluntarily waives the right to appeal any matter in connection with this prosecution, conviction, or sentence (including the restitution order), unless it meets one of the following criteria:

- (a) the sentence exceeds the maximum sentence provided in the statute of conviction, 18 U.S.C. § 1361;
- (b) the sentence exceeds the top end of the advisory guideline range from the Sentencing Guidelines that applies for the defendant's criminal history (as determined by the district court) at a total offense level of 21; or
- (c) the government appeals the sentence imposed.

If the first criterion applies, the defendant may appeal only the issue of how his sentence exceeds the statutory maximum sentence. But if one of the latter two criteria apply, the defendant may appeal on any ground that is properly available in an appeal that follows a guilty plea.

6. The defendant also knowingly and voluntarily waives the right to challenge this prosecution, conviction, or sentence (including the restitution order) in any collateral attack (including, but not limited to, a motion brought under 28 U.S.C. § 2255). This waiver provision does not prevent the defendant from seeking relief otherwise available in a collateral attack on any of the following grounds:

- (a) the defendant should receive the benefit of an explicitly retroactive change in the sentencing guidelines or sentencing statute;
- (b) the defendant was deprived of the effective assistance of counsel; or
- (c) the defendant was prejudiced by prosecutorial misconduct.

7. The Defendant also waives the right to appeal any sentence imposed below or within the Guideline range upon a revocation of supervised release in this case number, except where the defendant unsuccessfully objects to the grade of violation applied by the court during the district court revocation proceedings. In that event, this waiver does not apply and the defendant may appeal the sentence imposed upon a revocation of supervised release, even if that sentence falls below or within the guideline range calculated by the court.

8. The Defendant also waives the right to appeal the denial of any motion filed under 18 U.S.C. § 3582(c)(1)(A) where such denial rests in any part upon the court's determination that a sentence reduction is not warranted under the factors set forth in 18 U.S.C. § 3553(a). This waiver does not apply to an appeal of a denied § 3582(c)(1)(A)(i) motion where the district court, in denying the motion on § 3553(a)

grounds, failed to consider the facts allegedly establishing extraordinary and compelling circumstances as part of its § 3553(a) analysis.

D. Forfeiture of Assets

9. The defendant admits the forfeiture allegation. The defendant further agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, identified herein pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) whether in the possession or control of the United States, the defendant, the defendant's nominees, or elsewhere, namely, a forfeiture money judgment in the amount of \$2,094,441.65. The defendant further agrees to the forfeiture of any substitute assets up to the value of any property described above pursuant to 21 U.S.C. § 853(p) and Federal Rules of Criminal Procedure 32.2(e).

10. Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty this Court may impose upon the defendant in addition to forfeiture. However, the United States Attorney's Office for the District of Colorado will recommend to the Attorney General that any net proceeds derived from the judicially forfeited assets be remitted or restored to eligible victims of the offense, for which the defendant has pleaded guilty, pursuant to 18 U.S.C. § 981(e), 28 C.F.R. pt. 9, and any other applicable laws, if the legal requirements for recommendation are met and to relay any such payments made to victims through remission or restoration to the Clerk of Court to be offset against restitution. The defendant understands that the United

States Attorney's Office only has authority to recommend such relief and that the final decision of whether to grant relief rests solely with the Department of Justice, which will make its decision in accordance with applicable law.

II. ELEMENTS OF THE OFFENSES

11. The parties agree that the crime of conspiracy charged in the Information, a violation of 18 U.S.C. § 371, has the following elements:

- (a) *First*, that the defendant agreed with at least one other person to violate the law;
- (b) *Second*, that one of the conspirators engaged in at least one overt act furthering the conspiracy's objective;
- (c) *Third*, that the Defendant knew the essential objective of the conspiracy;
- (d) *Fourth*, that there was interdependence among the members of the conspiracy, that is, members in some way or manner intended to act together for their shared mutual benefit within the scope of the conspiracy charged.¹

12. The parties further agree that the object of the conspiracy — to make a false statement to a — has the following elements:

- (a) *First*, the APPROVED INSURANCE PROVIDER, was reinsured by the Federal Crop Insurance Corporation;
- (b) *Second*, the defendant made materially false statements to the APPROVED INSURANCE PROVIDER;
- (c) *Third*, defendant knew the statement was false when he made it;

¹ Tenth Circuit Pattern Jury Instruction No. 2.19 (2021 ed.).

- (d) *Fourth*, defendant intended to influence the APPROVED INSURANCE PROVIDER for the purpose of obtaining an indemnity under a rainfall index insurance policy.²

III. STATUTORY MAXIMUM SENTENCE

13. The maximum sentence for a violation of the count in the Information is: not more than 5 years' imprisonment; maximum term of supervised release 3 years; maximum fine \$250,000; \$100 mandatory victim's fund assessment fee; and restitution in the amount of \$2,094,441.65.

IV. COLLATERAL CONSEQUENCES

14. The conviction may cause the loss of civil rights, including, but not limited to, the rights to possess firearms, vote, hold elected office, and sit on a jury.

V. STIPULATION OF FACTS

15. The factual basis for this plea is set forth below. Because the Court must, as part of its sentencing methodology, compute the advisory guideline range for the offense of conviction, consider relevant conduct, and consider the other factors set forth in 18 U.S.C. § 3553, additional facts may be included below which are pertinent to those considerations and computations. To the extent the parties disagree about the facts set forth below, the stipulation of facts identifies which facts are known to be in dispute at the time of the execution of the plea agreement.

16. This stipulation of facts does not preclude either party from presenting non-contradictory additional facts which are relevant to the Court's guideline

² Tenth Circuit Pattern Jury Instruction No. 2.48 (2021 ed.) (modified)

computation, to other 18 U.S.C. § 3553 factors, or to the Court's overall sentencing decision.

17. The parties stipulate that the following facts are true and correct:

18. The relevant conduct in this case occurred from approximately July 2016 until approximately April 2017.

19. At all times relevant to the conduct described below, the defendant was a Colorado resident with a home in Baca County, Colorado. Unless otherwise specified, all of the conduct below took place within the state and District of Colorado.

A. The Federal Crop Insurance Program

1. The Structure of the Program

20. The United States Department of Agriculture's Risk Management Agency administers the Federal Crop Insurance Program through the Federal Crop Insurance Corporation ("FCIC"). Federal crop insurance is typically sold through private insurance companies, called Approved Insurance Providers. These private insurance companies directly insure producers and their crops, and then the FCIC reimburses private insurance companies pursuant to standard reinsurance agreements.

21. The FCIC makes several types of crop insurance available to cover different types of risk. One broad category of plans is called "Multiple Peril Crop Insurance," which can itself come in different forms. Among them is insurance based on the Rainfall Index.

22. The Rainfall Index is generated from weather data collected and maintained by the National Oceanic and Atmospheric Administration's Climate Prediction Center (the "Climate Prediction Center"). The index reflects how much precipitation is received relative to the long-term average for a specified area and timeframe.

B. Rainfall Index Annual Forage Insurance Plans

23. The Rainfall Index Annual Forage Insurance Plan provides coverage for annual crops planted for forage or fodder intended for, but not limited to, grazing, haying, grazing/haying, grain/grazing, green chop, grazing/green chop, or silage. This product is similar to area risk insurance and provides area-wide coverage. The program is based on the Rainfall Index and insures producers based on the deviation from normal precipitation.

a. The Rainfall index uses National Oceanic and Atmospheric Administration Climate Prediction Center data. The areas where the Rainfall Index is available have been divided into 12 by 12 mile grids. These grids do not follow county lines or township boundaries. Producers must select at least two, 2-month time periods, called index intervals, when rain is important to the operation. Insurance payments are calculated using National Oceanic and Atmospheric Administration Climate Prediction Center data for the grid(s) and the chosen index interval(s). Cross-referencing these intervals with the grids results in an expected grid index, which is the historically expected precipitation expressed as a percentage of prior time periods. As precipitation occurs during a given interval, the

data from National Oceanic and Atmospheric Administration Climate Prediction Center is used to create the final grid index. If the final grid index is less than the trigger grid index, which is the coverage level multiplied by the expected grid index a loss payment to the insured is issued. This insurance product only provides coverage for a lack of rainfall and is based on rainfall for the entire grid, not individual farms or ranches or specific weather stations within a particular grid. An index of 100% is considered average precipitation. Anything below 100% represents below-average precipitation triggering payment and anything above 100% is above-average precipitation.

b. The program is focused on the amount of precipitation, not on actual crop production. This means that a farmer can receive a payment when precipitation is below the historical normal level even if the relevant farmland suffers no loss in productivity.

c. The gridded precipitation data is not based on the measurement of precipitation from a specific rain gauge in a corresponding grid. Rather, the Climate Prediction Center gets data from a minimum of four reporting stations closest to the center of the grid, with different stations potentially used from day to day if a particular reporting station has no data on a given day, which could result from storm or other environmental damage to, or intentional tampering with, the station. This means that a farmer might have more or less rain in a specific location than reflected in the interpolated value for the entire grid.

24. A farmer who purchases a Rainfall Index Annual Forage Insurance

Plan pays a premium and may receive an indemnity based on several factors:

- a. First, the farmer selects the grid where he would grow his forage, namely, where his farm is located. Because his farm might sprawl over more than one grid, he might select multiple grids.
- b. Second, the farmer selects the two-month period (the index interval) when he needs precipitation to produce the forage on that grid. If, say, a farmer needs rain in March and April to grow the forage and is concerned about a drought during that period, he would select March and April as the index interval being insured. A farmer may select and pay for insurance for as many two-month periods as he desires.
- c. The third decision by the farmer is selecting a “productivity factor.” The productivity factor is a variable that allows a farmer to claim that his particular farmland is more or less productive than a base value in his county. If, for example, a farmer thinks his farm is 20% more productive than the base value, he would choose a productivity factor of 120. If he thought it was 20% less productive, he would choose a productivity factor of 80.
- d. Fourth, a farmer selects his “coverage level.” This is used to determine the “trigger grid index,” which determines whether the farmer will receive an indemnity. The coverage level is also expressed as a percentage. If, for example, a farmer selects a coverage level of 90, then the “trigger grid index” is threshold of precipitation that will cause the insurance to indemnify the farmer. Rainfall that is equal or more than 90% of the expected grid index will result in no

indemnity; rainfall less than 90% of the expected grid index will result in an indemnity.

e. Premiums are calculated using (1) the number of acres insured, (2) the productivity factor selected for the insured land, and (3) the coverage level. Take, for example, 100 acres of farmland in a county with a base value of \$20 per acre of farmland. If the farmer insures all of that farmland, states that his farm is 20% more productive than average, and wants insurance when the precipitation is less than 90% of the historical average for a particular index interval, his monthly premium to insure the farmland in that interval is $(100 \text{ (acres)} * (.90 \text{ (coverage level)} * 1.20 \text{ (productivity factor)} * \$20 \text{ (base rate)})$ equal to \$2,160 of policy protection. Premium rates are set based on Climate Protection Center data. If the premium rate is, say, 0.1000 then the premium for that amount of protection is approximately \$216.

f. Fifth and finally, a farmer can allocate the premiums on farmland in a particular grid over several index levels. To take the example above, a farmer can allocate his premiums over the index intervals in April and May and in July and August, putting 60% towards the first and 40% to the second. Under this scenario, he would have policy protection of \$1,296 in premium on the first interval and \$864 for the second.

g. The farmer would receive an indemnity if the “trigger grid index” — his coverage level multiplied by the expected grid index — is less than the final grid index. The indemnity amount is based on a “payment calculation factor”

that is equal to the trigger grid index minus the final grid index divided by the trigger grid index. That calculation factor is then multiplied by the premium to give the payment per acre. Drawing from the examples above, assume that the farmer insured his 100 acres of farmland 100% in the April and May index interval at a 90% coverage level. If the “final index level” — the final precipitation calculated by the Climate Protection Center — was 80, then the farmer would get an indemnity because the precipitation was 80% less than expected. The payment calculation factor would be $(90-80/90)$ 0.111. The total indemnity for the \$2,160 of policy protection purchased for \$216 would be approximately \$239.76.

h. The Federal Crop Insurance Corporation subsidizes the 90% coverage level at 51%. In the above example, this means that the government would have paid approximately \$110.16 of the \$216 premium, while the farmer would have paid the remaining \$105.85.

C. Weather Gauges

25. The National Oceanic and Atmospheric Administration and National Weather Service used various devices to collect climate data, including the Automated Surface Observing System (ASOS). ASOS served as the nation's primary surface weather observing network and supports forecast activities, aviation operations, and the needs of the meteorological, hydrological, and climatological research communities. ASOS units were originally deployed with the Heated Tipping Bucket (HTB) rain gauge as the precipitation accumulation sensor. The All Weather Precipitation Accumulation Gauge (AWPAG) measures

precipitation by weighing total accumulation using rain gauge technology to convert weight to an electrical signal. Only certain NWS ASOS units were equipped with the AWPAG. At the time of the events described in this plea agreement, there were currently more than 900 ASOS sites in the United States to include three NOAA-NWS ASOS units in southeastern Colorado. One was located in the Springfield Comanche National Forest in Baca County (Unit ID: KSPD) at the Little Washington Work Center. It is colloquially known as the “Little Washington” rain gauge. A second was located at the La Junta Municipal Airport in Otero County (Unit ID: KLHX) and is colloquially known as the La Junta Airport rain gauge. The third was near Lamar Colorado (Unit ID: KLAA). In addition to those AWPAG gauges, the National Weather Service operated rain gauges in Coolidge, Kansas (Unit ID: COOK1); Syracuse, Kansas (Unit ID: SYRK1); Elkhart, Kansas (Unit ID: EHA), Kendall, Kansas (Unit ID: KENK1); Walsh, Colorado (Unit ID: WLS01); Kim, Colorado (Unit ID: KCGC2), Ellicott, Colorado (Unit ID: BSQC2), and Ordway, Colorado (Unit ID: ORDC2).

D. The Defendant’s Farms and Insurance Policies

26. The Defendant was a farmer in Southeast Colorado with a farm in Baca County, Colorado.

E. The Defendant’s tampering with rain gauges and receipt of insurance indemnities under false pretenses

27. The defendant agreed with EDWARD DEAN JAGERS II and others, known to the parties but identified here as Co-Conspirators 1 and 2 (“CC-1” and “CC-2”) for approximately a 10-month period between July 2016 and approximately

June 2017 to engage in a scheme to fraudulently obtain insurance indemnities from the APPROVED INSURANCE PROVIDER under the false pretense that there was less rain over the relevant area than was actually the case. To carry out that scheme the members of the conspiracy tampered with, damaged, and used other means to prevent rain gauges in southeast Colorado from accurately measuring rainfall. It was part of the agreement that CC-1 would tamper with the Little Washington rain gauge while JAGERS tampered with the Lamar rain gauge. The defendant agreed to tamper with rain gauges elsewhere in Colorado and Kansas and CC-2 agreed to help him with this task in return for payment of money and in connection with extortion of the defendant, as explained below.

28. The Co-Conspirators used various means and methods to tamper with rain gauges. The defendant covered gauges with agricultural devices, but used other means as well, such as filling gauges with silicone to prevent them from collecting moisture, cutting wires on the gauges, or detaching and then tipping over the bucket designed to collect precipitation. CC-1 used a pan, sometimes referred to as a “pie tin” or a “cake pan” to cover the Little Washington rain gauge during precipitation events. EDWARD DEAN JAGERS II typically used an agricultural disc blade to cover up Lamar rain gauge. CC-2 covered gauges with agricultural devices, used a hammer and tap to punch holes in the collection mechanism and removed the collection bowl from gauges. The defendant was not aware of the specific methods that were used his coconspirators, but he knew that others involved in the conspiracy were tampering with rain gauges to accomplish its

objective, which was to prevent those gauges from operating so that the defendant, CC-1 and EDWARD DEAN JAGERS could then obtain indemnities from the APPROVED INSURANCE PROVIDER under the false pretense that less rain had fallen than was actually the case.

29. The government's evidence of tampered rain gauges is summarized in the chart below, which identifies the tampered rain gauges according to their National Weather Service (NWS) identification code and name, the date the tampering was identified, how the tampering was reported, the suspected method of tampering, and the government agency that owned the rain gauge. The date the tampering was discovered is not necessarily the date of the actual tampering, which would have occurred on a prior unknown date:

	Gauge	Date	Reporter	Suspected Method	Owner
1.	SYRK1 Syracuse, Kansas	01/01/17	USGS Employee	Wires Cut	USGS
2.	COOK1 Coolidge, Kansas	02/22/17	USGS Employee	Wires Cut	USGS
3.	KLHX La Junta, Colorado	03/21/17	NWS Employee	Hole punched in brass collector	FAA
4.	ORDC2 Ordway, Colorado	03/28/17	NWS Employee	Standard Rain Gauge (SRG) missing and, after replacement, was found to have a hole puncture	NWS
5.	SYRK1	03/28/17	USGS Employee	Silicone found in funnel	USGS

	Syracuse, Kansas				
6.	COOK1 Coolidge, Kansas	03/29/17	USGS Employee	Silicone found in funnel	USGS
7.	KSPD Springfield, Colorado	03/29/17	NWS Employee	"Cake pan" found covering gauge	NWS
8.	BSQC2 Ellicott, Colorado	March 2017	Cooperative Observer Program volunteer	Standard Rain Gauge (SRG) missing	NWS
9.	KSPD Springfield, Colorado	04/03/17	Baca County Sheriff's Office (BCSO) Deputy	"Cake pan" found covering gauge	NWS
10.	KLHX La Junta, Colorado	04/05/17	NWS Employee	Silicone found in bucket	FAA
11.	WLS01 Walsh, Colorado	04/05/17	Colorado State University Employee	Silicone found in funnel	NWS
12.	EHA Elkhart, Kansas	Sometime before 04/06/17	NWS Employee	Metal Plate	NWS
13.	EHA Elkhart, Kansas	Sometime before 04/06/17	NWS Employee	Silicone in Funnel	NWS
14.	KLHX La Junta, Colorado	04/21/17	NWS Employee	Silicone found in bucket	FAA

30. The defendant personally tampered with gauges at Walsh, Coolidge, Syracuse, and Elkhart. In one case, the defendant inserted silicone into the gauge's funnel; in other another instance, the defendant would loosen the bolts holding the gauge's rain bucket in place so that it would tip over. And in other cases, the defendant would cut the wires connecting the gauge to its power source. The

defendant gave CC-2 instructions, generally, to tamper with rain gauges but was not aware of all of the means CC-2 used to accomplish that task. The defendant did give CC-2 advice on using an agricultural pan to cover rain gauges so that they would not accurately record rainfall.

31. The defendant stipulates and agrees that he submitted claims seeking an indemnity under policies 1017580, 1017581, 1024536, 1021588, 1027437 and 1027438 under the false pretense that rainfall measurements were accurate when, in fact, the defendant had taken steps to ensure that they were not and knew they were not.

32. The parties stipulate and agree that, as a result of the conspiracy, the defendant, CC-1 and EDWARD DEAN JAGERS submitted false and fraudulent statements to the APPROVED INSURANCE PROVIDER resulting in inflated indemnities of \$3,131,066.65, of which \$2,094,441.65 was attributable to the defendant. The remaining amount, or \$1,036,625.00, was attributable to CC-1 and EDWARD DEAN JAGERS. This amount represents the amount the defendant caused the government to lose as a result of his conspiratorial agreement to tamper with rain gauges for the purpose of defrauding the APPROVED INSURANCE PROVIDER and, ultimately, the Federal Crop Insurance Corporation.

F. CC-2's extortion of the defendant, and the defendant's efforts to obtain false affidavits from CC-2

33. In August 2020, CC-2 was arrested for an unrelated offense and was held at Bent County Correctional Facility. After being bonded out of jail, CC-2 violated the conditions of his release, was subsequently convicted of additional

felonies in state court, and was detained at the Pueblo County Jail and other local jails until his death in August 2023.

34. On multiple occasions between 2019 and 2020, CC-2 extorted the defendant by threatening to go to the authorities with information about the rain gauge scheme unless the defendant agreed to bail CC-2 out of jail. Specifically:

a. In January 2019, GIRLFRIEND 1, whose identity is known to the parties, reached out to defendant on CC-2's behalf to request that the defendant pay a large amount of money for CC-2's bail, and insinuated that CC-2 would report the defendant to authorities if the defendant refused to do so. On or about January 18, 2019, the defendant posted a bond of approximately \$3,000 to bail CC-2 out of jail. The defendant then prepared affidavits for GIRLFRIEND 1 and CC-2's respective signatures in which GIRLFRIEND 1 and CC-2 denied defendant's involvement in any effort to tamper with rain gauges and in which each respectively said that if one or the other said anything to the contrary, such statements were "lies and false and should not be believed."

b. In May 2019, CC-2 again contacted the defendant requesting that the defendant pay a large amount of money to bail CC-2 out of jail. The defendant again conceded to CC-2's demands. On or about May 23, 2019, the defendant posted a bond of approximately \$10,000 to bail CC-2 out of jail. The following day, CC-2 contacted the defendant, demanding that the defendant pay CC-2 \$21 million or else CC-2 would report the defendant to the authorities. The defendant declined to pay CC-2 \$21 million, as he did not have the money.

c. In August and September 2020, CC-2 once again contacted the defendant requesting that the defendant pay CC-2's bail, this time in the amount of \$46,000. In letters sent to the defendant, CC-2 again threatened to report the defendant to the authorities; CC-2 also threatened to disclose to the authorities untruthful allegations regarding the involvement of EDWARD DEAN JAGERS in the rain gauge scheme. In response to CC-2's threats, the defendant agreed to meet GIRLFRIEND 2, whose identify is known to the parties, at a truck stop in Lamar, Colorado, where he dictated additional affidavits for CC-2's signature in which CC-2 asserted, under the penalty of perjury, that any accusations by CC-2 regarding the defendant and/or EDWARD DEAN JAGERS were false. After the meeting with GIRLFRIEND 2 in Lamar, Colorado, the defendant agreed to post CC-2's bond. On or about October 5, 2020, the defendant posted a bond of \$46,000 to bail CC-2 out of jail.

35. In addition to the bail demands described above, CC-2 also extorted the defendant in various additional instances, including instances in which CC-2 threatened to and did act as a *qui tam* whistleblower and filed a lawsuit against Defendant under the False Claims Act related to the rain gauge scheme. Other instances of extortion include::

a. In approximately 2016, CC-2 stole an all-terrain vehicle and sold it for CC-2's own personal gain. When confronted by the defendant, CC-2 acknowledged that CC-2 had stolen the defendant's property but indicated that the defendant had no recourse because CC-2 would report the defendant's participation

in the scheme to authorities if the defendant took any action to report CC-2's misconduct.

b. CC-2 periodically demanded that the defendant pay large cash payments to CC-2, threatening that CC-2 would report the defendant's participation in the scheme to the authorities if the defendant refused to pay CC-2. In response to these demands, the defendant transmitted several large cash payments to CC-2, including separate payments of \$8,000 (handed to CC-2 and GIRLFRIEND 2 at a truck stop in Lamar, Colorado); \$4,000 (handed to GIRLFRIEND 2 at a gas station in Las Animas, Colorado); \$3,000 (handed to GIRLFRIEND 2 at a truck stop in Springfield, Colorado); and \$3,000 (left inside CC-2's pickup truck park in Ordway, Colorado), respectively.

c. In approximately August 2023, CC-2 escaped from prison, triggering a nationwide manhunt, and causing the defendant and his family to go into hiding. Approximately two weeks after the escape, CC-2 was found dead.

VI. ADVISORY GUIDELINE CALCULATION

36. The parties understand that the imposition of a sentence in this matter is governed by 18 U.S.C. § 3553. In determining the particular sentence to be imposed, the Court is required to consider seven factors. One of those factors is the sentencing range computed by the Court under advisory guidelines issued by the United States Sentencing Commission. In order to aid the Court in this regard, the parties set forth below their estimate of the advisory guideline range called for by the United States Sentencing Guidelines. To the extent that the parties disagree

about the guideline computations, the recitation below identifies the matters which are in dispute.

37. The Guideline calculation below is the good-faith estimate of the parties, but it is only an estimate. The parties understand that the government also has an independent obligation to assist the Court in making an accurate determination of the correct guideline range. To that end, the government may argue that facts identified in the presentence report, or otherwise identified during the sentencing process, affect the estimate below.

- (a) Under Section 2X1.1, cross-referencing 2B1.1, the base offense level is 6.
- (b) Under Section 2B1.1(b)(1)(C) the offense level is increased by 16 because the losses were more than \$1,500,000 but less than \$3,500,000.
- (c) Under Section 3B1.1, the offense level is increased by 2 because the defendant was an organizer of criminal activity.
- (d) The adjusted offense level is 24.
- (e) The parties agree that so long as the defendant does not engage in prohibited conduct or otherwise implicate USSG §§ 3C1.1 and 3E1.1, cmt. n.4 between the guilty plea and sentencing in this case, he should receive a two level reduction for acceptance of responsibility pursuant to USSG § 3E1.1(a) and a one-level reduction for acceptance of responsibility pursuant to USSG § 3E1.1(b). The resulting total offense level is 21.
- (f) The parties understand that the defendant's criminal history computation is tentative and based on the defendant's prior convictions. The parties believe the defendant is in criminal history category I.
- (g) The career offender/criminal livelihood/armed career criminal adjustments do not apply.

- (h) The advisory guideline range resulting from these calculations is 37-46 months.
- (i) Pursuant to guideline § 5E1.2, assuming the estimated offense level above is correct, the fine range for this offense would be \$15,000 to 150,000, plus applicable interest and penalties.
- (j) Pursuant to guideline § 5D1.2, if the Court imposes a term of supervised release, that term at least 1 year, but not more than 3 years.
- (k) The defendant stipulates and agrees that he shall owe restitution to the United States in the amount of \$2,094,441.65 joint and several with other coconspirators.

38. The parties understand that the Court is free, upon consideration and proper application of all 18 U.S.C. § 3553 factors, to impose a reasonable sentence which it deems appropriate in the exercise of its discretion and that such sentence may be less than that called for by the advisory guidelines (in length or form), within the advisory guideline range, or above the advisory guideline range up to and including imprisonment for the statutory maximum term, regardless of any computation or position of any party on any 18 U.S.C. § 3553 factor.

VII. ENTIRE AGREEMENT

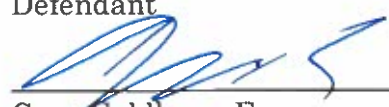
39. The agreement disclosed to the Court is the entire agreement. There are no other promises, agreements or “side agreements,” terms, conditions, understandings, or assurances, express or implied. In entering this agreement, neither the government nor the defendant has relied, or is relying, on any other terms, promises, conditions or assurances.

Date: 9-28-2023

Ratuch Esch

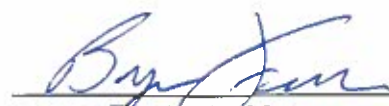
PATRICK ESCH
Defendant

Date: 9/27/23



Greg Goldberg, Esq.
John Sullivan, Esq.
Holland & Hart LLP
Attorneys for Defendant

Date: 9/27/23



Bryan David Fields
Assistant U.S. Attorney

30410241_v2