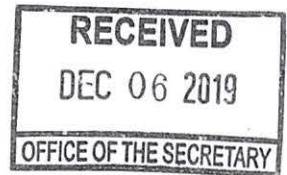


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-19166

In the Matter of

OSCAR FERRER RIVERA,

Respondent.

DIVISION OF ENFORCEMENT'S MOTION FOR DEFAULT AND OTHER RELIEF

I. Introduction

The Division of Enforcement ("Division"), pursuant to Rules 155(a) and 220(f) of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a) and 201.220(f), moves for entry of an Order finding Respondent Oscar Ferrer Rivera ("Ferrer") in default and determining this proceeding against him upon consideration of the record. The Division sets forth the grounds below.

II. History of the Case

The Commission issued the Order Instituting Proceedings ("OIP") on May 14, 2019 pursuant to Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act"). In summary, the OIP alleges that Ferrer, while associated with an investment adviser, engaged in a scheme to defraud investors by falsely representing he would invest their money in stocks and other securities and instead converted the proceeds to his own use and the use of others. These facts led to Ferrer's guilty plea in the criminal case against him.

On October 7, 2019, the Commission issued an Order to Show Cause, Exch. Act Rel. No. 87244, recounting that Ferrer had been served but had not filed an answer and ordering him to

show cause by November 21, 2019 why he should not be found in default and have the proceeding determined against him due to his failure to answer or otherwise defend the proceeding. That date passed without a response from Ferrer.

III. Memorandum of Law

A. Ferrer's Criminal Case

On January 26, 2016, a grand jury for the District of Puerto Rico returned a 23-count indictment against Ferrer charging him with mail fraud conspiracy (Count One), in violation of 18 U.S.C. § 1349, mail fraud (Counts Two-Twelve), in violation of 18 U.S.C. § 1341, and Monetary Transactions in Property Derived from Specified Unlawful Activity (Counts Thirteen-Twenty-Three), in violation of 18 U.S.C. § 1957.¹ On September 7, 2018, pursuant to a plea agreement,² Ferrer pleaded guilty to the counts of mail fraud and mail fraud conspiracy.³ On October 10, 2018, the district court accepted the plea.⁴

B. Facts

Based on Ferrer's default, the allegations of the OIP "may be deemed to be true." 17 C.F.R. § 201.155(a). Moreover, Ferrer's guilty plea binds him to the facts he admitted. *See Gary L. McDuff*, Exch. Act Rel. No. 74803, at 5 & n.18, 2015 WL 1873119 (Apr. 23, 2015); *Don Warner Reinhard*, Exch. Act Rel. No. 63720, at 11-12, 2011 WL 121451 (Jan. 14, 2011) (respondent who pleaded guilty "cannot now dispute the accuracy of the findings set out in the Factual Basis for

¹Exh. 1 (DE 3, Indictment, *United States v. Ferrer*, No. 3:16-cr-00038 (D.P.R.)).

²Exh. 2 (DE 177, Plea Agreement).

³Exh. 3 (DE 179, Minute Entry). Ferrer simultaneously pled guilty to one count of aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1), in *United States v. Ferrer Rivera*, Case No. 3:18-cr-00387-PAD (D.P.R.). As described in the plea agreement, the aggravated identity theft related to Ferrer's conduct in using another person's name and social security number to obtain a fraudulent Puerto Rico identification, which Ferrer used to flee the jurisdiction.

⁴Exh. 4 (DE 181, Text Order).

Plea Agreement”); *Gary M. Kornman*, Exch. Act Rel. No. 59403, at 12, 2009 WL 367635 (Feb. 13, 2009) (criminal conviction based on guilty plea precludes litigation of issues in Commission proceedings), *aff’d*, 592 F.3d 173 (D.C. Cir. 2010).

The OIP and the facts admitted pursuant to the plea establish the following:

Between January 2011 and January 2016, Ferrer, then a resident of Puerto Rico, created and operated various entities, including Reco Financial, Inc., National Western HIA, Inc., and CGB Financial, Inc. (the “Ferrer Companies”). During this period, Ferrer, for compensation, engaged in the business of advising others as to the advisability of investing in, purchasing, or selling securities.⁵

From January 2011 through January 2016, Ferrer engaged in a conspiracy and scheme to defraud by misrepresenting to Puerto Rican residents that Ferrer would invest the individual’s money in stocks, funds, securities, and other financial products (“investment vehicles”) with guaranteed principal and a fixed rate of return. As part of the fraud, Ferrer

- a. falsely represented that the investment vehicles were safe, all principal was guaranteed, and the investment vehicle would earn a fixed rate of return;
- b. falsely represented that the individual’s money would actually be invested in an investment vehicle;
- c. provided fraudulent investment contracts for individuals to sign and failed to provide copies of the signed contracts to the investors;
- d. failed to invest the investors’ money;
- e. failed to pay investors the promised interest;
- f. failed to repay investors’ principal;
- g. created corporations to open bank accounts and to deposit individual’s investment payments;
- h. created and operated the Ferrer Companies to transfer investors’ funds to himself and others;

⁵OIP ¶ II.A.1.

- i. transferred money from the Ferrer Companies to personal accounts and used investors' funds for himself and others;
- j. mailed interest payments so that investors would be unaware of the true state of their investment;
- k. created false investment statements which included an account summary, earning summary, portfolio summary, and detailed account activity;
- l. mailed investment statements falsely representing that funds were invested, falsely identifying the type of investment, and falsely characterizing the investment as having guaranteed principal and interest;
- m. mailed investment statements falsely representing that investments were placed in investment vehicles which did not exist;
- n. used a logo for National Western HIA which was similar to the logo used by a life insurance company in the United States;
- o. through monetary payments and communications with individual investors, delayed them from becoming aware of and reporting the scheme to defraud.⁶

C. Entry of Default is Appropriate

Under Rule 155(a) of the Commission's Rules of Practice, a party who fails to file a timely answer "may be deemed to be in default and the Commission "may determine the proceeding against that party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true" 17 C.F.R. § 201.155(a). Here Ferrer has not filed an answer and has not responded to the order to show cause. Therefore the proceeding should be determined against him based on the record. *Lawrence Deshetler*, Advisers Act Rel. No. 5411, at 3, 2019 WL 6221492 (Nov. 21, 2019) ("Because DeShetler has failed to answer or respond to the Division's motion or to the show cause order, we find it appropriate to deem him in default and to deem the allegations of the OIP to be true.").

The facts established by Ferrer's default and his guilty plea show that the Division is entitled to the relief it seeks under Advisers Act Section 203(f), which provides in relevant part:

The Commission, by order, shall censure or place limitations on the activities of any person . . . at the time of the alleged misconduct, associated . . . with an

⁶Exh. 2 (DE 177, Plea Agreement, at pp. 14-16).

investment adviser, or suspend for a period not exceeding 12 months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person . . . has been convicted of any offense specified in [Advisers Act Sections 203(e)(2) or (3)] within ten years of the commencement of the proceedings under this subsection

Each of the requirements of these provisions—timely issuance of the OIP, conviction under a qualifying statute, and misconduct committed while Ferrer was associated with an investment adviser—are satisfied here.

a. The Division Timely Filed this Action

The Division must commence a proceeding under Section 203(f) within “ten years” of the criminal conviction. *See Joseph Contorinis*, Exch. Act Release No. 72031, at 4-6, 2014 WL 1665995 (Apr. 25, 2014) (10-year limitations period governing proceedings under Exchange Act Section 15(b)(6)(A)(ii) runs from date of conviction, not underlying conduct). Here, Ferrer was convicted in October 2018,⁷ and the OIP was issued in April 2019. Therefore, this matter was timely filed.

b. Ferrer Was Convicted of a Qualifying Offense

Under the Advisers Act, the Commission may sanction Ferrer for an offense that “involves the violation of . . . [18 U.S.C. § 1341 (mail fraud)]” *See* Advisers Act Sections 203(e)(2)(B), 203(f). Here, Ferrer was convicted of mail fraud and mail fraud conspiracy. Therefore this condition is satisfied.

⁷ While Ferrer has not yet been sentenced, his guilty plea is a conviction under Advisers Act Section 202(a)(6).

c. Ferrer Was Associated with an Investment Adviser at the Time of the Misconduct

Advisers Act Section 202(a)(11) defines an investment adviser to include “any person who, for compensation, engages in the business of advising others . . . as to the value of securities or as to the advisability of investing in, purchasing, or selling, securities” Here, Ferrer held himself out as an investment adviser, representing to investors that he would invest their money in, among other things, “stocks” and “securities,” making representations about the merits of those investments, and providing investors with fraudulent account statements. *See Anthony Coronati*, Securities Act Rel. No. 9666, at 2, 2014 WL 5304894 (Oct. 17, 2014) (settled order) (individual that held himself out as an investment adviser to a fictitious hedge fund liable for Adviser Act violations); *Alexander Stein*, Advisers Act Release No. 1497, 1995 WL 358127, *2 & nn. 11-12 (June 8, 1995) (individual who falsely represented to clients he was investing in an arbitrage program involving NYSE-traded securities acted as an investment adviser). Ferrer’s misappropriation of investor funds satisfies the “for compensation” element of Section 202(a)(11). *Stein*, 1995 WL 358127, at *2 & n.13. Finally, Ferrer’s “act[ing] as an unregistered investment adviser establishes that he was associated with an investment adviser for purposes of Advisers Act Section 203(f).” *Shreyans Desai*, Exchange Act Rel. No. 80129, at 4 & n.16, 2017 WL 782152 (Mar. 1, 2017); *see also Deshetler*, Advisers Act Rel. No. 5411, at 4, 2019 WL 6221492; *Anthony J. Benincasa*, Advisers Act Rel. No. 1923, 2001 WL 99813 at *2 (Feb. 7, 2001) (“By functioning as an investment adviser in an individual capacity, Benincasa will be in a position of control with respect to the investment adviser, and therefore, he meets the definition of a ‘person associated with an investment adviser.’”). Thus, Ferrer was associated “at the time of the alleged misconduct.” *See Kornman v. SEC*, 592 F.3d 173, 184 (D.C. Cir. 2010) (“The Commission

properly relied on the ordinary meaning of alleged ‘misconduct,’ which refers to allegedly ‘unlawful or improper behavior.’”).

d. Industry Bars Are Appropriate Sanctions

In determining whether an industry bar is in the public interest, the Commission considers the egregiousness of the respondent’s actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent’s assurances against future violations, the respondent’s recognition of the wrongful nature of his conduct, and the likelihood that the respondent’s occupation will present opportunities for future violations.

Deshetler, Advisers Act Rel. No. 5411, at 4, 2019 WL 6221492. “Absent extraordinary mitigating circumstances, an individual who has been convicted cannot be permitted to remain in the securities industry.” *Frederick W. Wall*, Exch. Act Rel. No. 52467, at 8, 2005 WL 2291407 (Sept. 19, 2005) (quotation omitted); *accord Desai*, Exch. Act Rel. No. 80129, at 6, 2017 WL 782152.

Here, these factors weigh in favor of an industry bar. Ferrer’s actions were egregious, recurrent, and involved a high degree of scienter: he has admitted defrauding investors over a five-year period, converting their funds to his own use, and lulling them into believing nothing was amiss. His conviction for “[m]ail fraud requires a specific intent to defraud.” *Deshetler*, Advisers Act Rel. No. 5411, at 4, 2019 WL 6221492.

With respect to the fourth and fifth factors, notwithstanding his guilty plea, Ferrer has not participated in this matter, thus providing no assurances that he will avoid *future* violations of the law. *See id.* at 5. Although “[c]ourts have held that the existence of a past violation, without more, is not a sufficient basis for imposing a bar, . . . the existence of a violation raises an inference that it will be repeated.” *Tzernach David Netzer Korem*, Exchange Act Release No. 70044, at 10 n.50, 2013 WL 3864511 (July 26, 2013) (quotation and alternations omitted). Ferrer has offered no evidence to rebut that inference.

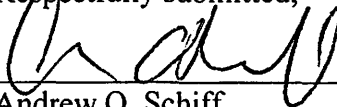
Sixth, although Ferrer is currently in custody, he will eventually be released, and unless barred from the securities industry he will have the chance to harm investors.

IV. Conclusion

For the reasons discussed above, the Division asks the Commission to sanction Ferrer by barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or NRSRO.

December 5, 2019

Respectfully submitted,



Andrew O. Schiff
Regional Trial Counsel
Direct Line: (305) 982-6390
schiffa@sec.gov

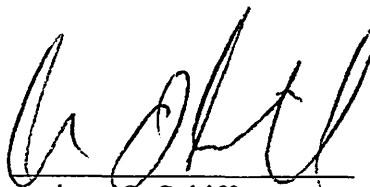
DIVISION OF ENFORCEMENT
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
Miami, FL 33131
Phone: (305) 982-6300
Fax: (305) 536-4154

CERTIFICATE OF SERVICE

I hereby certify that an original and three copies of the foregoing were filed with the Securities and Exchange Commission, Office of the Secretary, 100 F Street, N.E., Washington, D.C. 20549-9303. and that a true and correct copy of the foregoing has been served on this 5th day of December 2019, on the following persons entitled to notice:

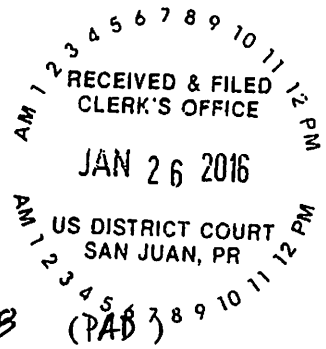
VIA USPS CERTIFIED MAIL

Oscar Ferrer Rivera
Inmate # [REDACTED]
[REDACTED]
P.O. Box [REDACTED]
Catano, PR [REDACTED]



Andrew O. Schiff

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



UNITED STATES of AMERICA,
Plaintiff,

v.

[1] OSCAR FERRER,
(a/k/a "Oscar Ferrer, Jr.")
(Counts 1-23)

[2] JONATHAN A. RIVERA-PADILLA,
(Counts 1-3, 20-23)

Defendants.

INDICTMENT

CRIMINAL NO. 16 - ~~38~~ (PAB) 3
TWENTY THREE COUNTS

Violations:

(COUNT ONE)
Conspiracy to Commit Mail Fraud
Title 18, United States Code, §1349; 1341

(COUNTS TWO-TWELVE)
Mail Fraud
Title 18, United States Code, § 1341

(COUNTS THIRTEEN-TWENTY THREE)
Monetary Transaction in Property Derived from
Specified Unlawful Activity
Title 18, United States Code, § 1957

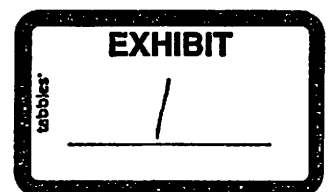
Forfeiture Allegation:

18 U.S.C. §§ 981(a)(1)(C), 982(b)(1)
21 U.S.C. § 853(p)
28 U.S.C. § 2461(c)

THE GRAND JURY CHARGES:

INTRODUCTION

- From on or about December 1, 2010 to on or about April 16, 2014, Reco Financial, Inc. (hereinafter "Reco") was organized as a corporation and registered with the Puerto Rico State Department to do business in Puerto Rico.
- On or about April 16, 2014, Reco's incorporation was cancelled in accordance with the Puerto Rico General Corporations Act.
- From in or about February 2011 to on or about October 14, 2014, Reco maintained a bank account with FirstBank Puerto Rico (hereinafter "FirstBank"), Account No. XXXX [REDACTED] with OSCAR



FERRER as the account's signator.

4. From on or about June 14, 2013 to on or about October 16, 2015, National Western HIA, INC. (hereinafter "National") was organized as a corporation and registered with the Puerto Rico State Department by **OSCAR FERRER** to do business in Puerto Rico.

5. On or about October 16, 2015, National's incorporation in Puerto Rico was cancelled in accordance with the Puerto Rico General Corporations Act.

6. On or about June 18, 2013, National Western HIA, INC. (hereinafter "National") was organized as a corporation and registered with the Florida Secretary of State by **OSCAR FERRER** to do business in Florida.

7. On or about September 26, 2013, National's incorporation in Florida became inactive due to administrative dissolution.

8. National is not affiliated or associated with the life insurance company in the United States with initials N.W.L.I.C.

9. From in or about June 2013 to in or about May 2014, National maintained bank accounts with TD Bank with Account Nos. XXXX [REDACTED] and XXXX [REDACTED] with **OSCAR FERRER** as the accounts' signator.

10. On or about October 31, 2014, CGB Financial, Inc. (hereinafter "CGB") was organized as a corporation and registered with the Florida Secretary of State by **OSCAR FERRER** to do business in Florida.

11. On or about September 25, 2015, CGB's incorporation became inactive due to administrative dissolution.

12. In or about November 2014, CGB opened and maintained a bank account with JP Morgan Chase, Account No. XXX [REDACTED] with **OSCAR FERRER** as the account's signator.

13. At all times relevant to this Indictment, **OSCAR FERRER** controlled and operated Reco, National, and CGB.

The Scheme to Defraud

14. From in or about January 27, 2011 through in or around the return of the instant Indictment, **OSCAR FERRER** and **DEFENDANT JONATHAN A. RIVERA-PADILLA**, engaged in a scheme to defraud by lying and misrepresenting to individuals residing in Puerto Rico that they would invest the individual's money in stocks, funds, securities, and other financial products (hereinafter "investment vehicles") with guaranteed principal and a fixed rate of return.
15. The scheme to defraud included falsely representing that the investment vehicles were safe, that all principal was guaranteed, and that the investment vehicle would earn a fixed rate of return.
16. The scheme to defraud included falsely representing that the individual's money would actually be invested in an investment vehicle.
17. The scheme to defraud included failing to pay investors the interest promised to them.
18. The scheme to defraud included failing to return and repay investors' principal.
19. The scheme to defraud included the creation of corporations in Puerto Rico and Florida to open bank accounts and to deposit individual's investment payments.
20. The scheme to defraud included the creation and operation of Reco, National, and CGB to transfer investor's funds to **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA** and others known and unknown to the Grand Jury.
21. The scheme to defraud included the personal use of the investors' funds by **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA** and others known and unknown to the Grand Jury.
22. The scheme to defraud included providing fraudulent investment contracts for individuals to sign and failing to provide copies of the signed contracts to the investors.
23. The scheme to defraud included mailing interest payments so that investors would be unaware of the true state of their investment.
24. The scheme to defraud included obtaining money orders from United States Post Offices payable

to investors as interest payments so that investors would be unaware of the true state of their investment.

25. The scheme to defraud included creating false investment statements which included an account summary, earning summary, portfolio summary, and detailed account activity.

26. The scheme to defraud included mailing investment statements falsely representing that funds were invested, falsely identifying the type of investment, and falsely characterizing the investment as having guaranteed principal and interest.

27. The scheme to defraud included mailing investment statements falsely representing that investments were placed in investment vehicles which did not exist.

28. The scheme to defraud included the opening of a Post Office Box in Florida in the name of National to be used on investment statements and National letterhead.

29. The scheme to defraud included the use of a logo for National which was similar to the logo used by a life insurance company in the United States with the initials N.W.L.I.C.

30. The scheme to defraud included the creation and mailing of a false letter on National letterhead to an investor, identified herein as Investor 1, which fraudulently confirmed an investment. The letter fraudulently represented to be sent by the CEO of Fixed Investments of National when that individual was not actually affiliated with National and was in fact employed by a life insurance company in the United States with initials N.W.L.I.C.

31. The scheme to defraud included the transfer of money from National, CGB, and Reco to personal accounts held by **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA**.

32. The scheme to defraud included lulling efforts, through monetary payments and through communications with individual investors, to delay individual investors from becoming aware of the scheme to defraud and reporting the scheme to defraud.

33. From in or about January 27, 2011 through the return of this indictment, **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA**, personally and through Reco, National, and CGB, obtained

approximately \$5,772,504.30 in investments, paid out approximately \$1,634,643.56 to investors in lulling interest or reimbursement payments, and netted approximately \$4,137,860.74 as a result of this scheme to defraud.

COUNT ONE
Conspiracy to Commit Mail Fraud
18 U.S.C. §§ 1349 and 1341

34. Paragraphs 1-33 are hereby re-alleged as if set forth herein.

35. From on or about January 27, 2011, up to and including the return of this indictment, in the District of Puerto Rico and within the jurisdiction of this Court,

[1] OSCAR FERRER, and
[2] JONATHAN A. RIVERA-PADILLA

the defendants herein, together with others known and unknown, did knowingly and willfully combine, conspire, confederate and agree, with each other, and with others known and unknown to the Grand Jury, to commit an offense contained in Chapter 63, of Title 18, of the United States Code, namely to devise a scheme and artifice to defraud and obtain money by means of false and fraudulent pretenses, representations, and promises and for the purpose of executing the scheme and artifice, knowingly caused to be delivered by mail at the place at which it is directed to be delivered by the person to whom it is addressed fraudulent investment statements in violation of Title 18, United States Code, Section 1341. All in violation Title 18, United States Code, Section 1349.

Object of the Conspiracy

36. It was the purpose and object of the conspiracy for the defendants and others known and unknown to the Grand Jury, to conspire, engage in deceptive conduct designed to fraudulently obtain investment funds from individuals and to devise a scheme and artifice to defraud by lying and misrepresenting to individuals that they invested the individual's money in stocks, funds, securities, and other financial products with guaranteed principal and a fixed rate of return.

Manner and Means of the Conspiracy

37. It was part of the manner and means of the conspiracy that:
38. Investors were identified by and referred to **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA** and were offered a “safe” investment which had guaranteed principal and interest.
39. Reco, National, and CGB were created and operated so that investment checks would be made payable to the corporations and deposited into the corporation’s bank accounts.
40. Post office boxes were obtained and utilized in the name of the corporations to appear legitimate.
41. Logos and letterhead were created and utilized to mail investment statements and an investment confirmation letter to investors.
42. In furtherance of the conspiracy and scheme to defraud, fraudulent investment statements and lulling payments were caused to be sent via mail to investors.
43. The investment statements and other written communications falsely represented that the investor’s funds had been investment in an actual investment vehicle, including stocks.
44. The investment statements falsely represented that the investors’ principal and interest was “100% guaranteed”.
45. In furtherance of the conspiracy and scheme to defraud, **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA** failed to pay investors the promised interest payments and failed to repay and return the investment’s principal.
46. In furtherance of the conspiracy and scheme to defraud, **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA** would personally obtain and spend the investors’ funds rather than invest them.
47. In furtherance of the conspiracy and scheme to defraud, money was paid from the bank accounts of Reco, National, and CGB to **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA**.
48. All in violation Title 18, United States Code, § 1349.

COUNTS TWO – TWELVE
Mail Fraud Counts
18 U.S.C. § 1341

Introduction

49. The Grand Jury re-alleges and incorporates by reference as though fully set forth herein, the allegations contained in paragraphs 1-48 of this Indictment.

Scheme and Artifice to Defraud

50. It was part of the scheme and artifice to defraud that defendants **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA** engaged in deceptive conduct designed to fraudulently obtain money from investors by making false representations regarding the investment of their funds in stocks, bonds, securities, or other investment vehicles with 100% guaranteed principal and interest and by mailing fraudulent investment statements misrepresenting the true nature and state of the investors' payment as described in Count One of this Indictment, the allegations of which are incorporated by reference as though fully set forth herein.

51. From on or about January 27, 2011, up to and including the return of this indictment, in the District of Puerto Rico and within the jurisdiction of this Court, the defendants **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA**, with intent to defraud, devised, and willfully participated in the above-described scheme and artifice to defraud and obtain money by materially false and fraudulent pretenses, representations, and promises.

52. From on or about January 27, 2011, up to and including the return of this indictment, in the District of Puerto Rico and within the jurisdiction of this Court, for the purpose of executing or attempting to execute the above described scheme and artifice to defraud and deprive, the defendants **OSCAR FERRER** and **JONATHAN A. RIVERA-PADILLA** knowingly caused to be delivered by U.S. Mail at the place at which it was directed to be delivered by the person to whom it was addressed the following matters:

COUNT	DEFENDANTS	DESCRIPTION OF ITEM CAUSED TO BE MAILED	MAILED TO
2	OSCAR FERRER and JONATHAN A. RIVERA-PADILLA	National Western HIA letter dated July 9, 2013 to an individual with initials S.A.U.	Urb. [REDACTED] Aguadilla, PR [REDACTED]
3	OSCAR FERRER and JONATHAN A. RIVERA-PADILLA	National Western HIA Investment Statement to an individual with initials S.A.U. with a reporting period ending October 29, 2013	Urb. [REDACTED] Aguadilla, PR [REDACTED]
4	OSCAR FERRER	National Western HIA Statement to a company with initials B.R.C&T.R. with a reporting period ending December 4, 2014	PO Box [REDACTED] San Juan, PR [REDACTED]
5	OSCAR FERRER	Reco Investment Statement to an individual with initials F.R.D. with a reporting period ending February 26, 2014	Bo. [REDACTED] Cabo Rojo, PR [REDACTED]
6	OSCAR FERRER	Reco Investment Statement to individuals with initials M.A.L.F. and A.E.R.A. with a reporting period ending February 10, 2014	Apt. [REDACTED] Cabo Rojo, PR [REDACTED]
7	OSCAR FERRER	CGB Financial Investment Statement to individuals with initials D.V.V. and M.A.M.E. with a reporting period of February 26, 2015	C- [REDACTED] San German, PR [REDACTED]
8	OSCAR FERRER	Reco Investment Statement to an individual with initials E.G.R. with a reporting period of September 15, 2014	P.O. Box [REDACTED] Moca, PR [REDACTED]
9	OSCAR FERRER	CGB & Reco Financial Investment Statement to individuals with initials G.A.S.A. and B.I.S.F. with a reporting period of January 4, 2015	G- [REDACTED] Cabo Rojo, PR [REDACTED]
10	OSCAR FERRER	Reco Investment Statement to an individual with initials F.M.F. with a reporting period ending on September 28, 2013	[REDACTED] Cabo Rojo, PR [REDACTED]
11	OSCAR FERRER	Reco Investment Statement to an individual with initials A.A.M. with a reporting period of October 24, 2014	Rep. [REDACTED] Mayaguez, PR [REDACTED]
12	OSCAR FERRER	Reco Investment Statement to an individual with initials Y.C.Q. with a reporting period ending with April 30, 2011	[REDACTED] Calle Cafetal [REDACTED] Hormigueros, PR [REDACTED]

53. Each Count a separate and distinct violation of Title 18, United States Code, Section 1341.

COUNTS THIRTEEN – TWENTY THREE

**Monetary Transaction in Property
Derived from Specified Unlawful Activity
18 U.S.C. § 1957**

54. On or about the dates set forth below, in the District of Puerto Rico and within the jurisdiction of this Court, Defendants OSCAR FERRER and JONATHAN A. RIVERA-PADILLA, did knowingly engage in a monetary transaction by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is the deposit, withdrawal, transfer of U.S. currency, funds, and monetary instruments, such property having been deprived from a specific unlawful activity, that is a violation of 18 U.S.C. § 1341.

Count	Defendant	Date	Monetary Transaction
13	OSCAR FERRER	2/25/2014	Payment/Transfer from FirstBank XXX [REDACTED] in the amount of \$50,000 to Oscar Ferrer via Check #100088
14	OSCAR FERRER	8/20/2013	Withdrawal Transfer from TD Bank XXX [REDACTED] in the amount of \$100,000 to TD Bank XXX7858 held by Oscar Ferrer
15	OSCAR FERRER	8/24/2013	Withdrawal from TD Bank XXX [REDACTED] in the amount of \$150,000
16	OSCAR FERRER	9/19/2013	Withdrawal from TD Bank XXX [REDACTED] in the amount of \$100,000
17	OSCAR FERRER	3/16/2015	Withdrawal from Chase XXX [REDACTED] for the issuance of Cashier's Check No. 1176121279 payable to Oscar Ferrer in the amount of \$60,000
18	OSCAR FERRER	7/15/2013	Withdrawal Transfer from TD Bank XXX [REDACTED] in the amount of \$150,000 to TD Bank XXX [REDACTED] held by Oscar Ferrer
19	OSCAR FERRER	7/25/2013	Withdrawal Transfer from TD Bank XXX6280 in the amount of \$50,000 to TD Bank XXX [REDACTED] held by Oscar Ferrer
20	OSCAR FERRER and JONATHAN A. RIVERA-PADILLA	7/9/2013	Payment/Transfer from TD Bank XXX [REDACTED] in the amount of \$250,000 to Jonathan A. Rivera-Padilla via Check #0098

21	OSCAR FERRER and JONATHAN A. RIVERA-PADILLA	7/15/2013	Wire Transfer from TD Bank XXX [REDACTED] in the amount of \$69,750 to Jonathan A. Rivera Padilla
22	OSCAR FERRER and JONATHAN A. RIVERA-PADILLA	7/25/2013	Payment/Transfer from TD Bank XXX [REDACTED] in the amount of \$50,000 to Jonathan A. Rivera-Padilla via Check #0099
23	OSCAR FERRER and JONATHAN A. RIVERA-PADILLA	7/28/2013	Payment/Transfer from TD Bank XXX [REDACTED] in the amount of \$200,000 to Jonathan A. Rivera-Padilla via Check #2971

All in violation of 18 U.S.C. § 1957.

(REMAINDER OF PAGE INTENTIONALLY BLANK)

FRAUD FORFEITURE ALLEGATION

55. The allegations contained in Count One through Twelve of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

56. Upon conviction of one or more of offenses alleged in Count One through Twelve of this Indictment, the defendants herein shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense. The property to be forfeited includes, but is not limited to, the following:

- a. All monies and/or property constituting, or derived from, proceeds traceable to the offense;
- b. Money Judgment against the defendants for a sum of money representing the amount of proceeds traceable to the offenses and scheme totaling approximately \$5,772,504.30;

57. If any of the above-described forfeitable property, as a result of any act or omission of the defendant: cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty, the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 28, United States Code, Section 2461(c).

58. All pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

MONEY LAUNDERING FORFEITURE ALLEGATION

59. The allegations contained in Counts Thirteen through Twenty Three of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to 18 U.S.C.

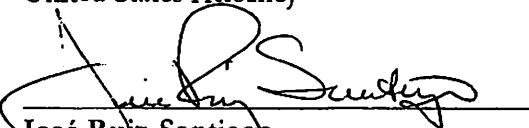
§ 982(a)(1).

60. Pursuant to 18 U.S.C. § 982(a)(1), upon conviction of an offense in violation of 18 U.S.C. § 1957, the defendants, OSCAR FERRER and JONATHAN A. RIVERA-PADILLA, shall forfeit to the United States of America any property, real or personal, involved in such offense, and any property traceable to such property.

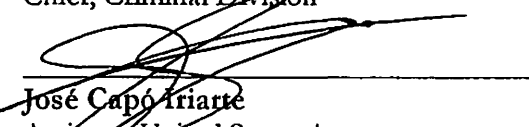
61. If any of the property described above, as a result of any act or omission of the defendants (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be divided without difficulty, the United States of America shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c).

TRUE BILL,

ROSA EMILIA RODRIGUEZ-VELEZ
United States Attorney



José Ruiz-Santiago
Chief, Criminal Division

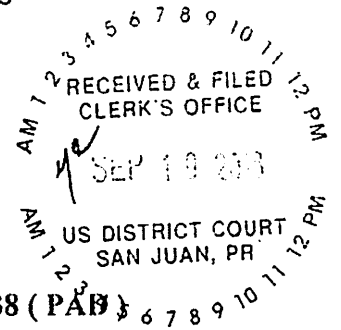


José Capó Triarte
Assistant United States Attorney
Chief, Financial Fraud and Corruption Unit



Seth A. Erbe
Assistant United States Attorney

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



UNITED STATES OF AMERICA,
Plaintiff,

v.

OSCAR FERRER RIVERA,
Defendant.

CRIM. NO. 16-038 (~~PAB~~)
CRIM. NO. 18-387 (PAD)

PLEA AGREEMENT

[Pursuant to Rule 11(c)(1)(A) & (B) FRCP]

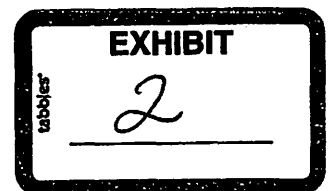
TO THE HONORABLE COURT:

COMES NOW the United States of America, by and through its attorneys, Rosa Emilia Rodriguez-Velez, United States Attorney for the District of Puerto Rico, José Capó Iriarte, Assistant United States Attorney, Chief Criminal Division, Myriam Y. Fernandez, Assistant United States Attorney, Deputy Chief, Financial Fraud & Corruption Unit, and Seth A. Erbe, Assistant United States Attorney for said District, and OSCAR FERRER RIVERA, Defendant, by and through defendant's counsel, Luis Rafael Rivera, Esquire, pursuant to Rule 11(c)(1)(A) & (B) of the Federal Rules of Criminal Procedure, and state to this Honorable Court, that they have reached an agreement, the terms and conditions of which are as follows:

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

Defendant agrees to plead guilty to **COUNTS 1 through 12** of the Indictment in Criminal No. 16-038 (PAD), and **COUNT 2** of the Indictment in Criminal No. 18-387 (PAD) which charges:



From on or about January 27, 2011, up to and including the return of this indictment, in the District of Puerto Rico and within the jurisdiction of this Court, for the purpose of executing or attempting to execute the above described scheme and artifice to defraud and deprive, the defendant **OSCAR FERRER** knowingly caused to be delivered by U.S. Mail at the place at which it was directed to be delivered by the person to whom it was addressed the following matters:

*ml
efr*

COUNT	DESCRIPTION OF ITEM CAUSED TO BE MAILED	MAILED TO
2	National Western HIA letter dated July 9, 2013 to an individual with initials S.A.U.	Urb. Ramey 222A 6 th St. Aguadilla, PR 00603
3	National Western HIA Investment Statement to an individual with initials S.A.U. with a reporting period ending October 29, 2013	[REDACTED] Aguadilla, PR [REDACTED]
4	National Western HIA Statement to a company with initials B.R.C&T.R. with a reporting period ending December 4, 2014	PO Box [REDACTED] San Juan, PR [REDACTED]
5	Reco Investment Statement to an individual with initials F.R.D. with a reporting period ending February 26, 2014	Bo. [REDACTED] Cabo Rojo, PR 00623-4535
6	Reco Investment Statement to individuals with initials M.A.L.F. and A.E.R.A. with a reporting period ending February 10, 2014	Apt. [REDACTED] Cabo Rojo, PR [REDACTED]
7	CGB Financial Investment Statement to individuals with initials D.V.V. and M.A.M.E. with a reporting period of February 26, 2015	C. [REDACTED] San German, PR [REDACTED] 4694
8	Reco Investment Statement to an individual with initials E.G.R. with a reporting period of September 15, 2014	P.O. Box [REDACTED] Moca, PR [REDACTED]
9	CGB & Reco Financial Investment Statement to individuals with initials G.A.S.A. and B.I.S.F. with a reporting period of January 4, 2015	G. [REDACTED] Cabo Rojo, PR [REDACTED]
10	Reco Investment Statement to an individual with initials F.M.F. with a reporting period ending on September 28, 2013	[REDACTED] Cabo Rojo, PR [REDACTED]
11	Reco Investment Statement to an individual with initials A.A.M. with a reporting period of October 24, 2014	Rep. [REDACTED] Mayaguez, PR [REDACTED]
12	Reco Investment Statement to an individual with initials Y.C.Q. with a reporting period ending with April 30, 2011	[REDACTED] Hormigueros, PR [REDACTED]

Each Count a separate and distinct violation of 18 U.S.C. § 1341.

INDICTMENT: CRIMINAL NO. 18- 387 (PAD)

Count 2 (18 U.S.C. § 1028A – Aggravated Identity Theft)

On or about July 7, 2016, in the District of Puerto Rico, and within the jurisdiction of this Court,

INDICTMENT: CRIMINAL NO. 16-038 (PAD)

Count 1 (18 U.S.C. § 1349. 1341 - Conspiracy to Commit Mail Fraud):

From on or about January 27, 2011, up to and including the return of this indictment, in the District of Puerto Rico and within the jurisdiction of this Court, [1] **OSCAR FERRER**, the defendant herein, together with others known and unknown, did knowingly and willfully combine, conspire, confederate and agree, with each other, and with others known and unknown to the Grand Jury, to commit an offense contained in Chapter 63, of Title 18, of the United States Code, namely to devise a scheme and artifice to defraud and obtain money by means of false and fraudulent pretenses, representations, and promises and for the purpose of executing the scheme and artifice, knowingly caused to be delivered by mail at the place at which it is directed to be delivered by the person to whom it is addressed fraudulent investment statements in violation of 18 U.S.C. § 1341. All in violation 18 U.S.C. § 1349.

Counts 2-12 (18 U.S.C. § 1341 – Mail Fraud):

It was part of the scheme and artifice to defraud that defendant **OSCAR FERRER** engaged in deceptive conduct designed to fraudulently obtain money from investors by making false representations regarding the investment of their funds in stocks, bonds, securities, or other investment vehicles with 100% guaranteed principal and interest and by mailing fraudulent investment statements misrepresenting the true nature and state of the investors' payment as described in Count One of this Indictment, the allegations of which are incorporated by reference as though fully set forth herein.

From on or about January 27, 2011, up to and including the return of this indictment, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant **OSCAR FERRER**, with intent to defraud, devised, and willfully participated in the above-described scheme and artifice to defraud and obtain money by materially false and fraudulent pretenses, representations, and promises.

OSCAR FERRER RIVERA, the defendant herein, did willfully and knowingly cause the transfer, possession, and use, without lawful authority, of a means of identification of another person, to wit: the name, social security number, and date of birth of a real person with initials M.E.F.R., during and in relation to a felony enumerated in 18 U.S.C. § 1028A(c), to wit: social security fraud involving the Puerto Rico Department of Transportation in violation of 42 U.S.C. § 408(a)(7)(B) as charged in Count One. All in violation of 18 U.S.C. § 1028A(a)(1).

2. MAXIMUM PENALTIES

INDICTMENT: CRIMINAL NO. 16-038 (PAD)

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Counts 1-12 (18 U.S.C. § 1341, 1349): Defendant understands that in relation to each of Counts 1-12 of the Indictment, the Defendant may be sentenced to a term of imprisonment not to exceed twenty (20) years, a fine not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), and not more than three (3) years of supervised release. 18 U.S.C. §§ 1341, 1349; 3559(a)(3); 3571(b)(3); 3583(b)(2)(Class C Felony)

INDICTMENT: CRIMINAL NO. 18- 387 (PAD)

Count 2 (18 U.S.C. § 1028A): Defendant understands that in relation to Count 2 of the Indictment, the Defendant shall be sentenced to a mandatory term of imprisonment of two (2) years to be served consecutively to any other term of imprisonment. Defendant further understands that the Court may impose a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00) and a term of supervised release of not more one (1) year. 18 U.S.C. §§ 1028A(a)(1) and (b); 3559(a)(5); 3571(b)(3); 3583(b)(3) (Class E Felony).

3. SENTENCING GUIDELINES APPLICABILITY

Defendant understands that the sentence will be left entirely to the sound discretion of the Court in accordance with 18 U.S.C. §§ 3551-86, and the United States Sentencing Guidelines (hereinafter

“Guidelines”), which have been rendered advisory by the United States Supreme Court decision in the consolidated cases United States v. Booker and United States v. Fanfan, 543 U.S. 220 (2005). Further, Defendant acknowledges that parole has been abolished and that the imposition of the 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).

5. FINES AND RESTITUTION

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OR
Defendant is aware that the Court may, pursuant to U.S.S.G. § 5E1.2, order Defendant to pay a fine. The defendant acknowledges that restitution shall be imposed for any pecuniary loss suffered by an identifiable victim pursuant to 18 U.S.C. § 3663A(c)(1)(B). The parties have agreed that an order of restitution shall be determined and issued by the Court pursuant to 18 U.S.C. §§ 3663A and 3664 based on the applicable factors set forth therein.

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

Defendant is aware that the 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 herein. Defendant specifically acknowledges that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offenses 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. UNITED STATES RESERVATION OF RIGHTS

The United States reserves the right to carry out its responsibilities under the United States Sentencing Guidelines. Specifically, the United States reserves the right: (a) to bring its version of the facts of this case including its file and any investigative files to the attention of the probation office in connection with that office's preparation of a presentence report; (b) to dispute sentencing factors or facts material to sentencing; (c) to seek resolution of such factors or facts in conference with opposing counsel and the probation office.

8. 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 calculations in the chart below.

With respect to U.S.S.G. § 2B1.1(b)(1), the parties agree that the United States may argue for the application of U.S.S.G. § 2B1.1(b)(1)(J) regarding a loss amount in excess of \$3,500,000 and the Defendant may argue for no less than the application of U.S.S.G. § 2B1.1(b)(1)(I) regarding a loss amount in excess of \$1,500,000.

With respect to U.S.S.G. § 2B1.1(b)(2), the parties agree that the United States may argue for the application of U.S.S.G. § 2B1.1(b)(2)(C) regarding the substantial financial hardship to 25 or more

victims and the Defendant may argue for no less than the application of U.S.S.G. § 2B1.1(b)(2)(A) regarding 10 or more victims or the substantial financial hardship to one or more victims.

<u>Counts One through Twelve (CR No. 16-038(PAD))</u>		
	Government	Defendant
Base Offense Level: U.S.S.G. § 2B1.1(a)	7	7
Special Offense Characteristic: U.S.S.G. § 2B.1(b)(1)(I) – stipulated loss more than \$3,500,000	+18	
Special Offense Characteristic: U.S.S.G. § 2B.1(b)(1)(I) – stipulated loss more than \$1,500,000		+16
Special Offense Characteristic: U.S.S.G. § 2B1.1(b)(2)(C) – involved substantial financial hardship to 25 or more victims	+6	
Special Offense Characteristic: U.S.S.G. § 2B1.1(b)(2)(A) – involved 10 or more victims or substantial financial hardship to 2 or more victims		+2
Adjustment: U.S.S.G. § 3C1.1 – impeding the administration of justice	+2	+2
Acceptance of Responsibility: U.S.S.G. § 3E1.1	-3	-3
Total Offense Level	30	24
TOL 24: CHCI (51-63); CHCII (57-71)		
TOL 30: CHCI (97-121); CHCII (108-135)		

<u>Count 2 (CR No. 18-387(PAD))</u>	
18 U.S.C. § 1028A(a)(1), (b)(2): One consecutive term of 24 months of imprisonment	24 months Consecutive to Counts 1-12 above

9. NO STIPULATION AS TO CRIMINAL HISTORY CATEGORY

The parties do not stipulate as to any Criminal History Category (CHC) for Defendant.

10. SENTENCE RECOMMENDATION

After due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the parties agree that the Defendant shall recommend a sentence of imprisonment within the applicable range at a Total Offense Level of Twenty-Four (24) plus a consecutive term of imprisonment of two (2) years and

the United States shall recommend a sentence of imprisonment at the low end of the applicable range at a Total Offense Level of Thirty (30) plus a consecutive term of imprisonment of two (2) years.

If Criminal History Category I applies, Defendant OSCAR FERRER RIVERA may recommend a total sentence of seventy-five (75) months of imprisonment and the United States may recommend a total sentence of one hundred twenty-one (121) months of imprisonment.

Defendant agrees that this sentence recommendation is reasonable pursuant to 18 U.S.C. § 3553(a). The parties further agree that any recommendation by either party for a term of imprisonment below or above the stipulated sentence recommendation constitutes a material breach of the Plea Agreement.

WR
11. WAIVER OF APPEAL

OR
X
Defendant knowingly and voluntarily agrees that, if the sentence imposed by the Court is one hundred twenty-one (121) months of imprisonment or less, the defendant waives the right to appeal any aspect of this case's judgment and sentence, including but not limited to the term of imprisonment or probation, restitution, fines, forfeiture, and the term and conditions of supervised release.

Regardless of the sentence imposed, the Defendant specifically agrees not to appeal or challenge collaterally the Court's determination regarding the appropriate application of U.S.S.G. §§ 2B1.1(b)(1) or 2B1.1(b)(2).

12. FURTHER ADJUSTMENTS, DEPARTURES OR VARIANCE

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 USC § 3553 shall be sought by the parties for a term of imprisonment below or above the stipulated sentence recommendation contained above. The parties agree that any request by Defendant for such 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.

13. DISMISSAL OF REMAINING COUNTS

The United States shall dismiss the remaining counts of the Indictments against **OSCAR FERRER RIVERA**, Counts 13-23 in CR No. 16-038 (PAD) and Counts 1 and 3 in CR No. 18-387(PAD), following sentencing unless the defendant materially breaches the terms of the Plea Agreement.

14. SATISFACTION WITH COUNSEL

WR
Defendant represents to the Court to be satisfied with counsel, Luis Rafael Rivera, Esquire, and indicates that counsel have rendered effective legal assistance.

OR
15. RIGHTS SURRENDERED BY DEFENDANT THROUGH GUILTY PLEA

Defendant understands that by entering into this Plea 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 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 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.

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.

16. POTENTIAL IMPACT ON IMMIGRATION STATUS

Defendant affirms that he is a United States citizen. Nonetheless, pursuant to Rule 11(b)(1)(O) of the Federal Rules of Criminal Procedure, Defendant hereby agrees and recognizes that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.


17. FELONY CONVICTION

Defendant hereby agrees and recognizes that his plea of guilty in this case will be recognized as a felony conviction which will result in the loss of certain rights, including but not limited to the right to vote in a federal election, to serve as a juror, to hold public office, and to lawfully possess a firearm.

18. STATEMENT OF FACTS

The accompanying Statement of Facts signed by 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. Further, the Defendant agrees that said statement of facts may be used by the sentencing judge in determining the application of any sentencing guidelines in the instant case.

19. FORFEITURE

 Defendant hereby agrees to forfeit all property, real or personal, which constituted or was derived from proceeds traceable to the offenses set forth in Counts 1-12 of the Indictment in Criminal No: 16-038 (PAD).

20. LIMITATIONS OF PLEA AGREEMENT

Defendant is fully aware that the Court is not bound by this Plea Agreement, including but not limited to: advisory sentencing guidelines calculations, stipulations, and/or sentence recommendations. In addition, 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.

23. ENTIRETY OF PLEA AGREEMENT

This written agreement and the supplement constitute the complete Plea Agreement between the United States, Defendant, and Defendant's 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.

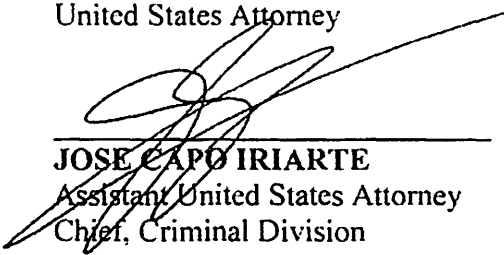
24. AMENDMENTS TO PLEA AGREEMENT

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

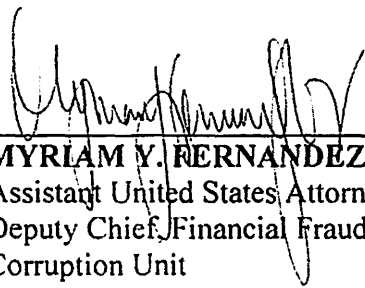
25. VOLUNTARINESS OF GUILTY PLEA

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


ROSA EMILIA RODRIGUEZ-VELEZ
United States Attorney


JOSE CAPRI IRIARTE
Assistant United States Attorney
Chief, Criminal Division

Dated: 9-7-18


MYRIAM Y. HERNANDEZ-GONZALEZ
Assistant United States Attorney
Deputy Chief, Financial Fraud &
Corruption Unit


Dated: 9-4-2018


SETH A. ERBE
Assistant United States Attorney

Dated: 9/4/18


OSCAR FERRER RIVERA
Defendant

Dated: Sept 7-18


LUIS RAFAEL RIVERA, ESQ.
Counsel for Defendant

Dated: Sept 7-18

ACKNOWLEDGMENT

I have consulted with my counsel and fully understand all of my rights with respect to the Indictments 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. My counsel has translated the Plea Agreement to me in the Spanish language and I have no doubts as to the contents of the agreement. I fully understand this agreement and I voluntarily agree to it


Sept 7-18
Date



OSCAR FERRER RIVERA
Defendant

I am the attorney for the defendant. I have fully explained to the defendant his rights with respect to the pending Indictments. 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. 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.

Sept 7-18
Date



LUIS RAFAEL RIVERA ESQ.
Counsel for the Defendant

STIPULATION OF FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, the United States of America and Defendant, **OSCAR FERRER RIVERA**, agree that the following statement provides a true and accurate summary of the facts leading to Defendant's acceptance of criminal responsibility for the violation of 18 U.S.C. §§ 1341, 1349, and 1028A.

From on or about January 27, 2011 to in or about January 2016, in the District of Puerto Rico and within the jurisdiction of this Court, **OSCAR FERRER RIVERA**, together with others, did knowingly and willfully combine, conspire, confederate and agree, with each other, and with others, to commit an offense contained in Chapter 63, of Title 18, of the United States Code, namely to devise a scheme and artifice to defraud and obtain money by means of false and fraudulent pretenses, representations, and promises and for the purpose of executing the scheme and artifice, knowingly caused to be delivered by mail at the place at which it is directed to be delivered by the person to whom it is addressed fraudulent investment statements in violation of 18 U.S.C. § 1341. All in violation 18 U.S.C. § 1349.

From in or about January 27, 2011 through in or about January 2016, **OSCAR FERRER RIVERA** engaged in a scheme to defraud and conspired with others to engage in a scheme to defraud by lying and materially misrepresenting to individuals residing in Puerto Rico that he would invest the individual's money in stocks, funds, securities, and other financial products (hereinafter "investment vehicles") with guaranteed principal and a fixed rate of return.

As a part of and in furtherance of the conspiracy and scheme to defraud, **OSCAR FERRER RIVERA**:

- a. falsely represented that the investment vehicles were safe, that all principal was guaranteed, and that the investment vehicle would earn a fixed rate of return;

- b. falsely represented that the individual's money would actually be invested in an investment vehicle;
- c. provided fraudulent investment contracts for individuals to sign and failed to provide copies of the signed contracts to the investors;
- d. failed to invest the investors' money;
- e. failed to pay investors the interest promised to them;
- f. failed to return and repay investors' principal;
- g. created corporations in Puerto Rico and Florida to open bank accounts and to deposit individual's investment payments;
- h. created and operated Reco Financial, Inc. ("Reco"), National Western HIA, Inc. ("National"), and CGB Financial, Inc. ("CGB") to transfer investor's funds to himself and others;
- i. transferred money from National, CGB, and Reco to personal accounts and used investors' funds for himself and others;
- j. mailed interest payments so that investors would be unaware of the true state of their investment;
- k. created false investment statements which included an account summary, earning summary, portfolio summary, and detailed account activity;
- l. mailed investment statements falsely representing that funds were invested, falsely identifying the type of investment, and falsely characterizing the investment as having guaranteed principal and interest;
- m. mailed investment statements falsely representing that investments were placed in investment vehicles which did not exist;

n. used a logo for National which was similar to the logo used by a life insurance company in the United States with the initials N.W.L.I.C.

o. lulled victims through monetary payments and through communications with individual investors, to delay individual investors from becoming aware of the scheme to defraud and reporting the scheme to defraud.

From on or about January 27, 2011, through in or about January 2016, in the District of Puerto Rico and within the jurisdiction of this Court, the defendant **OSCAR FERRER RIVERA**, with intent to defraud, devised, and willfully participated in the above-described scheme and artifice to defraud and obtain money by materially false and fraudulent pretenses, representations, and promises.

For the purpose of executing or attempting to execute the above described scheme and artifice to defraud and deprive, the defendant **OSCAR FERRER RIVERA** knowingly caused to be delivered by U.S. Mail at the place at which it was directed to be delivered by the person to whom it was addressed the following matters:

COUNT	DESCRIPTION OF ITEM CAUSED TO BE MAILED	MAILED TO
2	National Western HIA letter dated July 9, 2013 to an individual with initials S.A.U.	Urb. [REDACTED] Aguadilla, PR [REDACTED]
3	National Western HIA Investment Statement to an individual with initials S.A.U. with a reporting period ending October 29, 2013	Urb. [REDACTED] Aguadilla, PR [REDACTED]
4	National Western HIA Statement to a company with initials B.R.C&T.R. with a reporting period ending December 4, 2014	PO Box [REDACTED] San Juan, PR [REDACTED]
5	Reco Investment Statement to an individual with initials F.R.D. with a reporting period ending February 26, 2014	Bo. [REDACTED] Cabo Rojo, PR [REDACTED]
6	Reco Investment Statement to individuals with initials M.A.L.F. and A.E.R.A. with a reporting period ending February 10, 2014	Apt. [REDACTED] Cabo Rojo, PR [REDACTED]
7	CGB Financial Investment Statement to individuals with initials D.V.V. and M.A.M.E. with a reporting period of February 26, 2015	C- [REDACTED] San German, PR [REDACTED] [REDACTED]
8	Reco Investment Statement to an individual with initials E.G.R. with a reporting period of September 15, 2014	P.O. Box [REDACTED] Moca, PR [REDACTED]
9	CGB & Reco Financial Investment Statement to individuals with initials G.A.S.A. and B.I.S.F. with a reporting period of January 4, 2015	G- [REDACTED] Cabo Rojo, PR [REDACTED]

10	Reco Investment Statement to an individual with initials F.M.F. with a reporting period ending on September 28, 2013	[REDACTED] Cabo Rojo, PR [REDACTED]
11	Reco Investment Statement to an individual with initials A.A.M. with a reporting period of October 24, 2014	Rep. [REDACTED] Mayaguez, PR [REDACTED]
12	Reco Investment Statement to an individual with initials Y.C.Q. with a reporting period ending with April 30, 2011	[REDACTED] Calle Cafetal [REDACTED] Hormigueros, PR [REDACTED]


On or about July 7, 2016, in the District of Puerto Rico, and within the jurisdiction of this Court, **OSCAR FERRER RIVERA**, did willfully and knowingly cause the transfer, possession, and use, without lawful authority, of a means of identification of another person, to wit: the name, social security number, and date of birth of a real person with initials M.E.F.R., during and in relation to a felony enumerated in 18 U.S.C. § 1028A(c), to wit: social security fraud involving the Puerto Rico Department of Transportation in violation of 42 U.S.C. § 408(a)(7)(B) as charged in Count One. All in violation of 18 U.S.C. § 1028A(a)(1).

OSCAR FERRER RIVERA, for the purpose of obtaining a Puerto Rico identification, knowingly, willfully and with the intent to deceive, falsely represented to the Puerto Rico Department of Transportation a number, XXX-XX [REDACTED] to be the social security number assigned by the Commissioner of Social Security to him, when in fact such social security number is assigned to M.E.F.R. and is not the social security number assigned by the Commissioner of Social Security to defendant **OSCAR FERRER RIVERA**. At the same time, **OSCAR FERRER RIVERA** falsely submitted the birth certificate of M.E.F.R. in order to cause the Puerto Rico Department of Transportation to issue a Puerto Rico identification to him in the name of M.E.F.R. with the photograph of **OSCAR FERRER RIVERA**. The Puerto Rico identification was utilized to flee the jurisdiction in violation of his pretrial conditions of release and to obtain a Florida driver's license in the name of M.E.F.R. with the photograph of **OSCAR FERRER RIVERA**. By fleeing to Florida and violating the pretrial conditions of release, **OSCAR FERRER RIVERA** obstructed and impeded the administration


of justice pursuant to U.S.S.G. § 3C1.1.

This Statement of Facts is only a summary and does not include all relevant facts known by Defendant **OSCAR FERRER RIVERA** pertaining to his or any other individual's involvement in the conspiracy and scheme described above.

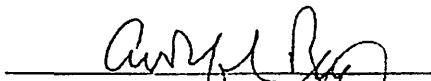
If this matter had proceeded to trial, the United States would have proven beyond a reasonable doubt that Defendant **OSCAR FERRER RIVERA** is guilty as charged in Counts 1-12 of the Indictment in CR No. 16-038(PAD) and Count 2 of the Indictment in CR No. 18-387(PAD). This would have been proven through documentary and testimonial evidence, including, but not limited to, audio recordings, fraudulent investment statements, mailing envelopes, corporate records, bank records, casino records, photographs, text messages, and victim testimony as well as other documentation and testimonial evidence.



OSCAR FERRER RIVERA
Defendant
Dated: Sept 7-18



SETH A. ERBE
Assistant United States Attorney
Dated: 9/7/18



LUIS RAFAEL RIVERA, ESQ.
Counsel for Defendant
Dated: Sept 7-18

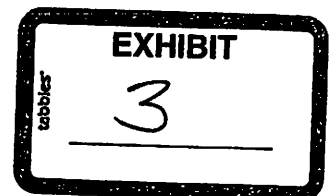
**United States District Court
 District of Puerto Rico (San Juan)
 CRIMINAL DOCKET FOR CASE #: 3:16-cr-00038-PAD All Defendants**

Case title: USA v. Ferrer et al

Date Filed: 01/26/2016

Date Filed	#	Docket Text
09/07/2018	179	Minute Entry for proceedings held before US Magistrate Judge Marshal D. Morgan:Change of Plea Hearing as to Oscar Ferrer (1) held on 9/7/2018. Present were AUSA Seth Erbe and Mr. Luis Rivera-Rodriguez. Defendant was present and under custody. Waiver of JT and consent to proceed before a U. S. Magistrate Judge was filed and accepted in open court. The defendant was found competent at this time to understand the proceedings. Defendant was advised of the maximum penalties he's facing, his constitutional rights, consequences of waiving said rights, and the statutory guidelines. After hearing the parties, the Magistrate Judge will issue a Report and Recommendation to Judge Delgado-Hernandez so that the guilty plea as to counts One (1) through Twelve (12) of the indictment in criminal 16-38, and Count Two (2) in criminal case 18-387 be accepted. The Court orders the preparation of the Pre-Sentence Report. Judge Pedro Delgado-Hernandez will schedule sentencing date. Defendant will remain under custody. (Court Reporter -DCR - Courtroom 11.)Hearing set for 09:30.Hearing held at 11:01.Hearing ended at 12:03.Interpreter -Ani Navarro. (yr) (Entered: 09/07/2018)

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**United States District Court
 District of Puerto Rico (San Juan)
 CRIMINAL DOCKET FOR CASE #: 3:16-cr-00038-PAD All Defendants**

Case title: USA v. Ferrer et al

Date Filed: 01/26/2016

Date Filed	#	Docket Text
10/10/2018	181	ORDER: Granting <u>172</u> "Motion for Change of Plea" as to Oscar Ferrer (1) & adopting <u>180</u> Report and Recommendations on Plea of Guilty as to Oscar Ferrer (1). The Court noted that a PSR was ordered at docket 179 . Sentencing Hearing will be set in due course. Signed by Judge Pedro A. Delgado-Hernandez on 10/10/2018. (cc) (Entered: 10/10/2018)

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