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January 24, 2022

Celia Howes, Esq.  
Hoebet, Olson, Howes PC  
1000 SW Broadway, Suite 1740  
Portland, Oregon 97205

Re: *United States v. Benjamin Tifekchien & Bencho Jewelry Inc.*  
Case No. 3:21-cr-00244-IM

Dear Counsel:

1. **Parties/Scope:** This plea agreement is between this United States Attorney's Office (USAO) and Benjamin Tifekchien ("defendant"), and thus does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority. This agreement does not apply to any charges other than those specifically mentioned herein.
2. **Charges:** The defendant agrees to waive full discovery and substantive motions and to plead guilty to Count 2 of the Indictment returned in this matter, which charges him with Bank Fraud in violation of Title 18, United States Code, Section 1344(2). Defendant also admits the forfeiture allegation.
3. **Penalties:** The maximum penalties for Count 2, Bank Fraud, are 30 years in prison, a fine of \$1,000,000, and 5 years of supervised release. In addition, defendant must pay a \$100 fee assessment for each felony count of conviction. Defendant agrees to pay the fee assessment of \$100 by the time of entry of guilty plea or explain to the satisfaction of the Court why this cannot be done.
4. **Dismissal/No Prosecution:** The USAO agrees to dismiss Count 1 of the Indictment and to forgo any additional charges against defendant and Bencho Jewelry Inc. resulting from this investigation, if, first, all of the essential facts underlying such charges are known to the USAO at the time of this agreement and, second, defendant is convicted and sentenced in conformity with this agreement. This agreement does not extend to any offenses relating to defendant's immigration to the United States or application for naturalization as a citizen thereof.
5. **Sentencing Factors:** The parties agree that the Court must first determine the applicable advisory guideline range, then determine a reasonable sentence considering that range and the

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factors listed in 18 U.S.C. § 3553(a). Where the parties agree that sentencing factors apply, such agreement constitutes sufficient proof to satisfy the applicable evidentiary standard.

6. **Elements of the Offense:** For defendant to be found guilty of Bank Fraud as alleged in Count 2 of the Indictment, the government must prove the following elements beyond a reasonable doubt:

- A. First, defendant knowingly devised a material plan or scheme to obtain money or property from Bank of America by false pretenses or representations;
- B. Second, defendant made statements or representations in furtherance of that scheme that he knew to be false;
- C. Third, the pretenses or representations were material; that is, they had a natural tendency to influence, or were capable of influencing, a financial institution to part with money or property;
- D. Fourth, defendant acted with the intent to defraud; and
- E. Fifth, Bank of America was, at that time, federally insured by the Federal Deposit Insurance Corporation (“FDIC”).

The defendant stipulates that uncontested and admissible evidence of his relevant conduct as summarized in paragraph 7, *infra*, establishes each of the foregoing elements beyond any reasonable doubt.

7. **Factual Basis and Relevant Conduct:** Defendant stipulates that the following is a true and accurate summary of his offense conduct. He further agrees and avers that every statement herein is true and correct and that the government could prove every statement beyond a reasonable doubt at trial, including through evidence of these admissions.

- a) In May 2019, defendant incorporated Bencho Jewelry Inc. (“Bencho”) in the State of Oregon and served as the company’s sole owner and officer. Bencho never had any employees and never generated more than \$500 in revenue in any calendar year.
- b) After Congress passed the CARES Act in March 2020, defendant recognized an opportunity to procure—quickly and with limited scrutiny—COVID-relief loans guaranteed or issued by the United States Small Business Administration (“SBA”) by submitting fraudulent loan applications on Bencho’s behalf.
- c) Defendant applied for two Economic Injury Disaster Loans (“EIDLs”) by submitting false and fraudulent applications to the SBA. In the first application, filed on April 3, 2020, defendant falsely claimed that Bencho had generated \$40,000 in revenue in the twelve months ending on January 31, 2020; in the second application, filed on August 4, 2020, defendant falsely claimed Bencho

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employed 12 people, had been operating for 20 years, and had generated revenues of \$758,544 in the twelve months ending on January 31, 2020. Neither of these applications was successful.

- d) Defendant had greater success with his application to Bank of America, an FDIC-insured institution, for a Paycheck Protection Program (“PPP”) loan on June 9, 2020. In that application, defendant falsely claimed that Bencho employed 78 people and had an average monthly payroll of \$353,698. As a result of these fraudulent misrepresentations, Bank of America extended a PPP loan to Bencho in the amount of \$884,246. The SBA guaranteed the loan and paid Bank of America loan fees of \$26,527.35.
- e) Rather than use the PPP loan as required to pay Bencho personnel and to defray other business expenses, defendant used the proceeds to pay for gambling, vacations, and other personal expenses. Suspecting fraud, Bank of America froze the loan funds, but only after defendant had spent \$68,483.

The parties stipulate that the offense level applicable to Count 2 of the Indictment based on the foregoing relevant conduct is 21, pursuant to U.S.S.G. § 2B1.1(a)(1) (base offense level for bank fraud of seven), (b)(1)(H) (fourteen-level enhancement for loss exceeding \$550,000 but not more than \$1.5 million).

8. **Acceptance of Responsibility:** The defendant must demonstrate to the Court that defendant fully admits and accepts responsibility under U.S.S.G. § 3E1.1 for defendant’s unlawful conduct in this case. If defendant does so, the USAO will recommend a three-level reduction in defendant’s offense level. The USAO reserves the right to change this recommendation if defendant, between plea and sentencing, commits any criminal offense, again obstructs or attempts to obstruct justice as explained in U.S.S.G. § 3C1.1, or acts inconsistently with acceptance of responsibility as explained in U.S.S.G. § 3E1.1.

9. **Waiver of Discovery:** As a material term of this offer and agreement, defendant expressly accepts the USAO’s offer to make available the evidence gathered in the investigation of this matter for on-site inspection and the USAO’s production of limited discovery as of the date of this agreement in full satisfaction of the government’s discovery obligations in this case. Defendant knowingly, intelligently, and voluntarily waives his rights to further production of evidence or information from the government, even though he may be entitled to such production pursuant to the Federal Rules of Criminal Procedure, the discovery orders of the Court, and any prior demands for discovery.

10. **Recommendation of Two-Level Downward Variance and Low-End Sentence:** In consideration of defendant’s waiver of substantive motions, rights of appeal, collateral attack, and full discovery, his prompt acceptance of responsibility as described in paragraph 8, *supra*, and his compliance with all other terms of this agreement, the USAO will recommend a downward variance of two levels and a sentence at the low end of the resulting Guideline range. (The USAO estimates that defendant is at least in Criminal History Category I and thus that the

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government's sentencing recommendation would be at least 21 months' imprisonment.) The USAO shall recommend defendant's period of incarceration be followed by five years' supervised release.

11. **Waiver of Appeal/Post-Conviction Relief:** Defendant knowingly and voluntarily waives the right to appeal from any aspect of the conviction and sentence on any grounds, except for a claim that: (1) the sentence imposed exceeds the statutory maximum, (2) the Court arrives at an advisory sentencing guideline range by applying an upward departure under the provisions of Guidelines Chapters 4 or 5K, or (3) the Court exercises its discretion under 18 U.S.C. § 3553(a) to impose a sentence exceeding the advisory guideline sentencing range as determined by the Court at the time of sentencing without required notice to the parties. Should defendant seek an appeal despite this waiver, the USAO may take any position on any issue on appeal and may pursue any charges forgone pursuant to this agreement. Defendant also waives the right to file any collateral attack, including a motion under 28 U.S.C. § 2255, challenging any aspect of the conviction or sentence on any grounds, except on grounds of ineffective assistance of counsel, and except as provided in Fed. R. Crim. P. 33 and 18 U.S.C. § 3582(c)(2).

Defendant expressly agrees that these waivers shall remain effective if the USAO alters its sentencing recommendation consistent with the terms of this agreement or because defendant otherwise breaches this agreement.

12. **Court Not Bound:** The Court is not bound by the recommendations of the parties or of the presentence report (PSR) writer. Because this agreement is made under Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, defendant may not withdraw any guilty plea or rescind this plea agreement if the Court does not follow the agreements or recommendations of the parties.

13. **Full Disclosure/Reservation of Rights:** The USAO will fully inform the PSR writer and the Court of the facts and law related to defendant's case. Except as set forth in this agreement, the parties reserve all other rights to make sentencing recommendations and to respond to motions and arguments by the opposition.

14. **Payment of Full Restitution:** Defendant agrees to an order of full restitution to all victims of the offenses of conviction and his relevant conduct, including all victims of identity theft, pursuant to 18 U.S.C. §§ 3663 and 3663A. Defendant specifically agrees that the Court is required to and shall impose an order of restitution in an amount of not less than **\$910,773.35** (with \$884,246 due to Bank of America and \$26,527.35 due to SBA).

Defendant expressly authorizes the USAO to obtain a credit report on defendant. Defendant agrees to provide waivers, consents, or releases requested by the USAO to access records to verify the financial information. Defendant also authorizes the USAO to inspect and copy all financial documents and information held by the U.S. Probation Office. The parties

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agree that defendant's failure to timely and accurately complete and sign the Financial Disclosure Statement, and any update thereto, may, in addition to any other penalty or remedy, constitute defendant's failure to accept responsibility under USSG § 3E1.1. Defendant agrees to submit to examination under oath and/or a polygraph examination by an examiner selected by the USAO, on the issue of defendant's financial disclosures and assets.

**Transfer of Assets**

Defendant agrees to notify the Financial Litigation Unit of the USAO before defendant transfers any funds or interest in property (other than through recurring debt payments and ordinary business operations) with a value exceeding \$1,000 owned directly or indirectly, individually or jointly, by defendant, including any interest held or owned under any name, including trusts, partnerships, and corporations.

**Restitution**

The Court shall order restitution to each victim in the full amount of each victim's losses as determined by the Court. Defendant agrees to pay restitution for all losses caused by defendant's relevant conduct, regardless of whether the Indictment alleges such conduct.

Defendant understands and agrees that the total amount of any monetary judgment that the Court orders defendant to pay will be due. Defendant further understands and agrees that pursuant to 18 U.S.C. § 3614, defendant may be resentenced to any sentence which might have originally been imposed if the court determines that defendant has knowingly and willfully refused to pay a fine or restitution as ordered or has failed to make sufficient bona fide efforts to pay a fine or restitution. Additionally, defendant understands and agrees that the government may enforce collection of any fine or restitution imposed in this case pursuant to 18 U.S.C. §§ 3572, 3613, and 3664(m), notwithstanding any initial or subsequently modified payment schedule set by the court. Defendant understands that any monetary debt defendant owes related to this matter may be included in the Treasury Offset Program to potentially offset defendant's federal retirement benefits, tax refunds, and other federal benefits.

Pursuant to 18 U.S.C. § 3612(b)(1)(F), defendant understands and agrees that until a fine or restitution order is paid in full, defendant must notify the USAO of any change in the mailing address or residence address within 30 days of the change. Further, pursuant to 18 U.S.C. § 3664(k), defendant shall notify the Court and the USAO of any material change in defendant's economic circumstances that might affect defendant's ability to pay restitution, including, but not limited to, new or changed employment, increases in income, inheritances, monetary gifts, or any other acquisition of assets or money.

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15. **Seized Funds Remitted for Restitution:** The parties jointly agree and stipulate to entry forthwith of an order of restitution in the amount of \$910,773.35 (loan principal of \$884,246.00 plus SBA-paid lender fees of \$26,527.35). In lieu of forfeiture of up to \$815,762.50 seized from Bank of America pursuant to the warrant issued in matter number 3:22-mc-00064, the parties agree that the United States shall remit to the Clerk of the Court the seized amount in partial satisfaction of the aforementioned restitution order. Defendant hereby waives all right, title, and interest to the seized amount except insofar as it is credited toward his restitution obligation in this case.

16. **Breach of Plea Agreement:** If defendant breaches the terms of this agreement or commits any new criminal offenses between signing this agreement and sentencing, the USAO is relieved of its obligations under this agreement, but defendant may not withdraw any guilty plea or rescind his waivers of appeal and post-conviction relief, as described in paragraph 11, *supra*.

If defendant believes that the government has breached the plea agreement, defendant must raise any such claim before the district court, either prior to or at sentencing. If defendant fails to raise a breach claim in district court, defendant has waived any such claim and shall be precluded thereby from raising a breach claim for the first time on appeal.

17. **Memorialization of Agreement:** No promises, agreements, or conditions other than those set forth in this agreement will be effective unless memorialized in writing and signed by all parties listed below or confirmed on the record before the Court. If defendant accepts this offer, please sign and attach the original of this letter to the Petition to Enter Plea.

(Continued on next page.)

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18. **Deadline:** This plea offer expires if not accepted and signed by defendant and counsel and received by the USAO by 5:00 p.m. on January 24, 2022.

Sincerely,

SCOTT ERIK ASPHAUG  
United States Attorney



RYAN W. BOUNDS  
Assistant United States Attorney

I have carefully reviewed every part of this agreement with my attorney. I understand and voluntarily agree to its terms. I expressly waive my rights to appeal as outlined in this agreement. I wish to plead guilty because, in fact, I am guilty.

1.25.22

Date

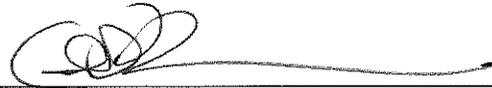


Benjamin Tifekchien, Defendant

I represent the defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge, defendant's decisions to make this agreement and to plead guilty are informed and voluntary ones.

1.25.22

Date



Celia Howes, Esq.  
Attorney for Defendant