

PORTLAND MAIN OFFICE
1000 SW Third Avenue, Suite 600
Portland, Oregon 97204
(503) 727-1000
www.usdoj.gov/usao/or



EUGENE BRANCH
405 E. 8th Avenue, Suite 2400
Eugene, Oregon 97401
(541) 465-6771

Gavin W. Bruce
Assistant U.S. Attorney
Gavin.Bruce@usdoj.gov
(541) 465-6771
Reply to Eugene Office

U.S. DEPARTMENT OF JUSTICE
United States Attorney's Office
District of Oregon
Scott Erik Asphaug
Acting United States Attorney

MEDFORD BRANCH
310 West Sixth Street
Medford, Oregon 97501
(541) 776-3564

May 24, 2021

Irina Hughes
Assistant Federal Public Defender
859 Willamette Street, Suite 200
Eugene, OR 97401

Re: *United States v. Russell Anthony Schort* USDC No. 6:21-CR-200-MC-01
Plea Agreement Letter

Dear Counsel:

1. **Parties/Scope:** This plea agreement is between this United States Attorney's Office (USAO) and 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:** Defendant agrees to waive Indictment and plead guilty to Count One of the Information, which charges Bank Fraud in violation of Title 18, United States Code, Section 1344.
3. **Penalties:** The maximum sentence is 30 years' imprisonment, a fine of \$1,000,000, five years of supervised release, and a \$100 fee assessment. Defendant agrees to pay the fee assessment by the time of entry of guilty plea or explain to the Court why this cannot be done.
4. **Dismissal/No Prosecution:** The USAO will move at the time of sentencing to dismiss any remaining counts against defendant. The USAO further agrees not to bring additional charges against defendant in the District of Oregon arising out of this investigation, known to the USAO at the time of this agreement.
5. **Elements and Factual Basis:** In order for defendant to be found guilty of Count One of the Information, the government must prove the following elements beyond a reasonable doubt:

Irina Hughes
Re: Russell Anthony Schort Plea Agreement Letter
Page 2
May 24, 2021

- (1) The defendant knowingly executed a scheme to defraud a financial institution as to a material matter;
- (2) The defendant did so with the intent to defraud the financial institution; and
- (3) Third, the financial institution was insured by the Federal Deposit Insurance Corporation.

Defendant admits the elements of the offense alleged in Count One of the Information. Defendant has committed each of the elements of the crime to which he is pleading guilty and admits there is a factual basis for defendant's guilty plea. The following facts are true and undisputed:

In October 2020, federal agents initiated an investigation into Schort and his co-schemer Andrew Lloyd based on information that suggested they fraudulently applied for Paycheck Protection Program (PPP) loans at multiple financial institutions. The CARES Act authorized the SBA to guarantee loans of up to \$10,000,000 to qualifying employers without collateral or personal guarantees from the borrowers. In order to obtain a PPP loan, the Act required borrowers to certify, among other things, that the borrowed funds would be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments.

On May 1, 2020, Lloyd submitted a PPP Loan Application under Schort's business name, Schort Lee Construction, to U.S. Bank, a financial institution with its deposits insured by the Federal Deposit Insurance Corporation. Included with the loan application package was a false IRS form 944 listing 2019 wages in the amount of \$3,084,046. The application included a list of fifty-six employees and the amount paid to each employee. The total amount of wages, the employee names, and the amount of wages paid to each employee were all false.

Based on the materially false representations, U.S. Bank processed the PPP loan application, resulting in the disbursement of a PPP loan in the amount of \$601,552 on May 8, 2021 in Schort's bank account. On May 11, 2020, three days after receiving the PPP loan proceeds, Schort transferred via wire \$307,000 from his account to Lloyd's bank account. After receiving the \$307,000, Lloyd transferred funds to an online brokerage account in his name and purchased securities.

6. **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 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.

Irina Hughes
 Re: Russell Anthony Schort Plea Agreement Letter
 Page 3
 May 24, 2021

7. **Relevant Conduct and Sentencing Guidelines:** The USAO and defendant agree that the following sentencing guidelines calculation applies:

	Guidelines Provision	Levels
A.	Base Offense Level, USSG § 2B1.1(a)	7
B.	Loss Amount, USSG § 2B1.1(b)(1)(G)	+12
C	Minor/Minimal Participant, USSG § 3B1.2	-3
	Adjusted Offense Level	16

8. **Acceptance of Responsibility:** Defendant must demonstrate to the Court that defendant fully admits and accepts responsibility under USSG § 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 (two levels if defendant's offense level is less than sixteen). The USAO reserves the right to change this recommendation if defendant, between plea and sentencing, commits any criminal offense, obstructs or attempts to obstruct justice as explained in USSG § 3C1.1, or acts inconsistently with acceptance of responsibility as explained in USSG § 3E1.1.

9. **Sentencing Recommendation:** The USAO will recommend the low end of the applicable guideline range as long as defendant demonstrates an acceptance of responsibility as explained above. If defendant's guideline range falls within Zone B of the sentencing guidelines, the government will agree to recommend an alternative to incarceration sentence.

10. **Additional Departures, Adjustments, or Variances:**

A. Defendant reserves the right to seek a downward departure, adjustment, or variance from the applicable sentencing guideline range determined by the Court and understands that the government reserves its right to oppose such a request. The basis for the departure, adjustment, or variance shall be limited to USSG § 5K2 or 18 U.S.C. § 3553.

B. Defendant agrees that, should defendant seek a downward departure, adjustment, or variance from the applicable guideline range determined by the Court and Probation Office, defendant will provide the government with notice of: (1) the factual basis for such request; (2) any evidence defendant intends to introduce or rely upon at the sentencing hearing; and (3) any witnesses, including expert witnesses, defendant intends to call or rely upon at the sentencing hearing. Such notice must be provided to the government no later than the

Irina Hughes
Re: Russell Anthony Schort Plea Agreement Letter
Page 4
May 24, 2021

Wednesday prior to the week during which the sentencing hearing is scheduled. Defendant agrees that if defendant fails to comply with this notice requirement, defendant will not oppose a government motion for a postponement of the sentencing hearing.

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, or (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 which exceeds the advisory guideline sentencing range as determined by the Court. Should defendant seek an appeal, despite this waiver, the USAO may take any position on any issue on appeal. 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). In the event that defendant's conviction under this agreement is vacated, the government may reinstate and/or file any other charges, and may take any position at a resentencing hearing, notwithstanding any other provision in 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. **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.

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 is precluded from raising a breach claim for the first time on appeal.

Irina Hughes
Re: Russell Anthony Schort Plea Agreement Letter
Page 5
May 24, 2021

15. **Restitution:** Defendant agrees fully to disclose all assets in which defendant has any interest or over which defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or third party. Defendant agrees to truthfully complete the Financial Disclosure Statement provided herein by the earlier of fourteen days from defendant's signature on this plea agreement or the date of defendant's entry of a guilty plea, sign it under penalty of perjury, and provide it to both the USAO and the United States Probation Office. Defendant agrees to provide updates with any material changes in circumstances, as described in 18 U.S.C. § 3664(k), within seven days of the event giving rise to the changed circumstances.

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 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.

Transfer of Assets

Defendant agrees to notify the Financial Litigation Unit of the USAO before defendant transfers any interest in property with a value exceeding \$1000 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 conduct, regardless of whether counts of the Indictment dealing with such losses will be dismissed as part of this plea agreement. The parties agree that restitution shall be no less than \$294,552.

Defendant understands and agrees that the total amount of any monetary judgment that the Court orders defendant to pay will be due and payable immediately. 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

Irina Hughes
Re: Russell Anthony Schort Plea Agreement Letter
Page 6
May 24, 2021

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 immediately 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.

16. **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.

17. **Deadline:** This plea offer expires if not accepted by May 31, 2021 at 5:00p.m.

Sincerely,

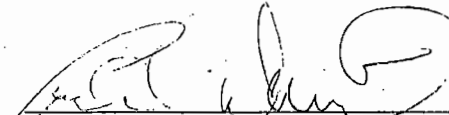
SCOTT ERIK ASPHAUG
Acting United States Attorney

/s/ Gavin W. Bruce
GAVIN W. BRUCE
Assistant United States Attorney

Irina Hughes
Re: Russell Anthony Schort Plea Agreement Letter
Page 7
May 24, 2021

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.

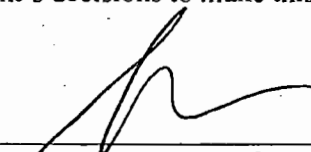
5-6-4-21
Date



Russell Anthony Schort, 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.

6/4/21
Date



Irina Hughes, Attorney for Defendant