# PLEA AND COOPERATION AGREEMENT

1. This is the plea and cooperation Agreement between the District Attorney of the County of New York ("the District Attorney") and defendant Joseph Esposito ("the Defendant"). This Agreement constitutes the entire Agreement between the Defendant and the District Attorney with respect to the criminal case. There are no promises, Agreements, or conditions, express or implied, other than those set forth in this document. No modification, deletion or addition to this Agreement will be valid or binding on any party unless put into writing and signed by all parties.

2. This Agreement will take effect when and if approved by the Court presiding over People v. Joseph Esposito, New York County Indictment Numbers 00201/2014, 00739/2014, and 00845/2014.

3. In satisfaction of the charges against him, as detailed in Indictment Numbers 00201/2014, 00739/2014, and 00845/2014, the Defendant agrees to enter a plea of guilty to one count of Grand Larceny in the First Degree, in violation of New York Penal Law Section 155.42, a Class B felony. The maximum permissible sentence for the crime of Grand Larceny in the First Degree is an indeterminate sentence of eight and one-third to twenty-five years imprisonment, and a fine not exceeding the higher of $5,000 or double the amount of the Defendant's gain from the commission of the crime, and the potential minimum sentence that could be received under the plea of guilty is one to three years imprisonment.

4. The Defendant's cooperation shall be as set forth in this paragraph. Failure to comply with this paragraph, in any respect, shall be a violation of this Agreement.

    a. The Defendant shall fully, fairly, and truthfully disclose all information and produce any and all records and other evidence in the Defendant's possession, custody, or control which are: (i) relevant to any criminal conduct whatsoever about which the Defendant has any knowledge or information, whether such conduct has occurred before or after this Agreement has become effective, and whether or not the Defendant is questioned about such conduct; or (ii) relevant to any inquiry made by the District Attorney. The Defendant shall provide such disclosures and evidence to the District Attorney and to such investigators, inspectors, detectives, or staff persons of government agencies and self-regulatory organizations as the District Attorney may direct.

    b. The Defendant shall fully, fairly, and truthfully testify before the grand jury, at any trial, and at any other proceeding, at any date and time that the

District Attorney may direct. Whenever directed by the District Attorney to testify at any proceeding, the Defendant shall not assert any privilege against self-incrimination, and if directed to testify before a grand jury, the Defendant shall waive immunity pursuant to Criminal Procedure Law §190.45.

c. The Defendant shall actively participate in ongoing investigations by the District Attorney. Active participation shall be as the District Attorney directs and only as the District Attorney directs. Active participation may include, but is not limited to, engaging in transactions, communicating with third-parties, attending meetings, and making telephone calls. The Defendant consents to the recording of any transactions, meetings, communications and telephone calls as directed by the District Attorney.

d. Upon request by the District Attorney, at any time, the Defendant shall provide accurate and complete written disclosure of the Defendant's financial condition, including disclosure of all assets, liabilities, sources of income, and expenses. The District Attorney may direct that such disclosure be sworn to and made on a form provided by the District Attorney. The Defendant's obligation shall include, but not be limited to: (a) the disclosure of any and all interests, direct or indirect, in any and all real or personal property, whether tangible or intangible, including all interests in property held by or in the names of other persons or entities, wherever located; (b) taking all steps necessary to obtain disclosure of financial information from other persons if requested by the District Attorney; and (c) providing any and all supplemental financial disclosure requested by the District Attorney, including but not limited to providing documents and other tangible items.

e. The Defendant shall commit no further crimes.

f. The Defendant shall not make any statement or commit any act that might compromise the safety or identity of any investigator, or the confidentiality of any investigation.

g. The Defendant shall meet, whenever requested by the District Attorney, with any assistant district attorneys, investigators, inspectors, detectives, or staff persons of government agencies and self-regulatory organizations as the District Attorney may direct.

5. The Defendant and the District Attorney agree that if Indictment Numbers 00201/2014, 00739/2014, and 00845/2014 are superseded by any future indictment relating to any of the facts underlying Indictment Numbers 00201/2014, 00739/2014, and 00845/2014 or the facts set forth in the

Defendant's allocution, the District Attorney and the Defendant will modify this Agreement to reference such superseding indictment.

6. If the Defendant fully complies with this Agreement, as determined solely by the District Attorney, the District Attorney will inform the Court of the nature and extent of the Defendant's cooperation and will make a sentencing recommendation to the Court.

7. In the event that the Defendant has provided full cooperation, the People will recommend that the Defendant be allowed to withdraw the previously entered plea of guilty to Grand Larceny in the First Degree, and enter a substitute plea of guilty to Grand Larceny in the Second Degree, in violation of New York Penal Law Section 155.40, a Class C felony, and be sentenced to one and a half to four and a half years imprisonment, in full satisfaction of Indictment Numbers 00201/2014, 00739/2014, and 00845/2014 or any superseding Indictment as described in paragraph 5. The Defendant understands, however, that the Court has the authority to impose any lawful sentence pursuant to his guilty plea. The Defendant further agrees that his guilty plea may not be withdrawn in the event the Court imposes a sentence other than the above-mentioned sentence. In addition, in regard to the Defendant's sentence, the parties agree that the District Attorney will support any application by defense counsel on behalf of the Defendant for a Certificate of Relief from Civil Disabilities.

8. If the Defendant violates this Agreement in any respect, as determined solely by the District Attorney:

   a. The District Attorney may request that the Court impose sentence forthwith or at any time upon the plea described in this Agreement. The District Attorney may request that the sentence on the Defendant's plea under Indictments 00201/2014, 00739/2014, and 00845/2014 be the maximum sentence authorized by law, which is set forth above in paragraph "3". The District Attorney may request, if necessary, that the sentence be imposed in the Defendant's absence. The Defendant understands that the Court has the authority to impose any lawful sentence.

   b. The District Attorney may prosecute the Defendant for any crime committed. Any such prosecution will not be limited by the description of criminal conduct in paragraph "3", above, if it should appear that the Defendant has engaged in any criminal conduct not set forth therein.

   c. In any prosecution, or at any sentencing hearing pursuant to subparagraph "8(a)" or "8(b)", the District Attorney may offer, in the People's case-in-chief, in any defense case, in rebuttal, or in any presentation to the court,

any statement or testimony the Defendant has made or given, and any property the Defendant has produced, whether before or after the date of this Agreement. The Defendant waives all claims under the United States and New York State Constitutions and Statutes and rules of evidence, and all other legal claims that any statement, testimony, evidence, or leads derived therefrom should be suppressed.

d. As to any prosecution brought by the District Attorney pursuant to this paragraph, for any offense committed within five years prior to the date of this Agreement, or for any offense committed on or after the date of this Agreement, the Defendant waives any claim that such prosecution is time barred on grounds of speedy trial, speedy arraignment, the statute of limitations, or delayed prosecution.

9. At the time of the plea of guilty, the Defendant shall waive his right of appeal to this conviction directly and collaterally in both New York State and Federal Courts, and sign a "Waiver of Right to Appeal" form as provided by the District Attorney. In addition, the Defendant knowingly and voluntarily agrees to waive the right to appeal this judgment of conviction, the Defendant agrees to relinquish his appellate rights because he is receiving a favorable plea and sentence Agreement, and he understands that his appellate rights are separate and apart from those rights he is automatically forfeiting by his guilty plea. In relation to this conviction, the Defendant shall also waive any applicable statutes of limitations, and waive any challenges to New York County venue. At the time of the plea of guilty, this Agreement shall be made part of the record, and the parties will request the Court's approval thereof. This Agreement will become effective only upon the Court's approval.

10. At the time of his guilty plea, the Defendant will allocute under oath to the following facts:

From in or around January 1988 to in or around December 2013, I Joseph Esposito, did knowingly and intentionally and acting in concert with others, cause others to make false representations to the United States Social Security Administration and the New York State Office of Temporary and Disability Assistance, in order to obtain Social Security Disability Insurance ("SSDI") benefits.

By making these false representations, I helped others collect unauthorized payments from the Social Security Administration that exceeded one million dollars from the period of in or around January 1988 through in or around December 20, 2013.

I admit and acknowledge that I committed the crime of Grand Larceny in the First Degree.

11. As a condition of this Agreement and at the time of his plea, the Defendant agrees to pay the amount of $733,895.63, which represents the amount of loss suffered by the United States Social Security Administration. The Defendant understands and agrees that he is liable, as designated above, for the total sum of monies owed and that the failure to pay any part of the monies owed shall be deemed a material breach of this Agreement.

12. As a condition of this Agreement, the Defendant agrees to forfeit $733,895.63 to Cyrus R. Vance, Jr., District Attorney of the County of New York, in his capacity as Plaintiff-Claiming Authority, in a civil forfeiture action entitled Vance v. Aglialoro, et al., New York County Index No. 450122/2014 ("the Civil Forfeiture Action"), that was brought pursuant to Article 13-A of the Civil Practice Law and Rules ("CPLR"). The forfeiture payment shall be made pursuant to a Forfeiture Stipulation and Order in the Civil Forfeiture Action. Defendant agrees to enter into such a stipulation. It is a condition of this Agreement that the Defendant shall comply fully with all promises and obligations set forth in the Forfeiture Stipulation and Order in the Civil Forfeiture Action. The forfeited funds shall be distributed to the United States Social Security Administration pursuant to CPLR 1349. The Defendant will not be sentenced prior to his having fulfilled his obligations under said Forfeiture Stipulation and Order.

13. The Defendant waives each and every objection, defense, remedy, and/or right of appeal he may have under the constitutions, statutes, common law, and equitable doctrines of the United States and the State of New York in connection with the commencement, litigation, and disposition of the criminal prosecution and civil forfeiture action against them. The Defendant specifically waives any defense to the forfeiture and restitution of the amounts specified herein, including that the amounts are exempt from seizure, restraint, forfeiture, or restitution under any ERISA preemption or any other preemption of retirement funds.

14. The Defendant agrees that proof of income for purposes of either a restitution order or a forfeiture stipulation shall include but is not limited to pay stubs, checks, W2s, 1099s, Social Security benefits, other retirement benefits and any evidence of deposits into financial institutions.

15. The Defendant consents to any and all adjournments of sentencing and any other proceedings under the Indictments as may be requested by the District Attorney for the purpose of continuing the Defendant's cooperation pursuant to this Agreement.

16. This Agreement is limited to the New York County District Attorney and cannot bind other government agencies. The District Attorney, however, shall transmit this Agreement to United States Social Security Administration and the New York State Office of Temporary and Disability Assistance so that those agencies are aware of the restitution payments associated with this Agreement.

17. The Defendant's and his counsel's signatures below constitute proof that the Defendant enters into this Agreement knowingly, intelligently and voluntarily after a full and sufficient opportunity to consult with his undersigned counsel.

Dated: August 27, 2014
New York, New York

Joseph Esposito

Brian Griffin, Esq.
Attorney for Joseph Esposito

Christopher Santora/Bryan Serino
Assistant District Attorney