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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

PLEA AGREEMENT

- against -

94 CR 1108 (ERK)

MICHAEL BERTOLINI,

Defendant.

-----X

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States Attorney's Office for the Eastern District of New York, the Office of the District Attorney, Kings County and Michael Bertolini ("the defendant") agree to the following:

1. The defendant will waive indictment and plead guilty in United States District Court, Eastern District of New York, to a one-count information charging him with conspiracy to commit tax fraud in violation of 18 U.S.C. §§ 370 and 3551 et seq. This offense carries the following statutory penalties:

- a. Maximum term of imprisonment: 5 years (18 U.S.C. § 371).
- b. Minimum term of imprisonment: 0 years (18 U.S.C. § 371).
- c. Maximum supervised release term: 3 years, to follow any term of imprisonment; if a condition of release is violated, the defendant may be sentenced up to 2 years without credit for pre-release imprisonment or time previously served on post-release supervision (18 U.S.C. § 3571(b)(3)).
- d. Maximum fine: \$250,000 (18 U.S.C. § 3571(b)(3)).

- e. \$50 special assessment
(18 U.S.C. § 3013(a)(2)(A)).

2. The defendant agrees to cooperate fully with the Internal Revenue Service in the ascertainment, computation and payment of his correct federal tax returns for the years 1985 through the present. To that end, the defendant agrees to file, or cause the filing, of the following tax returns prior to the imposition of sentence:

(i) amended personal income tax returns for the years 1985, 1986 and 1987, and personal income tax returns for the years 1988 to the present;

(ii) amended tax returns for Sports Images, Inc., for the years 1987, 1988 and 1989;

(iii) amended tax returns for Hit King Marketing, Inc., for the year 1988, and to tax returns for Hit King Marketing, Inc., for the years 1989 to the present;

(iv) amended tax return for New Beginnings, Co., Inc., for 1989, and tax returns for New Beginnings, Co., Inc., for the years 1990 to the present.

3. The defendant will be sentenced under the United States Sentencing Guidelines. Based upon information now known to it, the United States Attorney's Office for the Eastern District of New York estimates that the adjusted offense level under the Sentencing Guidelines to be level 12, which includes a Base Offense Level of 14 pursuant to Guideline §§ 2T1.9(1)(1989), 2T1.1(a)(B)(1989), 2T1.3(1989) and 2T4.1(1989), reflecting that \$969,721 of income was not included on the defendant's federal tax returns for

1988 and 1989, and that 28% of said amount is \$271,522, and a two-level reduction for acceptance of responsibility under Guideline § 3E1.1. This level carries a range of imprisonment of 10-16 months, assuming that the defendant has no prior convictions. The parties further recommend that said sentence be served concurrently with any sentence imposed by Supreme Court, Kings County in indictment number 9552/94, as set forth below. This estimate and the accompanying recommendation are not binding on the Court, and if the appropriate Guideline offense level as determined by the Court is different, the defendant will not be entitled to withdraw his guilty pleas.

4. In exchange for the defendant pleading guilty, at sentencing, the United States Attorney's Office for the Eastern District of New York will, based upon information now known to it,

- a. take no position concerning where within the appropriate Sentence Guideline range, as determined by the Court, the sentence should fall,
- b. make no motion for an upward departure under the Sentencing Guidelines, and
- c. agree to a Probation Department finding that the defendant is entitled to a two-level adjustment for acceptance of responsibility.

If information becomes known to the United States Attorney's Office for the Eastern District of New York after the date of this agreement which renders inappropriate its compliance with subparagraphs a, b and c above, the defendant will not be entitled to withdraw his guilty pleas.

5. In addition, the United States Attorney's Office for the Eastern District of New York agrees that, except as provided in paragraph one, no further criminal charges will be brought against the defendant, Hit King Marketing, Inc., New Beginnings Marketing Co., Inc. and Sports Images, Inc., for tax fraud, gambling, mail fraud, structuring, money laundering and all charges relating to the baseball memorabilia industry, from the period February 1986 through October 24, 1994, and that no criminal charges will be brought against Mary Ann Bertolini for this activity. The United States Attorney's Office for the Eastern District of New York also agrees that it will not seek to compel the defendant's grand jury testimony pursuant to 18 U.S.C. § 6002, with respect to matters occurring prior to the date of this agreement.

6. The defendant will plead guilty in Supreme Court, Kings County, to Count Three of the indictment bearing the number 9552/94, charging him with assault in the second degree, in violation of Penal Law § 120.05. This offense carries the following statutory penalties:

- a. Maximum term of imprisonment: 2 1/3 to 7 years
(Penal Law §§ 70.00(2)(d) and 70.02(3)).
- b. Minimum term of imprisonment: 1 day
(Penal Law § 70.02(5)(b)).
- c. Maximum term of probation: 5 years
(Penal Law § 65.00(3)(a)(i)).
- d. Minimum term of probation: 5 years
(Penal Law § 65.00(3)(a)(i)).
- e. Maximum fine: \$5,000
(Penal Law § 80.00(1)).

- f. \$150 mandatory surcharge
(Penal Law § 60.35(1)(A)).
- g. \$5 victims assistance fee
(Penal Law § 60.35(1)(A)).

7. In exchange for the defendant pleading guilty in Supreme Court, Kings County, at sentencing, the Office of the District Attorney, Kings County will:

- a. move to dismiss the First, Second and Fourth Counts of the indictment bearing the indictment number 9552/94,

and based upon information now known to it,

- b. recommend a sentence of no more than 10-16 months, to be served in federal custody pursuant to the plea of guilty outlined in paragraph 1. The Office of the District Attorney, Kings County, and the defendant jointly recommend that this sentence shall be imposed following sentencing in United States District Court, Eastern District of New York, and all parties recommend that the sentences be served while the defendant is in the custody of the United States Bureau of Prisons, or any type of alternative sentence imposed by federal court. These recommendation are not binding on Justice Herbert J. Lipp and if a sentence in excess of this term is imposed, the defendant will not be entitled to withdraw his guilty pleas.

If information becomes known to the Office of the District Attorney, Kings County, after the date of this agreement which renders inappropriate its compliance with subparagraph b above, the defendant will not be entitled to withdraw his guilty-pleas.

8. The defendant agrees to forfeit individually and on behalf of Hit King Marketing, Inc., Sports Images, Inc., and New Beginnings Co., Inc., his or their interest in the following

properties, all recovered by the United States Postal Inspection Service during the execution of a search warrant on October 13, 1989:

- a. three Summer of '49 books, belonging to Larry Babilon, 107 Cherrywood Drive, Glenshaw, Pennsylvania 15116;
- b. one Pete Rose living legends plate, belonging to Robert Carpenter, 1802 Washington Street, Long Beach, California 90805;
- c. one Sports Illustrated (May 25, 1987) and one Eric Davis autographed baseball, belonging to Joseph Wilhelm, c/o George Wilhelm, 1391 Hollyview Drive, Vermilion, Ohio 44089;
- d. Two Celebration set Luis Aparicio cards, #5265, 5286 and one Bank of New England Money order #186078, for \$82.50, belonging to Brian Hogan, 450 Broadway, Newport, Rhode Island 02840;
- e. one Pete Rose drawing, belonging to James Devine, c/o University of Missouri-Columbia School of Law, Columbia, Missouri 65211;
- f. One Mickey Mantle and Willie Mays all time great postcard, belonging to Stephen Buckner, c/o Magiros Pharmacy, 9338 Baltimore National Pike Ellicott City, Maryland 21043;
- g. Two Ted Williams cards, one Brooks Robinson card and one Pete Rose card, belonging to Robbins Church, 24845 Hidden Valley Road, Philomath, Ohio 97370;
- h. Two Sports Illustrated covers, belonging to Kevin McMullen, P.O. Box 6754, Warwick, Rhode Island 02887;
- i. Two Life Magazines dated September 1, 1941 and May 1, 1939, belonging to Chris Brost, 12929 S.E. Ramona, Portland, Oregon 97236;
- j. One Pete Rose Poster, belonging to Tony Rogers, P.O. Box 196, Bodkins, Ohio 45306;

- k. One Joe DiMaggio postcard and two Luis Aparicio postcards, belonging to Gary D. Taylor, 304 West 24th St, Sanford, Florida 32771;
- l. One Ted Williams and One Luis Aparicio celebration cards, belonging to C. Slezner, 223 North Cedar Street, North Massapequa, New York 11758;
- m. Three Pete Rose Living legend pictures, belonging to Toby Lewis, 4241 Larch Avenue, Palm Beach Gardens, Florida 33418;
- n. 13 Al Kaline Celebration cards and one Al Kaline postcard, belonging to Conrad Proctor, 3535 W 13 Mile Road, #307, Royal Oak, Michigan 48072;
- o. One Steve Carlton card and one Willie Stargell card, belonging to FNU Bennett, 3045 Bookcliff Avenue, Grand Junction, Colorado 81504;
- p. One Pete Rose Baseball card, One Luis Aparicio celebration card, One Luis Aparicio postcard, One Luis Aparicio great moments card, belonging to Roger Holda, 2514 South 59th Court, Cicero, Illinois 60650;
- q. Three celebration cards: Luis Aparicio, Ted Williams and Brooks Robinson, belonging to David van De Viver, 140 Johnson Road, Rochester, New York 14616;
- r. Five Luis Aparicio Celebration cards and two Luis Aparicio great moments cards, belonging to Robin Roberts;
- s. items belonging to Marvin Kraut, 293 Turnpike Road, 804-E, Westboro, Massachusetts 01581;
- t. 8 x 10 photograph with Joe DiMaggio, belonging to Ron Holman, Box 44013, Phoenix, Arizona 85064;
- u. Twenty-four Don Mattingly baseball cards (Topps), bearing the signature, Don Mattingly;

- v. One Official American League baseball, bearing the signature, Joe DiMaggio;
- w. One Tops Baseball Cards history book (1951-1985), belonging to Andrew LNU;
- x. One official American League baseball, bearing several signatures of Reggie Jackson; and
- y. Executive Tools spiral notebook (51 pages), 8 x 5 1/4.

Immediately following sentencing, the United States Postal Inspection Service will return to defendant all other items recovered during the execution of said search warrant, with the exception of any items which may have been marked as grand jury exhibits. The United States Postal Inspection Service will also agree to provide the defendant with copies of any of the items forfeited herein.

9. This agreement is limited to the United States Attorney's Office for the Eastern District of New York and the Office of the District Attorney, Kings County, and cannot bind other federal, state or local prosecuting authorities. It does not prohibit the United States, any agency thereof, or any third party from initiating any civil proceedings involving the defendant, including, but not limited to, proceedings by the Internal Revenue Service relating to potential civil tax liability or forfeiture of assets pursuant to 18 U.S.C. § 981.

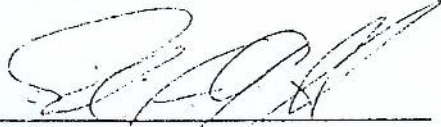
10. No promises, agreements or conditions have been entered into other than those set forth in this agreement, and none will be entered into unless memorialized in writing and signed by the parties. This agreement, to become effective, must be signed by all of the parties listed below, and is expressly subject to the approval of the Tax Division of the U.S. Department of Justice in Washington, D.C.

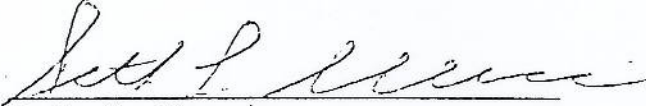
Dated: Brooklyn, New York
October 27, 1994

Respectfully submitted,

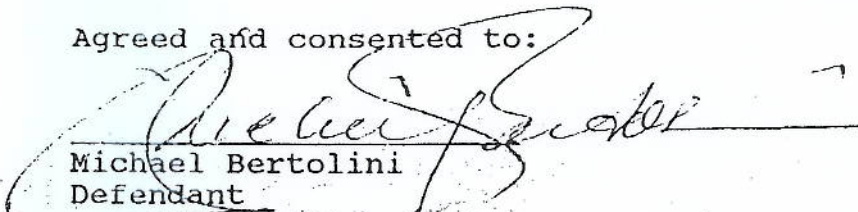
CHARLES J. HYNES
District Attorney
Kings County

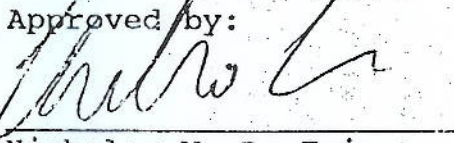
ZACHARY W. CARTER
United States Attorney
Eastern District of New York

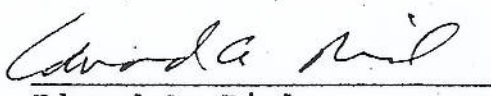
By: 
Emilio F. Grillo
Assistant District Attorney

By: 
Seth L. Marvin
Assistant United States
Attorney

Agreed and consented to:


Michael Bertolini
Defendant

Approved by:

Nicholas M. De Feis
Counsel to Defendant

Approved by:

Edward A. Rial
Deputy Chief, Business/Securities
Fraud
Eastern District of New York

Section 1 - Property Description

Description of property to be declared abandoned

Property Nos. 109-00-A46-001	Two (2) Ted Williams baseball cards, one (1) Brooks Robinson baseball card and one (1) Pete Rose baseball card	Value:	\$5.00
109-00-A46-002	Miscellaneous baseball memorabilia	Value:	\$1.00
109-00-A46-003	Five (5) Luis Aparicio Celebration baseball cards and two (2) Luis Aparicio great moments baseball cards	Value:	\$7.00
109-00-A46-004	Twenty-four (24) Don Mattingly baseball cards bearing forged signature of Don Mattingly	Value:	\$1.00
109-00-A46-005	One (1) official American League baseball bearing the signature of Joe Dimaggio	Value:	\$1.00
109-00-A46-006	One (1) Topps baseball cards history book (1951 - 1985)	Value:	\$1.00
109-00-A46-007	One (1) official American League baseball bearing several signatures of Reggie Jackson	Value:	\$1.00
109-00-A46-008	One (1) executive tools spiral notebook (51 pages)	Value:	\$1.00
Total Value:			\$18.00

Section 2 - Abandoned Property Notice Requirements

In compliance with Title 39 CFR Part 946, personal notice was not mailed because the owner of the property is unknown and the property was not advertised because the appraised value is \$200 or less.

Section 3 - Declaration of Abandonment

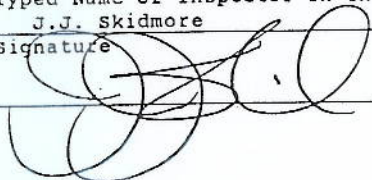
The property listed herein is declared abandoned for the following reason:

- Property appraised at \$200 or less and the owner is unknown (Personal and public notice not required).
- A claim has not been filed.
- A claim was filed but denied.
- Owner refuses to take possession of property.

Typed Name of Inspector in Charge

J.J. Skidmore

Signature



Date Signed

10/16/00

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10/16/00