

a. In consideration of Defendant's waiver of appeal in paragraph 13 below, the government will make no recommendation to the Court concerning sentencing within the offense level determined by the Court under the United States Sentencing Guidelines (the "guidelines").

b. For purposes of determining the offense level, the Government agrees to recommend a two-level reduction in the offense level for acceptance of responsibility under § 3E1.1(a) of the guidelines if Defendant continues to demonstrate acceptance of responsibility through sentencing.

3. Defendant understands that the sentencing guidelines are not binding on the Court, and that, although the Court must consult the guidelines in fashioning any sentence in this case, the guidelines are only advisory, and the Court may impose any reasonable sentence in this matter up to the statutory maximum penalties after taking into account the factors enumerated in 18 U.S.C. § 3553(a).

4. The United States and defendant stipulate and agree to the attached Statement of Facts for use in applying the sentencing guidelines to the facts of this case.

5. The parties stipulate and agree that the sentencing guideline at USSG § 2E5.1(a)(2) shall apply to Defendant's case. Except as expressly provided in the attached Statement of Facts, there is no further agreement as to which Offense Level and

Criminal History Category applies in this case. Both the United States and Defendant reserve all their respective rights to argue and present evidence on all matters affecting the guidelines calculation.

6. The maximum statutory penalties for the offense to which defendant is pleading are 5 years imprisonment; a fine of \$250,000; a term of supervised release of 3 years; and a mandatory special assessment of \$100.

7. Defendant agrees that, after Defendant and Defendant's counsel sign this agreement, counsel will return it to the United States Attorney's Office along with a money order or certified check, payable to the Clerk, United States District Court, in payment of the special assessments. Failure to do so, unless the Court has made a previous finding of indigence, will relieve the Government of its obligation to recommend a reduction in the offense level under the guidelines for acceptance of responsibility.

8. Defendant is advised and understands that:

- a. The Government has the right, in a prosecution for perjury or making a false statement, to use against Defendant any statement that Defendant gives under oath;
- b. Defendant has the right to plead not guilty, or having already so pleaded, to persist in that plea;

- c. Defendant has the right to a jury trial;
- d. Defendant has the right to be represented by counsel--and if necessary have the Court appoint counsel--at trial and every other stage of the proceeding;
- e. Defendant has the right at trial to confront and cross-examine adverse witnesses, to be protected from self-incrimination, to testify and present evidence, and to compel the attendance of witnesses; and
- f. Defendant waives these trial rights if the Court accepts a plea of guilty.

9. Defendant is advised that the Government has in its possession certain physical evidence. Defendant understands that the Government does not intend to conduct DNA testing of any of this evidence. Defendant further understands that Defendant could request DNA testing of such evidence in this case prior to any finding of guilt against Defendant. Defendant further understands that, following this Court's entry of a judgment of conviction for the offense[s] to which Defendant is pleading guilty, Defendant has the right to request DNA testing of such evidence pursuant to 18 U.S.C. § 3600.

Knowing and understanding this right to request such DNA testing, Defendant hereby knowingly and voluntarily waives and

gives up that right. Defendant understands that Defendant will never have another opportunity to have the evidence in this case submitted for DNA testing or to employ the results of DNA testing to support a claim that Defendant is innocent of the offense[s] to which Defendant is pleading guilty. Defendant further understands that by waiving and giving up this DNA testing right, the physical evidence in this case need not be retained for any such purpose.

10. The Government reserves its full right of allocution, including the right to present any information to the Court for its consideration in fashioning an appropriate sentence, the right to correct misstatements, misrepresentations, or omissions by Defendant, and to answer any questions asked by the Court.

11. Except for paragraphs 4 and 5, above, the parties have made no agreement concerning the application of the guidelines in this case.

12. Defendant understands that the Court alone makes all sentencing decisions, including the application of the guidelines and the sentence to be imposed. The Court is not bound by the parties' stipulations of fact, offense level adjustments, or the Government's recommendations. The Court is free to impose any sentence it deems appropriate up to and including the statutory maximum. Defendant also understands that even if the Court's guideline determinations and sentence are different than Defendant

expects, Defendant will not be allowed to withdraw Defendant's plea of guilty.

13. Defendant understands that Defendant may have the right to file a direct appeal from the sentence imposed by the Court. Defendant hereby waives Defendant's right to file a direct appeal. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b), and the Government retains its right to appeal any of the Court's sentencing determinations.

14. This agreement is binding on the Government only if Defendant pleads guilty, fulfills all Defendant's obligations under the agreement, does not engage in any conduct constituting obstruction of justice under § 3C1.1 of the guidelines, and does not commit any new offenses. Defendant understands that if Defendant violates this agreement in any way, the Government shall be released from its obligations under the agreement and will be free to make any recommendations that it deems appropriate. If that occurs, Defendant shall not have the right to withdraw Defendant's guilty plea.

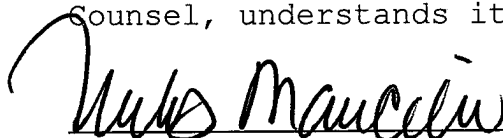
15. This agreement is limited to the District of Rhode Island and does not bind any other federal, state, or local prosecutive authorities.

16. This agreement constitutes the entire agreement between the parties. No other promises or inducements have been made

concerning the plea in this case. Defendant acknowledges that no person has, directly or indirectly, threatened or coerced Defendant to enter this agreement. Any additions, deletions, or modifications to this agreement must be made in writing and signed by all the parties in order to be effective.


17. Counsel for Defendant states that Counsel has read this agreement, been given a copy of it for Counsel's file, explained it to Defendant, and states that to the best of Counsel's knowledge and belief, Defendant understands the agreement.

18. Defendant states that Defendant has read the agreement or has had it read to Defendant, has discussed it with Defendant's Counsel, understands it, and agrees to its provisions.



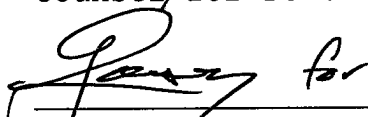
Nicholas Manocchio
Defendant

7/10/09
Date



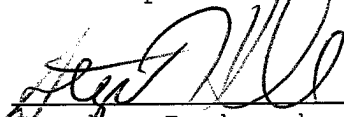
Anthony Traini
Counsel for Defendant

7/10/09
Date



Vincent Falvo
Trial Attorney
U.S. Department of Justice

7/10/09
Date



Stephen Dambruch
Assistant U.S. Attorney
Chief, Criminal Division

07/14/2009
Date

Factual Basis

1. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the Indictment. In pleading guilty, Defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

a. The Laborers International Union of North America (hereinafter "LIUNA") is a labor organization in which employees who were employed in an industry affecting commerce, that is, the building and construction industry, participated through their local unions and other subordinate bodies of the LIUNA and which existed for the purpose of dealing with employers concerning such employees' hours, wages and working conditions.

b. The Laborers New England Region Organizing Fund (hereinafter "NEROF") was a subordinate body within the LIUNA and a labor organization in which employees in the New England building and construction industry participated and existed for the purpose of dealing with employers in the New England building and construction industry concerning such employees' hours, wages, and working conditions.

c. Defendant GERALD DIODATI was a person acting in the interest of Hemphill Construction, and after June 2003, of Rhode Island Demolition, both of which corporations were engaged in the building and construction industry in Rhode Island.

d. Defendant NICHOLAS MANOCCHIO was an officer and employee of a labor organization in his capacity as director for NEROF from

on or about 2002 until at least through the date of the Indictment.

e. Defendant HAROLD TILLINGHAST was an employee of a labor organization in his capacity as organizer for NEROF from on or about 2002 until at least through 2005.

f. Defendant NICHOLAS MANOCCHIO believed Hemphill Corporation and Rhode Island Demolition were employers of employees employed in an industry affecting interstate and foreign commerce whose employees LIUNA and its subordinate bodies, including NEROF and Local 271, represented, sought to represent, and would admit to membership.

g. Beginning in December 2003, Defendant NICHOLAS MANOCCHIO conspired and agreed with Defendant HAROLD TILLINGHAST and others to receive and accept money and other things of value exceeding \$1,000 for MANOCCHIO from persons MANOCCHIO believed were acting in the interest of Hemphill Construction and Rhode Island Demolition.

h. Between December 11 and 13, 2003, Defendant NICHOLAS MANOCCHIO met with Defendant HAROLD TILLINGHAST in MANOCCHIO's office and told TILLINGHAST that he would receive and accept a "Christmas card" meaning a cash payment from a person acting in the interest of Hemphill Construction and Rhode Island Demolition.

i. Between December 11 and 13, 2003, Defendant NICHOLAS MANOCCHIO agreed with Defendant HAROLD TILLINGHAST that TILLINGHAST would meet with a person acting in the interest of Hemphill Construction and Rhode Island Demolition, receive and

accept a "Christmas card" meaning a cash payment for MANOCCHIO from that person and return it to MANOCCHIO.

j. On December 22, 2003, Defendant NICHOLAS MANOCCHIO telephoned a person acting in the interest of Hemphill Corporation and Rhode Island Demolition and spoke to that person for under one minute and said, "How's our partnership?" as a signal that MANOCCHIO would accept a cash payment from that person.

k. On December 22, 2003, Defendant NICHOLAS MANOCCHIO instructed Defendant HAROLD TILLINGHAST to meet a person acting in the interest of Hemphill Construction and Rhode Island Demolition and receive and accept a cash payment in a Christmas card from that person to be given to MANOCCHIO from that person.

l. On or about December 22, 2003, Defendant NICHOLAS MANOCCHIO accepted a \$2,000 cash payment in a Christmas card from a person acting in the interest of Hemphill Construction and Rhode Island Demolition from Defendant HAROLD TILLINGHAST in MANOCCHIO's office in Providence, Rhode Island.