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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs

MICHAEL SMITH,

Defendant.

Case No.

RULE 11 PLEA AGREEMENT

I. GUILTY PLEA

A. Summary of Terms. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A) and (B), the Defendant, the attorney for the Defendant, and the Government¹ agree that the Defendant will plead guilty to Count One of the Information, which charges the Defendant with securities fraud, in violation of 15 U.S.C. § 78j(b) and 78ff(a) and 17 C.F.R. § 240.10b-5. The Defendant will also admit to the asset forfeiture allegation in the Information.

This plea is voluntary and did not result from force, threats, or promises, other than any promise made in this agreement. Upon acceptance of the Defendant's guilty plea, and the Defendant's full compliance with the other terms of this agreement, the Government will, under Federal Rule of Criminal Procedure 11(c)(1)(B), recommend a sentence within the range proposed by the United States Sentencing Guidelines (USSG), as determined by the District Court.

B. Oath. The Defendant will be placed under oath at the plea hearing. The Government may use any statement that the Defendant makes under oath against the Defendant in a prosecution for perjury or false statement.

II. WAIVER OF CONSTITUTIONAL RIGHTS AT TRIAL

The Defendant waives the following rights by pleading guilty pursuant to this agreement: 1) the right to plead not guilty to the offense(s) charged against the Defendant and to persist in that plea; 2) the right to a trial by jury, at which the Defendant would be presumed innocent and the burden would be on the Government to prove the Defendant's guilt beyond a reasonable doubt; 3) the right to have the jury agree unanimously that the Defendant was guilty of the offense; 4) the right, at trial, to confront and cross-examine adverse witnesses; 5) the right to

¹ The word Government in this agreement refers to the Department of Justice, Criminal Division, Fraud Section and the United States Attorney's Office for the District of Idaho.

present evidence and to compel the attendance of witnesses; and 6) the right not to testify or present evidence without having that held against the Defendant. If the Court accepts the Defendant's guilty plea, there will be no trial.

III. NATURE OF THE CHARGES

A. **Elements of the Crime.** The elements of the crime of securities fraud, as charged in Count One of the Information are as follows:

1. The Defendant willfully used a device or scheme to defraud someone or engaged in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person. Trading on the basis of material nonpublic information by a corporate insider qualifies as an artifice or device to defraud for purposes of insider trading;

2. The Defendant's acts were undertaken in connection with the purchase and sale of securities in Company-1;

3. The Defendant directly or indirectly used any instrumentality of interstate commerce, or any facility of any national securities exchange in connection with these acts; and

4. The Defendant acted knowingly.

Factual Basis. The Defendant admits the following facts are true:

1. MICHAEL SMITH was a resident of Idaho. In or around June 2019, MICHAEL SMITH joined Company-1 as its Executive Vice President, Product Division. In or around June 2022, MICHAEL SMITH was promoted to the role of President and Chief Operating Officer.

2. Company-1 was based in Idaho. Company-1's shares were publicly traded on the Nasdaq stock exchange, which is a national securities exchange.

3. Individual-A was a resident of Idaho. MICHAEL SMITH and Individual-A had a close personal relationship.

4. In or around May 2024, Company-2 contacted Company-1 to express its interest in

acquiring Company-1. From in or around early May 2024 until on or about August 7, 2024, when Company-1 and Company-2 executed an acquisition agreement, Company-1 and Company-2 engaged in nonpublic discussions regarding the acquisition of Company-1.

5. By at least June 2024, by virtue of his role at Company-1, MICHAEL SMITH received material nonpublic information ("MNPI") regarding the impending acquisition of Company-1. MICHAEL SMITH owed a fiduciary duty and duty of trust and confidence to Company-1 and its shareholders to refrain from trading in its securities based on MNPI that he received because of his employment at Company-1.

6. As a Company-1 employee, MICHAEL SMITH was subject to the Company's Insider Trading Policy that, among other things, prohibited employees from trading in Company-1's securities if an employee had MNPI regarding Company-1. The Policy also prohibited employees from disclosing MNPI to anyone outside the Company. In addition, on or about June 3, 2024, Company-1 notified MICHAEL SMITH and others of a trading blackout period, and that between June 17, 2024 and the close of market on August 9, 2024: "you, and any entity you directly or indirectly control may not execute transactions in the Company's securities."

7. On or about July 26, 2024, MICHAEL SMITH went to Individual-A's residence. MICHAEL SMITH volunteered to help Individual-A with stock purchases. Individual-A logged into Individual-A's stock brokerage account, and then MICHAEL SMITH purchased approximately 17,255 Company-1 shares for approximately \$379,125.53 at an average price of approximately \$21.97 per share in two of Individual-A's accounts. Before July 26, 2024, Individual-A held approximately 9,000 shares of Company-1. MICHAEL SMITH executed these trades on the basis of MNPI about the impending acquisition of Company-1 despite knowing that he was prohibited from trading Company-1 stock.

8. On or about August 7, 2024, Company-1 and Company-2 issued a press release

announcing that “[Company-1] entered into a definitive agreement . . . pursuant to which [Company-2] will acquire all of the outstanding shares of [Company-1’s] common stock for \$31.00 per share, in an all-cash transaction valued at approximately \$1.5 billion.” After the news became public, Company-1’s stock price increased 48% from the previous day’s price

9. On or about August 8, 2024, after Company-1’s stock price had increased significantly because of the announcement of Company-1’s acquisition, MICHAEL SMITH went to Individual-A’s residence. Individual-A logged into Individual-A’s stock brokerage account, and MICHAEL SMITH then sold approximately 26,255 Company-1 shares at an average price of approximately \$30.42 per share for approximately \$798,651.13 in Individual-A’s accounts. The shares sold included all the Company-1 shares purchased on or about July 26, 2024 and 9,000 shares purchased previously.

10. Accounting only for the profits obtained from the Company-1 shares MICHAEL SMITH purchased on or about July 26, 2024, in Individual-A’s investment account, MICHAEL SMITH generated approximately \$145,754.69 in trading profits by trading on Company-1 MNPI.

11. MICHAEL SMITH executed the above-described trades to financially benefit Individual-A. The above-described trades were executed using an instrumentality of interstate commerce, and the trades also used a facility of a national securities exchange.

12. On or about August 19, 2025, law enforcement interviewed MICHAEL SMITH at his residence. MICHAEL SMITH, among other things, denied helping Individual-A place trades in Company-1 stock in July 2024. Later the same day, MICHAEL SMITH contacted law enforcement to arrange a time to speak again. The next morning, MICHAEL SMITH met with law enforcement and stated that he had not been truthful the previous day. MICHAEL SMITH stated that he bought Company-1 stock in Individual-A’s account in July 2024, and that he knew what he did was wrong.

13. Accordingly, MICHAEL SMITH willfully used and executed a scheme to defraud through purchasing and selling securities in Company-1 on the basis of material nonpublic information obtained as a corporate insider. In addition, MICHAEL SMITH acted knowingly.

Smith Discloses MNPI to Individual-B

14. MICHAEL SMITH and Individual-B have been close friends since high school and had a relationship of trust and confidence.

15. Prior to July 2024, MICHAEL SMITH had told Individual-B that he believed that Company-1 would be successful, and MICHAEL SMITH knew that Individual B-had, in fact, traded Company-1 stock prior to July 2024.

16. On or about July 26, 2024, MICHAEL SMITH and Individual-B talked via telephone. During the approximately thirty-five-minute telephone call, MICHAEL SMITH and Individual-B caught up on each other's lives. In addition, MICHAEL SMITH told Individual-B that, among other things, he was very busy working at Company-1 and that he was working on a deal for another company to acquire Company-1. MICHAEL SMITH communicated this material nonpublic information about the impending deal to Individual-B in breach of the fiduciary duty and duty of trust and confidence he owed to Company-1 and its shareholders.

IV. SENTENCING FACTORS

A. **Penalties.** The crime of securities fraud, as charged in Count One, is punishable by:

1. a term of imprisonment of not more than 20 years
2. a term of supervised release of not more than 3 years
3. a maximum fine of \$5,000,000, and a special assessment of \$100.

B. **Supervised Release.** The Court may impose a period of supervised release. No agreement exists as to its length.

The law permits the combined prison time and term of supervised release to exceed the maximum term of incarceration for the crime(s) to which the Defendant is pleading guilty. Violation of any condition of supervised release may result in further penalties and prosecution.

C. **Fines and Costs.** The Court may impose a fine. No agreement exists as to its amount. The Court may also order the Defendant to pay the costs of imprisonment, probation, and supervised release.

D. **Special Assessment.** The Defendant will pay the special assessment(s) before sentencing and will furnish a receipt at sentencing. Payment will be made to:

The United States District Court, Clerk's Office
Federal Building and United States Courthouse
550 West Fort Street, Fourth Floor
Boise, Idaho 83724

E. **Restitution.** In addition to paying any forfeiture, fine, and costs imposed, the Defendant also agrees to pay restitution equal to the full amount of loss caused to any victim. The Defendant agrees to pay restitution in the amount ordered by the Court. The Defendant agrees that all monetary penalties imposed by the Court, including restitution, will be due immediately and can immediately be enforced by the Government (whether through 18 U.S.C. § 3613 or otherwise). The Defendant agrees that the payment schedule or plan is neither the only method, nor a limitation on the methods, available for enforcing the judgment. It is simply a schedule or plan for minimum payments. The Defendant is aware that voluntary payment of restitution prior to adjudication of guilt is a factor the Court can consider when deciding if the Defendant has accepted responsibility under United States Sentencing Commission, guidelines manual (USSG) § 3E1.1.

F. **Forfeiture.** The Court will enter a forfeiture order as part of the Defendant's sentence. The Defendant will immediately forfeit to the Government the property set out in this

agreement, the charging document to which the Defendant is pleading, and any bill of particulars. Defendant agrees that those documents provide statutory authority for forfeiture.

1. Additionally, Defendant agrees to forfeit the following:

a. Forfeiture Money Judgment for Unrecovered Property. The Court may impose forfeiture of a monetary sum, or money judgment, equivalent to unrecovered property including unrecovered proceeds of the offense of conviction obtained and controlled by the Defendant, property derived from or traceable to such proceeds, and/or unrecovered property the Defendant used to commit or facilitate the offense, as authorized by applicable statutes.

Defendant agrees to a forfeiture judgment of at least \$145,754.69.

b. Substitute Assets Up To the Value of Unrecovered Property Subject to Forfeiture. Pursuant to 21 U.S.C. § 853(p) and other applicable statutes, the Defendant agrees to forfeit substitute assets, or any other property of the Defendant up to the value of any unrecovered property subject to forfeiture. Post-sentencing forfeiture of substitute assets does not entitle the Defendant to resentencing.

2. Defendant makes the following additional agreements and waivers related to forfeiture.

a. Regarding the above property, the Defendant: (a) is the sole owner, unless otherwise set out herein; (b) hereby withdraws any claims filed in any administrative or civil forfeiture proceeding; (c) agrees to assist fully in the forfeiture and to take all steps necessary to pass clear title to the Government; (d) will testify truthfully in any forfeiture proceeding and will not assist a third party in asserting a claim; (e) agrees to administrative or civil forfeiture, or abandonment, if the Government does not pursue criminal forfeiture; and (f) agrees that variations or errors in serial numbers or property descriptions shall not affect forfeiture.

b. Forfeiture is separate from all other penalties, including fines and restitution. As with other penalties, the Court will determine forfeiture at sentencing. Any stated or pleaded forfeiture amount is an "at least" amount and the Court may impose greater or additional forfeitures. The Defendant waives requirements regarding notice and pronouncement of forfeiture, including: (a) in charging documents, (b) at the change of plea hearing, (c) at sentencing, and (d) in the judgment. See Fed. R. Crim. P. 11(b)(1)(J), 32.2, and 43(a).

c. The Defendant waives all challenges and objections, on any grounds, to any forfeiture in accordance with this agreement. If this agreement is withdrawn for any reason, the Defendant waives the right to contest all administrative and civil forfeitures that began before the withdrawal. The Defendant agrees to hold the United States, its agents, and employees harmless from any claims related to seizures or forfeiture in this case or the related investigation. The forfeiture provisions of this agreement will survive the Defendant's death and bind the Defendant's heirs, successors and assigns until forfeiture is fully collected. Any forfeited property directed to victims shall not be returned even if Defendant's conviction is overturned or abated.

d. The District Court shall retain jurisdiction to consider and rule on forfeiture and related issues, unless a higher Court directs otherwise

V. SEIZED PROPERTY: ABANDONMENT AND WAIVER

The Defendant abandons, releases, and waives any interest in property seized or otherwise obtained by the Government or law enforcement in this case unless specific exceptions are noted in this agreement. Such property will be disposed of, destroyed, sold, or transferred in the Government's sole discretion. Such disposition shall not constitute satisfaction of any assessment, fine, restitution, forfeiture, cost of imprisonment, or any other penalty that this Court may impose.

VI. UNITED STATES SENTENCING GUIDELINES

A. **Application of Sentencing Guidelines.** The Court must consider the sentencing guidelines in determining an appropriate sentence under 18 U.S.C. § 3553. The Defendant agrees that the Court may consider “relevant conduct” in determining a sentence pursuant to USSG § 1B1.3.

The Court is not a party to this agreement and the agreement does not bind the Court’s determination of the sentencing guidelines range. The Court will identify the factors that will determine that range under the relevant guidelines manual. The Court has complete discretion to impose any lawful sentence, including the maximum sentence possible.

Recognizing that this agreement does not bind the Court, the parties agree to the recommendations and requests set forth below.

B. **Sentencing Guidelines Recommendations and Requests.**

1. **Government’s Statements at Sentencing.** The Government reserves the right to allocute fully at sentencing regarding any sentencing recommendation. The Government may rely on or submit any information, including relevant conduct, in support of its recommendation regardless of whether the agreement or the pre-sentence investigation report contain this information. Any exception must be specified in this agreement.

2. **Acceptance of Responsibility.** If the Defendant clearly accepts responsibility for the offense, the Defendant will be entitled to a reduction of two levels in the combined adjusted offense level under USSG § 3E1.1(a). The Government will move for an additional one-level reduction in the combined offense level under § 3E1.1(b) if the following conditions are met: (1) the Defendant qualifies for a decrease under § 3E1.1(a); (2) the offense is level 16 or greater; and (3) the Defendant has timely notified authorities of the Defendant’s intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial.

and permitting the Court to allocate its resources efficiently. If, before sentence is imposed, the Defendant fails to meet USSG § 3E1.1's criteria or acts in a manner inconsistent with acceptance of responsibility, the Government will withdraw or decline to make the motion.

3. **Securities fraud.** The parties agree that the base offense level is 8 pursuant to U.S.S.G. § 2B1.4 and that the Defendant's offense level shall be increased by 8 levels pursuant to U.S.S.G. § 2B1.4(b)(1) and 2B1.1(b)(1)(E) because the gain resulting from the offense was more than \$95,000 and less than \$250,000.

4. **Abuse of Position of Trust.** The parties agree that the Defendant's offense level shall be increased by two levels pursuant to U.S.S.G. § 3B1.3 because the Defendant abused a position of trust in a manner that significantly facilitated the commission of the offense.

5. **Zero Point Offender.** The Government will not oppose a two-level downward adjustment if the Court determines that the Defendant meets the criteria listed in U.S.S.G. § 4C1.1 for zero-point offenders.

6. **Downward Departure or Variance Request by Defendant.** If the Defendant wishes to seek a departure or variance, the Defendant must provide written notice to the Government, along with the reasons and basis therefore, 21 days before the date set for sentencing.

VII. WAIVER OF RIGHT TO DIRECT APPEAL AND TO COLLATERAL ATTACK UNDER 28 U.S.C. § 2255

A. **Waiver.** In exchange for this agreement, and except as provided in subparagraph B, the Defendant waives any right to appeal or collaterally attack plea, conviction, judgment, and sentence, including forfeiture and restitution. This waiver includes any challenge to the constitutionality of any statute of conviction including arguments that the admitted conduct does not fall within any statute of conviction.

The Defendant acknowledges that this waiver will result in the dismissal of any direct appeal or collateral attack the Defendant might file seeking to challenge the plea, conviction, or sentence in this case. Further, the filing of such an appeal or collateral attack will breach this agreement and allow the Government to withdraw from it, as well as to take other remedial action.

If the Defendant believes the Government has not fulfilled its obligations under this agreement, the Defendant will object at the time of sentencing. Further objections are waived.

B. Exceptions.

1. **Direct Appeal.** Notwithstanding subparagraph A, the Defendant may file one direct appeal if one of the following unusual circumstances occurs:

- a. the sentence imposed by the Court exceeds the statutory maximum;
- b. the Court arrived at an advisory sentencing guidelines range by applying an upward departure under chapter 5K of the relevant sentencing guidelines manual; or
- c. the Court exercised its discretion under 18 U.S.C. § 3553(a) to impose a sentence that exceeds the advisory sentencing guidelines range as determined by the Court.

The Defendant understands that the above circumstances occur rarely and that in most cases this agreement completely waives all appellate rights.

2. **Motion Under 28 U.S.C. § 2255.** Notwithstanding subparagraph A, the Defendant may file an ineffective assistance of counsel claim in a 28 U.S.C. § 2255 motion.

VIII. PROVIDING INFORMATION FOR THE PRESENTENCE REPORT

The Defendant agrees to provide financial information and any other information requested by a representative of the United States probation office for use in preparing a pre-sentence investigation report and agrees that the United States probation office may share all financial information with the Government. Failure to execute releases or to provide information

for the pre-sentence investigation report violates this agreement and relieves the Government of its obligations from it. Such failure will not, however, constitute grounds for withdrawing the plea of guilty unless the Government so requests. Providing materially false information will subject the Defendant to additional penalties, including an enhancement under USSG § 3C1.1.

IX. DISCLOSING FINANCIAL INFORMATION

The Defendant agrees to disclose all the Defendant's assets and sources of income to the Government, including all assets over which the Defendant exercises or exercised direct or indirect control, or in which the Defendant has any financial interest. This includes all community property. The Defendant also agrees to cooperate in obtaining any records relating to ownership of assets when sought by the Government. The Defendant agrees truthfully to complete a personal financial statement within 14 days from the date the Defendant signs this agreement or from the date the financial statement is provided to the Defendant or counsel, whichever is later. The 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. The failure timely and accurately to complete, sign, and update the financial statements may constitute failure to accept responsibility under USSG § 3E1.1, as well as other things.

The Defendant authorizes the Government: (a) to obtain a credit report on the Defendant, (b) to inspect and copy all financial documents and information held by the United States probation office; and (c) to obtain all financial records related to the Defendant.

Before sentencing, Defendant agrees not to dissipate any assets without the consent of both the Government's financial litigation unit and asset forfeiture unit. If any assets are sold, any sale proceeds will be deposited with the Clerk of Court and, upon sentencing, paid toward any monetary penalties ordered in the judgment.

X. NO RIGHT TO WITHDRAW PLEA

The Defendant understands that the Court may not follow the recommendations or requests made by the parties at the time of sentencing. The Defendant cannot withdraw from this agreement or the guilty plea, regardless of the Court's actions

XI. CONSEQUENCES OF VIOLATING AGREEMENT

A. **Government's Options.** If the Defendant fails to keep any promise in this agreement or commits a new crime, the Government is relieved of any obligation: 1) to make a sentencing recommendation consistent with the terms promised in this agreement; and 2) not to prosecute the Defendant on other charges, including charges not pursued due to this agreement. Such charges may be brought without prior notice. If the Government determines that a breach warrants prosecution before sentencing, it may withdraw from this agreement in its entirety. In addition, if the Government determines after sentence is imposed that the Defendant's breach of the agreement warrants further prosecution, the Government may choose between letting the conviction(s) under this agreement stand or vacating such conviction(s) so that charge(s) may be re-prosecuted.

The Government's election to pursue any of the above options provides no basis for the Defendant to withdraw the guilty plea(s) made pursuant to this agreement

B. **Defendant's Waiver of Rights.** If the Defendant fails to keep any promise made in this agreement, the Defendant gives up the right not to be placed twice in jeopardy for the offense(s) to which the Defendant entered a plea of guilty or which were dismissed under this agreement. In addition, for any charge that is brought as a result of the Defendant's failure to keep this agreement, the Defendant gives up: (1) any right under the Constitution and laws of the United States to be charged or tried in a more speedy manner; and (2) the right to be charged within the applicable statute of limitations period if the statute of limitations has expired.

Furthermore, if the Defendant does not enter an acceptable plea, the Government will move to continue the trial now set to allow the Government adequate time to prepare. The Defendant agrees not to contest such a continuance and agrees that the resulting delay would be excludable time under 18 U.S.C. § 3161(h).

Your client acknowledges discussing with you Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. Your client knowingly and voluntarily waives the rights that arise under these rules in the event your client withdraws your client's guilty plea or withdraws from this Agreement after signing it.

XII. MISCELLANEOUS

A. **No Other Terms.** This agreement is the complete understanding between the parties, and no other promises have been made by the Government to the Defendant or to the attorney for the Defendant. This agreement does not prevent any governmental agency from pursuing civil or administrative actions against the Defendant or any property. Unless an exception to this paragraph is explicitly set forth elsewhere in this document, this agreement does not bind or obligate governmental entities other than that specified as the Government in this agreement (i.e., the United States Attorney's Office for the District of Idaho and the Criminal Division, Fraud Section of the U.S. Department of Justice).

B. **Plea Agreement Acceptance Deadline.** This plea offer is explicitly conditioned on the Defendant's notification of acceptance of this agreement no later than 5:00 p.m. on September 22, 2025.

XIII. UNITED STATES' APPROVAL

I have reviewed this matter and the agreement. This agreement constitutes a formal plea offer from the Government. Any oral discussions with the Defendant and defense counsel about a plea do not constitute a plea offer. Any written offer or agreement made before this agreement is no longer a valid offer by the Government and is rescinded. I agree on behalf of the United States that the terms and conditions set forth above are appropriate and are in the best interests of justice.

JUSTIN D. WHATCOTT
ACTING UNITED STATES ATTORNEY
By:




Sean Mazorol
Assistant United States Attorney

9/18/25

Date

LORINDA I. LARYEA
ACTING CHIEF
U.S. DEPARTMENT OF JUSTICE
CRIMINAL DIVISION, FRAUD SECTION

By:


Kyle Crawford
Trial Attorney

9/18/25

Date



John Liolos
Trial Attorney

9/18/25

Date

XIV. ACCEPTANCE BY DEFENDANT AND COUNSEL

I have read and carefully reviewed every part of this agreement with my attorney. I understand the agreement and its effect upon my potential sentence. Furthermore, I have discussed all of my rights with my attorney, and I understand those rights. No other promises or inducements have been made to me, directly or indirectly, by any agent of the Government, including any Assistant United States Attorney, concerning the plea to be entered in this case. I understand that this agreement is a formal plea offer from the Government. Any oral discussions between the Government and me or my counsel about a plea do not constitute a plea offer. Any written offer or agreement made before this agreement is no longer valid and is rescinded. In addition, no one has threatened or coerced me to do, or to refrain from doing, anything in connection with this case, including entering a guilty plea. I understand that, if I am not a citizen or naturalized citizen of the United States, by pleading guilty in this case it is virtually certain that I will be removed from the United States. I am satisfied with my attorney's advice and representation in this case.



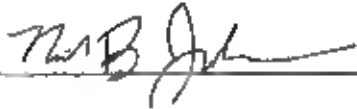
Michael Smith
Defendant



Date

I have read this agreement and have discussed the contents of the agreement with my client. This document accurately sets forth the entirety of the agreement. I have conveyed all written offers from the Government to the Defendant pursuant to *Missouri v. Frye*, 566 U.S. 134, 144-47 (2012). I understand that this agreement is a formal plea offer from the Government. Any oral discussions between the Government and me or my client about a plea do not constitute a plea offer. Any written offer or agreement made before this agreement is no longer valid and is rescinded. I have discussed with my client the fact that if my client is not a citizen or naturalized

citizen of the United States, by pleading guilty in this case, it is virtually certain that my client will be removed from the United States. I concur in my client's decision to plead guilty as set forth above.



Attorney for the Defendant

9/18/2025

Date