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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. MATTHEW ANTHONY MARSHALL, Defendant.	CR 20-32-M-DWM OFFER OF PROOF IN SUPPORT OF GUILTY PLEAS
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Defendant Matthew Anthony Marshall has filed a plea agreement that contemplates his pleas of guilty to counts I, VII and VIII of the second superseding indictment in this case, which charge wire fraud in violation of 18 U.S.C. § 1343 (count I), money laundering in violation of 18 U.S.C. § 1957 (count VII), and tax

evasion in violation of 26 U.S.C. § 7201 (count VIII). His pleas of guilty will be unconditional.

The United States presented all formal plea offers in writing. The plea agreement entered into by the parties and filed with the Court, in the government's view, represents the most favorable offer extended to the defendant. *See Missouri v. Frye*, 132 S.Ct. 1399 (2012).

Elements. In order to prove the case against Marshall at trial, the United States would have to prove the following elements beyond a reasonable doubt.

Count I

First, the defendant knowingly devised a scheme or plan to defraud, or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses, representations, promises or omitted facts;

Second, the statements made or facts omitted as part of the scheme were material; that is, they had a natural tendency to influence, or were capable of influencing, a person to part with money or property;

Third, the defendant acted with the intent to defraud; that is, the intent to deceive and cheat; and

Fourth, the defendant used, or caused to be used, wire, radio, or television communication in interstate or foreign commerce to carry out or attempt to carry out an essential part of the scheme.

Count VII

First, the defendant knowingly engaged in a monetary transaction;

Second, the defendant knew the transaction involved criminally derived property;

Third, the property had a value greater than \$10,000;

Fourth, the property was, in fact, derived from wire fraud; and

Fifth, the transaction occurred in the United States.

Count VIII

First, the defendant owed federal income tax for the tax year 2013;

Second, the defendant made an affirmative attempt to evade or defeat payment of the income tax; and

Third, that in attempting to evade or defeat such tax, the defendant acted willfully.

Proof. If called upon to prove this case at trial, and to provide a factual basis for Marshall's pleas, the United States would present the following evidence.

Marshall met John Doe (true name withheld to protect privacy) in January 2013. In the spring of 2013, Marshall started working for John Doe in Montana. In April 2013, Marshall asked Doe if he would be willing to fund an "off the books" paramilitary mission in Mexico. Doe agreed and wired Marshall \$400,000 on April 25, 2013. Marshall asked Doe for money for four other

purported missions from October 2013 until March 2016. Based on Marshall's material misstatements that he would use the money for the missions, Doe wired Marshall the following sums: \$500,000 on October 8, 2013 (for "mission" 2), \$400,000 on August 25, 2014 (for "mission" 3), \$750,000 on February 3, 2015 (for "mission" 4), and \$255,000 on March 21, 2016 (for "mission" 5).

Marshall did not use the money he received from Doe from 2013-2016 for any missions, to Mexico or anywhere else. Instead, he spent the money on personal expenses and loans and gifts to friends and family members, among other expenditures.

As it relates to the counts to which Marshall is pleading guilty, John Doe's \$255,000 wire to Marshall on March 21, 2016, is the basis of the wire fraud charge in count I of the second superseding indictment. Doe initiated the wire via computer from his home in Montana to his Wells Fargo Bank account in California, which caused a wire communication in interstate commerce. The money was then wired from Doe's account in California to Marshall's Old National Bank account in Indiana.

On April 29, 2016, after Marshall had received the \$255,000 from John Doe on March 21, he loaned a friend \$132,000 by writing a check drawn on his Wells Fargo checking account. Wells Fargo was insured by FDIC in April 2016. That loan is the financial transaction that serves as the basis of the money laundering

charge in count VII of the second superseding indictment.

Finally, the money Marshall received from John Doe in 2013, for purported missions 1 and 2, qualified as income to Marshall, which he willfully failed to report on his 2013 income tax return. His failure to report that income to his paid income tax return preparer for inclusion on his individual income tax return and to pay the applicable tax on that additional income – \$356,756.00 – forms the basis of the tax evasion charge in count VIII of the second superseding indictment.

The government submits that the aforementioned evidence would prove beyond a reasonable doubt all the elements of the crimes charged in counts I, VII and VIII of the second superseding indictment.

Respectfully submitted this 4th day of November, 2021.

LEIF M. JOHNSON
Acting United States Attorney

/s/ Timothy J. Racicot
Assistant U.S. Attorney
Attorney for Plaintiff

/s/ Ryan G. Weldon
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2021, a copy of the foregoing document was served on the following persons by the following means:

- (1,2) CM/ECF
 - Hand Delivery
 - U.S. Mail
 - Overnight Delivery Service
 - Fax
 - E-Mail
1. Clerk, U.S. District Court
 2. Justin K. Gelfand
Margulis Gelfand, LLC
7700 Bonhomme Ave., Ste. 750
St. Louis, MO 63105

/s/ Timothy J. Racicot
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