

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 1:26-cv-23236_____

UNITED STATES OF AMERICA,

Plaintiff,

v.

**COMPLAINT TO REVOKE
NATURALIZATION**

VICTOR MANUEL ROCHA,

Defendant.

_____ /

PRELIMINARY STATEMENT OF THE CASE

The United States of America brings this civil action against Defendant Victor Manuel Rocha to revoke his naturalization under 8 U.S.C. § 1451(a).

Rocha illegally procured his naturalization and obtained his naturalization by willful misrepresentation and concealment of material facts. During the naturalization process, Rocha represented that he had never knowingly committed any crime for which he had not been arrested, had no affiliation with the Communist Party, and believed in the U.S. Constitution and the form of government of the United States. None of these were true.

In 1973, five years before Rocha naturalized, he secretly began supporting the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of Cuba's intelligence services. In 2023, Rocha was charged with Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of 18 U.S.C. § 371, and Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951, among other counts. In 2024, Rocha pleaded guilty to those crimes, admitting

under oath that he had begun serving as an unregistered, secret agent for the Republic of Cuba in 1973. At his plea colloquy and sentencing hearing, Rocha testified at length about the covert operations he had maintained against the United States long before he took the Oath of Allegiance to the United States.

Had Rocha been truthful during his naturalization proceedings regarding his affiliation with the Communist Party and actions as its secret agent, the former Immigration and Naturalization Service (“INS”)¹ would not have recommend approval of his Naturalization Petition and the United States District Court for the Eastern District of Virginia would have concluded that, as a matter of law, Rocha was ineligible to naturalize and denied his Naturalization Petition. Rocha therefore illegally procured his naturalization and, independently, procured his naturalization by willfully misrepresenting and concealing material facts during his naturalization proceedings. The Court therefore should revoke the order admitting Rocha to United States citizenship and cancel his Certificate of Naturalization No. 10649687 under 8 U.S.C. § 1451(a).

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is the United States of America.
2. Rocha is a native of Colombia and a naturalized U.S. citizen.

¹ On March 1, 2003, the INS ceased to exist as an independent agency within the Department of Justice, and most of its functions were transferred to the newly formed Department of Homeland Security. *See* Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 441, 451, 471, 116 Stat. 2135 (Nov. 25, 2002). The INS was divided into three separate agencies, Immigration and Customs Enforcement, Customs and Border Protection, and Citizenship and Immigration Services (“USCIS”). USCIS assumed the INS’s authority to adjudicate naturalization applications and other requests for immigration benefits. *Id.* at § 451.

3. This is an action under 8 U.S.C. § 1451(a) to revoke and set aside the order admitting Rocha to U.S. citizenship and to cancel Rocha's Certificate of Naturalization No. 10649687.

4. The court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1345 for a cause of action under 8 U.S.C. § 1451(a).

5. Venue is proper in this District under 8 U.S.C. § 1451(a) and 28 U.S.C. § 1391 because Rocha last resided in Miami, Florida.

6. The affidavit of David Jansen, Special Agent with the U.S. Homeland Security Investigations, a component of U.S. Immigration and Customs Enforcement, an agency with the U.S. Department of Homeland Security, showing good cause for this action, as required by 8 U.S.C. § 1451(a), is attached as Exhibit A.

FACTUAL ALLEGATIONS

I. Rocha's Naturalization

7. On or about October 20, 1977, Rocha filed a Form N-400, Application to File Petition for Naturalization ("Naturalization Application") with the INS.

8. A true and complete copy of the Naturalization Application, except for redactions of personally identifying information immaterial to this action, is attached as Exhibit B.

9. Question 6(a) of the Naturalization Application asked Rocha if he had "ever, in or outside the United States: knowingly committed any crime for which you have not been arrested?"

10. In response to Question 6(a) of his Naturalization Application, Rocha checked the box "No."

11. Question 7 of the Naturalization Application asked Rocha to: “List your present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society or similar group in the United States or in any other county or place, and your foreign military service,” and told the applicant: “If none, write ‘None.’”

12. In response to Question 7 of his Naturalization Application, Rocha answered “None.”

13. Question 8(a) of the Naturalization Application asked Rocha: “Are you now, or have you ever, in the United States or in any other place, been a member of, or in any other way connected or associated with the Communist Party?”

14. In response to Question 8(a) of his Naturalization Application, Rocha checked the box “No.”

15. Question 8(b) of the Naturalization Application asked Rocha: “Have you ever knowingly aided or supported the Communist Party directly, or indirectly through another organization, group or person?”

16. In response to Question 8(b) of his Naturalization Application, Rocha checked the box “No.”

17. Question 8(c) of the Naturalization Application asked Rocha: “Do you now or have you ever advocated, taught, believed in, or knowingly supported or furthered the interests of Communism?”

18. In response to Question 8(c) of his Naturalization Application, Rocha checked the box “No.”

19. Question 16 of the Naturalization Application asked Rocha: “Do you believe in the U.S. Constitution and form of government of the United States?”

20. In response to Question 16 of his Naturalization Application, Rocha checked the box “Yes.”

21. On January 20, 1978, Rocha appeared before INS Naturalization Examiner K.C. Williams for a preliminary examination of his qualifications for naturalization and admissibility to citizenship.

22. At the beginning of the examination, Naturalization Examiner Williams placed Rocha under oath.

23. Examiner Williams asked Rocha whether he had ever, in or outside the United States, knowingly committed any crime for which he had not been arrested, and Rocha orally answered “no” under oath to confirm his written answer to Question 6(a) of his Naturalization Application.

24. Examiner Williams asked Rocha to list his present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other country or place, and his foreign military service, and Rocha orally answered “none” under oath to confirm his written answer to Question 7 of his Naturalization Application.

25. Examiner Williams asked Rocha whether he now or ever, in the United States or in any other place, been a member of, or in any other way connected or associated with the Communist Party, and Rocha orally answered “no” under oath to confirm his written answer to Question 8(a) of his Naturalization Application.

26. Examiner Williams asked Rocha whether he ever knowingly aided or supported the Communist Party directly or indirectly through any other organization, group, or person, and

Rocha orally answered “no” under oath to confirm his written answer to Question 8(b) of his Naturalization Application.

27. Examiner Williams asked Rocha whether he had ever advocated, taught, believed in, or knowingly supported or furthered the interests of Communism, and Rocha orally answered “no” under oath to confirm his written answer to Question 8(c) of his Naturalization Application.

28. Examiner Williams asked Rocha whether he believed in the U.S. Constitution and form of government of the United States, and Rocha orally answered “yes” under oath to confirm his written answer to Question 16 of his Naturalization Application.

29. At the conclusion of the examination, Rocha signed an affidavit on the Naturalization Application swearing that he knew the contents of his Naturalization Application and that the contents were true and correct.

30. On January 20, 1978, Rocha signed and filed a Form N-405, Petition for Naturalization (“Naturalization Petition”).

31. A true and complete copy of the Naturalization Petition, except for redactions of personally identifying information immaterial to this action, is attached as Exhibit C.

32. Rocha signed the Naturalization Petition attesting under penalty of perjury that he knew the contents of the Naturalization Petition and the contents are true to the best of his knowledge and belief.

33. When Rocha signed the Naturalization Petition, he attested to the following statement: “I am not and have not been, within the meaning of the Immigration and Nationality Act, for a period of at least 10 years immediately preceding the date of this petition, a member of or affiliated with any organization proscribed by such Act, or any section, subsidiary, branch,

affiliate or subdivision thereof, nor have I during such period believed in, advocated, engaged in, or performed any of the acts or activities prohibited by such Act.”

34. When Rocha signed the Naturalization Petition, he attested to the following statement: “I am, and have been during all periods required by law, a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States.”

35. On September 17, 1978, Rocha signed a Form N-445 from the INS.

36. A true and complete copy of the Form N-445 letter, except for redactions of personally identifying information immaterial to this action, is attached as Exhibit D.

37. Rocha certified with his signature that each of the answers to questions on his Form N-445 were made by him or at his direction and were true and correct.

38. Question 3 of the Form N-445 asked: “Have you knowingly committed any crime or offense, for which you have not been arrested; or have you been arrested, cited, charged, indicted, convicted, fined, or imprisoned for breaking or violating any law or ordinance, including traffic violations?”

39. Rocha answered “NO” to Question 3 of his Form N-445.

40. Question 4 asked of the Form N-445 asked: “Have you joined any organization, including the Communist Party, or become associated or connected therewith in any way?”

41. Rocha answered “NO” to Question 4 of his Form N-445.

42. On September 17, 1978, Rocha took the Oath of Allegiance before a United States District Court Judge for the Eastern District of Virginia and was admitted as a citizen of the United States.

43. On September 17, 1978, Rocha was issued Certification of Naturalization No. 10649687.

44. A true and complete copy of the Certificate of Naturalization, except for redactions of personally identifying information immaterial to this action, is attached as Exhibit E.

II. Rocha's Conviction for Spying

45. Starting in or around 1973, Rocha unlawfully conspired to act as an unregistered agent of Cuba.

46. The Republic of Cuba has been a totalitarian Communist state since before Defendant naturalized.

47. The Communist Party has been constitutionally recognized, per the terms of the Cuban Constitution, as Cuba's only legal political party since before Defendant naturalized.

48. The Communist Party and its affiliated organizations have controlled the Cuban government since before Defendant naturalized.

49. Rocha was attending a student program in Chile in 1973 when he was first approached by and started conspiring to spy for the Republic of Cuba.

50. Rocha completed a master's degree in public administration from Harvard University in 1976 and a master's degree in international relations from Georgetown University in 1978 to advance his service as a secret agent of Cuba.

51. In November 1981, Rocha began his career with the U.S. Department of State as an International Relations Officer on the Honduras desk.

52. From in or around December 1982 to in or around January 1985, Rocha served as a Political Officer at the United States Embassy in Santo Domingo, Dominican Republic.

53. Over the following years, Rocha served in numerous diplomatic positions in several countries in Latin America.

54. On December 5, 2023, Rocha was charged by indictment in the United States District Court for the Southern District of Florida with Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of 18 U.S.C. § 371; Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951; five counts of Wire Fraud, in violation of 18 U.S.C. § 1343; three counts of Making a False Statement in a Passport Application, in violation of 18 U.S.C. § 1542; four counts of Use of a Passport Obtained by a False Statement, in violation of 18 U.S.C. § 1542, and False Statement and Representation, in violation of 18 U.S.C. § 1001(a)(2). Indictment, *United States v. Rocha*, No. 1:23-cr-20464-Bloom (S.D. Fla. Dec. 5, 2023) (“Indictment”).

55. A true and complete copy of the Indictment is attached as Exhibit F.

56. In the Indictment, the government alleged:

- a. “Cuba’s intelligence services include numerous intelligence and counterintelligence entities, including the Director of Intelligence, also known as the General Directorate of Intelligence (collectively, ‘DGI’).”
- b. “The DGI is charged with gathering worldwide intelligence information of interest to Cuba and its allies.”
- c. “The DGI spots and assesses persons within the United States, including employees of the United States government, who may be suitable for recruitment to serve a variety of roles on behalf of Cuba’s interests.”
- d. In or around 1973, while in the Republic of Chile and elsewhere, **VICTOR MANUEL ROCHA** became a ‘great friend’ of the DGI.”

Ex. F at 4, 9.

57. On April 12, 2024, Rocha signed a Plea Agreement and agreed to plead guilty to Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of 18 U.S.C. § 371, and Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951. Plea Agreement, *United States v. Rocha*, No. 1:23-cr-20464-Bloom (S.D. Fla. Apr. 12, 2024), ECF No. 34 (“Plea Agreement”).

58. A true and complete copy of the Plea Agreement, except for redactions of personally identifiable information immaterial to this action, is attached as Exhibit G.

59. The Plea Agreement states: “The parties agree that neither this agreement nor any other applicable statute of limitations precludes the government from initiating civil denaturalization proceedings and from relying on any admission in this matter in such proceeding.” Ex. G ¶ 19.

60. On April 12, 2024, Rocha signed a Factual Proffer that was filed with the Plea Agreement. Factual Proffer, *United States v. Rocha*, No. 1:23-cr-20464-Bloom (S.D. Fla. Apr. 12, 2024), ECF No. 33 (“Factual Proffer”).

61. A true and complete copy of the Factual Proffer is attached as Exhibit H.

62. In the Factual Proffer, Rocha admitted and conceded the following:

- a. “Starting in or around 1973, the Defendant secretly supported the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of Cuba’s intelligence services, including the Directorate of Intelligence, also known as the General Directorate of Intelligence (collectively, ‘DGI’).”

- b. “The DGI is charged with gathering worldwide intelligence information of interest to Cuba and its allies.”
- c. “To further that role, the Defendant obtained and maintained employment in the United States government in positions that provided him: (1) access to nonpublic information, including classified information; and (2) the ability to affect the United States’ foreign policy.”
- d. “After his employment ended, the Defendant held other positions and engaged in other acts intended to support Cuba’s intelligence services.”
- e. “To do so, the Defendant always kept his status as a Cuban agent secret to protect himself and others and to allow himself the opportunity to engage in additional clandestine activity.”
- f. “For example, the Defendant: (1) provided false and misleading information to the United States government to maintain his secret mission; and (2) met with Cuban intelligence operatives.”
- g. “The Defendant’s activities, and his deceit, betrayed his oath of office and obstructed the lawful functions of the United States government.”
- h. “At no time did the Defendant provide notification to the United States Attorney General or the Secretary of State, as required by law, that he was, in fact, acting as an agent of a foreign government, specifically the Republic of Cuba.”

Ex. H at 1–2.

63. On April 12, 2024, the District Court held a plea colloquy and sentencing hearing (“Plea Hearing”) at which Rocha pleaded guilty to Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of 18 U.S.C. § 371; and Acting as an

Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951. Tr. of Plea Colloquy & Sentencing Hr'g, *United States v. Rocha*, No. 23-cr-20464-Bloom (S.D. Fla. May 21, 2024), ECF No. 38.

64. A true and complete copy of the Transcript of the Plea Colloquy and Sentencing Hearing is attached as Exhibit I.

65. At the Plea Hearing, Assistant United States Attorney Jonathan D. Stratton read facts from the factual proffer, which are described above in Paragraph 62, including:

MR. STRATTON: Starting in or around 1973, the Defendant secretly supported the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a cover agent of Cuba's intelligence services, including the Directorate of Intelligence, also known as the General Director of Intelligence, collectively the DGI. The DGI is charged with gathering worldwide intelligence information of interest to Cuba and its allies.

Ex. I 64:13–20.

66. At the Plea Hearing, immediately after Assistant United States Attorney Stratton read the factual proffer described in Paragraph 60, the Court and Rocha had the following colloquy:

THE COURT: . . . Mr. Rocha, did you hear the statement of facts [the government attorney] presented to the Court?

THE DEFENDANT: I did, Your Honor.

THE COURT: Are those facts true, sir?

THE DEFENDANT: They are, Your Honor.

THE COURT: The Court has before it a Factual Proffer. As I stated previously, this Factual Proffer consists of 14 pages. Did you ready [sic] it completely?

THE DEFENDANT: I did, Your Honor.

THE COURT: Did you understand every word?

THE DEFENDANT: I did, Your Honor.

THE COURT: Did [your attorney] answer all of your questions?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Are the facts contained on these 14 pages true?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And is this your signature on the thirteenth page, sir?

THE DEFENDANT: It is, Your Honor.

Ex. I 80:24–81:10.

67. At the Plea Hearing, the Court explained to Rocha:

THE COURT: Mr. Rocha, let me state that the Court is going to sentence you to the maximum permitted by law. It is appropriate.

For 51 years, you betrayed the United States. While your sentiments may have been influenced by politics, as recent as 2022 and 2023, by your own words to the FBI agent, you held anger and a lack of allegiance to the United States, but a devotion to a hostile country, Cuba. No doubt, for 51 years, you betrayed the United States. And as an agent of the Cuban Government, your actions were a direct attack on our democracy and the safety of our citizens.

The facts bear out that you became a naturalized citizen in 1978. And by your own admission, your allegiance to Cuba, and your lack of allegiance to the United States, began well before that. Starting in 1973, you supported the Republic of Cuba secretly by serving as a covert agent of Cuba's intelligence services, including the Directorate of Intelligence.

Ex. I 87:15–21.

68. At the Plea Hearing, the Court explained to Rocha:

THE COURT: I don't know if the Government will proceed with denaturalization proceedings, but that will be a collateral consequence. It would appear to this Court that one who continues to support an enemy of the United States should not

be granted that privilege. It was, in essence, an ill-gotten privilege.

Ex. I 90:1–6.

69. The Court adjudicated Rocha guilty of Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of 18 U.S.C. § 371, and Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951. Judgment, *United States v. Rocha*, No. 23-cr-20464-Bloom (S.D. Fla. May 21, 2024), ECF No. 36 (“Judgment”).

70. A true and complete copy of the Judgment is attached as Exhibit J.

71. The Court sentenced Rocha to 60 months on the former count and 120 months on the latter count, to be served consecutively.

72. Rocha is serving the sentence at FCI Coleman in Sumter County, Florida.

GOVERNING LAW

I. Statutory Prerequisites to the Acquisition of Citizenship through Naturalization

73. No alien has a right to naturalization “unless all statutory requirements are complied with.” *United States v. Ginsberg*, 243 U.S. 472, 474–75 (1917).

74. The Supreme Court has underscored that “[t]here must be strict compliance with all the congressionally imposed prerequisites to the acquisition of citizenship.” *Fedorenko v. United States*, 449 U.S. 490, 506 (1981) (“An alien who seeks political rights as a member of this Nation can rightfully obtain them only upon the terms and conditions specified by Congress.” (quoting *Ginsberg*, 243 U.S. at 474)).

75. Congress has mandated that an individual may not naturalize unless they are “attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.” 8 U.S.C. § 1427 (1976).

76. Congress has mandated that an individual may not naturalize if that person is affiliated with the Communist Party of any foreign state unless such person establishes that he did not have knowledge or reason to believe at the time he became affiliated that such organization was a “Communist-front organization.” 8 U.S.C. § 1424(a)(2) (1976).

77. Congress has mandated that an individual may not naturalize if that person advocates for or is affiliated with any organization that advocates for the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship. 8 U.S.C. § 1424(a)(3) (1976).

78. Congress has mandated that an individual may not naturalize if that person at any time within a period of ten years immediately preceding the filing of the petition for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within 8 U.S.C. § 1424(a)(2) or (3), notwithstanding that at the time the petition is filed he may not be included within such classes. 8 U.S.C. § 1424(c) (1976).

79. Congress has mandated that an individual may not naturalize unless that person “during all periods referred to in [8 U.S.C. § 1427 (1976)] has been and still is a person of good moral character.” 8 U.S.C. § 1427 (1976).

80. The required statutory period for good moral character begins five years before the date the applicant files a naturalization petition and continues until the applicant takes the Oath of Allegiance and becomes a U.S. citizen. 8 U.S.C. § 1427 (1976).

81. Congress has explicitly precluded individuals who give false testimony during the statutory period for the purpose of obtaining immigration benefits from being able to establish the good moral character necessary to naturalize. 8 U.S.C. § 1101(f)(6) (1976).

II. The Denaturalization Statute

82. Recognizing that there are situations where an individual has naturalized despite failing to comply with all congressionally imposed prerequisites to the acquisition of citizenship or by concealing or misrepresenting facts that are material to the decision on whether to grant his or her Naturalization Application, Congress enacted 8 U.S.C. § 1451.

83. Under 8 U.S.C. § 1451(a), this Court must revoke an order of naturalization and cancel an individual's certificate of naturalization if his or her naturalization was *either*:

- a. illegally procured, *or*
- b. procured by concealment of a material fact or by willful misrepresentation.

84. Failure to comply with any of the congressionally imposed prerequisites to the acquisition of citizenship through naturalization renders the order granting citizenship “illegally procured.” *Fedorenko*, 449 U.S. at 506.

85. Naturalization has been procured by concealment of a material fact or by willful misrepresentation, where: (1) the naturalized citizen misrepresented or concealed some fact during the naturalization process; (2) the misrepresentation or concealment was willful; (3) the fact was material; and (4) the naturalized citizen procured citizenship as a result of the misrepresentation or concealment. *Kungys v. United States*, 485 U.S. 759, 767 (1988).

86. Congress has mandated that, if a defendant, within five years after naturalization, becomes a member of or affiliated with any organization that, at the time of naturalization, would have precluded such person from naturalization under 8 U.S.C. § 1424 (1976), the affiliation or membership shall be prima facie evidence that the person was not attached to the principles of the Constitution of the United States and was not well-disposed to the good order and happiness of the United State at the time of naturalization and, therefore, in the absence of

countervailing evidence, such affiliation or membership shall be sufficient to authorize the revocation of the person's naturalization and cancellation of that person's certificate of naturalization as having been obtained by the concealment of a material fact or willful misrepresentation. 8 U.S.C. § 1451(c).

87. Where the government establishes that a defendant's citizenship was procured illegally or by concealment of a material fact or by willful misrepresentation, "district courts lack equitable discretion to refrain from entering a judgment of denaturalization." *Fedorenko*, 449 U.S. at 517.

CAUSES OF ACTION

COUNT I ILLEGAL PROCUREMENT OF NATURALIZATION (Lack of Good Moral Character – False Testimony)

88. Rocha was required for lawful naturalization to establish that he was a person of good moral character from January 20, 1973, five years before he filed his naturalization petition, until the date he became a U.S. citizen on September 17, 1978 (the "statutory period"). 8 U.S.C. § 1427 (1976).

89. Rocha was statutorily barred from showing that he was a person of good moral character during the statutory period because he gave false testimony, under oath, for the purpose of obtaining immigration benefits, namely naturalization. 8 U.S.C. § 1101(f)(6) (1976).

90. As alleged in Paragraph 23, Rocha orally testified under oath on January 20, 1978, for the purpose of obtaining naturalization that he had never, in or outside the United States, knowingly committed any crime for which he had not been arrested.

91. Rocha's testimony, as alleged in Paragraph 90, was false because, as described in Paragraphs 45, 56, 62, 65, and 67, he unlawfully conspired to act as a secret agent of Cuba and to defraud the United States starting in 1973 and continuing through his naturalization proceedings.

92. Rocha's testimony, as alleged in Paragraph 90, was false also because, as alleged in Paragraphs 119 and 120, he committed the unlawful act of perjury when he provided false testimony under oath at his naturalization examination.

93. Rocha's testimony, as alleged in Paragraph 90, was false also because, as alleged in Paragraphs 121 to 123, he made a false declaration under oath to the United States District Court for the Eastern District of Virginia when he took the Oath of Allegiance.

94. As alleged in Paragraph 24, Rocha orally testified under oath on January 20, 1978, for the purpose of obtaining naturalization that he had never been affiliated with any party in the United States or in any other country or place.

95. As alleged in Paragraph 25, Rocha orally testified under oath on January 20, 1978, for the purpose of obtaining naturalization that he had never been connected or associated with the Communist Party.

96. As alleged in Paragraph 26, Rocha orally testified under oath on January 20, 1978, for the purpose of obtaining naturalization that he had never knowingly aided or supported the Communist Party directly or indirectly through any other organization, group, or person.

97. As alleged in Paragraph 27, Rocha orally testified under oath on January 20, 1978, for the purpose of obtaining naturalization that he had never advocated, taught, believed in, or knowingly supported or further the interests of Communism.

98. As alleged in Paragraph 28, Rocha orally testified under oath for the purpose of obtaining naturalization that he believed in the U.S. Constitution and the form of government of the United States.

99. Rocha's testimony, as alleged in Paragraphs 94 to 98, was false because, as described in Paragraphs 45, 56, 62, 65, and 67 starting in 1973 and continuing through his naturalization proceedings, he unlawfully conspired to act as a secret agent of Cuba; was affiliated, connected, and associated with the Communist Party in Cuba; and, through his clandestine activities, knowingly worked to aid, support, advocate for, and further the interests of the Communist Party and communism while defrauding the United States and undermining the U.S. Constitution and the form of government in the United States,.

100. Rocha's false testimony occurred on January 20, 1978, which was during the statutory period of his naturalization.

101. Because Rocha provided false, oral testimony under oath for the purpose of obtaining naturalization during the statutory period when he was required to show good moral character, he was barred under 8 U.S.C. § 1101(f)(6) (1976) from establishing that he had the good moral character necessary to become a naturalized U.S. citizen.

102. Because Rocha could not establish the requisite moral character under 8 U.S.C. § 1427 (1976), he was ineligible for naturalization.

103. Because Rocha was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his naturalization under 8 U.S.C. § 1451(a).

COUNT II
ILLEGAL PROCUREMENT OF NATURALIZATION
(Lack of Good Moral Character –Crimes Involving Moral Turpitude)

104. As alleged in Paragraph 88, to lawfully naturalize, Rocha was required to establish that he was a person of good moral character from January 20, 1973, until September 17, 1978. 8 U.S.C. § 1427 (1976).

105. Rocha was statutorily barred from showing that he was a person of good moral character because he committed crimes involving moral turpitude during the statutory period and was convicted of those crimes. 8 U.S.C. § 1101(f)(3) (1976).

106. As alleged in Paragraphs 45, 56, 62, 65, and 67, Rocha started unlawfully conspiring to act as a secret agent of Cuba and to defraud the United States in 1973, which was during the statutory period.

107. As alleged in Paragraph 69, Rocha was convicted of Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of 18 U.S.C. § 371, and Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951, both of which adversely reflected on his moral character.

108. Conspiracy to Defraud the United States, in violation of 18 U.S.C. § 371, categorically involves moral turpitude because, by definition, it involves fraud, namely “an intent to obtain some benefit” from or “cause a detriment” to the United States government. *Zarate v. U.S. Att’y Gen.*, 26 F.4th 1196, 1201 (11th Cir. 2022).

109. Conspiracy to Act as an Agent of a Foreign Government, in violation of 18 U.S.C. §§ 371 and 951, and Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951, both would entail the same exact analysis to determine whether they involve moral turpitude because inchoate offenses qualify as crimes involving moral turpitude so long as

the underlying offense does. *See, e.g., Daye v. Att’y Gen.*, 38 F.4th 1355, 1362 n.5 (11th Cir. 2022).

110. Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951, categorically involves moral turpitude because it involves a culpable mental statute and conduct that is “reprehensible, i.e. inherently base, vile, or depraved.” *Zarate*, 26 F.4th at 1207.

111. Rocha committed the crimes alleged in Paragraphs 107 and 109 during the statutory period during which he was required to demonstrate good moral character.

112. Rocha, therefore, could not demonstrate the good moral character for naturalization, which made him ineligible for naturalization.

113. Because Rocha was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his naturalization under 8 U.S.C. § 1451(a).

COUNT III
ILLEGAL PROCUREMENT OF NATURALIZATION
(Lack of Good Moral Character – Unlawful Acts)

114. As alleged in Paragraph 88, to lawfully naturalize, Rocha was required to establish that he was a person of good moral character from January 20, 1973, until September 17, 1978. 8 U.S.C. § 1427 (1976).

115. In 1978, a naturalization applicant was required to demonstrate that his moral character “measured up to that of the average citizen in the community in which he resides.” *Brukiewicz v. Savoretti*, 211 F.2d 541 (5th Cir. 1954).

116. Rocha was unable to demonstrate that he was a person of good moral character because he committed unlawful acts during the statutory period that reflected adversely on his moral character. 8 U.S.C. § 1101(f) (flush language) (1976).

117. As alleged in Paragraphs 45, 56, 62, 65, and 67, Rocha started unlawfully conspiring to act as a secret agent of Cuba and to defraud the United States in 1973, which was during the statutory period.

118. As alleged in Paragraph 69, Rocha was convicted of Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of 18 U.S.C. § 371, and Acting as an Illegal Agent of a Foreign Government, in violation of 18 U.S.C. § 951, both of which adversely reflected on his moral character.

119. As alleged in Paragraphs 90 to 99, Rocha knowingly provided false, oral testimony under oath in response to at least five questions at his naturalization examination on January 20, 1978.

120. Rocha's false testimony at his naturalization examination constituted perjury, in violation of 18 U.S.C. § 1621 (1976), because he was under oath, the statements were material, and he knew his statements were not true.

121. As alleged in Paragraph 42, Rocha took the Oath of Allegiance before a United States District Court Judge on September 17, 1978.

122. In taking the Oath of Allegiance, Rocha was required to swear, *inter alia*, that he will "support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic" and "will bear true faith and allegiance to the same." 8 U.S.C. § 1448 (1976); 8 C.F.R. § 337.1(a) (1978).

123. When Rocha took the Oath of Allegiance, he made a False Declaration Before Grand Jury or Court, in violation of 18 U.S.C. § 1623 (1976), because he was under oath, his statements were material, and, as evidenced by his conviction for conspiring to be a secret agent of Cuba and defraud the United States, he knew that he would not support and defend the

Constitution and laws of the United States of America against all enemies, foreign and domestic—including Cuba—and would not bear true faith and allegiance to the same.

124. Rocha committed the crimes alleged in Paragraphs 118, 120, and 123 during the statutory period during which he was required to demonstrate good moral character.

125. Each crime described in Paragraphs 118, 120, and 123 precluded Rocha from demonstrating that his moral character measured up to that of the average citizen in the community where he resided.

126. As evidenced by his conviction, Rocha could not establish extenuating circumstances that would mitigate his culpability for his crimes. *United States v. Jean-Baptiste*, 395 F. 3d 1190, 1195 (11th Cir. 2005) (describing and citing case history for extenuating circumstances pertaining to an applicant’s culpability for a crime in determining good moral character).

127. Rocha, therefore, could not demonstrate the good moral character for naturalization, which made him ineligible for naturalization.

128. Because Rocha was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his naturalization under 8 U.S.C. § 1451(a).

COUNT IV
ILLEGAL PROCUREMENT OF NATURALIZATION
(Not Attached to the Principles of the U.S. Constitution and Not Well-Disposed
to the Good Order and Happiness of the United States)

129. As alleged in Paragraph 75, Rocha was required for lawful naturalization to be attached to the principles of the Constitution of the United States and well-disposed to the good order and happiness of the United States. 8 U.S.C. § 1427 (1976).

130. Rocha was required to be attached to the U.S. Constitution to be able to take the Oath of Allegiance. 8 C.F.R. § 337.1(c) (1978).

131. Specifically, Rocha was required to establish, before being naturalized, “that it is his intention, in good faith, to assume and discharge the obligations of the oath of allegiance and that his attitude toward the Constitution and laws of the United States renders him capable of fulfilling the obligations of such oath.” 8 C.F.R. § 337.1(c) (1978).

132. Rocha was required to take an Oath of Allegiance before a United States District Court Judge. 8 U.S.C. § 1448(a) (1976); *see also Sebastian-Soler v. U.S. Att’y Gen.*, 409 F.3d 1280, 1284 (11th Cir. 2005) (explaining Oath of Allegiance requirements).

133. The Oath of Allegiance is more than a formality; it is a statutory necessity to naturalization. *Tovar-Alvarez v. U.S. Att’y Gen.*, 427 F.3d 1350, 1353 (11th Cir. 2005).

134. In taking the Oath of Allegiance, Rocha was required to swear, *inter alia*, that he will “support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic” and “will bear true faith and allegiance to the same.” 8 U.S.C. § 1448 (1976); 8 C.F.R. § 337.1(a) (1978).

135. Rocha was unable to demonstrate that he was attached to the principles of the Constitution of the United States and well-disposed to the good order and happiness of the United States because, as alleged in Paragraphs 45, 56, 62, 65, and 67, he unlawfully conspired to act as a secret agent of Cuba and, through his clandestine activities, worked to defraud the United States by undermining the U.S. Constitution and the form of government in the United States.

136. Because Rocha was not attached to the principles of the Constitution of the United States and was not well-disposed to the good order and happiness of the United States, he was ineligible for naturalization under 8 U.S.C. § 1427 (1976).

137. Because Rocha was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his naturalization under 8 U.S.C. § 1451(a).

COUNT V
ILLEGAL PROCUREMENT OF NATURALIZATION
(Affiliated with Communist Party of Cuba)

138. As alleged in Paragraph 76, Rocha was barred from lawful naturalization if he was affiliated with the Communist Party of any foreign state unless such he established that he did not have knowledge or reason to believe at the time he became affiliated that such organization was a “Communist-front organization.” 8 U.S.C. § 1424(a)(2) (1976).

139. Rocha was statutorily barred from naturalization because, as alleged in Paragraphs 45, 56, 62, 65, and 67, he unlawfully conspired to act as a secret agent of Cuba and, thus, became affiliated with the Communist Party of Cuba, starting in 1973 and continuing through his naturalization proceedings.

140. Rocha knew when he conspired to act as a secret agent of Cuba that he became affiliated with the government of the Republic of Cuba and, thus, the Communist Party of Cuba.

141. Rocha’s affiliation with the Communist Party of Cuba was meaningful and was not involuntary, by operation of law, or for the purpose of obtaining employment, food rations, or other essentials of living. 8 U.S.C. § 1424(d) (1976).

142. Because Rocha became affiliated with the Communist Party of Cuba, he was barred from naturalization under 8 U.S.C. § 1424(a)(2) (1976).

143. Because Rocha was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his naturalization under 8 U.S.C. § 1451(a).

COUNT VI
ILLEGAL PROCUREMENT OF NATURALIZATION
(Advocated for Communism)

144. As alleged in Paragraph 77, Rocha was barred from lawful naturalization if he advocated for or was affiliated with any organization that advocates for the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship. 8 U.S.C. § 1424(a)(3) (1976).

145. Rocha was statutorily barred from naturalization because, as alleged in Paragraphs 45, 56, 62, 65, and 67, he unlawfully conspired to act as a secret agent of Cuba and, through his clandestine activities, worked to defraud the United States by undermining the U.S. Constitution and the form of government in the United States, starting in 1973 and continuing through his naturalization proceedings.

146. Rocha advocated for the economic, international, and governmental doctrines of world communism by conspiring as a secret agent to conduct clandestine activities on behalf of Cuba and, thus, the Communist Party of Cuba.

147. When Rocha conspired to act as a secret agent of Cuba and, thus, became affiliated with the Communist Party of Cuba, he became affiliated with an organization that advocated for the economic, international, and governmental doctrines of world communism.

148. Rocha's advocating for affiliation with the Communist Party of Cuba was meaningful and was not involuntary, by operation of law, or for the purpose of obtaining employment, food rations, or other essentials of living. 8 U.S.C. § 1424(d) (1976).

149. Because Rocha advocated for and became affiliated with an organization that advocated for the economic, international, and governmental doctrines of world communism, he was barred from naturalization under 8 U.S.C. § 1424(a)(3) (1976).

150. Because Rocha was ineligible to naturalize, he illegally procured his naturalization, and this Court must revoke his naturalization under 8 U.S.C. § 1451(a).

COUNT VII
PROCUREMENT OF NATURALIZATION BY
CONCEALMENT OF A MATERIAL FACT OR
WILLFUL MISREPRESENTATION

151. Under 8 U.S.C. § 1451(a), this Court must revoke and set aside the order admitting Rocha to citizenship and cancel his Certificate of Naturalization because he procured his naturalization by concealment of material facts or by willful misrepresentations.

152. As alleged in Paragraphs 90 to 93, during the naturalization process Rocha willfully misrepresented and concealed that he had committed crimes for which he had not been arrested.

153. As alleged in Paragraphs 94 and 99, during the naturalization process Rocha willfully misrepresented and concealed that he had had been affiliated with the Communist Party of Cuba.

154. As alleged in Paragraphs 95 and 99, during the naturalization process Rocha willfully misrepresented and concealed that he was connected and associated with the Communist Party of Cuba.

155. As alleged in Paragraphs 96 and 99, during the naturalization process Rocha willfully misrepresented and concealed that he knowingly aided and supported the Communist Party of Cuba.

156. As alleged in Paragraphs 97 and 99, during the naturalization process Rocha willfully misrepresented and concealed that he advocated for, believed in, and knowingly supported and furthered the interests of communism.

157. As alleged in Paragraphs 98 and 99, during the naturalization process Rocha willfully misrepresented and concealed that he did not believe in the U.S. Constitution and the form of government of the United States.

158. Rocha's testimony, as alleged in Paragraphs 94 to 98, was false because, as described in Paragraphs 45, 56, 62, 65, and 67, starting in 1973 and continuing through his naturalization proceedings, Rocha unlawfully conspired to act as a secret agent of Cuba and, thus, was affiliated with the Communist Party in Cuba, and, through his clandestine activities on its behalf, Rocha worked to defraud the United States by undermining the U.S. Constitution and the form of government in the United States.

159. Rocha misrepresented and concealed these facts to procure naturalization.

160. Rocha made the concealments and misrepresentations voluntarily despite knowing that such representations were false and misleading. Accordingly, Rocha made these representations willfully.

161. At no point during the naturalization process did Rocha disclose that he was conspiring to serve as a secret agent for the Republic of Cuba and conspiring to defraud the United States.

162. Rocha's misrepresentations and concealments were material to his Naturalization Application, because each would have had a natural tendency to influence the INS's recommendation on Rocha's Naturalization Petition and the United States District Court's decision on whether to enter an order granting his Naturalization Petition.

163. If the INS had known that Rocha was conspiring to serve as a secret agent of the Republic of Cuba, the INS would not have recommended Rocha for naturalization because he was not qualified to naturalized under 8 U.S.C. §§ 1424(a)(2), 1424(a)(3), and 1427 (1976).

164. Indeed, if the United States District Court had known that Rocha was conspiring to serve as a secret agent of the Republic of Cuba, the Court would not have granted Rocha's Naturalization Petition because he was not qualified to naturalize under 8 U.S.C. §§ 1424(a)(2), 1424(a)(3), and 1427 (1976).

165. Further, as alleged in Paragraphs 51 to 53, after Rocha naturalized, he assumed positions of trust with the U.S. Department of State during the five years after he naturalized.

166. In these positions, Rocha was able to gather and share information with the Republic of Cuba while he worked as a secret agent.

167. Rocha's secret work for the Republic of Cuba and, thus, his affiliation with the Communist Party of Cuba, within the five years after he naturalized, which would have precluded him from naturalization under 8 U.S.C. § 1424, is prima facie evidence that Rocha obtained naturalization by concealment of a material fact or willful misrepresentation.

168. Rocha therefore procured his naturalization by concealment of material facts and willful misrepresentations, and this Court must revoke his naturalization as a U.S. citizen under 8 U.S.C. § 1451(a).

PRAYER FOR RELIEF

WHEREFORE, the United States of America respectfully requests:

- (1) A declaration that Rocha illegally procured his U.S. citizenship;
- (2) A declaration that Rocha procured his U.S. citizenship by concealment of material facts and by willful misrepresentation;
- (3) Judgment revoking and setting aside the order admitting Rocha to citizenship and canceling Certificate of Naturalization No. 10649687, effective as of the original date of the order and certificate, September 17, 1978.

(4) Judgment forever restraining and enjoining Rocha from claiming any rights, privileges, benefits, or advantages related to U.S. citizenship that he obtained as a result of his September 17, 1978, naturalization;

(5) Judgment requiring the Rocha to surrender and deliver, within ten days of entry of Judgment, his Certificate of Naturalization, as well as any copies thereof in his possession or control—and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of others—to the Acting Attorney General, through his undersigned representative;

(6) Judgment requiring the Rocha to immediately surrender and deliver, within ten days of entry of Judgment, any other indicia of U.S. citizenship, including, but not limited to, U.S. passports (whether valid or expired), U.S. passport cards (whether valid or expired), and Enhanced Driver's Licenses (whether valid or expired), as well as any copies thereof in his possession or control—and to make good faith efforts to recover and then surrender any copies thereof that he knows are in the possession or control of others—to the Acting Attorney General through his undersigned representative; and

(7) Judgment granting the United States any other relief that may be lawful and proper in this case.

Dated: May 7, 2026

JASON A. REDING QUIÑONES
United States Attorney

By: /s/ Matthew J. Feeley

MATTHEW J. FEELEY
Assistant United States Attorney
Fla. Bar. No. 0012908
United States Attorney's Office
99 N.E. 4th Street, 3rd Floor
Miami, Florida 33132
Telephone: (305) 961-9235
Facsimile: (305) 530-7139
Email: matthew.feeley@usdoj.gov

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General
Civil Division

JENNIFER J. KEENEY
Associate Director, Enforcement Unit
Office of Immigration Litigation

JOHN J. W. INKELES
Chief
Denaturalization Unit

HANS H. CHEN
Deputy Chief
Denaturalization Unit

/s/ Troy Liggett

TROY LIGGETT
Florida Bar No. 086788
Senior Trial Attorney
Denaturalization Unit
Office of Immigration Litigation
United States Department of Justice
P.O. Box 878, Ben Franklin Station
Washington, DC 20044
(202) 532-4765
troy.liggett@usdoj.gov

Counsel for the United States of America

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 1:26-cv-23236 _____

UNITED STATES OF AMERICA,

Plaintiff,

v.

VICTOR MANUEL ROCHA,

Defendant.

**EXHIBITS IN SUPPORT OF
COMPLAINT TO REVOKE NATURALIZATION**

- A. Affidavit of Good Cause of David Jansen, Special Agent, U.S. Homeland Security Investigations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security (Feb. 12, 2026)
- B. Form N-400, Application to File Petition for Naturalization (Oct. 20, 1977) (Certified Copy)
- C. Form N-405, Petition for Naturalization (Jan. 20, 1978) (Certified Copy)
- D. Form N-445 (Sept. 17, 1978) (Certified Copy)
- E. Certificate of Naturalization (Sept. 17, 1978) (Certified Copy)
- F. Indictment, *United States v. Rocha*, No. 23-cr-20464-Bloom (S.D. Fla. Dec. 5, 2003), ECF No. 6
- G. Plea Agreement, *United States v. Rocha*, No. 23-cr-20464-Bloom (S.D. Fla. Apr. 12, 2024), ECF No. 34
- H. Factual Proffer, *United States v. Rocha*, No. 23-cr-20464-Bloom (S.D. Fla. Apr. 12, 2024), ECF No. 33
- I. Transcript of Plea Colloquy and Sentencing, *United States v. Rocha*, No. 23-cr-20464-Bloom (S.D. Fla. May 21, 2024), ECF No. 38
- J. Judgment, *United States v. Rocha*, No. 23-cr-20464-Bloom (S.D. Fla. Apr. 15, 2024), ECF No. 36

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS DEFENDANTS
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
(c) Attorneys (Firm Name, Address, and Telephone Number) Attorneys (If Known)
(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)
Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country
PTF DEF PTF DEF PTF DEF
1 1 4 4
2 2 5 5
3 3 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT TORTS FORFEITURE/PENALTY LABOR SOCIAL SECURITY OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise
PERSONAL INJURY
310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Med. Malpractice
PERSONAL INJURY
365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability
370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability
625 Drug Related Seizure of Property 21 USC 881 690 Other
710 Fair Labor Standards Acts 720 Labor/Mgmt. Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act
422 Appeal 28 USC 158 423 Withdrawal 28 USC 157
820 Copyrights 830 Patent 835 Patent - Abbreviated New Drug Application 840 Trademark 880 Defend Trade Secrets Act of 2016
861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))
870 Taxes (U.S. Plaintiff or Defendant) 871 IRS - Third Party 26 USC 7609
375 False Claims Act 376 Qui Tam (31 USC 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit (15 USC 1681 or 1692) 485 Telephone Consumer Protection Act (TCPA) 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes
REAL PROPERTY CIVIL RIGHTS PRISONER PETITIONS
210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property
440 Other Civil Rights 441 Voting 442 Employment 443 Housing/Accommodations 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 448 Education
Habeas Corpus:
463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty
Other:
540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee - Conditions of Confinement
IMMIGRATION
462 Naturalization Application 465 Other Immigration Actions
FEDERAL TAX SUITS
870 Taxes (U.S. Plaintiff or Defendant) 871 IRS - Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO
JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment)”.

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an “X” in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge’s decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an “X” in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:26-cv-23236
)	
VICTOR MANUEL ROCHA,)	
)	
)	
Defendant.)	
_____)	

SUMMONS IN A CIVIL ACTION TO REVOKE NATURALIZATION

TO: Victor Manuel Rocha
Register #12347-506
FCI Coleman Low
Coleman, FL 33521

A lawsuit has been filed against you.

Under 8 U.S.C. § 1451(b), within 60 days after service of this summons on you (not counting the day you received it), you must serve on the Plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the Plaintiff's attorney, whose name and address are:

Troy D. Liggett
U.S. Department of Justice, Civil Division
Office of Immigration Litigation
General Litigation and Appeals Section
P.O. Box 878, Ben Franklin Station
Washington, DC 20044

If you fail to respond, Plaintiff may move the Court for judgment against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: _____

CLERK OF COURT

Signature of Clerk or Deputy Clerk

Civil Action No. 1:26-cv-23236

PROOF OF SERVICE

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)*
_____, a person of suitable age and discretion
who resides there, on *(date)* _____, and mailed a copy to the
individual's last known address; or

I served the summons on *(name of individual)* _____,
who is designated by law to accept service of process on behalf of *(name of organization)*
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Exhibit A

UNITED STATES OF AMERICA)
)
 MIAMI, FLORIDA)
)
 In the Matter of the Revocation)
 of the Naturalization of)
)
 Victor Manuel Rocha)
 Aka Victor Manuel Rocha Leon)
 [REDACTED] 237)
 _____)

AFFIDAVIT OF GOOD CAUSE

I, David Jansen, declare under penalty of perjury as follows:

1. I am a Special Agent with Homeland Security Investigations (HSI), a component of the United States Department of Homeland Security (DHS) and have been so employed since 2007. I am responsible for conducting investigations of violations of immigration law and related federal criminal statutes as contained in the United States Code. In this capacity, I have access to the official records of the DHS, including the immigration file of Victor Manuel Rocha (Rocha), Alien Registration Number A [REDACTED] 237.

2. I have examined records relating to Rocha. Based on a review of those records, I state, on information and belief, that the information set forth in this Affidavit of Good Cause is true and correct.

3. Rocha is currently detained at FCI Coleman in Sumter County, Florida but last resided in Miami, Florida.

I. Rocha was granted United States citizenship on September 17, 1978.

4. Rocha filed an Application to File Petition for Naturalization, (Form N-400), with the United States Department of Justice, Immigration and Naturalization

Service¹ (INS) on or about August 25, 1977. 8 C.F.R. § 334.11 (1978). The INS office in Washington D.C. received the application on October 20, 1977.

5. Rocha answered “No” or “None” to the following questions on the Form N-400:

- A. Question 6 asks whether the applicant has ever committed any crime for which he had not been arrested.
- B. Question 7 asks the applicant to list his present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other country or place, and his foreign military service. (If none, write “None”). Rocha answered, “None”.
- C. Question 8(a) asks the applicant, “Are you now, or have you ever, in the United States or in any other place, been a member of, or in any other way connected or associated with the Communist Party?”
- D. Question 8(b) asks the applicant, “Have you ever knowingly aided or supported the Communist Party

¹ On March 1, 2003, the INS ceased to exist, and its functions were transferred from the Department of Justice to the Department of Homeland Security, pursuant to sections 441 and 471 of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002). Most INS enforcement functions were transferred to Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), while service functions relating to benefits conferred were transferred to U.S. Citizenship and Immigration Services (USCIS). This transfer has no impact on the issues presented in this Affidavit of Good Cause. For the purpose of this Affidavit of Good Cause, INS is used where agency action predated March 1, 2003, and will also be referred to as “the Service.” General agency references and post-March 1, 2003, agency actions are denoted by DHS, ICE or USCIS.

directly, or indirectly through another organization, group or person?

- E. Question 8(c) asks the applicant, “Do you now or have you ever advocated, taught, believed in, or knowingly supported or furthered the interests of Communism?”

6. Rocha answered “Yes” to Question 16 on the Form N-400, which asks the applicant, “Do you believe in the U.S. Constitution and form of government of the United States?”

7. On January 20, 1978², Rocha and two supporting witnesses appeared before a Naturalization Examiner, K.C. Williams, for a preliminary examination which was conducted under oath and was for the purpose of determining Rocha’s eligibility for naturalization and admissibility to citizenship. INA § 335(b), 8 C.F.R. §§ 334.21 and 335.11 (1978). At the conclusion of the preliminary investigation, Rocha signed the affidavit on Form N-400 swearing that he knew the contents of his application and that it was true and correct. The Naturalization Examiner verified Rocha’s signature on the document.

8. On January 20, 1978, Rocha signed and filed a Petition for Naturalization (Form N-405), under INA § 316(a) in the U.S. District Court for the Eastern District of Virginia. 8 C.F.R. § 334.13(1978). Rocha signed under penalty of perjury that the following statements were true:

² On page 4 of the N-400, the Naturalization Examiner KC Williams signed and dated the Affidavit January 20, 1977, however, the undersigned believes the date may be a scrivener’s error since the Form N-400 was filed on or about August 25, 1977. In addition, the Naturalization Examiner signed the Form N-405, Petition for Naturalization on January 20, 1978.

- A. No. 12. I am not and have not been, within the meaning of the Immigration and Nationality Act, for a period of at least 10 years immediately preceding the date of this petition, a member of or affiliated with any organization proscribed by such Act, or any section, subsidiary, branch, affiliate or subdivision thereof, nor have I during such period believed in, advocated, engaged in, or performed any of the acts or activities prohibited by such Act.
- B. No. 13. I am, and have been during all periods required by law, a person of good moral character, attached to the principals of the Constitution of the United States and well disposed of the good order and happiness of the United States.

9. On September 17, 1978, Rocha completed and signed the Form N-445 questionnaire, in which he certified that each answer on the Form N-445 was true and correct as of the date of his naturalization oath ceremony. 8 C.F.R. § 336.16a (1978). Rocha answered “No” to the following questions on the Form N-445:

- A. Question 3 asked, “After the date you filed your petition: Have you knowingly committed any crime or offense, for which you have not been arrested...”
- B. Question 4 asked, “After the date you filed your petition, Have you joined any organization, including the

Communist Party, or become associated or connected therewith in any way?"

10. Based on Rocha's answers in his naturalization application, his sworn testimony at the naturalization interview, and his responses on the Form N-445, Rocha's Form N-405 was approved on September 17, 1978. On September 17, 1978, Rocha took the Oath of Allegiance and was admitted as a citizen of the United States. He was issued a Certificate of Naturalization, No. 10649687.

II. Rocha's Criminal History

11. Within five (5) years of Rocha's admission as a United States citizen on September 17, 1978, Rocha completed a Form SF-86 "Security Investigation Data for Sensitive Position" and submitted it to the U.S. Department of State on May 1, 1981, in which Rocha responded "No" to the questions "Are you now or have you ever been an agent or representative of, or otherwise employed by or acted for a foreign principal, either personally or through association with a firm?" and "Are you now or have you ever been a member of any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, fascist, communist, or subversive?"

12. On or about November 1981, Rocha obtained and maintained employment with the United States Department of State and between 1981 and August 2002, he held positions that provided him: (1) access to nonpublic information, including classified information; and (2) the ability to affect the United States' foreign policy.

13. On November 25, 1981, Rocha signed a Security Agreement in which he acknowledged he could not publish or reveal to any person, either during or after

his State Department employment, any classified or administratively controlled information, or any other information transmitted to him in confidence in the course of his official duties.

14. From around November 1981 until around December 1982, Rocha served as an International Relations Officer at the Department of State.

15. From around December 1982 until around January 1985, Rocha served as a Political Officer at the United States Embassy in Santo Domingo, Dominican Republic.

16. On December 4, 2023, Rocha was charged in a criminal complaint filed in the United States District Court, Southern District of Florida with Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of Title 18 U.S.C. § 371, Acting as an Illegal Agent of a Foreign Government, in violation of Title 18 USC § 951, and Use of a Passport Obtained by a False Statement, in violation of 18 USC § 1542.

17. On December 5, 2023, Rocha was charged by indictment in the United States District Court, Southern District of Florida with Count 1, Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States from in and around November 1981 through December 1, 2023, in violation of Title 18 U.S.C. § 371, Count 2, Acting as an Illegal Agent of a Foreign Government from in and around November 1981 through December 1, 2023, in violation of Title 18 USC § 951, Counts 3-7, Wire Fraud, in violation of 18 USC § 1343, Counts 8-10, Making a False Statement in a Passport Application, in violation of 18 USC § 1542, Counts 11-14, Use of a Passport Obtained by a False Statement, in violation of 18 USC § 1542, and finally, Count 15,

False Statement and Representation, in violation of 18 USC § 1001(a)(2). Case No. 1:23-cr-20464-BB.

18. On April 12, 2024, Rocha agreed to plead guilty to Counts 1 and 2 of the aforementioned Indictment, Conspiracy to Act as an Agent of a Foreign Government and to Defraud the United States, in violation of Title 18 U.S.C. § 371 and Acting as an Illegal Agent of a Foreign Government, in violation of Title 18 USC § 951. It was part of the conspiracy that Rocha would support the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as an agent of the Directorate of Intelligence “DGI” of Cuba. It was further part of the conspiracy that Rocha would obtain and maintain employment in the United States government in positions that would give him access to nonpublic information, including sensitive and classified information and to provide false and misleading information to the United States in order to obtain and maintain such employment and access to access to sensitive and classified information.

19. Pursuant to the Factual Proffer in support of the guilty plea, Rocha admitted and conceded that in or around 1973, while in the Republic of Chile and elsewhere, he became a “great friend” of the DGI of Cuba. In or around 1981, after becoming a United States citizen, Rocha applied for employment with the United States Department of State. As part of his employment with the Department of State, Rocha took an oath that as an employee of the Department of State, he may not act as an agent of a foreign principal within the meaning of the Foreign Agents Registration Act without specific prior approval of the Office of Personnel. Rocha admitted and conceded, however, that starting in or around 1973 and continuing beyond September 17, 1978, to

include the five years immediately after becoming a United States citizen, he secretly supported the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of Cuba's intelligence services, including the DGI.

20. According to the Plea Colloquy on April 12, 2024, and Sentencing Hearing before the United States District Court, Southern District of Florida, Rocha pleaded guilty to Counts 1 and 2 of the Indictment and the remaining Counts 3 through 15 were dismissed. Transcript (Tr.) at 34 -36

21. At the Sentencing Hearing, Rocha, personally and through his attorney, agreed that starting in or around 1973, Rocha secretly supported the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of Cuba's intelligence services, including the DGI, which is charged with gathering worldwide intelligence information of interest to Cuba and its allies. Tr. at 64.

22. Rocha conceded that he lived in Chile in or around 1973, which is when he agreed to become an agent of the Republic of Cuba. Tr. at 70.

23. On Count 1, the Court imposed a statutory maximum term of imprisonment of five years, followed by a term of supervised release of three years. On Count 2, the Court imposed a statutory maximum term of imprisonment of up to 10 years, followed by a term of supervised release of three years. The Court ordered both sentences to run consecutively. The Court also imposed a fine of \$250,000 on each Count for a total of \$500,000. Tr. at 35-36.

III. ROCHA'S ILLEGAL PROCUREMENT OF NATURALIZATION

24. Rocha was not eligible for naturalization because he did not meet all the requirements for naturalization in accordance with all applicable provisions of the INA. INA § 316(a); 8 U.S.C. § 1427(a).

25. To be eligible for naturalization, the applicant must, *inter alia*, demonstrate that he has been a person of good moral character for five years immediately preceding the filing of the N-400 until the date on which he was admitted as a citizen of the United States—this is commonly referred to as the “statutory period.” INA § 316(a), 8 U.S.C. § 1427(a). All applicants must take an oath in a public ceremony to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same... *Id.*, INA § 337(a), 8 U.S.C. § 1448(a), 8 C.F.R. § 337.1(a).

26. Because Rocha filed his N-405 Petition for Naturalization on or about January 20, 1978, and he took the oath of citizenship on September 17, 1978, the statutory period for which he was required to establish good moral character was from January 20, 1973, until September 17, 1978.

A. Rocha committed unlawful acts which adversely reflected upon his moral character.

27. Rocha could not have established that he was a person of good moral character during the statutory period because he committed unlawful acts for which he had not been arrested that adversely reflected upon his moral character.

28. Pursuant to the Factual Proffer in support of the guilty plea, Rocha admitted and conceded that starting in or around 1973 and continuing through September 17, 1978, Rocha secretly supported the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of Cuba’s

intelligence services, including the DGI, which is charged with gathering worldwide intelligence information of interest to Cuba and its allies. Travel records confirmed that Rocha lived in Chile in or around 1973, which is when he agreed to become an agent of the Republic of Cuba. Tr. at 64.

29. As evidenced by his post-naturalization conviction, there were no extenuating circumstances that could have mitigated the effect of Rocha's actions on his ability to establish good moral character.

30. Because Rocha was engaged in unlawful acts during the statutory period, he could not establish the good moral character necessary for naturalization. His support for the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of the DGI of Cuba, was prima facie evidence that he was not only engaged in unlawful acts during the statutory period but that he committed perjury during his sworn testimony before the Naturalization Examiner, which is a violation of 18 U.S.C. § 1621 and he made a false declaration before the United States District Court when he took an oath to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same...which is a violation of 18 U.S.C. § 1623.

31. Moreover, Rocha's support for the Republic of Cuba by serving as a covert agent of the DGI of Cuba is prima facie evidence that he was not attached to the principals of the Constitution of the United States or well disposed of the good order and happiness of the United States. INA § 316(a), 8 U.S.C. § 1427(a). Consequently, he illegally procured his naturalization.

B. Rocha could not establish that he was a person of good moral character because he provided false testimony during his naturalization interview.

32. An applicant lacks good moral character if he gives false testimony for the purpose of obtaining an immigration benefit. INA § 101(f)(6); 8 U.S.C § 1101(f)(6). Naturalization is an immigration benefit under the INA.

33. Rocha filed the N-400 on or about August 25, 1977, thereby certifying, under penalty of perjury, that his N-400 and the evidence submitted with it were true and correct.

34. On January 20, 1978, Rocha appeared for his naturalization interview. Rocha took an oath that he would answer all questions in the N-400 application truthfully.

35. Rocha affirmed his negative response “No” under oath before Naturalization Examiner KC Williams when he testified at the naturalization interview to the following questions on the Form N-400:

- A. Question 6 asks whether the applicant has ever committed any crime for which he had not been arrested.
- B. Question 7 asks the applicant to list his present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other country or place, and his foreign military service. (If none, write “None”). Rocha answered, “None”.
- C. Question 8(a) asks the applicant, “Are you now, or have you ever, in the United States or in any other place, been a

member of, or in any other way connected or associated with the Communist Party?”

D. Question 8(b) asks the applicant, “Have you ever knowingly aided or supported the Communist Party directly, or indirectly through another organization, group or person?”

E. Question 8(c) asks the applicant, “Do you now or have you ever advocated, taught, believed in, or knowingly supported or furthered the interests of Communism?”

36. While under oath, Rocha affirmed his “Yes” response to Question 16 on the Form N-400, which asks the applicant, “Do you believe in the U.S. Constitution and form of government of the United States?”

37. At the end of his naturalization interview, Rocha signed his N-400 and again swore and affirmed under penalty of perjury that the contents of the N-400 were true.

38. This sworn testimony was false. Rocha had, in fact, knowingly committed a crime for which he had not been arrested. During the statutory period, from 1973 and continuing through September 17, 1978, Rocha had been secretly supporting the Republic of Cuba by serving as a covert agent of Cuba’s DGI. Rocha agreed to become an agent of the DGI in and around 1973 while living in Chile.

39. Rocha’s criminal activity would have precluded him from establishing good moral character or that he has been and continued to be attached to the principals of the Constitution of the United States.

40. Because Rocha provided false testimony to obtain naturalization during the statutory period, he could not have established good moral character or demonstrated support for the Constitution of the United States. Therefore, he illegally procured his naturalization.

IV. ROCHA PROCURED HIS CITIZENSHIP BY WILLFULLY MISREPRESENTING AND CONCEALING MATERIAL FACTS

41. A naturalized citizen is subject to revocation of naturalization if he procured naturalization by willfully misrepresenting or concealing material facts. INA § 340(a); 8 U.S.C. § 1451(a).

42. Rocha willfully misrepresented his criminal activities in support for the Communist Party of Cuba, and his present and past membership in or affiliation with the DGI in Cuba on his Form N-400, during his sworn testimony at the naturalization interview, and on the Form N-445 questionnaire that he completed and signed on the day of the naturalization ceremony. Specifically, Rocha's responses to Questions 6 through 8(C) and 16 on Form N-400 were false. In addition, Rocha's responses to questions 3 and 4 on Form N-445 were false. They were false because Rocha concealed the fact that he was secretly supporting the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of Cuba's DGI since in or around 1973 and continuing his support right up to the date of his naturalization on September 17, 1978.

43. Had the truth been revealed it would have also shown that he would not support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic. INA § 337(a), 8 U.S.C. § 1448(a).

44. Rocha was able to procure his naturalization because he concealed or misrepresented his criminal activities in support of the Communist regime of the Republic of Cuba and his lack of attachment to the Constitution of the United States. “[W]e are in absolute agreement that, in 1978, when he pledged an oath to the United States, that he lied.” Tr. at 51.

V. ROCHA LACKED ATTACHMENT TO THE PRINCIPLES OF THE UNITED STATES CONSTITUTION AND WAS UNABLE, IN GOOD FAITH, TO TAKE THE OATH OF ALLEGIANCE TO BECOME A UNITED STATES CITIZEN.

45. All applicants for naturalization must take an oath in a public ceremony to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same; and (5)(A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by the law. INA § 337(a), 8 U.S.C. § 1448(a), 8 C.F.R. § 337.1(a) (1978).

46. A petitioner for naturalization must establish, before being naturalized, “that it is his intention, in good faith, to assume and discharge the obligations of the oath of allegiance, and that his or her attitude toward the Constitution and laws of the United States renders him capable of fulfilling the obligations of such oath.” 8 C.F.R. § 337.1(a) (1978).

47. When Rocha took the oath of allegiance to the United States at his naturalization ceremony before the U.S. District Court on September 17, 1978, he had been secretly supporting and acting as a covert agent of the Republic of Cuba's DGI, since in or around 1973 through September 17, 1978. This is prima facie evidence that Rocha was not attached to the principals of the U.S. Constitution and was not willing to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic at the time of his oath of citizenship, pursuant to INA section 337(a), 8 U.S.C. § 1448(a), 8 C.F.R. § 337.1(a) (1978).

VI. ROCHA'S CONTINUED AFFILIATION WITH THE CUBAN COMMUNIST INTELLIGENCE SERVICE AFTER BEING ADMITTED AS A U.S. CITIZEN IS PRIMA FACIE EVIDENCE THAT HE LACKED ATTACHMENT TO THE PRINCIPLES OF THE UNITED STATES CONSTITUTION

48. On September 17, 1978, Rocha raised his hand and he pledged his allegiance to the United States at the naturalization ceremony, when, in fact, he was a covert agent of the DGI of Cuba, a nation that is hostile to America, "and for 51 years has betrayed the United States." Tr. at 48. To further that role, Rocha obtained and maintained employment in the United States Department of State in positions that provided him access to non-public information, including classified information, and the ability to affect the United States' foreign policy. Tr. at 64.

49. Throughout Rocha's State Department career, he was required to affirm his loyalties to the United States and confirm he did not conduct any covert activity on behalf of any foreign nation. Tr. at 68.

50. On May 1, 1981, within five years of becoming a United States citizen, Rocha completed a Form SF-86, Security Investigation Data for Sensitive Position, and

submitted it to the Department of State, in which he falsely responded "No," to the questions:

- A. "Are you now or have you ever been an agent or representative of or otherwise employed by or acted for a foreign principal, either personally or through association with the firm"; and
- B. "Are you now or have you ever been a member of any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, fascist, communist, or subversive?"

Tr. at 68.

51. At the sentencing hearing on April 12, 2024, Rocha made a final allocution to the United States District Court Judge, where he stated, in part:

I am a 73-year-old man. During my formative years in college, I was heavily influenced by the radical politics of the day. My deep commitment at that time to radical social change in the region led me to the eventual betrayal of my oath of loyalty to the United States during my two decades in the State Department...

Tr. at 85.

52. Before imposing his sentence, the United States District Court Judge stated, in part:

...For 51 years, you betrayed the United States. While your sentiments may have been influenced by politics, as recent as 2022 and 2023, by your own words to the FBI agent, you held

anger and a lack of allegiance to the United States, but a devotion to a hostile country, Cuba. No doubt, for 51 years, you betrayed the United States. And as an agent of the Cuban Government, your actions were a direct attack on our democracy and the safety of our citizens.

The facts bear out that you became a naturalized citizen in 1978. And by your own admission, your allegiance to Cuba, and your lack of allegiance to the United States, began well before that. Starting in 1973, you supported the Republic of Cuba secretly by serving as a covert agent of Cuba's intelligence services, including the Directorate of Intelligence.

Tr. at 87.

53. Based on the facts outlined in the foregoing paragraphs, good cause exists to institute proceedings pursuant to INA section 340(a), 8 U.S.C. § 1451(a) and INA section 340(c), 8 U.S.C. §1451(c) to revoke Rocha's citizenship and to cancel his certificate of naturalization.

DECLARATION IN LIEU OF JURAT
(28 U.S.C. § 1746)

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 12, 2026.



David Jansen
Special Agent
U.S. Department of Homeland Security
Homeland Security Investigations
Plantation, Florida

Exhibit B

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

Form approved
OMB No. 43-R0079

FEE STAMP

APPLICATION TO FILE PETITION FOR NATURALIZATION

Mail or take to:

IMMIGRATION AND NATURALIZATION SERVICE

AUG 25 8 27 AM



ALIEN REGISTRATION

Show the exact spelling of your name as it appears on your alien registration receipt card, and the card, if you did not register, so state.)

Name: VICTOR MANUEL ROCHA
No. A [REDACTED] 237 NF

Date:

(See INSTRUCTIONS. BE SURE YOU UNDERSTAND EACH QUESTION BEFORE YOU ANSWER IT.)

My name is:

Victor Manuel Rocha

(Print or type present apartment number, street address, and if appropriate "in care of")

Arlington
(City)

(County)

Virginia 22209
(State) (ZIP Code)

Other names I have used are:

none (2)

(Print or type here any other name you have ever used, including maiden name)

My present occupation is

graduate student

Sex: Male Female

Checked
File No. NK
Bjro

- (1a) Was your father or mother ever a United States citizen? (If "Yes" explain fully separately) Yes No
- (1b) Can you read and write English? Yes No
- (1c) Can you speak English? Yes No
- (1d) Can you sign your name in English? Yes No
- (2) In what places in the United States have you lived during the last 5 years? List present address FIRST.

FROM-	TO-	STREET ADDRESS	CITY AND STATE
Sept. 1976	PRESENT TIME	[REDACTED]	Arlington Va, 22209
Sept. 1974	June 1976	[REDACTED]	Cambridge, Mass. 02138
Sept. 1973	Aug. 1974	[REDACTED]	Bronx N.Y.
June 1972	Dec. 1972	[REDACTED]	Bronx, N.Y.

(3) What were the names, addresses, and occupations (or types of business) of your employers during the last 5 years? (If none, write "None.") List present employment FIRST.

Full-time Student last 5 years.

FROM-	TO-	EMPLOYER'S NAME	ADDRESS	OCCUPATION OR TYPE
June 1977	PRESENT TIME	Georgetown Univ.	WASHINGTON DC	Student
June 1976	Aug. 1976	Inter-Amern. Dev. Bank	808 17th NW Wash. D.C.	int'l bank
June 1975	Aug. 1975	HARVARD BUSINESS SCHOOL	Boston, MASS.	Researcher
June 1974	Aug. 1974	William & Douglas Finc.	N.Y.C. N.Y.	Advertising

(4) Have you been out of the United States since you first arrived? If "Yes" fill in the following information for every absence of 30 days or more, no matter how short it was.

DATE DEPARTED	DATE RETURNED	NAME OF SHIP, OR OF AIRLINE, RAILROAD COMPANY, BUS COMPANY, OR OTHER MEANS USED TO RETURN TO THE UNITED STATES	PLACE OR PORT OF ENTRY THROUGH WHICH YOU RETURNED TO THE UNITED STATES
July 1967	August 1967	AIR FRANCE	NYC
March 1968	March 1968	BOAC	NYC
JAN 1974	APRIL 1974	SOUTHERN AIRWAYS	MIA
Oct. 1974	Oct. 1974	BRANIFF	NYC

(5) How many times have you been married? How many times has your husband or wife been married? If either of you has been married more than once, fill in the following information for each previous marriage.

DATE MARRIED	DATE MARRIAGE ENDED	NAME OF PERSON TO WHOM MARRIED	SEX	PERSON MARRIED WAS CITIZEN <input type="checkbox"/> ALIEN <input checked="" type="checkbox"/>	HOW MARRIAGE ENDED
(a)					
(b)					
(c)					
(d)					

ROCHA-000008

3/31/26

3457

ALIEN REGISTRATION	
Name	Victor Manuel Rocha
No.	A [REDACTED] 237

STATEMENT OF FACTS FOR PREPARATION OF PETITION
SECTION OF LAW 316.97

(1) My full, true, and correct name is VICTOR MANUEL ROCHA (Full, true name, without abbreviations)

(2) My present place of residence is [REDACTED] (Number and street) [REDACTED] (City or town) Virginia (County) 22209 (ZIP Code)

(3) I was born on 10 (Month) [REDACTED] (Day) 1950 (Year) in Bogota (City or town) Colombia (County, district, province, or State) (Country)

(4) I am ~~separated~~ married and have 0 living children. The first name of my husband or wife is (was) ANA;
 we were married on 11 15 1970 at Bogota (City or town) Colombia (State or country); he or she was born at Chipaque (City or town) Colombia (County, district, province, or State) (Country) on 8 (Month) [REDACTED] (Day) 1943 (Year); entered the United States at NYC (City or town) NY (State) on 6 22 74 (Month) (Day) (Year) for permanent residence in the United States and now resides with me apart from me at [REDACTED] Allston, MASS 02134 (Show full address if not living with you); and was naturalized on [REDACTED] (Month) (Day) (Year) at [REDACTED] (City or town) (State) Certificate No. [REDACTED] or became a citizen by [REDACTED]; his or her Alien Registration No. is A [REDACTED] 701

(5) I was lawfully admitted to the United States for permanent residence on 8 23 61 (Month) (Day) (Year); under the name of Victor Manuel Rocha at Miami (City) FLORIDA (State) on the AEROCONDOR (Name of vessel or other means of conveyance)

(6) I have resided continuously in the United States of America since 1961 and continuously in the State of VIRGINIA where I now live since Sept. 1976 and during the past 5 years I have been physically present in the United States for an aggregate period of 48 1/2 months.

(7) I (have, have not) none previously filed petition for naturalization No. [REDACTED] on [REDACTED] (Month) (Day) (Year) at [REDACTED] (City) (State) in the [REDACTED] (State)

(8) I wish the naturalization court to change my name to none (Give full name desired or state "None")

(9) Since such lawful admission, I have not been absent from the United States (for a period or periods of 6 months or longer) except as follows (if none, state "None"):

DEPARTED FROM THE UNITED STATES			RETURNED TO THE UNITED STATES		
PORT	DATE (Month, day, year)	VESSEL OR OTHER MEANS OF CONVEYANCE	PORT	DATE (Month, day, year)	VESSEL OR OTHER MEANS OF CONVEYANCE
MIA	JULY 1970	AEROCONDOR	MIA	JAN 1971	AEROCONDOR
NYC	JAN 1973	BRAN, PF	MIA	SEPT. 23 1973	AEROCONDOR
<u>no others</u> (17) (16) 8 1/2 mo.					

(10) I have 0 children: (Complete columns (a) to (h) as to each child. If child lives with you, state "with me" in column (h), otherwise give city and State of child's residence.)

(a) Given Names	(b) Sex	(c) Place Born (Country)	(d) Date Born	(e) Date of Entry	(f) Port of Entry	(g) Alien Registration No.	(h) Now Living At—

- (11) Do you intend to reside permanently in the United States? Yes No If "No," explain:
- (12) My last place of foreign residence was (City) (Country) HOLIDAY INN GRAND CAYMAN BVI
- (13) My father's full name is VICTOR MANUEL ROCHA (deceased)
- (14) My mother's maiden name was ROSALBA LEON
- (15) I came to the United States from the port of (City) (Country) Bogota, Colombia
- (16) The person in the United States to whom I was coming was Julio Rincon
- (17) The place in United States to which I was going was NYC
- (18) The names of some of the passengers or other persons I traveled with, including members of my own family, and their relationship to me, if any, were Josefina Rincon (cousin)

READ INSTRUCTION NO. 7 BEFORE ANSWERING QUESTION (19)

(19) I (Do) want certificates of citizenship for only those of my children under age 16 years named below. (Enclose \$10 for each child only if you want certificates, otherwise, send no money with this application.)

DISCONTINUED

(Write names of children under age 16 years for whom you want certificates)

If present spouse is not the parent of the children named above, give parent's name, date and place of naturalization, and number of marriages

Signature of person preparing form, if other than applicant.

I declare that this document was prepared by me at the request of applicant and is based on all information of which I have any knowledge.

SIGNATURE

ADDRESS:

DATE:

SIGNATURE OF APPLICANT

Victor Manuel Rocha

ADDRESS AT WHICH APPLICANT RECEIVES MAIL

Arlington, Va. 22209

APPLICANT'S TELEPHONE NUMBER 703-527-4694

TO APPLICANT: DO NOT FILL IN BLANKS BELOW THIS LINE.

NOTE CAREFULLY.—This application must be sworn to before an officer of the Immigration and Naturalization Service at the time you appear before such officer for examination on this application.

AFFIDAVIT

I do swear that I know the contents of this application comprising pages 1 to 4, inclusive, and the supplemental forms thereto. No(s) _____, subscribed to by me; that the same are true to the best of my knowledge and belief; that corrections numbered (1) to (17) were made by me or at my request; and that this application was signed by me with my full, true, and correct name, SO HELP ME GOD.

Subscribed and sworn to before me by applicant at the preliminary investigation (WAS) at _____

this 20 day of 1 19 77

I certify that before verification the above applicant stated in my presence that he had (heard) read the foregoing application, corrections therein and supplemental form(s) and understood the contents thereof.

Victor Manuel Rocha
(Complete and true signature of applicant)

K. K. K.
(Naturalization examiner)

I am a student at Georgetown University.
(For demonstration of applicant's ability to write)

(Type or print)

(1st witness) ROBERT S. GELBAID

WASHINGTON, DC 20010
(Street address, city or town, and State)

(2nd witness) THOMAS AUSTIN FORBORD

WASHINGTON DC 20015
(Street address, city or town, and State)

DO NOT WRITE BELOW THIS LINE

U.S. 9-1-75 State Guam Physical presence 31 Mos.

K. K. K.
(Naturalization examiner)
3/31/76

Exhibit C

DUPLICATE
(To accompany
monthly report on
Form N-4)

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

UNITED STATES OF AMERICA
PETITION FOR NATURALIZATION

No. 16272
A.R. No. AL 237

To the Honorable
U. S. District Court for the Eastern District of Virginia at Alexandria, Virginia

This petition for naturalization, hereby made and filed under section 316(a)
Immigration and Nationality Act, respectfully shows:

- (1) My full, true, and correct name is Victor Manuel Rocha
(Full, true name, without abbreviation)
- (2) My present place of residence is [redacted], Arlington,
(Apt. No.) (Number and street) (City or town)
Virginia 22209
(County) (State) (ZIP Code)
- (3) I was born on October, 1950, in Bogota, Colombia
(State) (ZIP Code)
- (4) I pray that my name be changed to NONE
- (5) I was lawfully admitted to the United States for permanent residence and have not abandoned such residence.
- (6) (If petition filed under Section 316(a).) I have resided continuously in the United States for at least five years and continuously in the State in which this petition is made for at least six months, immediately preceding the date of this petition and after my lawful admission for permanent residence, and I have been physically present in the United States for at least one-half of such five year period.

(continued over)

AFFIDAVIT OF WITNESSES

The following witnesses, each being severally, duly, and respectively sworn, depose and say:

- (1) My name is ROBERT S. GELBARD
I reside at [redacted] WASHINGTON DC
(Number and street) (City or town) (State) and
- (2) My name is THOMAS AUSTIN FORBORD
I reside at [redacted] WASHINGTON DC
(Number and street) (City or town) (State)

I am a citizen of the United States of America; I have personally known and have been acquainted in the United States with the petitioner named in the petition for naturalization of which this affidavit is a part, since at least 10 months; to my personal knowledge, based upon frequent observations and personal contacts with the petitioner within the State(s) of residence of the petitioner since said date, the petitioner has resided, immediately preceding the date of filing this petition, in the United States continuously since the date last mentioned; that the petitioner has been physically present in the United States for at least 3 months of that period; and that petitioner has been a resident in the State in which the petition is filed during at least the last 6 months. I have personal knowledge that the petitioner is, and during all such periods has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, and in my opinion the petitioner is in every way qualified to be admitted a citizen of the United States.

I do swear (affirm) that the statements of fact I have made in the affidavit to this petition for naturalization subscribed by me are true to the best of my knowledge and belief: SO HELP ME GOD.

Robert S. Gelbard
(Signature of Witness)

[Signature]
(Signature of Witness)

WHEN OATH ADMINISTERED BY CLERK OR DEPUTY CLERK OF COURT

Subscribed and sworn to (affirmed) before me by above-named petitioner and witnesses in the respective forms of oath shown in said petition and affidavit, and filed by said petitioner, in the office of the clerk of said

court at _____
this _____ day of _____, A.D. 19__

By _____
Clerk.
Deputy Clerk.

[SEAL]

WHEN OATH ADMINISTERED BY DESIGNATED EXAMINER

Subscribed and sworn to (affirmed) before me by above-named petitioner and witnesses in the respective forms of oath shown in said petition and affidavit at WASHINGTON DC this _____

day of _____, A.D. 19__
[Signature]
Designated Examiner.

I HEREBY CERTIFY That the foregoing petition for naturalization was by petitioner named herein filed in the office of the clerk of said court at Alexandria, Va this 20 day of

January, A.D. 19__
W. Farley Powers, Jr., Clerk
Sham Pool Clerk.
Deputy Clerk.

Exhibit D

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

To Petitioner:

In connection with the hearing to be held on your petition for naturalization, answer each of the questions below "Yes" or "No" without giving any further explanation.

The questions refer only to what has happened after the date you appeared with your witnesses and filed your petition for naturalization. They do not refer to anything that happened before that date.

After you have answered every question, sign your name, give your address, and fill in the date and place of signing.

You must BRING THIS COMPLETED LETTER WITH YOU to the hearing and give it to the naturalization examiner, who will question you further on your answers.

After the date you filed your petition:

- 1. Have you married, or been widowed, separated, or divorced? *Answer YES*
- 2. Have you been absent from the United States? *Answer YES*
- 3. Have you knowingly committed any crime or offense, for which you have not been arrested; or have you been arrested, cited, charged, indicted, convicted, fined, or imprisoned for breaking or violating any law or ordinance, including traffic violations? *Answer NO*
- 4. Have you joined any organization, including the Communist Party, or become associated or connected therewith in any way? *Answer NO*
- 5. Have you claimed exemption from military service? *Answer NO*
- 6. Has there been any change in your willingness to bear arms on behalf of the United States; to perform non-combatant service in the armed forces of the United States; to perform work of national importance under civilian direction, if the law requires it? *Answer NO*
- 7. The law provides that a petitioner for naturalization shall not be regarded as a person of good moral character who, at any time after the filing of the petition for naturalization, has believed in polygamy or been a polygamist; received income mostly from illegal gambling; committed adultery; been a prostitute or procured anyone for prostitution; knowingly and for gain encouraged or helped an alien to enter the United States illegally; been an illicit trafficker in drugs or marihuana; or has been a habitual drunkard. Have you been such a person or committed any of these acts? *Answer NO*

Answer June 30, 1978
Separated at June 30, 1978
Address at June 30, 1978
June 30
2 weeks
Govt
no

I certify that each of the answers shown above were made by me or at my direction, and that they are true and correct.

Signed at Arlington, Virginia (City and State), on Sept. 17 / 78 (Date)

Victor Manuel Rocha
(Full Signature)

4 of 72 Arlington, VA 22201
(Full Address and ZIP Code)

ROCHA_000004

Form Approved
OMB No. 43-R0399

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service



Victor M. Rocha
2001 N. Adams St., #1001
Arlington, Virginia 22201

Petition No. 16272

AR # A [REDACTED] 237

Date 8/7/78

You are hereby notified to appear for a hearing on your petition for naturalization before a judge of the naturalization court on Sunday, September 17, 1978 at Mount Vernon Home of George Washington, Mount Vernon, Virginia ****REPORT AT MAIN GATE****

Please report promptly at 9:00A.M. Your witnesses need NOT come with you.

If the judge finds you qualified for naturalization, you will be sworn in as a citizen.

YOU MUST BRING WITH YOU THE ITEMS MARKED BELOW:

- This letter, WITH ALL OF THE QUESTIONS ON THE OTHER SIDE ANSWERED IN INK OR ON A TYPEWRITER.
- Alien Registration Receipt Card.
- Any Immigration documents you may have.
- Your child (children): _____
- Other

If you cannot come to this hearing, return this notice immediately and state why you cannot appear. In such case, you will be sent another notice of hearing at a later date.

Exhibit E

THE UNITED STATES OF AMERICA

TO BE FORWARDED TO
IMMIGRATION AND NATURALIZATION SERVICE

No. 10649687

ORDER OF



NATURALIZATION

Petition No. 16272

Alien Registration No. A- [redacted] 237

• DUPLICATE •

Personal description of holder as of date of naturalization: Date of birth October [redacted] 1950 sex Male
complexion Medium color of eyes Brown color of hair Black height 5 feet 6 inches
weight 170 pounds visible distinctive marks None
Marital status Married Country of former nationality Colombia
I certify that the description above given is true, and that the photograph affixed hereto is a likeness of me.



Victor Manuel Rocha

Victor Manuel Rocha

(Complete and true signature of holder)

UNITED STATES OF AMERICA }
EASTERN DISTRICT OF VIRGINIA } s.s:

Be it known, that at a term of the United States District Court of
Eastern District of Virginia
hold pursuant to law at Alexandria, Virginia
on September 17, 1978 the Court having found that

VICTOR MANUEL ROCHA
then residing at [redacted], Arlington, Va.,
intends to reside permanently in the United States (when so required by the
Naturalization Laws of the United States), had in all other respects complied with
the applicable provisions of such naturalization laws, and was entitled to be
admitted to citizenship, thereupon ordered that such person be and (s)he was
admitted as a citizen of the United States of America.

In testimony whereof the seal of the court is hereunto affixed this 17th
day of September in the year of our Lord nineteen hundred and
Seventy-eight

W. FARLEY POWERS, JR.

Clerk of the U. S. District Court.
By Margaret A. Clifford Deputy Clerk.

IT IS PUNISHABLE BY U. S. LAW TO COPY,
PRINT OR PHOTOGRAPH THIS CERTIFICATE.

DEPARTMENT OF JUSTICE

39126

3 of 72

ROCHA 000003

Exhibit F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
23-20464-CR-BLOOM/TORRES
Case No. _____

18 U.S.C. § 371
18 U.S.C. § 951
18 U.S.C. § 1343
18 U.S.C. § 1542
18 U.S.C. § 1001(a)(2)
18 U.S.C. § 981
18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

VICTOR MANUEL ROCHA,

Defendant.

_____ /

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment, unless alleged otherwise:

Oath of Office

1. Civilian employees of the United States government, including its diplomats, are bound by an Oath of Office, pursuant to Title 5, United States Code, Section 3331, which requires them to swear or affirm that:

I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

The Defendant

2. **VICTOR MANUEL ROCHA** was born on or about October [REDACTED], 1950, in Colombia. He became a naturalized United States citizen in or around 1978.

3. Between in or around November 1981 and August 2002, **VICTOR MANUEL ROCHA** was employed by the United States Department of State, a department of the United States government that manages the United States' relationships with foreign governments and implements U.S. foreign policy.

The Defendant's Failure to Disclose His Activity as a Foreign Agent

4. At no time did **VICTOR MANUEL ROCHA** provide notification to the United States Attorney General or the Secretary of State that he was, in fact, acting as an agent of a foreign government.

The Republic of Cuba

5. The government of the Republic of Cuba is an internationally recognized foreign government.

6. According to the United States Department of State's Country Report on Human Rights Practices, Cuba is an authoritarian state. From in or around 1959 until 2007, Cuba was ruled by Fidel Castro. From in or around 2007 until 2021, Fidel Castro's brother, Raúl Castro, ruled Cuba. Since in or around April 2021, Miguel Díaz-Canal Bermúdez has ruled Cuba.

7. Since the Cuban Revolution, members and associates of Cuba's Communist Party, including Cuba's intelligence services, used the Spanish term "Comandante" to refer to Fidel Castro, and the term "Compañero," which means comrade in English, to refer to fellow regime loyalists.

8. From in or around 1961 until July 2015, the United States did not maintain diplomatic relations with the government of the Republic of Cuba. From in or around 1977 until July 2015, the United States Interests Section of the Swiss Embassy in Havana, Cuba, was designated as the official representative of the United States government to Cuba.

9. Starting with Fidel Castro's ascent to power, the Republic of Cuba viewed the United States as its primary threat, and Cuban government officials referred to the United States as an enemy of Cuba.

10. Between 1982 and 2015, and from 2021 until the present, the United States Department of State designated Cuba as a state sponsor of international terrorism in its State Sponsors of Terrorism List, due to Cuba's support for international terrorism and subversion of United States justice.

11. The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, codified at Title 22, United States Code, Section 6021, signed into law by the President of the United States on March 12, 1996, found that, since 1960, the Cuban government posed a national security threat to the United States, harbored fugitives from justice in the United States, and utilized blackmail and other illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere.

12. Each year from 1963 through the present, with respect to Cuba, the President of the United States exercised his authority under the Trading With the Enemy Act, Title 50, United States Code, Section 4305.

Cuban Intelligence Activities in the United States

13. Cuba's intelligence services include numerous intelligence and counterintelligence entities, including the Directorate of Intelligence, also known as the General Directorate of Intelligence (collectively, "DGI"). The DGI is charged with gathering worldwide intelligence information of interest to Cuba and its allies.

14. Members and associates of Cuba's intelligence services use the Spanish term "Dirección" to refer to the DGI.

15. The United States was, and continues to be, the principal target for Cuba's intelligence gathering.

16. The DGI spots and assesses persons within the United States, including employees of the United States government, who may be suitable for recruitment to serve a variety of roles on behalf of Cuba's interests.

17. One of the most important of these roles is that of agent – that is, a person who is not an officially recognized employee of the DGI but who is aware he or she is working for the service and is willing to engage in clandestine operational activity, including intelligence gathering, at the direction, and on behalf, of the DGI.

18. Praising one such agent who was also a United States government employee, **VICTOR MANUEL ROCHA**, in a recorded conversation on February 17, 2023, said: "Unfortunately, she was betrayed ... a huge betrayal ... sadly she would have done much more had she not been betrayed." In a subsequent recorded conversation on June 23, 2023, **ROCHA** identified her as "Ana."

19. A parole is a password or recognition phrase or item used between an agent and his handler, or between intelligence officers, as a security protocol.

20. A legend is an agent's artificial background or a feature of his biography used to maintain his covert status.

The Defendant's Access to United States Government Information

21. Throughout his employment at the United States Department of State, **VICTOR MANUEL ROCHA** had unique access to nonpublic United States government information.

22. Nonpublic information includes information an employee gains by reason of federal employment that he knows or reasonably should know has not been made available to the general public.

23. United States law imposes restrictions on how a person can use information obtained in the course of a person's employment by the United States.

24. Some nonpublic United States government information may be subject to additional restrictions, including sensitive information and classified information whose unauthorized disclosure could be expected to cause damage to United States national security. Some types of classified information are subject to even further restrictions, including Top Secret information, whose unauthorized disclosure could be expected to cause exceptionally grave damage to United States national security, and Sensitive Compartmented Information (SCI).

25. In handling nonpublic information, and in all other respects during his employment, **VICTOR MANUEL ROCHA** was required to adhere to his Oath of Office, including his promise to "support and defend" the United States against its foreign enemies. This oath lies at the heart of the relationship between the United States and its employees.

26. At no time was **VICTOR MANUEL ROCHA** authorized, directly or indirectly, to deliver, communicate, or transmit nonpublic information to agents, officers, or employees of any hostile foreign intelligence service, during or after his employment.

COUNT 1

**Conspiracy to Act as An Agent of a Foreign Government and to Defraud the United States
(18 U.S.C. § 371)**

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From a date unknown to the Grand Jury, but no later than in or around November 1981, through on or about December 1, 2023, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

VICTOR MANUEL ROCHA,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with others unknown to the Grand Jury, including agents, officers, and representatives of the Republic of Cuba:

a. to commit an offense against the United States, that is, to act in the United States as an agent of a foreign government, namely, as an agent of the Republic of Cuba, without prior notification to the Secretary of State prior to October 12, 1984, and to the Attorney General thereafter, as required by law, in violation of Title 18, United States Code, Section 951; and

b. to defraud the United States and its agencies by impeding, impairing, obstructing, and defeating the lawful governmental functions of the United States.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendant to: (a) act as a clandestine agent of the Republic of Cuba, without prior notification to the Attorney General or the Secretary of State as required by law; (b) further the interests of the Republic of Cuba; (c) harm interests of the United States; (d) fraudulently obtain and maintain employment with the Department of State; (e) deprive the United States, through fraud and deceit, of control over its nonpublic information, including sensitive and classified information, and provide such information to agents or representatives of the Republic of Cuba; and (f) evade discovery and detection at all times by the United States government.

THE LAWFUL GOVERNMENT FUNCTIONS

4. It is a lawful function of the United States and its agencies, including the Department of State, to further United States foreign policy interests in its dealings with foreign governments.

5. These interests include but are not limited to those identified in the Department of State's mission to protect and promote United States security, prosperity, and democratic values.

6. During and after his employment by the Department of State, **VICTOR MANUEL ROCHA** conspired to impede, impair, obstruct, and defeat the United States' lawful function of promoting and protecting its foreign policy interests, by seeking instead to serve the interests of the Republic of Cuba, a hostile, undemocratic regime, and by concealing his clandestine activity to prevent the United States from investigating and addressing the harm from his activity to United States interests.

7. It is another lawful function of the United States, and its agencies including the Department of State, to control its information, including but not limited to protecting nonpublic information against unauthorized disclosure.

8. To safeguard United States interests, and to further the State Department's mission, the United States and the Department of State control how certain information can be accessed, provided, shared, and used. This control is especially critical for sensitive or classified information or information that may be disclosed to a hostile foreign intelligence service.

9. During and after his employment by the Department of State, **VICTOR MANUEL ROCHA** conspired to impede, impair, obstruct, and defeat the United States' lawful function of controlling its information, by seeking to (a) use his access to such information for the benefit of the DGI, a hostile foreign intelligence service; (b) disclose such information without authorization, and (c) at all times prevent any discovery of or investigation into the past and present harm from these activities to the United States.

MANNER AND MEANS OF THE CONSPIRACY

10. It was part of the conspiracy that **VICTOR MANUEL ROCHA** would and did support the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a DGI agent.

11. It was further part of the conspiracy that **VICTOR MANUEL ROCHA** would and did keep his status as a DGI agent secret at all times in order to protect himself and others and to allow himself the opportunity to engage in additional clandestine activity on behalf of the DGI.

12. It was further part of the conspiracy that **VICTOR MANUEL ROCHA** would and did maintain clandestine contacts with DGI officers and other co-conspirators.

13. It was further part of the conspiracy that, at the direction, and with the assistance, of the DGI, **VICTOR MANUEL ROCHA** would and did obtain and maintain employment in the United States government in positions that would give him access to nonpublic information, including sensitive and classified information.

14. It was further part of the conspiracy that **VICTOR MANUEL ROCHA** would and did obtain money and property, in the form of salary payments and other benefits during and after his employment, from the United States for the benefit of himself and others.

15. It was further part of the conspiracy that **VICTOR MANUEL ROCHA** would and did provide false and misleading information to the United States to obtain and maintain employment, and to acquire and maintain access to sensitive and classified information.

16. It was further part of the conspiracy that **VICTOR MANUEL ROCHA** would and did travel outside the United States to meet with his co-conspirators, and made false and misleading statements to obtain documents needed for that and other travel.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its unlawful purpose, the Defendant, or one of his co-conspirators, committed and caused to be committed within the Southern District of Florida and elsewhere, at least one of the following overt acts, among others:

Recruitment by the DGI

1. In or around 1973, while in the Republic of Chile and elsewhere, **VICTOR MANUEL ROCHA** became a “great friend” of the DGI.

2. In or around 1981, having by then become a United States citizen, **VICTOR MANUEL ROCHA** applied for employment with the United States Department of State.

3. As part of his application for employment with the Department of State, on May 1, 1981, **VICTOR MANUEL ROCHA** acknowledged the following warning: “NOTE: While an employee of the Department, you may not act as an agent of a foreign principal within the meaning of the Foreign Agents Registration Act without specific prior approval of the Office of Personnel.”

The Defendant’s Employment by the Department of State

4. From in or around November 1981 until in or around December 1982, as a Department of State employee, **VICTOR MANUEL ROCHA** served as an International Relations Officer at the Department of State.

5. From in or around December 1982 until in or around January 1985, as a Department of State employee, **VICTOR MANUEL ROCHA** served as a Political Officer at the United States Embassy in Santo Domingo, Dominican Republic.

6. From in or around February 1987 until in or around February 1989, as a Department of State employee, **VICTOR MANUEL ROCHA** served as a Political-Military Affairs Officer at the United States Embassy in Tegucigalpa, Honduras.

7. From in or around February 1989 until in or around November 1991, as a Department of State employee, **VICTOR MANUEL ROCHA** served as the First Secretary at the United States Embassy in Mexico City, Mexico.

8. From in or around November 1991 until in or around July 1994, as a Department of State employee, **VICTOR MANUEL ROCHA** served as the Deputy Chief of Mission at the United States Embassy in Santo Domingo, Dominican Republic – a location about which, in a recorded conversation on November 16, 2022, he said: “the Compañeros put down ... that instead of meeting here, for security reasons ... the contacts ... for them to be in ... Santo Domingo.”

9. From in or around July 1994 until in or around July 1995, as a Department of State employee, **VICTOR MANUEL ROCHA** served as the director of Inter-American Affairs on the United States National Security Council, with special responsibility for, among other things, Cuba.

10. From in or around July 1995 until in or around July 1997, as a Department of State employee, **VICTOR MANUEL ROCHA** served as Deputy Principal Officer at the United States Interests Section in Havana, Cuba. Discussing that assignment in a recorded conversation on November 16, 2022, **ROCHA** described the “moment that I lived through it because I was in charge, it was the knock down of the small planes. That was a time of a lot of tension, ... that was the time of the ... ‘Brothers to the Rescue’ and other similar people ... who were pushing politics towards unnecessary provocations.”

11. From in or around July 1997 until in or around November 1999, as a Department of State employee, **VICTOR MANUEL ROCHA** served as Deputy Chief of Mission at the United States Embassy in Buenos Aires, Argentina.

12. From in or around July 2000 until in or around August 2002, as a Department of State employee, **VICTOR MANUEL ROCHA** served as Ambassador to Bolivia at the United States Embassy in La Paz, Bolivia.

The Defendant’s Conduct to Gain Access to Nonpublic Information

13. On May 1, 1981, **VICTOR MANUEL ROCHA** completed a Form SF-86 “Security Investigation Data for Sensitive Position” and submitted it to the Department of State.

14. On July 7, 1981, **VICTOR MANUEL ROCHA** obtained a Top Secret security clearance, a requirement for his Department of State employment.

15. On November 25, 1981, **VICTOR MANUEL ROCHA** signed a Security

Agreement in which he acknowledged he could not publish or reveal to any person, either during or after his State Department employment, any classified or administratively controlled information, or any other information transmitted to him in confidence in the course of his official duties.

16. On June 30, 1982, **VICTOR MANUEL ROCHA** signed a sworn statement stating he was fully aware of the rules and regulations concerning the handling of the Department of State documents.

17. On January 12, 1989, **VICTOR MANUEL ROCHA** signed a Classified Information Nondisclosure Agreement, in which he acknowledged that unauthorized disclosure of classified information could cause irreparable injury to the United States or could be used to advantage a foreign nation.

18. On August 29, 1990, **VICTOR MANUEL ROCHA** signed a sworn statement stating he was familiar with the security procedures regarding the storage and handling of classified information.

19. On July 11, 1994, **VICTOR MANUEL ROCHA** signed a Briefing Acknowledgement in which he acknowledged receiving a briefing regarding the storage, control, transportation, loss, or compromise of classified information.

20. On or about September 2, 1993, **VICTOR MANUEL ROCHA** successfully completed a background investigation for a continued TOP SECRET security clearance.

21. In or around March 1994, as part of his National Security Council appointment, **VICTOR MANUEL ROCHA** obtained a TOP SECRET/SCI clearance.

22. On or about November 4, 1999, **VICTOR MANUEL ROCHA** cleared a

background investigation for a continued TOP SECRET security clearance.

The Defendant's False Statements to the United States About His Loyalties

23. On May 1, 1981, **VICTOR MANUEL ROCHA** made the following false statements in an SF-86 Pre-employment Questionnaire for National Security Positions:

a. "Are you now or have you ever been an agent or representative of, or otherwise employed by or acted for a foreign principal, either personally or through association with a firm?" **ROCHA** responded, "No."

b. "Are you now or have you ever been a member of any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, fascist, communist, or subversive." **ROCHA** responded, "No."

24. On June 8, 1981, **VICTOR MANUEL ROCHA** completed a security interview in Washington, D.C., in which he falsely stated, among other things, he had never been asked by anyone to commit an illegal act, or to act against the interest of the United States.

25. On September 22, 1991, **VICTOR MANUEL ROCHA** falsely stated in an SF-86 Questionnaire for National Security Positions that he had not ever "been employed by or acted as a consultant for a foreign government, firm or agency."

26. On March 28, 1994, **VICTOR MANUEL ROCHA** falsely stated in an SF-86 Questionnaire for National Security Positions that he had not ever "been employed by or acted as a consultant for a foreign government, firm or agency."

27. On May 8, 1994, **VICTOR MANUEL ROCHA** made false statements during an FBI background investigation interview conducted at the United States Embassy in Santo Domingo, Dominican Republic, regarding his appointment to the United States National Security

Council, including but not limited to, falsely stating that he did not know of any situation, past or present, which could have a bearing on his suitability for employment with the U.S. government, and that there was nothing in his personal life that may negatively affect his appointment to the National Security Council or that could be used against him.

28. On or about February 7, 1995, while serving on the National Security Council, **VICTOR MANUEL ROCHA** applied for a United States passport, submitted the photograph below as part of that application, and affirmed under oath, as part of that application, that he had not since becoming a United States citizen “accepted or performed the duties of any office, post, or employment under the Government of a foreign state or political subdivision thereof.”



29. On August 25, 1999, **VICTOR MANUEL ROCHA** made the following false statements in an SF-86 Questionnaire for National Security Positions:

a. “Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm, or agency?” **ROCHA** responded, “No.”

b. “Have you ever had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S.

other than on official U.S. Government business?” **ROCHA** responded, “No.”

c. “Is there anything in your personal life that could be used by someone to coerce or blackmail you? Is there anything in your life that could cause an embarrassment to you or to the President if publicly known?” **ROCHA** responded, “No.”

30. On August 26, 1999, **VICTOR MANUEL ROCHA** falsely stated on a Senate Ambassador Nomination Questionnaire that there were no issues regarding his personal integrity that “may be an issue in the Committee’s consideration of [**ROCHA**’s] nomination.”

31. On or about September 13, 1999, **VICTOR MANUEL ROCHA** made the following false statements during a State Department security interview conducted at the United States Embassy in Buenos Aires, Argentina, regarding **ROCHA**’s appointment as United States Ambassador to Bolivia:

a. **ROCHA** falsely stated he did not have any problems that would prevent him from accepting a presidential appointment;

b. **ROCHA** falsely stated there was not any information he knew that could suggest a conflict of interest or be a possible source of embarrassment to him, the Department of State, or the President of the United States;

c. **ROCHA** falsely stated he had not performed any work or employment for or received payment from any foreign government, foreign business, or foreign national;

d. **ROCHA** falsely stated he had never been an agent or representative or employed or acted for a foreign principal, either personally or through association with a firm;

e. **ROCHA** falsely stated he did not have any regular contact with foreign nationals outside of family or official business;

f. **ROCHA** falsely stated he never had an association with a person, group, or business venture that could be used, even unfairly, to criticize, to impugn or attack his character and qualifications for a high-level government position;

g. **ROCHA** falsely stated he had never been employed by, or acted as a consultant on behalf of, any foreign government, firm or agency;

h. **ROCHA** falsely stated he was not aware of any circumstances that could support his recruitment by a foreign intelligence service now or in the future; and

i. **ROCHA** falsely stated he had not had any contact with Cuban government officials since his departure from Cuba in or around 1997.

The Defendant's Activities After Leaving the State Department

32. Beginning in or around August 2002, and continuing to the present, **VICTOR MANUEL ROCHA** collected benefits, including monthly retirement annuity payments, based upon his prior employment at the Department of State.

33. On February 23, 2005, **VICTOR MANUEL ROCHA** applied for a United States passport, and affirmed under oath, as part of that application, that he had not since becoming a United States citizen “accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof.”

34. From in or around 2006 until in or around 2012, **VICTOR MANUEL ROCHA** was an advisor to the Commander of the United States Southern Command, a joint command of the United States military whose area of responsibility includes Cuba.

35. On November 22, 2011, **VICTOR MANUEL ROCHA** applied for a United States passport, and affirmed under oath, as part of that application, that he had not since becoming a

United States citizen “accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof.”

36. On September 15, 2014, **VICTOR MANUEL ROCHA** applied to renew his United States passport, and affirmed under oath, as part of that application, that he had not since becoming a United States citizen “accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof.”

37. On February 24, 2016, in Miami, Florida, **VICTOR MANUEL ROCHA** applied for a United States passport, and affirmed under oath, as part of that application, that he had not “accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof.”

38. On or about January 2, 2017, using a United States passport bearing a number ending in -3729, **VICTOR MANUEL ROCHA** flew from Miami International Airport in Miami, Florida to Santo Domingo, Dominican Republic.

39. On or about January 3, 2017, using a Dominican Republic passport bearing a number ending in -1482, **VICTOR MANUEL ROCHA** flew from Santo Domingo, Dominican Republic to Panama City, Panama and then to Havana, Cuba.

40. On or about January 7, 2017, using a Dominican Republic passport bearing a number ending in -1482, **VICTOR MANUEL ROCHA** flew from Havana, Cuba to Panama City, Panama, and then to Santo Domingo, Dominican Republic.

41. On or about January 8, 2017, using a United States passport bearing a number ending in -3729, **VICTOR MANUEL ROCHA** flew from Santo Domingo, Dominican Republic to Miami International Airport in Miami, Florida.

42. On or about May 17, 2018, in Miami, Florida, **VICTOR MANUEL ROCHA** applied for a United States passport, and affirmed under oath, as part of that application, that since becoming a United States citizen he had not “accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof.”

43. On or about November 13, 2019, in Miami, Florida, **VICTOR MANUEL ROCHA** applied for a United States passport, and affirmed under oath, as part of that application, that since becoming a United States citizen he had not “accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof.”

The Defendant’s Contacts with the Undercover DGI Representative

44. On or about November 15, 2022, while in Miami, Florida, **VICTOR MANUEL ROCHA** responded to a WhatsApp message from an individual purporting to be a covert DGI representative but who was, in fact, a Federal Bureau of Investigation undercover employee (“UC”). The message read: “Good Afternoon ambassador, my name is Miguel and I have a message for you from your friends in Havana. It is in regards to a sensitive matter. Are you available for a phone call?” **ROCHA** replied: “I don’t understand but you can call me.”

45. On or about November 15, 2022, **VICTOR MANUEL ROCHA** participated in a phone call with the UC, in which the UC informed **ROCHA** that his name was “Miguel” and that he was “representing your friends in Havana.” The UC further informed **ROCHA** that he was “ordered to make contact with you to give you a message. I know that you have been a great friend of ours since your time in Chile.” The UC then explained that “we have little problems in the island and in our embassy in Santo Domingo as well, but don’t worry, I’m here to resolve the

situation, but these are very delicate issues, and it would be best to talk about it in person.” **ROCHA** agreed to meet the UC in person the following day in front of a church on 6th Street in the Brickell neighborhood of Miami at 10:00 am.

The First UC Meeting: November 16, 2022

46. On November 16, 2022, **VICTOR MANUEL ROCHA** met the UC in front of the First Miami Presbyterian Church at 609 Brickell Avenue, Miami, Florida, at approximately 10:00 am.

47. On November 16, 2022, while traveling to the meeting location, **VICTOR MANUEL ROCHA** used counter-surveillance techniques, later telling the UC that “they are not going to see me when I come out over here ... that’s what I did today ... I did a whole route ... It’s what I’ve always been told to do.”

48. On November 16, 2022, at the start of his meeting with the UC, **VICTOR MANUEL ROCHA** guided the UC to a “food court” near their location with “low-level employees who don’t want to spend too much money. So, there’s no possibility for – for anyone to see me.” **ROCHA** referred to this as a “measure ... out of precaution” because “I have always ... received sufficient training to know that you must be on the alert ... to provocations.”

49. On November 16, 2022, during their meeting, **VICTOR MANUEL ROCHA** made the following statements, among others, to the UC intended to further the conspiracy:

a. **ROCHA** explained that, during a prior meeting with the DGI, he was told that “if at any given moment there was a need to contact or see each other ... I’m almost sure that they said it would be someone named Miguel.”

b. **ROCHA** answered “Yes” when told by the UC that the UC was “a covert

representative here in Miami” whose mission was “to contact you, introduce myself as your new contact, and establish a new communication plan.”

c. **ROCHA** told the UC: “I want you to tell my Compañeros that I appreciate, and I am very thankful for this alert,” explaining that during his last contact, “I was able to travel ... to the capital and while I was there I had a long meeting ... In Havana.” **ROCHA** then added, regarding the UC’s explicit reference to “Havana” during their initial conversations: “We have another name. We never utilize Havana. ... I tend to say ‘The Island.’ ... I never use C or H ... [T]hat was the only thing that ... I thought, if someone has betrayed and told the enemy’s counterintelligence ... why are they utilizing ... Havana ... But ... Miguel is what I remembered, because I don’t write anything down ... I try to memorize things ... for security reasons.”

d. **ROCHA** said “since the Dirección” asked me ... to lead a normal life ... I have [] created the legend of a right-wing person.”

e. **ROCHA** said this meeting was “my first contact – since my [] last trip to [] Havana,” which **ROCHA** stated was in “2016 or 2017,” when he traveled to Havana via Panama and “from Panama ... I entered ... as a Dominican,” referring to his use of his Dominican Republic passport instead of his United States passport.

f. **ROCHA** further explained that ““I always told myself, ‘The only thing that can put everything we have done in danger is ... someone’s betrayal, someone who may have met me, someone who may have known something at some point.’””

g. **ROCHA** assured the UC that his “number one concern” was “any action on the part of Washington that would – would endanger the life of ... the leadership, or the – or the revolution itself.”

i. **ROCHA** asked the UC to send “my warmest regards to the Dirección,” and after the UC promised to do so, **ROCHA** said the following:

ROCHA: [I]t was decades - it was decades. I mean, decades that were deep -

UC: How many years?

ROCHA: Almost 40 -

UC: Wow.

ROCHA: Uh - and a lot of danger. ... They must have told you something because you mentioned Chile. ... That ... inspired trust in me and at the same time I thought, if there’s a traitor and they know that I was in Chile ...

ROCHA: I have to tell you something.

UC: Tell me.

ROCHA: [I]t gives me a lot of ... pride and satisfaction to see that – that people like Miguel, who are – who are much younger, but -

UC: Thank you!

ROCHA: – who are there – ... doing... this is not easy –

UC: No, no, it is not easy. No, it is a struggle –

ROCHA: It is not easy – ...

UC: Thank you for your friendship and help for so many years. Right? Thank you very much.

ROCHA: Of course, no problem ... This is a huge sacrifice ... huge, with a lot of tension that you have to manage internally ... with self-discipline ... all the time. ... When you have the conviction, you have self-discipline –

50. On November 16, 2022, during their meeting, **VICTOR MANUEL ROCHA** agreed to meet the UC again on February 10, 2023, with February 17, 2023, as a backup date.

51. On November 16, 2022, during his meeting with the UC, **VICTOR MANUEL ROCHA** agreed to utilize a Colombian Pesos bill as a parole at the next meeting to ensure operational security.

52. On November 16, 2022, during his meeting with the UC, **VICTOR MANUEL**

ROCHA proposed a different option, if the pair could not meet in Miami, was a food court at a specified location in Santo Domingo, Dominican Republic since “low-income people ... go to the food court” and accordingly **ROCHA** would not be identified.

The Second UC Meeting: February 17, 2023

53. On February 17, 2023, **VICTOR MANUEL ROCHA** met the UC in person at the outdoor food court behind the First Miami Presbyterian Church at 609 Brickell Avenue, Miami, Florida.

54. On February 17, 2023, when traveling to the meeting with the UC, **VICTOR MANUEL ROCHA** used counter-surveillance techniques consistent with directions given to him by the DGI.

55. On February 17, 2023, upon meeting the UC, **VICTOR MANUEL ROCHA** utilized a Colombian Pesos bill as a parole, and complimented the UC on the UC’s cover story for their meeting.

56. On February 17, 2023, **VICTOR MANUEL ROCHA** told the UC, regarding their meeting location: “I have my bank here ... So, it’s my legend for being here.”

57. On February 17, 2023, **VICTOR MANUEL ROCHA** assured the UC “But of course” when told the DGI wanted to confirm “that you continue to be a Compañero of ours.”

58. On February 17, 2023, **VICTOR MANUEL ROCHA** promised the UC that “if I had access to something that was worthwhile, I – I would propose it ... and the access ... it’s having access to information that’s important.”

59. On February 17, 2023, during their meeting, **VICTOR MANUEL ROCHA** described to the UC some of his activities on behalf of the DGI and against United States’ interests,

and explained why and how he continued to preserve the secrecy of those activities, stating among other things:

- a. **ROCHA:** “[F]or me, what has been done, has strengthened the Revolution. It has strengthened it immensely. [W]e can’t put - put that in danger. ... I’m very zealous in regards to what we have done and with what I have to protect.”
- b. **ROCHA:** “I have to protect what we did because what we did ... because what we did is – is – is the cement that has strengthened the last 40 years. I mean, that cement is concrete. It’s not [UI], it’s concrete. You know?”
- c. **ROCHA:** “I wouldn’t put what we have done in danger ... because ... they would react strongly against the Revolution ... strongly because of the fact that through my participation we – we did what we did.”
- d. **ROCHA:** “[T]hey underestimated what we could do to them. We did more than they thought.”

60. On February 17, 2023, during his meeting with the UC, **VICTOR MANUEL ROCHA** celebrated his work for the DGI, as confirmed in the screenshot below from close-captioned video of the meeting, by saying that: “What we have done ... it’s enormous ... More than a grand slam.”



61. On February 17, 2023, during their meeting, **VICTOR MANUEL ROCHA** lamented “the blows that the enemy,” meaning the United States, “has dealt to the current revolution.”

62. On February 17, 2023, during his meeting with the UC, **VICTOR MANUEL ROCHA** praised “The Comandante,” referring to Fidel Castro.

63. On February 17, 2023, **VICTOR MANUEL ROCHA** agreed to meet the UC a third time, and made arrangements for that meeting including a back-up plan, reassuring the UC that “you can ask the Dirección ... I was always there.”

The Third UC Meeting: June 23, 2023

64. On June 23, 2023, **VICTOR MANUEL ROCHA** met the UC in person at the outdoor food court behind the First Miami Presbyterian Church at 609 Brickell Avenue, Miami, Florida.

65. On June 23, 2023, when traveling to his meeting with the UC, **VICTOR MANUEL ROCHA** used counter-surveillance techniques consistent with the directions given to him by the DGI.

66. On June 23, 2023, during their meeting, when told by the UC that “the Dirección wants to ensure that you are still a Compañero of ours ... Are you still with us?,” **VICTOR MANUEL ROCHA** responded: “I am angry. I’m pissed off. ... Because of the question that was asked. ... I[t]’s like questioning my manhood. ... It’s like you want me to drop them ... and show you if I still have testicles.”

67. On June 23, 2023, **VICTOR MANUEL ROCHA** promised the UC that, if there were an investigation by the United States, he knew “how to handle it,” and assured the UC: “I

know how to defend myself. ... I have the intelligence ... and I have the knowledge. I mean... in the course of my duties, how many times did I meet with – with them ... to answer questions ... I know how it works the – the system.”

68. On June 23, 2023, **VICTOR MANUEL ROCHA** stated to the UC that “I never – never have in 40 years put a Compañero in danger. Or others, never. [T]here are certain rules ... from this type of work that, be it us, be them, be the Russians ... So then, whoever is in a mission doesn’t see the other one in another. That is simply a no, because it jeopardizes everything.”

69. On June 23, 2023, **VICTOR MANUEL ROCHA** promised the UC that “I protect – I protect everything that has been done. I have always protected it and will protect it and I know how to protect it.”

70. On June 23, 2023, **VICTOR MANUEL ROCHA** made arrangements to meet a fourth time with the UC in or around December 2023.

All in violation of Title 18, United States Code, Section 371.

COUNT 2
Acting as an Illegal Agent of a Foreign Government
(18 U.S.C. § 951)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From a date unknown to the Grand Jury, but no later than in or around November 1981, through on or about December 1, 2023, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

VICTOR MANUEL ROCHA,

did knowingly act in the United States as an agent of a foreign government, namely, as an agent

of the Republic of Cuba, without prior notification to the Secretary of State prior to October 12, 1984, and to the Attorney General thereafter, as required by law, in violation of Title 18, United States Code, Section 951.

COUNTS 3 - 7
Wire Fraud
(18 U.S.C. § 1343)

On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

VICTOR MANUEL ROCHA,

did knowingly, and with intent to defraud, devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and, for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE SCHEME AND ARTIFICE

1. It was a purpose of the scheme and artifice for **VICTOR MANUEL ROCHA**, aided by his accomplices, to unlawfully enrich himself while furthering the intelligence interests of the Republic of Cuba and harming interests of the United States, by using materially false and fraudulent pretenses, representations, and promises, and by making material omissions, to obtain and maintain employment at the Department of State and thereby to obtain money and property in the form of salary and other benefits during and after his employment, including annuity payments

upon retirement, from the United States.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE

2. The General Allegations section and Paragraphs 10-16 of the Manner and Means section from Count 1 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as the description of the manner and means of the scheme and artifice.

USE OF THE WIRES

3. On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant, **VICTOR MANUEL ROCHA**, for the purpose of executing and in furtherance of the aforesaid scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, did knowingly transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, as more specifically described below:

COUNT	APPROXIMATE DATE	DESCRIPTION OF WIRE COMMUNICATION
3	June 3, 2019	Transmission of an annuity payment of \$4,937.49, from a United States government account in Kansas City, Missouri, to a VICTOR MANUEL ROCHA controlled bank account ending in -4746 in the Southern District of Florida.
4	August 3, 2020	Transmission of an annuity payment of \$5,000.10, from a United States government account in Kansas City, Missouri, to a VICTOR MANUEL ROCHA controlled bank account ending in -4746 in the Southern District of Florida.
5	April 1, 2021	Transmission of an annuity payment of \$4,414.60, from a United States government account in Kansas City, Missouri, to a VICTOR MANUEL ROCHA controlled bank account ending in -4746 in the Southern District of Florida.

COUNT	APPROXIMATE DATE	DESCRIPTION OF WIRE COMMUNICATION
6	October 3, 2022	Transmission of an annuity payment of \$4,905.59, from a United States government account in Kansas City, Missouri, to a VICTOR MANUEL ROCHA controlled bank account ending in -4746 in the Southern District of Florida.
7	July 3, 2023	Transmission of an annuity payment of \$5,411.61, from a United States government account in Kansas City, Missouri, to a VICTOR MANUEL ROCHA controlled bank account ending in -4746 in the Southern District of Florida.

All in violation of Title 18, United States Code, Section 1343.

COUNTS 8-10

**Making a False Statement in a Passport Application
(18 U.S.C. § 1542)**

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates specified in each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

VICTOR MANUEL ROCHA,

did willfully and knowingly make a false statement in an application for a passport with the intent to induce and secure the issuance of a passport under the authority of the United States for his own use, contrary to the laws regulating the issuance of passports and the rules prescribed pursuant to such laws, in that the defendant stated that since becoming a United States citizen he had not accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof, when in truth and in fact, and as the defendant then and there well knew, he had accepted and performed such duties under the government of a foreign state, namely, the Republic of Cuba, as specified in each count below:

COUNT	APPROXIMATE DATE	FORM	PASSPORT APPLICATION NUMBER
8	February 24, 2016	DS-11 09-2013	511321298
9	May 17, 2018	DS-82 01-2017	512456790
10	November 13, 2019	DS-82 01-2017	512659474

All in violation of Title 18, United States Code, Section 1542.

COUNTS 11-14
Use of a Passport Obtained by a False Statement
(18 U.S.C. § 1542)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates specified in each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

VICTOR MANUEL ROCHA,

did willfully and knowingly use a passport, the issue of which was secured by reason of a false statement, in that **ROCHA** stated on his application for this passport that since becoming a United States citizen he had not accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof, when in truth and in fact, and as **ROCHA** then and there well knew, he had accepted and performed such duties under the government of a foreign state, namely, the Republic of Cuba, as specified in each count below:

COUNT	APPROXIMATE DATE	LOCATION	TRIP
11	November 4, 2016	Miami International Airport	Arrival from Havana, Cuba
12	January 2, 2017	Miami International Airport	Departure to Santo Domingo, Dominican Republic en route to Havana, Cuba
13	January 8, 2017	Miami International Airport	Arrival from Santo Domingo, Dominican Republic en route from Havana, Cuba
14	November 17, 2017	Miami International Airport	Arrival from Havana, Cuba

All in violation of Title 18, United States Code, Section 1542.

COUNT 15
False Statement and Representation
(18 U.S.C. § 1001(a)(2))

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. On or about December 1, 2023, in Miami-Dade County, in the Southern District of Florida, the defendant,

VICTOR MANUEL ROCHA,

in a matter within the jurisdiction of the executive branch of the United States government, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation, in that, during a recorded interview with federal officials:

- a. Upon being shown two images of the UC, **ROCHA** stated that had never met, seen, or had any conversation with the person shown in the images;
- b. Upon being shown an image of **ROCHA** sitting across a table from the UC during the June 23, 2023, meeting, **ROCHA** stated he met the UC only one

time, for a couple of minutes; and

- c. **ROCHA** stated that the person with him in the image described in subparagraph (c), above, never provided his name.

when in truth and in fact, as **ROCHA** then and there well knew, each of these statements and representations was false, in violation of Title 18, United States Code, Section 1001(a)(2).

FORFEITURE ALLEGATIONS

1. The allegations of this Indictment are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **VICTOR MANUEL ROCHA**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1343, as alleged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to such offense, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

3. Upon conviction of a violation of Title 18, United States Code, Section 1542, as alleged in this Indictment, the defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(6):

- a. any conveyance, including any vessel, vehicle, or aircraft, used in the commission of such offense;
- b. any property, real or personal, that constitutes, or is derived from, or is traceable to any proceeds obtained, directly or indirectly, from the commission of such offense; and
- c. any property, real or personal, that was used to facilitate, or intended to be used to facilitate, the commission of such offense.

All pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(6), and the procedures set forth at Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

A TRUE BILL



FOREPERSON

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

JONATHAN D. STRATTON
ASSISTANT UNITED STATES ATTORNEY

JOHN C. SHIPLEY
SENIOR COUNSEL

HEATHER M. SCHMIDT
SENIOR TRIAL ATTORNEY

CHRISTINE A. BONOMO
TRIAL ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: VICTOR MANUEL ROCHA

Case No: _____

Count #: 1

Conspiracy to Act as An Agent of a Foreign Government and to Defraud the United States

Title 18 United States Code Section 371

- * **Max. Term of Imprisonment:** Five Years' Imprisonment
- * **Mandatory Min. Term of Imprisonment (if applicable):** N/A
- * **Max. Supervised Release:** 3 Years
- * **Max. Fine:** \$250,000

Count #: 2

Acting as an Illegal Agent of a Foreign Government

Title 18 United States Code Section 951

- * **Max. Term of Imprisonment:** Ten Years' Imprisonment
- * **Mandatory Min. Term of Imprisonment (if applicable):** N/A
- * **Max. Supervised Release:** 3 Years
- * **Max. Fine:** \$250,000

Counts #: 3-7

Wire Fraud

Title 18 United States Code Section 1343

- * **Max. Term of Imprisonment:** Twenty Years' Imprisonment
- * **Mandatory Min. Term of Imprisonment (if applicable):** N/A
- * **Max. Supervised Release:** 5 Years
- * **Max. Fine:** \$250,000

*Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Counts #: 8-10

Making a False Statement in a Passport Application

Title 18, United States Code Section 1542

- * **Max. Term of Imprisonment: Ten Years' Imprisonment**
- * **Mandatory Min. Term of Imprisonment (if applicable): N/A**
- * **Max. Supervised Release: 3 Years**
- * **Max. Fine: \$250,000**

Counts #: 11-14

Use of a Passport Obtained by a False Statement

Title 18, United States Code Section 1542

- * **Max. Term of Imprisonment: Ten Years' Imprisonment**
- * **Mandatory Min. Term of Imprisonment (if applicable): N/A**
- * **Max. Supervised Release: 3 Years**
- * **Max. Fine: \$250,000**

Count #: 15

False Statement and Representation

Title 18, United States Code Section 1001(a)(2)

- * **Max. Term of Imprisonment: Five Years' Imprisonment**
- * **Mandatory Min. Term of Imprisonment (if applicable): N/A**
- * **Max. Supervised Release: 3 Years**
- * **Max. Fine: \$250,000**

*Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.

Exhibit G

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-CR-20464-BLOOM/TORRES

UNITED STATES OF AMERICA

vs.

VICTOR MANUEL ROCHA,

Defendant.

_____ /

PLEA AGREEMENT

The United States Attorney's Office for the Southern District of Florida ("this Office") and Victor Manuel Rocha (the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to Counts 1 and 2 of the Indictment. Count 1 charges the defendant with conspiring to commit an offense against the United States, specifically a violation of Title 18, United States Code, Section 951, and with conspiring to defraud the United States, all in violation of Title 18, United States Code, Section 371. Count 2 charges the defendant with acting as an agent of a foreign government without notice as required by law, in violation of Title 18, United States Code, Section 951.

2. The defendant understands and acknowledges that as to Count 1, the Court may impose a statutory maximum term of imprisonment of up to five years, followed by a term of supervised release of up to 3 years; and as to Count 2, the Court may impose a statutory maximum term of imprisonment of up to ten years, followed by a term of supervised release of up to 3 years. These sentences of imprisonment may run consecutively, for a total maximum sentence of 15 years imprisonment. In addition to a term of imprisonment and supervised release, the Court may impose a fine of up to \$250,000 on each of Count 1 and Count 2, for a maximum total fine of \$500,000. The defendant further understands and acknowledges that a special assessment in the

amount of \$100 as to each of Counts 1 and 2 will be imposed on the defendant. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing.

3. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the United States and the defendant agree that the following sentence is the appropriate disposition of this case: As to Count 1, the parties jointly agree that the Court will sentence the defendant to the statutory maximum term of five years' imprisonment, along with the statutory maximum fine of \$250,000. As to Count 2, the parties jointly agree that the Court will sentence the defendant to the statutory maximum term of ten years' imprisonment, along with the statutory maximum fine of \$250,000. The parties further agree that the terms of imprisonment on Counts 1 and 2 shall run consecutively, with a ten-year term of imprisonment on Count 2 to be followed consecutively by a five-year term of imprisonment on Count 1, for a total of 15 years' imprisonment. In addition, the parties jointly agree that the defendant shall be placed on supervised release for a term of three years and pay a total fine of \$500,000. The United States and the defendant agree that this is a substantively reasonable sentence in this case, taking into account the factors set forth in Title 18 United States Code, Section 3553. The parties further agree that, under the advisory Federal Sentencing Guidelines and Policy Statements, there is no applicable guideline for the charges in Counts 1 and 2.

4. The defendant agrees to forego and relinquish any and all payments and benefits due to him from the United States by virtue of his past employment with the United States Department of State (DOS), including but not limited to any income, annuity, pension payments, or retirement benefits. The defendant further agrees that the United States may take all necessary steps to enforce this provision, and that he will not seek to oppose or obstruct any of those efforts, and waives all challenges to them.

5. The defendant understands and acknowledges his continuing legal obligation to refrain from the unauthorized oral or written disclosure of information belonging to the United States Government or acquired by virtue of his United States Government employment or derived from the activities which resulted in his arrest. The defendant further understands and acknowledges that, in connection with his employment by the DOS, he entered into certain agreements proscribing the unauthorized disclosure of classified information, confidential information, and other information acquired as a part of his performance of his official duties or acquired from the files of the intelligence community. Even though the defendant is no longer a DOS employee, he acknowledges his continuing duties and obligations under these agreements, which are hereby incorporated by reference. In addition, notwithstanding any prior agreement, the defendant agrees that he will never disclose to any person or entity, except to persons or entities specifically authorized by the United States Government, any classified information, any confidential United States Government information (whether or not such information is formally classified), and all other information acquired as part of his employment.

6. Should the defendant, at any time, author or participate in the creation of any book, writing, article, film, documentary, or other production, or otherwise provide information for purposes of publication or dissemination, including but not limited to information provided through interviews with writers or representatives of any media organization or entity, the defendant hereby agrees to first submit in a timely fashion such book, writing, article, film, documentary, or other production, or information, to the Federal Bureau of Investigation (FBI) and the DOS for timely pre-publication review and deletion of information which, in the discretion of the FBI and/or DOS, should not be published or disseminated on any grounds, including but not limited to national security interests.

7. The defendant hereby assigns to the United States any profits which he may be entitled to receive in connection with any publication or dissemination of information relating to his person, to his work at the DOS or for any other United States government entity, to his espionage and other activities related to his acting as an agent of a foreign government, to the facts and circumstances leading to his arrest and conviction, or acquired from DOS, FBI, or intelligence community files. This assignment shall include all profits and proceeds for the benefit of the defendant, regardless of whether such profits and proceeds are payable to himself or to others, directly or indirectly, for his benefit or for the benefit of his associates or a current or future member of his family. The defendant shall not circumvent this assignment by assigning the rights to his story to an associate or to a current or future member of his family, or to another person or entity who would provide some financial benefit to him, to his associates, or to a current or future member of his family. Moreover, the defendant shall not circumvent this assignment by communicating with an associate or a family member for the purpose of assisting or facilitating their profiting from a public dissemination, whether or not such an associate or other family member is personally or directly involved in such dissemination.

8. The defendant shall have no contact with any foreign government or agents thereof, except with the express permission of the FBI, and shall not seek or accept, personally or through another person or entity, any benefit from such foreign government or agent thereof, and should such a benefit be received by the defendant, or some other person or entity on his behalf, he hereby assigns any such benefit to the United States. For purposes of this paragraph, any benefit provided to an associate of the defendant or to a current or future family member which is related to, arises out of, or is in recognition of, his espionage and other activities related to his acting as an agent of a foreign government, is deemed to be a benefit provided to the defendant himself.

9. The defendant agrees he shall cooperate fully with this Office by: (a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other Court proceeding; (b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and (c) if requested by this Office, working in an undercover role under the supervision of, and in compliance with, law enforcement officers and agents. In addition, the defendant agrees that he will not protect any person or entity through false information or omission, that he will not falsely implicate any person or entity, and that he will not commit any further crimes.

10. The defendant agrees that he will notify the DOS and FBI in a timely manner of any contacts he intends to have with any representative of the media in order to ensure that a DOS and/or FBI representative and/or other intelligence community representative is present, unless such presence is explicitly waived by the DOS and FBI, to monitor the information being disseminated and, if necessary, to prevent the unauthorized disclosure of information. Such contacts include, but are not limited to, contacts in person, contacts by electronic means, and contacts via public or private mail carrier. In order to avoid interference with the debriefing process, the defendant agrees that during the debriefing process he will provide no interviews or have any other contact with the media, directly or indirectly.

11. This Office reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background.

12. If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecutions, the defendant agrees to waive any statute-of-limitations defense; and
- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before, on, or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution of federal law.

13. The defendant understands that by pleading guilty in this case he agrees to waive certain rights afforded by the Constitution of the United States and/or by statute or rule. The defendant agrees to forego the right to any further discovery or disclosures of information not

already provided at the time of the entry of his guilty plea. The defendant understands that the Fifth Amendment to the Constitution of the United States protects him from the use of self-incriminating statements in a criminal prosecution. By entering a plea of guilty, the defendant knowingly and voluntarily waives or gives up his right against self-incrimination.

14. The defendant is aware that Title 28, United States Code, Section 1291 and Title 18, United States Code, Section 3742 afford the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Sections 1291 and 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b) and Title 28, United States Code, Section 1291. However, if the United States appeals the defendant's sentence pursuant to Sections 3742(b) and 1291, the defendant shall be released from the above waiver of his right to appeal his sentence.

15. The defendant further hereby waives all rights conferred by Title 28, United States Code, Section 1291 to assert any claim that (1) the statutes to which the defendant is pleading guilty is/are unconstitutional; and/or (2) the admitted conduct does not fall within the scope of the statutes of conviction.

16. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney. The defendant further agrees, together with this Office, to request that the Court enter a specific finding that the defendant's waiver of his right to appeal the sentence imposed in this case and his right to appeal his conviction in the manner described above was knowing and voluntary.

17. In exchange for the defendant's agreement to plead guilty to Counts 1 and 2 of the Indictment, and his agreement to all his other obligations and requirements set forth in this plea agreement, the Government agrees to dismiss, after sentencing, the remaining counts of the Indictment. The Government further agrees not to oppose any reasonable requests by the defendant for recommendations from the Court regarding his confinement facility designation by the Bureau of Prisons, although the parties acknowledge and understand that neither the Court nor the parties can bind the Bureau of Prisons in such designations.

18. The parties agree that the defendant remains liable for restitution, if any, that is due in connection with his charges of conviction, specifically Counts 1 and 2 of the Indictment, pursuant to the Mandatory Victims Restitution Act.

19. The parties agree that neither this agreement nor any other applicable statute of limitations precludes the government from initiating civil denaturalization proceedings and from relying on any admission in this matter in such proceeding.

[This space left intentionally blank.]

20. This is the entire agreement and understanding between this Office and the defendant. There are no other agreements, promises, representations, or understandings.

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

Date: 4/12/24

By: 
JONATHAN D. STRATTON
ASSISTANT UNITED STATES ATTORNEY

Date: 4/12/24

By: 
JOHN C. SHIPLEY
AUSA, SENIOR COUNSEL


Date: 4/12/24

By: 
JACQUELINE M. ARANGO
ATTORNEY FOR DEFENDANT

Date: 4/12/24

By: 
VICTOR MANUEL ROCHA
DEFENDANT

Date: 4/12/24

By: 
HEATHER M. SCHMIDT
SENIOR TRIAL ATTORNEY
NATIONAL SECURITY DIVISION

Date: 4/12/24

By: 
CHRISTINE A. BONOMO
TRIAL ATTORNEY
NATIONAL SECURITY DIVISION

Exhibit H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-CR-20464-BLOOM/TORRES

UNITED STATES OF AMERICA

vs.

VICTOR MANUEL ROCHA,

Defendant.

FACTUAL PROFFER

The United States of America and Victor Manuel Rocha (the “Defendant”), personally and through his attorney, agree that the following statements are true and accurate and serve as the factual basis for the Defendant to enter a plea of guilty, as to Counts 1 and 2 of the Indictment, and could have been proven beyond a reasonable doubt, satisfying any of the elements of the charges in these counts, if this case went to trial:

Starting in or around 1973, the Defendant secretly supported the Republic of Cuba and its clandestine intelligence-gathering mission against the United States by serving as a covert agent of Cuba’s intelligence services, including the Directorate of Intelligence, also known as the General Directorate of Intelligence (collectively, “DGI”). The DGI is charged with gathering worldwide intelligence information of interest to Cuba and its allies.

To further that role, the Defendant obtained and maintained employment in the United States government in positions that provided him: (1) access to nonpublic information, including classified information; and (2) the ability to affect the United States’ foreign policy. After his employment ended, the Defendant held other positions and engaged in other acts intended to support Cuba’s intelligence services. To do so, the Defendant always kept his status as a Cuban

agent secret to protect himself and others and to allow himself the opportunity to engage in additional clandestine activity. For example, the Defendant: (1) provided false and misleading information to the United States government to maintain his secret mission; and (2) met with Cuban intelligence operatives. The Defendant's activities, and his deceit, betrayed his oath of office and obstructed the lawful functions of the United States government.

At no time did the Defendant provide notification to the United States Attorney General or the Secretary of State, as required by law, that he was, in fact, acting as an agent of a foreign government, specifically the Republic of Cuba.

The Defendant's Positions at the Department of State

From November 1981 until August 2002, the Defendant was employed by the United States Department of State, a department of the United States government that manages the United States' relationships with foreign governments and implements U.S. foreign policy. Throughout the Defendant's employment with the Department of State, the Defendant was employed in positions that gave him access to nonpublic information, including sensitive and classified information. Specifically, the Defendant held the following Department of State positions:

- a. From in or around November 1981 until in or around December 1982, the Defendant served as an International Relations Officer at the Department of State.
- b. From in or around December 1982 until in or around January 1985, the Defendant served as a Political Officer at the United States Embassy in Santo Domingo, Dominican Republic.
- c. From in or around February 1987 until in or around February 1989, the Defendant served as a Political-Military Affairs Officer at the United States Embassy in Tegucigalpa, Honduras.

- d. From in or around February 1989 until in or around November 1991, the Defendant served as the First Secretary at the United States Embassy in Mexico City, Mexico.
- e. From in or around November 1991 until in or around July 1994, the Defendant served as the Deputy Chief of Mission at the United States Embassy in Santo Domingo, Dominican Republic.
- f. From in or around July 1994 until in or around July 1995, the Defendant served as the director of Inter-American Affairs on the United States National Security Council, with special responsibility for, among other things, Cuba.
- g. From in or around July 1995 until in or around July 1997, the Defendant served as Deputy Principal Officer at the United States Interests Section in Havana, Cuba.
- h. From in or around July 1997 until in or around November 1999, the Defendant served as Deputy Chief of Mission at the United States Embassy in Buenos Aires, Argentina.
- i. From in or around July 2000 until in or around August 2002, the Defendant served as Ambassador to Bolivia at the United States Embassy in La Paz, Bolivia.

The Defendant's Conduct to Gain Access to Nonpublic Information

Throughout the Defendant's Department of State employment, the Defendant had unique access to nonpublic United States government information and made efforts to gain access to such information. Specifically, the Defendant repeatedly was required, in questionnaires, security briefings, interviews, and other settings, to affirm that he understood and would adhere to laws and regulations restricting the use and sharing of nonpublic government information, including classified information, which was subject to greater restrictions, as detailed below:

- a. On November 25, 1981, the Defendant signed a Security Agreement in which he acknowledged he could not publish or reveal to any person, either during or after his State Department employment, any classified or administratively controlled information, or any other information transmitted to him in confidence in the course of his official duties; and
- b. On January 12, 1989, the Defendant signed a Classified Information Nondisclosure Agreement, in which he acknowledged that unauthorized disclosure of nonpublic government information could cause irreparable injury to the United States or could be used to advantage a foreign nation.

Throughout the Defendant's State Department career, the Defendant also was required to affirm his loyalties to the United States and confirm he did not conduct any covert activity on behalf of any foreign nation. The Defendant repeatedly answered these questions falsely, as detailed below:

- c. On May 1, 1981, the Defendant completed a Form SF-86 "Security Investigation Data for Sensitive Position" and submitted it to the Department of State, in which the Defendant falsely responded "no" to the questions "Are you now or have you ever been an agent or representative of, or otherwise employed by or acted for a foreign principal, either personally or through association with a firm?" and "Are you now or have you ever been a member of any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, fascist, communist, or subversive?"

- d. On September 22, 1991, the Defendant falsely stated in an SF-86 Questionnaire for National Security Positions that he had not ever “been employed by or acted as a consultant for a foreign government, firm or agency.”
- e. On May 8, 1994, during an FBI background investigation interview conducted at the United States Embassy in Santo Domingo, Dominican Republic, regarding his appointment to the United States National Security Council, the Defendant falsely stated, among other things, that he did not know of any situation, past or present, which could have a bearing on his suitability for employment with the United States government; that there was nothing in his personal life that may negatively affect his appointment to the National Security Council or that could be used against him; and that he had no foreign contact with Cuban nationals.
- f. On August 25, 1999, in an SF-86 Questionnaire for National Security Positions, the Defendant falsely answered “no” to the following questions, among others: (a) “Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm, or agency?”; (b) “Have you ever had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S. other than on official U.S. Government business?”; (c) “Is there anything in your personal life that could be used by someone to coerce or blackmail you?; and (d) “Is there anything in your life that could cause an embarrassment to you or to the President if publicly known?”

The Defendant's Contacts in 2022 and 2023 with an Undercover Representative of the Republic of Cuba

On November 15, 2022, while in Miami, the Defendant responded to a WhatsApp message from an individual purporting to be a covert DGI representative, but who was, in fact, an FBI undercover employee (“UC”). The message read: “Good Afternoon ambassador, my name is Miguel and I have a message for you from your friends in Havana. It is in regards to a sensitive matter. Are you available for a telephone call?” The Defendant replied: “I don’t understand but you can call me.”

Later that day, the Defendant participated in a recorded phone call with the UC, in which the UC informed the Defendant his name was “Miguel” and that he was “representing your friends in Havana.” The UC further informed the Defendant that he was “ordered . . . to make contact with you to give you a message. I know that you have been a great friend of ours since your time in Chile.” Independent evidence, to include travel records, confirm that the Defendant lived in Chile in or around 1973, which is when the Defendant agreed to become an agent of the Republic of Cuba. The UC then explained “we have little problems in the island and in our embassy in Santo Domingo as well, but don’t worry, I’m here to resolve the situation, but these are very delicate issues, and it would be best to talk about it in person.” The Defendant agreed to meet the UC in person the following day in front of a church on 6th Street in the Brickell neighborhood of Miami at 10:00 am.

The First UC Meeting: November 16, 2022

On November 16, 2022, as directed, the Defendant met the UC in front of the First Miami Presbyterian Church at approximately 10:00 am. This meeting was audio and video-recorded, as were the Defendant’s two subsequent meetings with the UC.

While traveling to the meeting location, the Defendant engaged in a Surveillance Detection Route (“SDR”) consistent with prior training the Defendant received from the DGI. The purpose of an SDR is to determine whether the individual is being followed or observed on the way to a covert meeting. Specifically, the Defendant took an indirect, longer, circuitous route to the church, rather than going there in a direct manner. In addition, among other things, the Defendant stopped during the route at a location for several minutes so that he could observe the meeting place from a safe distance. Indeed, he later told the UC that “they are not going to see me when I come out over here . . . that’s what I did today because I did a whole route . . . It’s what I’ve always been told to do.”

At the start of his meeting with the UC, the Defendant guided the UC to a “food court” at their location with “low-level employees . . . who don’t want to spend too much money. So, there’s no possibility for - for anyone to see me.” The Defendant referred to this as a “measure . . . out of precaution” because “I have always . . . received sufficient training to know that you must be on the alert to - to provocations.”

When the UC told the Defendant he was “a covert representative here in Miami” whose mission was “to contact you, introduce myself as your new contact, and establish a new communication plan,” the Defendant answered “Yes,” and proceeded to engage in a lengthy conversation with the UC, during which the Defendant repeatedly described and celebrated his activity as a Cuban agent.

During this meeting, the Defendant told the UC: “I want you to tell my Compañeros that I appreciate, and I am very thankful for this alert,” explaining that during his last contact with the DGI, “I was able to travel . . . to the capital and while there I had a long meeting . . . [i]n Havana.” The Defendant added, regarding the UC’s explicit reference to “Havana” during their initial

conversations: “we have another name. We never utilize Havana . . . I tend to say ‘The Island.’ . . . I never use C or H . . . [T]hat was the only thing that . . . I thought, if someone has betrayed and told the enemy’s counterintelligence . . . why are they utilizing . . . Havana . . . But . . . Miguel is what I remembered, because I don’t write anything down . . . I try to memorize things . . . for security reasons.”

The Defendant said that “since the Dirección asked me . . . to lead a normal life . . . I have - have created the legend of a right-wing person.” The Defendant’s use of a legend, which is a clandestine agent’s artificial background or a feature of his biography used to maintain his covert status, was at the direction of the Republic of Cuba.

The Defendant said this meeting was “my first contact - . . . since my - my last trip to [] Havana,” which the Defendant stated was in “2016 or 2017,” when he traveled to Havana via Panama and “[f]rom Panama, I went to . . . I mean, I entered as - as a Dominican,” referring to his use of his Dominican Republic passport instead of his American passport. Independent travel records confirmed that in January 2017, the Defendant travelled to Cuba exactly as he described to the UC. Specifically, on January 2, 2017, using a United States passport, the Defendant flew from Miami International Airport in Miami, Florida to Santo Domingo, Dominican Republic. On January 3, 2017, using his Dominican Republic passport instead of a U.S. passport, the Defendant flew from Santo Domingo to Panama City, Panama and then from Panama City to Havana, Cuba. On January 7, 2017, using his Dominican passport, the Defendant flew back from Havana to Panama City, and then to Santo Domingo. The Defendant subsequently flew back to Miami on January 8, 2017, using his United States passport.

The Defendant further explained that “I always told myself, ‘The only thing that can put everything we have done in danger is - is . . . someone’s betrayal, someone who may have met me, someone who may have known something at some point.’”

The Defendant assured the UC that “my number one concern; my number one priority was the . . . any action on the part of Washington that would – would endanger the life of – of the leadership, or the – or the revolution itself.”

The Defendant asked the UC to send “my warmest regards to the Dirección,” and after the UC promised to do so, the Defendant said the following:

Defendant: [I]t was decades - it was decades. I mean, decades that were deep -
UC: How many years?
Defendant: Almost 40.
UC: Wow.
Defendant: Uh – of a lot of danger. Uh . . . They must have told you something because you mentioned Chile. . . . That . . . inspired trust in me and at the same time I thought, if there’s a traitor and they know that I was in Chile[.] . . . I have to tell you something.
UC: Tell me.
Defendant: Uh . . . It gives me a lot of . . . pride and satisfaction to see that – that people like Miguel, who are – who are much younger, but –
UC: Thank you.
Defendant: - who are there –
UC: Thank you.
Defendant: – doing . . . This is not easy –
UC: No, no, it is not easy. No, it is a struggle –
Defendant: – it is not easy –
UC: – but we are fighting.
Defendant: – this is not easy. Uh. . . uh. . .
UC: Thank you for your friendship and help for so many years. Right? Thank you very much.
Defendant: Of course, no problem . . . This is a huge sacrifice . . . huge, with a lot of tension that you have to manage internally . . .

uh . . . with self-discipline - . . . all the time. . . . When you have the conviction, you have self-discipline –

The Defendant agreed to meet the UC again on February 10, 2023, with February 17, 2023, as a backup date. The Defendant also proposed a backup location if the pair could not meet in Miami. The Defendant described a specific location in Santo Domingo, Dominican Republic, where “low-income people . . . go to the food court” so that the Defendant would not be identified.

The Second UC Meeting: February 17, 2023

On February 17, 2023, the backup date agreed upon at the first meeting, the Defendant met the UC as planned at the Brickell outdoor food court where they had met previously.

When traveling to the meeting, the Defendant again used an SDR, or counter-surveillance techniques similar to those for the first meeting, and consistent with the Defendant’s training by the DGI. Additionally, upon meeting the UC, he utilized a Colombian Pesos bill as a parole, and complimented the UC on his cover story for their meeting. The Defendant told the UC, regarding their meeting location: “I have my bank here . . . So, it’s my legend for being here.”

The Defendant assured the UC “But of course” when told the DGI wanted to confirm “that you continue to be a Compañero of ours.”

The Defendant said, regarding how he obtained his State Department employment: “I went little by little . . . It was a very meticulous process . . . very disciplined – but very disciplined. . . . I knew exactly how to do it and obviously the Dirección accompanied me. . . . they knew that I knew how to do it . . . It’s a long process and it wasn’t easy.”

When asked by the UC “if there was an opportunity, where we can work together again,” the Defendant replied: “No – no . . . you guys don’t even have to propose that . . . if I had access to something that was worthwhile, I – I would propose it [points at himself]. Uh . . . and the access . . . it’s having access to information that’s important.”

During their meeting, the Defendant celebrated his activities on behalf of the DGI and against the United States' interests, and explained why and how he continued to preserve the secrecy of those activities, stating among other things: (1) “[F]or me, what has been done, has strengthened the Revolution. It has strengthened it immensely . . . [W]e can’t put - put that in danger . . . I’m very zealous in regards to what we have done and with what I have to protect, and what we have done.”; (2) “I have to protect what we did because what we did . . . because what we did is . . . the cement that has strengthened the last 40 years. I mean, that cement is concrete. It’s not [UI], it’s concrete. You know?”; (3) “I wouldn’t put what we have done in danger . . . because . . . they would react strongly against the Revolution . . . strongly because of the fact that through my participation we – we did what we did.”; (4) “They underestimated what we could do to them. We did more than they thought”; and (5) “the Dirección knows” what the Defendant did.

During this meeting, the Defendant further said, as confirmed in the screenshot below from close-captioned video of the meeting: “What we have done . . . it’s enormous . . . More than a grand slam.” During their meeting, the Defendant also lamented “the blows that the enemy,” meaning the United States, “has dealt to the current revolution.”

The Defendant agreed to meet the UC a third time, and made arrangements for that meeting including a backup plan, reassuring the UC that “you can ask the Dirección . . . I was always there.”

The Third UC Meeting: June 23, 2023

On June 23, 2023, the Defendant met the UC in person at the outdoor food court where they had met the previous two times. When traveling to the meeting, the Defendant again used an SDR, consistent with the training the Defendant had received from the DGI.

During their meeting, when told by the UC that “the Dirección wants to ensure that you are still a Compañero of ours . . . Are you still with us?,” the Defendant responded later: “I am

angry. I'm pissed off . . . Because of the question that was asked . . . It's that – that . . . it's like questioning my manhood . . . It's like you want me to drop them . . . and show you if I still have testicles.” Later, when told that with “the help that you have given us for so long . . . you must have a great pair of balls not to be worried,” the Defendant replied: “I have them - I have them.”

The Defendant promised the UC that, if there were an investigation, he knew “how to handle it,” and assured the UC: “I know how to defend myself . . . I have the intelligence . . . and I have the knowledge. I mean . . . in the course of my duties, how many times did I meet with - with them . . . to answer questions . . . I know how it works the – the system.”

The Defendant stated to the UC that “I never – never have in 40 years put a Compañero in danger. Or others, never. And there are certain rules . . . from this type of work that, be it us, be them, be the Russians . . . So then, whoever is in a mission doesn't see the other one in another. That is simply a no, because it jeopardizes everything.”

The Defendant promised the UC that “I protect – I protect everything that has been done. I have always protected it and will protect it and I know how to protect it.”

The Defendant made arrangements to meet the UC a fourth time on December 8, 2023, also selecting backup dates.

Throughout all three meetings with the UC, the Defendant behaved as a Cuban agent. The Defendant consistently referred to the United States as “the enemy,” and used the term “we” to describe himself and Cuba. The Defendant additionally praised Fidel Castro as the “Comandante,” and referred to his contacts in Cuban intelligence as his “Compañeros” (comrades) and to the Cuban intelligence services as the “Dirección.” The Defendant also made other statements during the meetings that independent evidence confirmed to be true.

Diplomatic Security Service Interview on December 1, 2023

On December 1, 2023, two Department of State Diplomatic Security Service (“DSS”) agents conducted a consensual, voluntary interview of the Defendant. During the DSS interview, the Defendant lied repeatedly. For example, the Defendant denied ever having met someone with the UC’s description, even after being shown a picture of the UC. When the Defendant was shown a picture of him sitting across from the UC during one of their meetings, the Defendant said the UC approached him, but one time only. When told the interviewers possessed information that he met with the UC on more than one occasion, the Defendant stated he did not want to comment.

Based upon the foregoing facts, which establish all the elements of the charges to which the Defendant is pleading guilty, the Government would prove the Defendant’s guilt at trial.

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

Date: 4/12/24

By: 

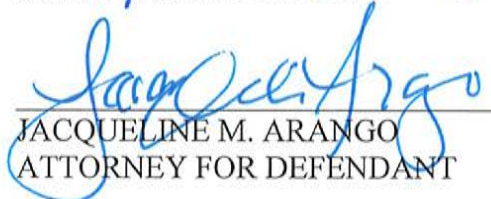
JONATHAN D. STRATTON
ASSISTANT UNITED STATES ATTORNEY

Date: 4/12/24

By: 

JOHN C. SHIPLEY
AUSA, SENIOR COUNSEL

Date: 4/12/24

By: 

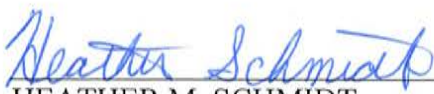
JACQUELINE M. ARANGO
ATTORNEY FOR DEFENDANT

Date: 4/12/24

By: 

VICTOR MANUEL ROCHA
DEFENDANT

Date: 4/12/24

By: 
HEATHER M. SCHMIDT
SENIOR TRIAL ATTORNEY
NATIONAL SECURITY DIVISION

Date: 4/12/24

By: 
CHRISTINE A. BONOMO
TRIAL ATTORNEY
NATIONAL SECURITY DIVISION

Exhibit I

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:23-cr-20464-BB-1

UNITED STATES OF AMERICA,

Plaintiff,

April 12, 2024
1:30 p.m.

vs.

VICTOR MANUEL ROCHA,

Defendant.

Pages 1 THROUGH 95

TRANSCRIPT OF PLEA COLLOQUY & SENTENCING
BEFORE THE HONORABLE BETH BLOOM
UNITED STATES DISTRICT JUDGE

Appearances:

FOR THE GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE
JONATHAN D. STRATTON, AUSA
JOHN C. SHIPLEY, AUSA
99 Northeast 4th Street, 6th Floor
Miami, Florida 33132

UNITED STATES ATTORNEY'S OFFICE
CHRISTINE A. BONOMO, AUSA
HEATHER SCHMIDT, AUSA
950 Penn Avenue NW, Room 7700D
Washington, DC 20530

FOR THE DEFENDANT: AKERMAN, SENTERFITT
JACQUELINE M. ARANGO, ESQ.
98 Southeast 7th Street, Suite 1100
Miami, Florida 33131

COURT REPORTER: Yvette Hernandez
U.S. District Court
400 North Miami Avenue, Room 10-2
Miami, Florida 33128
yvette_hernandez@flsd.uscourts.gov

ALSO PRESENT: Lakiesha Brantley, USPO

1 (Call to order of the Court, 1:30 p.m.)

2 THE COURT: Good afternoon to everyone.

3 Go ahead and have a seat, please.

4 COURTROOM DEPUTY: Calling Criminal Case Number

5 23-20464, United States of America v. Victor Manuel Rocha.

6 Counsel, please state your appearances for the record.

7 MR. STRATTON: Good afternoon, Your Honor. AUSA

8 Jonathan Stratton and Senior Counsel John Shipley from the

9 Southern District of Florida. We also have trial attorneys

10 Heather Schmidt and Christine Bonomo from the National Security

11 Division.

12 THE COURT: Good afternoon.

13 MS. ARANGO: Good afternoon, Your Honor. Jacqueline

14 Arango, counsel for Defendant, who is sitting next to me,

15 Victor Manuel Rocha, and he's here on my left.

16 THE COURT: All right. Good afternoon to each of you.

17 May I have the name of the Probation officer that is

18 also present in the courtroom.

19 PROBATION OFFICER: Good afternoon, Your Honor.

20 Lakiesha Brantley on behalf US Probation.

21 THE COURT: Good afternoon, Officer Brantley.

22 Scheduled today for hearing is Mr. Rocha's change of

23 his pleas from not guilty to guilty, pursuant to a Plea

24 Agreement, as to Counts 1 and 2. The parties were before this

25 Court on February 29th, and at that time the Court was provided

1 with a draft of the Plea Agreement and a draft of the Factual
2 Proffer, with a request that the Court be bound to the
3 agreement with regard to the sentence.

4 I did state, at that time, that I wanted to receive a
5 Pre-Plea Presentence Investigation Report. And the Court has
6 received Docket Entry 27, as well as the Final Addendum 1,
7 Docket Entry 28.

8 Since that time, the Court has also received certain
9 letters from the public, from Carolyn Chester, a second letter
10 from Carolyn Chester, and a letter from Ofelia Acevedo Maura
11 and Rosa Maria Paya.

12 With regard to the Plea Agreement, I do have some
13 questions related to the parties' specific agreement. Let me
14 first start with the parties' stated agreement on Page 2, that
15 under the advisory Federal Sentencing Guidelines and policy
16 statements, there is no applicable guideline for the charges in
17 Counts 1 and 2. I believe that is inaccurate, correct,
18 Mr. Stratton?

19 MR. STRATTON: Your Honor, everyone agrees --
20 Probation and the parties agree that there is no guideline
21 range for Count 1 in regards to the first object of the
22 conspiracy, so Count 1A, and also as to Count 2.

23 Probation has found that, as to the second object of
24 Count 1, Count 1B, that there is a guideline range. Everyone
25 also agrees that that guideline range has no impact on the

1 parties' agreement and the recommendation here.

2 Your Honor, while we do not intend to object to the
3 calculation of the guideline range, which turns out to be 108
4 to 135 months, we would suggest to the Court that that
5 guideline range, as to Count 1, does support the parties'
6 agreement to a 60-month sentence as to Count 1.

7 THE COURT: I was merely referring to the parties'
8 agreement that there was no applicable guideline ranges for the
9 charges in Counts 1 and 2. I believe that that's inconsistent
10 with the Probation officer's Pre-Plea PSI.

11 MR. STRATTON: That is inconsistent, I agree, Your
12 Honor. And if Your Honor desires, we are willing to strike
13 that language from the Plea Agreement. But the Government does
14 not intend to object -- although there are reasons why we don't
15 believe that that guideline range is applicable, we do not
16 intend to object because it has no effect on the ultimate
17 sentence and the recommendations of the parties.

18 THE COURT: And the ultimate sentence that the parties
19 are requesting is that the Court impose, as to Counts 1 and 2,
20 with the Government agreeing to dismiss Counts 3 through 15 --
21 that as to Counts 1 and 2 that the Court would sentence the
22 Defendant to the statutory maximum term of five years of
23 imprisonment as to Count 1, with the statutory maximum fine of
24 \$250,000 as to Count 1.

25 As to Count 2, with parties jointly agree that the

1 Court will sentence Defendant to the statutory maximum term of
2 10 years of imprisonment, along with the statutory maximum fine
3 of \$250,000.

4 The parties further agree that the terms of
5 imprisonment on Counts 1 and 2 shall run consecutively, with a
6 10-year term of imprisonment on Count 2 to be followed
7 consecutively by a five-year term of imprisonment on Count 1,
8 for a total of 15 years of imprisonment.

9 In addition, the parties jointly agree that the
10 Defendant will be placed on supervised release for a term of
11 three years and pay a total fine of \$500,000.

12 The United States and the Defendant agree this is a
13 substantively reasonable sentence, taking into account the
14 factors set forth in Title 18, United States Code, Section
15 3553, correct?

16 MR. STRATTON: That's correct, Your Honor.

17 THE COURT: If I may ask, Mr. Stratton, on behalf of
18 the Government, there are other provisions that are not
19 contained in the Plea Agreement. So let me first ask with
20 regard to the forfeiture count in the Indictment. Why is the
21 Government not seeking forfeiture?

22 MR. STRATTON: Your Honor, because there is no
23 forfeiture commiserate with the counts of conviction.

24 THE COURT: And you don't believe that the relevant
25 conduct, that would include the wire fraud, would be part of

1 any decision with regard to forfeiture?

2 MR. STRATTON: It would, Your Honor, admittedly. But
3 we have arranged to have the statutory maximum fine of
4 \$500,000, or \$250,000 as to each of Counts 1 and 2, to
5 represent a financial penalty for the Defendant.

6 THE COURT: Well, let me ask you about that financial
7 penalty. Because it does appear to the Court that in this case
8 Mr. Rocha was arrested on December 1st, 2023. The Government
9 filed its Indictment on December 5th, 2023. The Court notes in
10 the Pre-Plea PSI that, subsequent to that time, Mr. Rocha
11 transferred and, in fact, disposed of his assets by
12 quitclaiming three properties to his wife and quitclaiming one
13 property to his son. And in fact, the two bank accounts that
14 were in the name of Mr. Rocha and his wife have now been
15 transferred solely to his wife.

16 So for purposes of the payment of the fine, why is it
17 that the Government permitted -- after the Defendant was
18 arrested, and after the Indictment was filed, why did the
19 Government permit Mr. Rocha to dispose of his assets?

20 MR. STRATTON: Your Honor, there was conversations
21 with Defense counsel about these transactions. And it was
22 abundantly clear, and Defense counsel agreed -- and she can
23 speak more as to the nature of those transactions -- that those
24 transactions did not put those assets out of reach of the US
25 Government, should that time -- should that be necessary.

1 And so --

2 THE COURT: I don't know what that means,
3 Mr. Stratton. I'm looking on Page 30 of the Pre-Plea PSI, that
4 tells this Court that every significant asset, save a Voya
5 Financial retirement account in the amount of \$2,000, has been
6 transferred to Mr. Rocha's spouse and his son.

7 MR. STRATTON: Correct, Your Honor. And every one of
8 those transactions is done with the explicit understanding with
9 Defense counsel that those assets were available, if necessary,
10 to satisfy the Court's judgment.

11 THE COURT: Where would the Court find an ability to
12 pay with the transferring of all of those assets? You've asked
13 the Court to impose a \$500,000 fine. I'm looking directly at
14 numbers provided by the officer, following the interview of the
15 Defendant and a review of the Defendant's financial records,
16 and I see no ability to pay.

17 MR. STRATTON: It is my understanding -- and Defense
18 counsel can obviously speak more to this -- that the Defendant
19 does have the ability to pay the \$500,000 fine, Your Honor.

20 MS. ARANGO: Yes, Your Honor.

21 We will -- we totally understand that Mr. Rocha has
22 the ability to pay and that he will pay the \$500,000 fine. And
23 if that entails selling property, that will be sold to assure
24 that the fine will be paid. But the property was not taken out
25 of the ability of Mr. Rocha to pay a fine. So -- and this was

1 discussed with the Government, Mr. Rocha understands that, and
2 you can -- we can go through it during the course of the PSI or
3 this change of plea hearing.

4 But Mr. Rocha does have the ability and fully intends
5 on paying that fine, whichever way that can occur, and there's
6 not going to be any claim made that assets that are joint and
7 marital assets are not available to be used to pay the fine.

8 THE COURT: I have a hard time discerning the ability
9 to pay, when all of the assets have been transferred, from a
10 legal standpoint. I also have a concern as to why the
11 Government is not seeking forfeiture of additional assets that
12 were obtained solely as a result of working for the United
13 States Government, as an enemy of the United States Government.

14 MR. STRATTON: Your Honor, the Defendant intends to
15 plead guilty to Counts 1 and 2, which are the crimes that are
16 most commiserate with the Defendant's criminal conduct, that
17 is, acting as an agent of a foreign government. There is no
18 forfeiture provision for Title 18, United States Code, Section
19 951. And so we thought it appropriate that the Defendant,
20 being willing to plead to the most serious charges against him,
21 and take full responsibility for his acting as a Cuban agent,
22 that forfeiture does not apply to those statutes and it was an
23 appropriate resolution of this case.

24 THE COURT: Is it the Government's position that, in
25 each of the positions Mr. Rocha held within the United States

1 Government, particularly with the Department of State, that
2 monies received while he was working as an enemy of the United
3 States are not assets that are forfeitable?

4 MR. STRATTON: They are not forfeitable under the
5 statutes or the counts of conviction. Again, Count 2, the
6 substantive count, 18 USC 951, does not have a forfeiture
7 provision. And so those assets are not forfeitable under the
8 counts to which the Defendant intends to plead guilty.

9 THE COURT: And Count 1, Conspiracy to Act as an Agent
10 of a Foreign Government and to Defraud the United States?

11 MR. STRATTON: That's correct.

12 THE COURT: It's the Government's position that that
13 count, as well as Count 2, Acting as an Illegal Agent of a
14 Foreign Government, does not subject the Defendant to
15 forfeiture of assets?

16 MR. STRATTON: That's correct, Your Honor.

17 THE COURT: And the Government has specifically looked
18 at that issue?

19 MR. STRATTON: Yes, Your Honor.

20 THE COURT: Let's speak of restitution.

21 Mr. Stratton, I don't see that there has been any
22 claim for restitution. It appears, based on the Factual
23 Proffer that was submitted to the Court, that in this case
24 Mr. Rocha, specifically by way of his agreement of the facts in
25 this case that starting in or around 1973 the Defendant

1 secretly supported the Republic of Cuba. Has the Government
2 looked into whether restitution is payable to any victims?

3 MR. STRATTON: Your Honor, under the law, there's only
4 one victim in this case, and that is the United States
5 Government, and restitution is not applicable in this context.

6 THE COURT: Why is restitution not applicable, sir?

7 MR. STRATTON: For a number of reasons. But the
8 primary reason is, Your Honor, that the loss -- and it is a
9 tremendous loss to the US Government for the Defendant's
10 actions -- is, frankly, incalculable to what the Defendant did
11 and what restitution would be owed. And so there's no
12 individual victims that would seek restitution, again, because
13 the US Government is the only victim here.

14 THE COURT: And when you say the United States is the
15 only victim, Mr. Stratton, you've referred in the Factual
16 Proffer to an incident that began on November 15th, 2022 with
17 regards to an undercover employee who was, in fact, an FBI
18 agent. When was the United States first aware that Mr. Rocha
19 was an agent of Cuba?

20 MR. STRATTON: Your Honor, that is not public record.
21 And that is -- the extent that it's been disclosed is prior to
22 November of 2022. But Your Honor, that remains classified;
23 when the Government first became aware.

24 THE COURT: Is it classified as to how the United
25 States became aware?

1 MR. STRATTON: Absolutely.

2 THE COURT: If that's classified information, then how
3 is it that the Government can state confidently that the United
4 States is the only victim?

5 MR. STRATTON: They're the -- Your Honor, the United
6 States is the only victim under the law, because the law
7 requires that you identify a direct and proximate effect of the
8 Defendant's conduct. And in this case, there is no other
9 victims that can establish a direct and proximate effect of the
10 Defendant's criminal conduct.

11 Again, that's limited to as to the counts of
12 conviction. So the counts of conviction, Your Honor, is a
13 defendant's failure to register with the Attorney General or
14 the Secretary of State that he was, in fact, acting as an agent
15 of the Cuban Government. As to those counts, there are no
16 other victims other than the United States Government.

17 THE COURT: Count 1 is Conspiracy to Act as an Agent
18 of a Foreign Government and to Defraud the United States. The
19 acting as an agent -- and I'm looking specifically at the
20 Indictment that was filed for record -- Paragraph 10 states:
21 "From in or around July 1995 until in or around July 1997, as a
22 Department of State employee, Victor Manuel Rocha served as
23 deputy principal officer at the United States Interests Section
24 in Havana, Cuba. Discussing that assignment in a recorded
25 conversation, on November 16th, 2022, Rocha described the,"

1 quote, "'Moment that I lived through it. Because I was in
2 charge. It was the knockdown of the small planes. That was a
3 time of a lot of tension. That was the time of the Brothers to
4 the Rescue and other similar people who were pushing politics
5 towards unnecessary provocations,'" unquote.

6 And it's the Government's position that it's only the
7 United States that is a victim in this case?

8 MR. STRATTON: It is the Government's position that it
9 is the United States that is the only victim that can establish
10 a direct and proximate causal link between the Defendant's
11 conduct and the harm to a particular victim.

12 THE COURT: And what law would support the
13 Government's statement?

14 MR. STRATTON: Your Honor, the case -- the Eleventh
15 Circuit case In re Stewart. Citation is 552 F.3d 1285. That
16 is the Eleventh Circuit case that establishes how you determine
17 who is a victim under the Crime Victims' Rights Act. And that
18 specifically states: "To determine a crime" -- and this is a
19 quote: "We identify the behavior constituting a commission of
20 a federal offense." And then second: "We identify the direct
21 and proximate effects of that behavior on parties other than
22 the United States," and: "If the criminal behavior causes a
23 party direct and proximate harmful effects, the party is a
24 victim under the Crime Victims' Right Act."

25 So it is the Government's position today that there is

1 not an additional victim that can establish a direct and
2 proximate harmful effect of the Defendant's criminal conduct.
3 And the criminal conduct here is the failure to register with
4 the Attorney General --

5 THE COURT: It's not the failure to register, sir.
6 And that's where I believe that the Court disagrees with the
7 substantive charge that is the conspiracy count. It's not a
8 failure to register. That's not Count 1.

9 And that's where I'm not certain whether you are
10 correct with regard to your statement of the law that
11 conspiracy to act as an agent of a foreign government and to
12 defraud the United States does not encompass other individuals
13 other than the United States that are entitled to restitution.
14 And have you made that determination, sir?

15 MR. STRATTON: We have made that determination. And
16 again, it is because of the direct and proximate effects of the
17 criminal conduct.

18 THE COURT: And what is the import of Paragraph 10 to
19 Count 1, sir?

20 MR. STRATTON: You're referring to, Your Honor, just
21 to be sure, in the Indictment --

22 THE COURT: On Page 11.

23 MR. STRATTON: Page 11.

24 The import of that paragraph, Your Honor, is
25 additional evidence that the Defendant was acting as an agent

1 of a foreign government without notifying the Attorney General
2 or the Secretary of State. And in that recorded conversation,
3 he discusses the Brothers to the Rescue shoot down. It would
4 be our evidence at trial that the Defendant was the deputy
5 principal officer at the United States Interests Section in
6 Havana, Cuba from those time periods, which is July '95 until
7 July 1997. And his statements regarding the Brothers to the
8 Rescue shoot down is evidence that he was there as a deputy
9 principal officer, and the way he describes that is evidence
10 that he was acting as an agent of the Cuban Government.

11 THE COURT: And you have specifically looked at the
12 issue of restitution and have made a determination that the
13 only victim under the Mandatory Victims Restitution Act is the
14 United States?

15 MR. STRATTON: Yes, Your Honor.

16 And Your Honor, I understand the Court's concern. We
17 are not here to mitigate the effect of the Defendant's conduct
18 in acting as an agent of a hostile government regime and
19 reaching some of the highest levels of our government. We are
20 not here to negate that. But under the law and under the Crime
21 Victims' Right Act, the sole victim that can establish a direct
22 and proximate link is the United States Government.

23 THE COURT: Mr. Stratton, I'm reading from the case
24 that you cited to the Court, In re Stewart, where the court
25 stated that: "The Crime Victims' Restitution Act, however,

1 does not limit the class of crime victims to those whose
 2 identity constitutes an element of the offense or happen to be
 3 identified in the charging document. The statute, rather,
 4 instructs the district court to look at the offense itself only
 5 to determine the harmful effects the offense has on parties.
 6 Under the plain language of the statute, a party may qualify as
 7 a victim, even though it may not have been the target of the
 8 crime, as long as it suffers harm as a result of the crime's
 9 commission.

10 "Here, therefore, petitioners are not automatically
 11 disqualified as victims merely because they are not mentioned
 12 in the information. Because the criminal activity directly and
 13 proximately harmed petitioners, they are victims and enjoy the
 14 rights the Crime Victims' Restitution Act creates."

15 MR. STRATTON: That's correct, Your Honor.

16 The case and the portion that you are discussing was
 17 dealing with -- there was an argument made that they were not
 18 listed in the information or indictment, so petitioners were
 19 not somehow considered victims. And the court was very clear
 20 that you do not have to be listed or named in an indictment or
 21 information in order to qualify as a victim. It is an analysis
 22 about the direct and proximate harm --

23 THE COURT: That's correct. But the court directed
 24 the district court to recognize the petitioners as victims and
 25 afford them the rights of victims. And my question is why the

1 Plea Agreement does not include restitution to the extent that
2 the Government's information reveals that there are victims who
3 have been directly and proximately harmed as a result of the
4 Defendant's conduct.

5 MR. STRATTON: Your Honor, you're referring to
6 Paragraph 10, where it is the Defendant who is discussing a
7 significant international event. Because the Defendant was
8 discussing with an undercover that international event, that
9 does not lead to a direct and proximate harm that he was
10 responsible for it. In re Stewart instructs the Court to look
11 at, first, the offense conduct for the counts of conviction,
12 and that is the acting as an agent of a Cuban Government.

13 That itself does not thereafter establish that --
14 because he was discussing that international event with an
15 undercover, a proximate and causal link to any harm to a
16 particular victim. We would be dealing with a different
17 circumstance if there were discussions about particular
18 information that was passed or what the Defendant did
19 specifically in regards to that. But the quote that we're
20 referring to --

21 THE COURT: Well, the quote that we're referring to is
22 the quote that was contained in the Indictment. I've asked you
23 specifically as to the information the Government had, and when
24 it became first aware of Mr. Rocha's involvement, and you have
25 told me the information is classified.

1 To the extent that Mr. Rocha's activities, which the
2 parties agree, started in or around 1973, 51 years ago, it's
3 unknown at this time whether there are victims that have been
4 directly and proximately harmed by Mr. Rocha's actions.

5 MR. STRATTON: Correct, Your Honor.

6 THE COURT: So my question is why the Government has
7 not sought restitution. It may bear out that there are no
8 victims that qualify under the Mandatory Victims Restitution
9 Act. But for purposes of the full consequences of Mr. Rocha
10 admitting to the two counts that the Government has decided to
11 move forward on, I'm just questioning why that wasn't included.

12 In every case where the Mandatory Victims Restitution
13 Act applies, and the Court has the benefit of the Probation
14 officer advising the Court -- in this case, I don't have that,
15 because the parties have asked the Court to be bound by the
16 agreement. I'm merely asking why the Government is not seeking
17 restitution to the extent that it may apply.

18 MR. STRATTON: Your Honor, if there was information
19 that would establish a direct and proximate link, the United
20 States would be seeking information. But as Your -- seeking
21 restitution. But as Your Honor is well aware, it is Department
22 of Justice guidance that we charge the most serious, readily
23 provable offenses, and that is what we have done here.

24 We have, for example, not charged the Defendant with
25 the passage of classified information or the mishandling of

1 classified information. That is not the count of conviction,
2 and there is no information in the Government's possession that
3 establishes a victim outside of the United States Government.

4 THE COURT: Well, you certainly have charged Mr. Rocha
5 with providing information to Cuba's intelligence services,
6 have you not?

7 MR. STRATTON: We have not, Your Honor. We have
8 charged him with committing acts --

9 THE COURT: That's right. And those acts --

10 MR. STRATTON: -- at the direction and control of the
11 Cuban Government.

12 We have not charged him -- now, the Indictment, of
13 course, includes information about the Defendant's access to
14 classified information throughout his State Department career.
15 That is circumstantial evidence that would support the idea
16 that he was a valuable asset and target of the Cuban
17 Government. But that is not what he's charged with. He is not
18 charged with passing of classified information.

19 In order to violate Section 951, you have to do an act
20 at the direction and control of a foreign government. And
21 that's what he's charged with doing here. He was acting at the
22 direction and control of the Cuban Government, and that's what
23 he's ready to admit to.

24 THE COURT: Mr. Stratton, he's charged with
25 conspiracy. And I'm merely asking, sir, with regard to the

1 information that you are unwilling to disclose because it's
2 classified. Based on the Factual Proffer that the Court has
3 received, it's clear that that's what Mr. Rocha is being
4 charged with.

5 MR. STRATTON: He is being charged with conspiring,
6 that is, agreeing with others, to act at the direction and
7 control of the Cuban Government.

8 THE COURT: That's right.

9 MR. STRATTON: Correct.

10 THE COURT: Providing false and misleading information
11 to the United States Government to maintain a secret mission,
12 and meeting with Cuban intelligence operatives. His activities
13 and his deceit betrayed the oath of office and obstructed
14 lawful functions of United States Government. You're telling
15 this Court that the information that you revealed tells you
16 that Mr. Rocha provided no information to the Cuban Government?

17 MR. STRATTON: There is circumstantial evidence, which
18 is primarily contained in the undercover recordings that took
19 place between the Defendant and an FBI agent, that he had
20 access and he may have passed that information. But again, we
21 charge the most serious and readily provable offenses, and the
22 Defendant is pleading guilty to acting as an agent of a foreign
23 government, that is, taking directions and control from the
24 Cuban Government.

25 THE COURT: Your Factual Proffer states that

1 Mr. Rocha's activities began in 1973. The Pre-Plea PSI
2 reflects that Mr. Rocha became a naturalized citizen here in
3 the United States in 1978. Why is the United States not
4 seeking to denaturalize or strip Mr. Rocha of his privilege of
5 being a United States citizen?

6 MR. STRATTON: Your Honor, the denaturalization
7 statute has a statute of limitations of 10 years. So from 1978
8 until 1988 is when the statute of limitations ran.

9 THE COURT: Why is that not part of the Plea
10 Agreement, if it's relevant conduct?

11 MR. STRATTON: What specifically, Your Honor?

12 THE COURT: That Mr. Rocha will forego the privileges
13 of being a United States citizen, based on the fact that he has
14 betrayed the United States for 51 years.

15 MR. STRATTON: Your Honor, this Plea Agreement is the
16 subject of significant negotiations between the Government and
17 Defense counsel. It is the -- what we believe to be the right
18 resolution of this matter. It takes into account the
19 seriousness of the offense and the Defendant's history and
20 characteristics. The Defendant is set to be sentenced, if Your
21 Honor accepts the Plea Agreement, to 15 years, as a
22 seventy-three-and-a-half-year-old man.

23 In addition, the Defendant has agreed to continue
24 cooperating with the United States Government. That
25 cooperation is tremendously valuable to completely assess the

1 damage caused by the Defendant, and there are provisions in the
2 Plea Agreement that require him to continue to cooperate. And
3 should he not, there are significant consequences for that.

4 It also contains other provisions, including his
5 forfeiture of future pension benefits. It also prohibits the
6 Defendant from ever profiting from any publicity regarding his
7 criminal conduct. And so we believe this is the right result
8 for the Defendant's criminal conduct and for the benefit of the
9 US Government at large.

10 THE COURT: Why has the Government not considered as
11 part of the Plea Agreement stripping Mr. Rocha of his United
12 States citizenship?

13 MR. STRATTON: Your Honor, there's practical
14 considerations there. Fifteen years, for an individual who is
15 73-and-a-half years old is tantamount to a life sentence. And
16 it was incredibly valuable to have the Defendant not only plead
17 guilty and admit his criminal conduct, but to continue
18 cooperating with the United States.

19 And so after 15 years, should the Defendant live that
20 long, he will be 88 years old, and the value of stripping him
21 of his United States citizenship at that point upon release was
22 not a significant interest vis-a-vis the other concessions and
23 provisions of the Plea Agreement.

24 THE COURT: Can you point the Court to the other
25 concessions that you're referring to.

1 MR. STRATTON: Yes, Your Honor.

2 So on Page 2, Paragraph 4, the Defendant agrees to
3 forego and relinquish any and all payments and benefits due to
4 him from the United States by virtue of his past employment at
5 the State Department, including, but not limited to, any
6 income, annuity, pension payments, or retirement benefits.

7 He further agrees that the United States may take all
8 necessary steps to enforce this provision, and that he will not
9 seek to oppose or obstruct any of those efforts and waives all
10 challenges to them.

11 Paragraph 5: "The Defendant understands and
12 acknowledges his continuing legal obligation to refrain from
13 the unauthorized oral and written disclosure of information
14 belonging to the United States Government, or acquired by
15 virtue of his United States Government employment, or derived
16 from the activities which resulted in his arrest." It goes on
17 in Paragraph 5 to discuss the parameters of preventing him from
18 those disclosures.

19 Paragraph 6 states: Should the Defendant at any time
20 author, participate in the creation of any book, writing,
21 article, film, documentary, or other production, or otherwise
22 provide information for purposes of publication or
23 dissemination, he agrees to first submit in a timely fashion
24 such book to the Federal Bureau of Investigation and the
25 Department of State for prepublication review.

1 Then Paragraph 7, he assigns to the United States any
 2 profits which he may be entitled to receive in connection with
 3 any publication or dissemination relating to his person, to his
 4 work at the Department of State, or for any other US Government
 5 entity, related to his espionage or other activities, related
 6 to his acting as an agent of a foreign government, and to the
 7 facts and circumstances leading to his arrest and conviction,
 8 or acquired from the Department of State, FBI, or intelligence
 9 community files.

10 Paragraph 8 is an additional concession where he
 11 says -- the Defendant agrees to have no contact with any
 12 foreign government or agents thereof, except with the express
 13 permission of the FBI.

14 Paragraph 9 is the cooperation agreement, which Your
 15 Honor, does not have any express written benefit of potential
 16 cooperation contained in this Plea Agreement.

17 Then Paragraph 10, the Defendant is required to inform
 18 the Department of State or the FBI in a timely manner of any
 19 contacts he intends to have with any representative of the
 20 media.

21 Paragraph 12 contains three subparagraphs that, should
 22 the Defendant break any provision of this Plea Agreement, he
 23 will be subject to a number of consequences that I referenced
 24 earlier. The Defendant also agrees to forego any further
 25 discovery or disclosures of information, and he waives certain

1 rights, including he gives up his Fifth Amendment right against
2 self-incrimination.

3 Paragraph 14 contains an appeal waiver. The Defendant
4 is waiving his appellate rights in regards to the sentence this
5 Court may give him. He also waives rights to make any claim
6 that the statutes to which he is pleading guilty are
7 unconstitutional or that the admitted conduct does not fall
8 within the scope of the statutes of conviction. He
9 acknowledges he discussed the appellate waiver with his
10 attorney.

11 And that -- those are all unique, Your Honor,
12 concessions for a 951 -- 18 USC 951 Plea Agreement, that are
13 unique to this case and are not reflected in other 951
14 prosecutions throughout the country. They are important
15 concessions to the US Government and are valuable to the US
16 Government.

17 THE COURT: And on a procedural basis, with regard to
18 Paragraph 4, where the Defendant agrees to forego and
19 relinquish any and all payments and benefits due to him from
20 the United States by virtue of his past employment, how does
21 the Government seek to enforce that provision?

22 MR. STRATTON: Yes, Your Honor. Those payments, I
23 believe, have stopped already.

24 THE COURT: All right. And with regard to the use of
25 the wires and the payments that were received in Counts 3

1 through 7, has the Government received those payments, the
2 annuity payments?

3 MR. STRATTON: One second, Your Honor.

4 (Pause in proceedings.)

5 MR. STRATTON: Regarding the wire fraud payments and
6 those counts, Paragraph 4 references future benefits and
7 payments due to him. And so we intend to enforce that
8 immediately. The prior ones were not -- were paid and not
9 sought after by the US Government.

10 THE COURT: All right. And I know that when the
11 Probation officer completed the Pre-Plea PSI it did not include
12 any information with regard to the victim impact. Is it the
13 Probation officer's opinion that there is no victim impact in
14 this case?

15 PROBATION OFFICER: No, Your Honor. It was because
16 this was a pre-plea, and we normally don't -- because we didn't
17 ask for any victim information or there was no victim
18 information provided to us. So we didn't do an assessment.

19 THE COURT: But that assessment would be solely from
20 information provided by the Government?

21 PROBATION OFFICER: Yes, Your Honor.

22 THE COURT: All right. And Mr. Stratton, you're
23 advising the Court that you do not believe there are any
24 victims other than the United States, and you are foregoing
25 restitution as well as forfeiture; is that correct?

1 MR. STRATTON: That's correct, Your Honor.

2 THE COURT: All right. Contained within the Factual
3 Proffer -- it certainly includes much information, but what it
4 does not include is the substantive charges that the Government
5 would be able to prove at trial. It merely states: "Based on
6 the foregoing facts, which establish all the elements of the
7 charges to which the Defendant is pleading guilty, the
8 Government would prove the Defendant's guilt at trial."

9 I believe that it is required that the Government set
10 forth, and the Defendant acknowledge, that it is with regard to
11 Counts 1 and 2 of the Indictment.

12 MR. STRATTON: That's correct, Your Honor.

13 THE COURT: So if I can give this to the court
14 security officer, and if we can make that change.

15 (Pause in proceedings.)

16 MR. STRATTON: Your Honor, we included that language,
17 I think, in the last sentence, which it says: "Establish all
18 the elements of the charges to which the Defendant's pleading
19 guilty." But mindful of the Court's concern, what is the Court
20 suggesting, that we limit it to: "Which establishes all the
21 elements of charges one and two"?

22 THE COURT: Well, it's the Government's decision to
23 move forward solely on Counts 1 and 2.

24 MR. STRATTON: Correct.

25 THE COURT: So it's important for the Factual Proffer

1 to set forth the substantive charges to which the Defendant is
2 pleading guilty and the elements that the Government has
3 satisfied by virtue of the Factual Proffer, and that's absent
4 from that particular document.

5 (Pause in proceedings.)

6 MR. STRATTON: So Your Honor, what we're potentially
7 suggesting, that is, in Paragraph 1 of the Factual Proffer --

8 THE COURT: Either Paragraph 1 or at the end of
9 Factual Proffer that speaks of the Government being able to
10 prove the elements. It doesn't identify the substantive
11 counts.

12 MR. STRATTON: Okay. So if we added to Paragraph 1 --
13 it's says: "True and accurate and serve as a factual basis for
14 the Defendant to enter a plea of guilty to Counts 1 and 2, and
15 could have been proven beyond a reasonable doubt if this case
16 went to trial," does that satisfy the Court's concern?

17 THE COURT: Yes. Count 1 and 2 of the Indictment. It
18 just -- it makes no reference. And this Factual Proffer is
19 going to be recited to the Court as the basis for the
20 Defendant's plea of guilty before he actually pleads guilty and
21 the guilty pleas are accepted.

22 MR. STRATTON: So Your Honor, the change we're going
23 to suggest is that: "The factual basis for the Defendant to
24 enter a plea of guilty, as to Counts 1 and 2 of the
25 Indictment," and thereafter satisfy all of the elements of the

1 counts of conviction.

2 THE COURT: That's correct.

3 MR. STRATTON: Okay.

4 THE COURT: And I just want to emphasize once again,
5 since the statute certainly states that the parties may agree
6 with regards to restitution, that in this case, Mr. Stratton,
7 you have specifically looked at the information that you have
8 available, including the confidential information that is not
9 part of this record, and the United States has made a decision
10 that there are no victims that would be afforded restitution
11 under the Mandatory Victims Restitution Act; is that correct?

12 MR. STRATTON: That's correct, Your Honor.

13 THE COURT: And Ms. Arango, would that be an accurate
14 statement based on the discovery that you have received?

15 MS. ARANGO: Yes, Your Honor. That is an accurate
16 statement.

17 (Pause in proceedings.)

18 MR. STRATTON: Your Honor, would you like us to pass
19 up to the Court a different Page 1 for the Factual Proffer?

20 THE COURT: Just the completed document, once the
21 change is made and it's initialed by Mr. Rocha.

22 (Pause in proceedings.)

23 MR. STRATTON: Your Honor, we have -- and I'll read it
24 to the Court -- or actually, I'll ready it later. But we
25 have -- for the benefit of the record, the Defendant, Defense

1 counsel, and myself have initialed these changes on Page 1 of
2 the Factual Proffer.

3 THE COURT: All right, then.

4 (Pause in proceedings.)

5 THE COURT: Where's the rest of the document? I need
6 the rest of the document, please.

7 MR. STRATTON: I thought we provided the original
8 to -- oh. We were just going to change the first page. So do
9 you have the original?

10 THE COURT: I think I gave the court security officer
11 the entire document.

12 Yes. I need the wet signatures, please.

13 MR. STRATTON: Yes. I apologize. I didn't realize we
14 got the whole -- there you go.

15 (Pause in proceedings.)

16 THE COURT: All right. At this point in time, we will
17 proceed with Mr. Rocha being placed under oath, and the Court
18 will accept his pleas of guilty to Counts 1 and 2 pursuant to
19 this Plea Agreement.

20 MS. ARANGO: Your Honor, do you want us to go to the
21 podium or can he stay here?

22 THE COURT: He can remain at the podium.

23 MS. ARANGO: Okay.

24 THE COURT: Sir, if you'll stand, raise your right
25 hand to be placed under oath.

1 VICTOR MANUEL ROCHA, DEFENDANT, SWORN

2 COURTROOM DEPUTY: Thank you.

3 THE COURT: Mr. Rocha, do you understand that you are
4 now under oath, and if you do answer any of my questions
5 falsely your answers may later be used against you in a
6 prosecution for perjury for making a false statement?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: What is your full name, sir?

9 THE DEFENDANT: Victor Manuel Rocha.

10 THE COURT: How old are you?

11 THE DEFENDANT: Seventy-three and a half years old.

12 THE COURT: And how far did you go school?

13 THE DEFENDANT: Up to graduate school and a master's
14 degree.

15 THE COURT: Are you able to fully read and write in
16 English?

17 THE DEFENDANT: Absolutely.

18 THE COURT: Have you ever been diagnosed with or
19 treated for any type of mental illness?

20 THE DEFENDANT: Never.

21 THE COURT: Are you suffering from any type of medical
22 condition?

23 THE DEFENDANT: Other than the normal aging process,
24 nothing, ma'am.

25 THE COURT: Are you taking any medication?

1 THE DEFENDANT: Just thyroid and diabetes medication.
2 That's all.

3 THE COURT: So you're taking thyroid medication and
4 medication for your diabetes?

5 THE DEFENDANT: Just recently, a week ago.

6 THE COURT: Is the diabetic condition, or your thyroid
7 condition, having any effect on your ability to understand
8 what's taking place right now in the courtroom?

9 THE DEFENDANT: Not at all, Your Honor.

10 THE COURT: Is the medication that you're taking for
11 those conditions having any effect on your ability to
12 understand what's taking place in the courtroom?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Have the medical conditions or the
15 medication had any effect on your ability to consult with and
16 understand the advice given to you by your attorney,
17 Ms. Arango?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: Has it had any effect on your ability to
20 read and understand the documents that were placed before you
21 that you signed?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Right now, Mr. Rocha, are you under the
24 influence of any drugs of any kind or alcoholic beverages of
25 any kind?

1 THE DEFENDANT: I am not, Your Honor.

2 THE COURT: Have you received a copy of the charging
3 document, the Indictment?

4 THE DEFENDANT: Yes, I have, Your Honor.

5 THE COURT: Have you had a full opportunity to discuss
6 the charges and the case in general with your attorney,
7 Ms. Arango?

8 THE DEFENDANT: I have. I have, Your Honor.

9 THE COURT: And has Ms. Arango answered all of your
10 questions?

11 THE DEFENDANT: She certainly has, Your Honor.

12 THE COURT: Are you fully satisfied with the counsel,
13 the representation, and the advice given to you in this case by
14 your attorney, Jacqueline Arango?

15 THE DEFENDANT: Very satisfied, Your Honor.

16 THE COURT: The Court has before it a Plea Agreement.
17 This Plea Agreement consists of 14 pages. Did you read it
18 completely?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Did you understand every word?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Did Ms. Arango answer all of your
23 questions?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Does this 14-page Plea Agreement represent

1 in its entirety the agreement that you have with the United
2 States of America?

3 THE DEFENDANT: It certainly does, Your Honor.

4 THE COURT: What's interesting is the wet signatures
5 that I have -- the Plea Agreement goes from Page 8 to 14. Are
6 there pages that encompass 9 through 13?

7 MR. STRATTON: No, Your Honor.

8 THE COURT: Did you use the same --

9 MR. STRATTON: Yes. Yes. That's just a typo that I
10 was going to raise to the Court. It should say 9 --

11 THE COURT: All right. So in essence, this is a
12 nine-page Plea Agreement and the last page is misnumbered.

13 MR. STRATTON: Yeah. That's correct.

14 THE COURT: All right. So let me clarify, so that
15 it's clear.

16 Mr. Rocha, this Plea Agreement consists of nine pages.
17 The last page is Page 14, but we know that there's nine pages.
18 Is that the entire agreement that you have with the United
19 States of America?

20 THE DEFENDANT: It is, Your Honor.

21 THE COURT: Are there any other promises or
22 representations that the United States has made to you?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Has anyone forced you or threatened you to
25 enter into this Plea Agreement?

1 THE DEFENDANT: Not at all, Your Honor.

2 THE COURT: Has anyone made any promises or assurances
3 to you, other than what's set forth in the Plea Agreement, to
4 persuade to you enter into the Plea Agreement?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Pursuant to this Plea Agreement, you agree
7 to plead guilty to Counts 1 and 2 of the Indictment. Count 1
8 charges you with conspiring to commit an offense against the
9 United States, specifically a violation of Title 18, United
10 States Code, Section 951, and with conspiring to defraud the
11 United States, all in violation of Title 18, United States
12 Code, Section 371.

13 Count 2 charges you with acting as an agent of a
14 foreign government without notice, as required by law, in
15 violation of Title 18, United States Code, Section 951.

16 Is that your understanding, sir?

17 THE DEFENDANT: It is, Your Honor.

18 THE COURT: And you understand that by agreeing to
19 plead guilty to Counts 1 and 2 of the Indictment the Government
20 has agreed to move for dismissal of Counts 3 through 15 of the
21 Indictment?

22 THE DEFENDANT: I understand that, Your Honor.

23 THE COURT: Count 1 of the Indictment charges you with
24 conspiracy to act as an agent of a foreign government and to
25 defraud the United States. Have you fully ready and understood

1 Count 1 of the Indictment?

2 THE DEFENDANT: I have, Your Honor.

3 THE COURT: How do you plead to Count 1 of the
4 Indictment?

5 THE DEFENDANT: I plead guilty.

6 THE COURT: Has anyone forced you or threatened you to
7 enter your plea of guilty to this charge?

8 THE DEFENDANT: No one has.

9 THE COURT: Has anyone made any promises or assurances
10 to you, other than what's set forth in the Plea Agreement, to
11 persuade you to plead guilty?

12 THE DEFENDANT: No.

13 THE COURT: Are you pleading guilty because you have
14 committed the offense of conspiracy to act as an agent of a
15 foreign government and to defraud the United States, as set
16 forth in Count 1 of the Indictment?

17 THE DEFENDANT: I am, Your Honor.

18 THE COURT: Count 2 of the Indictment charges you with
19 acting as an illegal agent of a foreign government. Have you
20 fully ready and understood the allegations as to Count 2?

21 THE DEFENDANT: I have, Your Honor.

22 THE COURT: How do you plead to that charge, sir?

23 THE DEFENDANT: I plead guilty.

24 THE COURT: Has anyone forced you or threatened you to
25 enter your plea of guilty to this charge?

1 THE DEFENDANT: No one has, Your Honor.

2 THE COURT: Has anyone made any promises or assurances
3 to you, other than what's set forth in the Plea Agreement, to
4 persuade you to plead guilty?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Are you pleading guilty because you have
7 committed the offense of acting as an illegal agent of a
8 foreign government, as set forth in Count 2 of the Indictment?

9 THE DEFENDANT: I am, Your Honor.

10 THE COURT: Now, do you understand, sir, that by
11 entering your pleas of guilty to these charges, the Court will
12 impose the maximum penalty that can be imposed by law, that is,
13 as to Count 1, the Court will impose a statutory maximum term
14 of imprisonment of five years, followed by a term of supervised
15 release of three years?

16 THE DEFENDANT: I understand that.

17 THE COURT: Do you understand that, as to Count 2, the
18 Court will impose a statutory maximum term of imprisonment of
19 up to 10 years, followed by a term of supervised release of
20 three years?

21 THE DEFENDANT: I understand that, Your Honor.

22 THE COURT: And do you understand that, by law, the
23 sentences may run consecutively, for a maximum sentence of 15
24 years of imprisonment?

25 THE DEFENDANT: I understand that, Your Honor.

1 THE COURT: And pursuant to the Plea Agreement, the
2 Court will impose the maximum penalty that can be imposed by
3 law. Do you understand that?

4 THE DEFENDANT: I certainly do, Your Honor.

5 THE COURT: Do you understand that, in addition to the
6 term of imprisonment and supervised release, the Court will
7 impose a fine of \$250,000 as to each of Counts 1 and 2, for a
8 maximum total fine of \$500,000?

9 THE DEFENDANT: I understand that and commit to that.

10 THE COURT: And by committing to that, Mr. Rocha, you
11 have the ability to pay and you will pay that amount; is that
12 correct, sir?

13 THE DEFENDANT: It will be paid.

14 THE COURT: Do you understand that, in addition to
15 those penalties, a special assessment of \$100 will be imposed
16 upon you as to each of Counts 1 and 2, for a total of \$200, to
17 be paid at the time of sentencing?

18 THE DEFENDANT: I do.

19 THE COURT: Do you have any questions related to the
20 penalties to be imposed?

21 THE DEFENDANT: I do not, Your Honor.

22 THE COURT: Do you understand, sir, that the offenses
23 to which you are pleading guilty are each felony offenses, and
24 you will be adjudicated guilty of each offense, and those
25 adjudications will deprive you of valuable civil rights, such

1 as the right to vote, the right to hold public office, the
2 right to serve on a jury, and the right to possess any type of
3 firearm?

4 THE DEFENDANT: I understand all of that, Your Honor.

5 THE COURT: Have you and Ms. Arango discussed the
6 immigration consequences of your guilty plea?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And I understand by my questioning to
9 Mr. Stratton that you are a United States citizen and the
10 Government is not seeking any type of denaturalization. Is
11 that correct, Mr. Stratton?

12 MR. STRATTON: That is correct, Your Honor.

13 THE COURT: And the Government is not seeking in any
14 way to strip Mr. Rocha of his privileges afforded by United
15 States citizenship.

16 MR. STRATTON: That's correct, Your Honor.

17 THE COURT: Have you and Ms. Arango fully discussed
18 the advisory sentencing guidelines and how they might apply in
19 your case?

20 THE DEFENDANT: Yes. Yes, I have.

21 THE COURT: And you do understand that the advisory
22 guidelines do apply, and in this case the advisory guideline
23 range, as contained within the Pre-Plea Investigation Report,
24 is a total offense level of 31, with a criminal history
25 category of I, and an advisory guideline range of 108 to 135

1 months -- do you understand that -- plus a 60-month sentence as
2 to Count 2?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: Do you understand, sir, that in the
5 federal system parole has been abolished, and if you are
6 sentenced to prison you will not be released on parole?

7 THE DEFENDANT: I understand that, Your Honor.

8 THE COURT: By pleading guilty to these charges, you
9 are giving up rights that you do have, such as the right to
10 persist in pleas of not guilty and to a trial by jury. Do you
11 understand that, sir?

12 THE DEFENDANT: Absolutely, Your Honor.

13 THE COURT: At that trial, you would be presumed
14 innocent and the Government would have the sole burden of
15 proving all the elements of these offenses beyond and to the
16 exclusion of every reasonable doubt.

17 THE DEFENDANT: Yes.

18 THE COURT: You have the right to the assistance of
19 counsel, appointed for your defense at trial and every other
20 stage of the proceedings. You have the right to see and hear
21 all of the witnesses and have those witnesses cross-examined in
22 your behalf. And you have the right on your own part to
23 decline to testify, unless you voluntarily elected to do so.
24 And you have the right to use the subpoena power of this Court
25 to compel witnesses to come into court to testify. And at that

1 trial, Mr. Rocha, if you decided not to testify or not to call
2 any witnesses, those facts could not be used against you. Do
3 you understand, sir, that you do have those rights?

4 THE DEFENDANT: I certainly do, Your Honor.

5 THE COURT: And by pleading guilty to these charges,
6 you are waiving or giving up your right to a trial by jury, as
7 well as all of the rights that are associated with a trial. Do
8 you understand that, sir?

9 THE DEFENDANT: I fully understand that, Your Honor.

10 THE COURT: Do you have any questions related to the
11 rights that you're giving up?

12 THE DEFENDANT: I do not have any questions, Your
13 Honor.

14 THE COURT: Mr. Stratton, what are the elements with
15 regard to Counts 1 and 2, please?

16 MR. STRATTON: Your Honor, as to Count 1, the elements
17 are: One, two or more persons in some way agreed to try to
18 accomplish a shared and unlawful plan; two, the Defendant knew
19 the unlawful purpose of the plan and willfully joined in it;
20 three, during the conspiracy, one of the conspirators knowingly
21 engaged in at least one overt act, as described in the
22 Indictment; and four, the overt act was committed at or about
23 the time alleged and with the purpose of carrying out or
24 accomplishing some object of the conspiracy. That's as to the
25 first object. The second object contains those same four

1 elements. And in addition, the Defendant -- the conspiracy
2 must seek to interfere with one of the government's lawful
3 functions.

4 As to Count 2, the Government must prove: One, that
5 the Defendant acted; two, the action was taken at the direction
6 of or under the control of a foreign government; and three, the
7 Defendant failed to notify the Attorney General or the
8 Secretary of State before taking such action.

9 THE COURT: Thank you, Mr. Stratton.

10 Ms. Arango, is Mr. Stratton correct? Are those the
11 elements as to Counts 1 and 2?

12 MS. ARANGO: Yes, Your Honor.

13 THE COURT: And can you advise the Court what efforts
14 you've made to discuss the elements with Mr. Rocha, as well as
15 a review of the discovery and a discussion related to any
16 possible defenses.

17 MS. ARANGO: Yes, Your Honor.

18 First of all, with respect to review of discovery, we
19 reviewed all of the undercover recordings, travel records that
20 were provided, financial and bank records, internal personnel
21 and work-related files maintained by the Department of State
22 and National Security Council, Mr. Rocha's salary and annuity
23 documents, and the recorded interview of Mr. Rocha by the DOS
24 agents.

25 We thoroughly went over the Indictment, the Plea

1 Agreement, the Factual Proffer. I went through the elements of
2 the offense. I answered questions.

3 We have discussed every aspect of this case, all of
4 the elements of the offense on numerous occasions, Your Honor.
5 And Mr. Rocha is fully -- in my view, fully aware, and he's had
6 all of his questions answered, and he's fully understanding of
7 the offenses of which he is pleading guilty, and he's reviewed
8 the discovery that was provided that would have been used
9 against him at trial.

10 THE COURT: Mr. Rocha, is Ms. Arango accurate? Have
11 you had a full discussion relating to the elements of the
12 offense --

13 THE DEFENDANT: Absolutely.

14 THE COURT: -- a full review of the discovery, and a
15 full discussion related to any possible defenses?

16 THE DEFENDANT: I have, Your Honor.

17 THE COURT: And do you have any questions?

18 THE DEFENDANT: I do not have, Your Honor.

19 THE COURT: Mr. Stratton, I have been serving as a
20 trial judge for 30 years. And this Plea Agreement -- I
21 understand the distinction between the Judicial Branch and the
22 Executive Branch. I can't force the Government to proceed with
23 forfeiture. I can't force the Government to proceed with
24 disallowing Mr. Rocha to dispose of his assets. I can't force
25 the Government to proceed with denaturalization or stripping

1 this individual of his privileges of citizenship. But I don't
2 agree that the Government has done an extensive job with regard
3 to restitution.

4 For 53 years, this individual is going to admit by way
5 of this Factual Proffer that he worked for the enemy of this
6 government, and I do not subscribe to the fact that there are
7 no victims as a result of his conduct. I believe that it's
8 incumbent upon the Government -- I can't force you to provide
9 the information to the Court, but I can require that you look
10 at all of the information and brief the Court on the
11 application and the applicability of the Mandatory Victims
12 Restitution Act.

13 I am not agreeing to this Plea Agreement absent a
14 reservation of restitution because I just don't feel
15 comfortable. And I've looked at one case. I've looked at it
16 as you've provided the citation. And for 53 years, information
17 was provided and I don't know if there are victims. I don't.
18 And I don't know if you know, but I can't accept that until
19 there's a full briefing of the applicability and a full review
20 by the Court.

21 I recognize that the parties wanted to begin and end
22 today with a plea and end with a sentencing, but I can't accept
23 that. You keep referring to a lack of registration, and that's
24 not what this charge is, and that's not what the Government has
25 placed publicly in this Indictment. And to that extent, it

1 tells me that at least there's a requirement to look at the law
2 and investigate the facts.

3 So if the parties choose not to place within the Plea
4 Agreement a reservation of restitution, then I'm not going to
5 accept the Plea Agreement. Because I believe by law the Court
6 has a responsibility to determine whether there are victims,
7 and I can't accept that the victim is only the United States.

8 MR. STRATTON: Your Honor, we would ask for a minute
9 to speak with Defense counsel.

10 THE COURT: Certainly.

11 Why don't we take a five-minute recess.

12 COURT SECURITY OFFICER: All rise.

13 (Recess from 2:40 p.m. to 2:55 p.m.)

14 THE COURT: All right. Go ahead and have a seat.

15 I think we're waiting for the attorneys.

16 (Pause in proceedings.)

17 THE COURT: All right. Back on the record.

18 We were addressing the issue of restitution.

19 MR. STRATTON: Yes, Your Honor.

20 And the parties have had a chance to discuss. We
21 understand the Court's concern, but this case is not about
22 passing of classified information. It's about acting as an
23 agent. But that said, the parties have agreed to incorporate
24 language into the Plea Agreement. And I'll read that for the
25 Court and see if it satisfies the Court's concern.

1 The Plea Agreement will state: "The parties agree
2 that the Defendant remains liable for any restitution, if any,
3 that is due on his charges of conviction, specifically Counts 1
4 and 2 of the Indictment, pursuant to the Mandatory Victims
5 Restitution Act."

6 THE COURT: Is there a reason why we are limiting the
7 restitution to the offenses of conviction, as opposed to
8 relevant conduct? Is that not what the Government seeks in
9 every other case, is restitution based on relevant conduct?

10 MR. STRATTON: Yes, it does, Your Honor. In a typical
11 case, it does rely on relevant conduct, but it still has to
12 track back to the count of conviction. So that would
13 incorporate relevant conduct to the extent that there are any
14 victims under the Mandatory Victims Restitution Act.

15 We could potentially discuss, Your Honor, removing
16 the -- that language, but I'm not sure the parties would be in
17 agreement on that.

18 THE COURT: All right. And let me ask what the
19 statute of limitations is, as you've stated, on
20 denaturalization, Mr. Stratton.

21 MR. STRATTON: It's 10 years, Your Honor.

22 THE COURT: And where would the Court find that
23 authority?

24 MR. STRATTON: I will find it, Your Honor. Give me
25 one moment.

1 THE COURT: And let me find for you, as we took the
2 break, that civil denaturalization cases have no statute of
3 limitations and the Department of Justice has successfully
4 denaturalized numerous categories of individuals who have
5 illegally obtained citizenship, including terrorists and other
6 national security threats, or criminals, human rights
7 violators, sex offenders, and other fraudsters.

8 MR. STRATTON: That's correct for the civil
9 denaturalization, Your Honor. The criminal denaturalization
10 statute of limitation is 10 years. There is nothing
11 prohibiting the Department of Homeland Security for considering
12 administratively denaturalizing the Defendant through a civil
13 procedure.

14 THE COURT: I would be interested in seeing the
15 authority that would prevent the United States, as part of the
16 Plea Agreement, to include stripping Mr. Rocha of his United
17 States citizenship.

18 MR. STRATTON: I don't believe there's anything
19 prohibiting that from being part of the Plea Agreement.

20 THE COURT: Well, I thought you gave me the statute of
21 limitations as the reason why.

22 MR. STRATTON: No. No, Your Honor. That is part
23 of -- that could be part of the Plea Agreement. I referenced
24 the criminal statute of limitations for any potential charges
25 related to denaturalization.

1 THE COURT: Could you provide that provision, sir.

2 MR. STRATTON: What I was referring to -- and we will
3 find that for Your Honor. But what I was referring to was, at
4 that moment, the provisions of the Plea Agreement, which Your
5 Honor asked me to explain, that include concessions from the
6 Defendant that are unique to 951 cases, and that as a result of
7 plea negotiations between Defense counsel and the Government we
8 were able to obtain a Plea Agreement that is a just resolution
9 of this matter.

10 THE COURT: And if the Government had decided to
11 proceed with Counts 8 through 10, Making a False Statement in a
12 Passport Application, and Counts 11 through 14, Use of a
13 Passport Obtained by a False Statement, would the Government be
14 seeking to strip Mr. Rocha of his United States citizenship?

15 MR. STRATTON: No, Your Honor. Even if we proceeded
16 on the passport counts, we would not seek to denaturalize
17 criminally.

18 THE COURT: So you believe that the preclusion of
19 including that as part the Plea Agreement is based on the
20 statute of limitations as a bar?

21 MR. STRATTON: There's nothing prohibiting it from
22 being part of the Plea Agreement. We could make that a
23 provision as part of the Plea Agreement. What I am suggesting
24 is, charging him criminally -- that statute has a statute of
25 limitation of 10 years. That said, we did not include

1 denaturalization as part of the Plea Agreement as the product
2 of extensive negotiations between the Government and the
3 Defendant for a just resolution in this case, which includes a
4 statutory maximum sentence as to Counts 1 and 2, and also
5 includes -- which is vitally important to the Government -- the
6 Defendant's unequivocal cooperation going forward.

7 THE COURT: I understand that that is of value to the
8 Government, but you're asking the Court to be bound by a Plea
9 Agreement. And I can't force the Government to move forward on
10 Counts 3 through 15 that certainly carry with them additional
11 penalties, but I can bring to bear what the obvious collateral
12 consequences should be, and that is a reservation of the
13 restitution, to which you've now agreed, and the stripping of
14 the benefit of United States citizenship for one who clearly
15 obtained that privilege by fraud.

16 Mr. Rocha raised his hand and he pledged his
17 allegiance to the United States at that naturalization
18 ceremony, when, in fact, he was assisting a nation that is
19 hostile to ours, and for 51 years has betrayed the United
20 States. I'm merely asking why that has not been considered.

21 MR. STRATTON: Your Honor, I believe it was
22 considered, but it is nothing something that the parties agreed
23 to -- or believe is paramount, considering a 15-year sentence
24 for an individual who is 73-and-a-half years old, who may not,
25 you know, ever be released from --

1 THE COURT: Well -- if that is the basis, that this
2 individual who's 73 years old may never be released, then
3 what's the import of maintaining a citizenship that was
4 obtained by fraud?

5 MR. STRATTON: One moment, Your Honor.

6 (Pause in proceedings.)

7 MR. STRATTON: Your Honor, the Government has
8 considered a wide variety of provisions of this Plea Agreement,
9 and we have reached, as a product of those negotiations, the
10 Plea Agreement here, which is a vitally important and
11 significant punitive Plea Agreement that ensures that this
12 Defendant will serve a statutory maximum sentence and that he
13 provides other concessions that are important to the
14 Government, most primarily, his cooperation going forward. But
15 in addition, he will not benefit from any publicity and other
16 provisions which we've been over.

17 We, at this point, did not feel that it was necessary
18 to pursue or make as a requirement of the Defendant to fully
19 accept responsibility for his actions to mandate that he be
20 denaturalized or agree to denaturalization when he is released
21 in 15 years' time.

22 THE COURT: I'm merely asking why. Why was that not
23 important to the United States?

24 MR. STRATTON: For the reasons stated. What was more
25 important -- what is paramount in this case is that the

1 Defendant admits his criminal conduct, accepts responsibility
2 for that criminal conduct, and agrees to help the United States
3 going forward with a full, detailed damage assessment of the
4 harms the Defendant committed. That was what was paramount.

5 The denaturalization was not something that the
6 Government believed was necessary or of import to prohibit
7 those first two things from happening; the acknowledgement of
8 guilt and the cooperation going forward. It was not a sticking
9 point that the Government wished to require, given the
10 concessions that were already provided.

11 (Pause in proceedings.)

12 MR. STRATTON: Your Honor, if I could have a moment.

13 (Pause in proceedings.)

14 MR. STRATTON: Your Honor, the only thing I want to
15 add is that the civil division of the Department of Justice, in
16 rare cases -- but has done it before -- has pursued
17 denaturalization, understanding the totality of circumstances
18 to each particular case. We are not, as part of this Plea
19 Agreement, making any concessions or foregoing the civil
20 division from considering pursuing denaturalization, given the
21 facts and circumstances of this case. We are just not
22 mandating that the Defendant agree to denaturalization as part
23 of this plea.

24 THE COURT: I'm not saying that I am not accepting the
25 Plea Agreement. But I want to understand the Government's

1 claim with regard to the statute of limitations, and why, in a
2 case such as this, where initially, and time and time again, it
3 has been made apparent by way of the Defendant's admission in
4 his Factual Proffer that he improperly received citizenship
5 when he was not eligible, and he committed fraud to obtain the
6 citizenship, and thereupon renewed his passport based on those
7 fraudulent statements. And most critically, at the time that
8 he obtained his United States citizenship, he was already
9 involved, by way of his Factual Proffer, in defrauding the
10 United States and secretly supporting the Republic of Cuba.
11 And when he raised his hand, and pledged his allegiance to the
12 United States, and raised his hand and gave the Oath of
13 Renunciation, he lied.

14 And I'm not understanding -- if there was ever a case,
15 Mr. Stratton, for the Government to consider removing that
16 benefit, that privilege, that honor, of proclaiming oneself as
17 a United States citizen -- why this isn't that case.

18 MR. STRATTON: Your Honor, what I can say is it
19 absolutely was considered, and we are in absolute agreement
20 that, in 1978, when he pledged an oath to the United States,
21 that he lied. The criminal charges regarding to that
22 naturalization fraud would have expired 10 years later.

23 We considered as part of this Plea Agreement to have
24 the Defendant agree to denaturalization. That option is still
25 available for the Department of Justice's civil division to

1 consider and pursue. We are not foregoing that. Nothing in
2 this Plea Agreement prevents that.

3 So I can assure you that it was considered, but it was
4 not paramount -- it was not critical to what is a just
5 resolution in this matter that secures the Defendant's
6 admission of guilt and his cooperation going forward. If, for
7 example, we require that as part of the Plea Agreement, there
8 is a chance, and there is -- that we would be forced to our
9 burden, have significant litigation, proceed to a trial by
10 jury. And that was not imperative for us, for a guy who's
11 73-and-a-half years old, who's agreeing to a 15-year term of
12 imprisonment.

13 We considered it. It is not off the table, Your
14 Honor. Again, the civil division can consider pursuing that,
15 but we did not mandate that requirement here.

16 THE COURT: I'm not saying that I'm not going to
17 accept the Plea Agreement, but I believe the restitution
18 related to relevant conduct should be included specifically as
19 part of the Plea Agreement, and I also believe that the
20 Government should brief this Court on the application -- in
21 this criminal prosecution, as to the application of the statute
22 of limitations and whether it precludes the Government if the
23 Government chose to proceed with denaturalization, and a
24 statement that the Defendant of Justice -- if, in fact, the
25 Plea Agreement does not contain an express stripping of the

1 Defendant's United States citizenship, that the Department of
2 Justice can proceed with civil denaturalization.

3 So to that extent, what I will require is that the
4 parties brief the Court within one week's time of those two
5 issues. That is, the narrowing of the restitution or whether
6 the restitution should include all relevant conduct, and that
7 should be contained expressly within the Plea Agreement, and
8 either an agreement with regard to denaturalization or why the
9 Government believes that it is prevented by the statute of
10 limitations and whether the civil denaturalization provision
11 can be included within the Plea Agreement.

12 I believe that those are appropriate consequences of
13 the admitted conduct on the part of Mr. Rocha. So to that
14 extent, I will require that there be briefing on those issues,
15 unless there is an agreement, which would not require any
16 briefing, and we'll reset the continuation of the change of
17 plea and sentencing.

18 MR. STRATTON: Your Honor, can we have 15 minutes to
19 discuss -- I want to be -- make sure I understand. If there is
20 an agreement within the Plea Agreement as to the
21 denaturalization, that the Government does not forego pursuing
22 civil denaturalization, and we make that explicit as part of
23 the Plea Agreement, would that satisfy the Court's concern?

24 THE COURT: Well, you've told me what bars your
25 decision, first and foremost, was a representation that the

1 statute of limitation bars it. Now you've told the Court that
2 that was part of the negotiation, and in order to gain other
3 benefits from Mr. Rocha, you agreed not to pursue it. And --

4 MR. STRATTON: Your Honor --

5 THE COURT: -- you've also said three times that
6 Mr. Rocha is 73 years old. So I'm merely seeking to have some
7 law that would support the Government's view that in this type
8 of a case the statute of limitations would bar any effort.

9 And if, in fact, you are in agreement that civil
10 denaturalization cases have no statute of limitations, as the
11 Court has advised, then I think there should be a statement to
12 that effect to the extent that the Government believes that's
13 the appropriate course of action.

14 MR. STRATTON: Okay. And I just want to clarify.
15 Criminal denaturalization, the charging of someone with
16 naturalization fraud, has a 10-year statute of limitations.
17 The civil is an entirely different thing.

18 But if we could have a few minutes to discuss with
19 Defense counsel.

20 THE COURT: Certainly. And perhaps Mr. Shipley could
21 point me to the provision of the 10-year statute of
22 limitations.

23 MR. STRATTON: Understood, Your Honor.

24 Thank you.

25 THE COURT: All right. We'll take another recess.

1 COURT SECURITY OFFICER: All rise.

2 (Recess from 3:15 p.m. to 3:31 p.m.)

3 THE COURT: All right. Go ahead and have a seat.

4 We'll wait for the attorneys.

5 (Pause in proceedings.)

6 THE COURT: All right. Back on the record.

7 Mr. Stratton?

8 MR. STRATTON: Yes, Your Honor.

9 My colleague, Mr. Shipley, will -- as you requested,
10 address the statute of limitations issue. What I will say to
11 the Court is we do have an agreement as to some language to
12 incorporate into the Plea Agreement to address the
13 denaturalization issue. I will read that to the Court. And if
14 it's satisfactory, then we'll incorporate it into a new printed
15 document. We'll have it printed on the seventh floor, we'll
16 re-sign these documents, and we'll all be in agreement.

17 But that language is: "The parties agree that neither
18 this agreement, or any other applicable statute of limitations,
19 precludes the Government from initiating a civil
20 denaturalization proceeding and from relying on any admission
21 in this matter in such proceedings." So that's what we would
22 incorporate.

23 My colleague, Mr. Shipley, will address, as you
24 requested, the statute of limitations issues.

25 THE COURT: All right. Thank you.

1 MR. SHIPLEY: Good afternoon, Your Honor. Happy to be
2 volunteered for this task, just to kind of hopefully clean up
3 some of the concerns on this issue.

4 So criminal denaturalization, to be more precise about
5 it, is a proceeding to -- a criminal proceeding based on
6 obtaining naturalization by fraud. That is 18 USC 1425(a).
7 That is subject to a 10-year statute of limitations pursuant to
8 18 USC 3291. So I think when we're talking about criminal
9 denaturalization maybe we could be more precise. That is that
10 proceeding.

11 THE COURT: In which the charges would be part of the
12 Indictment.

13 MR. SHIPLEY: Correct.

14 And in this case, Your Honor -- and even then, my
15 understanding is -- I don't have experience in this, but we
16 were just talking among ourselves -- it's not necessarily
17 automatic that even after a conviction under that provision you
18 would lose citizenship.

19 The vehicle for citizenship to be stripped is a civil
20 proceeding. That is the norm. That is the customary approach.
21 As Your Honor correctly observed, there is no statute of
22 limitations on that provision. So that at least is the legal
23 background, and hopefully that addresses some of Your Honor's
24 concerns --

25 THE COURT: Yes. And I note here in the Southern

1 District the Department of Justice, through the US Attorney's
2 Office, has moved for -- successfully, for civil
3 denaturalization in the case of US v. Mondino, of an individual
4 in that case convicted of conspiring to defraud the US
5 Export-Import Bank. So in this case, certainly the Government,
6 if it chooses to, in its wisdom, could proceed forward.

7 MR. SHIPLEY: There is no statutory provision on that
8 course being followed, Your Honor.

9 THE COURT: In terms of any limitation.

10 MR. SHIPLEY: Yes.

11 Does that address Your Honor's concerns?

12 THE COURT: Thank you, Mr. Shipley.

13 MR. SHIPLEY: Thank you, Your Honor.

14 THE COURT: All right. Then are we going to print the
15 document and re-sign it, that would include the provision for
16 restitution as well as the civil denaturalization?

17 MR. STRATTON: We are, Your Honor. And we would ask
18 for 20 minutes, just to make sure -- printer issues and stuff
19 on the seventh floor. I understand it's a Friday afternoon --

20 THE COURT: It's not the Friday afternoon, sir. This
21 case deserves the time in court that is necessary.

22 MR. STRATTON: And we share that sentiment. So we
23 will -- I will inform your courtroom deputy as soon as the
24 documents are ready and signed, and we'll reconvene.

25 THE COURT: All right, then. We'll see you back here

1 in 20 minutes.

2 COURT SECURITY OFFICER: All rise.

3 (Recess from 3:35 p.m. to 4:01 p.m.)

4 THE COURT: All right. Go ahead and have a seat.

5 Welcome back.

6 All right. I have before me a Plea Agreement, signed
7 by the parties today, as well as a Factual Proffer signed
8 today. What has changed?

9 MR. STRATTON: Yes, Your Honor.

10 As to the Factual Proffer, it is the changes that we
11 previously initialed for the Court. But I'll just refer to
12 the -- it's the first sentence of the Factual Proffer, that
13 goes on to say: "Serve as a factual basis for the Defendant to
14 enter a plea of guilty," comma, "as to Counts 1 and 2 of the
15 Indictment, and could have been proven beyond a reasonable
16 doubt, satisfying any of the elements of the charges in these
17 counts if this case went to trial."

18 And then, as to the Plea Agreement, it's Paragraphs 18
19 and 19, on Page 8. The first one addressing Your Honor's
20 concerns about the Mandatory Victims Restitution Act, and the
21 second one regarding civil denaturalization proceedings. Other
22 than that, the agreements are the same as before.

23 THE COURT: All right.

24 Mr. Rocha, the Court, following you being placed under
25 oath, did ask you questions with regard to the Plea Agreement

1 and the Factual Proffer. Let me make sure, sir, that -- what
2 is before the Court is the Plea Agreement, signed by the
3 parties today, consisting of nine pages. Did you read this
4 Plea Agreement completely?

5 THE DEFENDANT: I did, Your Honor.

6 THE COURT: Did you understand every word?

7 THE DEFENDANT: I did, Your Honor.

8 THE COURT: And did Ms. Arango answer all of your
9 questions?

10 THE DEFENDANT: She did, Your Honor.

11 THE COURT: All right. And you've been present in the
12 courtroom. Does this Plea Agreement represent the entire
13 agreement that you have with the United States of America?

14 THE DEFENDANT: It is.

15 THE COURT: Are there any other promises or
16 representations that have been made?

17 THE DEFENDANT: None other.

18 THE COURT: And has anyone forced you or threatened
19 you to enter this Plea Agreement?

20 THE DEFENDANT: No one has, Your Honor.

21 THE COURT: The Court has asked you, with regard to
22 Counts 1 and 2, whether you fully understood those counts, and,
23 in fact, did you understand the counts?

24 THE DEFENDANT: I did, and I do.

25 THE COURT: All right. And you pled guilty to those

1 counts.

2 THE DEFENDANT: I pled guilty. Yes, ma'am.

3 THE COURT: Has anyone forced you or threatened you to
4 you enter your pleas of guilty?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Has anyone made any promises or assurances
7 to you, other than what's contained within the Plea Agreement?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: The Court has advised you of the maximum
10 penalty that can be imposed by law. As you know, the Plea
11 Agreement now contains a provision with regard to restitution,
12 Paragraph 18, and the ability of the Government to initiate
13 civil denaturalization proceedings. Do you understand those
14 provisions?

15 THE DEFENDANT: I do, Your Honor.

16 THE COURT: All right. And you still wish to enter
17 your plea of guilty?

18 THE DEFENDANT: I do, Your Honor.

19 THE COURT: The Court has advised you of the rights
20 that you're giving up. Let me make sure, sir -- with regard to
21 your constitutional rights, let me make sure that you
22 understand those rights.

23 You understand that you have a right to a trial by
24 jury, where the Government would have the sole burden of
25 proving all the elements of these offenses beyond and to the

1 exclusion of every reasonable doubt.

2 THE DEFENDANT: I do.

3 THE COURT: You have the right to the assistance of
4 counsel, appointed for your defense. You have the right to
5 confront and cross-examine the Government's witnesses. And you
6 have the right to use the subpoena power of this Court to
7 compel witnesses to come into court to testify on your behalf.
8 And at that trial, if you decided not to testify or not to call
9 any witnesses, those facts could not be used against you. Do
10 you understand that you do have those rights?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: And do you understand, that by entering
13 your pleas of guilty to these charges, you are giving up your
14 right to a trial by jury and all of the rights that are
15 associated with a trial?

16 THE DEFENDANT: I understand, Your Honor.

17 THE COURT: Mr. Rocha, contained within your Plea
18 Agreement is the waiver of your right to appeal, and I want to
19 make sure that you understand this right that you're giving up,
20 specifically on Page 7, Paragraph 14.

21 Do you understand, Mr. Rocha, that, by law, you have
22 the right to appeal the sentence imposed in this case?

23 THE DEFENDANT: I understand that.

24 THE COURT: However, in exchange for the undertakings
25 made by the Office of the United States Attorney's Office, you

1 are agreeing to waive or give up your rights conferred by law
2 to appeal any sentence imposed. That includes any restitution
3 order, or to appeal the manner in which the sentence was
4 imposed, unless the sentence exceeds the maximum permitted by
5 statute. Do you understand that, sir?

6 THE DEFENDANT: I do, Your Honor.

7 THE COURT: Do you understand that nothing affects the
8 Government's right or its duty to appeal, but if the Government
9 does choose to appeal, you would be released from the waiver of
10 your appellate rights? Do you understand that, sir?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: Have you fully discussed the waiver of
13 your right to appeal with your attorney, Ms. Arango?

14 THE DEFENDANT: I certainly have.

15 THE COURT: And has she answered all of your
16 questions?

17 THE DEFENDANT: She has, Your Honor.

18 THE COURT: Has anyone forced you or threatened you to
19 you waive or give up your right to appeal?

20 THE DEFENDANT: No one has, Your Honor.

21 THE COURT: Has anyone made any promises or assurances
22 to you, other than what's set forth in the Plea Agreement, to
23 persuade you to give up your right to appeal?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: The Court finds that Mr. Rocha's waiver of

1 his right to appeal was knowingly, voluntarily, and
2 intelligently made.

3 Mr. Rocha, I have advised you of the rights you're
4 giving up by entering your pleas of guilty as to Counts 1 and
5 2. Do you have any questions, sir?

6 THE DEFENDANT: I do not, Your Honor.

7 THE COURT: Mr. Stratton has already set forth the
8 elements with regard to Counts 1 and 2. And Ms. Arango, has
9 Mr. Stratton accurately set forth those elements?

10 MS. ARANGO: He has, Your Honor.

11 THE COURT: And have you fully reviewed and discussed
12 with Mr. Rocha the elements of each of the offenses, as well as
13 the discovery and a review of any possible defenses or motions
14 to be filed?

15 MS. ARANGO: I have, Your Honor.

16 THE COURT: Mr. Rocha, is Ms. Arango accurate? Have
17 you had a full discussion relating to the elements of the
18 offenses as to Counts 1 and 2, a full review of the discovery,
19 and a full discussion related to any possible defenses or
20 motions to be filed?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And do you have any questions, sir?

23 THE DEFENDANT: I do not have any questions, Your
24 Honor.

25 THE COURT: Mr. Stratton, I would ask the Government

1 to set forth the facts that would support Mr. Rocha's pleas of
2 guilty as to Counts 1 and 2.

3 MR. STRATTON: Your Honor, can I come to the lecturn?

4 THE COURT: Certainly.

5 MR. STRATTON: The United States of America and Victor
6 Manuel Rocha, the Defendant, personally and through his
7 attorney, agree that the following statements are true and
8 accurate and serve as a factual basis for the Defendant to
9 enter a plea of guilty as to Courts 1 and 2 of the Indictment,
10 and could have been proven beyond a reasonable doubt,
11 satisfying any elements of the charges in these counts if the
12 case went to trial.

13 Starting in or around 1973, the Defendant secretly
14 supported the Republic of Cuba and its clandestine
15 intelligence-gathering mission against the United States by
16 serving as a covert agent of Cuba's intelligence services,
17 including the Directorate of Intelligence, also known as the
18 General Directorate of Intelligence, collectively the DGI. The
19 DGI is charged with gathering worldwide intelligence
20 information of interest to Cuba and its allies.

21 To further that role, the Defendant obtained and
22 maintained employment in the United States Government in
23 positions that provided him: One, access to non-public
24 information, including classified information; and two, the
25 ability to affect the United States' foreign policy. After his

1 employment ended, the Defendant held other positions and
 2 engaged in other acts intended to support Cuba's intelligence
 3 services. To do so, the Defendant always kept his status as a
 4 Cuban agent secret to protect himself and others, and to allow
 5 himself the opportunity to engage in additional clandestine
 6 activity. For example, the Defendant, one, provided false and
 7 misleading information to the United States Government to
 8 maintain his secret mission; and two, met with Cuban
 9 intelligence operatives. The Defendant's activities and his
 10 deceit betrayed his oath of office and obstructed the lawful
 11 functions of the United States Government.

12 At no time did the Defendant provide notification to
 13 the United States Attorney General or the Secretary of State,
 14 as required by law, that he was, in fact, acting as an agent of
 15 a foreign government, specifically the Republic of Cuba.

16 From November 1981 until August 2022, the Defendant
 17 was employed by the United States Department of State, a
 18 department of the United States Government that manages the
 19 United States' relationships with foreign governments and
 20 implements US foreign policy. Throughout the Defendant's
 21 employment with the Department of State, the Defendant was
 22 employed in positions that gave him access to non-public
 23 information, including sensitive and classified information.

24 Specifically, the Defendant held the following
 25 Department of State positions:

1 A: From in or around November 1981 until in or around
2 December 1982, the Defendant served as an international
3 relations officer at the Department of State.

4 From in or December 1982 until in or around
5 January 1985, the Defendant served as a political officer at
6 the United States Embassy in Santo Domingo, Dominican Republic.

7 From in or around February 1987 until in or around
8 February 1989, the Defendant served as a political military
9 affairs officer at United States Embassy in Tegucigalpa,
10 Honduras.

11 From in or around February 1989 until in or around
12 November 1991, the Defendant served as the First Secretary at
13 the United States Embassy in Mexico City, Mexico.

14 From or around November 1991 until in or around
15 July 1994, the Defendant served as the Deputy Chief of Mission
16 at the United States Embassy in Santo Domingo, Dominican
17 Republic.

18 From in around July 1994 until July 1995, the
19 Defendant served as the Director of Interamerican Affairs on
20 the United States National Security Council, with special
21 responsibility for, among other things, Cuba.

22 From in or around July 1995 until in or around
23 July 1997, Defendant served as a deputy principal officer at
24 the United States Interests Section in Havana, Cuba.

25 From in or around July 1997 until in or around

1 November 1999, the Defendant served as the Deputy Chief of
2 Mission at the United States Embassy in Buenos Aires,
3 Argentina.

4 From in or around July 2000 until in or around August
5 2002, the Defendant served as Ambassador to Bolivia at the
6 United States Embassy in La Paz, Bolivia.

7 Throughout the Defendant's Department of State
8 employment, the Defendant had unique access to non-public
9 United States Government information, and made efforts to gain
10 access to such information. Specifically, the Defendant
11 repeatedly was required, in questionnaires, security briefings,
12 interviews, and other settings to affirm that he understood and
13 would adhere to laws and regulations restricting the use and
14 sharing of non-public government information, including
15 classified information, which was subject to greater
16 restrictions as detailed below:

17 A, on November 25th, 1981, the Defendant signed a
18 Security Agreement in which he acknowledged he could not
19 publish or reveal to any person, either during or after his
20 State Department employment, any classified or administratively
21 controlled information, or any other information transmitted to
22 him in confidence in the course of his official duties.

23 And B, on January 12th, 1989, the Defendant signed a
24 Classified Information Non-Disclosure Agreement, in which he
25 acknowledged that unauthorized disclosure of non-public

1 government information could cause irreparable injury to the
2 United States or could be used to advantage a foreign nation.

3 Throughout the Defendant's State Department career,
4 the Defendant also was required to affirm his loyalties to the
5 United States and confirm he did not conduct any covert
6 activity on behalf of any foreign nation. The Defendant
7 repeatedly answered those questions falsely, as detailed below:

8 On May 1st, 1981, the Defendant completed a Form
9 SF-86, Security Investigation Data for Sensitive Position, and
10 submitted it to the Department of State, in which the Defendant
11 falsely responded "no," to the questions: "Are you now or have
12 you ever been an agent or representative of or otherwise
13 employed by or acted for a foreign principal, either personally
14 or through association with the firm"; and two: "Are you now
15 or have you ever been a member of any foreign or domestic
16 organization, association, movement, group, or combination of
17 persons which is totalitarian, fascist, communist, or
18 subversive?"

19 On September 22nd, 1991, the Defendant falsely stated
20 in an SF-86 Questionnaire for National Security Positions that
21 he did not ever -- that he had not ever been employed by or
22 acted as a consultant for a foreign government, firm, or
23 agency.

24 On May 8th, 1994, during an FBI background
25 investigation interview conducted at the United States Embassy

1 in Santo Domingo, Dominican Republic, regarding the Defendant's
2 appointment to the United States National Security Council, the
3 Defendant falsely stated, among other things, that he did not
4 know of any situation, past or present, which could have a
5 bearing on his suitability for employment with the United
6 States Government; that there was nothing in his personal life
7 that may negatively affect his appointment to the National
8 Safety Council, or that could be used against him; and that he
9 had no foreign contact with Cuban nationals.

10 On August 25th, 1999, in an SF-86 Questionnaire for
11 National Security Positions, the Defendant falsely answered
12 "no" to the following questions, among others:

13 A, "Are you now or have you ever been employed by or
14 acted as a consultant for a foreign government firm or agency";
15 B, "Have you ever had any contact with a foreign government,
16 its establishments, embassies, or consulates, or its
17 representatives, whether inside or outside the US, other than
18 on official US Government business"; C, "Is there anything in
19 your personal life that could be used by someone to coerce or
20 blackmail you"; and D, "Is there anything in your life that
21 could cause embarrassment to you or to the President if
22 publicly known?"

23 On November 15th, 2022, while in Miami, the Defendant
24 responded to a WhatsApp message from an individual purporting
25 to be a covert DGI representative, but who was, in fact, an FBI

1 undercover employee. The message read: "Good afternoon,
2 Ambassador. My name is Miguel, and I have a message for you
3 from your friends in Havana. It is in regards to a sensitive
4 matter. Are you available for a telephone call?"

5 The Defendant replied: "I don't understand, but you
6 can call me."

7 Later that day, the Defendant participated in a
8 recorded phone call with the UC, in which the UC informed the
9 Defendant his name was Miguel and that he was representing
10 "your friends in Havana." The undercover further informed the
11 Defendant that he was, quote: "Ordered to make contact with
12 you to give you a message. I know that you have been a great
13 friend of ours since your time in Chile," end quote.

14 Independent evidence, to include travel records,
15 confirmed that the Defendant lived in Chile in or around 1973,
16 which is when the Defendant agreed to become an agent of the
17 Republic of Cuba.

18 The undercover then explained: "We have little" --
19 quote: "We have little problems in the island and in our
20 embassy in Santo Domingo as well. But don't worry. I'm here
21 to resolve the situation. But these are very delicate issues
22 and it would be best to talk about it in person."

23 The Defendant agreed to meet the undercover in person
24 the following day in front of a church on 6th Street in the
25 Brickell neighborhood of Miami, at 10 a.m.

1 On November 16th, 2022, as directed, the Defendant met
2 the undercover in front of the First Miami Presbyterian Church
3 at approximately 10 a.m. The meeting was audio and video
4 recorded, as were the Defendant's two subsequent meetings with
5 the undercover.

6 While traveling to the meet location, the Defendant
7 engaged in a surveillance detection route, SDR, consistent with
8 prior training the Defendant received from the DGI. The
9 purpose of an SDR is to determine whether the individual is
10 being followed or observed on the way to a covert meeting.
11 Specifically, the Defendant took an indirect, longer circuitous
12 route to the church, rather than going there in a direct
13 manner. In addition, among other things, the Defendant stopped
14 during the route at a location for several minutes, so that he
15 could observe the meeting place from a safe distance. Indeed,
16 he later told the undercover that, quote: They are not going
17 to see me when I come out over here. That is what I did today,
18 because I did a whole route. It's what I've always been told
19 to do," end quote.

20 At the start of his meeting with the undercover, the
21 Defendant guided the undercover to a food court at their
22 location with, quote: "Low-level employees, who didn't want to
23 spend too much money. So there's no possibility for anyone to
24 see me," end quote. The Defendant referred to this as a,
25 quote: "Measure out of precaution, because I have always

1 received such training to know that you must be on alert to
2 provocations."

3 When the undercover told the Defendant that he was a,
4 quote: "Covert representative here in Miami, whose mission was
5 to contact you, introduce myself as your new contact, and
6 establish a new communication plan," the Defendant answered:
7 "Yes," and proceeded to engage in a lengthy conversation with
8 the undercover, during which the Defendant repeatedly described
9 and celebrated his activity as a Cuban agent.

10 During this meeting, the Defendant told the
11 undercover, quote: "I want you to tell my compañeros that I
12 appreciate and I am very thankful for this alert." The
13 Defendant further explained that during his last contact with
14 the DGI, quote: "I was able to travel to the capital. And
15 while there, I had a long meeting in Havana."

16 The Defendant added, regarding the undercover's
17 explicit reference to Havana during their initial
18 conversations, quote: "We have another name. We never utilize
19 'Havana.' I tend to say: 'The island.' I never use C or H.
20 That was the only thing that -- I thought: If someone has
21 betrayed and told the enemy's counterintelligence, why are they
22 utilizing Havana? But Miguel is what I remembered, because I
23 don't write anything down. I try to memorize things for
24 security reasons."

25 The Defendant said, quote: "Since the Direccion asked

1 me to lead a normal life, I have created the legend of a
2 right-wing person." The Defendant's use of a legend, which is
3 a clandestine agent's artificial background or feature of his
4 biography used to maintain his covert status, was at the
5 direction of the Republic of Cuba.

6 The Defendant said this meeting was, quote: "My first
7 contact since my last trip to Havana," which the Defendant
8 stated was in 2016 or 2017, when he traveled to Havana via
9 Panama: "And from Panama I went to" -- this is a quote: "I
10 went to -- I mean, I entered as -- as a Dominican," referring
11 to his use of a Dominican Republic passport, instead of his
12 American passport. Independent travel records confirmed that
13 in January 2017 the Defendant traveled to Cuba exactly as he
14 described to the undercover.

15 Specifically, on January 2nd, 2017, using a United
16 States passport, the Defendant flew from Miami International
17 Airport in Miami, Florida to Santo Domingo, Dominican Republic.
18 On January 3rd, 2017, using his Dominican Republic passport,
19 instead of his United States passport, the Defendant flew from
20 Santo Domingo to Panama City, Panama, and then from Panama City
21 to Havana, Cuba. On January 7th, 2017, using his Dominican
22 passport, the Defendant flew back from Havana to Panama City
23 and then to Santo Domingo. The Defendant subsequently flew
24 back to Miami on January 8th, 2017, using his United States
25 passport.

1 The Defendant further explained that, quote: "I
2 always told myself the only thing that can put everything we
3 have done in danger is someone's betrayal, someone who may have
4 met me, someone who may have known something at some point,"
5 end quote.

6 The Defendant assured the undercover that, quote: "My
7 number one concern, my number one priority, was the -- any
8 action on the part of Washington that would -- would endanger
9 the life of -- of the leadership or the revolution itself," end
10 quote.

11 The Defendant asked the undercover to, quote: "Send
12 my warmest regards to the Direccion," end quote. And after the
13 undercover promised to do so, the Defendant said the following:

14 Defendant: "It was decades. It was decades. I mean,
15 decades that were deep."

16 The undercover asks: "How many years?"

17 The Defendant says: "Almost 40."

18 The undercover says: "Wow."

19 The Defendant replies: "Uh, a lot of danger. Uh,
20 they must have told you something because you mentioned Chile.
21 That inspired trust in me. And at the same time, I thought, if
22 there's a traitor, and they know that I was in Chile -- I have
23 to tell you something."

24 The undercover says: "Tell me."

25 The Defendant states: "Uh, it gives me a lot of pride

1 and satisfaction to see that -- that people like Miguel, who
2 are -- who are much younger, but --"

3 The undercover interrupts and says: "Thank you."

4 The Defendant says: "-- who are there --"

5 The undercover says: "Thank you."

6 The Defendant says: "-- doing -- this is not easy."

7 The undercover states: "No. No. It is not easy.
8 No. It is a struggle."

9 The Defendant says: "It is not easy."

10 The undercover says: "But we are fighting."

11 The Defendant says: "This is not easy. Huh-huh."

12 The undercover responds: "Thank you for your
13 friendship and help for so many years. Right? Thank you very
14 much."

15 The Defendant says: "Of course. No problem. This is
16 a huge sacrifice. Huge, with a lot of tension that you have to
17 manage internally with self-discipline, all the time. When you
18 have the conviction, you have the self-discipline," end quote.

19 The Defendant agreed to meet the undercover again on
20 February 10th, 2023, with February 17th, 2023 as a back-up
21 date. The Defendant also proposed a back-up location if the
22 pair could not meet in Miami. The Defendant described a
23 specific location in Santo Domingo, Dominican Republic, where,
24 quote: "Low-income people go to the food court," unquote, so
25 the Defendant would not be identified.

1 On February 17th, 2023, the back-up date agreed upon
2 at the first meeting, the Defendant met the undercover as
3 planned at the Brickell outdoor foot court where they had met
4 previously.

5 When traveling to the meeting, the Defendant again
6 used a surveillance detection route or countersurveillance
7 technique similar to those for the first meeting and consistent
8 with the Defendant's training by the DGI. Additionally, upon
9 meeting the undercover, he utilized a Colombian Pesos bill as a
10 parole and complimented the undercover on his cover story for
11 their meeting. The Defendant told the undercover, regarding
12 this meeting location, quote: "I have my bank here. So it's
13 my legend for being here."

14 The Defendant assured the undercover: "But of
15 course," when told the DGI wanted to confirm, quote: "That you
16 continue to be a compañero of ours."

17 The Defendant said, regarding how he obtained his
18 State Department employment, quote: "I went little by little.
19 It was a very meticulous process, very disciplined, but very
20 disciplined. I knew exactly how to do it, and obviously the
21 Direccion accompanied me. They knew that I knew how to do it.
22 It's a long process, and it wasn't easy."

23 When asked by the undercover, quote: "If there was an
24 opportunity where we can work together again," the Defendant
25 replied, quote: "No. No. You guys don't even have to propose

1 that. If I had access to something that was worthwhile, I
2 would propose it," pointing to himself. "Uh, and the access.
3 It's having access to information that's important," end quote.

4 During their meeting, the Defendant celebrated his
5 activities on behalf of the DGI and against the United States'
6 interests and explained why and how he continued to preserve
7 the secrecy of those activities, stating, among other things,
8 one, quote: "For me, what has been done has strengthened the
9 revolution. It has strengthened it immensely. We can't put --
10 put that in danger. I'm very zealous in regards to what we
11 have done, and with what I have to protect, and with what we
12 have done," end quote; number two, quote: "I have to protect
13 what we did, because -- what we did, because what we did is the
14 cement that has strengthened the last 40 years. I mean, that
15 cement is concrete. It's not -- it's concrete, you know?";
16 number three, quote: "I wouldn't put what we have done in
17 danger because they would react strongly against the
18 revolution, strongly, because of the fact that through my
19 participation we did what we did"; number four, quote: "They
20 underestimated what we could do to them. We did more than they
21 thought," end quote; and number five, quote: "The Direccion
22 knows" what the Defendant did.

23 During this meeting, the Defendant further said, as
24 confirmed in the screenshots from close-captioned video of the
25 meeting: "What we have done, it's enormous, more than a grand

1 slam," end quote. During their meeting, the Defendant also
2 lamented, quote: "The blows that the enemy," meaning the
3 United States, "has dealt to the current revolution," end
4 quote.

5 The Defendant agreed to meet the undercover a third
6 time, and made arrangements for that meeting, including a
7 back-up plan, reassuring the undercover that, quote: "You can
8 ask the Direccion. I was always there," end quote.

9 On June 23, 2023, the Defendant met the undercover in
10 person at the outdoor food court where they had met the
11 previous two times. When traveling to the meeting, the
12 Defendant again used an SDR, or surveillance detection route,
13 consistent with the training the Defendant had received from
14 the DGI.

15 During their meeting, when told by the undercover
16 that, quote: "The Direccion wants to ensure that you are still
17 a compañero of ours. Are you still with us," end quote. The
18 Defendant responded later, quote: "I am angry. I am pissed
19 off because of the question that was asked. It's that --
20 that -- it's like questioning my manhood. It's like you want
21 me to drop them and show you if I still have testicles," end
22 quote.

23 Later, when told that: "With" -- quote -- "the help
24 you have given us for so long, you must have a great pair of
25 balls not to be worried," end quote, the Defendant replied,

1 quote: "I have them. I have them," end quote.

2 The Defendant promised the undercover that, if there
3 were an investigation he knew, quote: "How to handle it,"
4 quote, and assured the undercover, quote: "I know how to
5 defend myself. I have the intelligence and I have the
6 knowledge. I mean, in the course of my duties, how many times
7 did I meet with them to answer questions? I know how it works,
8 the system," end quote.

9 The Defendant stated to the undercover that, quote:
10 "I never -- never have, in 40 years, put a compa^onero in danger
11 or others. Never. And there are certain rules from this type
12 of work that -- be it us, be them, be the Russians. So then
13 whoever is in a mission doesn't see the other one in another.
14 That is simply a no, because it jeopardizes everything," end
15 quote.

16 The Defendant promised the undercover that, quote: "I
17 protect -- I protect everything that has been done. I have
18 always protected it, and will protect it, and I know how to
19 protect it," end quote.

20 The Defendant made arrangements to meet the undercover
21 a fourth time, on December 8th, 2023, also selecting back-up
22 dates.

23 Throughout all three meetings with the undercover, the
24 Defendant behaved as a Cuban agent. The Defendant consistently
25 referred to the United States as "the enemy," and used the term

1 "we" to describe himself and Cuba. The Defendant additionally
2 praised Fidel Castro as the "Commandante," and referred to his
3 contacts in Cuban intelligence as his compañeros, or comrades,
4 and to the Cuban intelligence services as the Direccion. The
5 Defendant also made other statements in the meetings that
6 independent evidence confirmed to be true.

7 On December 1st, 2023, two Department of State
8 Diplomatic Security Service agents conducted a consensual,
9 voluntary interview of the Defendant. During the interview,
10 the Defendant lied repeatedly. For example, the Defendant
11 denied ever having met someone with the undercover's
12 description, even after being shown a picture of the
13 undercover.

14 When the Defendant was shown a picture of him sitting
15 across from the undercover during one of their meetings, the
16 Defendant said the undercover approached him, but one time
17 only. When told the interviewers possess information that he
18 met with the undercover on more than one occasion, the
19 Defendant stated he did not want to comment.

20 Based on the foregoing facts, which establish all the
21 elements to the charges to which the Defendant is pleading
22 guilty, the Defendant would prove -- the Government would prove
23 the Defendant's guilt at trial.

24 THE COURT: Thank you, Mr. Stratton.

25 Mr. Rocha, did you hear the statement of facts

1 Mr. Stratton presented to the Court?

2 THE DEFENDANT: I did, Your Honor.

3 THE COURT: Are those facts true, sir?

4 THE DEFENDANT: They are, Your Honor.

5 THE COURT: The Court has before it a Factual Proffer.

6 As I stated previously, this Factual Proffer consists of 14
7 pages. Did you read it completely?

8 THE DEFENDANT: I did, Your Honor.

9 THE COURT: Did you understand every word?

10 THE DEFENDANT: I did, Your Honor.

11 THE COURT: Did Ms. Arango answer all of your
12 questions?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Are the facts contained on these 14 pages
15 true?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And is this your signature on the
18 thirteenth page, sir?

19 THE DEFENDANT: It is, Your Honor.

20 THE COURT: Referring back to the Plea Agreement, is
21 there anything at all within this Plea Agreement that you do
22 not understand or you would like me to explain to you?

23 THE DEFENDANT: There is nothing, Your Honor.

24 THE COURT: Do you understand it completely, sir?

25 THE DEFENDANT: I do, Your Honor.

1 THE COURT: And is this your signature on the eighth
2 page?

3 THE DEFENDANT: It is, Your Honor.

4 THE COURT: Ms. Arango, are these your signatures on
5 each document?

6 MS. ARANGO: Yes, Your Honor.

7 THE COURT: And Mr. Stratton, is this your signature
8 as well?

9 MR. STRATTON: Yes. And all of my colleagues here at
10 counsel table.

11 THE COURT: Yes. I see Mr. Shipley signed, as well as
12 Ms. Schmidt and Ms. Bonomo.

13 MR. STRATTON: That's correct, Your Honor.

14 THE COURT: Thank you.

15 Ms. Arango, do you believe that you received all of
16 the discovery in this case?

17 MS. ARANGO: I do.

18 THE COURT: Is this 14-page Factual Proffer consistent
19 with the true facts in the case?

20 MS. ARANGO: It is, Your Honor.

21 THE COURT: Would you agree that if the Government had
22 presented these facts at the time of trial, that they would set
23 forth sufficient facts with regard to each of the elements as
24 to Counts 1 and 2?

25 MS. ARANGO: Yes, Your Honor.

1 THE COURT: Thank you, Ms. Arango.

2 Mr. Rocha, do you have any questions, sir?

3 THE DEFENDANT: I do not have any questions, Your
4 Honor.

5 THE COURT: It is the finding of the Court that in the
6 case of the United States of America v. Victor Manuel Rocha,
7 that the Defendant is fully competent and capable of entering
8 his informed pleas of guilty, that the Defendant is aware of
9 the nature of each charge and the consequence of each plea, and
10 Mr. Rocha's pleas of guilty are knowing and voluntary pleas
11 that are each supported by an independent basis in fact that
12 does contain each of the essential elements of the offense.

13 Mr. Rocha, the Court does accept your plea of guilty
14 to Count 1, Conspiracy to Act as an Agent of a Foreign
15 Government and to Defraud the United States, and as to Count 2,
16 Acting as an Illegal Agent of a Foreign Government, and
17 adjudicates you guilty as to each of these offenses.

18 By agreement, we will proceed to sentencing at this
19 time.

20 Mr. Rocha, let me advise you, sir, that the Court
21 certainly has received a Pre-Plea Presentence Investigation
22 Report. Let me also state that there were letters that were
23 filed with the Court. I want to ensure that for purposes of
24 sentencing that there are no further documents or information
25 that the Court should have received and relied upon in

1 preparation for today.

2 Ms. Arango?

3 MR. STRATTON: Nothing from the Government.

4 MS. ARANGO: Nothing from the Defendant, Your Honor.

5 THE COURT: Mr. Stratton?

6 MR. STRATTON: Nothing from the Government, Your
7 Honor.

8 THE COURT: And Ms. Arango, is there any legal reason
9 why sentence should not be imposed today?

10 MS. ARANGO: No, Your Honor.

11 THE COURT: All right, then.

12 As I mentioned previously, the Probation officer did
13 calculate the advisory guidelines, and there is a Pre-Plea PSI
14 for purposes of aiding the Court. The guideline calculation is
15 a total offense level of 31, with a criminal history category
16 of I.

17 With regard to the advisory guideline range, that
18 would be 108 to 135 months. Although the parties have both
19 requested that the Court impose the maximum penalty, which I do
20 believe is appropriate, of 180 months.

21 However, that does not preclude, Mr. Rocha, you or any
22 individuals that may be present on your behalf -- if you would
23 like to speak directly to the Court, I invite you to speak. If
24 there are individuals that would like to speak to the Court,
25 they may certainly do so. And certainly, Mr. Stratton, if

1 there are individuals that have made you aware that they would
2 like to speak to the Court, they may certainly do so.

3 Ms. Arango?

4 MS. ARANGO: Yes, Your Honor.

5 Mr. Rocha would like to speak to the Court, Your
6 Honor.

7 THE DEFENDANT: Thank you, Your Honor, for the
8 opportunity to speak.

9 I am a 73-year-old man. During my formative years in
10 college, I was heavily influenced by the radical politics of
11 the day. My deep commitment at that time to radical social
12 change in the region led me to the eventual betrayal of my oath
13 of loyalty to the United States during my two decades in the
14 State Department.

15 Today, I no longer see the world through the radical
16 eyes of my youth. I left the government 22 years ago, moved to
17 this great city, and dedicated the rest of my life to my family
18 and the education of my children. My long and successful
19 transition to the private sector culminated in my becoming a
20 top international executive in the mining sector for well over
21 a decade.

22 The latter, however, cannot erase the damage done
23 during my earlier career working for the government. I take
24 full responsibility for that and accept the penalty that I must
25 pay. Importantly, I am making, and will continue to make, as

1 required, significant amends throughout my unconditional
2 collaboration to those I have betrayed. I know that my actions
3 have also caused great pain to my family, former colleagues,
4 and the closest of friends. I ask them all for their
5 understanding and their forgiveness. They need to know I am
6 deeply and sincerely sorry.

7 Thank you, Your Honor.

8 THE COURT: Thank you, Mr. Rocha.

9 Ms. Arango, is there anything further?

10 MS. ARANGO: No. There is nothing further, Your
11 Honor.

12 THE COURT: Are there individuals on behalf of
13 Mr. Rocha that would like to speak to the Court?

14 MS. ARANGO: There's family members here, but they
15 would not like to speak to the Court, Your Honor.

16 THE COURT: Is there anything that you would like to
17 say to the Court?

18 MS. ARANGO: No, Your Honor.

19 THE COURT: All right. Mr. Stratton, are there any
20 individuals that have informed the Government that they wish to
21 speak?

22 MR. STRATTON: No, Your Honor.

23 And we would rely on the statements made previously in
24 this hearing as a sufficient justification for the sentence to
25 be imposed.

1 THE COURT: All right. Is there anything further from
2 the Government?

3 MR. STRATTON: No, Your Honor.

4 THE COURT: Mr. Rocha, let me state that the Court is
5 going to sentence you to the maximum permitted by law. It is
6 appropriate.

7 For 51 years, you betrayed the United States. While
8 your sentiments may have been influenced by politics, as recent
9 as 2022 and 2023, by your own words to the FBI agent, you held
10 anger and a lack of allegiance to the United States, but a
11 devotion to a hostile country, Cuba. No doubt, for 51 years,
12 you betrayed the United States. And as an agent of the Cuban
13 Government, your actions were a direct attack on our democracy
14 and the safety of our citizens.

15 The facts bear out that you became a naturalized
16 citizen in 1978. And by your own admission, your allegiance to
17 Cuba, and your lack of allegiance to the United States, began
18 well before that. Starting in 1973, you supported the Republic
19 of Cuba secretly by serving as a covert agent of Cuba's
20 intelligence services, including the Directorate of
21 Intelligence.

22 In your life here in the United States, Mr. Rocha, you
23 were provided with many gifts. You benefited from a tremendous
24 education. That education system in our country included a
25 scholarship to obtain an education in a boarding school in

1 Connecticut, college at Yale University, a master's degree in
2 public administration from Harvard University, a master's
3 degree in international relations from Georgetown University,
4 and then you were employed for many years.

5 And as Mr. Stratton has stated to the Court, and you
6 have admitted to those facts, you were employed by the
7 Department of State in roles ranging from an international
8 relations officer, a political officer at the US Embassy in
9 Santo Domingo, the Dominican Republic, a military affairs
10 officer in Honduras, a first secretary at the US Embassy in
11 Mexico City, the Deputy Chief of Missions at the US Embassy in
12 the Dominican Republic, and the Director of Interamerican
13 Affairs at the US National Security Council, with
14 responsibilities directly for Cuba.

15 When you obtained your United States citizenship, you
16 raised your right hand and you recited the Oath of Renunciation
17 and Allegiance. And at that time you renounced and abjured an
18 allegiance and fidelity to any foreign prince, potentate,
19 state, or sovereignty, and that you would support and defend
20 the Constitution and the laws of United States of America
21 against all enemies, foreign and domestic, and that you would
22 bear true, faith, and allegiance to the same.

23 And each time over the course of many years, when you
24 were given the privilege of working for our government, you
25 raised your hand and you pledged your allegiance to that flag,

1 the same pledge that you gave over and over again. And what
 2 you stated openly, when you swore or affirmed that you would
 3 support and defend the Constitution of the United States
 4 against all enemies, foreign and domestic, that was a lie; that
 5 you would bear truth, faith, and allegiance to the same, that
 6 was a lie; that you took this obligation freely, without any
 7 mental reservation or purpose of evasion, that was a lie; and
 8 that you would faithfully discharge the duties of the office of
 9 which I'm about to enter, and that was a lie. And over and
 10 over again, you gave an oath of office in which you lied to
 11 this country. The country placed its reliance upon you, and
 12 you turned your back on the country, the country that gave you
 13 everything, an education, protection, security, a privileged
 14 life, your family a home.

15 And until you were arrested, and even after that time,
 16 as is clear that the Government has not moved forward on Counts
 17 3 through 15, you collected benefits, benefits from the United
 18 States, a salary from the United States, and you lived a good
 19 life. And it's clear from the assets that were transferred and
 20 dispossessed and given to your wife and your son that your life
 21 was much different than when you started in Harlem. And it was
 22 because of the benefits and the opportunities given to you by
 23 this country.

24 I don't know, Mr. Rocha, if there are individuals that
 25 are entitled to restitution, but I will order that as part of

1 the sentence. I don't know if the Government will proceed with
2 denaturalization proceedings, but that will be a collateral
3 consequence. It would appear to this Court that one who
4 continues to support an enemy of the United States should not
5 be granted that privilege. It was, in essence, an ill-gotten
6 privilege.

7 I don't know if anything that this Court will say to
8 you, Mr. Rocha, will change the circumstances. And perhaps you
9 no longer see the world through the eyes that caused you to
10 hate this country, but it's clear from the statements that you
11 made that were captured by the Government -- and I'm certain
12 that this Court, as well as the general public, only has a
13 glimpse -- but certainly the information that the Court has is
14 very clear that you betrayed your allegiance. And whether it
15 was by hatred or greed, I may never know. But it certainly was
16 an allegiance to a country that is hostile to this country.

17 Very long ago, Mr. Rocha, Cicero stated these words
18 that are apt today: "A nation can survive its fools, and even
19 the ambitious, but it cannot survive treason from within. An
20 enemy at the gates is less formidable, for he is known and
21 carries his banner openly. But the traitor moves amongst those
22 within the gate freely, his sly whispers rustling through all
23 the alleys, heard in the very halls of government itself."

24 The facts bear out, Mr. Rocha, that that was you. And
25 only the maximum permissible sentence by law is appropriate,

1 and one which the Court imposes.

2 After a consideration of the statements, the Pre-Plea
3 Presentence Report, certainly the Court has taken into
4 consideration the advisory guidelines, the statutory factors of
5 18, United States Code, Section 3553(a). It is the finding of
6 this Court, Mr. Rocha, that you are able to pay a fine and a
7 fine will be imposed.

8 I do believe that the maximum sentence is
9 substantively reasonable. And as agreed to by the parties, it
10 is the judgment of the Court, and the Court does agree, that,
11 Victor Manuel Rocha, you will be committed to the Bureau of
12 Prisons to be imprisoned for 180 months. It is 15 years that
13 consists of 60 months as to Count 1, and a term of 120 months
14 as to Count 2, and those terms to be served consecutively.

15 It is further ordered that you shall pay to the United
16 States a total fine of \$500,000. That is \$250,000 as to each
17 count. And the fine is payable to the Clerk of the United
18 States Court, and is to be forwarded to the US Clerk's Office
19 at the financial center. The fine is to be payable
20 immediately, and the US Bureau of Prisons, the US Probation
21 Office, and the US Attorney's Office are responsible for
22 enforcement of this order.

23 The Court is also going to reserve on the issue of
24 restitution and will set a hearing within 90 days of today's
25 date.

1 Once the Court imposes restitution, it shall be paid
2 at the rate of 50 percent while you're in custody, and at
3 20 percent of your gross wages once you are released from
4 custody.

5 Upon your release from imprisonment, you shall be
6 placed on supervised release for a term of three years. This
7 terms consists of three years as to Count 1 and 2, all such
8 terms to run concurrently.

9 Within 72 hours of your release from the custody of
10 the Bureau of Prisons, you shall report in person to the
11 Probation office in the district where you are released.

12 While on supervised release, you shall comply with all
13 mandatory and standard conditions of supervised release, as
14 referenced in Part F of your Presentence Report.

15 You must also comply with the following special
16 conditions. I am ordering restitution, and you shall pay any
17 unpaid restitution, fines, and special assessments, and a
18 self-employment restriction, all noted in Part F of your
19 Pre-Plea Presentence Investigation Report.

20 It is further ordered that you shall immediately pay
21 to the United States a special assessment of \$100 as to each of
22 Counts 1 and 2, for a total of \$200.

23 As the Court stated, the sentence includes 180 months
24 of imprisonment, or 15 years, plus the three years of
25 supervised release, the \$500,000 fine, and the Court will

1 reserve on the issue of restitution. With regard to the
2 collateral consequences, it does not preclude the Government
3 from moving forward with a decertification of the benefit of
4 your United States citizenship.

5 Now that the sentence has been imposed, Mr. Rocha, do
6 you or Ms. Arango object to the Court's findings of fact or the
7 manner in which the sentence was pronounced?

8 MS. ARANGO: Your Honor, we have no objection.

9 I do want to request that Your Honor recommend to the
10 Bureau of Prisons that Mr. Rocha be designated to FCI Miami or
11 a prison facility as close to Miami as possible to allow for
12 visitation by family members.

13 THE COURT: I'll make that recommendation.

14 Mr. Rocha, within your Plea Agreement is the waiver of
15 your right to appeal. To the extent that it has not been fully
16 waived, any Notice of Appeal must be filed within 14 days after
17 entry of the judgment. If you're unable to pay the cost of the
18 appeal, you may apply for leave to appeal in forma pauperis,
19 which means there would be no cost to you.

20 Do you have any questions, Mr. Rocha?

21 THE DEFENDANT: I do not, Your Honor.

22 THE COURT: Is there anything further, Ms. Arango?

23 MS. ARANGO: Nothing further, Your Honor.

24 THE COURT: On behalf of the Government, do you have a
25 motion?

1 MR. STRATTON: Yes, Your Honor.

2 The Government moves to dismiss Counts 3 through 15 of
3 the Indictment.

4 THE COURT: All right. Pursuant to the Plea
5 Agreement. And let me state, Mr. Stratton, that I understand
6 the limits that this Court has as the Judicial Branch, and it
7 is the Executive Branch that makes the decision to file charges
8 and makes the decision to agree not to move forward on certain
9 charges. So that motion is granted.

10 MR. STRATTON: Thank you, Your Honor.

11 THE COURT: The best of luck to you, Mr. Rocha.

12 THE DEFENDANT: Thank you.

13 (Proceedings concluded at 4:54 p.m.)

14
15
16
17
18
19
20
21
22
23
24
25

1 UNITED STATES OF AMERICA)

2 ss:

3 SOUTHERN DISTRICT OF FLORIDA)

4 C E R T I F I C A T E

5 I, Yvette Hernandez, Certified Shorthand Reporter in
6 and for the United States District Court for the Southern
7 District of Florida, do hereby certify that I was present at,
8 and reported in machine shorthand, the proceedings had the 12th
9 day of April, 2024, in the above-mentioned court; and that the
10 foregoing transcript is a true, correct, and complete
11 transcript of my stenographic notes.

12 I further certify that this transcript contains pages
13 1 - 95.

14 IN WITNESS WHEREOF, I have hereunto set my hand at
15 Miami, Florida, this 20th day of May, 2024.

17 /s/Yvette Hernandez
18 Yvette Hernandez, CSR, RPR, CLR, CRR, RMR
19 400 North Miami Avenue, 10-2
20 Miami, Florida 33128
21 (305) 523-5698
22 yvette_hernandez@flsd.uscourts.gov
23
24
25

Exhibit J

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

UNITED STATES OF AMERICA

v.

VICTOR MANUEL ROCHA

§ **JUDGMENT IN A CRIMINAL CASE**
 §
 §
 § Case Number: **1:23-CR-20464-BB(1)**
 § USM Number: **12347-506**
 §
 § Counsel for Defendant: **Jacqueline Marie Arango**
 § Counsel for United States: **Jonathan Stratton & John Shipley**

THE DEFENDANT:

<input checked="" type="checkbox"/>	pleaded guilty to count(s)	1 & 2 of the indictment.
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

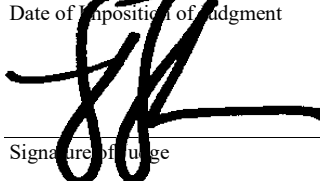
<u>Title & Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 371.F Conspiracy To Act As An Agent Of A Foreign Government and To Defraud The United States 18:371.F	12/01/2023	1
18 USC § 951.F Acting As An Illegal Agent Of A Foreign Government	12/01/2023	2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
- All remaining counts is are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

April 12, 2024
Date of Imposition of Judgment



Signature of Judge
BETH BLOOM
UNITED STATES DISTRICT JUDGE
 Name and Title of Judge

April 12, 2024
Date

DEFENDANT: VICTOR MANUEL ROCHA
CASE NUMBER: 1:23-CR-20464-BB(1)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **180 months. Term consists of 60 months as to Count 1 and 120 months as to Count 2 to be served consecutively.**

The court makes the following recommendations to the Bureau of Prisons: that the defendant be designated to FCI Miami or to a facility as close to Miami as possible due to family ties.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at a.m. p.m. on

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: VICTOR MANUEL ROCHA
CASE NUMBER: 1:23-CR-20464-BB(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **three (3) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: VICTOR MANUEL ROCHA
CASE NUMBER: 1:23-CR-20464-BB(1)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.flsp.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: VICTOR MANUEL ROCHA
CASE NUMBER: 1:23-CR-20464-BB(1)

SPECIAL CONDITIONS OF SUPERVISION

Self-Employment Restriction: The defendant shall obtain prior written approval from the Court before entering into any self-employment.

Unpaid Restitution, Fines, or Special Assessments: If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

DEFENDANT: VICTOR MANUEL ROCHA
CASE NUMBER: 1:23-CR-20464-BB(1)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$200.00	\$.00	\$500,000.00		

- The determination of restitution is deferred until June 21, 2024 at 1:30 pm. An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- Restitution amount ordered pursuant to plea agreement \$
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution
 - the interest requirement for the fine restitution is modified as follows:

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **\$0.00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney’s Office shall monitor the payment of restitution and report to the court any material change in the defendant’s ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.
** Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: VICTOR MANUEL ROCHA
CASE NUMBER: 1:23-CR-20464-BB(1)

SCHEDULE OF PAYMENTS

Having assessed the defendant’s ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payments of \$200.00 due immediately, balance due

It is ordered that the Defendant shall pay to the United States a special assessment of \$200.00 for Counts 1 and 2 , which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:

**U.S. CLERK’S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716**

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall forfeit the defendant’s interest in the following property to the United States:
FORFEITURE of the defendant’s right, title and interest in certain property is hereby ordered consistent with the plea agreement. The United States shall submit a proposed Order of Forfeiture within three days of this proceeding.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.