

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. _____
	)	
JOSEPH HARRELL,	)	
	)	
Defendant.	)	

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the parties described below have entered into the following plea agreement:

**1. The Parties.** The parties to this agreement are the United States Attorney’s Office for the Western District of Missouri (otherwise referred to as “the Government” or “the United States”), represented by Beth Phillips, United States Attorney, and Daniel M. Nelson, Assistant United States Attorney, and the defendant, Joseph Harrell (“the defendant”), represented by J.R. Hobbs.

The defendant understands and agrees that this plea agreement is only between him and the United States Attorney for the Western District of Missouri, and that it does not bind any other federal, state, or local prosecution authority or any other government agency, unless otherwise specified in this agreement.

**2. Defendant’s Guilty Plea.** The defendant agrees to and hereby does plead guilty to a one-count information charging him with a violation of 18 U.S.C. § 371, that is, conspiracy to commit securities fraud in violation of 15 U.S.C. § 77q, and wire fraud in violation of 18 U.S.C.

§ 1343. By entering into this plea agreement, the defendant admits that he knowingly committed this offense, and is in fact guilty of this offense.

**3. Factual Basis for Guilty Plea.** The parties agree that the facts constituting the offense to which he is pleading guilty are as follows:

Joseph Harrell is a minister who lives in Waco, Texas. He has been involved in multi-level marketing (“MLM”) programs in the past. Harrell was initially recruited to Petro as an investor around February 2010 by Russell Hopkins. Harrell bought shares from Teresa Brown for \$.01 per share, wiring the money to her Windsong account, because he thought the company presented a good opportunity. In March 2010, Harrell went to a Petro meeting in Dallas, Texas that included approximately 100 people. Brown talked to the crowd about what a great opportunity Petro was. Harrell remembers listening to Owen Hawkins on conference calls, and Hawkins was very believable. Hawkins said Petro had assets worth \$284 billion, he said the stock’s par value was \$2 per share, and the book value was \$24 per share. In June 2010, Hawkins gave Harrell a letter signed by Clarence Moore supporting this valuation. Harrell genuinely believed that Petro America was a company and that there was a chance that it could become publicly-traded. His role changed over time.

In June 2010, Harrell assumed the role of CFO of Petro America. He traveled to Kansas City 5 to 10 times, toured purported Petro subsidy Performance Packaging (“PPG”), and worked actively with the Minister’s Alliance. Hawkins told Harrell that Petro owned 51% of PPG and PPG was generating revenue for Petro. The Minister’s Alliance was Hawkins’ idea. Members were his buddies and part of his entourage. Some ran errands for Hawkins, and acted like the Secret Service protecting Hawkins.

Harrell received multiple notices that the company was fraudulent, and through these and other occurrences, he became aware of fraud and many other red flags with the company and its other leaders. But he knew that Owen Hawkins, Teresa Brown, Johnny Heurung, and others were continuing to hold weekly shareholder meetings in Kansas City, and weekly conference calls every Thursday night, where hundreds of investors in dozens of states would call in. During the meetings and on the calls, Harrell knew that the conspirators were providing false and misleading information about Petro America.

Nonetheless, in order to make money for himself, Harrell agreed with Hawkins that he would sell stock, and he provided money from his sales back to Hawkins. Harrell sold stock to over 90 investors, depositing \$385,460 in proceeds into his Kingdom Wealth LLC account, which he set up expressly to receive the proceeds. He has never been licensed to sell securities. He admits he is not knowledgeable about all of the rules, including disclosure rules, required under federal and state law in order to sell securities. He admits he did not take steps to learn from state and federal authorities whether his sale of Petro America stock was lawful and whether the law allowed him to make such sales without a license.

Depending on who was buying, he fluctuated back and forth between \$.01 per share to at least \$.10 per share. He frequently said the investment was not risky, it was guaranteed to make the purchaser a millionaire, Petro was within days of going public, it would open at \$20 per share, and on one occasion where regulatory problems were discussed, he said the only state where Petro was not registered was Missouri. He couched many of his sales pitches in religious language, stating that Petro was a blessing from God.

Acting as CFO of Petro, Harrell also wrote checks for purported Petro expenditures that

he knew were not legitimate business expenses. He also sent confirmation emails to investors for shares that he had sold despite knowing that Petro was subject to two cease and desist orders, issued by Missouri in November 2008 and Kansas in April 2010. At no point did Harrell ascertain with state authorities, or with the Securities and Exchange Commission, whether the C&D orders were still in effect and what that meant, whether the CUSIPs listed on the certificates were any good, or whether the shares were registered. The reason for this is that he wanted to sell and profit from the sale of Petro America stock.

While much of the time Harrell simply repeated information to investors that he had heard from others, he knew that the information he was providing was incomplete and misleading. Further, he intentionally did not provide certain material information to investors, including 1) the existence of the C&D orders; 2) specific negative information contained in the C&D orders; 3) the stock was unregistered; 4) he paid kick-backs from his proceeds to Hawkins, including checks from the Kingdom Wealth account that Harrell wrote for Hawkins' personal use; 5) the stock was either gifted to him, or sold to him at a price grossly discounted from his offer price; and 6) that Harrell had learned, at least by August 2010, that Hawkins was spending large amounts of money obtained from Petro investors on purely personal expenses. Harrell told some investors that he worked for Petro, knowing that they would wrongly believe that they were buying stock from Petro, not from Harrell. Harrell told other investors he was selling his personal shares, implying that he had paid a fair price for those shares. Harrell also made and adopted numerous statements to investors concerning Petro's future potential to become a publicly-traded company, and of its claimed assets, which were untrue.

Hawkins gifted Harrell millions of shares of Petro America. But Harrell represented to

some investors that he was reselling his own shares, or the shares of another investor, when he knew that he had not paid anything for some of the shares, and a relative pittance for other shares, and that this was not made clear to investors who were making a purchasing decision. He sold the stock for whatever price he thought they could bring.

Harrell tried to “protect” his newly-acquired assets by placing them in LLCs. He drove nice cars and was living significantly better than prior to his involvement in Petro, including renting cars for \$423 per week and buying world series tickets. He frequently used Petro money to pay for meals at expensive restaurants for himself and others. During this time, Harrell was receiving an income-dependant Social Security disability benefit. Until at least May 2010, he was receiving food stamp benefits through the Department of Agriculture.

On February 26, 2010, Harrell told an investor over the phone that Petro was going public the next day, and that if she wanted to buy stock, she needed to do it immediately. He said the stock would open from \$10 to \$20 per share. He told her he was selling shares for Petro and did not disclose how he obtained the stock, or what if anything he paid for it. The investor thought she was buying shares from Petro and not his personal stock. He did not disclose that cease and desist orders had been issued against Petro in Missouri and Kansas. If she had known about the cease and desist orders, she says she would not have purchased the stock. He participated in selling her more stock in March, and more stock in May, totaling \$25,000, saying that Petro had extended the time it would offer stock prior to going public. Harrell directed \$23,000 of the proceeds into Kingdom Wealth account.

In addition, Harrell made or received numerous transfers of proceeds of over \$10,000 into accounts that he set up specifically to receive the proceeds, and for the purpose of “protecting” it

from others. He wrote numerous Petro checks at Hawkins' direction, including for the benefit of a person who was losing their house, and to people who Hawkins said had "done him favors." He continued to write checks to Hawkins for Hawkins' personal expenses even after July 2010, when he told others that he was cutting Hawkins off from the money after developing suspicions about Hawkins. Harrell told an investor that most of the checks were for "payroll," when in actuality, Petro had no W2 employees. Hawkins told him to write "consultants" on the memo lines of checks, but Harrell should have known, or taken steps to learn, that many or most of the expenses were not for anything related to "consultants." As he knew, many or most of the people called consultants were not doing work that realistically furthered Petro's business interests.

Harrell received numerous proceeds checks through the United States mail. For one example, around June 3, 2010, Harrell received, through the mail, a check made out to Joseph Harrell from an investor for \$1,000 for 1000 shares of Petro. He told another investor from Fort Worth that he worked for Petro, that it was a great investment, and he had been looking at the company for two years. The investor sent him four checks totaling \$3,700, mailed to Harrell at a P.O. box. Harrell first sold the shares at \$.10 per share, and later lowered the price to \$.01 per share so the investors would think they were getting a special deal. Harrell did not disclose that there were registration problems with the stock, and he did not disclose the cease and desist orders. When the investor found out Hawkins had been arrested, he asked for his money back, but did not receive it.

In addition, Harrell solicited many investors in other states, including many investors in Florida, over the phone. Harrell told one Florida investor over the phone that the investor needed to purchase \$3,000 worth of shares soon, or the opportunity would be closed. The investor

bought shares for \$2,450, wiring the money to Harrell's Kingdom Wealth LLC account on July 14, 2010, September 25, 2010, and October 2, 2010. Harrell sent numerous interstate emails to this investor and others. After the criminal charges were made public, the Florida investor contacted Harrell, who said he could receive a refund, but never sent it.

E.L. purchased 60,000,000 shares from Harrell for \$60,000. He also purchased 15,000,000 shares from Russell Hopkins for \$109,000. Hopkins asked Harrell to call E.L. and lie and say it was a mistake and change his price on the shares he sold E.L. Harrell refused. When Harrell discovered Hawkins was flying through the money in August 2010, he contacted Hopkins. Hopkins agreed he thought something was wrong with what Hawkins was doing. At one point, Hawkins was furious that Hopkins was not turning over money to Hawkins from his sale of shares. Hopkins guaranteed money back to Petro shareholders if the company did not pan out.

In October 2010, Hawkins took Harrell, J.A., investor O.F., and J.T. to a printer in the Kansas City area. Hawkins told Harrell he was taking them because he was scared that J.A. was going to get Hawkins into trouble. Hawkins had the following stock certificates printed: a) investor O.F. received 100,000,000 shares for \$105,000; b) Harrell received 100,000,000 shares; c) J.T., C.R. and C.T received 25,000,000 shares each for being ministers; and d) J.A. received 25,000,000 shares because Hawkins told Harrell this was to cool off J.A. so she would not get him in trouble. Harrell asked Hawkins why he was backdating the stock certificates to 2008. Hawkins explained that was when he could sell shares. Hawkins cited to Harrell a code from the securities laws that supposedly justified him backdating the shares.

After Hawkins was indicted and released from prison, he called Harrell numerous times begging Harrell for money to get Petro public. Hawkins asked Harrell to come to Kansas City and bring money. In February 2011, Harrell met Hawkins in Kansas City because Cornley did not do his job and get Harrell's stock holders their stock certificates. Hawkins refused to let Harrell see the new CEO Gladys Hankins. Hawkins also refused to let Harrell see Greg Cornley. Hawkins said these other CEO's are incompetent and he is running the company. Harrell told Hawkins he was not giving any money until investors' stocks were registered with the transfer agent. Hawkins called Martin Roper on his cell phone and put Harrell on the phone with Roper. Roper said he would take care of getting that information to the transfer agent. Harrell said his stock holders received e-mail confirmations after this. Approximately 45 days ago, Hawkins had a friend call Harrell to ask him again for money. Harrell said he was talking to the FBI and the person hung up the phone.

Harrell met with Johnny Heurung on 3 or 4 occasions at the Crown Plaza and elsewhere in Kansas City from June to August 2010. Heurung told Harrell on one of those occasions that the Missouri cease and desist order had been dropped in 2009 and was fine for shareholders to sell shares. Heurung bragged about Petro and how he made the company. Heurung brought a "strips and coupons" program to Petro, and told shareholders they needed to buy at least \$3,000 to get in. Harrell did not trust Heurung and thought he was a con-man. Heurung also promoted a hedge fund in Kansas City. Harrell said Heurung knew this was a scam. Heurung offered a 6% commission when it should have been 1%.

Martin Roper input shareholders into the database. He did errands for Hawkins. He ran Petro meeting after Hawkins was indicted. Roper was still selling his shares after the Missouri

C&D was filed on him in November 2008. In July 2010, M.H., an investor who purchased shares from Harrell, found a website with Roper's name and number saying he had Petro shares to sell. M.H. contacted Harrell and asked why Roper was selling his shares for less than Harrell. Harrell told her that Roper is not supposed to be selling shares. In July 2010, when Harrell asked Hawkins about Roper selling his shares, Hawkins said Roper was keeping all the money. He told Harrell to keep the price of the shares at 1/10 of a penny. Harrell confronted Roper at Brio's and said he would take down the website but did not know how and he could not help it if people called for shares. Harrell Googled Petro America and Roper's website appeared. The website contained Roper's contact information and had other information about Petro. Hawkins was furious when he found out about Roper's website.

Allen Collins was head of the Minister's Alliance at some point. Collins often called Harrell begging for money for himself and Hawkins. Collins was selling his shares. Collins told Harrell he needed money and asked Harrell to sell his shares for him. Harrell refused. Collins drove a nice truck and maybe a Mercedes. He also did errands for Hawkins.

In August or September 2010, Harrell told Curtis White that Petro was not looking good. White told Harrell everything was okay, there was nothing wrong. White sold shares before July 2010, but he led Harrell to believe he had stopped selling. White asked Harrell for money in January 2011 because he needed to buy groceries and other things. White drove a nice car. He did a lot of errands for Hawkins.

By entering into this plea, Harrell admits that the foregoing facts, and the facts contained in the information to which he is pleading guilty, are all true and correct.

**4. Use of Factual Admissions and Relevant Conduct.** The defendant acknowledges,

understands and agrees that the admissions contained in Paragraph 3 and other portions of this plea agreement will be used for the purpose of determining his guilt and advisory sentencing range under the United States Sentencing Guidelines (“U.S.S.G.”), including the calculation of the defendant’s offense level in accordance with U.S.S.G. § 1B1.3(a)(2). The defendant acknowledges, understands and agrees that the conduct charged in any dismissed counts of the information as well as all other uncharged related criminal activity may be considered as “relevant conduct” pursuant to U.S.S.G. § 1B1.3(a)(2) in calculating the offense level for the charge to which he is pleading guilty.

**5. Statutory Penalties.** The defendant understands that upon his plea of guilty to Count One of the information charging him with conspiracy to commit unregistered securities fraud and wire fraud, the maximum penalty the Court may impose is not more than 5 years imprisonment, a \$250,000 fine, 3 years of supervised release, an order of restitution and a \$100 mandatory special assessment per felony count of conviction which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class D felony.

**6. Sentencing Procedures.** The defendant acknowledges, understands and agrees to the following:

- a. in determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are advisory in nature, and the Court may impose a sentence either less than or greater than the defendant’s applicable Guidelines range, unless the sentence imposed is “unreasonable”;
- b. the Court will determine the defendant’s applicable Sentencing Guidelines range at the time of sentencing;
- c. in addition to a sentence of imprisonment, the Court may impose a term

of supervised release of up to 3 years; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one year is imposed;

d. if the defendant violates a condition of his supervised release, the Court may revoke his supervised release and impose an additional period of imprisonment of up to 2 years without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed 3 years, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

e. the Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;

f. any sentence of imprisonment imposed by the Court will not allow for parole;

g. the Court is not bound by any recommendation regarding the sentence to be imposed or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Office;

h. the defendant may not withdraw his guilty plea solely because of the nature or length of the sentence imposed by the Court;

i. Within 10 days of the execution of this plea agreement, at the request of the USAO, the defendant agrees to execute and submit (1) a Tax Information Authorization form; (2) an Authorization to Release Information; (3) a completed financial disclosure statement; and (4) copies of financial information that the defendant submits to the U.S. Probation Office. The defendant understands that the United States will use the financial information when making its recommendation to the Court regarding the defendant's acceptance of responsibility.

j. At the request of the USAO, the defendant agrees to undergo any polygraph examination the United States might choose to administer concerning the identification and recovery of forfeitable assets and restitution.

**7. Government's Agreements.** Based upon evidence in its possession at this time, the United States Attorney's Office for the Western District of Missouri, as part of this plea

agreement, agrees not to bring any additional charges against defendant for any federal criminal offenses related to conspiracy to commit unregistered securities fraud and wire fraud for which it has venue and which arose out of the defendant's conduct described above. In exchange for Mr. Harrell being available for an interview with representatives of the Social Security Administration and in recognition of his willingness to voluntarily pay back any monies owed back to the Social Security Administration, if any, the Western District of Missouri will also agree not to prosecute Mr. Harrell for any potential claims as to facts surrounding SSI supplements. In exchange for Mr. Harrell being available for an interview with representatives of the United States Department of Agriculture and in recognition of his willingness to voluntarily pay back any monies owed back to the United States Department of Agriculture, if any, the Western District of Missouri also agrees not to prosecute Mr. Harrell for fraudulent statements related to his receipt of food stamp benefits.

The defendant understands that this plea agreement does not foreclose any prosecution for an act of murder or attempted murder, an act or attempted act of physical or sexual violence against the person of another, or a conspiracy to commit any such acts of violence or any criminal activity of which the United States Attorney for the Western District of Missouri has no knowledge.

The defendant recognizes that the United States' agreement to forego prosecution of all of the criminal offenses with which the defendant might be charged is based solely on the promises made by the defendant in this agreement. If the defendant breaches this plea agreement, the United States retains the right to proceed with the original charges and any other criminal violations established by the evidence. The defendant expressly waives his right to challenge the

initiation of the dismissed or additional charges against him if he breaches this agreement. The defendant expressly waives his right to assert a statute of limitations defense if the dismissed or additional charges are initiated against him following a breach of this agreement. The defendant further understands and agrees that if the Government elects to file additional charges against him following his breach of this plea agreement, he will not be allowed to withdraw his guilty plea.

**8. Preparation of Presentence Report.** The defendant understands the United States will provide to the Court and the United States Probation Office a government version of the offense conduct. This may include information concerning the background, character, and conduct of the defendant, including the entirety of his criminal activities. The defendant understands these disclosures are not limited to the counts to which he has pleaded guilty. The United States may respond to comments made or positions taken by the defendant or the defendant's counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The United States and the defendant expressly reserve the right to speak to the Court at the time of sentencing pursuant to Rule 32(i)(4) of the Federal Rules of Criminal Procedure.

**9. Cooperation.** The defendant agrees to cooperate fully and truthfully with the United States as follows:

a. The defendant agrees to provide all information concerning his knowledge of, and participation in, the offenses charged in the information, and any other crimes about which he has knowledge.

b. The defendant agrees that he will not falsely implicate any person or

entity and will not protect any person or entity through omission or false or misleading information and that all information provided will be truthful, complete and accurate.

c. The defendant agrees to testify as a witness before any grand jury, hearing, or trial when requested to do so by the United States.

d. The defendant agrees to hold himself reasonably available for any interviews the United States may require. The defendant waives any right to the presence of counsel at such meetings, debriefings, or pretrial preparation sessions. The parties agree that no prior consultation with defense counsel shall be necessary to conduct these meetings, debriefings or interviews, unless his attorney specifically requests such notice.

e. The defendant agrees to provide the United States with all documents or other items under his control that may pertain to any criminal violations.

f. The defendant understands that his cooperation shall be provided to any local, state, and federal law enforcement agency deemed appropriate by the United States and that he may be called upon as a witness by any authority that has been provided his cooperation.

g. The defendant agrees and understands that this plea agreement requires that his cooperation continue even after the time he is sentenced. Failure to continue to cooperate after sentence is imposed constitutes a basis to void this agreement by the United States and will allow the Government to re-institute charges that were previously dismissed pursuant to this agreement.

h. The defendant agrees that if the United States determines that he has not provided full and truthful cooperation, or has committed any local, state, or federal crime between the date of this plea agreement and his sentencing, or has otherwise violated any other provision of this plea agreement, or has violated the terms and conditions of his release while on bond as required by the Court, the plea agreement may be voided by the United States and the defendant shall be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to, perjury, obstruction of justice, and any substantive offenses arising from this investigation. Such prosecution may be based upon any information provided by the defendant during the course of his cooperation, or upon leads derived therefrom, and this information may be used as evidence against her. In addition, the defendant's previously entered plea of guilty will remain in effect and cannot be withdrawn. Further, any prosecution which is not barred by the applicable statute of limitations on the date of the signing of this plea agreement may be commenced against the defendant in accordance with this plea agreement, notwithstanding the expiration of the statute of limitations

between the time of signing this agreement and the commencement of the prosecution. It is the specific intent of this plea agreement to waive any and all defenses based upon the statute of limitations with respect to any prosecution which is not barred by the statute of limitations on the date this plea agreement is signed by the defendant.

i. The defendant understands and agrees that if he commits a local, state or federal crime (whether a felony or misdemeanor) or violates any conditions of his bond while he is cooperating with the United States, a motion for downward departure will not be filed by the Government on his behalf.

**10. Substantial Assistance.** “Substantial assistance” within the meaning of 18 U.S.C. § 3553(e) has not yet been provided by the defendant. Upon the determination by the United States Attorney for the Western District of Missouri that the defendant has provided “substantial assistance,” the United States, pursuant to 28 U.S.C. § 994(n) and 18 U.S.C. § 3553(e), will request the Court to reduce the sentence the defendant would otherwise receive under the applicable statutes, or will request a sentence reduction pursuant to § 5K1.1 of the Sentencing Guidelines, or reductions under both the applicable statutes and the Guidelines. The United States reserves the right to make the sole determination as to whether and when the defendant has provided such substantial assistance and further whether to request a reduction generally or a specific sentence or sentence reduction.

**11. Cooperation Stipulations.** In exchange for the defendant’s agreement to cooperate with the United States, the United States agrees not to use new information that the defendant might provide about his own criminal conduct except as specifically authorized by § 1B1.8 of the United States Sentencing Guidelines. As such, this information may be revealed to the Court but may not be used against the defendant in determining the defendant’s applicable Guidelines range or departing above his Guidelines range. The defendant understands and agrees, however,

that under U.S.S.G. § 1B1.8, there shall be no such restrictions on the use of the information: (1) previously known to the United States; (2) revealed to the United States by, or discoverable through, an independent source; (3) in a prosecution for perjury or giving a false statement; (4) in the event there is a breach of this agreement; or (5) in determining whether and to what extent a downward departure as a result of a government motion pursuant to 18 U.S.C. § 3553(e) and U.S.S.G. § 5K1.1 is warranted.

**12. Withdrawal of Plea.** Either party reserves the right to withdraw from this plea agreement for any or no reason at any time prior to the entry of the defendant's plea of guilty and its formal acceptance by the Court. In the event of such withdrawal, the parties will be restored to their pre-plea agreement positions to the fullest extent possible. However, after the plea has been formally accepted by the Court, the defendant may withdraw his plea of guilty only if the Court rejects the plea agreement or if the defendant can show a fair and just reason for requesting the withdrawal. The defendant understands that if the Court accepts his plea of guilty and this plea agreement but subsequently imposes a sentence that is outside the defendant's applicable Sentencing Guidelines range, or imposes a sentence that the defendant does not expect, like or agree with, he will not be permitted to withdraw his plea of guilty.

**13. Agreed Guidelines Applications.** With respect to the application of the Sentencing Guidelines to this case, the parties stipulate and agree as follows:

a. The Sentencing Guidelines do not bind the Court and are advisory in nature. The Court may impose a sentence that is either above or below the defendant's applicable Guidelines range, provided the sentence imposed is not "unreasonable";

b. The applicable Guidelines Manual is the one that took effect on November 1, 2010;

c. The applicable Guidelines section for the offense of conviction is U.S.S.G. § 2B1.1, which provides for a base offense level of 6;

d. The defendant and the government agree that 12 levels of enhancement are applicable because the loss attributable to Harrell's conduct was between \$266,000 and \$385,460, under § 2B1.1(a)(1)(G);

e. The defendant admits that an enhancement of 4 levels is appropriate under § 2B1.1(b)(2)(B), because he sold stock to over 50 victims but less than 250 victims;

f. The defendant has admitted his guilt and clearly accepted responsibility for his actions, and has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the Court to allocate their resources efficiently. Therefore, he is entitled to a 3-level reduction pursuant to § 3E1.1(b) of the Sentencing Guidelines. The Government, at the time of sentencing, will file a written motion with the Court to that effect, unless the defendant (1) fails to abide by all of the terms and conditions of this plea agreement and his pretrial release; or (2) attempts to withdraw his guilty plea, violates the law, or otherwise engages in conduct inconsistent with his acceptance of responsibility;

g. There is no agreement between the parties regarding the defendant's criminal history category. The parties agree that the Court will determine his applicable criminal history category after receipt of the presentence investigation report prepared by the United States Probation Office;

h. The defendant understands that the estimate of the parties with respect to the Guidelines computation set forth in the subsections of this paragraph does not bind the Court or the United States Probation Office with respect to the appropriate Guidelines levels. Additionally, the failure of the Court to accept these stipulations will not, as outlined in Paragraph 12 of this plea agreement, provide the defendant with a basis to withdraw his plea of guilty;

i. The defendant consents to judicial fact-finding by a preponderance of the evidence for all issues pertaining to the determination of the defendant's sentence, including the determination of any mandatory minimum sentence (including the facts that support any specific offense characteristic or other enhancement or adjustment), and any legally authorized increase above the normal statutory maximum. The defendant waives any right to a jury determination beyond a reasonable doubt of all facts used to determine and enhance the sentence imposed, and waives any right to have those facts alleged in the information. The

defendant also agrees that the Court, in finding the facts relevant to the imposition of sentence, may consider any reliable information, including hearsay; and

j. The defendant understands and agrees that the factual admissions contained in Paragraph 3 of this plea agreement, and any admissions that he will make during his plea colloquy, support the imposition of the agreed-upon Guidelines calculations contained in this agreement.

**14. Effect of Non-Agreement on Guidelines Applications.** The parties understand, acknowledge and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed in Paragraph 13, and its subsections. As to any other Guidelines issues, the parties are free to advocate their respective positions at the sentencing hearing.

**15. Change in Guidelines Prior to Sentencing.** The defendant agrees that if any applicable provision of the Guidelines changes after the execution of this plea agreement, then any request by defendant to be sentenced pursuant to the new Guidelines will make this plea agreement voidable by the United States at its option. If the Government exercises its option to void the plea agreement, the United States may charge, reinstate, or otherwise pursue any and all criminal charges that could have been brought but for this plea agreement.

**16. Government's Reservation of Rights.** The defendant understands that the United States expressly reserves the right in this case to:

a. oppose or take issue with any position advanced by defendant at the sentencing hearing which might be inconsistent with the provisions of this plea agreement;

b. comment on the evidence supporting the charge in the information;

c. oppose any arguments and requests for relief the defendant might advance on an appeal from the sentences imposed and that the United States remains free on appeal or collateral proceedings to defend the legality and

propriety of the sentence actually imposed, even if the Court chooses not to follow any recommendation made by the United States; and

d. oppose any post-conviction motions for reduction of sentence, or other relief.

**17. Waiver of Constitutional Rights.** The defendant, by pleading guilty, acknowledges that he has been advised of, understands, and knowingly and voluntarily waives the following rights:

a. the right to plead not guilty and to persist in a plea of not guilty;

b. the right to be presumed innocent until his guilt has been established beyond a reasonable doubt at trial;

c. the right to a jury trial, and at that trial, the right to the effective assistance of counsel;

d. the right to confront and cross-examine the witnesses who testify against him;

e. the right to compel or subpoena witnesses to appear on his behalf; and

f. the right to remain silent at trial, in which case his silence may not be used against him.

The defendant understands that by pleading guilty, he waives or gives up those rights and that there will be no trial. The defendant further understands that if he pleads guilty, the Court may ask him questions about the offense or offenses to which he pleaded guilty, and if the defendant answers those questions under oath and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or making a false statement. The defendant also understands he has pleaded guilty to a felony offense and, as a result, will lose his right to possess a firearm or ammunition and might be deprived of other rights, such as the right to vote

or register to vote, hold public office, or serve on a jury.

**18. Waiver of Appellate and Post-Conviction Rights.**

a. The defendant acknowledges, understands and agrees that by pleading guilty pursuant to this plea agreement he waives his right to appeal or collaterally attack a finding of guilt following the acceptance of this plea agreement, except on grounds of (1) ineffective assistance of counsel; or (2) prosecutorial misconduct.

b. The defendant expressly waives his right to appeal his sentence, directly or collaterally, on any ground except claims of (1) ineffective assistance of counsel; (2) prosecutorial misconduct; or (3) an illegal sentence. An “illegal sentence” includes a sentence imposed in excess of the statutory maximum, but does *not* include less serious sentencing errors, such as a misapplication of the Sentencing Guidelines, an abuse of discretion, or the imposition of an unreasonable sentence. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may, as part of the Government’s appeal, cross-appeal his sentence as authorized by 18 U.S.C. § 3742(a) with respect to any issues that have not been stipulated to or agreed upon in this agreement.

**19. Financial Obligations.** By entering into this plea agreement, the defendant represents that he understands and agrees to the following financial obligations:

a. The Court must order restitution to the victims of the offense to which the defendant is pleading guilty. The defendant agrees that the Court may order restitution in connection with the conduct charged in any counts of the information which are to be dismissed and all other uncharged related criminal activity.

b. The United States may use the Federal Debt Collection Procedures Act and any other remedies provided by law to enforce any restitution order that may be entered as part of the sentence in this case and to collect any fine.

c. The defendant will fully and truthfully disclose all assets and property in which he has any interest, or over which the defendant exercises control directly or indirectly, including assets and property held by a spouse, nominee or other third party. The defendant's disclosure obligations are ongoing, and are in force from the execution of this agreement until the defendant has satisfied the restitution order in full.

d. Within 10 days of the execution of this plea agreement, at the request of the USAO, the defendant agrees to execute and submit (1) a Tax Information Authorization form; (2) an Authorization to Release Information; (3) a completed financial disclosure statement; and (4) copies of financial information that the defendant submits to the U.S. Probation Office. The defendant understands that compliance with these requests will be taken into account when the United States makes a recommendation to the Court regarding the defendant's acceptance of responsibility.

e. At the request of the USAO, the defendant agrees to undergo any polygraph examination the United States might choose to administer concerning the identification and recovery of substitute assets and restitution.

f. The defendant hereby authorizes the USAO to obtain a credit report pertaining to him to assist the USAO in evaluating the defendant's ability to satisfy any financial obligations imposed as part of the sentence.

g. The defendant understands that a Special Assessment will be imposed as part of the sentence in this case. The defendant promises to pay the Special Assessment of \$100 by submitting a satisfactory form of payment to the Clerk of the Court prior to appearing for the sentencing proceeding in this case. The defendant agrees to provide the Clerk's receipt as evidence of his fulfillment of this obligation at the time of sentencing.

h. The defendant certifies that he has made no transfer of assets or property for the purpose of (1) evading financial obligations created by this Agreement; (2) evading obligations that may be imposed by the Court; nor (3) hindering efforts of the USAO to enforce such financial obligations. Moreover, the defendant promises that he will make no such transfers in the future.

i. In the event the United States learns of any misrepresentation in the financial disclosure statement, or of any asset in which the defendant had an interest at the time of this plea agreement that is not disclosed in the financial disclosure statement, and in the event such misrepresentation or nondisclosure changes the estimated net worth of the defendant by ten thousand dollars (\$10,000.00) or more, the United States may at its option: (1) choose to be relieved of its obligations under this plea agreement; or (2) let the plea agreement stand, collect the full forfeiture, restitution, and fines imposed by any criminal or civil judgment, and also collect 100% (one hundred percent) of the value of any previously undisclosed assets. The defendant agrees not to contest any collection of such assets. In the event the United States opts to be relieved of its obligations under this plea agreement, the defendant's previously entered pleas of guilty shall remain in effect and cannot be withdrawn.

**20. Waiver of FOIA Request.** The defendant waives all of his rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

**21. Wavier of Right to Challenge Venue.** The defendant expressly consents to venue in the Western District of Missouri for all of the conduct charged in the Information, and for all of the conduct alleged in paragraph 3 of this plea agreement. By entering into this plea agreement, the defendant expressly waives any rights that he may otherwise have to challenge venue in the Western District of Missouri. The defendant agrees that if he subsequently raises a claim of improper venue, at the Government's option, the Government may deem such a claim to constitute a material breach of this plea agreement.

**22. Waiver of Claim for Attorney's Fees.** The defendant waives all of his claims under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

**23. Defendant's Breach of Plea Agreement.** If the defendant commits any crimes, violates any conditions of release, or violates any term of this plea agreement between the signing of this plea agreement and the date of sentencing, or fails to appear for sentencing, or if the defendant provides information to the Probation Office or the Court that is intentionally misleading, incomplete, or untruthful, or otherwise breaches this plea agreement, the United States will be released from its obligations under this agreement. The defendant, however, will remain bound by the terms of the agreement, and will not be allowed to withdraw his plea of

guilty.

The defendant also understands and agrees that in the event he violates this plea agreement, all statements made by him to law enforcement agents subsequent to the execution of this plea agreement, any testimony given by him before a grand jury or any tribunal or any leads from such statements or testimony shall be admissible against him in any and all criminal proceedings. The defendant waives any rights that he might assert under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that pertains to the admissibility of any statements made by him subsequent to this plea agreement.

**24. Defendant's Representations.** The defendant acknowledges that he has entered into this plea agreement freely and voluntarily after receiving the effective assistance, advice and approval of counsel. The defendant acknowledges that he is satisfied with the assistance of counsel, and that counsel has fully advised him of his rights and obligations in connection with this plea agreement. The defendant further acknowledges that no threats or promises, other than the promises contained in this plea agreement, have been made by the United States, the Court, his attorneys or any other party to induce him to enter his plea of guilty.

**25. No Undisclosed Terms.** The United States and defendant acknowledge and agree that the above-stated terms and conditions, together with any written supplemental agreement that might be presented to the Court in camera, constitute the entire plea agreement between the parties, and that any other terms and conditions not expressly set forth in this agreement or any written supplemental agreement do not constitute any part of the parties' agreement and will not be enforceable against either party.

**26. Standard of Interpretation.** The parties agree that, unless the constitutional implications inherent in plea agreements require otherwise, this plea agreement should be interpreted according to general contract principles and the words employed are to be given their normal and ordinary meanings. The parties further agree that, in interpreting this agreement, any drafting errors or ambiguities are not to be automatically construed against either party, whether or not that party was involved in drafting or modifying this agreement.

Beth Phillips  
United States Attorney

Dated: \_\_\_\_\_

\_\_\_\_\_  
Daniel M. Nelson  
Assistant United States Attorney

I have consulted with my attorney and fully understand all of my rights with respect to the offense charged in the information. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and I voluntarily agree to it.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Joseph Harrell  
Defendant

I am defendant Joseph Harrell's attorney. I have fully explained to him his rights with respect to the offense charged in the information. Further, I have reviewed with him the provisions of the Sentencing Guidelines which might apply in this case. I have carefully reviewed every part of this plea agreement with him. To my knowledge, Mr. Harrell's decision to enter into this plea agreement is an informed and voluntary one.

Dated: \_\_\_\_\_

\_\_\_\_\_  
J.R. Hobbs  
Attorney for Defendant

Dated: \_\_\_\_\_

\_\_\_\_\_

Nathan Owings  
Attorney for Defendant