

COPY

FILED IN OPEN COURT  
U.S.D.C. - Atlanta

JAN 15 2009

JAMES N. HATTEN, Clerk  
By:  Deputy Clerk

GUILTY PLEA and PLEA AGREEMENT

United States Attorney  
Northern District of Georgia

U.S. Department of Justice  
Antitrust Division  
Atlanta Field Office

---

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

CRIMINAL NO. 1:09-CR- 014

RONALD K. JOHNSTON, defendant, having received a copy of the above-numbered Criminal Information and having waived indictment, hereby pleads GUILTY to all counts therein charged. The defendant, his counsel, the United States Attorney for the Northern District of Georgia and the United States Department of Justice – Antitrust Division (both the United States Attorney for the Northern District of Georgia and the United States Department of Justice – Antitrust Division are collectively referred to herein as “the Government”), subject to approval by the Court, have agreed upon a negotiated plea in this case, the terms of which are as follows:

ADMISSIONS

1. The defendant admits that he is pleading guilty because he is in fact guilty of the crimes charged in all counts of the Criminal Information.

WAIVERS

2. The defendant understands that by pleading guilty, he is giving up the

11

right to plead not guilty and the right to be tried by a jury. At a trial, the defendant would have the right to an attorney, and if the defendant could not afford an attorney, the Court would appoint one to represent the defendant without charge. During the trial, the defendant would be presumed innocent and the Government would have the burden of proving him guilty beyond a reasonable doubt. The defendant would have the right to confront and cross-examine the witnesses against him. If the defendant wished, he could testify on his own behalf and present evidence in his defense, and he could subpoena witnesses to testify on his behalf. If, however, the defendant did not wish to testify, that fact could not be used against him. If the defendant were found guilty after a trial, he would have the right to appeal the conviction. The defendant understands that by pleading guilty, he is giving up all of these rights and there will not be a trial of any kind. The defendant also understands that he ordinarily would have the right to appeal his sentence and, under some circumstances, to attack the sentence in post-conviction proceedings. By entering this Plea Agreement, the defendant may be waiving some or all of those rights to appeal or collaterally attack his sentence, as specified below. Finally, the defendant understands that, to plead guilty, he may have to answer questions posed to him by the Court concerning the rights that he is giving up and the facts of this case, and the defendant's answers, if untruthful, may later be used against him in a prosecution for perjury or false statements.

3. APPEAL WAIVER. The defendant understands that 18 U.S.C. § 3742 provides for the appeal by a defendant of his sentence under certain circumstances. To the maximum extent permitted by federal law, the defendant

voluntarily and expressly waives the right to appeal his sentence and the right to collaterally attack his sentence in any post-conviction proceeding on any ground (to include, but not limited to, any motions pursuant to 28 U.S.C. §§ 2254 or 2255), except if the Court imposes a sentence higher than the advisory sentencing guidelines range or a sentence higher than the statutory maximum; and provided further that the defendant may, if he so chooses, appeal any period of actual incarceration exceeding 63 months in prison and then only to the extent of such excess prison sentence and any such appeal shall be based only on the specific Guideline adjustment determination that resulted in such excess sentence. The defendant understands that this Plea Agreement does not limit the Government's right to appeal, but if the Government files an appeal, the Defendant may also appeal.

#### SENTENCING INFORMATION

4. The defendant understands that, based on his plea of guilty, he will be subject to the following maximum and mandatory minimum penalties:

- (a) Maximum term of imprisonment: Count I - 20 years; Counts II and III - 3 years per count.
- (b) Mandatory minimum term of imprisonment: None on any count.
- (c) Term of supervised release: 0 years to 3 years on Count I and 0 years to 1 year each on Counts II and III.
- (d) Maximum fine: the greatest of: (i) \$250,000, (ii) twice the gross pecuniary gain from the crime, or (iii) twice the gross pecuniary loss caused to the victim of the crime (18 U.S.C. § 3571(b) and (d)) on each count.

- (e) Full restitution, if any, to The Home Depot, Inc., the victim of Count I and the relevant conduct.
- (f) Mandatory special assessment: \$100 on each count.

5. Application of the Sentencing Guidelines. The defendant understands that, before imposing sentence in this case, the Court will be required to consider, among other factors, the provisions of the United States Sentencing Guidelines. Ultimately, it is within the Court's discretion to impose a sentence up to and including the statutory maximum. The defendant also understands that no one can predict his exact sentence at this time. The parties agree, however, that a reasonable custodial sentence for purposes of Title 18, United States Code, Section 3553 is one that falls within the otherwise applicable guideline range, and that neither party will seek a departure or variance from the otherwise applicable custodial guideline range, except as set forth in this Plea Agreement.

6. Guidelines Recommendation. The Government agrees to recommend that the defendant be sentenced within the applicable guidelines range, but there shall be no restriction on what that recommendation shall ultimately be that the Government shall make within that range.

(a) The Government and the defendant agree to advise the Court and the United States Probation Office that the dollar amount under Sentencing Guideline Section 2B4.1(b)(1) is more than \$354,000 and less than or equal to \$2,500,000 and that that amount is to be used in determining defendant's sentence for Count I of the Criminal Information. The defendant and the Government shall be free to inform the Court and the United States

Probation Office as to their position as to where the actual dollar figure lies within the aforesaid range. The defendant agrees that he received approximately \$354,496.49 from Anthony M. Tesvich in contravention of defendant's duty of loyalty to Home Depot. The defendant and the Government agree to advise the Court that defendant received an additional \$1,430,619.42 in periodic payments from a Home Depot contractor/vendor representative which defendant did not disclose to Home Depot and which the defendant understands the Government will argue to the Court and the United States Probation Office was also received by defendant in contravention of defendant's duty of loyalty to Home Depot. The defendant and the Government shall be free to argue to the Court and the United States Probation Office as to their position as to whether the Court should take that additional \$1,430,619.42 into account in terms of relevant conduct for sentencing purposes to establish the dollar amount within the range for sentencing purposes listed in the first sentence of this paragraph 6(a), but the defendant agrees to advise the Court and the United States Probation Office that a very substantial portion of that money received by defendant from that Home Depot contractor/vendor representative was first sent to a horse racing bookkeeping firm not owned in whole or in part by defendant, which then disbursed that money to defendant in a horse racing stable's name;

(b) The Government will advise the Court and the United States Probation Office that the following adjustments to the Sentencing Guideline calculation for Count I, and where noted, Counts II and III, of the Criminal Information should apply; provided, however, that the Government will fully advise the Court and the United States Probation Office of all facts necessary to the Court's and the Probation Office's determination of

whatever other adjustments, if any, to the Guidelines calculation as the Court and the United States Probation Office shall deem appropriate:

- (i) Section 3B1.3 (abuse of trust) - two points; and
- (ii) Additional points, if any, attributable under Section 3D1.4 (determining combined offense level).

The defendant shall be free to dispute the application of the aforesaid enumerated Sentencing Guideline points in this Paragraph 6(b) and same would not be interpreted to deprive defendant of acceptance of responsibility;

(c) The Government and the defendant agree to advise the Court and the United States Probation Office that the dollar amount to be used under Sentencing Guideline Section 2T1.1(a)(1) as to Counts II and III of the Criminal Information is \$65,916; specifically, the Government and the defendant agree that the tax loss amount for defendant's tax years 2005 (Count II) and 2006 (Count III) is \$22,621 for tax year 2005 and \$43,295 for tax year 2006; and

(d) The Government will advise the Court and the United States Probation Office that the following adjustments to the Sentencing Guideline Calculation for Counts II and III of the Criminal Information should apply; provided, however, that the Government will fully advise the Court and the United States Probation Office of all facts necessary to the Court's and the Probation Office's determination of whatever other adjustments, if any, to the Guidelines calculation as the Court and the United States Probation Office shall deem appropriate:

- (i) 2T1.1(b)(1)(income derived from criminal activity) - two points; and
- (ii) 2T1.1(b)(2)(sophisticated means) - two points.

The defendant shall be free to dispute the application of the aforesaid enumerated Sentencing Guideline points in this Paragraph 6(d) and same

would not be interpreted to deprive defendant of acceptance of responsibility.

7. Acceptance of Responsibility. The Government will recommend that the defendant receive the two-level adjustment for acceptance of responsibility pursuant to Section 3E1.1 of the Sentencing Guidelines, and the additional one-level adjustment if the offense level is 16 or higher. However, the Government will not be required to recommend acceptance of responsibility if, after entering this Plea Agreement, the defendant engages in conduct inconsistent with accepting responsibility. Thus, by way of example only, should the defendant falsely deny or falsely attempt to minimize his involvement in relevant offense conduct, give conflicting statements about his involvement, fail to pay the special assessment, or participate in additional criminal conduct, including unlawful personal use of a controlled substance, the Government will not be required to recommend acceptance of responsibility. Notwithstanding the foregoing, the Government and the defendant agree that the Government will remain free to advise the Court and the United States Probation Office that the defendant has informed the Government that he does not intend to cooperate and make known to federal prosecutors or federal agents any information regarding his own participation in the charged offenses, other than to admit to the Court his guilt as therein charged. The Government agrees not to recommend that the defendant's decision not to cooperate should be a basis for the Court and the United States Probation Office to deny the aforementioned two or three-level adjustments for acceptance of responsibility. Both the defendant and the Government understand that responsibility for such a determination rests with the Court and the United States Probation Office.

## ADDITIONAL PROVISIONS

8. Forfeiture. The defendant agrees that he shall immediately forfeit to the United States any and all interests in any and all assets and property, real and personal that constitutes or was derived from \$354,496.49 in proceeds traceable to the commission of the offenses in the Criminal Information to which the defendant is pleading guilty:

- (a) \$219,376.93 as substitute res for the assorted gym equipment and for 3161 Hamlet Way, N.E., Marietta, Georgia; and
- (b) A monetary forfeiture judgment in the amount of \$135,119.56.

The defendant acknowledges that each asset covered by this Plea Agreement is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) as property constituting, or derived from, proceeds obtained directly or indirectly, as a result of the violation(s) to which the defendant is pleading guilty.

The defendant acknowledges that the real property identified as 3161 Hamlet Way, N.E., Marietta, Georgia was titled to the defendant and his wife, Michelle E. Johnston. That property was sold on or about August 6, 2008, which generated \$219,376.93 in proceeds. The defendant hereby warrants, covenants, and represents that Michelle E. Johnston did not contribute any monies toward the improvements made to that real property. The defendant acknowledges that Michelle E. Johnston has disclaimed any interest she had in \$219,376.93 in proceeds from the sale of 3161 Hamlet Way, N.E., Marietta, Georgia, as shown in the Agreement between the United States and Michelle E. Johnston, which is attached hereto as Exhibit A.

The defendant warrants that he has not transferred, conveyed, or encumbered his interest in any assets covered by this Plea Agreement. The defendant agrees to hold all law enforcement agents and the United States, its agents, and its



employees harmless from any claims whatsoever arising in connection with the seizure or forfeiture of any asset covered by this Plea Agreement.

The defendant hereby waives and abandons all interest in any asset described by this Plea Agreement in any judicial forfeiture proceeding, whether criminal or civil, state or federal, and the defendant agrees that the forfeiture shall be accomplished either administratively or judicially at the Government's option. The defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, collateral attack, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. As to any asset described by this Plea Agreement, the defendant hereby waives the requirements of 18 U.S.C. § 983, 18 U.S.C. § 985, Rule 4 of the Federal Rules of Civil Procedure, and Supplemental Rule G(4), regarding notice of seizure in judicial forfeiture matters and the requirements of Federal Rules of Criminal Procedure 7, 11, 32.2, 41, and 43 as they apply in any manner to any forfeiture issue.

If the Government elects to proceed administratively, the defendant hereby consents to the entry of a declaration of forfeiture and waives the requirements of 18 U.S.C. § 983 regarding notice of seizure in non-judicial forfeiture matters. The defendant acknowledges that assets may have been forfeited administratively prior to the execution of this agreement, and the defendant hereby waives any interest in such assets; all constitutional, legal, and equitable claims to such assets; and all defenses to the forfeiture of such assets in any proceeding, including proper notice, timeliness of the notice, innocent ownership, defenses arising in connection with any provision of 18 U.S.C. § 983, and excessive fines. If the Government elects to proceed judicially against any asset, by entering into this Plea Agreement, the defendant authorizes the Court to immediately enter a preliminary order of forfeiture against all property described by this agreement, consents to that order

becoming final as to him at the time of entry, and agrees that the order shall become part of his sentence and be incorporated into the judgment against him automatically at the time of its entry without further action from the Court. If the forfeiture is to be accomplished in a parallel civil action, the defendant authorizes the court to the entry of a civil Judgment and Order of Forfeiture without further notice to him and waives all defenses to forfeiture as described above. To the extent that the Government institutes or has instituted any civil judicial forfeiture proceeding to which the defendant is or becomes a party, the defendant agrees that he shall be responsible for his attorneys fees and costs incurred in connection with that action.

With regard to all forfeitable assets, the defendant agrees to take all steps necessary to ensure that the property is not hidden, sold, wasted, destroyed, or otherwise made unavailable for forfeiture. In addition, the defendant agrees not to file a Statement of Interest, Answer, Claim, or Petition for Remission for such asset in any administrative or judicial proceeding that may be initiated or that has been initiated, including but not limited to, United States v. 3161 Hamlet Way, Civil Action No. 1:07-CV-3072 BBM (2007). To the extent that the defendant has filed a Statement of Interest, Answer, Claim, or Petition for Remission for any such asset, the defendant hereby immediately withdraws such filings, including any pleading he has filed in United States v. 3161 Hamlet Way, Civil Action No. 1:07-CV-3072 BBM (2007). The defendant agrees to take all steps requested by the Government to pass clear title to the forfeitable assets to the Government, to cooperate truthfully and completely with the Government in all matters related to the forfeiture of assets in connection with the facts and circumstances giving rise to this prosecution, and to testify truthfully in any forfeiture proceeding relating to his cooperation.

The defendant acknowledges that he is not entitled to use forfeited assets to

satisfy any tax obligations, fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture. To the extent that the Internal Revenue Service remits proceeds of an asset forfeited in connection with this case to a person or entity entitled to receive restitution from the defendant, upon a determination that defendant has no other assets from which to satisfy, in whole or in part, any restitution obligation, the defendant may ask the Court to reduce his restitution obligation by the amount remitted to that victim.

9. Restitution. The defendant agrees to pay full restitution, if any, as may be ordered by the Court to The Home Depot, Inc., the victim of Count I of the Criminal Information to which he is pleading guilty and any relevant conduct. The defendant understands that the amount of restitution owed to The Home Depot, Inc. will be determined at or before sentencing.

The defendant also agrees to cooperate fully with the Government and the United States Probation Office in the identification of assets to be applied toward restitution in which he has any actual, beneficial, or joint ownership, wherever located, and will execute such documentation, as may be required to locate and secure such assets, as may be deemed necessary by the Government or the United States Probation Office. The defendant's cooperation obligations include fully and truthfully completing the Department of Justice's Financial Statement of Debtor form within ten (10) days of the change of plea hearing; submitting to a financial deposition or an interview or interviews (if necessary) regarding his past and present financial condition as well as that of all members of his household (including but not limited to that of his current wife, any former wife, and children), prior to sentencing; providing any documentation requested by the Government or the United States Probation Office regarding his financial condition as well as that of all household members (including but not limited to that of his current wife,

former wife, and children); and fully and truthfully answering all questions regarding his past and present financial condition in such interview(s).

The defendant also agrees that the full amount of restitution ordered by the Court shall be considered due and payable immediately. If the defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the United States Probation Office at any time, he agrees that the custodial agency and the United States Probation Office will have the authority to establish payment schedules to ensure payment of restitution. The defendant further agrees to cooperate fully in efforts to collect his restitution obligation by set-off of program payments, execution on non-exempt property, and any other means the Government deems appropriate.

The Government will forward a copy of the restitution order to the Chief of the Asset Forfeiture and Money Laundering Section ("AFMLS") of the United States Department of Justice Criminal Division with a written request that property forfeited in the same and/or related civil, criminal or administrative forfeiture proceedings, including the civil forfeiture complaint referenced in Paragraph 8, above, be used to compensate the victim, The Home Depot, Inc., and losses specified in the restitution order, provided that the Government determines that the requirements for restoration as set forth in AFMLS Forfeiture Policy Directive 02-1, Paragraph III.A., are met.

10. Federal Income Tax. Defendant agrees to work with the United States Internal Revenue Service to file income tax returns for the tax years 2005 and 2006, correctly with accurate and truthful information, pay all taxes owing thereon, including penalties and interest thereon, and file all future tax returns truthfully and honestly. Defendant agrees that he will pay in full his outstanding tax liability once assessed, including penalties and interest, or enter into an installment

payment plan with the Collection Division of the Internal Revenue Service. If he enters into such an agreement with the Internal Revenue Service, he shall make timely payments and shall abide by the terms of such agreement. Defendant understands that the amount of tax, as calculated by the Internal Revenue Service, may exceed the amount of tax due as calculated for Counts II and III of the Criminal Information and the other uncharged relevant conduct tax year referred in Paragraph 6(c) of this Plea Agreement. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant and his current or any former wife that directly or indirectly relates to or arises out of the course of conduct defendant has acknowledged in this Plea Agreement, by transmitting to the Internal Revenue Service original records or copies thereof, and any additional books and records that the Internal Revenue Service may request. Nothing in this paragraph precludes defendant from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed the Internal Revenue Service.

11. Non-Cooperation. Defendant has advised the Government that he does not intend to voluntarily cooperate in the Government's investigation of himself or any other individual or entity.

12. No Further Charges. The Government agrees not to bring further criminal charges against the defendant related to Count I to which he is pleading guilty, receiving money or other things of value from Anthony M. Tesvich; provided, however, that if the Government should discover evidence not currently known to it that indicates either that defendant has had a violent criminal background or that defendant took substantial additional steps to procure or commit violent criminal acts, the Government is free to prosecute defendant for violent criminal activity whether or not it is related to Count I to which he is pleading guilty. The

defendant understands that this paragraph does not bar prosecution by any other federal, state, or local jurisdiction. The Government agrees, that if requested by defendant, it will recommend to any other federal, state, or local jurisdiction that they not pursue charges against defendant for any crimes of non-violence related to those to which the defendant is pleading guilty or crimes which the Government seeks to use as relevant conduct for the purposes of sentencing in this case. The defendant understands and agrees that this paragraph provides him no non-prosecution protection whatsoever in the event the Government decides to prosecute him for offenses arising out of his obtaining money or other things of value from persons or entities other than Anthony M. Tesvich, including offenses arising from defendant's obtaining money from the contractor/vendor representative which provided him with the \$1,430,619.42 referred to in Paragraph 6(a) of this Plea Agreement; provided however, that the Government does agree not to bring additional Title 26 tax charges against him for receipt of that \$ 1,430,619.42; and provided further that if the Court determines that this \$1,430,619.42 is to be included as relevant conduct for establishing the dollar amount for Sentencing Guideline Section 2B4.1(b)(1) purposes, no further other charges for crimes of non-violence will be brought for receipt of that amount from that contractor/vendor representative. The defendant further admits and agrees that venue is proper in the Northern District of Georgia, Atlanta Division as to all counts charged in the Criminal Information.

13. Pre-Payment of Special Assessment. The defendant agrees that, within 30 days of entry of his guilty plea, he will pay a special assessment in the amount of \$300 by money order or certified check made payable to the Clerk of Court, U.S. District Court, 2211 U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia

30303, and that he will provide proof of such payment to the Government within 30 days of the guilty plea.

14. Right to Inform Court. The Government reserves the right to inform the Court and the United States Probation Office of all facts and circumstances regarding the defendant and this case, and to respond to any questions from the Court and the United States Probation Office and to any misstatements of fact or law. Except as expressly stated elsewhere in this Plea Agreement, the Government also reserves the right to make recommendations regarding application of the Sentencing Guidelines.

15. No Biological Evidence. The parties agree that no biological evidence (as defined in 18 USC § 3600A) has been identified in this case; therefore, the defendant understands and agrees that no evidence will be preserved for DNA testing.


16. Breach of Plea Agreement. If the defendant fails in any way to fulfill each one of his obligations under this Plea Agreement, the Government may elect to be released from its commitments under this Plea Agreement. The Government may then prosecute the defendant for any and all Federal crimes that he has committed related to this case, including any charges dismissed pursuant to this Plea Agreement, and may recommend to the Court any sentence for such crimes up to and including the maximum sentence. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. In addition, the defendant agrees that, in such a

prosecution, all admissions and other information that he has provided at any time, including all statements he has made and all evidence he has produced during proffers, interviews, testimony, and otherwise, may be used against him, regardless of any constitutional provision, statute, rule, or agreement to the contrary. Finally, the defendant understands that his violation of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea in this case.

17. Recommendations Non-Binding. The defendant understands and agrees that the recommendations of the Government incorporated within this Plea Agreement or otherwise discussed between the parties are not binding on the Court and that the Court's failure to accept one or more of the recommendations will not constitute grounds to withdraw his guilty plea or to claim a breach of this Plea Agreement.

18. Entire Agreement. There are no other agreements, promises, representations, or understandings between the defendant and the Government.

In Open Court this 15<sup>th</sup> day of January, 2009.



SIGNATURE (Attorney for Defendant)

W. CARL LIETZ III, ESQ.

Kish & Lietz, P.C.

225 Peachtree Street, N.E.

1700 South Tower

Peachtree Center

Atlanta, Georgia 30303

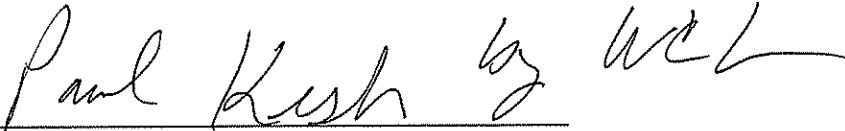


SIGNATURE (Defendant)

Ronald K. Johnston




Tele.: 404.588.3991  
Fax: 404.588.3995  
Georgia Bar. No.: 452080



SIGNATURE (Attorney for Defendant)

PAUL S. KISH, ESQ.

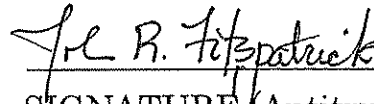
Kish & Lietz, P.C.  
225 Peachtree Street, N.E.  
1700 South Tower  
Peachtree Center  
Atlanta, Georgia 30303  
Tele.: 404.588.3991  
Fax: 404.588.3995  
Georgia Bar. No.: 424277



SIGNATURE (Assistant U.S. Attorney)

RUSSELL PHILLIPS, ESQ.

75 Spring Street, S.W.  
Suite 600  
Atlanta, Georgia 30303  
Tele.: 404.581.6000  
Fax: 404.581.6181  
E-mail: russell.phillips@usdoj.gov  
Georgia Bar No.: 576335



SIGNATURE (Antitrust Division)

JOHN R. FITZPATRICK, ESQ.

75 Spring Street, S.W.  
Suite 1176  
Atlanta, Georgia 30303  
Tele.: 404.331.7119  
Fax: 404.331.7110  
E-mail: john.fitzpatrick@usdoj.gov  
Georgia Bar No.: 262360





SIGNATURE (Antitrust Division)  
BARBARA W. CASH, ESQ.

75 Spring Street, S.W.

Suite 1176

Atlanta, Georgia 30303

Tele.: 404.331.7100

Fax: 404.332.7110

E-mail: barbara.cash@usdoj.gov

Georgia Bar No.: 743460

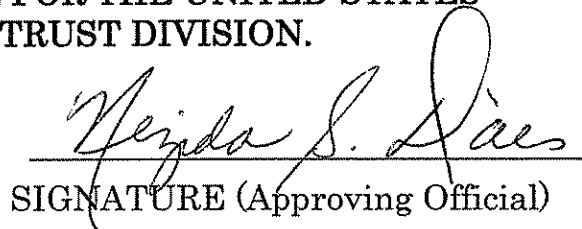
**THIS DOCUMENT IS A DRAFT FOR THE PURPOSE OF DISCUSSION. NO PLEA OFFER IS MADE UNTIL AND UNLESS THIS DOCUMENT IS SIGNED BY AN APPROVAL OFFICIAL FOR THE UNITED STATES ATTORNEY'S OFFICE AND THE ANTITRUST DIVISION.**



SIGNATURE (Approving Official)

RANDY S. CHARTASH

Chief, Economic Crimes



SIGNATURE (Approving Official)

NEZIDA S. DAVIS


Chief, Atlanta Field Office


12-17-08

DATE

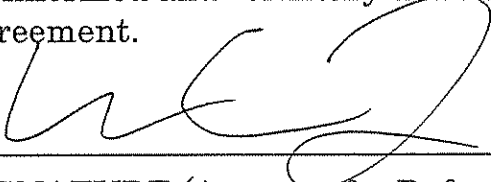
I have read the Criminal Information against me and have discussed it with my attorney. I understand the charges and the elements of each charge that the Government would have to prove to convict me at a trial. I have read the foregoing Plea Agreement and have carefully reviewed every part of it with my attorney. I understand the terms and conditions contained in the Plea Agreement, and I voluntarily agree to them. I also have discussed with my attorney the rights I may have to appeal or challenge my sentence, and I understand that the appeal waiver contained in the Plea Agreement will prevent me, with the narrow exceptions stated, from appealing my sentence or challenging my sentence in any post-conviction proceeding. No one has

threatened or forced me to plead guilty, and no promises or inducements have been made to me other than those discussed in the Plea Agreement. The discussions between my attorney and the Government toward reaching a negotiated plea in this case took place with my permission. I am fully satisfied with the representation provided to me by my attorney in this case.

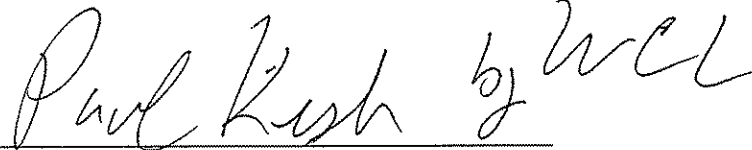
  
\_\_\_\_\_  
SIGNATURE (Defendant)  
Ronald K. Johnston

  
\_\_\_\_\_  
DATE

I am Ronald K. Johnston's lawyer. I have carefully reviewed the charges and the Plea Agreement with my client. To my knowledge, my client is making an informed and voluntary decision to plead guilty and to enter into the Plea Agreement.

  
\_\_\_\_\_  
SIGNATURE (Attorney for Defendant)

W. CARL LIETZ III, ESQ.  
Kish & Lietz, P.C.  
225 Peachtree Street, N.E.  
1700 South Tower  
Peachtree Center  
Atlanta, Georgia 30303  
Tele.: 404.588.3991  
Fax: 404.588.3995  
Georgia Bar. No.: 452080

  
\_\_\_\_\_  
SIGNATURE (Attorney for Defendant)  
PAUL S. KISH, ESQ.

Kish & Lietz, P.C.  
225 Peachtree Street, N.E.  
1700 South Tower  
Peachtree Center  
Atlanta, Georgia 30303  
Tele.: 404.588.3991  
Fax: 404.588.3995  
Georgia Bar. No.: 424277

---

Filed in Open Court

---

By \_\_\_\_\_

*RL*

U. S. DEPARTMENT OF JUSTICE  
Statement of Special Assessment Account

This statement reflects your special assessment only. There may be other penalties imposed at sentencing.

ACCOUNT INFORMATION	
CRIMINAL ACTION NO.:	1:09-CR- <u>014</u>
DEFENDANT'S NAME:	Ronald K. Johnston
PAY THIS AMOUNT:	\$300

INSTRUCTIONS:

1. PAYMENT MUST BE MADE BY CERTIFIED CHECK OR MONEY ORDER PAYABLE TO:

CLERK OF COURT, U.S. DISTRICT COURT

\*PERSONAL CHECKS WILL NOT BE ACCEPTED\*

2. PAYMENT MUST REACH THE CLERK'S OFFICE WITHIN 30 DAYS OF THE ENTRY OF YOUR GUILTY PLEA
3. PAYMENT SHOULD BE SENT OR HAND DELIVERED TO:

Clerk of Court, U.S. District Court  
2211 U.S. Courthouse  
75 Spring Street, S.W.  
Atlanta, Georgia 30303

(Do not Send Cash)

4. INCLUDE DEFENDANT'S NAME ON CERTIFIED CHECK OR MONEY ORDER
5. ENCLOSE THIS COUPON TO INSURE PROPER AND PROMPT APPLICATION OF PAYMENT
6. PROVIDE PROOF OF PAYMENT TO THE ABOVE-SIGNED AUSA WITHIN 30 DAYS OF THE GUILTY PLEA

11

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION



UNITED STATES OF AMERICA, :  
 :  
 :  
 V. : CRIMINAL INFORMATION  
 :  
 RONALD K. JOHNSTON : 1:08-<sup>9</sup>CR-014  
 :  
 :  
 Defendant. :

AGREEMENT

This Agreement is entered into between the Defendant's wife, Michelle E. Johnston and the United States of America, by and through David E. Nahmias, United States Attorney, Northern District of Georgia.

The parties to this Agreement, upon advice of counsel, have voluntarily entered into this Agreement in order to insure that the terms of the plea agreement entered between the Defendant Ronald K. Johnston and the United States of America (hereinafter "Plea Agreement") may be fulfilled without further action on the part of either party to that Plea Agreement, and to resolve any and all claims Michelle E. Johnston may have under Title 21, United States Code, Sections 981, 982, and 853(n) to contest the forfeiture of the following property:

- (a) \$219,376.93 in proceeds from the sale of 3161 Hamlet Way, N.E., Marietta, Georgia ("the Property").

In consideration of the mutual agreements contained herein, and in the Plea Agreement, the parties agree as follows:

AL

1. Michelle E. Johnston acknowledges that she has been made aware of the terms and conditions of the Plea Agreement.

2. For the purpose of accomplishing the forfeiture of the Property, Michelle E. Johnston hereby disclaims any interest in the Property, and consents to the judicial forfeiture of the Property. To that end, Michelle E. Johnston agrees to execute whatever documents are necessary to transfer clear title to the United States. Similarly, Michelle E. Johnston hereby waives any notice required by 21 U.S.C. § 853.

3. To the extent that she has filed a Statement of Interest, Answer, Claim, or Petition for Remission for the Property, Michelle E. Johnston hereby immediately withdraws such filings, including any pleading she has filed in United States v. 3161 Hamlet Way, Civil Action No. 1:07-CV-3072-BBM (2007).

4. The parties to this Agreement acknowledge that they have been afforded the opportunity to consult with competent counsel in connection with the negotiation, preparation, and execution of this Agreement, that its provisions and the legal effect of them have been explained to them, that they have entered into this Agreement freely and voluntarily, without coercion, duress or undue influence.

5. The parties to this Agreement understand and agree that this Agreement contains the entire agreement between the parties to it, that no promise or inducement has been made, except as is set



forth herein, that no representation or agreements, oral or otherwise, between the parties to this Agreement and not included herein shall be of any force and effect. Each party to this Agreement relies upon his or her own judgment, and similarly his or her own belief and knowledge of the facts underlying this Agreement, and the liability, if any, which might arise from such facts. In making this Agreement, no party relies on any statement or representation, oral or otherwise, made by an opposing party not found in this Agreement.

6. The terms of this Agreement are contractual and are binding upon and inure to the benefit of the parties to the Agreement.

Stipulated and agreed to, this 1<sup>st</sup> day of January, 2009.

DAVID E. NAHMIAS  
UNITED STATES ATTORNEY

MICHAEL J. BROWN  
ASSISTANT U.S. ATTORNEY  
GEORGIA BAR NO. 064437  
75 SPRING STREET, S.W.  
SUITE 600  
ATLANTA, GA 30303  
TEL. 404-581-6131  
FAX 404-581-6181

  
\_\_\_\_\_  
MICHELLE E. JOHNSTON

\_\_\_\_\_  
GEORGIA BAR NO.  
ATTORNEY FOR MICHELLE E. JOHNSTON