IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA, PLAINTIFF,	:	
vs.	:	Case No. 2:09-CR-41 Judge SMITH
JOSEPH L. WILDEN, DEFENDANT.	:	

PLEA AGREEMENT

Plaintiff United States of America and defendant JOSEPH L. WILDEN hereby enter into the following Plea Agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure:

1. Defendant JOSEPH L. WILDEN will enter pleas of guilty to the Indictment herein which charges him with six counts of wire fraud in violation of 18 U.S.C. § 1343.

2. Defendant JOSEPH L. WILDEN understands the maximum penalties which may be imposed pursuant to his plea of guilty for each of Counts 1 through 6 of the Indictment is a term of imprisonment of up to 20 years, a fine of $250,000.00, and up to 3 years of supervised release. The defendant understands that these sentences could be imposed consecutively.

3. Prior to or at the time of sentencing, the defendant will pay a special assessment of $100.00 per count as required in 18 U.S.C. § 3013, for a total of $600.00. This payment shall be made to the United States District Court, at the Clerk's Office, Room

260, 85 Marconi Boulevard, Columbus, Ohio 43215. The defendant will furnish to the government a receipt or other evidence of payment at the time of sentencing.

4. Defendant JOSEPH L. WILDEN agrees to testify truthfully and completely concerning all matters pertaining to the Indictment returned herein and to any and all other matters involving wire fraud in which he may have been involved or as to which he may have knowledge. The defendant further agrees to provide a complete statement to authorities of the United States concerning such matters prior to the entry of his guilty plea pursuant to this agreement. The defendant agrees to submit to supplemental debriefings on such matters whenever requested by authorities of the United States, whether before or after his plea is entered.

Pursuant to §1B1.8 of the United States Sentencing Guidelines, the government agrees that any self-incriminating information so provided will not be used against the defendant in determining the applicable guideline range for sentencing, or as a basis for upward departure from the guideline range.

5. The parties agree that defendant JOSEPH L. WILDEN shall make restitution, in the amount of $995,449.60 to the victims of this offense.

6. If such a guilty plea is entered, and not withdrawn, and the defendant, JOSEPH L. WILDEN, acts in accordance with all other terms of this agreement, the United States Attorney for the

Southern District of Ohio agrees not to file additional criminal charges against the defendant based on his activities charged in the Indictment, or conduct otherwise included in the relevant conduct identified in paragraph 5 in this plea agreement.

7. Defendant JOSEPH L. WILDEN understands that this agreement does not protect him from prosecution for perjury, should he testify untruthfully, or for making false statements, nor does it protect him from prosecution for other crimes or offenses which the United States discovers by independent investigation. Further, should the defendant fail to comply fully with the terms and conditions set forth herein, this agreement is voidable at the election of the United States Attorney for the Southern District of Ohio, and the defendant may be subject to prosecution as if the agreement had never been made.

8. It is agreed by the parties hereto, that: (1) pursuant to U.S.S.G. § 2B1.1(a)(1), the base offense level for the crimes to which defendant is pleading guilty is 7; (2) pursuant to U.S.S.G. § 2B1.1(b)(1)(H), the current estimated loss in this case is more than $400,000.00 and less than $1,000,000.00, which increases the defendant's offense level by 14 levels, and that, (3) pursuant to U.S.S.G. § 3B1.1(c), defendant was an organizer, leader, manager, or supervisor of criminal activity and thus defendant's offense level is increased by 2 levels. The parties further understand that these agreements on the guidelines are not binding on the

Court and the final determination concerning the defendant's guideline calculations rests with the Court.

9. The United States believes that the defendant has accepted responsibility as that term is defined in U.S.S.G. § 3E1.1 of the United States Sentencing Guideline and is thus entitled to a reduction of two levels provided defendant continues to demonstrate compliance with the terms of U.S.S.G. § 3E1.1 and this agreement up through the time of sentencing. Further, the defendant and the United States agree that if defendant's offense level prior to the operation of section 3E1.1(a) is level 16 or greater, the defendant would be entitled to an additional one level reduction pursuant to U.S.S.G. § 3E1.1(b). The United States requests the additional level if applicable. The parties further understand that this offense level agreement is not binding on the Court and the final determination concerning the defendant's offense level and acceptance of responsibility for purposes of sentencing rests with the Court. The Court's determination with respect to the defendant's offense level will not serve as a basis for the defendant to withdraw from this Plea Agreement.

10. It is agreed that if the Court refuses to accept any provision of this Plea Agreement, with the exception of paragraphs 5, 8, and 9, neither party is bound by any of its provisions, Defendant JOSEPH L. WILDEN, may withdraw his guilty plea, and the United States Attorney for the Southern District of Ohio may

proceed with the Indictment without prejudice.

11. Defendant JOSEPH L. WILDEN is aware that, in light of United States v. Booker, 125 S.Ct. 738 (2005), the United States Sentencing Guidelines are advisory and are no longer mandatory. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set forth for the offense to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is further aware that any estimate of a probable sentencing range under the guidelines that the defendant may have received, or may receive in the future, from his counsel, the United States, or the probation office is a prediction, not a promise, and is not binding on the United States, the probation office, or the Court. The United States makes no promise or representation concerning the sentence that the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

12. Defendant JOSEPH L. WILDEN understands and acknowledges that he is entering into this plea agreement and is pleading guilty freely and voluntarily because he is guilty. The defendant further acknowledges that he is entering into this agreement without reliance on any representations or discussions not contained in this agreement and that there has been no threats, coercion, or

intimidation of any kind. The defendant acknowledges complete satisfaction with the representation of his counsel and the advice he has received in connection with this plea agreement.

13. Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. The Defendant expressly waives those rights, except as reserved below. Defendant reserves the right to appeal: (a) any punishment in excess of the statutory maximum; (b) any sentence to the extent it exceeds the maximum of the sentencing range determined under the advisory Sentencing Guidelines in accordance with the sentencing stipulations and computations in this agreement, using the Criminal History Category found applicable by the Court. Nothing in this paragraph shall act as a bar to the Defendant perfecting any legal remedies Defendant may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

14. By virtue of the defendant pleading guilty to Counts 1 through 6 of the Indictment, the defendant understands that he is not a prevailing party as defined in 18 U.S.C. § 3006A (statutory note captioned "Attorney Fees and Litigation Expenses to Defense")

and hereby expressly waives his right to sue the United States based on his arrest and prosecution in this case.

15. No additional promises, agreements, or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

4/1/09
DATE

JOSEPH L. WILDEN
Defendant

4/1/09
DATE

MICHAEL T. GUNNER
Attorney for Defendant WILDEN

GREGORY G. LOCKHART
UNITED STATES ATTORNEY

4-1-09
DATE

J. MICHAEL MAROUS (0015322)
Assistant United States Attorney