

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)
) No. 10 CR 50073-01
) Judge Philip G. Reinhard
)
vs.)
)
FRANCIS X. SANCHEZ)

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant FRANCIS X. SANCHEZ, and his attorney, DENNIS J. RYAN, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with eight counts of mail fraud, in violation of Title 18, United States Code, Section 1341, and twelve counts of wire fraud, in violation of Title 18, United States Code, Section 1343.

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charge to Which Defendant is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following count of the indictment: Count One, which charges defendant with mail fraud, in violation of Title 18, United States Code, Section 1341.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

Defendant was the Chief Executive Officer (“CEO”) of the following businesses: InvestForClosures.Com; InvestForClosures Financial, LLC; InvestForClosures Ventures, LLC, doing business as Realty Opportunities International; Realty Opportunities International – Mexico; and ROI Developers, LLC. Defendant also had an ownership interest in each of these businesses. Co-defendant James D. Bourassa was the president of each of these businesses and also had an ownership interest in them. Defendant and co-defendant Bourassa solicited individuals to invest in their businesses.

Defendant admits that from at least as early as July 2000, and continuing to at least July 2009, at Woodstock, in the Northern District of Illinois, Western Division, and elsewhere, he and co-defendant Bourassa knowingly engaged in a scheme to defraud the investors of the businesses listed above (hereinafter “the investors”), and to obtain money, funds, credit, and property belonging to the investors by means of materially false and fraudulent pretenses, representations, and promises.

Defendant and co-defendant Bourassa represented to the investors that InvestForClosures.Com and InvestForClosures Financial, LLC were in the business of buying distressed properties, rehabilitating those properties, and selling those properties at a profit.

Defendant and co-defendant Bourassa falsely represented that investments in InvestForClosures.Com and InvestForClosures Financial, LLC would be safe because they would be backed by real estate. This representation was false, because as defendant and co-defendant Bourassa well knew, their businesses did not own sufficient real estate to secure all of the investments that had been made in those businesses.

Defendant and co-defendant Bourassa falsely represented that InvestForClosures Financial used the majority of the investors' funds to purchase real estate. This representation was false, because as defendant and co-defendant Bourassa well knew, the majority of the investors' funds were used to pay other expenses, including their salaries, and to pay interest to prior investors.

Defendant and co-defendant Bourassa also falsely represented that because of InvestForClosures Financial, LLC's efficient cash flow from buying and selling houses, it had never failed to make an interest payment on time or return an investor's principal when requested. This representation was false, because as defendant and co-defendant Bourassa well knew, InvestForClosures Financial, LLC did not have sufficient cash flow from the buying and selling of houses to make interest payments on time and return investors' principal when requested. Instead, as defendant and co-defendant Bourassa knew,

InvestForClosures Financial, LLC was using funds from new investors to pay interest and principal owed to prior investors.

In order to conceal from the investors their false promises and misrepresentations in connection with InvestForClosures Financial, LLC, and to prevent the investors from demanding the return of their principal, defendant and co-defendant Bourassa advised investors of their purported development of a real estate project in Mexico known as “Sands of Gold.” Sands of Gold was marketed as an exclusive, luxury residential community that would be built on oceanfront property in the area of Playa Ventura, Mexico. The following business entities were used to market the “Sands of Gold” project: InvestForClosures Ventures, LLC, doing business as Realty Opportunities International, and Realty Opportunities International – Mexico. After defendant and co-defendant Bourassa began marketing the “Sands of Gold” project, they continued to attempt to purchase and sell properties in the United States through an entity known as ROI Developers, LLC.

Defendant and co-defendant Bourassa promised the individuals who had invested in InvestForClosures.Com and InvestForClosures Financial, LLC, that they would receive equity in InvestForClosures Ventures, LLC. Defendant and co-defendant Bourassa also solicited the investors to purchase lots at Sands of Gold. In addition, defendant and co-defendant Bourassa solicited additional investments in InvestForClosures Ventures, LLC for the Sands of Gold project.

Defendant made several false statements to the investors regarding the progress of the Sands of Gold project, including: (1) that the government of Mexico had promised to invest

millions of dollars in infrastructure necessary for the development of Sands of Gold; (2) that he was nearing completion of negotiations with a major hotel firm for the development of a hotel at Sands of Gold; (3) that efforts to obtain financing for the Sands of Gold project were going well and a financing deal was imminent; and (4) that the firm of Grant Thornton had agreed to provide the public accounting services necessary for InvestForClosures Ventures, LLC, to conduct an Initial Public Offering (“IPO”).

Throughout the course of the scheme defendant and co-defendant Bourassa misrepresented the financial condition of their businesses as being strong, when, as defendants well knew, the businesses were losing money. They also concealed and failed to disclose to the investors and potential investors the poor financial condition of their businesses.

During the course of the scheme, defendant and co-defendant Bourassa fraudulently obtained approximately \$7,238,506.40 from the investors. Of this amount, approximately \$1,711,711.18 was paid back to the investors through *Ponzi* type payments. The remainder of the investors’ funds were used to pay various expenses, including the defendant’s and co-defendant Bourassa’s salaries. The scheme caused a loss to the investors of approximately \$5,526,795.22.

On or about January 23, 2006, at Woodstock, in the Northern District of Illinois, Western Division, for the purpose of executing the scheme to defraud, defendant knowingly did cause to be delivered by commercial interstate carrier, according to the direction thereon, an envelope containing a check drawn on the bank account of “Investor A” in the amount of

\$20,000, that envelope being delivered to: InvestForClosures Ventures in Woodstock, Illinois.

Maximum Statutory Penalties

7. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 20 years' imprisonment. The Court may also impose a term of probation of one to five years. This offense also carries a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2011 Guidelines Manual.

b. **Offense Level Calculations.**

i. The parties further agree that the base offense level for the charge in the indictment is 7, pursuant to Guideline § 2B1.1(a)(1).

ii. The parties further agree that the offense level must be increased by 18 levels, pursuant to Guideline § 2B1.1(b)(1)(J), because the loss caused by defendant's offense was more than \$2,500,000.

iii. The parties further agree that the offense level must be increased by an 4 additional levels, pursuant to Guideline §2B1.1(b)(2)(B), because defendant's offense involved 50 or more victims.

iv. The parties further agree that the offense level must be increased by an additional 2 levels, pursuant to Guideline §2B1.1(b)(9)(C), because defendant's offense involved the violation of a prior specific administrative order.

v. The parties further agree that the offense level must be increased by an additional 2 levels, pursuant to Guideline §3B1.1(c), because the defendant was an organizer, leader, manager, and supervisor of the criminal activity.

vi. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government and set forth below, the parties agree that defendant's criminal history points equal 1 and defendant's criminal history category is I:

i. On or about November 17, 1994, defendant was convicted of domestic battery in McHenry County, Illinois, and sentenced to 12 months of court

supervision. The parties agree that defendant receives 1 criminal history point for this conviction, pursuant to Guidelines 4A1.1(c), 4A1.2(e)(2).

ii. On or about November 9, 2001, defendant was convicted of driving without a valid license in McHenry County, Illinois, and sentenced to 6 months of court supervision. On July 14, 2011, the court revoked defendant's original court supervision sentence and ordered him to serve an additional 100 days of court supervision. The parties agree that defendant receives 0 criminal history points for this conviction, pursuant to Guidelines 4A1.2(c)(1).

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 30, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 97 to 121 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon

the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this plea agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Plea Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Plea Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

10. The government is free to recommend whatever sentence it deems appropriate within the applicable guidelines range. The defendant will file a motion requesting a downward variance from the applicable Sentencing Guidelines range. The United States will oppose defendant's motion for downward variance.

11. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

12. Regarding restitution, defendant acknowledges that the total amount of restitution owed to the victims is \$5,526,795.22, minus any credit for funds repaid prior to sentencing, and that pursuant to Title 18, United States Code, § 3663A, the Court must order defendant, together with any jointly liable co-defendants, to make full restitution in the amount outstanding at the time of sentencing.

13. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

14. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

15. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

16. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to defendant.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

17. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 10 CR 50073-01.

18. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver or release by the United States or any of its agencies of any administrative or judicial civil claim, demand or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities, except as expressly set forth in this Agreement.

19. Defendant understands that nothing in this Plea Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant and his spouse or defendant's partnership or corporations.

Waiver of Rights

20. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a

jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would

be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

c. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

21. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of

defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

22. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

23. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

24. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

25. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant and his spouse and defendant's partnerships or corporations which directly or indirectly relates to or arises out of the course of conduct which defendant has acknowledged in this Plea Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records which the IRS may request.

26. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency (including but not limited to the Internal Revenue Service), for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil

or administrative proceeding involving, or investigation of, defendant and his spouse or defendant's partnerships or corporations. Nothing in this paragraph or the preceding paragraph precludes defendant and his spouse or defendant's partnerships or corporations from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

Conclusion

27. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record and may be disclosed to any person.

28. Defendant understands that his compliance with each part of this Plea Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

29. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

30. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Plea Agreement to cause defendant to plead guilty.

31. Defendant acknowledges that he has read this Plea Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

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