



1 **A. The Plea**

2 1. Defendant will plead guilty to Count One of the information, charging defendant  
3 with conspiracy to commit wire and mail fraud, in violation of Title 18, United States Code,  
4 Section 1349. Defendant also agrees to pay restitution and to the forfeiture of the property set forth  
5 in this Plea Memorandum.

6 **B. Additional Charges**

7 2. The U.S. Department of Justice, Criminal Division, Fraud Section, agrees to bring  
8 no additional criminal charges in the District of Nevada against the defendant relating to or arising  
9 from the offenses charged in the information, except for any crime of violence and any crime  
10 unknown to the Fraud Section before the time the parties sign this Plea Memorandum.

11 **C. Sentencing Guideline Calculations**

12 3. Defendant understands that the Court is required to consider United States  
13 Sentencing Guidelines (“U.S.S.G.” or “Sentencing Guidelines”) among other factors in  
14 determining the defendant’s sentence. Defendant understands that the Sentencing Guidelines are  
15 advisory, and that after considering the Sentencing Guidelines, the Court may be free to exercise its  
16 discretion to impose any reasonable sentence up to the maximum set by statute for the crime of  
17 conviction.

18 4. The parties agree that the following calculations of the United States Sentencing  
19 Guidelines (2010) apply:

20	Base Offense Level (U.S.S.G. §2B1.1(a)):	7
21		
22	Loss Amount of \$70,000 to \$120,000 (U.S.S.G. §2B1.1(b)(1)(E)):	8
23		
24	Sophisticated Means (U.S.S.G. §2B1.1(b)(9)(C)):	2
25		
26	TOTAL	17

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1           5. Pursuant to U.S.S.G. §3E1.1(a), the United States will recommend that the  
2 defendant receive a two (2) level adjustment for acceptance of responsibility unless Defendant (a)  
3 fails to make a complete factual basis for the guilty plea at the time it is entered; (b) is untruthful  
4 with the Court or probation officers in any respect, including, without limitation, financial  
5 information; (c) denies involvement in the offense or provides conflicting statements regarding  
6 defendant's involvement; (d) attempts to withdraw the guilty plea; (e) engages in criminal conduct;  
7 (f) fails to appear in court; or (g) violates the conditions of Defendant's pretrial release conditions.

8           6. Pursuant to U.S.S.G. §3E1.1(b), the United States will, in its sole discretion, make  
9 a motion for an additional one-level adjustment for acceptance of responsibility prior to sentencing  
10 if the defendant timely notifies the United States of the defendant's intention to plead guilty,  
11 thereby permitting the United States to avoid preparing for trial and allowing for the efficient  
12 allocation of resources.

13           7. Defendant's Criminal History Category will be determined by the court.

14 **D. Other Sentencing Matters**

15           8. The parties agree that the Sentencing Guideline calculations are based on  
16 information now known and could change upon investigation by the United States Probation  
17 Office. It is possible that factors unknown or unforeseen by the parties to the Plea Memorandum  
18 may be considered in determining the offense level, specific offense characteristics, and other  
19 related factors. In that event, the defendant will not withdraw his plea of guilty. Both the  
20 defendant and the United States are free to: (a) supplement the facts by supplying relevant  
21 information to the United States Probation Office and the Court, and (b) correct any and all factual  
22 inaccuracies relating to the calculation of the sentence.

23           9. The stipulations in this agreement do not bind either the United States Probation  
24 Office or the Court. Both Defendant and the United States are free to: (a) supplement the facts by  
25 supplying relevant information to the United States Probation Office and the Court, and (b) correct  
26 any and all factual inaccuracies relating to the calculation of the sentence.

1 **E. Fines and Special Assessment**

2 10. Defendant agrees that the Court may impose a fine due and payable immediately  
3 upon sentencing.

4 11. Defendant will pay the special assessment of \$100 per count of conviction at the  
5 time of sentencing.

6 **F. Restitution**

7 12. Defendant agrees to make restitution to the lenders that financed the straw  
8 purchases in furtherance of the scheme, described below in Section IV. Defendant understands and  
9 agrees that this amount could be as much as \$150,000.00, the total purchase price for the property  
10 at Vistana. The parties further acknowledge, however, that this amount may be reduced at  
11 sentencing by any provable down payments and mortgage payments made before the June 2009  
12 foreclosure of the property and by the amount of any sale of the property by the foreclosing bank or  
13 its assignee. At the time of this Plea Memorandum, the amount of required restitution is estimated  
14 to be \$94,148.05. Defendant understands that any restitution imposed by the Court may not be  
15 discharged in whole or in part in any present or future bankruptcy proceeding.

16 **G. Forfeiture**

17 13. The parties agree that the government will not request that the Court require  
18 Defendant to pay forfeiture in addition to restitution. However, should the Court nevertheless  
19 order that Defendant shall pay forfeiture, the government agrees that such amount shall be the total  
20 purchase price for the property at Vistana, reduced by any provable down payments and mortgage  
21 payments made before the June 2009 foreclosure of the property and by the amount of any sale of  
22 the property by the foreclosing bank or its assignee, which is estimated at the time of this Plea  
23 Memorandum to total no more than \$94,148.05. In the event of any order by the Court that  
24 Defendant shall pay forfeiture, the Defendant knowingly and voluntarily agrees to the following:

- 25 a. to abandon or to forfeit the property to the United States;  
26 b. to relinquish all right, title, and interest in the property;

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1 c. to waive his right to any abandonment proceedings, any civil administrative  
2 forfeiture proceedings, any civil judicial forfeiture proceedings, or any criminal forfeiture  
3 proceedings (“proceedings”) of the property;

4 d. to waive service of process of any and all documents filed in this action or any  
5 proceedings concerning the property arising from the facts and circumstances of this case;

6 e. to waive any further notice to the defendant, the defendant’s agents, or the  
7 defendant’s attorney regarding the abandonment or the forfeiture and disposition of the property;

8 f. not to file any claim, answer, petition, or other documents in any proceedings  
9 concerning the property;

10 g. to waive the statute of limitations, the CAFRA requirements, Fed. R. Crim. P.  
11 7(c)(2), 32.2(a), and 32.2(b)(3), and the constitutional due process requirements of any  
12 abandonment proceeding or any forfeiture proceeding concerning the property;

13 h. to waive the defendant’s right to a jury trial on the forfeiture of the property;

14 i. to waive (a) all constitutional, legal, and equitable defenses to, (b) any  
15 constitutional or statutory double jeopardy defense or claim concerning, and (c) any claim or  
16 defense under the Eighth Amendment to the United States Constitution, including, but not limited  
17 to, any claim or defense of excessive fine in any proceedings concerning the property; and

18 j. to the entry of an Order of Forfeiture of the property to the United States.

19 14. Defendant knowingly and voluntarily agrees and understands the abandonment,  
20 the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture of the  
21 property shall not be treated as satisfaction of any assessment, fine, restitution, cost of  
22 imprisonment, or any other penalty this Court may impose upon the defendant in addition to the  
23 abandonment or the forfeiture.

24 **H. Waiver of Appeal**

25 15. In exchange for the concessions made by the United States in this Plea  
26 Memorandum, Defendant knowingly and expressly waives the right to appeal any sentence that is  
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1 imposed within the applicable Sentencing Guideline range as calculated by the Court, further  
2 waives the right to appeal the manner in which that sentence was determined on the grounds set  
3 forth in Title 18, United States Code, Section 3742, and further waives the right to appeal any other  
4 aspect of the conviction or sentence, including any order of restitution and forfeiture. Defendant  
5 reserves only the right to appeal any portion of the sentence that is an upward departure from the  
6 applicable Sentencing Guideline range calculated by the Court.

7 16. Defendant also waives all collateral challenges, including any claims under Title  
8 18, United States Code, Section 2255, to the defendant's conviction, sentence and the procedure by  
9 which the Court adjudicated guilt and imposed sentence, except non-waivable claims of ineffective  
10 assistance of counsel.

11 **I. Additional Promises, Agreements, and Conditions**

12 17. In exchange for the United States entering into this memorandum, Defendant  
13 agrees that (a) the facts set forth in Section IV of this Plea Memorandum shall be admissible  
14 against the defendant under Fed. R. Evid. 801(d)(2)(A) in the following circumstances: (i) for any  
15 purpose at sentencing; and (ii) in any subsequent proceeding, including a trial in the event the  
16 defendant does not plead guilty or withdraws the defendant's guilty plea, to impeach or rebut any  
17 evidence, argument or representation offered by or on the defendant's behalf; and (b) the defendant  
18 expressly waives any and all rights under Fed. R. Criminal P. 11(f) and Fed. R. Evid. 410 with  
19 regard to the facts set forth in Section IV of the Plea Memorandum to the extent set forth above.

20 18. The parties agree that no promises, agreements, and conditions have been entered  
21 into other than those set forth in this plea memorandum, and will not be entered into unless in  
22 writing and signed by all parties.

23 **J. Limitations**

24 19. This Plea Memorandum is limited to the Criminal Division of the United States  
25 Department of Justice and cannot bind any other federal, state or local prosecuting, administrative,  
26 or regulatory authority. But, this Plea Memorandum does not prohibit the United States through  
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1 any agency thereof, the Criminal Division of the United States Department of Justice, or any third  
2 party from initiating or prosecuting any civil proceeding directly or indirectly involving the  
3 defendant, including but not limited to, proceedings under the False Claims Act relating to  
4 potential civil monetary liability or by the Internal Revenue Service relating to potential tax  
5 liability.

6 **K. Cooperation**

7 20. Defendant agrees, if requested by the United States, to provide complete and  
8 truthful information and testimony concerning Defendant's knowledge of all other persons who are  
9 committing or have committed offenses against the United States or any state, and agrees to  
10 cooperate fully with the United States in the investigation and prosecution of such persons.

11 21. In the event the government decides in its sole discretion that the assistance  
12 provided by Defendant amounts to "substantial assistance" pursuant to U.S.S.G. § 5K1.1, the  
13 United States will timely file a motion for downward departure from the applicable Guideline  
14 calculation. The Court has the sole discretion to grant such a motion.

15 22. Defendant agrees that a motion for downward departure based on substantial  
16 assistance shall not be made under any circumstances unless Defendant's cooperation is deemed to  
17 be substantial assistance by the government. The United States has made no promise, implied or  
18 otherwise, that Defendant will be granted a departure for substantial assistance. Further, no  
19 promise has been made that such a motion will be made even if Defendant complies with the terms  
20 of this Plea Memorandum in all respects but has been unable to provide substantial assistance as  
21 determined in the sole discretion of the government.

22 23. The United States agrees to consider the totality of the circumstances, including,  
23 but not limited to, the following factors, in determining whether, in the sole discretion of the  
24 government, Defendant has provided substantial assistance which would merit a motion by the  
25 United States for a downward departure from the applicable Guideline:

1 a. The United States' evaluation of the significance and usefulness of Defendant's  
2 assistance;

3 b. The truthfulness, completeness, and reliability of any information or testimony  
4 provided by Defendant;

5 c. The nature and extent of Defendant's assistance;

6 d. The truthfulness and completeness in disclosing and bringing to the attention of  
7 the Government all crimes which Defendant has committed and all administrative, civil, or  
8 criminal proceedings, investigations, and prosecutions in which she has been or is a subject, target,  
9 party, or witness;

10 e. The truthfulness and completeness in disclosing and providing to the Government,  
11 upon request, any document, record, or other evidence relating to matters about which the  
12 Government or any designated law enforcement agency inquiries, including but not limited to,  
13 Defendant's personal finances;

14 f. Any injury suffered, or any danger or risk of injury to Defendant or Defendant's  
15 family resulting from defendant's assistance; and,

16 g. The timeliness of Defendant's assistance.

17 24. Defendant agrees that in the event the United States files a downward departure  
18 motion based upon Defendant's substantial assistance, the United States reserves the right to make  
19 a specific recommendation to the Court regarding the extent of such a departure. Defendant  
20 understands and agrees that the final decision as to how much of a departure, if any, is warranted  
21 rests solely with the Court.

22 **L. Breach**

23 25. Defendant agrees that if Defendant, at any time after the signature of this  
24 Memorandum and execution of all required certifications by Defendant, Defendant's counsel, and  
25 an attorney for the government, knowingly violates or fails to perform any of Defendant's  
26 obligations under this Memorandum ("a breach"), the government may declare this Memorandum  
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1 breached. All of Defendant's obligations are material, a single breach of this Memorandum is  
2 sufficient for the government to declare a breach, and Defendant shall not be deemed to have cured  
3 a breach without the express agreement of the government in writing. If the government declares  
4 this Memorandum breached, and the Court finds such a breach to have occurred, then: (a) if  
5 Defendant has previously entered a guilty plea pursuant to this Memorandum, Defendant will not  
6 be able to withdraw the guilty plea, and (b) the government will be relieved of all its obligations  
7 under this Memorandum.

## 8 II. PENALTY

9 26. The maximum penalty for a violation of Title 18, United States Code, Section  
10 1349, is imprisonment for not more than thirty (30) years, a \$1,000,000 fine, or both. Defendant is  
11 subject to supervised release for a term of not greater than five (5) years.

12 27. Supervised release is a period of time following imprisonment during which  
13 Defendant will be subject to various restrictions and requirements. Defendant understands that if  
14 Defendant violates one or more of the conditions of any supervised release imposed, Defendant  
15 may be returned to prison for all or part of the term of supervised release, which could result in  
16 Defendant serving a total term of imprisonment greater than the statutory maximum stated above.

17 28. Defendant is required to pay for the costs of imprisonment, probation, and  
18 supervised release, unless the defendant establishes that the defendant does not have the ability to  
19 pay such costs, in which case the court may impose an alternative sanction such as community  
20 service.

## 21 III. ELEMENTS

22 29. The essential elements of the offense of conspiracy to commit mail and wire  
23 fraud, in violation of 18 U.S.C. § 1349, are as follows:

24 a. First, from as early as in or about August 2003 through at least in or about  
25 February 2009, there was an agreement between two or more persons to commit mail fraud and  
26 wire fraud; and  
27



1 limited liability companies at the direction of a co-conspirator. Many of these payments were  
2 wired from California to Nevada.

3 36. Defendant, who acquired a transferred interest in a property, agreed to run for  
4 election to the HOA board at Vistana. Once elected to the Vistana board, Defendant then breached  
5 his statutory fiduciary duty to the homeowners by accepting from his co-conspirators compensation,  
6 gratuity, and other remuneration that improperly influenced, or reasonably appeared to influence, his  
7 decisions, resulting in a conflict of interest. Defendant subsequently voted in a manner directed by  
8 and favorable to his co-conspirators.

9 37. Defendant also acted as the co-conspirators' campaign consultant to help ensure the  
10 co-conspirators were elected to the HOA boards.

11 38. Another tactic co-conspirators used to rig certain HOA board elections was to  
12 prepare forged ballots for out-of-town homeowners and either cause them to be transported or  
13 mailed to California and thereafter to have the ballots mailed back to Las Vegas from various  
14 locations around California so as to make it appear that the ballots were completed and mailed by  
15 bonafide homeowners residing outside Nevada.

16 39. Defendant was given cash payments and received an interest in the Vistana  
17 condominium by or on behalf of his co-conspirators for his assistance in purchasing the property,  
18 obtaining HOA membership status, using his position to manipulate the HOA's business and to  
19 further the goals of the conspiracy, and to enrich the co-conspirators at the expense of the HOA and  
20 the bonafide homeowners.

## 21 V. ACKNOWLEDGMENT

22 40. Defendant acknowledges by the defendant's signature below that Defendant has  
23 read this Plea Memorandum, that Defendant understands the terms and conditions, and the factual  
24 basis set forth herein, that Defendant has discussed these matters with Defendant's attorney, and  
25 that the matters set forth in this memorandum, including the facts set forth in Part IV above, are true  
26 and correct.

27 41. Defendant acknowledges that Defendant has been advised, and understands, that

1 by entering a plea of guilty the defendant is waiving, that is, giving up, certain rights guaranteed to  
2 the defendant by law and by the Constitution of the United States. Specifically, Defendant is giving  
3 up:

4 a. The right to proceed to trial by jury on the original charges, or to a trial by a judge if  
5 Defendant and the United States both agree;

6 b. The right to confront the witnesses against Defendant at such a trial, and to  
7 cross-examine them;

8 c. The right to remain silent at such trial, with such silence not to be used against  
9 Defendant in any way;

10 d. The right, should Defendant so choose, to testify in Defendant's own behalf at such  
11 a trial;

12 e. The right to compel witnesses to appear at such a trial, and to testify in  
13 Defendant's behalf; and,

14 f. The right to have the assistance of an attorney at all stages of such proceedings.

15 42. Defendant acknowledges that defendant is, in all respects, satisfied by the  
16 representation provided by Defendant's attorney and that Defendant's attorney has discussed with  
17 defendant the burdens and benefits of this Memorandum and the rights that Defendant has waived  
18 herein.


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43. Defendant, Defendant's attorney, and the attorney for the United States acknowledge that this Plea Memorandum contains the entire agreement negotiated and agreed to by and between the parties, and that no other promise has been made or implied by either the Defendant, Defendant's attorney, or the attorney for the United States.

DENIS MCINERNEY  
Chief  
United States Department of Justice,  
Criminal Division, Fraud Section

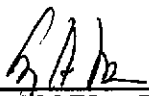
8/22/11  
DATED

  
CHARLES LA BELLA  
Deputy Chief  
MICHAEL BRESNICK  
Assistant Chief  
NICOLE SPRINZEN  
MARY ANN MCCARTHY  
Trial Attorneys  
United States Department of Justice  
Criminal Division, Fraud Section

8/3/11  
DATED

  
STEVEN WARK  
Defendant

8/3/2011  
DATED

  
ANGELA DOWS  
Counsel for Defendant