

AF Approval                     

Chief Approval                     

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:15-CR-157-T-27MAP

DAVID W. GRIFFIN

**PLEA AGREEMENT**

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by A. Lee Bentley, III, United States Attorney for the Middle District of Florida, and the defendant, DAVID W. GRIFFIN, and the attorney for the defendant, Ray C. Lopez, mutually agree as follows:

**A. Particularized Terms**

1. Count(s) Pleading To

The defendant shall enter a plea of guilty to Count Five and Count Twelve of the Indictment. Count Five charges the defendant with Bankruptcy Fraud, in violation of 18 U.S.C. § 157. Count Twelve charges the defendant with False Oath or Account (Bankruptcy Proceeding), in violation of 18 U.S.C. § 152(2).

2. Maximum Penalties

Count Five carries a maximum sentence of five (5) years imprisonment, a fine of \$250,000, a term of supervised release of three (3) years, and a special assessment of \$100 per felony count for individuals, and \$400 per

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felony count for persons other than individuals, such as corporations. With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense(s), and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

Count Twelve carries a maximum sentence of five (5) years imprisonment, a fine of \$250,000, a term of supervised release of three (3) years, and a special assessment of \$100 per felony count for individuals, and \$400 per felony count for persons other than individuals, such as corporations. With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense(s), and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

3. Minimum and Maximum Penalties

Count Five is punishable by a term of imprisonment of up to five (5) years, a fine of \$250,000, a term of supervised release of three (3) years. Count Twelve is punishable by a term of imprisonment of up to five (5) years, a fine of \$250,000, a term of supervised release of three (3) years. Both Counts will incur a special assessment of \$100 per felony count for individuals. With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense(s), and with respect to other offenses, the Court may order

the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

4. Elements of the Offense(s)

The defendant acknowledges understanding the nature and elements of the offense(s) with which defendant has been charged and to which defendant is pleading guilty. The elements of Count Five are:

- First: The defendant devised or intended to devise a scheme or plan to defraud;
- Second: The defendant acted with the intent to defraud;
- Third: The defendant's act was material; that is, it had a natural tendency to influence, or was capable of influencing the acts of an identifiable person, entity, or group; and
- Fourth: The defendant [filed a petition] [filed a document in a proceeding] [made a false or fraudulent representation, claim or promise concerning or in relation to a proceeding] under a Title 11 bankruptcy proceeding to carry out or attempt to carry out an essential part of the scheme. It does not matter whether the document, representation, claim or promise was itself false or deceptive so long as the bankruptcy proceeding was used as a part of the scheme or plan to defraud, nor does it matter whether the scheme or plan was successful or that any money or property was obtained.

The elements of Count Twelve are:

- First: On or about the date alleged in the indictment, the proceeding in bankruptcy was in existence;
- Second: The defendant made, or caused to be made, a false oath in that bankruptcy proceeding or in relation to that bankruptcy proceeding;

Third: The defendant knew that the oath made was false;  
and

Fourth: The false statement related to a material matter.

5. Counts Dismissed

At the time of sentencing, the remaining count(s) against the defendant, Counts One, Two, Three, Four, Six, Seven, Eight, Nine, Ten, Eleven and Thirteen, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

6. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

7. Mandatory Restitution to Victim of Offense of Conviction

Pursuant to 18 U.S.C. § 3663A(a) and (b), defendant agrees to make full restitution to Clerk, United States Bankruptcy Court – Middle District of Florida in the amount of \$25,125.00 (representing 75 fraudulent bankruptcy filing fees x \$335 filing fee).

8. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's applicable guidelines range as determined by the Court pursuant to the United

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States Sentencing Guidelines, as adjusted by any departure the United States has agreed to recommend in this plea agreement. The parties understand that such a recommendation is not binding on the Court and that, if it is not accepted by this Court, neither the United States nor the defendant will be allowed to withdraw from the plea agreement, and the defendant will not be allowed to withdraw from the plea of guilty.

9. Acceptance of Responsibility - Two Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will not oppose the defendant's request to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

10. Low End

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will not oppose the defendant's request to the Court that the defendant receive a sentence at the low end of the applicable guideline range, as calculated by the Court. The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

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11. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C. § 981 and 28 U.S.C. § 2461(c), whether in the possession or control of the United States, the defendant or defendant's nominees.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil judicial or administrative forfeiture action. The defendant also hereby agrees to waive all constitutional, statutory and procedural challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to the provisions of Rule 32.2(b)(1)(A), the United States and the defendant request that promptly after accepting this Plea Agreement, the Court make a determination that the government has established the requisite nexus between the property subject to forfeiture and the offense(s) to which defendant is pleading guilty and enter a

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preliminary order of forfeiture. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is omitted from the judgment, the defendant agrees that the forfeiture order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees to take all steps necessary to identify and locate all property subject to forfeiture and to transfer custody of such property to the United States before the defendant's sentencing. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets and their connection to criminal conduct. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant agrees that Federal Rule of Criminal Procedure 11 and USSG §1B1.8 will not protect from forfeiture assets disclosed by the defendant as part of his cooperation.

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to the forfeitable assets before the defendant's sentencing. In addition to providing full and complete information about forfeitable assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

The defendant agrees that the United States is not limited to forfeiture of the property specifically identified for forfeiture in this Plea

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Agreement. If the United States determines that property of the defendant identified for forfeiture cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty; then the United States shall, at its option, be entitled to forfeiture of any other property (substitute assets) of the defendant up to the value of any property described above. The Court shall retain jurisdiction to settle any disputes arising from application of this clause. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture.

The defendant agrees that, in the event the Court determines that the defendant has breached this section of the Plea Agreement, the defendant may be found ineligible for a reduction in the Guidelines calculation for acceptance of responsibility and substantial assistance, and may be eligible for an obstruction of justice enhancement.

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**B. Standard Terms and Conditions**

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (18 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. The special assessment is due on the date of sentencing.

The defendant understands that this agreement imposes no limitation as to fine.

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2. Supervised Release

The defendant understands that the offense(s) to which the defendant is pleading provide(s) for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count(s) to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P.

32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that his financial statement and disclosures will be complete, accurate and truthful and will include all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

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6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United

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States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

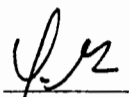
This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and

defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as

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the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty.

The defendant certifies that defendant does hereby admit that the facts set forth below are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

FACTS

Bay 2 Bay Area Holding Group, LLC ("Bay 2 Bay") was a Florida Limited Liability Company located in Tampa, FL. David W. Griffin was the managing member of Bay 2 Bay.

Business Development Consultants, LLC ("BDC") was a Florida Limited Liability Company located in Tampa, FL. David W. Griffin was the managing member of BDC.

DPath Doc Prep, LLC ("DPath") was a Florida Limited Liability Company based in Tampa, FL. DPath employees were instructed by David W. Griffin to type, notarize, witness and file documents.

The Office of The United States Trustee ("U.S. Trustee") was a component of the U.S. Department of Justice responsible for overseeing the administration of bankruptcy cases and private trustees.

The Federal National Mortgage Association ("Fannie Mae") was a government-sponsored enterprise chartered by Congress with a mission to



provide liquidity, stability, and affordability to the United States housing and mortgage markets. Fannie Mae purchased loans from lenders, packaged the loans into securitizations and then guaranteed the principal and interest of the mortgage loans for investors in its securitizations.

Beginning on a date in or around September 2012, and continuing through in or about January 2015 in the Middle District of Florida, defendant David W. Griffin devised a foreclosure rescue scheme to defraud homeowners seeking assistance with their mortgage notes and foreclosure actions, the creditors holding those notes, the FHA who insures the mortgage notes, or Fannie Mae who guaranteed the mortgage notes, and to obtain money and property from the homeowners by means of materially false pretenses, representations, promises, and omissions.

In order to find distressed homeowners, the defendant distributed and caused others to distribute advertisements to homeowners, or directly contacted distressed homeowners to offer a foreclosure rescue program.

The victim homeowners conveyed their properties to Bay 2 Bay Holdings and Business Development Consultants, entities controlled by the defendant. The homeowners paid rent to the defendant and relied on the defendant's false promises to stop foreclosure, obtain the mortgage note and sell their houses back to them.

David W. Griffin prevented creditors from lawfully foreclosing on the homeowner victims' former properties, by filing or causing to be filed, fraudulent



bankruptcies on behalf of the victims without their knowledge or consent. These bogus bankruptcy petitions invoked the automatic stay provision of federal bankruptcy law which brought an immediate halt to any foreclosure actions against the homeowners' property. After filing the sham bankruptcy petition, David W. Griffin, or individuals working at his direction took the bankruptcy petition receipt to the Clerk of Court at the Hillsborough County Court located in Tampa, FL in order to prevent lawful eviction and foreclosure proceedings by creditors. After receiving the bankruptcy receipt, the Clerk of Court cancelled the impending foreclosure sale, preventing creditors and guarantors from foreclosing.

On October 19, 2010, homeowner R.W. deeded his distressed property to Bay 2 Bay Area Holding Group LLC in exchange for false promises to save his home from foreclosure. On November 22, 2013, Bay 2 Bay Area Holding Group, LLC deeded the property to Business Development Consultants, Inc. On December 3, 2013, a Final Judgment of Foreclosure was entered against R.W. and the date of the foreclosure sale was set for April 22, 2014. On April 22, 2014, in US Bankruptcy Court for the Middle District of Florida, a bogus bankruptcy petition was filed in the name of R.W. The case number assigned was 8:14-bk-04420-KRM. On the same day, a copy of the bankruptcy petition receipt, bankruptcy no. 14-04420, was delivered to Hillsborough County Circuit Civil Court. The pending foreclosure sale was cancelled and Fannie Mae, as guarantor, was unable to lawfully foreclose.

The defendant also made a false oath or account concerning a material matter to the Office of United States Trustee about the Bay 2 Bay Chapter 7 bankruptcy petition. On December 16, 2014 from David W. Griffin testified under oath pursuant to a Rule 2004 Examination notice. On several occasions, David Griffin was asked about the bankruptcy filed on behalf Bay 2 Bay Area Holding Group, LLC. The defendant denied knowing anything about this bankruptcy filing, when, in fact, the defendant prepared the bankruptcy petition and had a DPath employee sign and file the petition.

12. Entire Agreement


This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

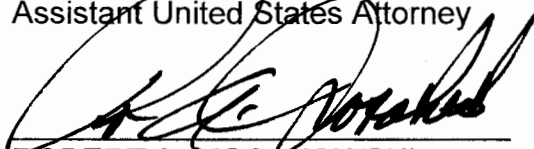
DATED this 13<sup>th</sup> day of August, 2015.

  
\_\_\_\_\_  
DAVID W. GRIFFIN  
Defendant

  
\_\_\_\_\_  
RAY C. LOPEZ  
Attorney for Defendant

A. LEE BENTLEY, III  
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CHRISTOPHER POOR  
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