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U.S. DISTRICT COURT
DISTRICT OF NEVADA
CLERK'S OFFICE

2012 MAY 31 P 3:12

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

-oOo-

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEANNE WINKLER,

Defendant.

CASE NO. *2:12-CR-113-JCM*
PLEA MEMORANDUM

The United States of America, by and through Charles G. La Bella, Deputy Chief, and Mary Ann McCarthy, Trial Attorney, U.S. Department of Justice, Criminal Division, Fraud Section, the defendant, JEANNE WINKLER, and the defendant's attorney, Jeremy Delicino, submit this plea memorandum.

The United States and the defendant have reached the following plea agreement, which is not binding on the court:

I. GROUP PLEA/PACKAGE PLEA AGREEMENT

This agreement is contingent on at least five (5) of the thirteen (13) co-defendants, ROSALIO ALCANTAR, PATRICK BERGSRUD, ROBERT BOLTEN, GLENN BROWN, PAUL CITELLI, MICHELLE DELUCA, CHARLES HAWKINS, SAMI ROBERT HINDIYEH, BRIAN JONES, LISA KIM, MORRIS MATTINGLY, ARNOLD MYERS, and

1 **ANTHONY ROY WILSON**, successfully entering their guilty pleas together with Defendant
2 **JEANNE WINKLER**, and that all pleas are accepted by the Court.

3 **A. The Plea**

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

8 **B. Additional Charges**

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

13 **C. Sentencing Guideline Calculations**

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

20 4. The parties agree that the following calculations of the United States Sentencing
21 Guidelines (2010) apply for the group:

22 Base Offense Level
23 (U.S.S.G. §2B1.1(a)): 7

24 Sophisticated Means
25 (U.S.S.G. §2B1.1(b)(9)(c)): 2

26 INTENTIONALLY LEFT BLANK

The parties agree that the loss calculation and other enhancements will be calculated on an individual basis. Defendant WINKLER's individual calculations are as follows:

Loss Amount of \$30,000 to \$70,000 (U.S.S.G. §2B1.1(b)(1)(D)):	6
Abuse of a Position of Trust (U.S.S.G. §3B1.3)	2
TOTAL	17

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

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

7. The United States will make a recommendation that the defendant receive a 1-level downward adjustment from the defendant's base offense level for Defendant JEANNE WINKLER and at least four (4) other co-defendants' group plea pursuant to Title 18, United States Code, Section 3553(b), on the condition that the co-defendants' change of pleas are entered and conditionally accepted by the Court on or before the defendant's sentencing hearing. If less than

1 five (5) defendants enter guilty pleas, the Government will not make any motion for a group plea
2 downward departure.

3 8. The United States will make a recommendation that the defendant receive a 2-
4 level downward adjustment from the defendant's base offense level for Defendant JEANNE
5 WINKLER and at least eleven (11) other co-defendants' group plea pursuant to Title 18, United
6 States Code, Section 3553(b), on the condition that the co-defendants' change of pleas are entered
7 and conditionally accepted by the Court on or before the defendant's sentencing hearing.

8 9. The United States will make a recommendation that the defendant receive a 3-
9 level downward adjustment from the defendant's base offense level for Defendant JEANNE
10 WINKLER and at least seventeen (17) other co-defendants' group plea pursuant to Title 18, United
11 States Code, Section 3553(b), on the condition that the co-defendants' change of pleas are entered
12 and conditionally accepted by the Court on or before the defendant's sentencing hearing. The
13 defendant acknowledges that no more than a total of 3-levels will be recommended for a group
14 plea reduction.

15 10. Defendant's Criminal History Category will be determined by the court.

16 **D. Other Sentencing Matters**

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

25 12. The stipulations in this Plea Memorandum do not bind either the United States
26 Probation Office or the Court. Both Defendant and the United States are free to: (a) supplement
27

1 the facts by supplying relevant information to the United States Probation Office and the Court,
2 and (b) correct any and all factual inaccuracies relating to the calculation of the sentence.

3 **E. Fines and Special Assessment**

4 13. Defendant agrees that the Court may impose a fine due and payable immediately
5 upon sentencing.

6 14. Defendant will pay the special assessment of \$100 per count of conviction at the
7 time of sentencing.

8 **F. Restitution**

9 15. Defendant agrees to make full restitution to the victims of the offense, in this case
10 the Vistana condominium homeowner's association described below in Section IV. Defendant
11 understands and agrees that this amount could be as much as \$47,000, the total amount of the loan
12 forgiveness she received from a co-conspirator for her participation in the scheme. In return for
13 Defendant agreeing to make restitution, the United States agrees not to bring any additional
14 charges against the defendant for the conduct giving rise to the relevant conduct. Defendant
15 understands that any restitution imposed by the Court may not be discharged in whole or in part in
16 any present or future bankruptcy proceeding.

17 **G. Forfeiture**

18 16. The parties agree that the government will not request that the Court require
19 Defendants to pay forfeiture in addition to restitution. However, should the Court nevertheless
20 order that Defendant shall pay forfeiture, the government agrees that such amount shall be the loan
21 forgiveness she received for her participation in the scheme, and in no event more than \$47,000. In
22 the event of any order by the Court that Defendant shall pay forfeiture, the Defendant knowingly
23 and voluntarily agrees to the following:

- 24 a. to abandon or to forfeit the property to the United States;
25 b. to relinquish all right, title, and interest in the property;
26 c. to waive his right to any abandonment proceedings, any civil administrative
27

1 forfeiture proceedings, any civil judicial forfeiture proceedings, or any criminal forfeiture
2 proceedings ("proceedings") of the property;

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

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

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

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

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

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

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

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

23 **H. Waiver of Appeal**

24 18. In exchange for the concessions made by the United States in this Plea
25 Memorandum, Defendant knowingly and expressly waives the right to appeal any sentence that is
26 imposed within the applicable Sentencing Guideline range as calculated by the Court, further
27

1 waives the right to appeal the manner in which that sentence was determined on the grounds set
2 forth in Title 18, United States Code, Section 3742, and further waives the right to appeal any other
3 aspect of the conviction or sentence, including any order of restitution and forfeiture. Defendant
4 reserves only the right to appeal any portion of the sentence that is an upward departure from the
5 applicable Sentencing Guideline range calculated by the Court.

6 19. Defendant also waives all collateral challenges, including any claims under 28
7 U.S.C. § 2255, to the Defendant's conviction, sentence and the procedure by which the Court
8 adjudicated guilt and imposed sentence, except non-waivable claims of ineffective assistance of
9 counsel.

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

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

20 21. 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 22. 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
27

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 23. 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 24. 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 Sentencing
14 Guideline calculation. The Court has the sole discretion to grant such a motion.

15 25. 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 26. 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 he 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 inquires, 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 27. 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 28. Defendant agrees that if Defendant, at any time after the signature of this Plea
24 Memorandum and execution of all required certifications by Defendant, Defendant's counsel, and
25 for the government, knowingly violates or fails to perform any of Defendant's obligations under
26 this Memorandum ("a breach"), the government may declare this Memorandum breached. All of
27 Defendant's obligations are material, a single breach of this Plea Memorandum is sufficient for the

1 government to declare a breach, and Defendant shall not be deemed to have cured a breach without
2 the express agreement of the government in writing. If the government declares this Memorandum
3 breached, and the Court finds such a breach to have occurred, then: (a) if Defendant has previously
4 entered a guilty plea pursuant to this Memorandum, Defendant will not be able to withdraw the
5 guilty plea, and (b) the government will be relieved of all its obligations under this agreement.

6 II. PENALTY

7 29. The maximum penalty for a violation of Title 18, United States Code, Section
8 1349, is imprisonment for not more than thirty (30) years, a \$1,000,000 fine, or both. Defendant is
9 also subject to supervised release for a term of not greater than five (5) years.

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

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

19 III. ELEMENTS

20 32. The essential elements for the offense of conspiracy to commit wire and mail
21 fraud, in violation of 18 U.S.C. § 1349, are as follows:

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

25 b. Second, the defendant was a party to or a member of that agreement; and,

26 c. Third, the defendant became a member of the conspiracy knowing of at least one
27 of its objects and intending to help accomplish it.

IV. FACTS

33. Defendant is pleading guilty because Defendant is guilty of the charged offenses.

34. Defendant specifically admits and declares under penalty of perjury that all of the facts set forth below of which the Defendant has knowledge of as a member of the conspiracy are true and correct. The parties agree that some of the facts outlined below were actions taken by Defendant's co-conspirators and without the knowledge or involvement of the Defendant at the time; however, Defendant acknowledges that he knew of the unlawful purpose of the conspiracy and willfully joined it and that he is, therefore, responsible as a member of the conspiracy for those actions that were taken by his co-conspirators in furtherance of the conspiracy. Defendant's actions in furtherance of the conspiracy are specifically indicated.

35. From as early as in or around August 2003 through at least in or around January 2008, Defendant knowingly participated in a scheme to control various Homeowners' Association (HOA) Boards of Directors so that the HOA boards would award the handling of construction defect lawsuits and remedial construction contracts to a law firm and construction company designated by Defendant's co-conspirators.

36. Co-conspirators would identify HOA's which potentially could bring construction defect cases, and once identified would enlist real estate agents to identify condominium units within those HOA communities for purchase.

37. Co-conspirators would then enlist individuals as straw purchasers to apply for and complete mortgage loans using their own name and credit for the purchase of properties within the HOA communities on behalf of the beneficial owners. The co-conspirators arranged for the straw purchasers to get the necessary funding for the mortgages by assisting them with the loan applications and closing documents, which included false and fraudulent statements that involved concealing the identity and financial interest of the true beneficial owners of the properties from banks, mortgage companies, HOAs, and bona fide homeowners. The co-conspirator real estate agents arranged for the down payments to be funded by a co-conspirator and arranged for the money to be transferred to the escrow accounts.

1 38. Once the straw purchases were complete, the beneficial owners and co-
2 conspirators often found tenants to rent the units. The beneficial owners received the rental
3 payments and continued to pay the mortgages and various expenses associated with the straw
4 purchase.

5 39. Co-conspirators were hired to manage and operate the payments associated with
6 maintaining these straw properties. The co-conspirators called this business of funding these
7 properties the "Bill Pay Program." The co-conspirators involved in running the Bill Pay Program
8 maintained several limited liability companies, at the direction of the co-conspirator construction
9 company owner and others, for the purpose of opening bank accounts and concealing the Bill Pay
10 Program funds. Many of the payments on these properties were wired or caused to be wired from
11 California to Nevada.

12 40. On several occasions, instead of making a straw purchase, the co-conspirators
13 transferred a partial interest in a unit to another co-conspirator for the purpose of making it appear
14 as if the co-conspirator was a bona fide homeowner. The co-conspirator real estate agents would
15 assist with the paperwork involved in such transfers and arranged for the completion of the
16 paperwork.

17 41. Many of the straw purchasers and those who acquired a transferred interest in the
18 properties agreed with co-conspirators to run for election to the respective HOA Board of
19 Directors. These co-conspirators were paid or promised cash, checks, or things of value for their
20 participation, all of which resulted in a personal financial benefit to the co-conspirators.

21 42. To ensure the co-conspirators would win the elections, co-conspirators at times
22 employed deceitful tactics, such as creating false phone surveys to gather information about
23 homeowners' voting intentions, using mailing lists to vote on behalf of out-of-town homeowners
24 unlikely to participate in the elections, and submitting fake and forged ballots. Co-conspirators
25 also hired private investigators to uncover negative information on the bona fide candidates in
26 order to create smear campaigns.

27 43. Another tactic the co-conspirators used to rig certain HOA board elections was

1 to prepare forged ballots for out-of-town homeowners and either cause them to be transported or
2 mailed to California and thereafter to have the ballots mailed back to Las Vegas from various
3 locations around California so as to make it appear that the ballots were completed and mailed by
4 bona fide homeowners residing outside Nevada. For instance, on or about April 15, 2008 and on
5 or about April 21, 2008, a co-conspirator mailed ballots from several mail boxes in California back
6 to Nevada in order to assist in the rigging of an election at Park Avenue.

7 44. On several occasions, co-conspirators attempted to create the appearance that
8 the elections were legitimate by hiring "independent" attorneys to run the HOA board elections.
9 These "special election masters" were to: (i) contact the bona fide homeowners to inform them of
10 the election; (ii) mail the bona fide homeowners election ballots and voting instructions; (iii)
11 collect and secure those election ballots returned by mail until the date of the election; and (iv)
12 preside over the HOA board election, including supervising the counting of ballots. However, in
13 truth and fact, the "special election masters" were selected by the co-conspirators and paid in cash,
14 check, or promised things of value, for their assistance in rigging the elections. In particular, the
15 "special election masters" allowed the co-conspirators to access the ballots for the purpose of
16 opening the ballots and pre-counting the votes entered for each candidate to then know the number
17 of fake ballots which needed to be created to ensure the co-conspirator up for election won the seat
18 on the HOA board. These attorneys would run the board election knowing the co-conspirators had
19 access to the ballots and concealed their relationship with the co-conspirators from the bona fide
20 homeowners.

21 45. Once elected, the straw purchaser board members would meet with the co-
22 conspirators in order to manipulate board votes, including the selection of property managers,
23 contractors, general counsel and attorneys to represent the HOA.

24 46. At times the co-conspirators created and submitted fake bids for "competitors"
25 to make the process appear to be legitimate while ensuring co-conspirators were awarded the
26 contract. Once hired, co-conspirators, including property managers and general counsel, would
27 then recommend that the HOA board hire the co-conspirator construction company for remediation

1 and construction defect repairs and the co-conspirator law firm to handle the construction defect
2 litigation. In addition, the co-conspirator construction company's initial contract for emergency
3 remediation repairs contained a "right of first refusal" clause to ensure the co-conspirator
4 construction company was awarded the construction repair contracts following the construction
5 defect litigation.

6 47. In order to help accomplish this scheme, Defendant WINKLER, an attorney
7 licensed and practicing law in the State of Nevada, agreed with co-conspirators to bid for a position
8 as the general counsel for the Vistana HOA. Defendant made her bid knowing that she had a prior
9 and on-going personal and business relationship with the co-conspirators who owned and
10 controlled the construction company that was interested in the construction repair work and the law
11 firm that was interested in the construction defect litigation at Vistana.

12 48. On or about December 5, 2002, the co-conspirator who owned the construction
13 company also started a limited liability company called "Safe Homes of Nevada, Inc." The
14 purpose of the company was to identify construction defect cases and raise awareness of
15 construction defect issues at the condominium complexes in or around Las Vegas. Defendant was
16 the resident agent of this company.

17 49. In addition, in or around 2003, Defendant entered an attorney-client relationship
18 with this co-conspirator when she assisted with his family law matters. In or around August 2003,
19 Defendant received a \$120,000 loan from this co-conspirator, which was not repaid in full at the
20 time of her HOA bid. She concealed her relationship with the co-conspirators from the bona fide
21 homeowners.

22 50. On or about November 29, 2004, Defendant was hired as general counsel for the
23 Vistana HOA. Shortly after starting as general counsel, in or around December 2004, at the
24 direction of co-conspirators, Defendant wrote a letter to the construction defect attorneys who had
25 been hired by the HOA, in which she told them that the HOA no longer desired their services.
26 After this letter was mailed, the co-conspirator law firm was selected by the board to handle the
27 construction defect litigation.

1 51. In addition to her salary, in or around December 2004, the co-conspirator that
2 made the loan to her in or around August 2003 forgave the outstanding debt of \$47,000 for her
3 participation in the scheme. Defendant continued to serve as general counsel until in or around
4 March 2007.

5 52. Defendant knew about the secret meetings of co-conspirator board members but
6 did not inform the bona fide homeowners. In addition, she participated in several meetings with
7 the co-conspirator board members, outside the presence of the bona fide board members, during
8 which she received direction from the co-conspirators to further the goals of the conspiracy.

9 53. At the direction of co-conspirators, Defendant agreed and did settle a lawsuit
10 brought against the HOA by a straw purchaser and friend of a co-conspirator. When a bona fide
11 homeowner accused the straw purchaser of having a relationship with the co-conspirators, the co-
12 conspirator who owned the construction company directed this straw purchaser to file a lawsuit for
13 defamation. Defendant, as general counsel, then encouraged the board to settle the lawsuit. She
14 did so knowing that the co-conspirators had a personal financial interest in settling the suit.
15 Defendant concealed the relationship between the parties involved in the lawsuit from the bona
16 fide homeowners. As a result of Defendant's assistance, between in or around August 2005 and in
17 or around May 2006, the Vistana HOA paid approximately \$35,216.56 in the settlement. This
18 money was later redirected to the co-conspirators.

19 54. In another instance, in or around July 2005, a bona fide homeowner sued the board
20 over an allegation of election rigging. Defendant allowed the construction defect attorneys to
21 handle the suit, knowing they had a personal financial interest in doing so, and despite the fact that
22 the lawsuit should have properly been handled by a non-biased, disinterested lawyer acting as
23 general counsel for the HOA.

24 55. This entire process created the appearance of legitimacy since bona fide
25 homeowners believed the elected board members and other third parties were, as fiduciaries, acting
26 in their best interest rather than to advance the financial interests of co-conspirators. In fact,
27 Defendant WINKLER and others were paid or received things of value by or on behalf of their co-

1 conspirators, for their assistance in purchasing the properties, obtaining HOA membership status,
 2 rigging elections, using their positions to manipulate the HOA's business and to further the goals
 3 of the conspiracy, and to enrich the co-conspirators at the expense of the HOA and the bona fide
 4 homeowners.

5 **V. ACKNOWLEDGMENT**

6 56. Defendant acknowledges by the Defendant's signature below that Defendant has
 7 read this Plea Memorandum, that Defendant understands the terms and conditions and the factual
 8 basis set forth herein, that Defendant has discussed these matters with Defendant's attorney, and
 9 that the matters set forth in this memorandum, including the facts set forth in Part IV above, are
 10 true and correct.

11 57. Defendant acknowledges that Defendant has been advised, and understands, that
 12 by entering a plea of guilty the Defendant is waiving, that is, giving up, certain rights guaranteed
 13 to the Defendant by law and by the Constitution of the United States. Specifically, Defendant is
 14 giving up:

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

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

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

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

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

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

26 58. Defendant acknowledges that Defendant is, in all respects, satisfied by the
 27 representation provided by Defendant's attorney and that Defendant's attorney has discussed with

1 the defendant the burdens and benefits of this agreement and the rights he waives herein.

2 59. Defendant, Defendant's attorney, and the attorney for the United States
3 acknowledge that this Plea Memorandum contains the entire negotiated and agreed to by and
4 between the parties, and that no other promise has been made or implied by either the Defendant,
5 Defendant's attorney, or the attorney for the United States.
6

7 DENIS J. McINERNEY
8 Chief
9 United States Department of Justice,
Criminal Division, Fraud Section

10 DATED _____

11 CHARLES LA BELLA
12 Deputy Chief

13 MARY ANN MCCARTHY
14 Trial Attorney
15 United States Department of Justice
16 Criminal Division, Fraud Section

17 3/17/12
18 DATED _____

19 
20 JEANNE WINKLER
21 Defendant

22 3/12/12
23 DATED _____

24 
25 JEREMY DELICINO
26 Defense Counsel
27

1 the defendant the burdens and benefits of this agreement and the rights he waives herein.

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6
7 DENIS J. McINERNEY
8 Chief
9 United States Department of Justice,
10 Criminal Division, Fraud Section

11 3/21/2012
12 DATED

13 CHARLES LA BELLA
14 Deputy Chief

15 Mary Ann McCarthy
16 MARY ANN MCCARTHY
17 Trial Attorney
18 United States Department of Justice
19 Criminal Division, Fraud Section

20 March 1, 2012
21 DATED

22 Jeanne Winkler
23 JEANNE WINKLER
24 Defendant

25 3/1/12
26 DATED

27 Jeremy Delicino
JEREMY DELICINO
Defense Counsel