

Obstruction of Justice [18 U.S.C. § 1505] as set forth in Count One of the Information to be filed in this case, and the defendant admits to being in fact guilty as charged in Count One of the Information to which the defendant is pleading guilty.

2. Waiver of Constitutional Rights

The defendant understands that, by pleading guilty, the following constitutional rights will be relinquished:

- a. the right to be indicted if proceeding by Information;
- b. the right to plead not guilty;
- c. the right to be tried by a jury, or, if the defendant wishes and with the consent of the Government, to be tried by a judge;
- d. at trial, the defendant has the right to an attorney, and if defendant could not afford an attorney, the Court would appoint one to represent the defendant;
- e. the defendant has the right to assist in the selection of the jury;
- f. during trial, the defendant would be presumed innocent, and a jury would be instructed that the Government has the burden to prove the defendant guilty beyond a reasonable doubt and by a unanimous verdict;
- g. the defendant has the right to confront and cross-examine witnesses against the defendant;
- h. if desired, the defendant could testify on the defendant's own behalf and present witnesses in the defendant's defense;
- i. if the defendant did not wish to testify, that fact could not be used against the defendant, and a jury would be so instructed;


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j. if the defendant were found guilty after a trial, the defendant would have the right to appeal that verdict to determine if any errors had been committed during trial that would require either a new trial or a dismissal of the charges; and

k. at trial, the defendant would be entitled to have a jury determine beyond a reasonable doubt any facts which may have the effect of increasing the defendant's mandatory minimum or maximum sentence.

By pleading guilty, the defendant will be giving up all of these rights. By pleading guilty, the defendant understands that the defendant may have to answer questions posed to defendant by the Court, both about the rights that the defendant will be giving up and the factual basis for the defendant's pleas.

3. Appellate and Post-Conviction Waiver

In consideration of the promises and concessions made by the United States in this Plea Agreement, the defendant knowingly and voluntarily agrees to the following terms:

a. The defendant waives the right to directly appeal the conviction and sentence, pursuant to 28 U.S.C. § 1291 and/or 18 U.S.C. § 3742(a); and

b. The defendant reserves the right to appeal from a sentence which exceeds the statutory maximum or the stipulations set forth in paragraph 14 of this Plea Agreement; and

c. The defendant waives the right to collaterally attack the conviction and sentence pursuant to 28 U.S.C. § 2255, except for claims based on ineffective assistance of counsel which challenge the validity of the guilty plea or this waiver; and

d. The defendant waives the right to have the sentence modified pursuant to 18 U.S.C. § 3582(c), except for a Rule 35 motion; and


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e. The defendant waives the right to appeal the District Court's determination of the amount of restitution and the Court's subsequent order so long as the amount of restitution ordered is consistent with this Agreement.

The defendant expressly acknowledges that counsel has explained his appellate and post-conviction rights; that defendant understands his rights; and that defendant knowingly and voluntarily waives those rights as set forth above.




James Reskin

4. Freedom of Information Act Waiver

The defendant waives all rights, whether asserted directly or by a representative, to request or to receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

5. Waiver of Right to Jury Trial on Sentencing Factors

The defendant, by entering this Plea, also waives the right to have facts that determine the offense level under the Sentencing Guidelines (including facts that support any specific offense characteristic or other enhancement or adjustment) (1) charged in the Information, (2) proven to a jury, or (3) proven beyond a reasonable doubt. The defendant explicitly consents to have the sentence based on facts to be established by a preponderance of the



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evidence before the sentencing judge pursuant to *United States v. Crockett*, 435 F.3d 1305 (10th Cir. 2006), and *United States v. Magallanez*, 408 F.3d 672 (10th Cir. 2005), and to allow the Court to consider any reliable evidence without regard to its admissibility at trial. The defendant explicitly acknowledges that his plea to the charged offense authorizes the Court to impose any sentence up to and including the maximum sentence set forth in the United States Code. The defendant also waives all challenges to the constitutionality of the Sentencing Guidelines.

6. Restitution

18 U.S.C. § 3663A provides that restitution shall not apply where (A) the number of identifiable victims is so large as to make restitution impracticable; or (B) determining complex issues of fact related to the cause or the amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden of the sentencing process.

The parties presently believe that the identifiable victims are sufficiently large and further agree and stipulate that the determination of the complex issues of fact related to the cause and the amount of the victims' losses would complicate or prolong the sentencing process to such a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

7. Special Assessment

The defendant hereby agrees to pay the total amount required for the Special Monetary Assessment (\$100 per felony count) to the United States District Court Clerk before the time of the sentencing hearing or as directed by the District Court.

8. Defendant's Monetary Obligations

The parties agree and stipulate that the total monetary obligations of the defendant are (a) a fine no greater than \$500,000; and (b) the \$200 Special Assessment referenced in paragraph 7.

9. Factual Basis and Elements

The elements that the United States must prove beyond a reasonable doubt in order to convict under Title 18 U.S.C. Section 371 are as follows:

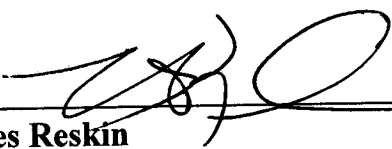
- a. The defendant agreed with at least one other person to violate the law;
- b. One of the co-conspirators engaged in at least one overt act furthering the conspiracy's objective;
- c. The defendant knew the essential objective of the conspiracy;
- d. The defendant knowingly and voluntarily participated in the conspiracy; and
- e. There was interdependence among the members of the conspiracy; that is, the members, in some way or manner, intended to act together for their shared mutual benefit within the scope of the conspiracy.

The elements that the United States must prove beyond a reasonable doubt in order to convict under Title 18 U.S.C. Section 1505 are as follows:

- a. There was a proceeding pending before a department or agency of the United States;
- b. The defendant knew of or had a reasonably founded belief that the proceeding was pending; and
- c. The defendant corruptly endeavored to influence, obstruct, or impede the due and proper administration of the law under which the proceeding was pending.

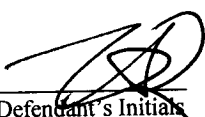
In regard to the factual basis required by Federal Rule of Criminal Procedure 11(b)(3), the defendant agrees and stipulates that there is a factual basis for the pleas of guilty and relieves the United States of any further obligation to adduce such evidence.

The defendant, James Reskin, admits knowingly, willfully and intentionally committing or causing to be committed the acts constituting the Conspiracy alleged in Count One of the Indictment and the Obstruction of Justice offense alleged in count One of the Information in Case No. 09-CR-13-JHP and confesses to the Court that the defendant is, in fact, guilty of such crimes.



James Reskin
 Defendant

3-25-10
 Date



 Defendant's Initials

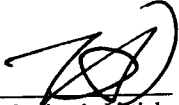
10. Further Prosecution

The United States shall not initiate additional criminal charges against the defendant in the Northern District of Oklahoma that, as of the date of the defendant's acceptance of this agreement, arise from its investigation of the defendant's actions and conduct giving rise to the instant Indictment and Information, save and except for crimes of violence and criminal acts involving violations investigated by the United States Internal Revenue Service. The defendant understands, however, that this obligation is subject to all "Limitations" set forth below, and that the United States Attorney's Office for the Northern District of Oklahoma is free to prosecute the defendant for any illegal conduct (i.e., violation of federal criminal laws) not discovered by or revealed to the Government during its investigation or occurring after the date of this agreement.

11. Dismissal of Remaining Counts

If the Court finds the defendant's plea of guilty to be freely and voluntarily made and accepts the plea, then the United States will move, at the appropriate time, to dismiss the remaining counts in the Indictment, as to this defendant.

If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the United States will be free to prosecute the defendant for all charges of which it then has knowledge, and any charges that have been dismissed will be automatically reinstated or may be re-presented to a grand jury with jurisdiction over the matter. In such event, the defendant

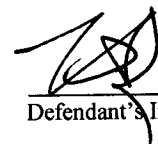

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hereby waives any objections, motions or defenses based upon the applicable statute of limitations, the Speedy Trial Act, or constitutional restrictions as to the time of bringing such charges.

12. Acceptance of Responsibility

Provided the defendant clearly demonstrates acceptance of responsibility, the United States agrees to recommend a two-level reduction in offense level pursuant to U.S.S.G. § 3E1.1. The United States agrees to file a motion recommending that the defendant receive an additional one-level reduction pursuant to U.S.S.G. § 3E1.1(b) if the defendant is otherwise eligible therefor. The sentencing judge is in a unique position to evaluate the acceptance of responsibility, and the Court's determination will provide the final approval or disapproval of any Section 3E1.1 point level reduction for timely acceptance of responsibility.

The obligations of the government herein, relative to acceptance of responsibility are contingent upon the defendant's continuing manifestation of acceptance of responsibility as determined by the United States. If the defendant falsely denies, or makes conflicting statements as to, his involvement in the crimes to which he is pleading, falsely denies or frivolously contests relevant conduct that the Court determines to be true, willfully obstructs, or attempts to obstruct or impede the administration of justice as defined in U.S.S.G. § 3C1.1,


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or perpetrates or attempts to perpetrate crimes while awaiting sentencing, or advances false or frivolous issues in mitigation, the United States expressly reserves the right to withdraw any recommendation regarding acceptance of responsibility without breaching the agreement.

13. Sentence

a. Imprisonment

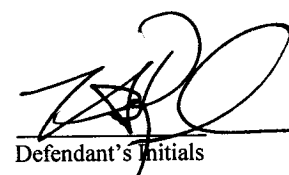
The defendant acknowledges that under 18 U.S.C. § 371 the maximum statutory sentence is 5 years imprisonment and a fine of not more than \$250,000.00 or twice the pecuniary gain/loss caused by the defendant's acts.

The defendant acknowledges that under 18 U.S.C. § 1505 the maximum statutory sentence is 5 years imprisonment and a fine of not more than \$250,000.

b. Supervised Release

Additionally, the defendant is aware, if imprisonment is imposed, that the Court shall include as part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment not to exceed 3 years.


If the term of supervised release for any count of conviction is revoked, the defendant may be imprisoned for an additional term not to exceed the term of imprisonment authorized in 18 U.S.C. § 3583(e)(3) for the offense of conviction, with no credit being given for any time served while on supervised release. Further, if the crime of conviction occurred after


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September 13, 1994, the Court may impose another term of supervised release following any term of imprisonment imposed for a violation of supervised release conditions, and this term of supervised release may not exceed the term of supervised release originally authorized by statute for the offense of conviction less any term of imprisonment that was imposed upon revocation of supervised release (18 U.S.C. § 3583(e) and (h)). If a second or subsequent term of supervised release is revoked, the Court may impose another term of imprisonment not to exceed the difference between any imprisonment imposed for a prior revocation of supervised release for the offense of conviction and the term of imprisonment authorized pursuant to 18 U.S.C. § 3583(e)(3). Accordingly, the original term of imprisonment when combined with any term of imprisonment arising from revocations of supervised release, may result in a total amount of imprisonment greater than the statutory maximum term for the offense of conviction.

c. Guidelines

The defendant is aware that the Sentencing Guidelines promulgated pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. § 3551 through § 3742, and 28 U.S.C. § 991 through § 998, are advisory. The district courts, while not bound to apply the Sentencing Guidelines, must consult those Guidelines and take them into account when sentencing. See 18 U.S.C.A. § 3553(a).


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The sentence imposed in federal court is without parole. The defendant is further aware that the sentence has not yet been determined by the Court, that any estimate of the likely sentence received from any source is a prediction, not a promise, and that the Court has the final discretion to impose any sentence up to the statutory maximum.

If the sentencing Court should impose any sentence up to the maximum established by statute, the defendant cannot, for that reason alone, withdraw defendant's guilty plea, but will remain bound to fulfill all of defendant's obligations under this Agreement.


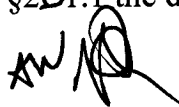
Nothing in this Plea Agreement, save and except any stipulations contained herein, limits the right of the United States to present to the Court or Probation Office, either orally or in writing, any and all facts and arguments relevant to the defendant's sentence that are available to the United States at the time of sentencing. The United States reserves its full opportunity to speak pursuant to Rule 32(i)(4)(A)(iii) of the Federal Rules of Criminal Procedure.

The defendant further understands that the sentence to be imposed upon the defendant will be determined solely by the sentencing judge. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive.

14. Stipulations

The defendant and the United States agree and stipulate to the following:

- a Pursuant to U.S.S.G. §2B1.1 the defendant's base offense level is 7.




Defendant's Initials

- b. Pursuant to U.S.S.G. §2B1.1(b)(1) the amount of loss is in excess of \$20,000,000 and the base offense level should be increased by 22.
- c. Pursuant to U.S.S.G. §3B1.3 the defendant used a special skill in a manner that significantly facilitated the commission or concealment of the offense and the base offense level should be increased by 2.
- d. Pursuant to U.S.S.G. §2B1.1(b)(9)(C) the offense otherwise involved sophisticated means and the base offense level offense should be increased by 2.
- e. Pursuant to U.S.S.G. §2B1.1(b)(2) the number of victims is more than 50 and the base offense level should be increased by 4.
- f. Pursuant to U.S.S.G. §3B1.2 the defendant was a minor participant in the conspiracy and the base offense level should be decreased accordingly.
- g. U.S.S.G. §3C1.1 is not applicable based upon defendant's conduct as set forth in this Plea Agreement.
- h. U.S.S.G. §2B1.1(b)(14) enhancement is not applicable based upon defendant's conduct as set forth in this Plea Agreement.

Having been fully apprised by defense counsel of defendant's right to seek compensation pursuant to Public Law 105-119, the defendant **WAIVES** any and all such right, and stipulates that defendant is not a "prevailing party" in connection with this case unless the United States is in breach of this Plea Agreement.

15. Limitations

This Plea Agreement shall be binding and enforceable upon the United States Department of Justice, but in no way limits, or binds, or otherwise affects the rights, powers,


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duties, or obligations of any federal, state or local law enforcement agency, administrative or regulatory authorities, civil or administrative enforcement, collection bankruptcy, adversary proceedings or suits which have been or may be filed by any governmental entity, and/or civil collection proceedings by the Internal Revenue Service.


16. Breach of Agreement

In the event either party believes the other has failed to fulfill any obligations under this Agreement, then the complaining party shall, in its discretion, have the option of petitioning the Court to be relieved of its obligations herein. Whether or not a party has completely fulfilled all of its obligations under this Agreement shall be determined by the Court in an appropriate proceeding at which any disclosures and documents provided by either party shall be admissible and at which the complaining party shall be required to establish any breach by a preponderance of the evidence.

In the event that James Reskin, after entry of a plea of guilty, unsuccessfully attempts to withdraw the defendant's plea of guilty, the Agreement will continue in effect.

17. Conclusion

No agreements, representations or understandings have been made between the parties in this case, other than those which are explicitly set forth in this Plea Agreement and the Plea Agreement Supplement that the United States will file in this case (as is routinely done


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in every case, even though there may or may not be any additional terms) and none will be entered into unless executed in writing and signed by all of the parties.

SO AGREED:

THOMAS SCOTT WOODWARD
UNITED STATES ATTORNEY



ANDREW H. WARREN
CATHERINE J. DEPEW
KEVIN B. MUHLENDORF
Assistant United States Attorneys

3/25/10
_____ Dated



STEPHEN J. KNORR
Attorney for Defendant

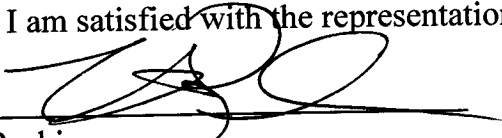
3/25/10
_____ Dated



James Reskin
Defendant

3-25-10
_____ Dated

I have read this agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully understand my rights with respect to sentencing which may apply to my case. No other promises or inducements have been made to me, other than those contained in this pleading. In addition, no one has threatened or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.

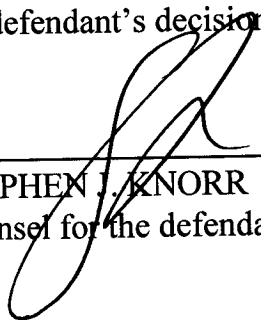


James Reskin
Defendant

3-25-10

Dated

I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending Information. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this Plea Agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.



STEPHEN J. KNORR
Counsel for the defendant

3/25/10

Dated

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