

1 JEFFREY H. KNOX
 Chief
 2 CHARLES LA BELLA
 KATHLEEN McGOVERN
 Deputy Chiefs
 3 THOMAS B. W. HALL
 Trial Attorney
 4 Fraud Section, Criminal Division
 U.S. Department of Justice
 5 1400 New York Avenue, NW
 Washington, DC 20530
 6 (202) 616-1682

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7 UNITED STATES DISTRICT COURT
 8 DISTRICT OF NEVADA

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10 UNITED STATES OF AMERICA,
 11
 12 Plaintiff,
 13 v.
 14 RICKY ANDERSON,
 15 Defendant.

CASE NO. 2:13-CR-18-JCM-GWF
PLEA MEMORANDUM

17 The United States of America, by and through Jeffery H. Knox, Chief, U.S. Department
 18 of Justice, Criminal Division, Fraud Section, and Kathleen McGovern, Senior Deputy Chief,
 19 Charles La Bella, Deputy Chief, and Thomas B.W. Hall, Trial Attorney, U.S. Department of
 20 Justice, Criminal Division, Fraud Section, the defendant, RICKY ANDERSON, and the
 21 defendant's attorney, Travis Shetler, submit this plea memorandum.

22 The United States and the defendant have reached the following plea agreement, which is
 23 not binding on the court:
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I. THE PLEA AGREEMENT

A. The Plea

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

B. Additional Charges

2. The United States Department of Justice, Criminal Division, Fraud Section agrees to bring no additional criminal charges in the District of Nevada against the defendant relating to or arising from the offense charged in the indictment, except for any crime of violence and any crime unknown to the Fraud Section before the time the parties sign this Plea Memorandum. In addition, at sentencing in this matter, the United States will dismiss all remaining charges pending against the defendant in *United States v. Benzer et al.*, Case No. 2:13-cr-00018-JCM-GWF.

C. Sentencing Guideline Calculations

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

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

Base Offense Level (U.S.S.G. §2B1.1(a)):	7
Loss (U.S.S.G. §2B1.1(b)(1)(E)):	8

Sophisticated Means (U.S.S.G. §2B1.1(b)(9)(c)):	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. Defendant's Criminal History Category will be determined by the court.

8. If Defendant fully complies with this agreement, the government will at the time of sentencing recommend that any sentence imposed upon the defendant be run concurrently with any other sentence that has been imposed upon the defendant.

D. Other Sentencing Matters

9. The parties agree that the Sentencing Guideline calculations are based on information now known and could change upon investigation by the United States Probation Office. It is possible that factors unknown or unforeseen by the parties to the Plea Memorandum may be considered in determining the offense level, specific offense characteristics, and other related factors. In that event, the defendant will not withdraw his plea of guilty. Both the defendant and the United States are free to: (a) supplement the facts by supplying relevant

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

3 10. The stipulations in this Plea Memorandum do not bind either the United States
4 Probation Office or the Court. Both Defendant and the United States are free to: (a) supplement
5 the facts by supplying relevant information to the United States Probation Office and the Court,
6 and (b) correct any and all factual inaccuracies relating to the calculation of the sentence.

7 **E. Fines and Special Assessment**

8 11. Defendant agrees that the Court may impose a fine due and payable immediately
9 upon sentencing.

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

12 **F. Restitution**

13 13. Defendant agrees to make full restitution to the victims of the offense, in this case
14 the homeowners' associations described below in Section IV. Defendant understands and agrees
15 that this amount could be as much as \$41,642.49. In return for Defendant agreeing to make
16 restitution, the United States agrees not to bring any additional charges against the defendant for
17 the conduct giving rise to the relevant conduct. Defendant understands that any restitution
18 imposed by the Court may not be discharged in whole or in part in any present or future
19 bankruptcy proceeding.

20 **G. Forfeiture**

21 14. The parties agree that the government will not request that the Court require
22 Defendant to pay forfeiture in addition to restitution. However, should the Court nevertheless
23 order that Defendant shall pay forfeiture, the government agrees that such amount shall be the
24 approximate amount of the items of value that the defendant received for his participation in the
25 scheme, to include cash payments, personal property upgrades, and co-conspirator financial
26 assistance for the recall election lawsuit that was filed on his behalf, which is at least \$41,642.49.

1 In the event of any order by the Court that Defendant shall pay forfeiture, the Defendant
2 knowingly and voluntarily agrees to the following:

3 a. to abandon or to forfeit the property to the United States;
4 b. to relinquish all right, title, and interest in the property;
5 c. to waive his right to any abandonment proceedings, any civil administrative
6 forfeiture proceedings, any civil judicial forfeiture proceedings, or any criminal forfeiture
7 proceedings ("proceedings") of the property;

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

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

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

14 g. to waive the statute of limitations, the CAFRA requirements, Fed. R. Crim. P.
15 7(c)(2), 32.2(a), and 32.2(b)(3), and the constitutional due process requirements of any
16 abandonment proceeding or any forfeiture proceeding concerning the property;

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

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

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

24 15. Defendant knowingly and voluntarily agrees and understands the abandonment,
25 the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture of the
26 property shall not be treated as satisfaction of any assessment, fine, restitution, cost of

1 imprisonment, or any other penalty this Court may impose upon the Defendant in addition to the
2 abandonment or the forfeiture.

3 **F. Waiver of Appeal**

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

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

16 **G. Additional Promises, Agreements, and Conditions**

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

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

4 **H. Limitations**

5 20. This Plea Memorandum is limited to the Criminal Division of the United States
6 Department of Justice and cannot bind any other federal, state or local prosecuting,
7 administrative, or regulatory authority. But, this Plea Memorandum does not prohibit the United
8 States through any agency thereof, the Criminal Division of the United States Department of
9 Justice, or any third party from initiating or prosecuting any civil proceeding directly or
10 indirectly involving the Defendant, including but not limited to, proceedings under the False
11 Claims Act relating to potential civil monetary liability or by the Internal Revenue Service
12 relating to potential tax liability.

13 **I. Cooperation**

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

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

22 23. Defendant agrees that a motion for downward departure based on substantial
23 assistance shall not be made under any circumstances unless Defendant's cooperation is deemed
24 to be substantial assistance by the government. The United States has made no promise, implied
25 or otherwise, that Defendant will be granted a departure for substantial assistance. Further, no
26 promise has been made that such a motion will be made even if Defendant complies with the

1 terms of this Plea Memorandum in all respects but has been unable to provide substantial
2 assistance as determined in the sole discretion of the government.

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

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

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

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

12 d. The truthfulness and completeness in disclosing and bringing to the
13 attention of the Government all crimes which Defendant has committed and all administrative,
14 civil, or criminal proceedings, investigations, and prosecutions in which he has been or is a
15 subject, target, party, or witness;

16 e. The truthfulness and completeness in disclosing and providing to the
17 Government, upon request, any document, record, or other evidence relating to matters about
18 which the Government or any designated law enforcement agency inquires, including but not
19 limited to, Defendant's personal finances;

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

22 g. The timeliness of Defendant's assistance.

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

h. If requested by the defendant or his counsel
the Government agrees to bring to the nature and
extent of the defendant's cooperation to
Texas State authorities.

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1 **J. Breach**

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

13 **II. PENALTY**

14 27. The maximum penalty for a violation of Title 18, United States Code, Section
15 1349, is imprisonment for not more than thirty (30) years, a \$1,000,000 fine, or both. Defendant
16 is also subject to supervised release for a term of not greater than five (5) years.

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

23 29. Defendant is required to pay for the costs of imprisonment, probation, and
24 supervised release, unless the Defendant establishes that the Defendant does not have the ability
25 to pay such costs, in which case the court may impose an alternative sanction such as community
26 service.

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III. ELEMENTS

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

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

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

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

IV. FACTS

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

32. 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.

33. From in or about 2005 through in or about 2007, the defendant ANDERSON worked for LEON BENZER, indicted in Case No. 2:13-cr-00018-JCM-GWF, as BENZER's head of security. In this capacity ANDERSON spent many hours with or close to BENZER including providing security at meetings and events which BENZER attended. ANDERSON also was able to observe the operation at BENZER's office and home in the context of providing security.

34. ANDERSON had almost daily contact with BENZER during his employment. He also had substantial contact with several of those working for and associated with BENZER.

35. In order to win elections at particular HOA Boards, BENZER would direct others to stuff ballots, steal ballots, and to steam open sealed ballots in order to rig the outcome of a particular election. During the course of his employment, the defendant ANDERSON observed this conduct and at times provided security to those engaged in this conduct.

1 36. The ballots for certain HOA Board elections were printed on distinctive "green"
2 paper. A co-conspirator who worked for BENZER challenged ANDERSON to find a source for
3 the same blank "green" paper used to print these particular HOA Board ballots in the Las Vegas
4 area. After ANDERSON located the paper in Las Vegas, the co-conspirator gave ANDERSON
5 \$100 cash. Thereafter, the paper was taken by co-conspirators to Mexico in order to print ballots.
6 Fake ballots were printed in Mexico at BENZER's direction. Upon their return to Las Vegas,
7 ANDERSON watched the co-conspirators counting ballots at ~~the Court House Café, a café that~~
8 ~~was partially owned by BENZER at the time.~~ *Benzer's office*

9 37. ANDERSON agreed to let BENZER use ANDERSON's name as the "owner of
10 record" or "straw purchaser" for two condominiums. These condominiums were previously
11 "owned" by co-conspirators EDITH GILLESPIE and EDWARD LUGO, both charged
12 separately in Case Nos. 2:13-cr-00018-JCM-GWF (GILLESPIE) and 2:11-cr-00299-LDG-GWF
13 (LUGO).

14 38. At various times during his employment for BENZER, ANDERSON was asked
15 by BENZER to attend HOA meetings to stare at and intimidate HOA Board members not
16 friendly to BENZER. BENZER also provided to ANDERSON certain questions to be posed and
17 statements to be made to challenge HOA Board members who were not friendly to BENZER.
18 ANDERSON attended several such HOA meetings and followed the directions of BENZER. On
19 at least one occasion, ANDERSON, along with others, went to an HOA Board member's house
20 and followed him to an HOA Board meeting so that the HOA Board member would vote as
21 directed by BENZER.

22 39. ANDERSON knew that another co-conspirator had obtained the master keys for
23 the HOA complex at Chateau Versailles. ANDERSON drove that co-conspirator to the HOA
24 complex and observed the co-conspirator removing ballots from mail boxes which ballots were
25 then take to BENZER's offices.
26

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1 40. While providing security for BENZER, ANDERSON observed several BENZER-
2 controlled HOA Board members come into BENZER's office and receive cash payments in
3 return for serving on the Boards and voting as directed by BENZER.

4 41. ANDERSON was asked to supervise BENZER employees "dumpster diving" at a
5 certain HOA in order to retrieve from the garbage discarded HOA Board ballots which were then
6 returned to BENZER's office for use in rigging an election.

7 42. ANDERSON, on the instructions of BENZER, and together with other co-
8 conspirators, participated in a two-stage rigging of a particular HOA Board election. The first
9 stage was the creation of and filling in HOA ballots for a particular election. The second stage
10 was to improperly inspect the legitimate ballots of legitimate HOA homeowners, so as to obtain
11 the actual vote count to insure that while BENZER Board candidates won the election through
12 the falsified ballots, the number of votes cast did not exceed the number of legitimate
13 homeowners or the number needed to insure the victory of the BENZER planted Board
14 members. This elaborate scheme required two co-conspirators to dress up as a security guard and
15 a postal employee to accomplish the objectives.

16 43. In or about the first part of 2007 BENZER wanted to gain control of the Chateau
17 Versailles HOA Board, and at BENZER's suggestion ANDERSON ran for election for that
18 Board. ANDERSON believed that if he was elected, he would receive the perks received by the
19 other BENZER-aligned directors such as a rent free condo and money. ANDERSON
20 campaigned for the position but in an election that was rigged by BENZER, ANDERSON
21 received only three votes and was not elected. Another BENZER associate was elected to the
22 Board. When ANDERSON confronted BENZER about losing, he was told by BENZER that "he
23 took one for the team." At that point ANDERSON realized that BENZER used him as a pawn to
24 ensure that BENZER's associate won the Board seat. Shortly after the election, ANDERSON
25 saw the BENZER associate and newly elected HOA Board member in BENZER's office.
26 Shortly thereafter ANDERSON had a falling out with BENZER and stopped working for him.

V. ACKNOWLEDGMENT

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

7 45. Defendant acknowledges that Defendant has been advised, and understands, that
8 by entering a plea of guilty the Defendant is waiving, that is, giving up, certain rights guaranteed
9 to the Defendant by law and by the Constitution of the United States. Specifically, Defendant is
10 giving up:

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

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

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

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

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

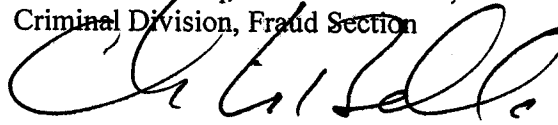
21 f. The right to have the assistance of an attorney at all stages of such proceedings.

22 46. Defendant acknowledges that Defendant is, in all respects, satisfied by the
23 representation provided by Defendant's attorney and that Defendant's attorney has discussed
24 with the defendant the burdens and benefits of this agreement and the rights he waives herein.

25 47. Defendant, Defendant's attorney, and the attorney for the United States
26 acknowledge that this Plea Memorandum contains the entire negotiated and agreed to by and

1 between the parties, and that no other promise has been made or implied by either the Defendant,
2 Defendant's attorney, or the attorney for the United States.

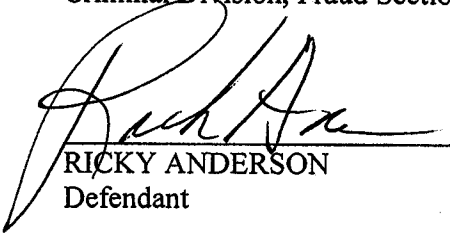
5 JEFFREY H. KNOX
6 Chief
7 United States Department of Justice,
8 Criminal Division, Fraud Section



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9 DATED

10 KATHLEEN McGOVERN
11 Senior Deputy Chief
12 CHARLES G. LA BELLA
13 Deputy Chief
14 THOMAS B.W. HALL
15 Trial Attorney
16 United States Department of Justice
17 Criminal Division, Fraud Section



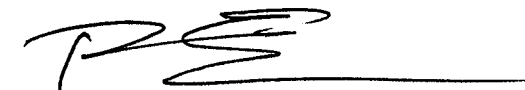
RICKY ANDERSON
Defendant

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19 DATED



20 TRAVIS SHETLER, ESQ.
21 Counsel for Defendant Ricky Anderson
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