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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 UNITED STATES OF AMERICA,) No. CR 11-0540 CRB
16 Plaintiff,) PLEA AGREEMENT
17 v.)
18 DOUGLAS DEAN HOLLINGSWORTH,)
19 Defendant.)
20

21 I, Douglas Dean Hollingsworth, and the United States Attorney’s Office for the Northern
22 District of California (hereafter “the government”) enter into this written plea agreement (the
23 “Agreement”) pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal
24 Procedure:

25 The Defendant’s Promises

26 1. I agree to plead guilty to Counts Five and Twenty-Five of the captioned Second
27 Superseding Indictment charging me with wire fraud and money laundering, in violation of 18

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1 U.S.C. § 1343 (Count Five) and 18 U.S.C. § 1957 (Count Twenty-Five). I agree that the
2 elements of the offenses are as follows:

3 Count Five (wire fraud) – (1) I knowingly devised a scheme or plan to defraud, or scheme
4 or plan for obtaining money by means of false or fraudulent pretenses, representations or
5 promises or omission or concealment of material facts; (2) the statements made or facts
6 omitted or concealed as part of the scheme were material, that is the statements had a
7 natural tendency to influence, or were capable of influencing, a person to part with
8 money; (3) I acted with the intent to defraud; that is the intent to deceive or cheat; and (4)
9 I used, or caused to be used, a wire communication in interstate commerce to carry out or
10 attempt to carry out an essential part of the scheme.

11 I agree that the maximum penalties for wire fraud are as follows:

- 12 a. Maximum prison sentence 20 years
- 13 b. Maximum fine \$250,000 or twice the gross gain or loss,
14 whichever is greater
- 15 c. Maximum supervised release term 3 years
- 16 d. Mandatory special assessment \$100
- 17 e. Restitution To Be Determined By the Court
(Not less than \$3 million)
- 18 f. Forfeiture

19 Count Twenty Five (money laundering) – (1) I knowingly engaged or attempted to engage
20 in a monetary transaction; (2) I knew the transaction involved criminally derived
21 property; (3) the property had a value greater than \$10,000; (4) the property was, in fact,
22 derived from a specified ^{un}lawful activity, namely wire fraud; and (5) the transaction
23 occurred in the United States.

24 I agree that the maximum penalties for money laundering are as follows:

- 25 a. Maximum prison sentence 10 years
- 26 b. Maximum fine \$250,000 or twice the gross gain or loss,
27 whichever is greater

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- 1 c. Maximum supervised release term 3 years
 2 d. Mandatory special assessment \$100
 3 e. Restitution To Be Determined By the Court
 4 f. Forfeiture (Not less than \$3 million)

5 I acknowledge that pleading guilty may have consequences with respect to my
 6 immigration status if I am not a citizen of the United States. Under federal law, a broad range of
 7 crimes are removable offenses, including the offense to which I am pleading guilty. Removal
 8 and other immigration consequences are the subject of a separate proceeding, however, and I
 9 understand that no one, including my attorney or the district court, can predict to a certainty the
 10 effect of this conviction on my immigration status. I nevertheless affirm that I want to plead
 11 guilty regardless of any immigration consequences that may result from my guilty plea, even if
 12 the consequence is my automatic removal from the United States.

13 I understand that, because I am pleading guilty to more than one count, the Court may
 14 order the sentences on those counts to run consecutively.

15 2. I agree that I am guilty of the offenses to which I am pleading guilty, and I agree
 16 that the following facts are true: Beginning in approximately June 2007 and continuing through
 17 approximately October 2012, I solicited money from numerous individuals, including E.S., S.H.,
 18 P.D., K.D., A.K., D.L., T.H., M.M., M.Z., J.S., N.P. (the "victims"), by falsely representing that
 19 my business entities, Baytree Investors, Inc. ("Baytree") and Capsule Partners, LLC ("Capsule"),
 20 had developed a sophisticated computer system that permitted me to identify financial market
 21 trends and that I was generating substantial profits from trading activity. On behalf of Baytree and
 22 Capsule, I solicited loans from the victims and falsely stated that if they loaned money to me for
 23 Baytree and Capsule, I could pay significant monthly interest payments to them from the profits
 24 earned from successful trading activity. In connection with my solicitation of money, I
 25 intentionally failed to advise some individuals from whom I solicited money that the Federal
 26 Bureau of Investigation had searched my residence in July 2010. I also intentionally failed to
 27 advise some individuals from whom I solicited money that I had been charged with wire fraud in

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1 August 2011. I admit that all of these false statements and omissions were material to the
2 individuals in deciding whether to provide me with the funds. I did not use the money I received
3 from the victims to engage in trading. Instead, I spent the money given to me on personal
4 expenses and to make monthly interest payments to some of the other individuals who had
5 provided me with money.

6 As set forth in Count Five, as part of this scheme to defraud, on or about July 31, 2008, I
7 caused A.K. to send \$1,150,000 by wire transfer, via the FedWire system through New Jersey,
8 from a Wachovia Bank account in Virginia to a Bank of America account in California over
9 which I had sole control. I admit that this wire communication traveled in interstate commerce.

10 I agree that as a result of my scheme to defraud, I caused losses in an amount more than \$4
11 million and less than \$7 million. I agree that this loss amount shall be used to calculate the
12 Sentencing Guidelines in this case.

13 As set forth in Count Twenty-Five, after receiving money from A.K. and T.H., all of
14 which were proceeds of my scheme to defraud, I wrote a check for \$29,343.60 from a Bank of
15 America account over which I had sole control to Earthworks, Inc., a jewelry store in Santa Rosa,
16 California, to pay for a purchase of jewelry.

17 3. I agree to give up all rights that I would have if I chose to proceed to trial,
18 including the rights to a jury trial with the assistance of any attorney; to confront and cross-
19 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
20 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
21 to pursue any affirmative defenses and present evidence.

22 4. I agree to give up my right to appeal my convictions, the judgment, and orders of
23 the Court. I also agree to waive any right I have to appeal any aspect of my sentence, including
24 any orders relating to forfeiture and or restitution. I also agree to give up any right I may have to
25 appeal my sentence, except that I reserve my right to appeal an upward departure from the
26 Guideline imprisonment range determined by the Court.

27 5. I agree not to file any collateral attack on my convictions or sentence, including a
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1 petition under 28 U.S.C. § 2255 or 28 U.S.C. § 2241, except that I reserve my right to claim that
 2 my counsel was ineffective in connection with the negotiation of this Agreement or the entry of
 3 my guilty plea. I also agree not to seek relief under 18 U.S.C. §3582.

4 6. I agree not to ask the Court to withdraw my guilty pleas at any time after they are
 5 entered. I understand that by entering into this Agreement: (a) I agree that the facts set forth in
 6 Paragraph 2 of this Agreement shall be admissible against me under Fed. R. Evid. 801(d)(2)(A) in
 7 any subsequent proceeding, including at trial, in the event I violate any of the terms of this
 8 Agreement, and (b) I expressly waive any and all rights under Fed. R. Crim. 11(f) and Fed. R.
 9 Evid. 410 with regard to the facts set forth in Paragraph 2 of this Agreement in such subsequent
 10 proceeding. I understand that the government will not preserve any physical evidence obtained in
 11 this case.

12 7. I agree that the Court will use the Sentencing Guidelines to calculate my sentence.
 13 I understand that the Court must consult the Guidelines and take them into account when
 14 sentencing, together with the factors set forth in 18 U.S.C. § 3553(a). I also understand that the
 15 Court is not bound by the Guidelines calculations below, the Court may conclude that a higher
 16 Guidelines range applies to me, and, if it does, I will not be entitled, nor will I ask to withdraw my
 17 guilty pleas. I agree that regardless of the sentence that the Court imposes on me, I will not be
 18 entitled, nor will I ask, to withdraw my guilty pleas. I also agree that the Sentencing Guidelines
 19 offense level will be calculated as follows and that I will not ask for any other adjustment to or
 20 reduction in the offense level or for a downward departure from the Guidelines range as
 21 determined by the Court.

22 a. Base Offense Level (U.S.S.G. § 2S1.1(a)(1)): 27

23 Pursuant to § 2S1.1, the base offense level is
 24 calculated based on the underlying wire fraud
 offense as follows:

25	Base offense level for wire fraud	7 (§ 2B1.1(a)(1))
26	Loss Amount > \$2.5 million	+18 (§ 2B1.1(b)(1)(J))
27	Ten or More Victims	+2 (§ 2B1.1(b)(2))
28	TOTAL:	27

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- 1 b. Specific offense characteristics (§ 2S1.1(b)(2)(A)): +1
 Conviction under 18 U.S.C. § 1957
- 2
- 3 c. Acceptance of Responsibility: If I meet the requirements of
 U.S.S.G. § 3E1.1, I may be entitled to a three-level reduction for
 acceptance of responsibility, provided that I forthrightly admit
 my guilt, cooperate with the Court and the Probation Office in
 any presentence investigation ordered by the Court, and
 continue to manifest an acceptance of responsibility through
 and including the time of sentencing. -3
- 6 d. Adjusted offense level: 25

8 I understand that, pursuant to this Agreement, I will be allowed to argue for a sentencing
 9 variance pursuant to 18 U.S.C. § 3553(a), but I agree that I may not argue for a sentence of
 10 imprisonment of less than 41 months. I understand that the government reserves its right to
 11 oppose any such argument. The parties have reached no agreement regarding my Criminal
 12 History Category.

13 8. I agree that regardless of any other provision of this Agreement, the government
 14 may and will provide the Court and the Probation Office with all information relevant to the
 15 charged offenses and the sentencing decision. I agree that, based on the nature of the offenses
 16 and/or my criminal history, the Court should impose the following special condition of supervised
 17 release which is reasonably related to deterrence and rehabilitation:

18 Special Condition (Searches)

19 The defendant shall submit his person, residence, office, vehicle, or any
 20 property under his control to a search. Such a search shall be conducted by a
 21 United States Probation Officer or any federal, state, or local law enforcement
 22 officer at any time with or without suspicion. Failure to submit to such a search
 may be grounds for revocation; the defendant shall warn any residents that the
 premises may be subject to searches.

23 9. I agree to pay restitution for all the losses caused by all the schemes or offenses
 24 with which I was charged in this case, and I agree that the amount of restitution will not be limited
 25 to the loss attributable to the Counts to which I am pleading guilty, pursuant to 18 U.S.C. §
 26 3663(a)(3). I agree that the Court may order and I will pay restitution in an amount to be set by
 27 the Court, but in no event less than \$3 million. I agree that any fine, forfeiture, or restitution

1 imposed by the Court against me will be immediately due and payable and subject to immediate
2 collection by the government and I understand that the government may seek immediate collection
3 of the entire fine, forfeiture, or restitution from any assets without regard to any schedule of
4 payments imposed by the Court or established by the Probation Office. I agree that I will make a
5 good-faith effort to pay any fine, forfeiture, or restitution I am ordered to pay. Before or after
6 sentencing, I will upon request of the Court, the government, or the Probation Office, provide
7 accurate and complete financial information, submit sworn statements and give depositions under
8 oath concerning my assets and my ability to pay, surrender assets I obtained as a result of my
9 crimes, and release funds and property under my control in order to pay any fine, forfeiture, or
10 restitution. I agree to pay the special assessment at the time of sentencing.

11 10. I agree not to commit or attempt to commit any crimes before sentence is imposed
12 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
13 release; not to intentionally provide false information to the Court, the Probation Office, Pretrial
14 Services, or the government; and not to fail to comply with any of the other promises I have made
15 in this Agreement. I agree that if I fail to comply with any promises I have made in this
16 Agreement, then the government will be released from all of its promises in this Agreement,
17 including those set forth in the Government's Promises Section below, but I will not be released
18 from my guilty pleas.

19 11. I agree to forfeit my interest in the following property (hereinafter "subject
20 property"):

- 21 a. Approximately \$71,375.00 seized from the Rosenthal Collins Group, LLC.
22 Account Number XXXXX-8219 of Capsule Partners on July 16, 2010;
- 23 b. Approximately \$3,744.81 seized from the Wells Fargo Bank Account
24 Number XXXX-4023 of R.H. on July 16, 2010;
- 25 c. Approximately \$3,260.77 seized from the Rosenthal Collins Group, LLC.
26 Account Number XXXX-4356 of Douglas Hollingsworth on July 16, 2010; and
- 27 d. Approximately \$2,832.74 from the Bank of America Account Number

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1 XXXXX-0632 of Baytree Investors on July 16, 2010.

2 I admit that the subject property was proceeds from the scheme to defraud, alleged in the
3 wire fraud and money laundering counts, and thus is forfeitable to the United States pursuant to
4 the provisions of 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 982, and 28 U.S.C. § 2461(c) and the
5 procedures outlined in Rule 32.2 of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853.
6 I relinquish any and all right, title, and interest I may have in the subject property and agree that
7 such right, title, and interest can be forfeited to the United States without further notice to me. I
8 also agree I will not contest any administrative or judicial forfeiture proceeding (whether criminal,
9 civil, state or federal) which may be brought against said property. I further agree to waive all
10 constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or
11 any other means) to any forfeiture carried out in accordance with this Agreement on any grounds,
12 including that the forfeiture constitutes an excessive fine or punishment or that the forfeiture
13 proceeding was brought in violation of the statute of limitations.

14 12. I agree that this Agreement contains all of the promises and agreements between
15 the government and me, and I will not claim otherwise in the future. No modification of this
16 Agreement shall be effective unless it is in writing and signed by all parties.

17 13. I agree that the Agreement binds the U.S. Attorney's Office for the Northern
18 District of California only, and does not bind any other federal, state, or local agency.

19 The Government's Promises

20 14. The government agrees to move to dismiss any open charges pending against the
21 defendant at the time of sentencing.

22 15. The government agrees not to file any additional charges against the defendant that
23 could be filed as a result of the investigation that led to the captioned Second Superseding
24 Indictment.

25 16. The government agrees to recommend the Guideline calculations set out above,
26 unless the defendant violates the terms of the Agreement above or fails to accept responsibility.
27 The Government also agrees that it will recommend a sentence of imprisonment of no more than

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1 the mid-range of the Guideline range applicable to Adjusted Offense Level 25.

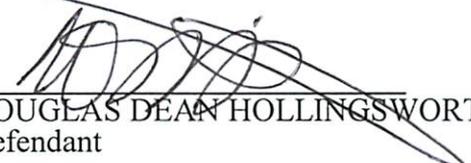
2 The Defendant's Affirmations

3 17. I confirm that I have had adequate time to discuss this case, the evidence, and the
4 Agreement with my attorney and that my attorney has provided me with all the legal advice that I
5 requested.

6 18. I confirm that the while I considered signing this Agreement, and at the time I
7 signed it, I was not under the influence of any alcohol, drug, or medicine that would impair my
8 ability to understand the Agreement.

9 19. I confirm that my decision to enter guilty pleas is made knowing the charges that
10 have been brought against me, any possible defense, and the benefits and possible detriments of
11 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no one
12 coerced or threatened me to enter into this Agreement.

13
14 Dated: 2-13-2013


DOUGLAS DEAN HOLLINGSWORTH
Defendant

MELINDA HAAG
United States Attorney

15
16
17
18 Dated: 2/13/2013


DENISE MARIE BARTON
Assistant United States Attorney

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20 20. I have fully explained to my client all the rights that a criminal defendant has and
21 all the terms of this Agreement. In my opinion, my client understands all the terms of this
22 Agreement and all the rights my client is giving up by pleading guilty, and, based on the
23 information now known to me, my client's decision to plead guilty is knowing and voluntary.

24
25 Dated: 2-13-13


CHRISTOPHER ANDRIAN
Attorney for Defendant