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FILED

JAN 30 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA,)	No. CR 09 - 01195 EJD
15 Plaintiff,)	PLEA AGREEMENT
16 v.)	
17 RODNEY HATFIELD,)	
18 Defendant.)	

19
 20 I, Rodney Hatfield, and the United States Attorney's Office for the Northern District of
 21 California (hereafter "the government") enter into this written plea agreement (the "Agreement")
 22 pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure:

23 The Defendant's Promises

24 1. I agree to plead guilty to Count One of the captioned Indictment charging me with
 25 conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349. I agree that the elements of
 26 the offense are as follows: (1) there was an agreement between two or more persons to commit
 27 wire fraud; and (2) the defendant became a member of the conspiracy knowing of at least one of
 28 its objects and intending to help accomplish it.

PLEA AGREEMENT/HATFIELD
CR 09 - 01195 EJD

1 I further agree that the elements of wire fraud are: (1) the defendant participated in a
2 scheme or plan for obtaining money or property by making false promises or statements; (2) the
3 defendant knew that the promises or statements were false or fraudulent; (3) the promises or
4 statements made, or facts omitted, were material, that is, they had a natural tendency to
5 influence, or were capable of influencing, a person to part with money or property; (4) the
6 defendant acted with intent to defraud; and, (5) the defendant used, or caused someone to use,
7 the interstate or international wires to carry out, or to attempt to carry out, the scheme or plan.

8 I agree that the maximum penalties are as follows:

- 9 a. Maximum prison term Twenty years
- 10 b. Maximum fine \$250,000 or twice the gross gain or
11 loss, which is greater
- 12 c. Maximum supervised release term Three years
- 13 d. Restitution To be determined at sentencing
- 14 e. Mandatory special assessment \$100

15 2. I agree that I am guilty of the offense to which I am pleading guilty, and I agree
16 that the following facts are true:

17 From on or about January 2004 through on or about December 23, 2008, in the Northern
18 District of California and elsewhere, Lloyd Myers and I conspired to obtain money from
19 investors by means of materially false representations about the value of their investment
20 accounts.

21 More specifically, I defrauded members of my own Jehovah's Witness congregation in
22 Watsonville, California. With the assistance of Myers, I solicited my fellow congregants and
23 others to invest in Landmark Trading Company, LLC ("Landmark"), a company Myers and I had
24 set up in 2003 as a holding company for the purpose of trading in foreign currency exchange.

25 While Myers and I did transfer a significant portion of investor monies to
26 XPRESSTRADE LLC for legitimate currency trades, we quickly began to run a negative return
27 on ~~their~~ ^{our} trading activity. Rather than accurately report our negative trading activity to our
28 investors, Myers and I proceeded to falsely report in e-mails and in oral communication that the

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1 trading accounts were profitable and had generally positive returns. We continued transmitting
2 these false reports throughout 2005, 2006, and 2007, ultimately receiving millions of dollars in
3 funds from various investors in Landmark Trading Company.

4 In furtherance of this conspiracy, I caused interstate wires to be used to carry out an
5 essential part of the plan. For example, on or about December 9, 2006, I caused a
6 communication to be sent to Investor A via an interstate wire falsely reporting the value of
7 Investor A's account holdings in Landmark.

8 While some investors did receive all or most of their principal back, Landmark had, in
9 fact, suffered a net trading loss, such that certain investors lost all or nearly all of their
10 investment funds as a result of our fraud.

11 I agree that the loss resulting from my criminal conduct was in excess of \$1 million
12 dollars but less than \$2.5 million dollars. I further agree that my conduct resulted in harm and
13 loss to more than 10 but no more than 50 victims.

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

19 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
20 the Court. I also agree to waive any right I have to appeal any aspect of my sentence, including
21 any orders relating to forfeiture and or restitution.

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

26 6. I agree not to ask the Court to withdraw my guilty plea at any time after it is
27 entered. I understand that by entering into this Agreement: (a) I agree that the facts set forth in
28 Paragraph 2 of this Agreement shall be admissible against me under Fed. R. Evid. 801(d)(2)(A)

1 in any subsequent proceeding, including at trial, in the event I move to withdraw my guilty plea
 2 to the charge in the Indictment, and (b) I expressly waive any and all rights under Fed. R. Crim.
 3 11(f) and Fed. R. Evid. 410 with regard to the facts set forth in Paragraph 2 of this Agreement in
 4 such subsequent proceeding.

5 7. I agree that the Court will use the Sentencing Guidelines to calculate my sentence.
 6 I understand that the Court must consult the Guidelines and take them into account when
 7 sentencing, together with the factors set forth in 18 U.S.C. § 3553(a). I also understand that the
 8 Court is not bound by the Guidelines calculations below, the Court may conclude that a higher
 9 Guidelines range applies to me, and, if it does, I will not be entitled, nor will I ask to withdraw
 10 my guilty plea. I agree that regardless of the sentence that the Court imposes on me, I will not be
 11 entitled, nor will I ask, to withdraw my guilty plea. I also agree that the Sentencing Guidelines
 12 offense level will be calculated as follows and that I will not ask for any other adjustment to or
 13 reduction in the offense level or for a downward departure or variance from the Guidelines range
 14 as determined by the Court, except that I am free to argue for a variance from the Guidelines
 15 range determined by the Court, based on 18 U.S.C. § 3553(a) factors. I also understand that the
 16 Government will be able to argue for an upward variance and against a variance I seek from the
 17 Guidelines range determined by the Court, based on 18 U.S.C. § 3553(a) factors:

- | | | | |
|----|----|---|-----|
| 18 | a. | Base Offense Level
U.S.S.G. §2B1.1(a): | 7 |
| 19 | b. | Specific Offense Characteristics, | |
| 20 | | Amount of Loss | |
| 21 | | More Than \$1,000,000 but less than \$2,500,000 | |
| 22 | | U.S.S.G. § 2B1.1(b)(1)(I): | +16 |
| 23 | | Number of Victims | |
| 24 | | More than 10/Less Than 50 | |
| 25 | | U.S.S.G. § 2B1.1(b)(2)(A): | +2 |
| 26 | c. | Acceptance of Responsibility: | -3 |

26 If I meet the requirements of U.S.S.G. § 3E1.1, I may be entitled to
 27 three-level reduction for acceptance of responsibility, provided that
 28 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 date of sentencing.

1 d. Adjusted offense level:

22

2 The parties have not agreed on the Criminal History category.

3 8. I agree that regardless of any other provision of this Agreement, the government
4 may and will provide the Court and the Probation Office with all information relevant to the
5 charged offense and the sentencing decision.

6 9. I agree to pay restitution for all the losses caused by all the schemes or offenses
7 with which I was charged in this case, and I agree that the amount of restitution will not be
8 limited to the loss attributable to the count to which I am pleading guilty, pursuant to 18 U.S.C. §
9 3663(a)(3). I agree to pay restitution in an amount to be set by the Court, but not less than \$1
10 million dollars, including restitution resulting from all relevant conduct specified in paragraph 2
11 of the plea agreement. I agree that any fine, forfeiture, or restitution imposed by the Court
12 against me will be immediately due and payable and subject to immediate collection by the
13 government and I understand that the government may seek immediate collection of the entire
14 fine, forfeiture, or restitution from any assets without regard to any schedule of payments
15 imposed by the Court or established by the Probation Office. I agree that I will make a good-
16 faith effort to pay any fine, forfeiture, or restitution I am ordered to pay. Before or after
17 sentencing, I will upon request of the Court, the government, or the Probation Office, provide
18 accurate and complete financial information, submit sworn statements and give depositions
19 under oath concerning my assets and my ability to pay, surrender assets I obtained as a result of
20 my crimes, and release funds and property under my control in order to pay any fine, forfeiture,
21 or restitution. I agree to pay the special assessment at the time of sentencing.

22 10. I agree not to commit or attempt to commit any crimes before sentence is imposed
23 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
24 release; not to intentionally provide false information to the Court, the Probation Office, Pretrial
25 Services, or the government; and not to fail to comply with any of the other promises I have
26 made in this Agreement. I agree not to have any contact with any victims or witnesses in this
27 case, either directly or indirectly, before and after I am sentenced. This includes, but is not
28 limited to, personal contact, telephone, mail, or electronic mail contact, or any other written form

1 of communication, and includes any harassing, annoying, or intimidating conduct by me directed
2 to any victims or witnesses. I agree that the Court may also include this no-contact provision as
3 a condition of my supervised release term. I agree that if I fail to comply with any promises I
4 have made in this Agreement, then the government will be released from all of its promises in
5 this Agreement, including those set forth in the Government's Promises Section below, but I will
6 not be released from my guilty plea.

7 12. I agree that this Agreement contains all of the promises and agreements between
8 the government and me, and supersedes any other agreements, written or oral. No modification
9 of this Agreement shall be effective unless it is in writing and signed by all parties.

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

12 The Government's Promises

13 14. The government agrees to move to dismiss any open charges pending against the
14 defendant in the captioned Indictment at the time of sentencing.

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

17 16. The government agrees to recommend the Guideline calculations set out above,
18 unless the defendant violates the terms of the Agreement above or fails to accept responsibility.

19 The Defendant's Affirmations

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

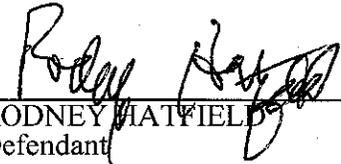
23 18. I confirm that the while I considered signing this Agreement, and at the time I
24 signed it, I was not under the influence of any alcohol, drug, or medicine that would impair my
25 ability to understand the Agreement.

26 19. I confirm that my decision to enter a guilty plea is made knowing the charges that
27 have been brought against me, any possible defense, and the benefits and possible detriments of
28 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no

1 one coerced or threatened me to enter into this Agreement.

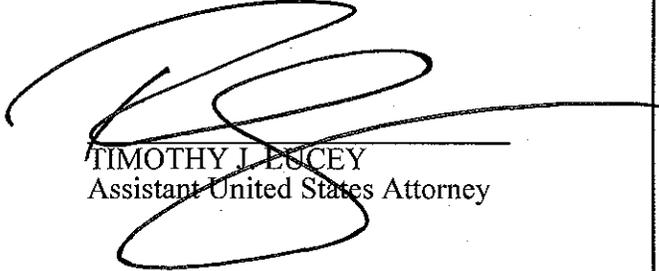
2 20. I confirm that I read this entire plea agreement in the presence of my attorney.

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4 Dated: 1/30/13


RODNEY HATFIELD
Defendant

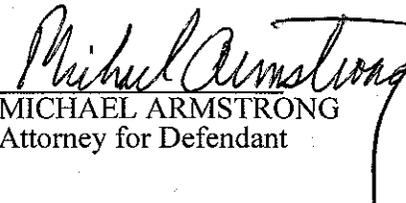
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7 MELINDA HAAG
United States Attorney

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10 Dated: 1/30/2013


TIMOTHY J. LUCEY
Assistant United States Attorney

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

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18 Dated: 1-30-13


MICHAEL ARMSTRONG
Attorney for Defendant

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