

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
ST. JOSEPH DIVISION

UNITED STATES OF AMERICA,            )  
                                                  )  
                                          Plaintiff,            )  
                                                  )  
                                          v.                            )        No. 07-06023-03-CR-SJ-DW  
                                                  )  
TYRONE L. DAVIS,                        )  
                                                  )  
                                          Defendant.            )

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the parties described below have entered into the following plea agreement:

**1. The Parties.** The parties to this agreement are the United States Attorney’s Office for the Western District of Missouri (otherwise referred to as “the Government” or “the United States”), represented by John F. Wood, United States Attorney, and K. Michael Warner, Assistant United States Attorney, and the defendant, Tyrone L. Davis (“the defendant”), represented by Hugh Kranitz.

The defendant understands and agrees that this plea agreement is only between him and the United States Attorney for the Western District of Missouri, and that it does not bind any other federal, state, or local prosecution authority or any other government agency, unless otherwise specified in this agreement.

**2. Defendant’s Guilty Plea.** The defendant agrees to and hereby does plead guilty to Count One of the Indictment charging him with a violation of 18 U.S.C. § 371, that is, conspiracy. By entering into this plea agreement, the defendant admits that he knowingly committed this offense, and is in fact guilty of this offense.

**3. Factual Basis for Guilty Plea.** The parties agree that the facts constituting the offense to which he is pleading guilty are as follows:

Investigation concerning defendant, Tina M. Mooney and other persons, was initiated in August 2006, when the Missouri Department of Health & Senior Services office in St. Joseph received a report that 73-year old Eva May Stufflebean was the victim of some form of identity theft, and her personal information was being used to make fraudulent purchases of real estate properties in the St. Joseph area. Contact with Ms. Stufflebean by a state investigator determined that Ms. Stufflebean never gave permission for her signature to be used in connection with the fraudulent purchase of any real estate, and she believed her granddaughter, Tina Mooney, deceived her into signing a fraudulent power of attorney document.

At the time the power of attorney was created, Ms. Mooney was residing at 2501 S. 18<sup>th</sup> Street, in a house owned by Tyrone and Stephanie Davis. In May 2006, Ms. Mooney was about to be evicted for failure to pay her rent. Her husband, Ryan, was in prison on bad check charges from April to July 2006.

At this time, Ms. Davis convinced Tina that she could purchase up to ten properties (many owned by the Davises) and become a landlord, if she could find someone with a good credit rating. Tina M. Mooney provided the name of her grandmother and next helped to create a false power of attorney document in her grandmother's name.

On May 11, 2006, a fraudulent power of attorney document in the name of Eva Stufflebean was notarized without the presence of Ms. Stufflebean. In actuality, Ms. Stufflebean was not even aware that it had been created. Ms. Stufflebean thought she was only being asked to sign documents to help her granddaughter obtain rental property.

Starting in June, Ms. Mooney utilized the power of attorney document to sign a number of real estate contracts in the name of Ms. Stufflebean and with the assistance of Stephanie Davis and/or real estate agent, Judith Yawakie. Yawakie started offering them to various mortgage companies and/or banks. In addition, Ms. Mooney (with the help of Ms. Davis and/or Judith Yawakie), created false income and employment records for Ms. Stufflebean. Initially, the individuals attempted to obtain financing in Ms. Stufflebean's name and did not try to hide her actual address or income figures. However, when it became apparent they would not be able to obtain financing with Ms. Stufflebean's actual information, they created false bank records and listed Ms. Stufflebean as a single black woman who was renting her current residence.

By July, state investigators learned that Ms. Stufflebean had received mortgage commitment papers from Wilmington Finance Company (they never financed the purchases), in connection with the attempted purchase of three separate properties in St. Joseph, Missouri. It should be noted that one of these properties were owned by Tyrone and Stephanie Davis.

Investigation further determined that on August 16, 2006, Tina M. Mooney participated in a title closing for a house located at 3902 Meadow Oak Lane, St. Joseph, Missouri, at Advantage Title, LLC. in St. Joseph. Ms. Mooney appeared with Deborah Schneider who represented herself as Eva M. Stufflebean. Ms. Schneider also provided a false Missouri driver's license in the name of Eva Stufflebean which bore a false photo on the ID. Ms. Schneider fraudulently signed all the closing documents (involving two loans) in the name of Ms. Stufflebean.

A review of the loan application and supporting documentation for this property (and others) revealed that Ms. Mooney with the assistance of defendant Stephanie Davis submitted a fraudulent loan application to Option One Mortgage containing the following false statements: false employment income; false address for loan recipient; false telephone number (actually was for the Mooneys); falsified bank income verification form; false rental verification form; and none of the documents were actually signed by Eva M. Stufflebean. In addition, the participants knowingly submitted false W-2 forms and employment payroll records to obtain the fraudulent loans.

Tyrone L. Davis was married to Stephanie E. Davis. Together the Davis' owned two of the three properties referenced in the government's Indictment. Additionally, the Davis' jointly owned and operated Davis Custom Homes, St. Joseph, Missouri. Tyrone L. Davis directly contributed to the mortgage fraud conspiracy described in Count One by engaging in the following conduct:

- a. On or about August 23, 2006, Tyrone L. Davis, d/b/a Davis Custom Homes, assisted and abetted the creation and submission for mortgage loan application purposes a fraudulent \$41,500.00 home repair invoice for a house owned by himself and his wife at 4805 Creek Crossing Drive, St. Joseph, Missouri. Although the invoiced home repairs were never completed, the Davis home at 4805 Creek Crossing Drive was (subsequently) fraudulently sold with mortgage funds accruing to the Davis' incorporating the \$41,500.00 of inflated or misrepresented repair costs.

**4. Use of Factual Admissions.** The defendant acknowledges, understands and agrees that the admissions contained in Paragraph 3 and other portions of this plea agreement will be used for the purpose of determining his guilt and advisory sentencing range under the United States

Sentencing Guidelines (“U.S.S.G.”), including the calculation of the defendant’s offense level in accordance with U.S.S.G. § 1B1.3(a)(2). The defendant acknowledges, understands and agrees that the conduct charged in any dismissed counts of the Indictment as well as all other uncharged related criminal activity may be considered as “relevant conduct” pursuant to U.S.S.G. § 1B1.3(a)(2) in calculating the offense level for the charge to which he is pleading guilty.

**5. Statutory Penalties.** The defendant understands that upon his plea of guilty to Count One of the Indictment charging him with conspiracy, the maximum penalty the Court may impose is not more than five years of imprisonment, a \$250,000 fine, three years of supervised release, an order of restitution and a \$100 mandatory special assessment which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class D felony.

**6. Sentencing Procedures.** The defendant acknowledges, understands and agrees to the following:

a. in determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are advisory in nature, and the Court may impose a sentence either less than or greater than the defendant’s applicable Guidelines range, unless the sentence imposed is “unreasonable”;

b. the Court will determine the defendant's applicable Sentencing Guidelines range at the time of sentencing;

c. in addition to a sentence of imprisonment, the Court may impose a term of supervised release of up to three years; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one year is imposed;

d. if the defendant violates a condition of his supervised release, the Court may revoke his supervised release and impose an additional period of imprisonment of up to three years without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed three years, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

e. the Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;

f. any sentence of imprisonment imposed by the Court will not allow for parole;

g. the Court may order restitution to be paid to victims of the offense to which he is pleading guilty, the conduct charged in any dismissed counts of the Indictment, and all other uncharged related criminal activity;

h. the Court is not bound by any recommendation regarding the sentence to be imposed or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Office; and

i. the defendant may not withdraw his guilty plea solely because of the nature or length of the sentence imposed by the Court.

**7. Government's Agreements.** Based upon evidence in its possession at this time, the United States Attorney's Office for the Western District of Missouri, as part of this plea agreement, agrees not to bring any additional charges against defendant for any federal criminal offenses related to interstate transportation of stolen property, for which it has venue and which arose out of the defendant's conduct described above. The government agrees to dismiss Counts Three and Four of the Indictment at sentencing.

The defendant understands that this plea agreement does not foreclose any prosecution for an act of murder or attempted murder, an act or attempted act of physical or sexual violence against

the person of another, or a conspiracy to commit any such acts of violence or any criminal activity of which the United States Attorney for the Western District of Missouri has no knowledge.

The defendant recognizes that the United States' agreement to forego prosecution of all of the criminal offenses with which the defendant might be charged is based solely on the promises made by the defendant in this agreement. If the defendant breaches this plea agreement, the United States retains the right to proceed with the original charges and any other criminal violations established by the evidence. The defendant expressly waives his right to challenge the initiation of the dismissed or additional charges against him if he breaches this agreement. The defendant expressly waives his right to assert a statute of limitations defense if the dismissed or additional charges are initiated against him following a breach of this agreement. The defendant further understands and agrees that if the Government elects to file additional charges against him following his breach of this plea agreement, he will not be allowed to withdraw his guilty plea.

**8. Preparation of Presentence Report.** The defendant understands the United States will provide to the Court and the United States Probation Office a government version of the offense conduct. This may include information concerning the background, character, and conduct of the defendant, including the entirety of his criminal activities. The defendant understands these disclosures are not limited to the count to which he has pleaded guilty. The United States may respond to comments made or positions taken by the defendant or the defendant's counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The United States and the defendant expressly reserve

the right to speak to the Court at the time of sentencing pursuant to Rule 32(i)(4) of the Federal Rules of Criminal Procedure.

**9. Withdrawal of Plea.** The defendant understands that if the Court accepts his plea of guilty and this plea agreement but imposes a sentence that is outside the defendant's applicable Sentencing Guidelines range, or imposes a sentence that the defendant does not expect, like or agree with, he will not be permitted to withdraw his plea of guilty.

**10. Agreed Guidelines Applications.** With respect to the application of the Sentencing Guidelines to this case, the parties stipulate and agree as follows:

a. The Sentencing Guidelines do not bind the Court and are advisory in nature. The Court may impose a sentence that is either above or below the defendant's applicable Guidelines range, provided the sentence imposed is not "unreasonable";

b. The applicable Guidelines Manual is the one that took effect on November 1, 2007;

c. The applicable Guidelines section for the offense of conviction is U.S.S.G. § 2B1.1, which provides for a base offense level of 6;

d. The government will contend that the applicable loss amount is greater than \$120,000.00 but less than \$200,000.00. Defendant may contest the estimated loss amount asserted by the government in the loss amount proposed by the Presentence Report at sentencing;

e. The Government will concur with any additional special offense characteristics proposed by the Presentence Investigation Report. Defendant may contest such additional proposed enhancements at the time of sentencing;

f. The defendant has admitted his guilt and clearly accepted responsibility for his actions, and has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the Court to allocate their resources efficiently. Therefore, he is entitled to a two or three-level reduction pursuant to § 3E1.1(b) of the Sentencing Guidelines;

g. The parties agree that defendant qualifies for a 3-level reduction as a minimal minor participant in the overall conspiracy as defined in Section 3B1.2 of the Guidelines;

h. The parties agree that the Court will determine his applicable criminal history category after receipt of the presentence investigation report prepared by the United States Probation Office;

i. The United States agrees not to seek an upward departure from the Guidelines or a sentence beyond the low end of the applicable advisory Guidelines range. Defendant may argue for imposition of a reasonable sentence range either within or outside the advisory Guidelines range. Defendant retains the right to file any applicable downward departure motions. This agreement by the parties is not binding upon the Court or the United States Probation Office and the Court may impose any sentence authorized by law, including any sentence outside the applicable Guidelines range that is not “unreasonable”;

j. The defendant understands that the estimate of the parties with respect to the Guidelines computation set forth in the subsections of this paragraph does not bind the Court or the United States Probation Office with respect to the appropriate Guidelines levels. Additionally, the failure of the Court to accept these stipulations will not, as outlined in Paragraph 9 of this plea agreement, provide the defendant with a basis to withdraw his plea of guilty;

k. The defendant consents to judicial fact-finding by a preponderance of the evidence of any contested issues pertaining to the determination of the defendant’s sentence under the United States Sentencing Guidelines. The defendant waives any right to a jury determination beyond a reasonable doubt of all facts used to determine and enhance the sentence imposed, and waives any right to have those facts alleged in the Indictment. The defendant also agrees that the Court, in finding the facts relevant to the imposition of sentence under the Guidelines, may consider any reliable information, including hearsay; and

l. The defendant understands and agrees that the factual admissions contained in Paragraphs 3 and 4 of this plea agreement, and any admissions that he will make during his plea colloquy, support the imposition of the agreed Guidelines calculations contained in this agreement.

**11. Effect of Non-Agreement on Guidelines Applications.** The parties understand, acknowledge and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed in Paragraph 13, and its subsections.

As to any other Guidelines issues, the parties are free to advocate their respective positions at the sentencing hearing.

**12. Change in Guidelines Prior to Sentencing.** The defendant agrees that if any applicable provision of the Guidelines changes after the execution of this plea agreement, then any request by defendant to be sentenced pursuant to the new Guidelines will make this plea agreement voidable by the United States at its option. If the Government exercises its option to void the plea agreement, the United States may charge, reinstate, or otherwise pursue any and all criminal charges that could have been brought but for this plea agreement.

**13. Government's Reservation of Rights.** The defendant understands that the United States expressly reserves the right in this case to:

- a. oppose or take issue with any position advanced by defendant at the sentencing hearing which might be inconsistent with the provisions of this plea agreement;
- b. comment on the evidence supporting the charge in the Indictment;
- c. oppose any arguments and requests for relief the defendant might advance on an appeal from the sentences imposed; and
- d. oppose any post-conviction motions for reduction of sentence, or other relief.

**14. Waiver of Constitutional Rights.** The defendant, by pleading guilty, acknowledges that he has been advised of, understands, and knowingly and voluntarily waives the following rights:

- a. the right to plead not guilty and to persist in a plea of not guilty;
- b. the right to be presumed innocent until his guilt has been established beyond a reasonable doubt at trial;
- c. the right to a jury trial, and at that trial, the right to the effective assistance of counsel;

- d. the right to confront and cross-examine the witnesses who testify against his;
- e. the right to compel or subpoena witnesses to appear on his behalf; and
- f. the right to remain silent at trial, in which case his silence may not be used against him.

The defendant understands that by pleading guilty, he waives or gives up those rights and that there will be no trial. The defendant further understands that if he pleads guilty, the Court may ask him questions about the offense or offenses to which he pleaded guilty, and if the defendant answers those questions under oath and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or making a false statement. The defendant also understands he has pleaded guilty to a felony offense and, as a result, will lose his right to possess a firearm or ammunition and might be deprived of other rights, such as the right to vote or register to vote, hold public office, or serve on a jury.

**15. Waiver of Appellate and Post-Conviction Rights.**

a. The defendant acknowledges, understands and agrees that by pleading guilty pursuant to this plea agreement he waives his right to appeal or collaterally attack a finding of guilt following the acceptance of this plea agreement.

b. The defendant expressly waives his right to appeal his sentence, directly or collaterally, on any ground except a sentence imposed in excess of the statutory maximum or an illegal sentence, that is, sentencing error more serious than a misapplication of the Sentencing Guidelines, an abuse of discretion, or the imposition of an unreasonable sentence. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may, as part of the Government's appeal, cross-appeal his sentence as authorized by 18 U.S.C. § 3742(a) with respect to any issues that have not been stipulated to or agreed upon in this agreement.

**16. Waiver of FOIA Request.** The defendant waives all of his rights, whether asserted directly or by a representative, to request or 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.

**17. Waiver of Claim for Attorney's Fees.** The defendant waives all of his claims under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

**18. Defendant's Agreement to Destruction of Biological Evidence.** In accordance with 18 U.S.C. § 3600A(c)(2), the defendant knowingly and voluntarily waives his right to request DNA testing of any biological evidence which may have been obtained or seized by law enforcement in his case. Defendant agrees that all biological evidence which may have been obtained or seized may be destroyed by law enforcement authorities.

**19. Defendant's Breach of Plea Agreement.** If the defendant commits any crimes, violates any conditions of release, or violates any term of this plea agreement between the signing of this plea agreement and the date of sentencing, or fails to appear for sentencing, or if the defendant provides information to the Probation Office or the Court that is intentionally misleading, incomplete, or untruthful, or otherwise breaches this plea agreement, the United States will be released from its obligations under this agreement. The defendant, however, will remain bound by the terms of the agreement, and will not be allowed to withdraw his plea of guilty.

The defendant also understands and agrees that in the event he violates this plea agreement, all statements made by him to law enforcement agents subsequent to the execution of this plea agreement, any testimony given by him before a grand jury or any tribunal or any leads from such statements or testimony shall be admissible against him in any and all criminal proceedings. The

defendant waives any rights that he might assert under the United States Constitution, Federal Rule of Criminal Procedure 11(f), Federal Rule of Evidence 410, or any other federal rule or statute that pertains to the admissibility of any statements made by him subsequent to this plea agreement.

**20. Defendant's Representations.** The defendant acknowledges that he has entered into this plea agreement freely and voluntarily after receiving the effective assistance, advice and approval of counsel. The defendant acknowledges that he is satisfied with the assistance of counsel, and that counsel has fully advised him of his rights and obligations in connection with this plea agreement. The defendant further acknowledges that no threats or promises, other than the promises contained in this plea agreement, have been made by the United States, the Court, his attorneys or any other party to induce him to enter his plea of guilty.

**21. No Undisclosed Terms.** The United States and defendant acknowledge and agree that the above-stated terms and conditions constitute the entire plea agreement between the parties, and that any other terms and conditions not expressly set forth in this agreement do not constitute any part of the parties' agreement and will not be enforceable against either party.

**22. Standard of Interpretation.** The parties agree that, unless the constitutional implications inherent in plea agreements require otherwise, this plea agreement should be interpreted according to general contract principles and the words employed are to be given their normal and ordinary meanings. The parties further agree that, in interpreting this agreement, any drafting errors

or ambiguities are not to be automatically construed against either party, whether or not that party was involved in drafting or modifying this agreement.

John F. Wood  
United States Attorney

*/s/ K. Michael Warner*

Dated: June 4, 2008

By

\_\_\_\_\_  
K. Michael Warner  
Assistant United States Attorney

I have consulted with my attorney and fully understand all of my rights with respect to the offense charged in the Indictment. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and I voluntarily agree to it.

*/s/ Tyrone L. Davis*

Dated: June 4, 2008

\_\_\_\_\_  
Tyrone L. Davis  
Defendant

I am defendant Tyrone L. Davis' attorney. I have fully explained to him his rights with respect to the offense charged in the Indictment. Further, I have reviewed with him the provisions of the Sentencing Guidelines which might apply in this case. I have carefully reviewed every part of this plea agreement with him. To my knowledge, Mr. Davis' decision to enter into this plea agreement is an informed and voluntary one.

*/s/ Hugh Kranitz*

Dated: June 4, 2008

\_\_\_\_\_  
Hugh Kranitz  
Attorney for Defendant