

FILED

2010 JAN 21 AM 11:32

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

1 GEORGE S. CARDONA
 Acting United States Attorney
 2 CHRISTINE C. EWELL
 Assistant United States Attorney
 3 Chief, Criminal Division
 MICHAEL R. WILNER (Cal. Bar No. 156592)
 4 Assistant United States Attorney
 Deputy Chief, Major Frauds Section
 5 BRIAN E. KLEIN (Cal. Bar No. 258486)
 Assistant United States Attorney
 6 Major Frauds Section
 1100 United States Courthouse
 7 312 North Spring Street
 Los Angeles, California 90012
 8 Telephone: (213) 894-0687/6920
 Facsimile: (213) 894-6269
 9 E-mail: michael.wilner@usdoj.gov
 brian.klein@usdoj.gov

10 Attorneys for Plaintiff
 11 United States of America

12 UNITED STATES DISTRICT COURT
 13
 14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,) CR NO. 10- **CR 10 00059**
 16)
 Plaintiff,) PLEA AGREEMENT FOR DEFENDANT
 17) JON WELDON JAMES
 v.)
 18)
 JON WELDON JAMES,)
 19)
 Defendant.)
 20)
 21)

22 1. This constitutes the plea agreement between Jon Weldon
 23 James ("defendant") and the United States Attorney's Office for
 24 the Central District of California ("the USAO") in the above-
 25 captioned case. This agreement is limited to the USAO and cannot
 26 bind any other federal, state or local prosecuting,
 27 administrative or regulatory authorities.
 28

1 PLEA TO INFORMATION

2 2. Defendant gives up the right to indictment by a grand
3 jury and agrees to plead guilty to a one-count information in the
4 form attached to this agreement or a substantially similar form.

5 NATURE OF THE OFFENSE

6 3. In order for defendant to be guilty of count one, which
7 charges a violation of Title 18, United States Code,
8 Section 1343, the following must be true: (1) the defendant
9 devised a scheme or plan for obtaining money or property by
10 making false promises or statements, with the jury agreeing on at
11 least one particular false statement that was made; (2) the
12 defendant knew that the promises or statements were false or
13 fraudulent; (3) the promises or statements were material; that
14 is, they had a natural tendency to influence, or were capable of
15 influencing, a person to part with money or property;
16 (4) defendant acted with the intent to defraud; and (5) the
17 defendant used, or caused to be used, interstate wire
18 communications to carry out or attempt to carry out an essential
19 part of the scheme. Defendant admits that defendant is, in fact,
20 guilty of this offense as described in count one of the
21 information.

22 PENALTIES AND RESTITUTION

23 4. The statutory maximum sentence that the Court can impose
24 for a violation of Title 18, United States Code, Section 1343,
25 is: 20 years imprisonment; a 3-year period of supervised release;
26 a fine of \$250,000 or twice the gross gain or gross loss
27 resulting from the offense, whichever is greatest; and a
28 mandatory special assessment of \$100.

1 5. Defendant understands that defendant will be required
2 to pay full restitution to the victims of the offense. Defendant
3 agrees that, in return for the USAO's compliance with its
4 obligations under this agreement, the amount of restitution is
5 not restricted to the amounts alleged in the count to which
6 defendant is pleading guilty and may include losses arising from
7 charges not prosecuted pursuant to this agreement as well as all
8 relevant conduct in connection with those charges. The parties
9 currently believe that the applicable amount of restitution
10 exceeds \$7,000,000, but recognize and agree that this amount
11 could change based on facts that come to the attention of the
12 parties prior to sentencing. Defendant further agrees that
13 defendant will not seek the discharge of any restitution
14 obligation, in whole or in part, in any present or future
15 bankruptcy proceeding.

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

24 7. Defendant also understands that, by pleading guilty,
25 defendant may be giving up valuable government benefits and
26 valuable civic rights, such as the right to vote, the right to
27 possess a firearm, the right to hold office, and the right to
28 serve on a jury.

1 8. Defendant further understands that the conviction in
2 this case may subject defendant to various collateral
3 consequences, including but not limited to deportation,
4 revocation of probation, parole, or supervised release in another
5 case, and suspension or revocation of a professional license.
6 Defendant understands that unanticipated collateral consequences
7 will not serve as grounds to withdraw defendant's guilty plea.

8 FACTUAL BASIS

9 9. Defendant and the USAO agree and stipulate to the
10 statement of facts provided below. This statement of facts is
11 sufficient to support a plea of guilty to the charge described in
12 this agreement and to establish the sentencing guideline factors
13 set forth in paragraph 12 below. It is not meant to be a
14 complete recitation of all facts relevant to the underlying
15 criminal conduct or all facts known to either party that relate
16 to that conduct.

17 a. Defendant controlled a number of businesses,
18 including J.W. James and Associates, Inc., which he ran from
19 offices located in Los Angeles County. Beginning in or about
20 December 2003, and continuing through in or about August 2006,
21 defendant defrauded more than 50 individuals who invested in
22 real estate-related investments that defendant offered through
23 his businesses.

24 b. Defendant marketed real estate-related investments
25 to investors, soliciting funds from individuals through the use
26 of investment and promissory agreements.

27 c. Defendant located investors through word-of-mouth
28 techniques, including hosting investor presentations at

1 restaurants, and encouraged individuals to invest their savings
2 with him, including money that they had set aside in Individual
3 Retirement Accounts.

4 d. Defendant engaged and caused others to engage in a
5 number of actions in order to raise money from investors,
6 including the following, among others: (1) defendant claimed to
7 investors that he intended to use their funds solely to invest in
8 real estate properties and to pay related operational expenses;
9 (2) defendant claimed to investors that they would profit from
10 the collection of rent and/or the resale of real estate that
11 would be or had already been purchased; (3) defendant claimed to
12 investors that their individual investment returns would be paid
13 from the profits of real estate-related investments; (4) some
14 investors received periodic account statements, which purported
15 to show summaries of the total amount of funds invested through
16 defendant and the increased value of that investment; and (5) at
17 the end of the term of a promissory note agreement, some
18 investors received payments from defendant's businesses, which
19 defendant led investors to believe represented investment
20 earnings derived from real estate-related investments.

21 e. Defendant, however, did not invest in real estate-
22 related investments on behalf of investors for most of the period
23 of the relevant time period. By the time that defendant's
24 businesses were closed by federal court order in mid-2006, none
25 of the five properties that defendant purchased using investor
26 funds had generated any profits for investors. Overall,
27 defendant and his businesses earned no net income from any real
28 estate-related investments during this period.

1 f. Instead of using investor funds solely for
2 real estate-related investments and related operating expenses as
3 he promised investors, defendant misappropriated investor funds.
4 Defendant used them for, among other things: (1) personal
5 expenses; (2) an investment in a recording studio and production
6 company; and (3) repaying millions of dollars to investors who
7 requested withdrawals of their investments or received purported
8 interest payments from certain of the James Entities under the
9 guise of investor earnings.

10 g. In addition, the periodic statements that
11 defendant caused to be sent to investors were false because the
12 investments did not have the increased value as listed in the
13 statements.

14 h. Defendant took in approximately \$33,000,000 from
15 investors, which they believed defendant intended to use solely
16 for real estate-related investments and related operating
17 expenses. Defendant defrauded at least 50 investors and caused a
18 loss to investors in excess of \$7,000,000.

19 i. On April 4, 2005, defendant caused the interstate
20 wire transmission of \$424,413.70 from a bank account of Pensco
21 Trust Company, on behalf of investor K.T., through the Federal
22 Reserve Bank processing center in New Jersey, to the Union Bank
23 of California account of JWJA in Manhattan Beach, California.

24 WAIVER OF CONSTITUTIONAL RIGHTS

25 10. By pleading guilty, defendant gives up the following
26 rights:

- 27 a) The right to persist in a plea of not guilty.
28 b) The right to a speedy and public trial by jury.

1 c) The right to the assistance of legal counsel at
2 trial, including the right to have the Court appoint counsel for
3 defendant for the purpose of representation at trial. (In this
4 regard, defendant understands that, despite his plea of guilty,
5 he retains the right to be represented by counsel -- and, if
6 necessary, to have the court appoint counsel if defendant cannot
7 afford counsel -- at every other stage of the proceeding.)

8 d) The right to be presumed innocent and to have the
9 burden of proof placed on the government to prove defendant
10 guilty beyond a reasonable doubt.

11 e) The right to confront and cross-examine witnesses
12 against defendant.

13 f) The right, if defendant wished, to testify on
14 defendant's own behalf and present evidence in opposition to the
15 charges, including the right to call witnesses and to subpoena
16 those witnesses to testify.

17 g) The right not to be compelled to testify, and, if
18 defendant chose not to testify or present evidence, to have that
19 choice not be used against defendant.

20 By pleading guilty, defendant also gives up any and all
21 rights to pursue any affirmative defenses, Fourth Amendment or
22 Fifth Amendment claims, and other pretrial motions that have been
23 filed or could be filed.

24 SENTENCING FACTORS

25 11. Defendant understands that the Court is required to
26 consider the factors set forth in 18 U.S.C. § 3553(a)(1)-(7),
27 including the kinds of sentence and sentencing range established
28 under the United States Sentencing Guidelines ("USSG" or

"Sentencing Guidelines"), in determining defendant's sentence. Defendant further understands that the Sentencing Guidelines are advisory only, and that after considering the Sentencing Guidelines and the other § 3553(a) factors, 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.

12. Defendant and the USAO agree and stipulate to the following applicable sentencing guideline factors:

Base Offense Level	:	7	[USSG § 2B1.1(a)(1)(B)]
--------------------	---	---	-------------------------

Loss more than \$7,000,000	:	+20	[USSG § 2B1.1(b)(1)(K)]
-------------------------------	---	-----	-------------------------

50 or more victims	:	+4	[USSG § 2B1.1(b)(2)(B)]
--------------------	---	----	-------------------------

Acceptance of Responsibility	:	-3	[USSG § 3E1.1(b)]
---------------------------------	---	----	-------------------

Total Offense Level	:	28	
---------------------	---	----	--

The USAO will agree to a downward adjustment for acceptance of responsibility (and, if applicable, move for an additional level under § 3E1.1(b)) only if the conditions set forth in paragraph 17) are met. Subject to paragraph 15, defendant and the USAO agree not to seek, argue, or suggest in any way, either orally or in writing, that any other specific offense characteristics, adjustments or departures, relating to either the applicable Offense Level or the Criminal History Category, be imposed. If, however, after signing this agreement but prior to sentencing, defendant were to commit an act, or the USAO were to discover a previously undiscovered act committed by defendant prior to signing this agreement, which act, in the judgment of the USAO, constituted obstruction of justice within the meaning

1 of USSG § 3C1.1, the USAO would be free to seek the enhancement
2 set forth in that section.

3 13. There is no agreement as to defendant's criminal
4 history or criminal history category.

5 14. Pursuant to the factors set forth in 18 U.S.C.
6 § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7), defendant
7 reserves the right to argue for a sentence outside the sentencing
8 range established by the Sentencing Guidelines.

9 15. The stipulations in this agreement do not bind either
10 the United States Probation Office or the Court. Both defendant
11 and the USAO are free to: (a) supplement the facts by supplying
12 relevant information to the United States Probation Office and
13 the Court, (b) correct any and all factual misstatements relating
14 to the calculation of the sentence, and (c) argue on appeal and
15 collateral review that the Court's Sentencing Guidelines
16 calculations are not error, although each party agrees to
17 maintain its view that the calculations in paragraph 12 are
18 consistent with the facts of this case.

19 ADDITIONAL CONDITIONS OF SUPERVISION/PROBATION

20 16. During the period of supervision or probation ordered
21 by this Court, defendant shall not hold any job position in which
22 he solicits, holds, has direct or indirect control over, or any
23 other form of management of money belonging to any customer or
24 client. Additionally, defendant shall not apply for any
25 professional license, certification, or qualification examination
26 without the prior approval of the Probation Officer.

DEFENDANT'S OBLIGATIONS

17. Defendant agrees that he will:

a) Plead guilty as set forth in this agreement.

b) Not knowingly and willfully fail to abide by all sentencing stipulations contained in this agreement.

c) Not knowingly and willfully fail to: (i) appear for all court appearances, (ii) surrender as ordered for service of sentence, (iii) obey all conditions of any bond, and (iv) obey any other ongoing court order in this matter.

d) Not commit any crime; however, offenses which would be excluded for sentencing purposes under USSG § 4A1.2(c) are not within the scope of this agreement.

e) Not knowingly and willfully fail to be truthful at all times with Pretrial Services, the U.S. Probation Office, and the Court.

f) Pay the applicable special assessment at or before the time of sentencing unless defendant lacks the ability to pay and submits a completed financial statement (form OBD-500) to the USAO prior to sentencing.

THE USAO'S OBLIGATIONS

18. If defendant complies fully with all defendant's obligations under this agreement, the USAO agrees:

a) To abide by all sentencing stipulations contained in this agreement.

b) At the time of sentencing, provided that defendant demonstrates an acceptance of responsibility for the offense up to and including the time of sentencing, to recommend a two-level

1 reduction in the applicable sentencing guideline offense level,
2 pursuant to USSG § 3E1.1, and to recommend and, if necessary,
3 move for an additional one-level reduction if available under
4 that section.

5 c) To recommend that defendant be sentenced to a term
6 of imprisonment at the low end of the applicable Sentencing
7 Guidelines imprisonment range provided that the total offense
8 level as calculated by the Court is 28 or higher and provided
9 that the Court does not depart downward in offense level or
10 criminal history category. For purposes of this agreement, the
11 low end of the Sentencing Guidelines imprisonment range is that
12 defined by the Sentencing Table in USSG Chapter 5, Part A.

13 BREACH OF AGREEMENT

14 19. If defendant, at any time after the execution of this
15 agreement, knowingly violates or fails to perform any of
16 defendant's agreements or obligations under this agreement ("a
17 breach"), the USAO may declare this agreement breached. If the
18 USAO declares this agreement breached at any time following its
19 execution, and the Court finds such a breach to have occurred,
20 then: (a) if defendant has previously entered a guilty plea,
21 defendant will not be able to withdraw the guilty plea, and (b)
22 the USAO will be relieved of all of its obligations under this
23 agreement.

24 20. Following the Court's finding of a knowing and willful
25 breach of this agreement by defendant, should the USAO elect to
26 pursue any charge that was either dismissed or not filed as a
27 result of this agreement, then:

1 a) Defendant agrees that any applicable statute of
2 limitations is tolled between the date of defendant's signing of
3 this agreement and the commencement of any such prosecution or
4 action.

5 b) Defendant gives up all defenses based on the statute
6 of limitations, any claim of pre-indictment delay, or any speedy
7 trial claim with respect to any such prosecution, except to the
8 extent that such defenses existed as of the date of defendant's
9 signing this agreement.

10 c) Defendant agrees that: (i) any statements made by
11 defendant, under oath, at the guilty plea hearing (if such a
12 hearing occurred prior to the breach); (ii) the stipulated
13 factual basis statement in this agreement; and (iii) any evidence
14 derived from such statements, are admissible against defendant in
15 any such prosecution of defendant, and defendant shall assert no
16 claim under the United States Constitution, any statute, Rule 410
17 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules
18 of Criminal Procedure, or any other federal rule, that the
19 statements or any evidence derived from any statements should be
20 suppressed or are inadmissible.

21 LIMITED MUTUAL WAIVER OF APPEAL

22 21. Defendant gives up the right to appeal any sentence
23 imposed by the Court, including any order of restitution, and the
24 manner in which the sentence is determined, provided that (a) the
25 sentence is within the statutory maximum specified above and is
26 constitutional, and (b) the Court imposes a sentence within or
27 below the range corresponding to a total offense level of 28, and
28 the applicable criminal history category as determined by the

1 Court. Notwithstanding the foregoing, defendant retains any
2 ability defendant has to appeal the amount or terms of any
3 restitution order, the Court's determination of defendant's
4 criminal history category, and the conditions of supervised
5 release imposed by the Court, with the exception of the
6 following: conditions set forth in General Orders 318, 01-05,
7 and/or 05-02 of this Court; the drug testing conditions mandated
8 by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug
9 use conditions authorized by 18 U.S.C. § 3563(b)(7).

10 22. The USAO gives up its right to appeal the sentence,
11 provided that (a) the sentence is within the statutory maximum
12 specified above and is constitutional, and (b) the Court imposes
13 a sentence within or above the range corresponding to a total
14 offense level of 28, and the applicable criminal history category
15 as determined by the Court.

16 COURT NOT A PARTY

17 23. The Court is not a party to this agreement and need not
18 accept any of the USAO's sentencing recommendations or the
19 parties' stipulations. Even if the Court ignores any sentencing
20 recommendation, finds facts or reaches conclusions different from
21 any stipulation, and/or imposes any sentence up to the maximum
22 established by statute, defendant cannot, for that reason,
23 withdraw defendant's guilty plea, and defendant will remain bound
24 to fulfill all defendant's obligations under this agreement. No
25 one -- not the prosecutor, defendant's attorney, or the Court --
26 can make a binding prediction or promise regarding the sentence
27 defendant will receive, except that it will be within the
28 statutory maximum.

NO ADDITIONAL AGREEMENTS

24. Except as set forth herein, there are no promises, understandings or agreements between the USAO and defendant or defendant's counsel. Nor may any additional agreement, understanding or condition be entered into unless in a writing signed by all parties or on the record in court.

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

25. The parties agree and stipulate that this Agreement will be considered part of the record of defendant's guilty plea hearing as if the entire Agreement had been read into the record of the proceeding.

This agreement is effective upon signature by defendant and an Assistant United States Attorney.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GEORGE S. CARDONA
Acting United States Attorney

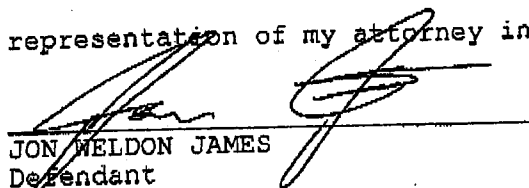
/s/ AUSA Wilner

January 15, 2010

MICHAEL R. WILNER
BRIAN E. KLEIN
Assistant United States Attorneys

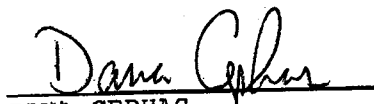
Date

1 I have read this agreement and carefully discussed every
 2 part of it with my attorney. I understand the terms of this
 3 agreement, and I voluntarily agree to those terms. My attorney
 4 has advised me of my rights, of possible defenses, of the
 5 sentencing factors set forth in 18 U.S.C. § 3553(a), of the
 6 relevant Sentencing Guidelines provisions, and of the
 7 consequences of entering into this agreement. No promises or
 8 inducements have been given to me other than those contained in
 9 this agreement. No one has threatened or forced me in any way to
 10 enter into this agreement. Finally, I am satisfied with the
 11 representation of my attorney in this matter.

12 
 13 JON WELDON JAMES
 14 Defendant

15 Date 1/14/10

16 I am Jon Weldon James's attorney. I have carefully
 17 discussed every part of this agreement with my client. Further,
 18 I have fully advised my client of his rights, of possible
 19 defenses, of the sentencing factors set forth in 18 U.S.C. §
 20 3553(a), of the relevant Sentencing Guidelines provisions, and of
 21 the consequences of entering into this agreement. To my
 22 knowledge, my client's decision to enter into this agreement is
 23 an informed and voluntary one.

24 
 25 DANA CEPHAS
 26 Counsel for Defendant
 27 Jon Weldon James
 28

15 Date 1/15/2010