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ORIGINAL

**ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>ROBERT J. CONGDON <i>dba</i> CORNERSTONE FINANCIAL, INC., and K&B INVESTMENTS, LLC.,</p> <p style="text-align: center;">Defendants.</p>	<p>CR 12-3 -M- DWM</p> <p><u>PLEA AGREEMENT</u></p>
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Pursuant to Rule 11 of the Federal Rules of Criminal Procedure,

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the United States of America, by Kris A. McLean, Assistant United States Attorney for the District of Montana, and the defendant, Robert J. Congdon, and his attorney, Timothy W. McKeon have agreed upon the following:

1. **Scope:** This plea agreement is between the United States Attorney's Office for the District of Montana and the defendant. It does not bind any other federal, state or local prosecuting, administrative or regulatory authority, or the United States Probation Office.

2. **Charges:** The defendant agrees to plead guilty to the following Counts of the Information:

Count I which charges the crime of Mail Fraud in violation of 18 U.S.C. §§ 1341, 2. This offense carries a maximum punishment of 20 years imprisonment, a \$ 250,000 fine, 3 years supervised release, and a \$100 special assessment.

Count II which charges the crime of Wire Fraud in violation of 18 U.S.C. §§ 1343, 2. This offense carries a maximum punishment of 20 years imprisonment, a \$ 250,000 fine, 3 years supervised release, and a \$100 special assessment.

2 KAM RJC TM 1/31/12
KAM RJC TM Date
1/16/12

the Information. The defendant will also admit the Forfeiture allegation contained in the Information.

In pleading guilty to Count I of the Information, the defendant acknowledges:

First, the defendant made up a material scheme or plan to defraud;

Second, the defendant acted with the intent to defraud; and

Third, the defendant used, or caused someone to use, the mails to carry out or to attempt to carry out the scheme or plan.

In pleading guilty to Count II of the Information, the defendant acknowledges:

First, the defendant made up a material scheme or plan to defraud;

Second, the defendant acted with the intent to defraud; and

Third, the defendant used, or caused someone to use, the wires to carry out or to attempt to carry out the scheme or plan.

In pleading guilty to Counts V, VI, VII, X, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII and XXIII of the Information, the defendant

4 KAM RJC TM 1/31/12
Date
1/16/12

(f) If the trial is a jury trial, the jury would be composed of 12 laypersons selected at random. The defendant and defense attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed innocent, and that it could not convict the defendant unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt.

(g) If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not he was persuaded of the defendant's guilt beyond a reasonable doubt.

(h) At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those government witnesses and the defense attorney would

7 KAM RJC TM 1/31/12
KAM RJC TM Date
1/10/12

be able to cross-examine them. In turn, the defendant could present witnesses and other evidence on the defendant's own behalf. If the witnesses for the defendant would not appear voluntarily, their appearance could be mandated through the subpoena power of the court.

(i) At a trial, there is a privilege against self-incrimination so that the defendant could decline to testify and no inference of guilt could be drawn from refusal to testify. Or the defendant could exercise the choice to testify on his own behalf.

(j) If convicted, and within 14 days of the entry of the Judgment and Commitment, the defendant would have the right to appeal the conviction to the Ninth Circuit Court of Appeals for review to determine if any errors were made which would entitle the defendant to reversal of the conviction.

(k) The defendant has a right to have the district court conduct the change of plea hearing required by Rule 11, *Federal Rules of Criminal Procedure*. By execution of this agreement, the defendant expressly waives that right and agrees to hold that hearing before, and

8 KAM RJC TM 1/31/12
KAM RJC TM Date
1/16/12

may, in the prosecutor's discretion, refuse to file any departure motion even though the defendant may have also provided assistance which is otherwise considered substantial. The defendant acknowledges that no promise has been made and accepts this agreement aware that no such motion will be filed if the government determines that the information is either untruthful, willfully incomplete, of little value, or insubstantial.

Recommendations: If the government makes a motion for reduction of sentence, the defendant understands that the government will also make a recommendation to the Court about the extent of the departure. Although the Court is required to impose any applicable statutorily required penalties, the parties understand that the Court is not bound by the recommendations of either party.

10. Appeal Waiver:

Waiver of Appeal of the Sentence – 5K motion: The defendant acknowledges that 18 U.S.C. § 3742 affords him the right to appeal the sentence imposed in this case. Under appropriate circumstances, the United States may move, but has not made any commitment as part of

12	<u>KAM</u> KAM	<u>RJC</u> RJC	<u>TM</u> TM	<u>1/31/12</u> Date
		1/16/12		

this agreement to move, for a reduction of sentence pursuant to USSG § 5K1.1 to reward the defendant for any substantial assistance provided before sentencing. If such a motion is made and the Court accepts the plea agreement, the defendant hereby waives all right to appeal any aspect of the sentence, including conditions of probation or supervised release, imposed by the Court.

If a motion for downward departure is made under USSG § 5K1.1, the defendant also agrees to waive his right to collaterally attack the judgment or sentence pursuant to 28 U.S.C. § 2255. This waiver does not prohibit his right to pursue or maintain such an action arising from facts not known or reasonably capable of being known at the time of his entry of guilty plea or alleging that he received ineffective assistance of counsel.

The United States emphasizes, and the defendant again acknowledges, that no such motion is bargained for in this agreement. No commitment to make such a motion has been made as part of the plea agreement, and the defendant has been made specifically aware that Department of Justice policy does not authorize any individual prosecutor to file such a motion or make such a commitment without

13 ^{KAM} KAM ^{RJC} RJC TM TM ^{1/31/12} 1/31/12
Date
1/10/12

express written approval of the U.S. Attorney or a Committee of other prosecutors designated and empowered by the U.S. Attorney to approve such a motion. USAM 9-27.400.

11. Voluntary Plea: The defendant and his attorney acknowledge that no threats, promises, or representations have been made to induce the defendant to plead guilty, and this agreement is freely and voluntarily endorsed by the parties.

12. Detention/Release After Plea: The United States will not object to Defendant's continued release after guilty plea.

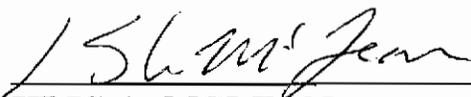
13. Breach: If the defendant breaches the terms of this agreement, or commits any new criminal offenses between signing this agreement and sentencing, the U.S. Attorney's Office is relieved of its obligations under this agreement, but defendant may not withdraw his guilty plea.

14. Entire Agreement: Any statements or representations made by the United States, the defendant, or his counsel prior to the full execution of this plea agreement are superseded by this plea agreement. No promises or representations have been made by the United States except as set forth in writing in this plea agreement.

14 KAM RJC TM 1/31/12
KAM RJC TM Date
1/10/12

This plea agreement constitutes the entire agreement between the parties. Any term or condition which is not expressly stated as part of this plea agreement is not to be considered part of the agreement.

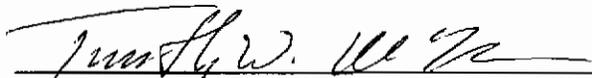
MICHAEL W. COTTER
United States Attorney



KRIS A. MCLEAN
Assistant U. S. Attorney
Date: 1/31/12



ROBERT J. CONGDON
Defendant
Date: 1-16-2012



TIMOTHY W. MCKEON
Defense Counsel
Date: 1/23/12

15 KAM RJC TM 1/31/12
Date
1/16/12