



U.S. Department of Justice

*United States Attorney
District of Connecticut*

*Brien McMahon Federal Building
915 Lafayette Boulevard, Room 309
Bridgeport, Connecticut 06604*

*(203) 696-3000
Fax (203) 579-5550
www.usdoj.gov/usao/ct*

November 25, 2008

Via U.S. Mail

William F. Dow III, Esq.
Jacobs, Grudberg, Belt, Dow & Katz P.C.
350 Orange Street
New Haven, CT 06511

Re: United States v. Fred Stevens
Criminal No.

Dear Attorney Dow:

This letter confirms the plea agreement entered into between your client, Fred Stevens (the "defendant"), and the United States Attorney's Office for the District of Connecticut (the "Government") concerning the referenced criminal matter.

THE PLEA AND OFFENSE

Fred Stevens agrees to waive his right to be indicted and to plead guilty to a one-count information charging him with Bank Fraud, in violation of Title 18 U.S.C. § 1344 (1). He understands that to be guilty of Bank Fraud the following essential elements of the offenses must be satisfied:

1. The defendant knowingly executed or attempted to execute a scheme or artifice to defraud.
2. The defendant did defraud or attempt to defraud the financial institution.
3. The defendant used a material misrepresentation or concealment of a material fact as part of the scheme or attempted scheme.
4. The financial institution was insured or chartered by the federal government.

THE PENALTIES

The offense of Bank carries a maximum penalty of thirty years' imprisonment and a \$1,000,000 fine. In addition, under 18 U.S.C. § 3583, the Court may impose a term of supervised release of not more than five years, to begin at the expiration of any term of imprisonment imposed. The defendant understands that should he violate any condition of the supervised release during its term, he may be required to serve a further term of imprisonment

equal to the five-year period for Bank Fraud.

The defendant also is subject to the alternative fine provision of 18 U.S.C. § 3571. Under this section, the maximum fine that may be imposed on the defendant is the greatest of the following amounts: (1) twice the gross gain to the defendant resulting from the offense; (2) twice the gross loss resulting from the offense; (3) \$250,000; or (4) the amount specified in the section defining Bank Fraud which is \$1,000,000.

In addition, the defendant is obligated by 18 U.S.C. § 3013 to pay a special assessment of \$100.00 on each count of conviction. The defendant agrees to pay the special assessment to the Clerk of the Court on the day the guilty plea is accepted.

Finally, unless otherwise ordered, should the Court impose a fine of more than \$2,500 as part of the sentence, interest will be charged on the unpaid balance of a fine amount not paid within 15 days after the judgment date. 18 U.S.C. § 3612(f). Other penalties and fines may be assessed on the unpaid balance of a fine pursuant to 18 U.S.C. §§ 3572 (h), (I) and § 3612(g).

Restitution

In addition to the other penalties provided by law, the Court may also order that the defendant make restitution under 18 U.S.C. § 3663A. The scope and effect of the order of restitution are set forth in the attached Rider Concerning Restitution. Restitution is payable immediately unless ordered otherwise by the Court.

THE SENTENCING GUIDELINES

1. Applicability

The defendant understands that although application of the United States Sentencing Guidelines is not mandatory, they are advisory and the Court is required to consider any applicable Sentencing Guidelines as well as other factors enumerated in 18 U.S.C. § 3553(a) to tailor an appropriate sentence in this case. *See United States v. Booker*, 543 U.S. 220 (2005). The defendant expressly understands and agrees that the Sentencing Guideline determinations will be made by the Court, by a preponderance of the evidence, based upon input from the defendant, the Government, and the United States Probation Officer who prepares the presentence investigation report. The defendant further understands that he has no right to withdraw his guilty plea if his sentence or the Guideline application is other than he anticipated.

2. Acceptance of Responsibility

At this time, the Government agrees to recommend that the Court reduce by two levels the defendant's Adjusted Offense Level under § 3E1.1(a) of the Sentencing Guidelines, based on the defendant's prompt recognition and affirmative acceptance of personal responsibility for the offense. Moreover, the Government intends to file a motion with the Court pursuant to § 3E1.1(b) recommending that the Court reduce defendant's Adjusted Offense Level by one additional level based on the defendant's prompt notification of his intention to enter a plea of guilty. This recommendation is conditioned upon the defendant's full, complete, and truthful

disclosure to the Probation Office of information requested, of the circumstances surrounding his commission of the offense, of his criminal history, and of his financial condition by submitting a complete and truthful financial statement. In addition, this recommendation is conditioned upon the defendant timely providing complete information to the Government concerning his involvement in the offense to which he is pleading guilty. The defendant expressly understands that the Court is not obligated to accept the Government's recommendation on the reduction.

The Government will not make this recommendation if the defendant engages in any acts which (1) indicate that the defendant has not terminated or withdrawn from criminal conduct or associations (Sentencing Guideline § 3E1.1); (2) could provide a basis for an adjustment for obstructing or impeding the administration of justice (Sentencing Guideline § 3C1.1); or (3) constitute a violation of any condition of release. Moreover, the Government will not make this recommendation if the defendant seeks to withdraw his plea of guilty. The defendant expressly understands that he may not withdraw his plea of guilty if, for the reasons explained above, the Government does not make this recommendation.

3. Stipulation

Pursuant to § 6B1.4 of the Sentencing Guidelines, the defendant and the Government have entered into a stipulation which is attached to and made a part of this plea agreement. The defendant understands that this stipulation does not purport to set forth all of the relevant conduct and characteristics that may be considered by the Court for purposes of sentencing. The defendant expressly understands that this stipulation is not binding on the Court. The defendant also understands that the Government and the United States Probation Office are obligated to advise the Court of any additional relevant facts that subsequently come to their attention.

4. Guideline Stipulation

The Government and the defendant stipulate the defendant's applicable Sentencing Guidelines to be at a range of 33 to 41 months of imprisonment and a fine range of \$7,500 to \$75,000. The base offense level under U.S.S.G. § 2B1.1(a) is 7. Sixteen levels are added under U.S.S.G. §§ 2B1.1(b)(1). Three levels are subtracted under U.S.S.G. § 3E1.1 for acceptance of responsibility, as noted above, resulting in a total offense level of 20. A total offense level 20 with a criminal history category I, which the parties calculate the defendant to be, results in a range of 33 to 41 months of imprisonment (sentencing table) and a fine range of \$7,500 to \$75,000, U.S.S.G. § 5E1.2(c)(3).

The parties agree that the agreed range is reasonable. Nonetheless, defendant is free to suggest that the Probation Department consider a downward departure or adjustment, and to suggest that the Court *sua sponte* consider such a departure or adjustment.

The defendant expressly understands that the Court is not bound by this agreement on the Guideline and fine ranges specified above. The defendant further expressly understands that he will not be permitted to withdraw the plea of guilty if the Court imposes a sentence outside the Guideline range or fine range set forth in this agreement.

In the event the Probation Office or the Court contemplates any sentencing calculations different from those stipulated by the parties, the parties reserve the right to respond to any inquiries and make appropriate legal arguments regarding the proposed alternate calculations. Moreover, the Government expressly reserves the right to challenge or defend any sentencing determination, other than that stipulated by the parties, in any post-sentencing proceeding.

5. Waiver of Right to Appeal or Collaterally Attack Sentence

The defendant acknowledges that under certain circumstances he is entitled to appeal his conviction and sentence. It is specifically agreed that the defendant will not appeal or collaterally attack in any proceeding, including but not limited to a motion under 28 U.S.C. § 2255 and/or § 2241, the conviction or sentence of imprisonment imposed by the Court if that sentence does not exceed 41 months, a five-year term of supervised release, and a fine of \$750,000, even if the Court imposes such a sentence based on an analysis different from that specified above. Similarly, the Government will not appeal a sentence imposed within or above the stipulated sentencing range. The Government and the defendant agree not to appeal or collaterally attack the imposition of the sentence of imprisonment concurrently or consecutively, in whole or in part, with any undischarged sentence of imprisonment to which the defendant may be subject at the time of sentencing in this case. The defendant expressly acknowledges that he is knowingly and intelligently waiving these rights. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) this waiver.

6. Information to the Court

The Government expressly reserves its right to address the Court with respect to an appropriate sentence to be imposed in this case. Moreover, it is expressly understood that the Government will discuss the facts of this case, including information regarding the defendant's background and character, 18 U.S.C. § 3661, with the United States Probation Office and will provide the Probation Officer with access to its file, with the exception of grand jury material.

WAIVER OF RIGHTS

Waiver of Right to Indictment

The defendant understands that he has the right to have the facts of this case presented to a federal grand jury, consisting of between sixteen and twenty-three citizens, twelve of whom would have to find probable cause to believe that he committed the offense set forth in the information before an indictment could be returned. The defendant expressly acknowledges that he is knowingly and intelligently waiving his right to be indicted.

Waiver of Trial Rights and Consequences of Plea

The defendant understands that he has the right to be represented by an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent him.

The defendant understands that he has the right to plead not guilty or to persist in that

plea if it has already been made, the right to a public trial, the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against him, the right not to be compelled to incriminate himself, and the right to compulsory process for the attendance of witnesses to testify in his defense. The defendant understands that by pleading guilty he waives and gives up those rights and that, if the plea of guilty is accepted by the Court, there will not be a further trial of any kind.

The defendant understands that if he pleads guilty, the Court may ask him questions about each offense to which he pleads guilty, and if he answers those questions falsely under oath, on the record, and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or making false statements.

Waiver of Statute of Limitations

The defendant understands and agrees that should the conviction following defendant's plea of guilty pursuant to this plea agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this plea agreement (including any indictment or counts the Government has agreed to dismiss at sentencing pursuant to this plea agreement) may be commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement or reinstatement of such prosecution. The defendant agrees to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date the plea agreement is signed.

Waiver of Right To Post-Conviction DNA Testing of Physical Evidence

The defendant understands that the Government has various items of physical evidence in its possession in connection with this case that could be subjected to DNA testing. The defendant further understands that following conviction in this case, he could file a motion with the Court to require DNA testing of physical evidence pursuant to 18 U.S.C. § 3600 and § 3600A in an attempt to prove his innocence. The defendant fully understands his right to have all the physical evidence in this case tested for DNA, has discussed this right with his counsel, and knowingly and voluntarily waives his right to have such DNA testing performed on the physical evidence in this case. Defendant fully understands that because he is waiving this right, the physical evidence in this case will likely be destroyed or will otherwise be unavailable for DNA testing in the future.

ACKNOWLEDGMENT OF GUILT; VOLUNTARINESS OF PLEA

The defendant acknowledges that he is entering into this agreement and is pleading guilty freely and voluntarily because he is guilty. The defendant further acknowledges that he is entering into this agreement without reliance upon any discussions between the Government and him (other than those described in the plea agreement letter), without promise of benefit of any kind (other than the concessions contained in the plea agreement letter), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges his understanding of the nature of the offense to which he is pleading guilty, including the penalties provided by law. The defendant also acknowledges his complete satisfaction with the representation and advice received from his undersigned attorney. The defendant and his

undersigned counsel are unaware of any conflict of interest concerning counsel's representation of the defendant in the case.

The defendant expressly acknowledges that he is not a "prevailing party" within the meaning of Public Law 105-119, section 617 ("the Hyde Amendment") with respect to the count of conviction or any other count or charge that may be dismissed pursuant to this agreement. The defendant voluntarily, knowingly, and intelligently waives any rights he may have to seek reasonable attorney's fees and other litigation expenses under the Hyde Amendment.

SCOPE OF THE AGREEMENT

The defendant acknowledges and understands that this agreement is limited to the undersigned parties and cannot bind any other federal authority, or any state or local authority. The defendant acknowledges that no representations have been made to him with respect to any civil or administrative consequences that may result from this plea of guilty because such matters are solely within the province and discretion of the specific administrative or governmental entity involved. Finally, the defendant understands and acknowledges that this agreement has been reached without regard to any civil tax matters that may be pending or which may arise involving him.

COLLATERAL CONSEQUENCES

The defendant further understands that he will be adjudicated guilty of each offense to which he has pleaded guilty and [may thereby be deprived of certain federal benefits as provided in 21 U.S.C. § 862 and] will be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to possess firearms. The defendant understands that pursuant to section 203(b) of the Justice For All Act, the Bureau of Prisons or the Probation Office will collect a DNA sample from the defendant for analysis and indexing. Finally, the defendant understands that the Government reserves the right to notify any state or federal agency by which he is licensed, or with which he does business, as well as any current or future employer of the fact of his conviction.

SATISFACTION OF FEDERAL CRIMINAL LIABILITY; BREACH

The defendant's guilty plea, if accepted by the Court, will satisfy the federal criminal liability of the defendant in the District of Connecticut as a result of his participation in the Aspetuck Building and Development mortgage fraud scheme and the Huntington South Associates mortgage fraud scheme, which forms the basis of the information in this case.

The defendant understands that if, before sentencing, he violates any term or condition of this agreement, engages in any criminal activity, or fails to appear for sentencing, the Government may void all or part of this agreement. If the agreement is voided in whole or in part, defendant will not be permitted to withdraw his plea of guilty.

NO OTHER PROMISES

The defendant acknowledges that no other promises, agreements, or conditions have been entered into other than those set forth in this plea agreement, and none will be entered into unless set forth in writing, signed by all the parties.

This letter shall be presented to the Court, in open court, and filed in this case.

Very truly yours,

NORA R. DANNEHY
ACTING UNITED STATES ATTORNEY

RAHUL KALE
ASSISTANT UNITED STATES ATTORNEY

The defendant certifies that he has read this plea agreement letter and its attachment(s) or has had it read or translated to him, that he has had ample time to discuss this agreement and its attachment(s) with counsel and that he fully understands and accepts its terms.

FRED STEVENS
The Defendant

Date

I have thoroughly read, reviewed and explained this plea agreement and its attachment(s) to my client who advises me that he understands and accepts its terms.

WILLIAM F. DOW III, ESQ.
Attorney for the Defendant

Date

STIPULATION OF OFFENSE CONDUCT

The defendant Fred Stevens and the Government stipulate and agree to the following offense conduct that gives rise to the defendant's agreement to plead guilty to the information:

From in or about April 2006 to in or about September 2007, the defendant was a mortgage broker in Westport, Connecticut.

1. During this time, the defendant worked with various persons, including lawyers, "hard money" lenders, employees of financial lending institutions, and a property appraiser to help secure mortgages for clients that included a property developer, his wife, and an associate of the property developer.
2. In the course of securing certain mortgages for these clients, the defendant worked with the clients, lawyers, "hard money" lenders, employees of financial lending institutions, and a property appraiser to set forth false pretenses and representations in mortgage applications, as set forth below in Paragraph 8.
3. The defendant earned a fee for the fraudulent mortgage applications that the defendant submitted on his clients' behalf.
4. First, the defendant knew that one mortgage application the defendant filed on behalf of his clients contained an appraisal record that exaggerated the quality of the square footage of the building on the property.
5. Second, the defendant knew that certain records his clients created to include in the mortgage applications referenced below in Paragraph 8 were false and that the records were submitted with the purpose of causing the lenders to believe that the mortgage applicants had higher incomes than they in fact had, allowing his clients to qualify for mortgages for which they might not have been eligible.
6. Third, the defendant knew that his clients falsely claimed in their mortgage applications set forth below in Paragraph 8 that the mortgages were for owner-occupied premises in order to obtain lower interest rate.
7. Fourth, the defendant assisted his clients in fraudulently not reporting prior mortgages with the knowledge that those prior mortgages would not be revealed by a credit check because the prior mortgages had been recently obtained.
8. The defendant performed these actions for the following properties on the following dates:
 - i. On April 26, 2006, the defendant helped Borrower A obtain a mortgage on 6 Sylvan Lane, Westport.
 - ii. On June 1, 2006, the defendant helped Borrower A fraudulently obtain a mortgage on 91 Saugatuck Avenue, Westport, with an application that failed to disclose the April 2006 mortgage, knowing that it would not appear on a credit check before the first payment.
 - iii. On June 1, 2006, the defendant helped Borrower A fraudulently obtain a mortgage on 95 Saugatuck Avenue, Westport, with an application that failed to disclose the April 2006 mortgage, knowing that it would not appear on a credit check before the first payment.
 - iv. On June 6, 2006, the defendant helped Borrower A fraudulently obtain a mortgage on 9 Fragrant Pines Court, Westport, with an application that failed to disclose the April or June 2006 mortgages, falsely listed the property as the borrower's primary residence, and falsely claimed the borrower rented his/her true residence rather than owned it.
 - v. On October 19, 2006, the defendant helped Borrower B fraudulently obtain a mortgage on 171 Weston Road, Weston, with two applications for two separate loans, one of which omitted any reference to "hard money" loans that encumbered

- the property, and both of which grossly inflated the borrower's income and falsely described the property as owner-occupied.
- vi. On November 30, 2006, the defendant helped Borrower B fraudulently obtain a mortgage from IndyMac Bank on 35 Prospect Road, Westport, with an application that falsely inflated the borrower's income, falsely claimed that the property would be owner-occupied, failed to disclose the October 2006 mortgage, and grossly exaggerated the quality of the square footage of the property in the appraisal. Furthermore, the defendant submitted a letter to IndyMac falsely claiming the down payment on the property was a bonus given by the borrower's employer.
 - vii. On December 18, 2006, the defendant helped Borrower B fraudulently obtain a home equity line of credit from a financial institution for 35 Prospect Road, Westport, with an application that failed to disclose the October 2006 mortgage, and falsely inflated the borrower's income.
 - viii. In January 2007, the defendant helped Borrower A fraudulently obtain refinancing for 6 Sylvan Road, Westport, with an application that failed to disclose the "hard money" loan encumbering the property.
9. In relation to the events of November 30, 2006 described in 8(vi) above, in or about November 2006, the defendant had a telephone conversation with an employee of IndyMac Bank in which we discussed a plan to falsely report the source of the down payment for 35 Prospect Road, Westport to ensure IndyMac would approve the mortgage.
- i. Specifically, the defendant discussed and finalized a scheme to create a letter from Borrower B's employer that falsely represented the down payment for the property was in fact a payment made by the borrower because the borrower had been paid a bonus by his/her employer earlier that year.
 - ii. The defendant knew at the time that the down payment was not a bonus, and the defendant knew that that mortgage would have been denied if the true source of the down payment had been disclosed.
 - iii. The falsely reported down payment source and the inflated value of property on the application for a mortgage for 35 Prospect Road, Westport for the purpose of influencing IndyMac to approve the mortgage application.
10. The total excess value of mortgages that the defendant helped fraudulently obtain is more than \$1,000,000.

The written stipulation above is incorporated into the preceding plea agreement. It is understood, however, that the defendant and the Government reserve their right to present additional relevant offense conduct to the attention of the Court in connection with sentencing.

Fred Stevens
The Defendant

Rahul Kale
ASSISTANT UNITED STATES ATTORNEY

William F. Dow III, ESQ.
Attorney for the Defendant

RIDER CONCERNING RESTITUTION

The Court shall order that the defendant make restitution under 18 U.S.C. § 3663A. The order of restitution may include:

1. If the offense resulted in damage to or loss or destruction of property of a victim of the offense, the order of restitution shall require the defendant to:

- A. Return the property to the owner of the property or someone designated by the owner; or
- B. If return of the property is impossible, impracticable, or inadequate, pay an amount equal to:

The greater of -

- (I) the value of the property on the date of the damage, loss, or destruction; or
- (II) the value of the property on the date of sentencing, less the value as of the date the property is returned.

2. In the case of an offense resulting in bodily injury to a victim –

A. pay an amount equal to the costs of necessary medical and related professional services and devices related to physical, psychiatric, and psychological care; including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

B. pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

C. reimburse the victim for income lost by such victim as a result of such offense;

3. In the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

4. In any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

The order of restitution has the effect of a civil judgment against the defendant. In addition to the court ordered restitution, the court may order that the conditions of its order of restitution be made a condition of probation or supervised release. Failure to make restitution as ordered may result in a revocation of probation, or a modification of the conditions of supervised release, or in the defendant being held in contempt under 18 U.S.C. § 3583(e). Failure to pay restitution may also result in the defendant's re-sentencing to any sentence which might originally have been imposed by the Court. See 18 U.S.C. § 3614. The Court may also order that the defendant give notice to any victim(s) of his offense under 18 U.S.C. § 3555.