

U.S. Department of Justice



United States Attorney
Western District of Pennsylvania

U.S. Post Office & Courthouse
700 Grant Street
Suite 4000
Pittsburgh, Pennsylvania 15219

412/644-3500

March 22, 2006

Thomas J. Farrell, Esquire
REICH, ALEXANDER, REISINGER & FARRELL, LLC
Suite 1000 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

Re: United States of America v.
David C. Jackson
Criminal No. 05-185

Dear Mr. Farrell:

This letter sets forth the agreement by which your client, David C. Jackson, will enter a plea of guilty in the above-captioned case. The letter represents the full and complete agreement between David C. Jackson and the United States Attorney for the Western District of Pennsylvania. The agreement does not apply to or bind any other federal, state, or local prosecuting authority.

Upon entering a plea of guilty, David C. Jackson will be sentenced under the Sentencing Reform Act, 18 U.S.C. §3551, et seq. and 28 U.S.C. §991, et seq. The Sentencing Guidelines promulgated by the United States Sentencing Commission will be considered by the Court in imposing sentence. The facts relevant to sentencing shall be determined initially by the United States Probation Office and finally by the United States District Court by a preponderance of the evidence.

A. The defendant, David C. Jackson, agrees to the following:

1. He will enter a plea of guilty to Counts 3 and 28 of the Indictment at Criminal No. 05-185, charging him with violating Title 18, United States Code,

GOVERNMENT EXHIBIT	
CASE NO.	05-185
EXHIBIT NO.	1

LIMITED OFFICIAL USE

Sections 1344 and 2, and Title 18, United States Code, Section 1956(h), pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

2. He acknowledges his responsibility for the conduct charged in Counts 1, 4-10, 13-18, and 19 of the Indictment at Criminal No. 05-185 and stipulates that the conduct charged in those Counts may be considered by the Probation Office or by the Court in imposing sentence.
3. He will pay mandatory restitution under the Victim-Witness Protection Act, 18 U.S.C. §§3663, 3663A and 3664, to the victims and/or other persons or parties authorized by law in such amounts, at such times, and according to such terms as the Court shall direct. The amount of restitution may not necessarily be the same as the amount of loss for the purpose of determining the offense level under the Sentencing Guidelines.
4. He will immediately notify the Court and the United States Attorney of any improvement in his economic circumstances that might increase his ability to pay restitution and that occurs from the date of this agreement until the completion of his sentence, including any term of supervised release.
5. At the time David C. Jackson enters his plea of guilty, he will deposit a special assessment of \$200.00 in the form of cash, or check or money order payable to "Clerk, U.S. District Court". In the event that sentence is not ultimately imposed, the special assessment deposit will be returned.
6. David C. Jackson waives any former jeopardy or double jeopardy claims he may have in or as a result of any related civil or administrative actions.
7. David C. Jackson waives the right to take a direct appeal from his conviction or sentence under 28 U.S.C. §1291 or 18 U.S.C. §3742, subject to the following exceptions:
 - (a) If the United States appeals from the sentence, David C. Jackson may take a direct appeal from the sentence.

- (b) If (1) the sentence exceeds the applicable statutory limits set forth in the United States Code, or (2) the sentence unreasonably exceeds the guideline range determined by the Court under the Sentencing Guidelines, David C. Jackson may take a direct appeal from the sentence.

The foregoing reservations of the right to appeal on the basis of specified issues do not include the right to raise issues other than those specified.

David C. Jackson further waives the right to file a motion to vacate sentence, under 28 U.S.C. §2255, attacking his conviction or sentence, and the right to file any other collateral proceeding attacking his conviction or sentence.

B. In consideration of and entirely contingent upon the provisions of Parts A and C of this agreement, the United States Attorney for the Western District of Pennsylvania agrees to the following:

1. After the imposition of sentence, the United States Attorney will move to dismiss the remaining Counts of the Indictment at Criminal No. 05-185, without prejudice to their reinstatement if, at any time, David C. Jackson is permitted to withdraw his plea of guilty. In that event, David C. Jackson waives any double jeopardy, statute of limitations, speedy trial, or similar objections to the reinstatement of the Counts dismissed pursuant to this agreement.
2. The United States Attorney retains the right of allocution at the time of sentencing to advise the sentencing Court of the full nature and extent of the involvement of David C. Jackson in the offenses charged in the Indictment and of any other matters relevant to the imposition of a fair and just sentence.
3. Prior to sentencing, the United States Attorney will, orally or in writing, move that, pursuant to §3E1.1 of the Sentencing Guidelines, the Court reduce the offense level by 3 levels for acceptance of responsibility, on the grounds that the offense level prior to application of §3E1.1 is 16 or

greater, and David C. Jackson timely notified authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

4. The United States Attorney will take any position she deems appropriate in the course of any appeals from the sentence or in response to any post-sentence motions.

C. David C. Jackson and the United States Attorney further understand and agree to the following:

1. The penalty that may be imposed upon David C. Jackson at Count 3 is:
 - (a) A term of imprisonment of not more than thirty (30) years;
 - (b) A fine of \$1,000,000 or the greater of twice the gross pecuniary gain to any person or twice the pecuniary loss to any person other than the defendant;
 - (c) A term of supervised release of five (5) years;
 - (d) A special assessment under 18 U.S.C. §3013 of \$100.00;
 - (e) Mandatory restitution under the Victim-Witness Protection Act, 18 U.S.C. §§3663, 3663A and 3664.
2. The penalty that may be imposed upon David C. Jackson at Count 28 is:
 - (a) A term of imprisonment of not more than ten (10) years;
 - (b) A fine of \$500,000 or twice the value of the property involved in the transaction, whichever is greater;
 - (c) A term of supervised release of three (3) year;

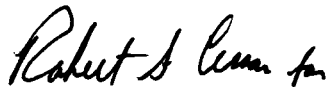
- (d) A special assessment under 18 U.S.C. §3013 of \$100.00;
 - (e) Mandatory restitution under the Victim-Witness Protection Act, 18 U.S.C. §§3663, 3663A and 3664.
3. Because Counts 3 and 28, the offenses of conviction, was part of a scheme, conspiracy, and pattern of criminal activity, restitution is not limited to that offense. The Court may order that restitution be paid to any victim, person, or party directly harmed by David C. Jackson criminal conduct in the course of the scheme, conspiracy, and pattern.
4. The parties stipulate that the loss attributable to David C. Jackson in connection with the scheme to defraud for purposes of § 2B1.1 of the Sentencing Guidelines is \$853,765, after all exclusions from and credits against loss, as detailed in Application Notes 3(D) and 3(E) of § 2B1.1, have been taken. This stipulation represent the parties' best understanding on the basis of the information available as of the date of this agreement. The stipulation is not binding on the Court and does not preclude the parties from bringing to the attention of the United States Probation Office or the Court any information not within their knowledge at the time this agreement is executed.
5. The parties agree that the above stipulation is a complete and accurate account of the offense conduct, including all relevant conduct, and therefore that under § 2B1.1 of the Sentencing Guidelines, the base offense level is 21. The parties further agree that the base offense level of David C. Jackson should be raised by 2 levels under § 2S1.1(b)(2)(B) of Chapter 2 of the Guidelines.
6. The parties also agree that the adjusted base offense level should be lowered by a total of 3 levels under the following section of the Guidelines:
- (a) 3E1.1 (Acceptance of Responsibility).

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7. Thus, the parties agree that David C. Jackson's overall offense level under the Sentencing Guidelines is 20.
8. This agreement does not preclude the government from pursuing any civil or administrative remedies against David C. Jackson or his property.
9. The parties agree that, although charges are to be dismissed pursuant to this agreement, David C. Jackson is not a prevailing party for the purpose of seeking attorney fees or other litigation expenses under Pub. L. No. 105-119, §617 (Nov. 26, 1997) (known as the Hyde Amendment). David C. Jackson waives any right to recover attorney fees or other litigation expenses under the Hyde Amendment.

This letter sets forth the full and complete terms and conditions of the agreement between David C. Jackson and the United States Attorney for the Western District of Pennsylvania, and there are no other agreements, promises, terms or conditions, express or implied.

Very truly yours,



MARY BETH BUCHANAN
United States Attorney

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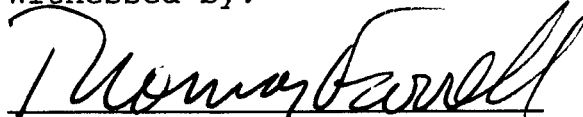
I have received this letter from my attorney, Thomas J. Farrell, Esquire, have read it and discussed it with him, and I hereby accept it and acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the Western District of Pennsylvania. I affirm that there have been no additional promises or representations made to me by any agents or officials of the United States in connection with this matter.



David C. Jackson

Date

Witnessed by:



THOMAS J. FARRELL, ESQUIRE
Counsel for David C. Jackson