

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. H-06-98-4S
	§	
LESLIE R. TARRANCE, SR.	§	

PLEA AGREEMENT

The United States of America, by and through Donald J. DeGabrielle, Jr., United States Attorney for the Southern District of Texas and Melissa Annis, Assistant United States Attorney, and the defendant, Leslie R. Tarrance, Sr., and the defendant’s counsel, pursuant to Rule 11(c)(1)(A) and (B) of the Federal Rules of Criminal Procedure, state that they have entered into an agreement, the terms and conditions of which are as follows:

The Defendant’s Agreement

1. The defendant agrees to plead guilty to Count One of the Indictment. Count One charges the defendant with conspiracy to commit mail and wire fraud, in violation of Title 18, United States Code, Section 1349. The defendant, by entering this plea agrees that he is waiving any right to have the facts that the law makes essential to the punishment either charged in the indictment, or proved to a jury or

proven beyond a reasonable doubt.

Punishment Range

2. The **statutory** maximum penalty for each violation of Title 18, United States Code, Section 1349, is imprisonment of not more than twenty years and a fine of not more than \$250,000. Additionally, the defendant may receive a term of supervised release after imprisonment of up to three years. Title 18, U.S.C. §§ 3559(a)(3) and 3583(b)(2). Defendant acknowledges and understands that if he should violate the conditions of any period of supervised release which may be imposed as part of his sentence, then defendant may be imprisoned for the entire term of supervised release up to two years, without credit for time already served on the term of supervised release prior to such violation. Title 18, U.S.C. §§ 3559(a)(3) and 3583(e)(3). Defendant understands that he cannot have the imposition or execution of the sentence suspended, nor is he eligible for parole.

Mandatory Special Assessment

3. Pursuant to Title 18, U.S.C. § 3013(a)(2)(A), immediately after sentencing, Defendant will pay to the Clerk of the United States District Court a special assessment in the amount of one hundred dollars (\$100.00) per count of conviction for a total of one hundred dollars (\$100.00). The payment will be by cashier's check or money order payable to the Clerk of the United States District

Court, c/o District Clerk's Office, P.O. Box 61010, Houston, Texas 77208,
Attention: Finance.

Fine and Reimbursement

4. Defendant understands that under the Sentencing Guidelines, the Court is permitted to order the defendant to pay a fine that is sufficient to reimburse the government for the costs of any imprisonment or term of supervised release; if any is ordered.

5. Defendant agrees that any fine or restitution imposed by the Court will be due and payable immediately, and defendant will not attempt to avoid or delay payment.

6. Defendant agrees to make complete financial disclosure by truthfully executing a sworn financial statement (Form OBD-500) prior to sentencing if he is requested to do so. In the event that the Court imposes a fine or orders the payment of restitution as part of the Defendant's sentence, the Defendant shall make complete financial disclosure by truthfully executing a sworn financial statement immediately following his sentencing. Further, the Defendant agrees to full restitution to the victim(s) regardless of the counts of conviction.

Cooperation

7. The parties understand this agreement carries the potential for a

motion for departure under Section 5K1.1 of the Sentence Guidelines. The Defendant understands and agrees that whether such a motion is filed will be determined solely by the United States through the United States Attorney for the Southern District of Texas. Should the Defendant's cooperation, in the sole judgment and discretion of the United States, amount to "substantial assistance", the United States reserves the sole right to file a motion for departure pursuant to Section 5K1.1 of the Sentencing Guidelines and Policy Statement. The Defendant further agrees to persist in his plea of guilty through sentencing, fully cooperate with the United States, not oppose the forfeiture of assets contemplated in paragraphs 19 and 20 of this agreement. The Defendant understands and agrees that the United States will request that sentencing be deferred until that cooperation is complete.

8. The Defendant understands and agrees that "fully cooperate" as used herein, includes providing all information relating to any criminal activity known to defendant, including but not limited to wire fraud, mail fraud, bank fraud, and mortgage fraud. The Defendant understands that such information includes both state and federal offenses arising therefrom. In that regard:

- (a) Defendant agrees that this plea agreement binds only the United States Attorney for the Southern District of Texas and defendant; it does not bind any other United States Attorney or any other unit of

the Department of Justice;

- (b) Defendant agrees to testify truthfully as a witness before a grand jury or in any other judicial or administrative proceeding when called upon to do so by the United States. Defendant further agrees to waive his Fifth Amendment privilege against self-incrimination for the purpose of this agreement;
- (c) Defendant agrees to voluntarily attend any interviews and conferences as the United States may request;
- (d) Defendant agrees to provide truthful, complete and accurate information and testimony and understands any false statements made by the defendant to the Grand Jury or at any court proceeding (criminal or civil), or to a government agent or attorney can and will be prosecuted under the appropriate perjury, false statement or obstruction statutes;
- (e) Defendant agrees to provide to the United States all documents in his possession or under his control relating to all areas of inquiry and investigation;
- (f) Should the recommended departure, if any, not meet the defendant's expectations, the defendant understands he remains bound by the terms of this agreement and cannot, for that reason alone, withdraw his plea.

Waiver of Appeal

9. Defendant is aware that Title 18, U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. The Defendant agrees to waive the right to appeal the sentence imposed or the manner in which it was determined. The defendant may appeal only a sentence imposed above the statutory maximum.

Additionally, the defendant is aware that Title 28, U.S.C. § 2255, affords the right to contest or “collaterally attack” a conviction or sentence after the conviction or sentence has become final. The Defendant waives the right to contest his conviction or sentence by means of any post-conviction proceeding.

10. In agreeing to these waivers, defendant is aware that a sentence has not yet been determined by the Court. The Defendant is also aware that any estimate of the possible sentencing range under the sentencing guidelines that he may have received from his counsel, the United States or the Probation Office, is a prediction, not a promise, **did not induce his guilty plea**, and is not binding on the United States, the Probation Office or the Court. The United States does not make any promise or representation concerning what sentence the Defendant will receive. Defendant further understands and agrees that the United States Sentencing Guidelines are “effectively advisory” to the Court. *United States v. Booker*, 125 S.Ct. 738 (2005). Accordingly, Defendant understands that, although the Court must consult the Sentencing Guidelines and must take them into account when sentencing Defendant, the Court is not bound to follow the Sentencing Guidelines nor sentence Defendant within the calculated guideline range.

11. The Defendant understands and agrees that each and all waivers contained in the Agreement are made in exchange for the concessions made by the

United States in this plea agreement. **If the Defendant instructs his attorney to file a notice of appeal at the time sentence is imposed or at any time thereafter, the United States will seek specific performance of these provisions.**

The United States' Agreements

12. The United States agrees to each of the following:
 - (a) If Defendant pleads guilty to Count One of the indictment and persists in that plea through sentencing, and if the Court accepts this plea agreement, the United States will move to dismiss any remaining counts of the indictment at the time of sentencing;
 - (b) At the time of sentencing, the United States agrees not to oppose defendant's anticipated request to the Court and the United States Probation Office that he receive a two (2) level downward adjustment pursuant to U.S.S.G. Section 3E1.1(a) should the Defendant accept responsibility as contemplated by the Sentencing Guidelines;
 - (c) If the defendant qualifies for an adjustment under U.S.S.G. Section 3E1.1(a), the offense level determined prior to the operation of 3E1.1(a) is level 16 or greater, and the Defendant 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 resources efficiently, the United States agrees to request an additional one level downward adjustment; and
 - (d) Should the defendant provide substantial assistance, the United States agrees to file a 5K1.1 motion at sentencing requesting the court depart below the applicable Sentencing Guideline level and impose a

sentence which does not include imprisonment at a federal facility.

United States' Non-Waiver of Appeal

13. The United States reserves the right to carry out its responsibilities under guidelines sentencing. Specifically, the United States reserves the right:
- (a) to bring its version of the facts of this case, including its evidence file and any investigative files, to the attention of the Probation Office in connection with that office's preparation of a presentence report;
 - (b) to set forth or dispute sentencing factors or facts material to sentencing;
 - (c) to seek resolution of such factors or facts in conference with Defendant's counsel and the Probation Office;
 - (d) to file a pleading relating to these issues, in accordance with U.S.S.G. Section 6A1.2 and Title 18, U.S.C. § 3553(a); and,
 - (e) to appeal the sentence imposed or the manner in which it was determined.

Sentence Determination

14. Defendant is aware that the sentence will be imposed after consideration of the United States Sentencing Guidelines and Policy Statements, which are only advisory, as well as the provisions of Title 18, U.S.C. § 3553(a). Defendant nonetheless acknowledges and agrees that the Court has authority to impose any sentence up to and including the statutory maximum set for the offenses to which Defendant pleads guilty, and that the sentence to be imposed is

within the sole discretion of the sentencing judge after the Court has consulted the applicable Sentencing Guidelines. Defendant understands and agrees the parties' positions regarding the application of the Sentencing Guidelines do not bind the Court and that the sentence imposed is within the discretion of the sentencing judge. If the Court should impose any sentence up to the maximum established by statute, or should the Court order any or all of the sentences imposed to run consecutively, Defendant cannot, for that reason alone, withdraw a guilty plea, and will remain bound to fulfill all of the obligations under this plea agreement.

Rights at Trial

15. Defendant represents to the Court that he is satisfied that his attorneys have rendered effective assistance. Defendant understands that by entering into this agreement, he surrenders certain rights as provided in this plea agreement.

Defendant understands that the rights of a defendant include the following:

- (a) If defendant persisted in a plea of not guilty to the charges, defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the defendant, the United States, and the court all agree.
- (b) At a trial, the United States would be required to present witnesses and other evidence against the defendant. Defendant would have the opportunity to confront those witnesses and his attorney would be allowed to cross-examine them. In turn, the defendant could, but would not be required to, present witnesses and other evidence on his

own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the court.

- (c) At a trial, defendant could rely on a privilege against self-incrimination and decline to testify, and no inference of guilt could be drawn from such refusal to testify. However, if the defendant desired to do so, he could testify on his own behalf.

Factual Basis for Guilty Plea

16. Defendant is pleading guilty because he is guilty of the charges contained in Count One of the indictment. If this case were to proceed to trial, the United States could prove each element of the offenses beyond a reasonable doubt. The following facts, among others would be offered to establish the Defendant's guilt:

The Defendant operated a custom home building company, Ultra Classic Custom Homes in the Houston, Texas area. The Defendant sold eight residential properties to seven individuals through Michael Goodson between February 2003 and August of 2004. Each of these properties were new construction built by the Defendant. The following are the eight properties:

212 West Pines Dr., Montgomery, Texas
228 West Pines Dr., Montgomery, Texas
31 Fairway Park, Montgomery, Texas
63 Fairway Park, Montgomery, Texas
178 Sentinel Point Court, Montgomery, Texas
3132 Bentwater Dr., Montgomery, Texas

18 Hillock Woods, The Woodlands, Texas
22 Hillock Woods, The Woodlands, Texas

Loans were obtained to fund the purchase of these properties with the assistance of Nancy Booth Campbell. The loan applications and supporting documents mailed and faxed to the lenders by Booth contained material misrepresentations capable of influencing the lenders decision to loan the money.

For example, while obtaining the funds to purchase 178 Sentinel Point Court, Montgomery, TX the borrower's employment and income were falsely represented to the lender. In addition the lender was misled as to the true nature of the borrower's liabilities with regard to his home in Port Arthur, Texas. The lender was also falsely told the borrower paid the Defendant \$10,000 in non-refundable earnest money and that this was to be the borrower's primary residence. These representations were used by the lender to evaluate the borrower's incentive to repay the loans to purchase this property. The lender required evidence that the earnest money had been paid. They received a copy of a cashier's check payable to Ultra Classic Custom Homes. This check was not negotiated by Ultra Classic Homes and was immediately redeposited into a bank account in the name of one of Goodson's assistants. Documents also reflected that Booth and the Defendant communicated about and did raise the sales price on the

Residential Sales Contract to \$695,000 specifically to cover the \$10,000 in earnest money which was not paid to the Defendant. On December 17, 2003, the lender funded the loans to purchase this property by wiring \$569,159.94 and \$100,000 from the lender's bank in California through the Federal Reserve Bank in New York to the title company's bank in Texas. From these proceeds, the Defendant's construction loan in the amount of \$490,672.56 was paid off, the Defendant received \$70,435.10 and Goodson received \$86,005.83.

During the application and funding for the purchase of 63 Fairway Park, Montgomery, Texas the lender was misled as to the borrower's employment, salary and the true status of his existing liabilities with regard to his home in South Carolina. The lender was also falsely told the Borrower paid 10% of the purchase price \$63,500 to the Defendant as earnest money/down payment and the residence was to be his primary residence. The lender required evidence the \$63,500 had in fact been paid. They received a copy of a cashier's check payable to Ultra Classic Custom Homes in the amount of \$42,000. Records obtained from Regions Bank establish a cashier's check of the same number was purchased by the Borrower in the amount of \$200 payable to Ultra Classic Homes on August 4, 2003 and subsequently redeposited into the Borrower's account. The remaining \$21,500 was paid by the Defendant. The \$21,500 was obtained from five checks written

by the Defendant on three of his bank accounts. Checks payable to the Defendant and Goodson were converted to cash and provided to the Borrower who purchased a cashier's check payable to Ultra Classic Homes in the amount of \$21,500. The cashier's check was deposited into the bank account of Ultra Classic Homes. The lender funded the loans to purchase this property. On August 28, 2003, the lender wire transferred \$578,434.88 from their bank in California through the Federal Reserve Bank in New York to the title company's bank in Texas. From these proceeds the Defendant's construction loan in the amount of \$399,319.65 was paid-off, the Defendant received \$22,601.68 and Goodson received \$78,357.58.

Breach of Plea Agreement

17. If defendant should fail in any way to fulfill completely all of the obligations under this plea agreement, the United States will be released from its obligations under the plea agreement, and the defendant's plea and sentence will stand. If at any time defendant retains, conceals or disposes of assets in violation of this plea agreement, or if defendant knowingly withholds evidence or is otherwise not completely truthful with the United States, then the United States may move the Court to set aside the guilty plea and reinstate prosecution. Any information and documents that have been disclosed by defendant, whether prior to or subsequent to this plea agreement, and all leads derived therefrom, will be

used against defendant in any prosecution.

18. Whether the defendant has breached any provision of this plea agreement shall be determined solely by the United States through the United States Attorney's Office, whose judgment in that regard is final.

Forfeiture

19. This plea agreement is being entered into by the United States on the basis of defendant's express representation that he will make a full and complete disclosure of all assets over which he exercises direct or indirect control, or in which he has any financial interest. Defendant agrees to forfeit whatever interest he may have in assets related to the offenses alleged in the indictment.

20. Defendant consents to any agreed order of forfeiture or judgment, and further agrees to take all steps necessary to pass clear title to forfeitable assets to the United States, including, but not limited to, surrendering of title, signing a consent decree, stipulating facts regarding the transfer of title and basis for the forfeiture, and signing any other documents necessary to effectuate such transfer. Defendant also agrees to direct any banks which have custody of defendant's assets to deliver all funds and records of such assets to the United States.

Complete Agreement

21. This written plea agreement, consisting of 18 pages, including the

attached addendum of defendant and his attorney, constitutes the complete plea agreement between the United States, defendant and his counsel. No promises or representations have been made by the United States except as set forth in writing in this plea agreement. Defendant acknowledges that no threats have been made against him and that he is pleading guilty freely and voluntarily because he is guilty.

22. Any modification of this plea agreement must be in writing and

signed by all parties.

Filed at Houston, Texas, on July 17,
2007.

Leslie R. Lam
Defendant

Subscribed and sworn to before me on July 17, 2007.

MICHAEL N. MILBY, Clerk
UNITED STATES DISTRICT CLERK

By: DKelley
Deputy United States District Clerk

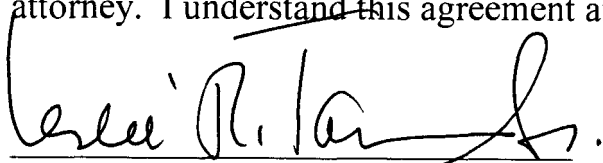
APPROVED:

DONALD J. DeGABRIELLE, Jr.
United States Attorney

By: Melissa Annis
Melissa Annis
Assistant United States Attorney
Southern District of Texas

Michael Hinton
Michael Hinton
Attorney for Defendant

I have consulted with my attorney and fully understand all my rights with respect to the indictment pending against me. My attorney has fully explained and I understand all my rights with respect to the provisions of the United States Sentencing Commission's Guidelines Manual which may apply in my case. I have read and carefully reviewed every part of this plea agreement with my attorney. I understand this agreement and I voluntarily agree to its terms.



LESLIE R. TARRANCE, Sr.
Defendant

7/17/07

Date