



U.S. Department of Justice

Office of the United States Attorney
Eastern District of Louisiana

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
2007 JUL 11 PM 4:23

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LORETTA G. WHITE
CLERK

July 9, 2007

Honorable Martin L.C. Feldman
United States District Judge
Eastern District of Louisiana
500 Camp Street, Suite C-555
New Orleans, Louisiana 70130

Re: United States v. Calvin Davis
Criminal No: 07-192 Section "F"(3)

Dear Judge Feldman:

In compliance with the holding of Bryan v. United States, 492 F.2d 775 (1974) and the provisions of Rule 11 of the Federal Rules of Criminal Procedure, and the Proffer Agreement between the defendant and the government dated June 3, 2003, the Government wishes to acknowledge the following agreement between the Government and the defendant, Calvin Davis, in the above-captioned proceeding. Counsel for the defendant, Provino Mosca, has reviewed the terms of this agreement and has been advised by the defendant that he fully understands the terms of this agreement. The parties acknowledge that the term "government" when used in this agreement refers exclusively to the United States Attorney for the Eastern District of Louisiana.

The defendant agrees to waive indictment and proceed by a Bill of Information filed on May 22, 2007. Count One of the Information charges the defendant with a violation of Title 18, United States Code, Section 371, Conspiracy to Commit Mail Fraud; Count Two of the Information charges the defendant with a violation of Title 18, United States Code, Section 1010, False and Fraudulent Statements to the Department of Housing and Urban Development and the Federal Housing Administration to Obtain Mortgage Insurance; and Count Three charges the defendant with violation of Title 26, United States Code, Section 7206, False statement in an Income Tax Return. The defendant has agreed to plead guilty as charged to those counts. If the Court accepts the defendant's plea of guilty, the government will not bring any additional charges against him for his involvement in the house flipping scheme described in the factual basis.

If the Court accepts the defendant's plea of guilty, the defendant understands that as to Count One, he may be sentenced to a term of imprisonment not more than five (5) years and a fine of not

Fee _____
Process _____
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more than \$250,000.00; as to Count Two, a term of imprisonment of not more than two (2) years and a fine of not more than \$250,000.00; and as to Count III, a term of imprisonment of not more than three (3) years and a fine of not more than \$100,000.00.

Further, the defendant understands that a mandatory special assessment fee of \$100.00 shall be imposed under the provisions of Section 3013 of Title 18, United States Code for each count of conviction. This special assessment must be paid on the date of sentencing. Failure to pay this special assessment may at the behest of the government void the plea agreement.

The defendant further waives any right to seek attorney's fees and/or other litigation expenses under the "Hyde Amendment," Title 18, United States Code, Section 3006A and the defendant acknowledges that the Government's position in the instant prosecution was not vexatious, vindictive, frivolous or in bad faith.

The defendant understands that the Court may order restitution in this matter. It is understood that the restitution provisions of Sections 3663 and 3663A of Title 18, United States Code will apply and the defendant agrees that any restitution imposed will be non-dischargeable in any bankruptcy proceeding. The defendant will agree that he will not seek, directly or indirectly, to discharge any restitution obligation ordered by the Court.

The defendant understands that the Court in imposing a sentence of a term of imprisonment, shall include as part of the sentence a requirement that the defendant be placed on a term of supervised release after any sentence of imprisonment for not more than 3 years for Count One, not more than 1 year for Count Two, and not more than 3 years for Count Three pursuant to Title 18, United States Code, Section 3583. Supervised release is a period following release from prison during which defendant's conduct will be monitored by the Court or the Court's designee. Defendant fully understands that if he violates any of the conditions of supervised release that the Court has imposed, his supervised release may be revoked and the Court may order him to serve all or part of the term of supervised release in prison.

Except as otherwise provided in this paragraph, the defendant hereby expressly waives the right to appeal his conviction or his sentence on any ground, including but not limited to any appeal right conferred by Title 18, United States Code, Section 3742 on the defendant, and the defendant further agrees not to contest his conviction or his sentence in any post-conviction proceeding, including but not limited to a proceeding under Title 28, United States Code, Section 2255. The defendant, however, reserves the right to appeal any punishment imposed in excess of the statutory maximum.

The defendant understands that he may have the right to request DNA testing of physical evidence in the government's possession and applicable to this case pursuant to Title 18, United States Code, Sections 3600 and 3600A. Pursuant to this agreement, the defendant knowingly and voluntarily waives and relinquishes any such right and fully understands that, as a result of this

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States Code, Sections 3600 and 3600A. Pursuant to this agreement, the defendant knowingly and voluntarily waives and relinquishes any such right and fully understands that, as a result of this waiver, the defendant will not have another opportunity to have the physical evidence in this case submitted for DNA testing or to employ the results of DNA testing to support any claim of innocence regarding the offense to which the defendant is pleading guilty. In addition, the defendant also understands that the government may dispose of such evidence at any time after his plea of guilty.

The defendant understands that any discussions with his attorney or anyone else regarding sentencing guidelines are merely rough estimates and the Court is not bound by those discussions. The defendant understands that the sentencing guidelines are advisory and are not mandatory for sentencing purposes. The defendant understands that the court may consider uncharged conduct in reaching the appropriate guideline range. The defendant understands the Court could impose the maximum term of imprisonment and fine allowed by law, including the imposition of supervised release. The defendant understands that he may not withdraw his guilty plea solely because of his dissatisfaction with the nature or length of the sentence imposed.

This plea agreement is predicated upon an agreement by the defendant to cooperate in the investigation of others and submit to interviews whenever and wherever requested by law enforcement authorities. The government agrees to forego prosecution of any additional charges regarding the conduct described in the bill of information if the defendant fully and truthfully cooperates. The defendant understands he must be truthful and complete. The defendant agrees to testify before any Grand Jury or at any trial or hearing deemed necessary by the government. He agrees to testify truthfully. The defendant understands if he is not truthful, this agreement will be null and void and defendant may be prosecuted for perjury or making false statements. The defendant agrees not to implicate anyone falsely. Defendant agrees to provide all information concerning his knowledge of, and participation in, the offenses charged in the information, as well as any other federal or state crimes about which he has knowledge or in which he participated. Defendant agrees that he will not falsely implicate any person or entity and will not protect any person or entity through omission or false or misleading information. The defendant further agrees to immediately advise the Government about any person that the defendant believes has violated or is violating any law. The defendant agrees to assist the Government regarding the investigation and prosecution of any criminal conduct in which he was involved or has knowledge. The defendant agrees to provide to the government all documents or other items in his possession or under his control, which may pertain to any criminal violation. Defendant agrees and understands this Plea Agreement requires that his cooperation continue after he is sentenced. If the defendant knowingly makes an untruthful or false statement during any debriefing or testifies falsely or fails to fully and truthfully cooperate or continue to cooperate after sentence is imposed, the United States Attorney for the Eastern District

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statute of limitations to any charge which was not time barred on the date of his plea of guilty notwithstanding the expiration of the statute of limitations between the time of his plea of guilty and the commencement of the additional charge. The defendant understands that if such a breach occurs, any statements he has made to investigators or testimony he has given may be used against him. The defendant further understands and agrees that if the government elects to file additional charges against him, he will not be allowed to withdraw his plea of guilty.

The Government agrees to advise the Court regarding any cooperation rendered by the defendant prior to sentencing. The United States may, but is not required to make a motion requesting the Court to depart from the sentencing guidelines in the event the defendant provides "substantial assistance". It shall be within the sole discretion of the United States Attorney as to whether a motion requesting departure from the sentencing guidelines should be filed.

The Government also agrees that any statement or testimony given by the defendant pursuant to questions asked by federal agents or prosecutors as a result of this agreement will not be used against the defendant nor will anything derived from the statements or testimony be used against the defendant except for the purpose of impeachment or to meet any defense he may offer at trial. However, all parties understand that any statements or testimony given by the defendant can be used as leads or for any other reason against other persons. Further, the defendant fully understands that should he commit perjury or give false statements to federal agents, additional charges may be brought against him and these statements and testimony can be used to prove those offenses.

The defendant agrees to forfeit and give to the United States prior to the date of sentencing any right, title and interest which the defendant may have in any assets or interest in assets, including but not limited to cash assets, negotiable instruments, securities, property or other things of value, including any and all property which has been transferred or sold to or deposited with any third party, known or unknown by the defendant for a period of not less than 10 years prior to the date of the signing of this agreement that were involved in, used in, intended for use in, or obtained through, fraudulent activities as well as any asset, interest, or proceeds defendant received or could receive or cause to be received by a third party in the future, directly or indirectly, in whole or in part, from defendant's illegal activities.

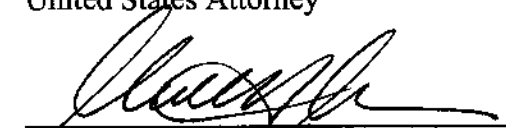
The defendant acknowledges he has read the Plea Agreement, understands it, and by his signature, states that it is accurate and complete and not the result of any threats or coercion. He acknowledges that he has discussed it with counsel. Both parties agree that no promises or agreements have been made other than those set forth in the Plea Agreement, nor has the Government promised the defendant any additional consideration to induce him to sign this Plea

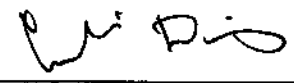
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Agreement. The defendant acknowledges that he is entering into this Plea Agreement and is pleading guilty freely and voluntarily. The defendant further acknowledges understanding the nature of the offense to which he is pleading guilty and the elements of the offense including the penalties provided by law. The defendant acknowledges he is completely satisfied with the representation and advice received from undersigned counsel. The defendant also understands that he has the right to plead not guilty and persist in that plea, 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 against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in his defense. Defendant understands that by pleading guilty, he waives or gives up these rights and there will not be a trial. The defendant further understands that if he pleads guilty, the Court may ask him questions under oath about the offense to which he is pleading guilty, and that those answers may later be used against him in a prosecution for perjury or false statement. The defendant also understands a plea of guilty to a felony offense will result in the loss of certain rights, such as the right to vote, hold public office, serve on a jury, and possess a firearm.


Respectfully,

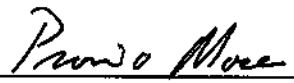
JAMES LETTEN
United States Attorney


MARK A. MILLER
Chief, Organized Crime Strike Force Unit


CALVIN DAVIS
Defendant

7/11/07
(Date)


ABRAM MCGULL, II
Assistant United States Attorney


PROVINO MOSCA
Counsel for the Defendant

7/11/07
(Date)