FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
JAN 21 2004
DAVID J. MALAND, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA	*	
	*	
VS.	*	NO. 6:03CR96
	*	JUDGE ~~HANNAH~~ Davis
TIMOTHY J. BEVERLEY	*	

PLEA AGREEMENT

COMES NOW, the United States of America, by and through the United States Attorney for the Eastern District of Texas, and in compliance with Rule 11 of the Federal Rules of Criminal Procedure, would acknowledge the following agreement with TIMOTHY J. BEVERLEY, Defendant herein, and Defendant's attorney of record, Gerald H. Goldstein:

1. The Defendant, TIMOTHY J. BEVERLEY, knowing the right to a trial by jury, agrees to waive a jury trial and to enter a plea of guilty to Count 24 of the Indictment, alleging a violation of Title 18, United States Code, Section 1957, engaging in a monetary transaction with criminally derived property.

2. Upon conviction of Count 24 of the Indictment, as described in Paragraph 1 above, the Defendant understands that the Defendant will receive a sentence which, by statute, cannot exceed ten (10) years imprisonment, a fine not to exceed $250,000.00, or both. The Court may impose as an alternate fine to that described above not more than twice the amount of the criminally derived property involved in the transaction. A term of supervised release of not more than three (3) years will also be imposed. In addition, the Defendant shall be required to pay a $100 special assessment for Count 24 by cashier's check or money order to the United States District Clerk, 211 West Ferguson, Tyler, Texas 75702, on or before the sentencing hearing date.

3. The Defendant understands that pursuant to Title 18, United States Code, Sections 3663, 3663A and 3664, restitution may be ordered by the Court.

4. The Defendant understands that the sentence to be imposed will be in the sole discretion of the Court and such sentence may be up to the maximum provided by law as set forth in Paragraph 2, herein. The Defendant is also aware that the sentence will be imposed in accordance with the United States Sentencing Guidelines (U.S.S.G.). The Government does not make any promise or representation concerning what sentence the Defendant will receive. The Defendant understands that any estimate of the probable sentence or sentencing range under the Sentencing Guidelines that Defendant may have received from Defendant's counsel, the Government, or the Probation Office is a prediction, not a promise, and is not binding on the Government, the Probation Office, or the Court. If any information is learned which may cause the filing a 5K2.0 U.S.S.G. motion, then the moving party shall notify the opposing party of the intent to file such a motion as soon as possible and sufficiently in advance of sentencing so as to allow the other party sufficient time to investigate and respond to the motion.

5. The parties agree that pursuant to U.S.S.G. 2S1.2 (utilizing the United States Sentencing Commission Guidelines Manual effective November 1, 2000) the value of the funds involved in the offense conduct was more than $10,000,000.00, but less than $20,000,000.00.

6. If the Court imposes a sentence with which the Defendant is dissatisfied, the Defendant will not be permitted to withdraw any guilty plea for that reason alone. In the event that the Court rejects this plea agreement, the Defendant will be entitled to the remedies available under Rule 11 of the Federal Rules of Criminal Procedure.

7. The Defendant agrees to truthfully complete a financial statement form provided by the

Office of the United States Attorney, and provide such completed form to the United States Attorney no later than two weeks prior to sentencing. This form shall be used for determination and collection of any fine or restitution to be ordered by the Court.

8. The United States Attorney for the Eastern District of Texas agrees:

a. Not to prosecute the Defendant, for any offense arising from the facts and the circumstances of the charges in this case and known to the United States Attorney or derived from information received by the United States Attorney pursuant to this plea agreement, other than the offenses described in paragraph 1 hereinabove;

b. If the Defendant is completely truthful with the presentence investigator, that the United States will recommend that the offense level be reduced by 3 points for the Defendant's acceptance of responsibility as provided by §3E1.1 of the United States Sentencing Commission Guidelines Manual, and will file such motion.

9. With the exception of Sentencing Guidelines determinations, both the Defendant and the Government waive any appeal, including collateral appeal under 28 U.S.C. § 2255, of any error which may occur surrounding substance, procedure, or form of the conviction and sentencing in this case.

10. If the undersigned Assistant United States Attorney is satisfied that Defendant has provided substantial assistance in the investigation of others, the undersigned Assistant United States Attorney agrees to recommend a motion for downward departure to the Substantial Assistance Committee or the United States Attorney's Office of the Eastern District of Texas. Moreover, if it is determined by the Substantial Assistance Committee of the United States Attorney's Office for the Eastern District of Texas that the Defendant has provided substantial

assistance in the investigation or prosecution of others, the United States agrees to file a motion for downward departure pursuant to § 5K1.1 of the Sentencing Guidelines, or a motion for reduction of sentence pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure. If the United States decides to file either a motion pursuant to § 5K1.1 or Rule 35(b), such will be done at an appropriate time as determined by the United States. It is understood that it will be entirely within the sole and exclusive discretion of the United States Attorney's Office for the Eastern District of Texas whether to file such motion and entirely within the Court's discretion as to what, if any, reduction in sentence Defendant will receive. It is further understood that the Defendant's cooperation does not automatically require the United States to request a downward departure or a reduction in sentence. The motion for downward departure or for a reduction in sentence shall be conditioned upon the Defendant's full and substantial assistance (as determined by the previously explained policy and procedures of the United States Attorney's Office for the Eastern District of Texas) including, but not limited to, providing information to government officials and truthful testimony before the Grand Jury and/or at trial in this and other state and federal jurisdictions. The Defendant understands that if he intentionally provides false information or testimony to implicate an innocent person in the commission of a crime, protects a guilty person, and/or exaggerates the involvement of any person in a crime in order to appear cooperative, he will be committing a material violation of this plea agreement which could result in the rescission of this agreement, the prosecution of Defendant for any federal criminal offense, and the use of any information provided by Defendant pursuant to this agreement against the Defendant in any proceeding.

11. Nothing in this agreement shall be construed so as to release the Defendant from any

civil liability to any individual or legal entity which could arise from any matter related to, or surrounding, this case, nor does this plea agreement preclude the United States from proceeding against the Defendant on any civil action which the United States may have against the Defendant and/or pursuing any civil remedies to which the United States may be entitled, with the exception that the Government agrees not to seek any forfeiture based upon any of the underlying conduct or offense relating to these proceedings.

12. Unless otherwise provided, this Plea Agreement is binding only upon the Eastern District of Texas and does not bind any other United States Attorney, nor any state or local prosecutor.

13. The Defendant, Defendant's attorney, and the United States Attorney for the Eastern District of Texas, acknowledge and confirm that this is the entire plea agreement which has been negotiated by and between the parties, it supersedes all other plea agreements, that no other promise has been made or implied by either the Defendant or the Government, and that this agreement is being entered into freely, voluntarily, and upon advice of counsel.

ACKNOWLEDGMENTS:

I have read this agreement and have carefully reviewed every part of it with my counsel. I fully understand it, and I voluntarily agree to it.

11/19/03
Date

TIMOTHY J. BEVERLEY
Defendant

I am the Defendant's counsel. I have carefully reviewed every part of this agreement with the Defendant. To my knowledge, my client's decision to enter this agreement is an informed and voluntary one.

11/19/03
Date

GERALD H. GOLDSTEIN
Counsel for Defendant

For the United States of America:

11/19/03
Date

GREGG A. MARCHESSAULT
Assistant U.S. Attorney