

ORIGINAL

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8 Attorneys for Plaintiff

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 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION
 13

14 UNITED STATES OF AMERICA,)	No. CR 12-111 EMC
)	CR 12-642 EMC
15 Plaintiff,)	
)	PLEA AGREEMENT
16 v.)	
)	
17 WILLIAM J. WISE,)	
)	
18 Defendant.)	

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 20
 21 I, WILLIAM J. WISE, and the United States Attorney’s Offices for the Northern District
 22 of California and Eastern District of North Carolina (hereafter “the government”) enter into this
 23 written plea agreement (the “Agreement”) pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the
 24 Federal Rules of Criminal Procedure:

25 The Defendant’s Promises

26 1. I agree to plead guilty to Counts One through Seventeen of the captioned
 27 Indictment (Case No. CR 12-111 EMC), charging me with conspiracy to commit mail and wire

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1 fraud (Count One), in violation of 18 U.S.C. § 1349; mail fraud (Counts Two through Thirteen),
2 in violation of 18 U.S.C. § 1341; wire fraud (Counts Fourteen through Sixteen), in violation of
3 18 U.S.C. § 1343; and engaging in monetary transactions in criminally derived property (also
4 known as money laundering) (Count Seventeen), in violation of 18 U.S.C. § 1957. I further
5 agree to plead guilty to Count One of the captioned Information (Case No. CR 12-642 EMC),
6 charging me with evading or defeating income tax due and owing to the United States, in
7 violation of 26 U.S.C. § 7201.

8 Indictment, Counts One through Sixteen: I agree that the elements of conspiracy to
9 commit mail and wire fraud (Count One), in violation of 18 U.S.C. § 1349, are as follows: (1) I
10 agreed with one or more persons to commit mail or wire fraud, in violation of 18 U.S.C. §§ 1341
11 or 1343; and (2) I became a member of the conspiracy knowing of at least one of its objects and
12 intending to help accomplish it.

13 I agree that the elements of mail fraud (Counts Two through Thirteen), in violation of 18
14 U.S.C. § 1341, are as follows: (1) I made up or participated in a scheme or artifice to defraud, or
15 to obtain money by false promises or statements; (2) I knew that the promises or statements were
16 false; (3) the promises or statements were material, that is, they would reasonably influence a
17 person to part with money or property; (4) I acted with the intent to defraud; and (5) I used, or
18 caused to be used the U.S. Mail or an interstate commercial carrier to carry out an essential part
19 of the scheme.

20 I agree that the elements of wire fraud (Counts Fourteen through Sixteen), in violation of
21 18 U.S.C. § 1343, are as follows: (1) I participated in or made up a scheme or artifice to defraud,
22 or to obtain money by false promises or statements; (2) I knew that the promises or statements
23 were false; (3) the promises or statements were material, that is, they would reasonably influence
24 a person to part with money or property; (4) I acted with the intent to defraud; and (5) I used, or
25 caused to be used, a wire, radio, or television communication in interstate or foreign commerce
26 to carry out an essential part of the scheme.

27 I agree that the maximum penalties for each count of conspiracy to commit mail and wire
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1 fraud (Count One), mail fraud (Counts Two through Thirteen), and wire fraud (Counts Fourteen
2 through Sixteen), are as follows:

- 3 a. Maximum prison term 20 years
- 4 b. Maximum fine \$250,000 or twice the gross gain or
5 loss, whichever is greater
- 6 c. Maximum supervised release term 3 years
- 7 d. Restitution To Be Determined by Court
- 8 e. Mandatory special assessment \$100 per count
- 9 f. Potential Deportation

10 Indictment, Count Seventeen: I agree that the elements of money laundering (Count
11 Seventeen), in violation of 18 U.S.C. § 1957, are as follows: (1) I knowingly engaged in a
12 monetary transaction; (2) with proceeds of a specified unlawful activity (*i.e.*, mail or wire fraud);
13 (4) in an amount greater than \$10,000; (5) by, through, or to a financial institution. I further
14 agree that the maximum penalties for money laundering are as follows:

- 15 a. Maximum prison sentence 10 years
- 16 b. Maximum fine \$250,000 or twice the value
17 of the property involved in the
18 transaction, whichever is greater
- 19 c. Maximum supervised release term 3 years
- 20 d. Mandatory special assessment \$100
- 21 e. Restitution To Be Determined By The Court
- 22 f. Potential Deportation

23 Information, Count One: I agree that the elements of evading or defeating a tax due and
24 owing to the United States, in violation of 26 U.S.C. § 7201, are as follows: (1) I had income tax
25 due and owing to the United States; and (2) I willfully undertook affirmative acts to evade or
26 defeat the income tax. I further agree that the maximum penalties for evading or defeating a tax
27 due and owing to the United States are as follows:

- 28 a. Maximum prison sentence 5 years
- b. Maximum fine \$250,000

- 1 c. Maximum supervised release term 1 year
- 2 d. Mandatory special assessment \$100
- 3 e. Restitution \$1,045,250.00
- 4 f. Potential Deportation

5 I acknowledge that pleading guilty may have consequences with respect to my
6 immigration status if I am not a citizen of the United States. Under federal law, a broad range of
7 crimes are removable offenses, which may include the offenses to which I am pleading guilty.
8 Removal and other immigration consequences are the subject of a separate proceeding, however,
9 and I understand that no one, including my attorney or the district court, can predict to a certainty
10 the effect of this conviction on my immigration status. I nevertheless affirm that I want to plead
11 guilty regardless of any immigration consequences that may result from my guilty plea, even if
12 the consequence is my automatic removal from the United States.

13 I understand that I am pleading guilty to multiple violations. I further understand that the
14 Court has discretion to order my sentence for each violation to be served concurrently or
15 consecutively.

16 2. I agree that I am guilty of the offenses to which I am pleading guilty, and I agree
17 that the following facts are true:

18 a. With respect to Count One of the Indictment (conspiracy to commit mail and wire
19 fraud), I agreed with my co-defendant, Jacqueline Hoegel, to commit mail and wire fraud by
20 engaging in a long-running scheme to defraud investors by selling fraudulent certificates of
21 deposit (CDs) issued by three entities: (1) Millennium Bank; (2) United Trust of Switzerland
22 ("UT of S"); and (3) Sterling Bank and Trust ("Sterling") (collectively, the "Millennium
23 Entities"). More than 1,200 investors purchased fraudulent CDs issued by the Millennium
24 Entities, all of which promised guaranteed rates of return that co-defendant Hoegel and I falsely
25 informed investors were and would be generated by overseas investments. As co-defendant
26 Hoegel and I both knew, the Millennium Entities did not use investor funds to make overseas
27 investments; instead, as we both knew, the Millennium Entities were a Ponzi scheme through
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1 which earlier investors' guaranteed interest payments consisted of later investors' funds. I
2 exercised ultimate control over the Millennium Entities, with co-defendant Hoegel acting as my
3 co-conspirator and right-hand person in running the scheme to defraud.

4 b. With respect to Counts Two through Thirteen of the Indictment (mail fraud),
5 along with co-defendant Hoegel, I engaged in the above-described scheme to defraud investors
6 via fraudulent CDs issued by the Millennium Entities. In furtherance of the scheme to defraud
7 investors, co-defendant Hoegel and I directed others working for the Millennium Entities to tell
8 certain investors to mail their account applications and personal checks (to purchase fraudulent
9 CDs) to the Napa, California, office run by co-defendant Hoegel. The Napa, California, office
10 run by co-defendant Hoegel was known by various names throughout its existence, including
11 Millennium Offshore Advisors, Globalized Services, and Global Advisors
12 ("Millennium/Global"). Millennium/Global received account applications and personal checks
13 via U.S. Mail as well as interstate commercial carrier, such as Federal Express. In addition, co-
14 defendant Hoegel and I directed Millennium/Global employees to send post-dated interest
15 payment checks to certain investors via U.S. Mail and interstate commercial carrier. Counts Two
16 through Five and Seven through Twelve represent checks sent by investors to Millennium/Global
17 via U.S. Mail or interstate commercial carrier. Counts Six and Thirteen represent post-dated
18 interest payment checks sent from Millennium/Global to investors via U.S. Mail or interstate
19 commercial carrier.

20 c. With respect to Counts Fourteen through Sixteen of the Indictment (wire fraud),
21 in furtherance of the above-described scheme to defraud investors, co-defendant Hoegel and I
22 (and others working at our direction) told certain investors to wire funds from their personal
23 accounts to accounts in the name of UT of S at Washington Mutual in Las Vegas, Nevada, and
24 Napa, California. Counts Fourteen through Sixteen represent interstate wire transfers initiated by
25 investors who purchased fraudulent CDs.

26 d. With respect to Count Seventeen of the Indictment (money laundering), knowing
27 that the money in the Bank of America account ending in -9544 represented proceeds of the

1 above-described scheme to defraud investors, I directed an employee working for
2 Millennium/Global to transfer \$15,000 from that Bank of America account to an account in the
3 name of L.W., for L.W.'s personal use.

4 e. I agree that I knowingly participated in the above-described scheme to defraud
5 investors from approximately 1999 to late March 2009, and that, during this time, I intended to
6 defraud the investors. I further agree that between January 2004 and March 2009, via the
7 Millennium Entities, co-defendant Hoegel and I caused the sale of more than \$129.5 million
8 worth of fraudulent CDs, which caused investors to suffer actual losses of more than \$75 million.

9 f. I agree that in 2008, I earned significant income from the above-described scheme
10 to defraud investors, that I was aware that I had \$1,045,250 of tax due and owing to the United
11 States based on that income, and that I willfully took affirmative steps to evade or defeat that tax
12 due and owing. For example, I used cash extensively, and I failed to maintain any books and
13 ledgers for income and expenditures, as are routinely kept in the normal course of business. In
14 addition, I used my income – both cash and otherwise – to pay debts owed to creditors other than
15 the IRS (such as making interest payments on a private jet, and paying for construction and
16 furnishings on a large personal property in St. Vincent and the Grenadines).

17 3. I agree to give up all rights that I would have if I chose to proceed to trial,
18 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
19 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
20 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
21 to pursue any affirmative defenses and present evidence.

22 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
23 the Court. I also agree to waive any right I have to appeal any aspect of my sentence, including
24 any orders relating to forfeiture and or restitution.

25 5. I agree not to file any collateral attack on my conviction or sentence, including a
26 petition under 28 U.S.C. § 2255 or 28 U.S.C. § 2241, or motion under 18 U.S.C. § 3582, at any
27 time in the future after I am sentenced, except that I reserve my right to claim that my counsel

1 was ineffective in connection with the negotiation of this Agreement or the entry of my guilty
 2 plea. I understand that the government will not preserve any physical evidence obtained in this
 3 case.

4 6. I agree not to ask the Court to withdraw my guilty pleas at any time after they are
 5 entered. I understand that by entering into this Agreement: (a) I agree that the facts set forth in
 6 Paragraph 2 of this Agreement shall be admissible against me under Fed. R. Evid. 801(d)(2)(A)
 7 in any subsequent proceeding, including at trial, in the event I move to withdraw my guilty plea,
 8 and (b) I expressly waive any and all rights under Fed. R. Crim. 11(f) and Fed. R. Evid. 410 with
 9 regard to the facts set forth in Paragraph 2 of this Agreement in any such subsequent proceeding.

10 7. I agree that the Court will use the Sentencing Guidelines to calculate my sentence.
 11 I understand that the Court must consult the Guidelines and take them into account when
 12 sentencing, together with the factors set forth in 18 U.S.C. § 3553(a). I also understand that the
 13 Court is not bound by the Guidelines calculations below, the Court may conclude that a higher
 14 Guidelines range applies to me, and, if it does, I will not be entitled, nor will I ask to withdraw
 15 my guilty plea. I also agree that regardless of the sentence that the Court imposes on me, I will
 16 not be entitled, nor will I ask, to withdraw my guilty plea. I further agree that the Sentencing
 17 Guidelines offense level will be calculated as follows, and that I may seek a possible downward
 18 departure pursuant to U.S.S.G. § 5K1.1. I also reserve my right to argue for a variance from the
 19 Guidelines range determined by the Court based on 18 U.S.C. § 3553(a) factors, and I
 20 understand that the government may oppose that argument. The parties have reached no
 21 agreement regarding my Criminal History Category.

- 22 a. Base Offense Level, U.S.S.G. § 2B1.1(a)(1): 7
- 23 b. Specific offense characteristics (loss over \$50 million,
 24 U.S.S.G. §2B1.1(b)(1)(M)): +24
- 25 c. Specific offense characteristics (>250 victims,
 26 U.S.S.G. § 2B1.1(b)(2)(C)): +6
- 27 d. Leader/organizer (U.S.S.G. § 3B1.1(a)): +4
- 28 e. 18 U.S.C. § 1957 conviction (U.S.S.G §2S1.1(b)(2)(A)): +1

1 f. Acceptance of Responsibility: If I meet the requirements of U.S.S.G.
2 § 3E1.1 through sentencing, I may be entitled to a three-level
reduction: -3

3 g. Adjusted Offense Level: 39

4 I understand that regardless of the sentence that the Court imposes on me, I will not be entitled,
5 nor will I ask, to withdraw my guilty pleas.

6 8. I agree that regardless of any other provision of this Agreement, the government
7 may and will provide the Court and the Probation Office with all information relevant to the
8 charged offenses and the sentencing decision.

9 9. I agree to pay restitution for all the losses caused by all the schemes or offenses
10 with which I was charged in this case, and I agree that the amount of restitution will not be
11 limited to the loss attributable to the counts to which I am pleading guilty, pursuant to 18 U.S.C.
12 § 3663(a)(3). I agree to pay restitution in an amount to be set by the Court, for all losses suffered
13 by victims of the above-described scheme to defraud investors, even for those victims not
14 specifically referenced in Counts Two through Sixteen of the Indictment. I agree that any fine,
15 forfeiture, or restitution imposed by the Court against me will be immediately due and payable
16 and subject to immediate collection by the government and I understand that the government may
17 seek immediate collection of the entire fine, forfeiture, or restitution from any assets without
18 regard to any schedule of payments imposed by the Court or established by the Probation Office.
19 I agree that I will make a good faith effort to pay any fine, forfeiture, or restitution I am ordered
20 to pay. Before or after sentencing, I will upon request of the Court, the government, or the
21 Probation Office, provide accurate and complete financial information, submit sworn statements
22 and give depositions under oath concerning my assets and my ability to pay, surrender assets I
23 obtained as a result of my crimes, and release funds and property under my control in order to
24 pay any fine, forfeiture, or restitution. I agree to pay the special assessment at the time of
25 sentencing.

26 10. I agree to cooperate with the U.S. Attorney's Office before and after I am
27 sentenced. My cooperation will include, but will not be limited to, the following:

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- 1 a. I will respond truthfully and completely to any and all questions put to me,
2 whether in interviews, before a grand jury, or at any trial or other proceeding;
- 3 b. I will provide all documents and other material asked for by the government;
- 4 c. I will testify truthfully at any grand jury, court, or other proceeding as requested
5 by the government;
- 6 d. I will surrender any and all assets acquired or obtained directly or indirectly as a
7 result of my illegal conduct;
- 8 e. I will request continuances of my sentencing date, as necessary, until my
9 cooperation is completed;
- 10 f. I will not reveal my cooperation, or any information related to it, to anyone
11 without prior consent of the government;
- 12 g. I will participate in undercover activities under the supervision of law
13 enforcement agents or the U.S. Attorney's Office; and
- 14 h. I will provide all necessary authorizations for the Receiver, Richard Roper
15 (appointed by the Northern District of Texas in *SEC v. Millennium Bank, et*
16 *al.*, 7:09-cv-00050-O), to obtain control over all funds remaining in any accounts
17 identified by the government or the Receiver as having investor funds, whether
18 those accounts are located in the United States or foreign countries. I further
19 agree that I will sign a Power of Attorney in favor of the Receiver within 10 days
20 of being so requested, and will work in good faith with the government and/or the
21 Receiver to identify any such accounts, wherever located.

22 11. I agree that the government's decision whether to file a motion pursuant to
23 U.S.S.G. § 5K1.1, as described in the government promises section below, is based on its sole
24 and exclusive decision of whether I have provided substantial assistance and that decision will be
25 binding on me. I understand that the government's decision whether to file such a motion, or the
26 extent of the departure recommended by any motion, will not depend on whether convictions are
27 obtained in any case. I also understand that the Court will not be bound by any recommendation
28 made by the government.

12. I agree not to commit or attempt to commit any crimes before sentence is imposed
or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
release; not to intentionally provide false information to the Court, the Probation Office, Pretrial
Services, or the government; and to comply with any of the other promises I have made in this
Agreement. I agree that if I fail to comply with any promises I have made in this Agreement,
then the government will be released from all of its promises in this Agreement, including those

1 set forth in the Government's Promises Section below, but I will not be released from my guilty
2 pleas. I agree to remain in the custody of the United States Marshal pending my sentencing. I
3 further agree that I will not apply for a transfer to serve part of my sentence in Canada until I
4 have served at least 1/3 of my sentence or 54 months in the United States (running from the date
5 I entered into federal custody, April 16, 2012), whichever is longer.

6 13. If I am prosecuted after failing to comply with any promises I made in this
7 Agreement, then (a) I agree that any statements I made to any law enforcement or other
8 government agency or in Court, whether or not made pursuant to the cooperation provisions of
9 this Agreement, may be used in any way; (b) I waive any and all claims under the United States
10 Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal
11 Rules of Evidence, or any other federal statute or rule, to suppress or restrict the use of my
12 statements, or any leads derived from those statements; and (c) I waive any defense to any
13 prosecution that is barred by a statute of limitations, if the limitations period has run between the
14 date of this Agreement and the date I am indicted. In return for the government's promises set
15 out below, I agree that the government may reinstate all of the dismissed counts and include any
16 other charges by superseding indictment should my case be remanded to district court following
17 an appeal for any reason. I further agree that any applicable statute of limitations that has not run
18 as of the date the Agreement was signed for any charge arising out of the Northern District of
19 California shall be tolled and extended from that date until the date that the mandate is spread in
20 the district court from any such appeal.

21 14. I agree that this Agreement contains all of the promises and agreements between
22 the government and me, and supersedes any other agreements, written or oral. No modification
23 of this Agreement shall be effective unless it is in writing and signed by all parties.

24 15. I agree that the Agreement binds the U.S. Attorney's Offices for the Northern
25 District of California and Eastern District of North Carolina only, and does not bind any other
26 federal, state, or local agency.

27 The Government's Promises

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1 16. The government agrees to move to dismiss any open charges pending against the
2 defendant in the captioned Indictment and Information at the time of sentencing. The
3 government further agrees that it will not oppose the defendant's application for a transfer to
4 serve part of his sentence in Canada, provided that the defendant does not breach any terms of
5 this Agreement, including his promise not to apply for such a transfer until he has served at least
6 1/3 of his sentence or 54 months in the United States (running from the date he entered into
7 federal custody, April 16, 2012), whichever is longer. The government further agrees that, if
8 asked, it may provide publicly-available information to Canadian authorities, but that it will not
9 take a position on whether the defendant, if transferred to Canada to serve any remaining
10 sentence, should be paroled under applicable Canadian statutes and regulations.

11 17. The government agrees not to file any additional charges against the defendant
12 that could be filed as a result of the investigation that led to the captioned Indictment and
13 Information.

14 18. The government agrees to recommend the Guideline calculations set out above
15 unless the defendant violates the terms of the Agreement above or fails to accept responsibility.

16 19. The government agrees not to use any statements made by the defendant pursuant
17 to this Agreement against him, unless the defendant fails to comply with any promises in this
18 Agreement.

19 20. If, in its sole and exclusive judgment, the government decides that the defendant
20 has cooperated fully and truthfully, provided substantial assistance to law enforcement authorities
21 within the meaning of U.S.S.G. § 5K1.1, and otherwise complied fully with this Agreement, it
22 will file with the Court a motion under § 5K1.1 and/or 18 U.S.C. § 3553 that explains the nature
23 and extent of the defendant's cooperation and recommends a downward departure.

24 The Defendant's Affirmations

25 21. I confirm that I have had adequate time to discuss this case, the evidence, and the
26 Agreement with my attorney and that my attorney has provided me with all the legal advice that I
27 requested.

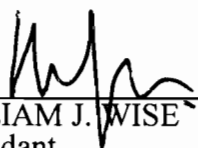
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1 22. I confirm that while I considered signing this Agreement, and at the time I signed
2 it, I was not under the influence of any alcohol, drug, or medicine that would impair my ability to
3 understand the Agreement.

4 23. I confirm that my decision to enter a guilty plea is made knowing the charges that
5 have been brought against me, any possible defenses, and the benefits and possible detriments of
6 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
7 one coerced or threatened me to enter into this Agreement.

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10 Dated: Sept. 12 / 2012

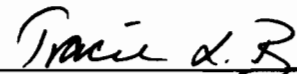


WILLIAM J. WISE
Defendant

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MELINDA HAAG
United States Attorney

15 Dated: 9/12/12

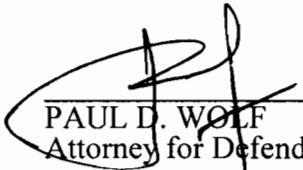


TRACIE L. BROWN
Assistant United States Attorney

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19 24. I have fully explained to my client all the rights that a criminal defendant has and
20 all the terms of this Agreement. In my opinion, my client understands all the terms of this
21 Agreement and all the rights my client is giving up by pleading guilty, and, based on the
22 information now known to me, my client's decision to plead guilty is knowing and voluntary.

23 Dated: 9/12/12



PAUL D. WOLF
Attorney for Defendant

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