

U.S. DISTRICT COURT  
EASTERN DISTRICT-WI  
FILED

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

'07 MAY 15 P2 :15

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES LYTLE,

Defendant.

07 CR113  
Case No. 07-CR-

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**PLEA AGREEMENT**

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1. The United States of America, by its attorneys, Steven M. Biskupic, United States Attorney for the Eastern District of Wisconsin, and Carol L. Kraft, Assistant United States Attorney, and the defendant, James Lytle, individually and by attorney Jack P. Rimland, pursuant to Rule 11 of the Federal Rules of Criminal Procedure, enter into the following plea agreement:

**CHARGES**

2. The defendant has been charged in a one-count information which alleges a violation of Title 18, United States Code, Sections 1343 and 2.

3. The defendant has read and fully understands the charge contained in the information and fully understands the nature and elements of the crime with which he has been charged and the charge and the terms and conditions of the plea agreement have been fully explained to him by his attorney.

4. The defendant voluntarily agrees to waive prosecution by indictment in open court.

5. The defendant voluntarily agrees to plead guilty to the charge set forth in the information which is attached to the plea agreement and incorporated as if fully set forth herein.

6. The defendant acknowledges, understands, and agrees that he is, in fact, guilty of the offense described in paragraph 5. The parties acknowledge and understand that if this case were to proceed to trial, the government would be able to prove the following facts beyond a reasonable doubt. The defendant admits to these facts and that these facts establish his guilt beyond a reasonable doubt:

Between approximately January 1, 2004, and November 1, 2005, James Lytle worked as real estate mortgage broker who was commissioned to act as an intermediary between buyers and lenders, and who, on behalf of potential buyers, generated loan applications.

While working as a mortgage broker, James Lytle prepared numerous fraudulent loan applications which he submitted to lenders to support the purchase of specific properties, most of which were located in Walworth County, Wisconsin. These fraudulent loan applications were generally prepared by Lytle as part of an agreement with the owners of the subject properties, who wanted to sell the properties, and who paid Lytle for causing the sale of the properties through the fraud scheme. As part of the scheme, James Lytle fabricated information relating to the identity and credit worthiness of prospective buyers named in the

loan applications and/or fabricated information about the condition or appraisal value of the subject properties. The object of these falsifications was to qualify the named buyer for a mortgage loan, which would result in the sale of the property. In return for preparing the fraudulent loan applications and securing the financing, the sellers with whom Lytle conspired, paid him a substantial fee following the closing of the sale on the property. These payments generally ranged from \$3000 to \$20,000, and were shared by Lytle with others who participated in the scheme, including persons who assisted him to locate straw buyers for the properties and persons who were recruited to act as straw buyers of the properties.

A number of the loan applications which Lytle prepared in connection with this fraud scheme were in the name of such straw buyers, that is, persons who agreed to attend the real estate closings and to sign the necessary paperwork to complete the sale. These persons signed, either in their own name, or with the name of another person named in the loan application whose identity had been stolen. In instances where the latter were true, James Lytle or another with whom he executed this scheme, arranged to have the straw buyer obtain false photo identification in the name of the buyer named in the loan application and to present this identification at the real estate closing as proof of identity.

As the result of this scheme, and based upon the material false information in the fraudulent loan applications which James Lytle created, approximately 8 lenders provided residential mortgage loans totaling more than \$4 million on approximately 19 properties in Walworth County, Wisconsin. Subsequently few, if any, mortgage payments were made on

these properties, and many of the lenders foreclosed on the loans, causing the properties to be sold, often at a loss, at sheriff auctions.

In the execution of the scheme, James Lytle and others, by orchestrating the fraudulent sales, caused loan proceeds to be wired interstate from the warehouse bank accounts of lenders to the trust accounts of the title companies whose agents handled the closings on the property sales, including the interstate wire transfer of approximately \$300,000 in mortgage loan funds on January 27, 2005, from the warehouse account of New State Mortgage, LLC, at GMAC/RFC, in Bethesda, Maryland, to the trust account of Chicago Title Insurance. Co., at U.S. Bank, N.A., in Milwaukee, Wisconsin for the purchase of 900 Inlet Shore Drive, Delavan, Wisconsin.

This information is provided for the purpose of setting forth a factual basis for the plea of guilty. It is not a full recitation of the defendant's knowledge of or participation in this offense.

#### **PENALTIES**

7. The parties understand and agree that the offense to which the defendant will enter a plea of guilty carries the following maximum term of imprisonment and fine: 20 years in prison and a \$250,000 fine. The count also carries a mandatory special assessment of \$100.00 and up to five years supervised release.

8. The defendant acknowledges, understands, and agrees that he has discussed the relevant statutes as well as the applicable sentencing guidelines with his attorney.

**ELEMENTS**

9. The parties understand and agree that in order to sustain the charge of wire fraud as set forth in the information, the government must prove each of the following propositions beyond a reasonable doubt:

First, that the defendant knowingly participated in the scheme to defraud or to obtain money or property by means of materially false pretenses, representations or promises, as described in the information;

Second, that the defendant did so knowingly and with the intent to defraud; and

Third, that for the purpose of carrying out the scheme or attempting to do so, the defendant used interstate wire communication, or caused the use of interstate wire communication in such a manner as charged in the particular count

**SENTENCING PROVISIONS**

10. The parties agree to waive the time limits in Fed. R. Crim. P. 32 relating to the presentence report, including that the presentence report be disclosed not less than 35 days before the sentencing hearing, in favor of a schedule for disclosure, and the filing of any objections, to be established by the court at the change of plea hearing.

11. The parties acknowledge, understand, and agree that any sentence imposed by the court will be pursuant to the Sentencing Reform Act, and that the court will give due regard to the Sentencing Guidelines when sentencing the defendant.

12. The parties acknowledge and agree that they have discussed all of the sentencing guidelines provisions which they believe to be applicable to the offense described in paragraph 5. The defendant acknowledges and agrees that his attorney in

turn has discussed the applicable sentencing guidelines provisions with him to the defendant's satisfaction.

13. The parties acknowledge and understand that prior to sentencing the United States Probation Office will conduct its own investigation of the defendant's criminal history. The parties further acknowledge and understand that, at the time the defendant enters a guilty plea, the parties may not have full and complete information regarding the defendant's criminal history. The parties acknowledge, understand, and agree that the defendant may not move to withdraw the guilty plea solely as a result of the sentencing court's determination of defendant's criminal history.

**Sentencing Guidelines Calculations**

14. The parties acknowledge, understand, and agree that the sentencing guidelines calculations included in this agreement represent the positions of the parties on the appropriate sentence range under the sentencing guidelines. The defendant acknowledges and understands that the sentencing guidelines recommendations contained in this agreement do not create any right to be sentenced within any particular sentence range, and that the court may impose a reasonable sentence above or below the guideline range. The parties further understand and agree that if the defendant has provided false, incomplete, or inaccurate information that affects the calculations, the government is not bound to make the recommendations contained in this agreement.

**Relevant Conduct**

15. The parties acknowledge, understand, and agree that pursuant to Sentencing Guidelines Manual § 1B1.3, the sentencing judge may consider relevant conduct in calculating the sentencing guidelines range, even if the relevant conduct is not the subject of the offense to which defendant is pleading guilty. The parties agree that there are approximately 19 real estate transactions involving more than \$4 million in mortgage loan proceeds which are known at this time, and that the court may consider as relevant conduct for this offense. Those 19 properties and the corresponding mortgage loans generated by the defendant's false representations are set forth in an addendum to this plea agreement. The parties further understand that the defendant's relevant conduct may not be limited to the 19 identified properties, and that the court will consider any and all real estate transactions which are based upon fraudulent representations by the defendant during the time period identified in the information and in connection with this scheme, which are identified at the time of sentencing.

**Offense Level**

16. The parties acknowledge and understand that the government will recommend to the sentencing court that the applicable base offense level for the offense charged in the information is 7 pursuant to Sentencing Guidelines Manual § 2B1.1(a)(1) and that and an 18 level increase pursuant to Sentencing Guidelines Manual §(2B1.1(b)(1)(J)) is applicable because the loss was greater than \$2,500,000, so that the

total offense level is the offense is 25. The defendant will not join in this recommendation.

**Special Offense Characteristics**

17. The parties acknowledge and understand that the government will also recommend to the sentencing court that a 4-level increase under Sentencing Guidelines Manual § 3B1.1(a) is applicable to the offense level for the offense charged in the information because the defendant was an organizer or leader of criminal activity that involved five or more participants. The defendant will not join in this recommendation.

**Acceptance of Responsibility**

18. The government agrees to recommend a two-level decrease for acceptance of responsibility as authorized by Sentencing Guidelines Manual § 3E1.1(a), but only if the defendant exhibits conduct consistent with the acceptance of responsibility. The defendant acknowledges, understands, and agrees that conduct consistent with the acceptance of responsibility includes but is not limited to the defendant's voluntary identification and disclosure to the government of any and all actual or potential victims of the offense prior to sentencing. In addition, if the court determines at the time of sentencing that the defendant is entitled to the two-level reduction under § 3E1.1(a), the government agrees to make a motion recommending an additional one-level decrease as authorized by Sentencing Guidelines Manual § 3E1.1(b) because the defendant timely notified authorities of his intention to enter a plea of guilty.

**Sentencing Recommendations**

19. Both parties reserve the right to apprise the district court and the probation office of any and all information which might be pertinent to the sentencing process, including but not limited to any and all conduct related to the offense as well as any and all matters which might constitute aggravating or mitigating sentencing factors.

20. Both parties reserve the right to make any recommendation regarding any other matters not specifically addressed by this agreement.

21. The government agrees to recommend a sentence within the applicable sentencing guideline range, as determined by the Court. The defendant will not join this recommendation.

**Court's Determinations at Sentencing**

22. The parties acknowledge, understand, and agree that neither the sentencing court nor the United States Probation Office is a party to or bound by this agreement. The United States Probation Office will make its own recommendations to the sentencing court. The sentencing court will make its own determinations regarding any and all issues relating to the imposition of sentence and may impose any sentence authorized by law up to the maximum penalties set forth in paragraph 7. The parties further understand that the sentencing court will be guided by the sentencing guidelines but will not be bound by the sentencing guidelines and may impose a reasonable sentence above or below the calculated guideline range.

23. The parties acknowledge, understand, and agree that the defendant may not move to withdraw the guilty plea solely as a result of the sentence imposed by the court.

**FINANCIAL MATTERS**

24. The defendant acknowledges and understands that any and all financial obligations imposed by the sentencing court are due and payable upon entry of the judgment of conviction. The defendant agrees not to request any delay or stay in payment of any and all financial obligations.

25. The defendant agrees that, during the period of any supervision imposed by the court in this case, the defendant will provide the Financial Litigation Unit (FLU) of the United States Attorney's Office with completed financial forms which will be provided by FLU, and will provide any documentation required by those forms. The defendant will provide FLU with such completed financial forms with required documentation within the first two months of supervision, at six month intervals thereafter during supervision, and within the last six months of scheduled supervision.

**Fine**

26. The parties agree to recommend that in light of the substantial restitution that may be due in this case, that no fine be imposed on the defendant.

**Special Assessment**

27. The defendant agrees to pay the special assessment in the amount of \$100.00 prior to or at the time of sentencing.

**Restitution**

28. The defendant agrees to pay restitution in an amount to be determined by the court. The defendant understands that because restitution for the offense is mandatory, the amount of restitution shall be imposed by the court regardless of the defendant's financial resources. The defendant agrees to cooperate in efforts to collect the restitution obligation. The defendant understands that imposition or payment of restitution will not restrict or preclude the filing of any civil suit or administrative action.

**DEFENDANT'S COOPERATION**

29. The defendant, by entering into this agreement, further agrees to fully and completely cooperate with the government in its investigation of this and related matters, and to testify truthfully and completely before the grand jury and at any subsequent trials or proceedings, if asked to do so. The government agrees to advise the sentencing judge of the nature and extent of the defendant's cooperation. The parties acknowledge, understand and agree that if the defendant provides substantial assistance to the government in the investigation or prosecution of others, the government, in its discretion, may recommend a downward departure from: (a) the applicable sentencing guideline range; (b) any applicable statutory mandatory minimum; or (c) both. The defendant acknowledges and understands that the court will make its own determination

regarding the appropriateness and extent to which such cooperation should affect the sentence.

**DEFENDANT'S WAIVER OF RIGHTS**

30. In entering this agreement, the defendant acknowledges and understands that in so doing he surrenders any claims he may have raised in any pretrial motion, as well as certain rights which include the following:

- a. If the defendant persisted in a plea of not guilty to the charges against him, he would be entitled to a speedy and public trial by a court or jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the government and the judge all must agree that the trial be conducted by the judge without a jury.
- b. If the trial is a jury trial, the jury would be composed of twelve citizens selected at random. The defendant and his attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of guilty. The court would instruct the jury that the defendant is presumed innocent until such time, if ever, as the government establishes guilt by competent evidence to the satisfaction of the jury beyond a reasonable doubt.
- c. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all of the evidence, whether or not he was persuaded of defendant's guilt beyond a reasonable doubt.
- d. At such trial, whether by a judge or a jury, the government would be required to present witnesses and other evidence against the defendant. The defendant would be able to confront witnesses upon whose testimony the government is relying to obtain a conviction and he would have the right to cross-examine those witnesses. In turn the defendant could, but is not obligated to, present witnesses

and other evidence on his own behalf. The defendant would be entitled to compulsory process to call witnesses.

- e. At such trial, defendant would have a privilege against self-incrimination so that he could decline to testify and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify on his own behalf.

31. The defendant acknowledges and understands that by pleading guilty he is waiving all the rights set forth above. The defendant further acknowledges the fact that his attorney has explained these rights to him and the consequences of his waiver of these rights. The defendant further acknowledges that as a part of the guilty plea hearing, the court may question the defendant under oath, on the record, and in the presence of counsel about the offense to which the defendant intends to plead guilty. The defendant further understands that the defendant's answers may later be used against the defendant in a prosecution for perjury or false statement.

32. The defendant acknowledges and understands that he will be adjudicated guilty of each offense to which he will plead guilty and thereby may be deprived of certain rights, including but not limited to the right to vote, to hold public office, to serve on a jury, to possess firearms, and to be employed by a federally insured financial institution.

33. The defendant knowingly and voluntarily waives all claims he may have based upon the statute of limitations, the Speedy Trial Act, and the speedy trial provisions of the Sixth Amendment. The defendant agrees that any delay between the filing of this

agreement and the entry of the defendant's guilty plea pursuant to this agreement constitutes excludable time under the Speedy Trial Act.

**Further Civil or Administrative Action**

34. The defendant acknowledges, understands, and agrees that the defendant has discussed with his attorney and understands that nothing contained in this agreement, is meant to limit the rights and authority of the United States of America or any other state or local government to take further civil, administrative, or regulatory action against the defendant, including but not limited to any listing and debarment proceedings to restrict rights and opportunities of the defendant to contract with or receive assistance, loans, and benefits from United States government agencies.

**GENERAL MATTERS**

35. The parties acknowledge, understand, and agree that this agreement does not require the government to take, or not to take, any particular position in any post-conviction motion or appeal.

36. The parties acknowledge, understand, and agree that this plea agreement will be filed and become part of the public record in this case.

37. The parties acknowledge, understand, and agree that the United States Attorney's office is free to notify any local, state, or federal agency of the defendant's conviction.

38. The defendant understands that pursuant to the Victim and Witness

Protection Act and the regulations promulgated under the Act by the Attorney General of the United States, the victim of a crime may make a statement describing the impact of the offense on the victim and further may make a recommendation regarding the sentence to be imposed. The defendant acknowledges and understands that comments and recommendations by a victim may be different from those of the parties to this agreement.

**EFFECT OF DEFENDANT'S BREACH OF PLEA AGREEMENT**

39. The defendant acknowledges and understands if he violates any term of this agreement at any time, engages in any further criminal activity prior to sentencing, or fails to appear for sentencing, this agreement shall become null and void at the discretion of the government. The defendant further acknowledges and understands that the government's agreement to dismiss any charge is conditional upon final resolution of this matter. If this plea agreement is revoked or if the defendant's conviction ultimately is overturned, then the government retains the right to reinstate any and all dismissed charges and to file any and all charges which were not filed because of this agreement. The defendant hereby knowingly and voluntarily waives any defense based on the applicable statute of limitations for any charges filed against the defendant as a result of his breach of this agreement. The defendant understands, however, that the government may elect to proceed with the guilty plea and sentencing. If the defendant and his attorney have signed a proffer letter in connection with this case, then the defendant

further acknowledges and understands that he continues to be subject to the terms of the proffer letter.

**VOLUNTARINESS OF DEFENDANT'S PLEA**

40. The defendant acknowledges, understands, and agrees that he will plead guilty freely and voluntarily because he is in fact guilty. The defendant further acknowledges and agrees that no threats, promises, representations, or other inducements have been made, nor agreements reached, other than those set forth in this agreement, to induce the defendant to plead guilty.

**ACKNOWLEDGMENTS**


I am the defendant. I am entering into this plea agreement freely and voluntarily. I am not now on or under the influence of any drug, medication, alcohol, or other intoxicant or depressant, whether or not prescribed by a physician, which would impair my ability to understand the terms and conditions of this agreement. My attorney has reviewed every part of this agreement with me and has advised me of the implications of the sentencing guidelines. I have discussed all aspects of this case with my attorney and I am satisfied that my attorney has provided effective assistance of counsel.

Date: 5/12/07

  
\_\_\_\_\_  
JAMES LYTTLE  
Defendant

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

Date: 5-12-07

  
\_\_\_\_\_  
JACK P. RIMLAND  
Attorney for Defendant

For the United States of America:

Date: 5-15-07

  
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STEVEN M. BISKUPIC  
United States Attorney

Date: 5-15-07

  
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CAROL L. KRAFT  
Assistant United States Attorney

**A. ADDENDUM TO PLEA AGREEMENT****I. PROPERTY TRANSACTIONS IN FRAUD SCHEME**

Date	Property Address	Amount of transaction	Lender
6/17/04	105 Glenwood, Delavan, WI	\$165,000	USA Funding
7/21/04	523 So. 2 <sup>nd</sup> Street, Delavan, WI	\$138,000	Argent Mortgage
8/6/04	407 So. 2 <sup>nd</sup> Street, Delavan, WI	\$146,000	First State Mortgage
9/2/04	300 Wildwood, Darien, WI	\$117,600	First State Mortgage
9/21/04	950 Center Street, Lake Geneva, WI	\$245,000	Argent Mortgage
10/29/04	1159 Hwy H, Genoa City, WI	\$167,000	Argent Mortgage
11/19/04	1617 N. Lincoln Avenue, Lake Geneva, WI	\$330,000	Paragon Home Lending
12/6/04	1577 N. Lincoln Avenue, Lake Geneva, WI	\$242,000	USA Funding Corp.
12/23/04	163 Oakwood, Williams Bay, WI	\$122,900	Paragon Home Lending
1/20/05	7574 North County O, Whitewater, WI	\$205,000	New State Mortgage
1/20/05	904 Inlet Shore Drive, Delavan, WI	\$300,000	Paragon Home Lending
1/27/05	900 Inlet Shore Drive, Delavan, WI	\$300,000	New State Mortgage
3/30/05	911 Grant Street, Lake Geneva, WI	\$141,000	Paragon Home Lending
4/6/05	607 McDowell Street, Delavan, WI	\$166,300	Paragon Home Lending
5/4/05	897 Wisteria Road, Pell Lake, WI	\$163,000	Long Beach Mortgage
5/13/05	62 East Walworth, Delavan, WI	\$140,000	Paragon Home Lending

5/27/05	1614 North Geneva, Lake Geneva, WI	\$270,000	Paragon Home Lending
6/30/05	900 Inlet Shore, Delavan, WI	\$330,000	Challenge Financial Investment Corp.
10/28/05	3645 Lortin Place, Lake Geneva, WI	\$339,000	Fremont Investment