

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 01-00222-01-Cr-W-1
)
ALBERT FRANKLIN REITZ,)
)
 Defendant.)

PLEA AGREEMENT

The United States of America, the defendant Albert Franklin Reitz, and his attorney David A. Kelly, do hereby enter into the following plea agreement. There are no agreements or understandings other than those set forth herein.

1. Defendant agrees to enter a plea of guilty to a four-count Information charging violations of Title 18, United States Code, Section 371 (conspiracy), Section 1341 (mail fraud), and Section 1001 (false statement), and Title 26, United States Code, Section 7206(1) (filing false income tax return). In order for the United States to file this Information, defendant must waive his right to prosecution by way of grand jury; by entering into this plea agreement, he does waive the right to have his case presented to a federal grand jury.

2. Defendant understands and hereby agrees that by signing this plea agreement he is admitting the criminal allegations set forth in each of the counts of the Information and admitting that he is, in fact, guilty of offenses alleged in those counts.

3. The charges to which defendant is pleading guilty each carry the following maximum statutory penalties:

a. Counts One, Two and Three: a term of imprisonment of not more than five (5) years, a fine of not more than \$250,000.00, a period of supervised release of not more than three years, and a \$100.00 mandatory special assessment. Restitution may also be ordered.

b. Count Four: a term of imprisonment of not more than three (3) years, a fine of not more than \$250,000.00 plus the costs of prosecution, a period of supervised release of not more than one year, and a \$100.00 mandatory special assessment. Restitution may also be ordered.

4. As the factual basis for the pleas, defendant admits the following:

Count One: Conspiracy to Violate the Foreign Corrupt Practices Act

At all times relevant to this matter, defendant Albert Reitz was a United States citizen and an officer, employee, and shareholder of Owl Securities and Investments (OSI), a company incorporated in the State of Nevada and having its offices in Kansas City, Missouri. As such he was a “domestic concern” as defined in the Foreign Corrupt Practices Act and an officer, employee, and shareholder acting on behalf of a domestic concern.

Beginning in approximately 1995, defendant joined with others to obtain a concession to develop a new port and resort in Costa Rica. Acting through a Costa Rican agent, the conspirators sent funds to Costa Rica to bribe officials of the Costa Rican government to obtain their support for the granting of the concession to OSI. From 1995 on, Reitz and the other conspirators promoted the Costa Rican project and raised funds from investors, some of which were used to pay bribes to Costa Rican officials.

During the summer of 1999, defendant told cooperating witnesses and an undercover FBI agent who posed as potential investors or as intermediaries for potential

investors that OSI had been heavily involved in the Costa Rican elections and that Costa Rican officials had been “taken care of.” He explained to the cooperating witnesses that the payments to Costa Rican officials could not “come back to us” because OSI simply paid its attorney, an official in a Costa Rican political party, in Costa Rica, who then provided “incentive payments” to the Costa Rican officials. In January 1998, the Costa Rican government issued a letter of intent to OSI stating its support for the eventual issuance of a concession.

The conspirators also agreed to offer a large final bribe to Costa Rican officials that would be explicitly contingent upon the final granting of the concession. In conversations with each other and in proposals they circulated to potential investors, the conspirators characterized this bribe as a “closing cost” or “toll payment.” The conspirators planned to open a letter of credit or an escrow account to demonstrate to the Costa Rican officials and politicians that they could pay the amount. Throughout the latter part of 1999 and 2000, the conspirators sought investors to fund the payment of the “closing cost.”

In furtherance of the conspiracy, Reitz and other conspirators corresponded via electronic mail and facsimile transmissions and engaged in numerous telephone conversations concerning how to structure the “closing cost” in a manner to ensure that OSI would in fact obtain the concession from the Costa Rican government. For example, on or about May 8, 2000, Reitz agreed to send a message to the agent in Costa Rica to be given to an influential politician asking how much money would be needed for the toll payment, to whom the payment needed to be made, and whether it could be placed in escrow prior to the granting of the concession.

On August 11, 2000, defendant agreed with OSI’s Costa Rican agent’s suggestion to create a bank account in Panama that would be controlled by a third party known and trusted

by the Costa Rican politicians but who had no ties to OSI. They agreed that this third party would disburse the funds to the Costa Rican politicians after the concession had been granted.

The amount of this final bribe escalated over time. At a meeting on August 17, 2000, in Kansas City, Missouri, the conspirators agreed to offer a final bribe payment of \$1,500,000. The conspirators agreed that this payment would be divided between the ruling political party and its supporters and the opposition party and its supporters to ensure that OSI's concession would be secure regardless of which party was in power.

Count Two: Mail Fraud

Defendant was the vice president and secretary, and an employee and stockholder, of Owl Securities and Investments, Ltd. (OSI). His responsibilities included the solicitation of investors. He performed his duties in substantial part from the OSI offices in Missouri.

OSI, which had its principal place of business in Kansas City, Missouri, sought investors to invest in the development of a deep-water port and resort area on the Caribbean coast of Costa Rica, which it referred to as the Costa Rican Project.

The State of Missouri, Office of Secretary of State, in 1994 had a matter pending entitled In the Matter of Owl Securities & Investments, Ltd., Stephen David Kingsley, President, Albert Franklin Reitz, Vice President/Secretary, and Gerald Brian Wojcicki, Treasurer, File No. CD-94-34. In that matter, the State of Missouri, Office of Secretary of State, issued an order to cease and desist to OSI on September 7, 1994, requiring OSI to cease and desist from the offer and sale of unregistered securities in the State of Missouri.

Beginning in or about September 1994 and continuing until in or about February

2000, in the Western District of Missouri and elsewhere, defendant knowingly and willfully devised and intended to devise a scheme to defraud and to obtain money and property from others by means of false and fraudulent representations and omissions of material fact, well knowing at the time that the representations and omissions were false and fraudulent when made. The scheme involved the following:

Beginning in or about September 1994 and continuing through in or about February 2000, defendant, in Missouri and elsewhere, by means of false and fraudulent representations and omissions, and the omission of material facts, solicited potential investors in person, by telephone, and through the mail.

Defendant knew or was willfully blind to the knowledge that large amounts of investor funds were being misapplied for inappropriate personal expenditures, such as large amounts of funds were being spent by Stephen David Kingsley for the support of strippers and at strip clubs; defendant did not object to the misapplication of funds and did not try to control Kingsley's misuse of the funds.

Defendant was aware of and participated in the solicitation of funds which were used in part for bribe payments to Costa Rican officials in order to obtain their support for and influence on behalf of obtaining the land concession for the Costa Rican project; defendant was also aware and participated in the planning of additional bribe payments to Costa Rican officials.

Defendant, though knowing that the cease and desist order prohibited the offer and sale of OSI securities in the State of Missouri, of the misapplication of investor funds, and of the bribe payments and anticipated additional bribe payments, continued to solicit

investors in OSI and did not disclose same to potential investors.

From on and about September 7, 1994 through in or about February 2000, in reliance on the false and fraudulent representations and omissions of material fact, investors invested a total of approximately \$3,532,852 in OSI.

In furtherance and in execution of the scheme, on or about March 11, 1998, defendant knowingly and willfully caused to be delivered by the United States Postal Service according to the directions thereon mail matter, that is, a letter from Jay Morren, 4180 Forty-fourth Street, S.E., Grand Rapids, Michigan 49512, enclosing a check for \$50,000 to complete the purchase of 125,000 shares of stock, which letter was addressed to defendant at Owl Securities & Investments, Ltd., 8 NW Richards Road, Kansas City, Missouri 64116-4253.

Count Three: False Statement

On or about November 30, 1999, defendant caused his attorney to return to FBI Special Agent Robert K. Herndon at the offices of the FBI in Kansas City, Missouri, a cassette recorder and cassette tape which had been provided to defendant in regard to an ongoing investigation in which one of the subjects was Stephen David Kingsley. This was a matter within the jurisdiction of the FBI. At that time and in regard to that investigation, defendant knowingly and willfully made and caused to be made a false, fictitious, and fraudulent statement of material fact in that he advised that the cassette tape, which he caused his attorney to deliver to Special Agent Herndon, had no material conversations on it, that he had not recorded any material conversations with Stephen David Kingsley, and that his boys were playing with the tape and spilled something on it. In truth and in fact defendant knew the statement was false in that, at the request of the FBI, he had recorded a conversation between himself and Kingsley, who he knew

to be a target of the investigation, then had disclosed to Kingsley his meeting with the FBI and his recording of the conversation with Kingsley; Kingsley ordered defendant to retrieve the tape recorder, which defendant did; defendant erased the consensual recording, checked to insure the conversation was erased, and took the erased cassette to Kingsley; in defendant's presence Kingsley then put the tape recorder and cassette tape in the microwave oven and turned on the oven; after taking the recorder and tape out of the microwave Kingsley put the recorder and cassette tape in the sink in water; Kingsley returned the recorder and cassette tape to defendant, stating that should take care of it; defendant thereafter caused his attorney to give the recorder and cassette tape to Special Agent Herndon, making the false representations above stated.

Count Four: Filing False Income Tax Returns

During the years 1995 through 1998, when defendant filed his 1995, 1996, 1997, and 1998 U.S. Individual Income Tax Returns, he knew they were not true and correct as to every material matter, as he had omitted from the returns a substantial amount of gross income (a total of \$162,800) that he had received from OSI, among others, from his involvement in soliciting investor funds.

The returns for each of the four years were signed and filed in Missouri, at the Kansas City Service Center.

Year	Date Filed	Reported Total Income	Unreported Total Income
1995	May 14, 1996	\$45,599	\$15,000
1996	April 13, 1997	\$62,010	\$44,171
1997	April 15, 1998	\$56,833	\$80,129
1998	October 14, 1999	\$59,187	<u>\$23,500</u>
		Total unreported income	\$162,800

When defendant signed the returns he did so knowing that he had failed to report

all of his income. He signed under the penalties of perjury, declaring that he had examined the returns, including the accompanying schedules and statements, and to the best of his knowledge and belief, they were true, correct and complete.

5. The United States agrees that no additional charges will be filed in the Western District of Missouri arising from the investigation leading to the charges in this case.

6. Defendant acknowledges that he discussed supervised release with his attorney and that he understands the nature and the effects of supervised release. In particular, he understands that violation of a condition of supervised release may result in revocation of supervised release and imposition of an additional term of imprisonment of not more than three years, without credit for time previously served during post-release supervision.

7. The parties are aware of no additional fraudulent conduct, other than as described regarding the additional tax years, by defendant to be considered as “relevant conduct” for purposes of calculating loss under the offense level, in accordance with U.S.S.G. § 1B1.3(a)(2).

8. The parties stipulate and agree that the United States Sentencing Guidelines will apply in this case, as follows:

a. Count One, the Foreign Corrupt Practices offense, is governed by the provisions of U.S.S.G. § 2B4.1.

1. The base offense level is 8.

2. Because the amount of the bribes is approximately \$1,500,000, there is an increase of 11 offense levels.

3. The total offense level is 19.

b. Count Two, the fraud offense, is governed by the provisions of U.S.S.G. §

2F1.1.

1. The base offense level is 6.

2. Because the amount of the loss is approximately \$3,532,852, there is an increase of 13 offense levels.

3. The offense involved more than minimal planning and was a scheme to defraud more than one victim, resulting in an increase of two offense levels.

4. The offense involved violation of a prior administrative order (the cease and desist order), resulting in an increase of two offense levels.

5. The total offense level is 23.

c. Count Three, the false statement offense, is governed by the provisions of U.S.S.G. § 2F1.1.

1. The base offense level is 6.

2. The offense involved more than minimal planning and was a scheme to defraud more than one victim, resulting in an increase of two offense levels.

3. The total offense level is 8.

d. Count Four, the tax offenses, are governed by the provisions of U.S.S.G. §

2T1.1.

1. The base offense level is 13.

2. Because defendant failed to report income exceeding \$10,000 which he received from a criminal activity, there is an increase of two offense levels.

3. The offense involved sophisticated means, resulting in an increase of two offense levels.

4. The total offense level is 17.

e. Under the multiple counts rules, if Counts One and Two are grouped, there will be one unit for that group and ½ unit for the tax count; the false statement count is not counted. This results in an additional level added to the group with the highest base offense level (the fraud count), resulting in an offense level of 24.

f. The parties believe defendant has and will clearly accept responsibility for his offense, and has timely notified authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the court to allocate its resources efficiently, so that he will be entitled to a decrease of three offense levels pursuant to § 3E1.1.

g. The parties further believe that defendant is in Criminal History Category I.

h. At Criminal History Category I, the sentencing range for offense level 21 is 37-46 months. [The parties anticipate, however, that defendant will cooperate in the investigation and prosecution of others, and that a motion under § 5K1.1 will be filed.]

The parties make no agreement with respect to the applicability of any other section of the Sentencing Guidelines and are free to argue or otherwise advance any position not specifically addressed in this plea agreement.

9. The defendant agrees to cooperate fully and truthfully with the United States as follows:

a. Defendant agrees to provide truthful, complete, and accurate information and testimony in the trial of this matter or in any related hearing;

b. Defendant agrees to provide all information concerning his knowledge of, and participation in, the offenses charged in the Information, and any other crimes about which he has knowledge;

- c. Defendant agrees that he will not falsely implicate any person or entity and will not protect any person or entity through false or misleading information or omission;
- d. Defendant agrees to testify as a witness before any grand jury, hearing, or trial when requested to do so by the United States;
- e. Defendant agrees to hold himself reasonably available for any interviews the United States may require. Defendant waives any right to the presence of counsel at such meetings, debriefings, or pretrial preparation sessions, unless his attorney specifically requests to be present at each meeting;
- f. Defendant agrees to provide to the United States all documents or other items under his control which may pertain to any criminal violation;
- g. Defendant understands that his cooperation shall be provided to any local, state, and federal law enforcement agency as requested by counsel for the United States;
- h. Defendant agrees and understands that this Plea Agreement requires that his cooperation may continue even after the time he is sentenced. Failure to continue to cooperate after sentence is imposed constitutes a basis to void this agreement by the United States;
- i. Defendant agrees that if the United States determines that he has not provided full and truthful cooperation, or has committed any local, state, or federal crime between the date of this Plea Agreement and his sentencing, or has otherwise violated any other provision of this Plea Agreement, or has violated the terms and conditions of his release while on bond as required by the Court, the Plea Agreement may be voided by the United States and defendant shall be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to, perjury, obstruction of justice, and any substantive offenses arising from this investigation. Such prosecution may be based upon any information provided by defendant during the course of his cooperation, or upon leads derived therefrom, and this information may be used as evidence against him. In addition, defendant's previously entered plea of guilty will remain in effect and cannot be withdrawn. Further, any prosecution which is not barred by the applicable statute of limitations on the date of the signing of this Plea Agreement may be commenced against defendant in accordance with this Plea Agreement, notwithstanding the expiration of the statute of limitations between the time of signing this agreement and the commencement of the prosecution. It is the specific intent of this Plea Agreement to waive any and all defenses based upon the statute of limitations with respect to any prosecution which is not barred by the statute of limitations on the date this Plea Agreement is

signed by defendant;

10. “Substantial assistance” within the meaning of 18 U.S.C. § 3553(e) has not yet been provided by defendant. Upon the determination by the United States Attorney for the Western District of Missouri that defendant has provided “substantial assistance,” the United States shall request the Court to reduce the sentence defendant would otherwise receive under the applicable statutes and/or sentencing guidelines pursuant to the Sentencing Guidelines, Section 5K1.1. The United States reserves the right to make the sole determination as to whether and when defendant has provided such substantial assistance and further whether to request a reduction generally or a specific sentence or sentence reduction.

11. In exchange for defendant’s agreement to cooperate with the United States, the United States agrees not to use new information that defendant provides about his own criminal conduct except as specifically authorized by Section 1B1.8 of the United States Sentencing Guidelines. As such, this information may be revealed to the Court but may not be used against the defendant in determining defendant’s applicable guideline range or departing above his guideline range. Defendant understands and agrees, however, that under Section 1B1.8, there shall be no such restrictions on the use of the information: (1) previously known to the United States; (2) revealed to the United States by, or discoverable through, an independent source; (3) in a prosecution for perjury or giving a false statement; (4) in the event there is a breach of this agreement; or (5) in determining whether and to what extent a downward departure as a result of a government motion pursuant to U.S.S.G. § 5K1.1 is warranted.

12. The United States will not oppose a request for self-surrender and/or designation to a particular institution.

13. Defendant agrees to pay restitution as ordered by the court.
14. Defendant agrees to pay the special assessment of \$400.00 within 10 days of his plea.
15. The plea of guilty shall be entered as soon as practicable.
16. The parties understand and agree that this agreement is binding only on the parties and not on the Court or the United States Probation Office.
17. Defendant understands that if the Court accepts this plea agreement but imposes a sentence which he does not like, he will not be permitted to withdraw his plea of guilty.
18. There are no agreements between the Government and defendant regarding (a) imposition of a fine or the amount of that fine, (b) imposition of costs of a sentence of imprisonment or the amount of those costs, or (c) imposition of the costs of a term of supervised release or the amount of those costs.
19. Defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.
20. Defendant further understands that a breach by him of any condition of this plea agreement may render this agreement null and void at the option of the United States. He further understands that should that occur, the United States may pursue any additional charges arising from the criminal activity under investigation as well as any perjury, false statement, or obstruction of justice charges which may have resulted.

21. Other than the promises by the United States set forth in this plea agreement, defendant understands that the United States otherwise reserves the right to:

a. Oppose or take issue with any factual or legal position advanced by defendant at the sentencing hearing, including any issues related to the application of the U.S. Sentencing Guidelines in this case;

b. Comment on the evidence supporting the charges in the Information;

c. Oppose any arguments and requests for relief the defendant may advance on an appeal from the sentence imposed; and

d. Oppose any post-conviction relief, motion for reduction of sentence, or other relief.

22. Defendant has read this agreement, has discussed it with his counsel, and understands it. By his signature, he states that this agreement is true and accurate and not the result of any threats, coercion, or promises made by the Government or anyone acting for the Government other than those promises contained in this written plea agreement, nor has the United States promised defendant any additional consideration to induce him to sign this Plea Agreement. Defendant acknowledges that he is entering into this Plea Agreement and is pleading guilty freely and voluntarily. Defendant further acknowledges his understanding of the nature of the offense to which he is pleading guilty and the elements of the offense, including the penalties provided by law, and his complete satisfaction with the representation and advice received from his undersigned counsel. Defendant also understands that he has the right to plead not guilty or to persist in that plea if it has already been made, 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 those rights and there will be no trial. Defendant further understands that if he pleads guilty, the Court may ask him questions about the offense or offenses to which he pled guilty, and if he answers those questions under oath and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or false statement. Defendant also understands he has pled guilty to a felony offense and, as a result, may be deprived of certain rights, such as the

right to vote, hold public office, serve on a jury, and possess a firearm.

Marietta Parker
United States Attorney

Date: _____ /s/ _____
Linda Parker Marshall #24954
Assistant United States Attorney

Date: _____ /s/ _____
Philip Urofsky, Trial Attorney
Fraud Section
Criminal Division
United States Department of Justice

Date: _____ /s/ _____
Albert Franklin Reitz
Defendant

Date: _____ /s/ _____
David A. Kelly
Attorney for Defendant