UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 19-CR-60258-ALTMAN/HUNT

UNITED STATES OF AMERICA,

v.

JAN DOUGLAS ATLAS,

Defendant.
_____/

PLEA AGREEMENT

The United States of America and Jan Douglas Atlas ("Atlas" or "Defendant") (hereinafter "Defendant") enter into the following agreement:

1. The Defendant understands that he has the right to have the evidence and charges against him presented to a federal grand jury for determination of whether or not there is probable cause to believe he committed the offenses with which he is charged. Understanding this right, and after full and complete consultation with his counsel, the Defendant agrees to waive in open court his right to prosecution by indictment and agrees that the United States may proceed by way of an information to be filed pursuant to Rule 7 of the Federal Rules of Criminal Procedure.

2. The Defendant agrees to plead guilty to one count of securities fraud, in violation of Title 15, United States Code, Sections 77q(a) and 77x. In exchange for Defendant's agreement to plead guilty, and for fulfilling all of his other obligations set forth in this Plea Agreement ("Agreement"), and subject to the limitations and provisions set forth in the Agreement, the Office of the United States Attorney for the Southern District of Florida (hereinafter "Office"), agrees not to prosecute Defendant for any other offenses arising out of the conduct described in Paragraph 17

below. This Agreement includes only the conduct set forth in Paragraph 17 below, and excludes crimes of violence and any tax offense. This Agreement is also limited to this Office, and as such, does not and cannot bind other federal, state, regulatory, or local prosecuting authorities. This Agreement is further conditioned on Defendant's fulfilling all of the terms of this Agreement.

3. The Defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The Defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the court's probation office, which investigation will commence after the guilty plea has been entered. The Defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The Defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the Defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 2, and that the Defendant may not withdraw the plea solely as a result of the sentence imposed.

4. The Defendant also understands and acknowledges that the Court may impose a statutory maximum term of imprisonment of five years for the count to be charged in the Information, followed by a term of supervised release of up to three years. In addition to a term

of imprisonment and supervised release, the Court may impose a fine of up to $10,000, and must order restitution. The Defendant further understands and acknowledges that, in addition to any sentence imposed, a special assessment in the amount of $100 will also be imposed on the Defendant. The Defendant agrees that any special assessment imposed shall be paid at the time of sentencing unless he is deemed financially unable to do so by the Court.

5. The Defendant agrees that he will make restitution in an amount to be determined by the Court. The Defendant understands and agrees that the Government and any victim of the crime charged in Count 1 of the information may provide evidence to the Court for the purpose of a determination as to restitution. The Defendant understands and agrees that the term "victim" means a person or entity directly and proximately harmed as a result of the commission of an offense of conviction for which restitution may be ordered including, in the case of a scheme, pattern, or conspiracy, any person directly harmed by the Defendant's criminal conduct in the course of the scheme, pattern, or conspiracy, as set forth in Title 18, United States Code, Section 3663A.

6. The Defendant agrees in an individual and any other capacity, to forfeit to the United States voluntarily, interest to any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the offense to which he is pleading guilty pursuant to Title 18 United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), specifically including payments he received from D.L., related to 1 Global Capital LLC ("1 Global"), and a reasonable estimate of legal fees he personally received attributable to work performed for 1 Global. The Defendant agrees that he shall assist the United States in all proceedings, whether administrative or judicial, involving forfeiture, and understands that such assistance may include, but is not limited to, the transfer of forfeitable property to this Office or

an assigned case agent, as directed, and the execution of all necessary and appropriate documentation with respect to said assets, including consents to forfeiture, quit claim deeds and any and all other documents necessary to deliver good and marketable title to said property.

7. The Defendant agrees that within 30-days of executing this Plea Agreement, he will resign his membership in the Florida Bar and any other state bar of which he is a member. Defendant will also provide a copy of this Plea Agreement to the Florida Bar. Defendant further agrees that absent prior approval of the Court, he will not practice law, directly or indirectly, during the pendency of this case, including any period of probation or supervised release that may be imposed.

8. The Office reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the Defendant and the Defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, the Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

9. The Office will recommend at sentencing that the court reduce by two levels the sentencing guideline level applicable to the Defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon the Defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing the Defendant's offense level is determined to be 16 or greater, the Government will make a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the Defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the

Government to avoid preparing for trial and permitting the Government and the court to allocate their resources efficiently. The United States, however, will not be required to make these recommendations if the Defendant: (a) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (b) is found to have misrepresented facts to the Government prior to entering into this Agreement; or (c) commits any misconduct after entering into this Agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any Governmental entity or official.

10. The Office and the Defendant agree that, although not binding on the probation office or the Court, they will jointly recommend that the Court make the following findings and conclusions as to the sentence to be imposed on the count to which the Defendant shall plead:

a. Applicable Guideline Offense and Base Offense Level:

Pursuant to Section 2B1.1 of the Sentencing Guidelines, the offense guideline applicable to Count One, the base offense level is 6.

b. Specific Offense Characteristics:

The parties agree and stipulate that the following offense characteristics apply: (1) The loss attributable to the offense is more than $550,000 but not more than $1,500,000, pursuant to Section 2B1.1(b)(1)(H), resulting in a 14 level increase; (2) the offense involved 10 or more victims pursuant to Section 2B1.1(b)(2)(A)(i), resulting in a 2-level increase; (3) the parties reserve their respective positions to argue whether sophisticated means applies under Section 2B1.1(b)(10)(C); and (4) the offense involved defendant abusing a position of trust or use of a special skill, specifically

his knowledge and license as a practicing attorney and member of the Florida Bar, pursuant to Section 3B1.3, resulting in a 2-level increase.

c. Variance:

Based on the age and health condition of the Defendant, pursuant to Sections 5H1.1 and 5H1.4, the Office agrees that a two-level downward variance is warranted.

The Office and the Defendant both agree to jointly recommend application of the above guidelines, except each party reserves its position as to sophisticated means. This Agreement does not prohibit Defendant from arguing for a downward departure pursuant to Section 2B1.1, Application Note 21, or additional variance, as described in Section 1B1.1, Background, but Defendant may make such a variance argument as to the guideline calculation only after recommending application of the above-referenced guidelines. The Government has informed the Defendant that it will oppose any such argument, but reserves its position. After recommending that the Court apply the guidelines in a manner consistent with this paragraph, either party may make additional sentencing arguments, including as to the ultimate sentence requested, under the factors set forth in 18 U.S.C. § 3553(a).

11. The Defendant is aware that the sentence has not yet been determined by the Court. The Defendant also is aware that any estimate of the probable sentencing range or sentence that the Defendant may receive, whether that estimate comes from the Defendant's attorney, 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. The Defendant understands further that any recommendation that the Government makes to the Court as to sentencing, whether pursuant to this Agreement or otherwise, is not binding on the Court and the Court may disregard the

recommendation in its entirety. The Defendant understands and acknowledges, as previously acknowledged in paragraph 3 above, that the Defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the Defendant, the Government, or a recommendation made jointly by both the Defendant and the Government.

12. The Defendant agrees that he shall cooperate fully with this Office by, among other things: (a) providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, or at any trial or other court proceeding; (b) appearing at such grand jury proceedings, hearings, trials, and other judicial proceedings, and at meetings, as may be required by this Office; and (c) cooperating with any regulatory agency as requested by this Office. In addition, the defendant agrees that he will not protect any person or entity through false information or omission, that he will not falsely implicate any person or entity, and that he will not commit any further crimes.

13. The Office reserves the right to evaluate the nature and extent of the Defendant's cooperation and to make the Defendant's cooperation, or lack thereof, known to the Court at the time of sentencing. If in the sole and unreviewable judgment of this Office the Defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the court's downward departure from the advisory sentence calculated under the Sentencing Guidelines, this Office may at or before sentencing make a motion consistent with the intent of Section 5K1.1 of the Sentencing Guidelines prior to sentencing, or Rule 35 of the Federal Rules of Criminal Procedure subsequent to sentencing, reflecting that the Defendant has provided substantial assistance and recommending that the Defendant's sentence be reduced from the advisory sentence suggested by the Sentencing Guidelines. The Defendant understands and

agrees, however, that nothing in this Agreement requires this Office to file any such motions, and that this Office's assessment of the quality and significance of the defendant's cooperation shall be binding as it relates to the appropriateness of this Office's filing or non-filing of a motion to reduce sentence.

14. The Defendant understands and acknowledges that the Court is under no obligation to grant the motion(s) referred to in this Agreement should the Government exercise its discretion to file any such motion. The Defendant also understands and acknowledges that the Court is under no obligation to reduce the Defendant's sentence because of the Defendant's cooperation.

15. The Defendant is aware that Title 18, United States Code, Section 3742 and Title 28, United States Code, Section 1291 afford the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this Plea Agreement, the Defendant hereby waives all rights conferred by Sections 3742 and 1291 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure and/or an upward variance from the advisory guideline range that the Court establishes at sentencing. The Defendant further expressly waives his right to appeal based on arguments that (a) the statutes to which the Defendant is pleading guilty are unconstitutional and (b) the Defendant's admitted conduct does not fall within the scope of the statutes. The Defendant further understands that nothing in this Agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b) and Title 28, United States Code, Section 1291. However, if the United States appeals the Defendant's sentence pursuant to Sections 3742(b) and 1291, the Defendant shall be released from the above waiver of appellate rights. By signing this Agreement, the Defendant

acknowledges that the Defendant has discussed the appeal waiver set forth in this Agreement with the Defendant's attorney.

16. In the event the Defendant withdraws from this Agreement prior to pleading guilty or breaches the Agreement before or after he pleads guilty to the charges identified in paragraph two (2) above or otherwise fails to fully comply with any of the terms of this Plea Agreement, this Office will be released from its obligations under this Agreement, and the Defendant agrees and understands that: (a) the Defendant thereby waives any protection afforded by any proffer letter agreements between the parties, Section 1B1.8 of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence, and that any statements made by the Defendant as part of plea discussions, any debriefings or interviews, or in this Agreement, whether made prior to or after the execution of this Agreement, will be admissible against the Defendant without any limitation in any civil or criminal proceeding brought by the Government; and (b) the Defendant stipulates to the admissibility and authenticity, in any case brought by the United States in any way related to the facts referred to in this Agreement, of any documents provided by the Defendant or the Defendant's representatives to any state or federal agency and/or this Office.

17. The Defendant hereby (i) confirms that he has reviewed the following facts with legal counsel, (ii) adopts the following factual summary as his own statement, (iii) agrees that the following facts are true and correct, and (iv) stipulates that the following facts provide a sufficient factual basis for the plea of guilty in this case, in accordance with Rule 11(b)(3) of the Federal Rules of Criminal Procedure:

> From in or around 2014, through in or around July 2018, Defendant Jan Douglas Atlas ("Defendant" or "Atlas") acted as outside counsel for 1 Global Capital ("1 Global"). Atlas was a licensed attorney in the State of Florida, and was a partner at Law Firm #1. In connection with his representation of 1 Global, Atlas

primarily took direction from and provided legal advice to Individual #1, who was the Chairman of 1 Global, as well as Individual #2, who was the Chief Operating Officer of 1 Global and a trustee of the trust that effectively owned the business, Individual #3, who was an attorney who at times worked at Law Firm #1 and also at 1 Global, and Alan G. Heide ("Heide"), who was at times the Chief Financial Officer of 1 Global. Atlas also agreed at the request of Individual #1 to serve as a trustee for a trust that Individual #1 caused to be created, to control Bright Smile, an entity that received funds from 1 Global and that was controlled by Individual #1.

1 Global purportedly operated as a lending business to merchants, providing short-term loans referred to as merchant cash advance ("MCA") loans. During the operation of 1 Global, Defendant came to learn that 1 Global obtained funds from potential investors (sometimes referred to as "lenders" or "syndicate partners"). Substantial questions arose during the operation of the business as to whether 1 Global was offering or selling a security in violation of federal or state securities laws. These questions were raised by investors, investment advisors, and regulators. Defendant knew that if 1 Global's investment offering were determined to be a security, this would undermine the ability of 1 Global to raise funds from retail investors and to continue to operate without substantial additional expenses and reporting requirements. This also would undermine the ability of Individual #1 and others, including Defendant, from being able to profit from 1 Global's operations in the form of fees, payments, or other financial transfers. Over time, Individual #1 made clear to Defendant that he (Individual #1) wanted legal cover in order to continue to operate without adhering to the registration requirements of federal and state securities laws. At various times, Individual #1 requested the assistance of Defendant to assist with Individual #1's efforts to claim that the 1 Global offering was not a security, and thus not subject to federal or state registration and other reporting requirements. Over time, Defendant came to understand that Individual #1 was not interested in accurate legal advice based on real facts, but instead wanted false legal cover that would advance Individual #1's desired outcome and allow Individual #1 and others to continue to profit from 1 Global.

At the request of Individual #1, in or around late 2015 and early 2016, Defendant arranged for Attorney #1, a former law partner of Defendant with expertise in securities law, to assess the 1 Global investment offering. Individual #1 caused 1 Global to pay a $10,000 retainer to Attorney #1. Attorney #1 assessed the 1 Global investment offering and determined that it was a security, and the offer and sale without registration was in violation of federal and state securities laws. This advice was discussed among Defendant, Individual #1, Individual #2, Individual #3, and Heide. Upon receiving this advice, Individual #1 became angry and demanded his money back from Attorney #1, indicating that he intended to pay to get the answer he wanted from Attorney #1, not the answer he got. Attorney #1 thereafter returned the unused portion of the retainer to Individual #1.

At the request of Individual #1, Defendant thereafter authored an opinion letter dated May 17, 2016, that stated in substance that the 1 Global offering was not a security and not subject to the federal securities laws or registration requirements. Defendant knew at the time of this letter that various aspects of how the 1 Global investment actually worked, were omitted or described inaccurately in the letter, and this was done intentionally in order to achieve the opinion that Individual #1 desired. Defendant knew, for example, that the investment was not, in reality, a 9-month investment but was instead longer, that the "automatic renewal" aspect of the investment, and the fact that retail, non-sophisticated investors (such as IRA account holders) were investors—all were strong indicators that the investment opportunity was a security. Defendant intentionally described the investment in such a way in the May 17th opinion letter in order to achieve the desired result—an opinion that would give legal cover for 1 Global and its employees and agents to attempt to avoid application of the federal and state securities laws.

In or around June and July 2016, Defendant became aware of two opinion letters authored by attorneys at Law Firm #2 that were provided to 1 Global, dated June 20, 2016, and July 6, 2016, respectively. The first opinion stated in substance that the 1 Global offering was a security, and stated in footnote 1 that the interest rates charged by 1 Global likely violated Florida's usury laws, and that the failure of 1 Global to pay Florida documentary stamp taxes could prevent 1 Global from successfully bringing collection actions to enforce the MCAs in Florida courts. The second opinion, in substance, provided guidance on how 1 Global could obtain compliance with the federal securities laws, including by potentially meeting the requirements of Rule 506(b) of the Securities Act of 1933. This would mean, among other things, that due to "integration" of the prior illegal offering of the 1 Global security to investors, 1 Global would likely have to engage in a six-month cessation of capital raising activities and would thereafter be able to offer the investment only to "accredited" investors. 1 Global would have to effectively cease operations for at least six-months if it were to comply with this advice. From conversations with Individual #1, Defendant understood that Individual #1 had no intention of following this legal advice.

Defendant participated in conversations with Individual #1 and Individual #3 in or around July 2016 and August 2016, related to the advice by Law Firm #2. Individual #1 was very angry that this advice had been provided, and was also angry with Heide for having sought this advice. Defendant understood that Individual #1, Individual #2, and Individual #3 did not want the advice that had been received from Law Firm #2 to be disseminated to investors or provided to others. In fact, Individual #1 made clear to Defendant that he (Individual #1) wanted legal cover for the ongoing operations of 1 Global. Defendant understood this to mean that Individual #1 wanted legal cover regardless of the truth, and that Individual #1 was in reality asking Defendant to lie in order to provide such legal cover.

Defendant thereafter authored a second legal opinion letter dated August 25, 2016, that essentially repeated the false and misleading statements made in the May 17th opinion letter, including that the investment opportunity was a nine-month investment. This letter omitted reference to the automatic renewal provision and other aspects of the investment that would undermine the legal opinion. The letter also falsely stated that the investment was being offered only to sophisticated investors. At the time Defendant authored the August 25th opinion, he knew that the 1 Global investment offering fell squarely within the definition of a security under the federal securities laws and was required to be registered, that the concept of "integration" meant that the earlier terms of the offering (as a 12-month note or even as a 9-month note) meant that the continued offering as a 9-month note would not preclude the application of the securities laws, and that there were various aspects of the investment that were inaccurately described or omitted in order to give 1 Global, and its employees and agents, false legal cover to continue to conduct business unabated.

Defendant became aware that his August 25, 2016 letter would be used, and was used, by 1 Global employees and agents, including Individual #1, Individual #2, and Individual #3, and their employees and agents, to continue to raise money illegally. Defendant also became aware that the letter would be used in furtherance of the illegal offering of a security and would result in communications transmitted in interstate commerce and via the mails, including by the transmission of payments and communications to and from investors located in various states, with 1 Global employees and agents located in Florida.

At or around the time that Defendant executed the May 17th and August 25th opinion letters, and thereafter, he received payments from Individual #3, that Defendant understood to constitute a percentage of commissions received by Individual #3, of money raised by 1 Global from new investors. Defendant was aware that Individual #3 and others affiliated with 1 Global, raised money from investors using the false and fraudulent opinion letters he authored, or in reference to them to address concerns from such investors. These funds paid to Defendant by Individual #3 totaled approximately $627,000, and were paid to Defendant's personal checking account. These funds were not disclosed to Law Firm #1, and Defendant knew that he was required to disclose and share all fees paid by clients of Law Firm #1, with Law Firm #1. These payments from Individual #3 were in addition to the legal fees that Defendant and Law Firm #1 charged 1 Global, and billed using Law Firm #1's regular billing process.[1]

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[1] I, Jan Douglas Atlas, after having completed plea negotiations and reached a plea agreement with the United States, hereby affirm that I understand the foregoing and voluntarily and knowingly adopt the Factual Basis set forth in paragraph 17 as my own statement. This statement is intended to be a post-plea discussion statement and is not protected by Criminal Procedure Rule 11(f) or Federal Rule of Evidence 410. No promises or inducements have been made to me other than those contained in this Plea Agreement. I am satisfied with the representation of my attorney in this matter.
Defendant _____ and Defense Counsel _____

18. This Office agrees that it will not seek additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level beyond those, if any, specifically referred to in this Agreement, except that this Office shall have the right in its discretion to seek additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level beyond those, if any, specifically referred to in this Agreement where any such additional upward specific offense characteristics, enhancements, or upward departures to or from the Defendant's offense level would be based on conduct occurring after the Defendant enters into this Agreement. The Defendant and the Government agree that they will jointly recommend that the Court calculate the guideline level in accordance with the calculations set forth in this Plea Agreement. The parties agree that the Defendant is not precluded from making additional sentencing arguments or factual presentations pursuant to 18 U.S.C. § 3553(a), and the Government may oppose any such factual presentation or argument.

19. This Plea Agreement between the parties is the entire agreement and understanding between the United States of America and the Defendant. There are no other agreements, promises, representations, or understandings.

ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

Date: 10/23/2019 By: _____
JERROB DUFFY
ASSISTANT U.S. ATTORNEY

Date: 10/23/2019 By: _____
LISA H. MILLER
ASSISTANT U.S. ATTORNEY

FOR THE DEFENDANT:

Date: 10/23/19 By: _____
DAVID O. MARKUS, ESQ.
ATTORNEY FOR DEFENDANT

Date: 10/23/2019 By: _____
MARGOT MOSS, ESQ.
ATTORNEY FOR DEFENDANT

Date: 10/23/2019 By: _____
JAN DOUGLAS ATLAS
DEFENDANT