UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No.: 09-243 (PAM)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	PLEA AGREEMENT AND
	)	SENTENCING STIPULATIONS
HAROLD ALAN KATZ,	)	
	)	
Defendant.	)	

The United States of America, by and through its attorneys, B. Todd Jones, United States Attorney for the District of Minnesota, and Assistant United States Attorneys John Docherty and Timothy C. Rank, and Harold Alan Katz (hereinafter referred to as the "defendant") agree to resolve this case on the terms and conditions that follow.

1. **Charges**. The defendant agrees to plead guilty to Count 1 of the Information, which charges the defendant with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 371.

2. **Factual Basis**.

The Scheme and Artifice to Defraud

The defendant, between on or about February 26, 2008 and on or about September 24, 2008, knowingly conspired with Gregory Bell, and others known and unknown, to knowingly and intentionally create and execute a scheme and artifice to defraud, and to obtain money

and other things of value, by means of materially false and misleading statements and representations.

The defendant is a Chartered Accountant and a Certified Public Accountant licensed by the State of Illinois. On November 19, 2007, the defendant was hired as the Vice President of Finance and Accounting for Lancelot Investment Management, LLC ("Lancelot Management"), a company owned and run by Gregory Bell. The defendant was paid an annual salary of approximately $150,000, and in addition, received a one-time bonus of $10,000. The defendant's employment at Lancelot ended approximately fifteen months after it began.

Lancelot Management managed three hedge funds that were organized as limited partnerships. These hedge funds were Lancelot Investors Fund, LP ("Lancelot I"), Lancelot Investors Fund II, LP ("Lancelot II") and Lancelot Investors Fund, Ltd. ("Lancelot Limited")(collectively, the "Lancelot Funds"). Gregory Bell made all significant decisions for Lancelot, including, but not limited to, all investment decisions, all investment allocation decisions, and all significant operational and personnel decisions.

Prior to being hired by Lancelot Management, the defendant worked for two CPA firms which had performed the yearly audits of the financial statements of the Lancelot Funds for 2003 through

2007. The defendant was the Senior Manager/Director of these audits.

The Lancelot Funds

Lancelot I, Lancelot II, and Lancelot Limited were invested almost exclusively in short-term, trade finance, promissory notes issued by Petters Company, Incorporated (hereinafter referred to as "PCI"). Bell, and others acting at his direction, both verbally and in written materials provided to investors and potential investors, made material misrepresentations and concealed material information about the Lancelot Funds' investments with PCI from investors and potential investors.

Extension of PCI Promissory Notes

The defendant became aware in late 2007 that PCI was late in paying some of its notes when they came due. The defendant was aware that this situation persisted into early 2008.

The delinquent payments from PCI were not reported to Lancelot investors by Bell. Instead, on December 18, 2007, Bell executed an agreement with PCI that extended the repayment term of all the PCI notes held by Lancelot from 180 to 270 days. Defendant learned about this extension in early 2008. The effects of this extension were that those notes that had been delinquent on a 180-day maturity schedule were no longer delinquent, and that the day on which any other note would have to be acknowledged as delinquent

was pushed back by 90 days. Bell only revealed this note extension if questioned specifically about it by an investor, but did not disclose to investors that the extension was prompted by delinquent payment by PCI. Bell's failure to disclose information regarding the extension of the payment terms of the PCI notes was material.

Round Trips

By February 2008, even with the 90-day extension of time Bell gave to PCI to pay the notes, PCI failed to make payments and the PCI notes again became delinquent.

Between February 26, 2008 and September 24, 2008, the defendant conspired with Bell and individuals at PCI to make approximately 86 fraudulent banking transactions that gave investors and potential investors the false impression that PCI was paying its promissory notes, and was doing so in a timely manner that did not cause any note to become delinquent. Defendant participated in these "round-trip" transactions at Bell's direction, knowing that the information about the transactions was not disclosed to Lancelot investors, thereby concealing PCI's delinquent payments from Lancelot investors.

In these transactions, money was wired from a Lancelot-controlled account at a Chicago bank to a PCI account at a Milwaukee bank. Shortly thereafter, the money was wired back to the Lancelot-controlled account. The transactions were structured

to make it look like PCI was paying off an outstanding PCI promissory note or a number of invoices contained within a particular PCI promissory note, and Lancelot investors were not advised that Lancelot was in fact funding those payments.

In early September, the defendant was asked by an investor for a note-by-note accounting of the pay off status of a number of PCI promissory notes. Defendant created a spreadsheet he knew was going to be provided to the investor which purported to show that a number of the notes about which the investor was inquiring had been paid in full; one had been partially paid; and the balance were notes that were not yet due. All of the notes characterized as either fully or partially paid had been paid through round-trip transactions, but this information was not disclosed to the investor.

The misrepresentations to investors that PCI was paying its notes when due, when in fact PCI was only paying notes when Lancelot self-funded those payments, were made during the time the scheme and artifice to defraud was in operation. These misrepresentations were material.

Amount

After the "round trip" transactions commenced, on or about February 26, 2008, until on or about September 24, 2008, Lancelot raised approximately $243 million in new investor money.

3. **Waiver of Indictment**. The defendant agrees to waive indictment by a grand jury on these charges and to consent to the filing of a criminal information. The defendant further agrees to execute a written waiver of his right to be indicted by a grand jury on these offenses.

4. **Waiver of Pretrial Motions**. The defendant understands and agrees that he has certain rights to file pre-trial motions in this case. As part of this plea agreement, and based upon the concessions of the United States within this plea agreement, the defendant knowingly, willingly, and voluntarily gives up the right to file pre-trial motions in this case.

5. **Statutory Penalties**.

The parties agree that Count 1 of the Information carries statutory penalties of:

a. a term of imprisonment of up to 5 years;

b. a criminal fine of up to the greater of $250,000.00 or twice the amount of gain or loss;

c. a term of supervised release of up to three years;

d. a special assessment of $100.00, which is payable to the Clerk of Court prior to sentencing; and

e. the costs of prosecution (as defined in 28 U.S.C. §§ 1918(b) and 1920).

6. **Revocation of Supervised Release**. The defendant understands that, if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment up to the length of the original supervised release term, subject to the statutory maximums set forth in 18 U.S.C. § 3583.

7. **Guideline Calculations**. The parties acknowledge that the defendant will be sentenced in accordance with 18 U.S.C. § 3551, et seq. The parties also acknowledge that the defendant will be sentenced in accordance with federal sentencing law which includes consideration of the Sentencing Guidelines promulgated pursuant to the Sentencing Reform Act of 1984. The parties recognize that although the Court must give considerable weight to the guidelines, the guidelines are no longer binding but simply advisory. The parties stipulate to the following guideline calculations:

a. Base Offense Level. The parties agree that the base offense level for these offenses is 6. (U.S.S.G. § 2B1.1).

b. Specific Offense Characteristics. The government contends that the offense level should be increased by 28 levels, because the loss is in excess of $200 million but less than $400 million. (U.S.S.G. § 2B1.1(b)(1)(O)). The defendant contends that the loss amount is less than that asserted by the government because the loss amount is overstated in light of the defendant's role in the offense and because the loss amount is less than that alleged based on the value of the assets involved in the transactions within the defendant's role in the offense. The parties agree that the offense level

should be increased by 2 levels, because of the number of victims involved. (U.S.S.G. § 2B1.1(b)(2)).

c. Chapter Three Adjustments. The parties agree that the offense level should be reduced by two (2) levels because he played a minor role in the offense. U.S.S.G. § 3B1.2(b).

d. Acceptance of Responsibility. The government agrees to recommend that the defendant receive a 3-level reduction for acceptance of responsibility and to make any appropriate motions with the Court. However, the defendant understands and agrees that this recommendation is conditioned upon the following: (i) the defendant testifies truthfully during the change of plea hearing, (ii) the defendant cooperates with the Probation Office in the pre-sentence investigation, (iii) the defendant commits no further acts inconsistent with acceptance of responsibility, and (iv) the defendant complies with this agreement, fully identifies all assets and makes good faith efforts to make restitution. (U.S.S.G. §3E1.1). The parties agree that other than as provided for herein no other Chapter 3 adjustments apply.

e. Criminal History Category. Based on information available at this time, the parties believe that the defendant's criminal history category is I. This does not constitute a stipulation, but a belief based on an assessment of the information currently known. Defendant's actual criminal history and related status will be determined by the Court based on the information presented in the Presentence Report and by the parties at the time of sentencing.

f. Guideline Range. The guideline is 60 months due to the statutory maximum sentence. (U.S.S.G. § 5G1.1(a)).

g. Fine Range. If the adjusted offense level is 31, the fine range is $15,000.00 to $150,000.00. (U.S.S.G. § 5E1.2(c)(3)). Defendant contends that he lacks the financial resources to pay a fine.

h. Supervised Release. The Sentencing Guidelines require a term of supervised release of between two and three years. (U.S.S.G. § 5D1.2).

i. Departures and Sentencing Recommendations. The parties reserve the right to make motions for departures or variances from the applicable guideline.

8. **Discretion of the Court**. The foregoing stipulations are binding on the parties, but do not bind the Court. The parties understand that the Sentencing Guidelines are advisory and their application is a matter that falls solely within the Court's discretion. The Court may make its own determination regarding the applicable guideline factors and the applicable criminal history category. The Court may also depart from the applicable guidelines. If the Court determines that the applicable guideline calculations or the defendant's criminal history category is different from that stated above, neither party may withdraw from this agreement, and the defendant will be sentenced pursuant to the Court’s determinations.

9. **Special Assessments**. The Guidelines require payment of a special assessment in the amount of $100.00 for each felony count of which the defendant is convicted. U.S.S.G. § 5E1.3. The defendant agrees to pay the special assessment of $100.00 before sentencing.

10. **Restitution**. The defendant understands and agrees that the Mandatory Victim Restitution Act, 18 U.S.C. §3663A, applies and

that the Court is required to order the defendant to make restitution to the victims of his crime. The parties agree to request that the Court enter the restitution order with respect to the defendant after the Court has entered orders with respect to any codefendants and/or coconspirators, such that his restitution may be considered in light of 18 U.S.C. §3664(h).

The defendant will fully and completely disclose to the United States Attorney's Office the existence and location of any assets in which he has any right, title, or interest. The defendant agrees to assist the United States in identifying, locating, returning, and transferring assets for use in payment of restitution and fines ordered by the Court. The financial statement to be provided to the United States Attorney's Office will be accurate, truthful and complete.

If requested by the United States, the defendant agrees to submit to a financial deposition and to a polygraph examination to determine whether he has truthfully disclosed the existence of all of his assets.

11. **Forfeiture**. The government reserves its right to proceed against any of the defendant's assets if those assets represent real or personal property involved in violations of the laws of the United States or are proceeds traceable to such property. The defendant agrees that all funds he received from Lancelot are

proceeds of the fraud, and are, therefore, subject to forfeiture. The defendant asks that the government allow such proceeds to be used for restitution.

12. **Cooperation**. The defendant has agreed to cooperate with law enforcement authorities in the investigation and prosecution of other suspects. The defendant has provided information to law enforcement regarding the fraud and other participants, including the Gregory Bell and individuals at PCI. This cooperation includes, but is not limited to, being interviewed by law enforcement agents, submitting to a polygraph examination if the government deems it appropriate, and testifying truthfully at any trial or other proceeding involving other suspects. If the defendant cooperates fully and truthfully as required by this agreement and thereby renders substantial assistance to the government, the government will, at the time of sentencing, move for a downward departure under Guideline Section 5K1.1. The government also agrees to make the full extent of the defendant's cooperation known to the Court. The defendant understands that the government, not the Court, will decide whether the defendant has rendered substantial assistance. The government will exercise its discretion in good faith. The defendant also understands that there is no guarantee the Court will grant any such motion for a downward departure, and the defendant understands that the amount

of any downward departure is within the Court's discretion. In the event the government does not make or the Court does not grant such a motion, the defendant may not withdraw this plea based upon that ground.

13. **Complete Agreement**. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Date:

B. TODD JONES
United States Attorney

BY:_____
JOHN DOCHERTY
TIMOTHY C. RANK
Assistant U.S. Attorneys

Date:

_____
HAROLD ALAN KATZ
Defendant

Date:

_____
THOMAS B. HEFFELFINGER, ESQ.
Counsel for Defendant