

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)
) No. _____
)
)
)
)
CLARE THOMAS ANDERSON)

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, GARY S. SHAPIRO, and defendant CLARE THOMAS ANDERSON, and his attorney, KEVIN E. MILNER, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

Charge in This Case

2. The information in this case charges defendant with wire fraud, in violation of Title 18, United States Code, Section 1343.

3. Defendant has read the charge against him contained in the information, and that charge has been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crime with which he has been charged.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the information, which charges defendant with wire fraud, in violation of Title 18, United States Code, Section 1343.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in the information. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

Defendant owned and operated several businesses, including Certifibre, LLC, Anderson International Global, LLC, which had an assumed name of Worldwide Paper Company, Inc., American Surplus Supply, Southernmost Exports, LLC, Southernmost Holdings, LTD; and Sea Consulting, LLC. Defendant operated these businesses from Cary, Illinois, and other locations, including Florida. Defendant represented and advertised that these companies were suppliers of wood pulp and other raw materials.

Defendant admits that from at least April of 2009, through at least January of 2013, at Cary, in the Northern District of Illinois, Western Division, and elsewhere, he knowingly devised and engaged in a scheme to defraud certain manufacturers, raw materials brokers and suppliers, shipping and trucking companies, and freight forwarders, and to obtain money, funds, credit, and property belonging to these businesses by means of materially false and fraudulent pretenses, representations, and promises.

As part of his scheme, defendant entered into contracts to sell wood pulp and other raw materials to certain manufacturers and raw materials brokers and suppliers. Usually, these businesses were located in foreign countries. The description, quantity, and quality of the materials defendant agreed to sell to the manufacturers and raw materials brokers and

suppliers were reflected on Pro Forma Invoices that defendant created on the stationery of his businesses.

Defendant also entered into agreements with shipping and trucking companies and freight forwarders for the transporting and overseas shipment of the materials he had agreed to sell to the manufacturers and raw materials brokers and suppliers. Defendant usually promised to pay the freight charges for the overseas shipments sent by his companies.

Defendant admits that, instead of loading the shipping containers with the agreed upon wood pulp or other raw materials, he knowingly caused the shipping containers to be loaded with worthless scrap materials, or materials with a value substantially less than the wood pulp or other raw materials he had agreed to sell. On other occasions, instead of causing the shipping containers to be loaded with the agreed upon weight and volume of wood pulp or other raw materials, defendant caused the shipping containers to be loaded with wood pulp and raw materials with a weight and volume substantially less than the amount he had agreed to sell.

Before the manufacturers and raw materials brokers and suppliers could discover that the materials shipped were either worthless scrap materials or significantly short of the quantities contracted for, defendant caused these businesses to send payments, via foreign and interstate wire transfers, to bank accounts he controlled. Often, the manufacturers and raw materials brokers and suppliers obtained Letters of Credit from their banks in order to pay in advance for the materials they had ordered from defendant's companies. Defendant caused payments to be disbursed under these Letters of Credit by causing false and

fraudulent documents to be presented to the banks in satisfaction of the conditions specified in the Letters of Credit. The false and fraudulent documents defendant created, and caused to be created, included Bills of Lading, Certificates of Origin, and packing lists. These documents falsely represented that the agreed upon quantity and quality of materials had been shipped.

On at least one occasion, after securing an up-front payment from the customer, defendant did not ship any of materials whatsoever to the customer.

When the manufacturers and raw materials brokers and suppliers discovered the problems with the shipments, and contacted him to complain, defendant falsely claimed that the problems were caused by clerical or other types of errors. On several occasions, defendant falsely told the manufacturers and raw materials brokers and suppliers that the shipments they had received were intended for other customers in different countries. On other occasions, defendant falsely claimed that the short quantities of materials shipped were caused by errors on orders sent to warehouses and other documents.

In order to maximize the profits from his scheme to defraud, defendant often failed to pay for the materials he obtained and for the freight charges for the shipment of the materials. Defendant also failed to pay for the additional costs caused by his fraud, such as the costs associated with removing and destroying the worthless materials he had shipped.

Defendant always promised that he would rectify the problems with the shipments. Contrary to his representations, however, defendant did not correct the problems with the shipments. Instead, defendant spent the customers' funds on his own personal expenses.

On a few occasions, in order to avoid detection of his fraudulent scheme, defendant refunded some money to his victims. Defendant paid these refunds only after the victims contacted, or threatened to contact, federal law enforcement officials. Defendant obtained the funds he used to pay these refunds by defrauding additional customers.

Defendant admits that the amount of payments he received from the manufacturers and raw materials brokers and suppliers as a result of his fraud scheme exceeded \$1,000,000. Defendant further admits that he defrauded more than ten companies through his fraud scheme.

Defendant further admits that on January 13, 2010, at Crystal Lake, in the Northern District of Illinois, Western Division, for the purpose of executing his scheme to defraud, he knowingly caused to be transmitted by means of a wire communication in interstate and foreign commerce, from the State Bank of India, through New York, to the account of Certifibre, LLC, account number xxxxxx0129, at Woodforest National Bank, in Crystal Lake, Illinois, certain signals, namely a funds transfer in the amount of \$263,511.75, which funds were disbursed pursuant to a Letter of Credit issued to "Business A."

Maximum Statutory Penalties

7. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 20 years' imprisonment. The Court may also impose a term of probation of one to five years. This offense also carries a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is

greater. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree and disagree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2012 Guidelines Manual.

b. **Offense Level Calculations.**

i. The parties agree that the base offense level for the charge in the indictment is 7, pursuant to Guideline § 2B1.1(a)(1).

ii. It is the position of the United States that the offense level must be increased by 18 levels, pursuant to Guideline § 2B1.1(b)(1)(J), because the loss caused by defendant's offense exceeded \$2,500,000. It is defendant's position that the offense level must be increased by 16 levels, pursuant to Guideline § 2B1.1(b)(1)(I), because the loss caused by his offense exceeded \$1,000,000, but was less than \$2,500,000.

iii. The parties agree that the offense level must be increased by an additional 2 levels, pursuant to Guideline § 2B1.1(b)(2)(A)(i), because defendant's offense involved 10 or more victims.

iv. It is the position of the United States that the offense level must be increased by an additional 2 levels, pursuant to Guideline § 2B1.1(b)(10)(C), because defendant's offense involved sophisticated means. Defendant opposes this enhancement.

v. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vi. In accord with Guideline § 3E1.1(b), defendant has timely notified the government 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. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government and stipulated below, defendant's criminal history points equal 1 and defendant's criminal history category is I:

i. On or about October 23, 2003, defendant was convicted of illegal possession of a firearm in the Circuit Court of McHenry County, Illinois, and sentenced to 1 year of supervision. Pursuant to Guidelines 4A1.1(c) and 4A1.2(e)(2), defendant receives 1 criminal history point for this conviction.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, if the Court accepts the government's Sentencing Guidelines calculations, the anticipated offense level is 26, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 63 to 78 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts

or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

10. The government agrees to recommend that the Court impose a sentence of imprisonment at the low end of the applicable guidelines range and to make no further recommendation concerning what sentence of imprisonment should be imposed. The defendant will file a motion requesting a downward variance from the applicable Sentencing Guidelines range. The United States will oppose defendant's motion for downward variance.

11. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

12. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, § 3663A, the Court must order defendant to make full restitution to the victims in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing.

13. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

14. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

15. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

16. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in this case.

17. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

18. Defendant understands that nothing in this Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant and his spouse or defendant's partnership or corporations.

Waiver of Rights

19. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Right to be charged by indictment.** Defendant understands that he has a right to have the charge prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert at trial or on appeal any defects or errors arising

from the information, the information process, or the fact that he has been prosecuted by way of information.

b. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charge against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a 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 in his own behalf.

c. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution, in exchange for the concessions made by the United States in this Plea Agreement. Defendant also waives his right to challenge his conviction and sentence, and

the manner in which the sentence was determined, and (in any case in which the term of imprisonment and fine are within the maximums provided by statute) his attorney's alleged failure or refusal to file a notice of appeal, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel, which relates directly to this waiver or to its negotiation, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

d. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

e. Defendant acknowledges that on or about March 21, 2012, through April 6, 2012, administrative and civil forfeiture proceedings were commenced against certain property, including, (a) All Funds in Seven Accounts at Sun Trust Bank with the following account numbers: (1) *****8112; (2) *****7296; (3) *****8617; (4) *****7312; (5) *****7361; (6) *****7379; and (7) *****7387 funds; (b) All Funds in McHenry County Federal Credit Union Account Number **6576 in the names of Sarah E. Anderson and Clare T. Anderson; (c) \$18,000 in Funds held by Tracy Anderson; (d) All funds used to purchase the two cabins in names of Clare T. Anderson,

Abigail L. Anderson, and Emily M. Anderson, and Sarah E. Anderson and Hunter J. Niemann on the Norwegian Cruise Lines Eastern Caribbean Package, starting March 31, 2012, and ending April 7, 2012; (e) a 2010 Cadillac Escalade, VIN: 1GYUKHEF9AR184384; (f) a 2007 Ford F-150 Crew Cab Pick-up Truck, VIN: 1FTPW14V87KA87105; (g) a 2012 Harley Davidson FLHX103 Motorcycle, VIN: 1HD1KBM12CB645138; and (h) a 2012 Harley Davidson FXDWG103 Motorcycle, VIN: 1HD1GPM1XCC313733, as property constituting or derived from proceeds obtained, directly or indirectly, as a result of the fraud scheme. Defendant relinquishes all right, title and interest he may have in the property and understands that declarations of forfeiture have been or will be entered, extinguishing any claim he may have had in the seized property

Presentence Investigation Report/Post-Sentence Supervision

20. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charge against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

21. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or

refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

22. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

23. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

24. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant and his spouse and defendant's partnerships or

corporations which directly or indirectly relates to or arises out of the course of conduct which defendant has acknowledged in this Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records which the IRS may request.

25. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency (including but not limited to the Internal Revenue Service), for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or administrative proceeding involving, or investigation of, defendant and his spouse or defendant's partnerships or corporations. Nothing in this paragraph or the preceding paragraph precludes defendant and his spouse or defendant's partnerships or corporations from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

Conclusion

26. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

27. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

28. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

29. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

30. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

GARY S. SHAPIRO
United States Attorney

CLARE THOMAS ANDERSON
Defendant

SCOTT A. VERSEMAN
Assistant U.S. Attorney
327 South Church Street – Suite 3300
Rockford, Illinois 61101
815-987-4444

KEVIN E. MILNER
Attorney for Defendant
1000 East 80th Place, Suite 511 South
Merrillville, Indiana 46410
219-406-0556