

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA : CASE NO. 3:08CR084(5)
v. : Judge Michael R. Barrett
KAMAL J. GREGORY, : PLEA AGREEMENT
Defendant.

Defendant **KAMAL J. GREGORY**, (hereinafter referred to as “defendant”), individually and through his attorney, Patrick A. Flanagan, Esq., and the United States Attorney for the Southern District of Ohio (hereinafter referred to as “USAO”), by and through the undersigned Assistant United States Attorney, (collectively referred to as, “the parties”), hereby agree as follows:

1. **KAMAL J. GREGORY**, will enter a plea of guilty to Counts 1 & 10 of the Indictment filed herein. Count 1 charges conspiracy to commit mail fraud, wire fraud and money laundering in violation of 18 U.S.C. § 371 & 1349; and Count 10 charges conspiracy to commit money laundering in violation of 18 U.S.C. § 1956(h). Once said guilty pleas are entered and not withdrawn, the USAO agrees not to file any additional charges against the defendant **KAMAL J. GREGORY**, for any similar crimes that may have occurred in the Southern District of Ohio, during the time frame set forth in the Indictment that arise out of the facts set forth in the attached Statement of Facts that the USAO is presently aware of. The USAO further agrees to move to dismiss all other charges contained in said Indictment that specifically apply to this defendant. The maximum statutory penalty that defendant **KAMAL J. GREGORY**, is subject to pursuant to his plea of guilty to Count 1 is: 30 years imprisonment, a \$1,000,000 fine, 5 years of supervised release, and a mandatory \$100 special assessment payable to the Clerk of Court as required by 18 U. S. C. § 3013. The maximum statutory penalty that defendant **KAMAL J. GREGORY**, is subject to pursuant to

his plea of guilty to Count 10 is: 20 years imprisonment, a fine in the greater of the two following amounts \$500,000 or twice the value of the property involved in the subject transaction, 3 years of supervised release, and a mandatory \$100 special assessment payable to the Clerk of Court as required by 18 U. S. C. § 3013. The defendant understands that these sentences could be imposed consecutively

2. The parties agree pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) to recommend to the Court that the defendant receive a term of incarceration of 10 months as part of his sentence. The parties have entered into no agreement as to what amount of supervised release, fine or restitution may or should be imposed as part of the defendant's sentence. These matters are left exclusively to the sound discretion of the court. The parties further understand and agree that the Court is bound by the recommendations contained in this paragraph upon its acceptance of this plea agreement. The defendant understands that (1) the Court may accept this plea agreement, reject it, or defer a decision until the Court has reviewed the pre-sentence investigation report, (2) if the Court accepts this plea agreement, a term of incarceration of 10 months will be included in the judgment of conviction, (3) if the Court rejects this plea agreement, the defendant will have an opportunity to withdraw his plea, and (4) if the Court rejects this plea agreement and the defendant's plea in this case is not withdrawn, the Court may dispose of this case less favorably toward the defendant than this plea agreement contemplates, including imposing any sentence up to the statutory maximum set forth for the offense to which the defendant pleads guilty.

3. The defendant understands that the U. S. Probation Department will conduct a presentence investigation and will recommend to the Court a sentencing guideline range. The defendant further understands that the U. S. Probation Department's recommendations are not binding upon the Court. The parties agree and stipulate that pursuant to the United States Sentencing Guidelines (U.S.S.G.) § 2B1.1, the base offense level attributable to defendant for both Counts 1

& 10 is an offense level of seven (7). The parties further agree and stipulate that pursuant to U.S.S.G. § 2B1.1(b)(1)(E), the intended loss attributable to the defendant as a member of the charged conspiracies was \$4.2 million. The parties further agree and stipulate that pursuant to U.S.S.G. § 2B1.1(b)(9)(C), the offenses committed by the defendant did not involve the use of sophisticated means. Both parties reserve the right to argue and offer supporting evidence regarding additional specific offense characteristics, adjustments and departures, as well as the right to offer evidence and argument relating to the factors of sentencing as set forth in 18 U.S.C. § 3553(a).

4. If the defendant fully complies with all of his obligations as set forth under this agreement, the USAO agrees, at the time of sentencing, to recommend a two-level reduction in the applicable sentencing guideline offense level for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a), and to further recommend, and move for an additional one-level reduction for timely notification of intent to plead guilty pursuant to U.S.S.G. § 3E1.1(b) if available under that section.

5. The defendant is aware that the Sentencing Guidelines are no longer mandatory in determining his sentence. However, the defendant also understands that said Sentencing Guidelines will be given due consideration by the Court, in conjunction with all other sentencing factors set forth in 18 U.S.C. § 3553(a), to determine an appropriate sentence in this case. The defendant has thoroughly reviewed with his attorney how the Sentencing Guidelines might apply to this case. The defendant understands and acknowledges that the matter of sentence is reserved solely to the District Court and that the Court could impose the maximum penalty provided by law.

6. The parties hereby state that the charges to which the defendant is pleading guilty

adequately reflects the seriousness of the readily provable actual offense behavior and that the acceptance of the agreement by the Court will not undermine the statutory purposes of sentencing.

7. The defendant understands that this agreement requires the defendant to abide by each term of this agreement. The defendant also understands that if he makes any statement that is materially false in whole or in part or otherwise fails to comply with any term of this agreement, the USAO has the right to declare this plea agreement null and void and to prosecute the defendant to the full extent of the law. If this plea agreement or the defendant's conviction is voided for any reason, the defendant waives any statute of limitations with respect to the USAO prosecuting the defendant for any offense arising from defendant's conduct in this case.

8. The defendant agrees to provide complete cooperation to law enforcement authorities and others regarding his activities and those of others in relation to the offense of conviction and other matters on the following terms and conditions:

A. The defendant shall cooperate fully, truthfully, completely, and forthrightly with the USAO and other federal, state, and local law enforcement authorities identified by this Office in any and all matters as to which the USAO deems the cooperation relevant. The defendant acknowledges that his cooperation may include, but will not necessarily be limited to, answering questions, providing sworn written statements and taking government-administered polygraph examination(s). Any refusal by the defendant to cooperate fully, truthfully, completely, and forthrightly as directed by the USAO and other federal, state, and local law enforcement authorities identified by the USAO in any and all matters in which the USAO deems his assistance relevant will constitute a breach of this agreement by the defendant and will relieve the USAO of its obligations under this agreement or any other

agreement between the parties whether entered before or after this agreement. The defendant agrees, however, that such breach by him will not constitute a basis for withdrawal of his guilty plea or otherwise relieve him of his obligations under this agreement.

B. The defendant shall testify fully, completely and truthfully before any and all Grand Jury(ies) in the Southern District of Ohio, and elsewhere, and at any and all trials of cases or other court proceedings in the Southern District of Ohio and elsewhere, at which his testimony may be deemed relevant by the USAO.

C. The defendant understands and acknowledges that nothing in this agreement allows him to commit any criminal violation of local, state or federal law during the period of his cooperation with law enforcement authorities or at any time prior to the sentencing in this case. The commission of a criminal offense during the period of the defendant's cooperation or at any time prior to sentencing will constitute a breach of this plea agreement and will relieve the USAO of all of its obligations under this agreement. The defendant acknowledges, however, and agrees that such a breach of this agreement will not entitle him to withdraw his plea of guilty or relieve his obligations under this agreement. The defendant further understands that, to establish a breach of this agreement, the USAO needs to prove his commission of a criminal offense by only a preponderance of the evidence.

9. This agreement does not protect the defendant from prosecution for perjury, false statement, obstruction, or any other such charge for conduct after the date of the filing of said Indictment.

10. The defendant agrees to pay \$200.00 in special assessments (\$100 for each count)

to the Clerk of the United States District Court for the counts to which he pleads guilty no later than the date of his sentencing.

11. Defendant further agrees and acknowledges that he is not a prevailing party as defined by the Hyde Amendment, Public Law 105-119, Title VI, Nov. 26, 1997 (set forth as a statutory note under 18 U.S.C. § 3006A) and hereby expressly waives filing any suit or asserting any claim against the USAO, including its agents and employees, under said provision.

12. In the event the defendant does not plead guilty, or seeks to withdraw his guilty pleas, or does withdraw his guilty pleas, the defendant hereby waives any protection afforded by U.S.S.G. § 1B1.8(a), Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence.

13. The defendant is aware that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Acknowledging all this, and in exchange for the concessions made by the USAO in this plea agreement, the defendant hereby waives all rights to appeal the sentence imposed, any aspect of the sentence imposed, or the manner in which the sentence was imposed (including whether or not the sentence was imposed pursuant to the Sentencing Guidelines and including whether or not the Sentencing Guidelines were correctly applied), unless the sentence exceeds the maximum permitted by statute. The defendant also waives the right to challenge the sentence or the manner in which it was determined in any collateral attack, including but not limited to, a motion brought under 28 U.S.C. § 2255 (habeas corpus). If the USAO appeals the defendant's sentence, then the defendant shall be released from the above waiver of appellate and habeas corpus rights.

14. This written Agreement embodies all of the agreements and understandings between

the USAO and the defendant. No conversations, discussions, understandings, or other documents extraneous to the Agreement shall be considered part of this Agreement. By signing this Plea Agreement, defendant **KAMAL J. GREGORY**, acknowledges that he has discussed its terms with his attorney and understands and accepts those terms. This agreement binds only the USAO and does not bind any other federal, state or local prosecuting authority.

15. Defendant specifically acknowledges the truth and accuracy of the attached statement of facts. The defendant further agrees that he is fully satisfied with the representation provided by his undersigned attorney in this matter.

GREGORY G. LOCKHART
United States Attorney

DWIGHT K. KELLER (0074533)
Assistant United States Attorney

DATE

KAMAL J. GREGORY
Defendant

DATE

PATRICK A. FLANAGAN, ESQ.
Attorney for Defendant

DATE