

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA

v.

Criminal No. 7:06CR00098

HAROLD FRANKLIN CASSELL

PLEA AGREEMENT

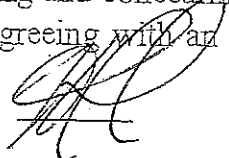
I, HAROLD FRANKLIN CASSELL, and my counsel, John E. Lichtenstein, Esquire and John P. Fishwick, Jr. Esquire, have entered into a plea agreement with the United States of America, by counsel, pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms and conditions of this agreement are as follows:

1. CHARGES IN THE INDICTMENT AND PUNISHMENT

The defendant has been charged with five (5) counts in Indictment No. 7:06CR00098.

Count Seven of the Indictment charges that on or about February 24, 2006, in the Western Judicial District of Virginia, Harold Franklin Cassell, with the intent to conceal and disguise the nature and source of property believed to be the proceeds of specified unlawful activity, did knowingly and willfully attempt to conduct a financial transaction affecting interstate commerce involving property represented to be the proceeds of specified unlawful activity by another person at the direction of, and with the approval of, a federal official authorized to investigate violations of Title 18, United States Code, Section 1956, to wit: Harold Franklin Cassell attempted to establish a means of giving drug proceeds the appearance of legitimacy by cosigning a loan for a person who possessed approximately \$10,000 in cash represented to be drug proceeds and then counseling the individual to deposit small amounts of the cash into a checking account to pay off the loan, all in violation of Title 18, United States Code, Section 1956(a)(3)(B). The maximum statutory penalty for Count Seven is a fine of \$250,000 and twenty (20) years imprisonment, and a period of supervised release.

Count Eight of the Indictment charges that from in or about October, 2005, until in or about April, 2006, in the Western Judicial District of Virginia, Harold Franklin Cassell corruptly attempted to obstruct, influence and impede an official proceeding; that is, investigations by the Federal Bureau of Investigation, the Drug Enforcement Administration and the Federal Grand Jury, in that Harold Franklin Cassell, among other things, counseled an individual on methods of disguising and concealing monies obtained through embezzlement and illegal drug distribution; agreeing with an individual never to mention the existence of monies

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derived from illegal drug distribution; made false statements to and attempted to mislead a Special Agent of the Federal Bureau of Investigation with respect to Harold Franklin Cassell's knowledge of money represented to have been derived by an individual of the Henry County Sheriff's Office through illegal means; and, made false statements to and attempted to mislead a Special Agent of the Federal Bureau of Investigation with respect to Harold Franklin Cassell's knowledge of an individual's illegal drug activities, said false statements were contained in a written report that was used during the federal investigation, all in violation of Title 18, United States Code, Section 1512(c)(2). The maximum statutory penalty for Count Eight is a fine of \$250,000 and twenty (20) years imprisonment, and a period of supervised release.

Count Nine of the Indictment charges that from in or about October 2005 until in or about April 2006, in the Western Judicial District of Virginia, defendant Harold Franklin Cassell did corruptly endeavor to influence, obstruct and impede the due and proper administration of the law involving a pending proceeding by an agency of the United States; that is, investigations by the Federal Bureau of Investigation and the Drug Enforcement Administration, in that Harold Franklin Cassell, among other things, counseled an individual on methods of disguising and concealing monies obtained through embezzlement and illegal drug distribution; agreeing with an individual never to mention the existence of monies derived from illegal drug distribution; made false statements to and attempted to mislead a Special Agent of the Federal Bureau of Investigation with respect to Harold Franklin Cassell's knowledge of money represented to have been derived by an individual of the Henry County Sheriff's Office through illegal means; and, made false statements to and attempted to mislead a Special Agent of the Federal Bureau of Investigation with respect to Harold Franklin Cassell's knowledge of an individual's illegal drug activities, all in violation of Title 18, United States Code, Section 1505. The maximum statutory penalty for Count Nine is a fine of \$250,000 and 5 (5) year imprisonment, and a period of supervised release.

Count Ten of the Indictment charges that on or about March 22, 2006, in the Western Judicial District of Virginia, in a matter within the jurisdiction of the Federal Bureau of Investigation, Harold Franklin Cassell knowingly and willfully made a false material statement and representation to a Special Agent of the Federal Bureau of Investigation, in that Harold Franklin Cassell stated that he had no knowledge of money represented to have been derived by an individual of the Henry County Sheriff's Office through illegal means, and that he had no knowledge of an individual's illegal drug activities, when in truth and fact, as Harold Franklin Cassell well knew, he did possess such knowledge, all in violation of Title 18, United States Code, Section 1001(a)(2). The maximum statutory penalty for Count Ten is a fine of \$250,000 and five (5) years imprisonment, and a period of supervised release.

Defendant's Initials:



Count Eleven of the Indictment charges that on or about March 22, 2006, in the Western Judicial District of Virginia, the defendant, Harold Franklin Cassell, having knowledge of the actual commission of a felony cognizable by a court of the United States; to wit, that James Alden Vaught had been involved in a conspiracy to violate the drug laws of the United States, did conceal the same by telling investigators that he did not believe Vaught was so involved, and did not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, all in violation of Title 18, United States Code, Section 4.

The defendant understands that his supervised release may be revoked if he violates its terms and conditions. If the defendant's supervised release is revoked, the original term of imprisonment may be increased. The defendant understands that a violation of supervised release increases the possible period of incarceration.

2. CHARGES TO WHICH THE DEFENDANT IS PLEADING GUILTY AND WAIVER OF RIGHTS

The defendant will enter a plea of guilty to:

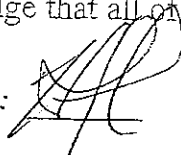
Count Ten of the Indictment charges that on or about March 22, 2006, in the Western Judicial District of Virginia, in a matter within the jurisdiction of the Federal Bureau of Investigation, Harold Franklin Cassell knowingly and willfully made a false material statement and representation to a Special Agent of the Federal Bureau of Investigation, in that Harold Franklin Cassell stated that he had no knowledge of money represented to have been derived by an individual of the Henry County Sheriff's Office through illegal means, and that he had no knowledge of an individual's illegal drug activities, when in truth and fact, as Harold Franklin Cassell well knew, he did possess such knowledge, all in violation of Title 18, United States Code, Section 1001(a)(2). The maximum statutory penalty for Count Ten is a fine of \$250,000 and five (5) years imprisonment, and a period of supervised release.

The defendant understands that fees may be imposed to pay for incarceration or supervised release and that there will be a \$100 special assessment per felony count of conviction.

My counsel, John E. Lichtenstein, Esquire and John P. Fishwick, Esquire, have informed me of the nature of these charges and the elements of these charges which must be proved by the United States beyond a reasonable doubt before I could be found guilty as charged.

I acknowledge that all of my rights have been explained to me and that I expressly

Defendant's Initials:



recognize that I have the following constitutional rights and, that by voluntarily pleading guilty, knowingly waive and give up these valuable constitutional rights:

- a. The right to plead not guilty and persist in that plea.
- b. The right to a speedy and public jury trial.
- c. The right to assistance of counsel at that trial and in any subsequent appeal.
- d. The right to remain silent at trial.
- e. The right to testify at trial.
- f. The right to confront and cross-examine government witnesses.
- g. The right to present evidence and witnesses in my own behalf.
- h. The right to compulsory process of the court.
- i. The right to be presumed innocent.
- j. The right to a unanimous guilty verdict and for specific sentencing issues.
- k. The right to appeal a guilty verdict and sentencing issues.

I admit that I am pleading guilty as described above because I am in fact guilty and because it is in my best interest to do so and not because of any threats or promises. There has been no representation made whatsoever by any agent or employee of the United States to me as to what the final disposition of this matter should or will be.

It is understood that the matter of sentencing is within the discretion of the Court, subject to his consideration of federal law, the United States Sentencing Guidelines ("Sentencing Guidelines"), and this Agreement. I understand that the Court may apply Sentencing Guidelines to this case and may create a presumption of a mandatory period of incarceration. I have discussed sentencing issues with my attorneys and realize that there is a possibility that I will be incarcerated. I understand that I will not be eligible for parole during any term of imprisonment imposed. I understand that the sentence will be determined presumptively from a variety of factors involved in the offense and related conduct, including my role in the offense and my prior criminal history.

3. SENTENCING GUIDELINE PROVISIONS

The Government and I understand and agree to the following. The parties agree that the 2006 Sentencing Guideline Manual will be used for this case. The parties agree that Sentencing Guideline Section 2B1.1(a), with a base offense level of six (6), is applicable to the defendant's criminal conduct. The parties understand and agree that the amount of loss attributable to the offense is between \$5,000 and \$10,000, and is the amount which is readily provable by the United States at this stage of the investigation, and, therefore, §2B1.1(b)(1)(B), which adds two (2) levels, is applicable to the defendant's conduct. The

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parties agree that the defendant was an organizer, leader, manager, or supervisor in the criminal activity, which adds two (2) levels pursuant to §3B1.1(c). The parties agree that the defendant's offense involved an abuse of trust, which adds two (2) levels pursuant to §3B1.3. It is agreed there are no other applicable enhancements to the guideline range in this case.

The defendant also agrees that the United States retains the right to argue for an upward departure based on the Application Notes to USSG §2B1.1. The Government acknowledges that the defendant maintains the right to argue for a downward departure.

If a sentence of imprisonment is imposed is done, the defendant understands that the United States will not object to allowing him to self report to the Bureau of Prisons to begin the service of any sentence, provided that he complies with all terms and conditions of release imposed by the Court and the United States Probation Office.

4. DISMISSAL OF COUNTS

The United States will move to dismiss the remaining counts in the Indictment. I, Harold Franklin Cassell, stipulate that the United States had probable cause to bring all the counts in the Indictment that are being dismissed under this agreement, that none of the charges were frivolous, vexatious or brought in bad faith, and that the defendant is not a "prevailing party" with regard the these charges. The defendant further waives any claim for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

5. ACCEPTANCE OF RESPONSIBILITY

If, in fact, I accept responsibility for my actions, testify truthfully if called upon to do so, acknowledge factual guilt before the Court at the time of my guilty plea and sentencing, and fulfill the conditions of this plea agreement, I understand that the United States, through its attorney, will recommend that the Court grant me a two (2) level reduction in my offense level for acceptance of responsibility under Guideline Section 3E1.1(a). I must clearly demonstrate acceptance of responsibility for my criminal offense.

I understand that any attempt to deny that I committed the crime to which I have agreed to plead guilty, any attempt to withdraw my guilty plea, the commission of any new crimes, or any other breach of this Agreement, including my failure to pay my mandatory special assessment, will nullify the United States agreement that I should receive credit for acceptance of responsibility.

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6. MANDATORY ASSESSMENT

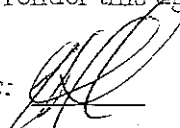
I understand that persons convicted of crimes are required to pay a mandatory assessment of \$100.00 per felony count of conviction. I agree that I will submit a check or money order for the total amount of the assessment in my case to the United States Attorney's Office upon my acceptance of this plea agreement and upon returning to them a signed copy of this plea agreement. I will make the check or money order payable to Clerk, United States District Court for the total amount of \$100.00. The United States Attorney's Office may, at its option, withdraw from this plea agreement unless and until this payment is made. Further, I understand and agree that if I fail to pay the special assessment on, or prior to, the date of my sentencing, I will not have demonstrated minimal acceptance of responsibility and should not be granted any reduction in my offense level under the Sentencing Guidelines for acceptance of responsibility.

7. DUTY TO PROVIDE FINANCIAL STATEMENT

I understand that in this case there is a possibility that substantial fines and/or restitution may be imposed. In order to assist the United States as to any recommendation in that matter and in order to assist the United States in any necessary collection of those sums, I agree to fully and truthfully submit a complete financial statement revealing all of my assets and liabilities to the United States on a form provided by the United States.

Within 30 days of the date of this Plea Agreement I agree to provide a complete financial statement to the United States Attorney's office detailing all income, expenditures, assets, liabilities, gifts and conveyances by myself, my spouse and my dependent children and any corporation, partnership or other business entity in which I hold or have held an interest, for the period starting on January 1st of the year prior to the year I enter my guilty plea. This financial statement shall be submitted in a form acceptable to the United States Attorney's office.

From the time of the signing of this agreement, I agree not to convey any thing of value to any person without the authorization of the United States Attorney's Office. I understand that a deliberate false statement as to these matters would be a felony under federal law, in violation of Title 18, United States Code, Section 1001 and Section 401, and could constitute a breach of the agreement by me and could render this Agreement null and void, regardless of any cooperation or assistance that I may have previously provided. Any dispute as to the truthfulness of my disclosure of assets may be subjected to a polygraph examination conducted by a qualified law enforcement examiner, selected by the United States. I understand that failure of such polygraph examination, without adequate explanation, could render this agreement null and void.

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8. WAIVER OF RIGHT TO APPEAL SENTENCING GUIDELINES ISSUES

I understand that I will have a copy of my presentence report well in advance of my sentencing hearing and that I will have an opportunity to go over it with my attorneys and may file any objection to all or parts of it that I feel are not correct. I understand that I will have an opportunity at the sentencing hearing to bring witnesses, to cross-examine the government's witnesses, and to demonstrate to the Court what an appropriate sentence would be under the Guidelines. I agree that after my full and fair sentencing hearing, I will not then appeal any sentencing guidelines factors or the Court's application of the sentencing guidelines factors to the facts of my case. I am knowingly and voluntarily waiving any right to appeal sentencing guidelines factors, and am voluntarily willing to rely on the Court in sentencing me. I understand that the United States expressly reserves its right to appeal any Sentencing Guidelines issues.

9. WAIVER OF RIGHT TO COLLATERALLY ATTACK THE JUDGMENT AND SENTENCE IMPOSED BY THE COURT

I further agree to waive my right to collaterally attack, pursuant to Title 28, United States Code, Section 2255, the judgment and any part of the sentence imposed upon me by the Court.

10. INFORMATION ACCESS WAIVER

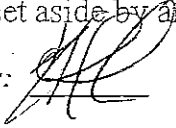
I knowingly and voluntarily agree to waive all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. §552, or the Privacy Act of 1974, 5 U.S.C. §552a.

11. WAIVER OF WITNESS FEE

I agree to waive all rights, claims or interest in any witness fee that I may be eligible to receive pursuant to Title 28, United States Code, Section 1821, for my appearance at any Grand Jury, witness conference or court proceeding during the pendency of this case.

12. WAIVER OF STATUTE OF LIMITATIONS

If, for any reason, this Plea Agreement is withdrawn or otherwise not consummated by the entry of the convictions and sentences provided for under this Plea Agreement or if this Agreement is set aside by any court, I hereby waive my right to raise the defense of the

Defendant's Initials: 

statute of limitations as to any charges reinstated before the Court which were brought in the Indictment against me but dismissed as a result of this Plea Agreement.

13. COMPLETION OF PROSECUTION

I understand that except as provided for in this plea agreement, there will be no further prosecution of me for any matters about which the United States has knowledge gained from the investigation that gave rise to the charges contained in this Indictment.

14. LIMITATION OF AGREEMENT

This agreement is limited to the charges contained in the Indictment.

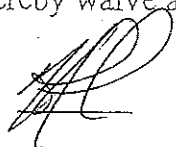
15. REMEDIES FOR BREACH OF PLEA AGREEMENT

I understand that if I breach any provision of this agreement, at any time, including any attempt to withdraw my guilty plea, the United States Attorney's office may, at its election, pursue any or all of the following remedies: (a) declare this plea agreement void and proceed to trial; (b) refuse to recommend that I be credited with acceptance of responsibility; (c) seek an upward departure from the guidelines range, or seek imposition of a sentence at the high end of the guidelines range; (d) terminate my opportunity to perform substantial assistance, if such opportunity has been provided, or refuse to make a substantial assistance motion, regardless of whether substantial assistance has been performed or not; (e) withdraw any substantial assistance motion made, regardless of whether substantial assistance has been performed; (f) refuse to abide by any other sentencing or other stipulations contained in this plea agreement; (g) use this plea agreement, any statement I have made during any guilty plea hearing (including my admission of guilt), any proffer session, or during my attempt to provide substantial assistance, against me in this or any other proceeding; and (h) take any other action provided for under this agreement or by statute, regulation or court rule. I knowingly waive any right I may have under the Constitution, any statute, rule or other source of law to have any statement, or evidence derived from such statement, suppressed or excluded from going into evidence. The remedies set forth above are cumulative, and not mutually exclusive.

16. EFFECTIVE REPRESENTATION

I have discussed the terms of the foregoing plea agreement and all matters pertaining to the charges against me with my attorney and am satisfied with my attorney and his advice. I understand that I have the right to make known to the Court, at any time, any dissatisfaction I may have with my attorney's representation. I agree to make known to the Court no later than at the time of sentencing any dissatisfaction or complaint I may have with my attorney's representation. I hereby waive any claim I may have for ineffective assistance of counsel

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known and not raised by me with the Court at the time of sentencing.

17. GENERAL UNDERSTANDINGS

I understand that the Court is not bound by any recommendations or stipulations contained in this Agreement, and may sentence me up to the maximum provided by law.

I understand that if the sentence is more severe than I expected, I will have no right to withdraw my guilty plea.

I understand that a thorough presentence investigation will be conducted and sentencing recommendations independent of the United States Attorney's Office will be made by the presentence preparer, which the Court may adopt or take into consideration. I understand that any calculation regarding the guidelines by the United States Attorney's Office or by my attorney is speculative and is not binding upon the Court, the Probation Office or the United States Attorney's Office. No guarantee has been made by the United States Attorney's Office regarding the effect of the guidelines on my case.

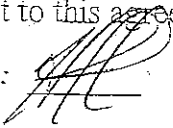
I understand that the prosecution will be free to allocate or describe the nature of this offense and the evidence in this case and will in all likelihood recommend that I receive a substantial sentence.

I understand that the United States retains the right, notwithstanding any provision in this plea agreement, to inform the probation office and the Court of all relevant facts, to address the Court with respect to the nature and seriousness of the offense, to respond to any questions raised by the Court, to correct any inaccuracies or inadequacies in the presentence report and to respond to any statements made to the Court by or on behalf of the defendant.

I understand that the United States will object to any downward departure from the sentencing guidelines, absent the filing of a motion permitting downward departure under Sentencing Guideline Section 5K1.1, Title 18, United States Code, Section 3553(e) and/or Federal Rules of Criminal Procedure 35(b).

I willingly stipulate that there is a sufficient factual basis to support each and every material factual allegation contained within the count to which I am pleading guilty.

I understand that this agreement does not apply to any crimes that I may commit hereafter, including perjury. I understand that if I should testify falsely in this or in a related proceeding that I may be prosecuted for perjury and that statements that I may have given authorities pursuant to this agreement may be used against me in such a proceeding.

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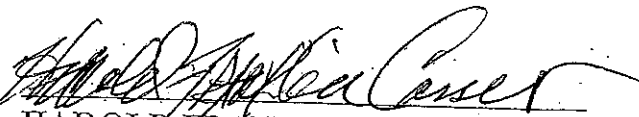
I have not been coerced, threatened, or promised anything other than the terms of this plea agreement, described above, in exchange for my plea of guilty. I understand that my attorney will be free to argue any mitigating factors in my behalf and will be free to propose any alternatives to incarceration available under the sentencing guidelines. I understand that I will have an opportunity to personally address the Court prior to sentence being imposed.

This writing sets forth the entire understanding between the parties and constitutes the complete Plea Agreement between the United States Attorney for the Western District of Virginia and me, and no other additional terms or agreements shall be entered except and unless those other terms or agreements are in writing and signed by the parties. This Plea Agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between the United States and me.

I have consulted with my attorney and fully understand all my rights with respect to the offenses charged in the pending information. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and I voluntarily agree to it. Being aware of all of the possible consequences of my plea, I have independently decided to enter this plea of my own free will, and am affirming that agreement on this date and by my signature below.

Date:

5/22/07

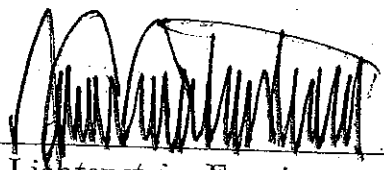

HAROLD FRANKLIN CASSELL
Defendant

Defendant's Initials:

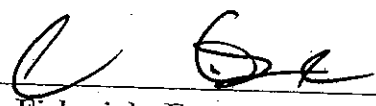


We represent Harold Franklin Cassell. We have fully explained to our client all rights available to our client with respect to the offenses charged in the pending information. Further, we have reviewed the provisions of those Guidelines which may apply in this case. We have carefully reviewed every part of this plea agreement with my client. To our knowledge, our client's decision to enter into this agreement is an informed and voluntary one and it is a decision with which we agree.

Date: 5/23/07

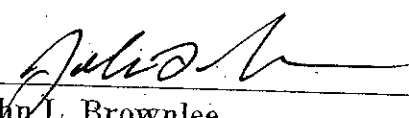

John E. Lichtenstein, Esquire
Counsel for Defendant

Date: 5/23/07



John P. Fishwick, Esquire
Counsel for Defendant

Acknowledged:

Date: 5/23/07


John L. Brownlee
United States Attorney

Date: 5/23/07


Thomas J. Bondurant, Jr.
Criminal Chief
Assistant United States Attorney

Defendant's Initials: 