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MAY 17 2010		
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA		

1 DENNIS K. BURKE
United States Attorney
District of Arizona

2 John R. Lopez IV
3 Assistant U.S. Attorney
Two Renaissance Square
4 40 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
5 Arizona State Bar No. 019182
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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA

8 United States of America,
9 Plaintiff,

10 v.

11 Lawrence William Dunning,
12 Defendant.

CR-07-1390-PHX-MHM
PLEA AGREEMENT

13
14 Plaintiff, United States of America, and defendant, Lawrence William Dunning, hereby
15 agree to the following disposition of this matter:

16 **PLEA**

17 Defendant will plead guilty to Count 5 of the Indictment charging defendant with a
18 violation of Title 18, United States Code, Section 1341, Mail Fraud, in violation of 18 U.S.C.
19 § 1341, a Class C felony offense.

20 **TERMS**

21 Defendant understands that the Court is required to consider the United States Sentencing
22 Guidelines (“U.S.S.G.” or “Sentencing Guidelines”) among other factors in determining
23 defendant’s sentence. Defendant understands, however, that the Sentencing Guidelines are only
24 advisory, and that after considering the Sentencing Guidelines, the Court may be free to exercise
25 its discretion to impose any reasonable sentence up to the maximum set by statute for the crimes
26 of conviction.

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1 **1. Maximum Penalties**

2 A violation of Title 18, United States Code, Section 1341, is punishable by a maximum
3 fine of \$250,000, a maximum term of imprisonment of 20 years, or both and a term of
4 supervised release of up to 3 years. If probation is imposed, the maximum term of probation is
5 5 years.

6 a. According to the Sentencing Guidelines issued pursuant to the Sentencing Reform
7 Act of 1984, the court shall:

8 (1) Order the defendant to make restitution to any victim of the offense unless,
9 pursuant to Title 18, United States Code, Section 3663, the court determines that restitution
10 would not be appropriate in this case;

11 (2) Order the defendant to pay a fine, which may include the costs of probation,
12 supervised release or incarceration, unless, pursuant to Title 18, United States Code, Section
13 3572, the Court finds upon consideration of the factors therein and in Section 3553 that a fine
14 is not appropriate;

15 (3) Order the defendant, pursuant to Title 18, United States Code, Section 3583,
16 to serve a term of supervised release when required by statute or when a sentence of
17 imprisonment of more than one year is imposed, and the court may impose a term of supervised
18 release in all other cases.

19 b. Pursuant to Title 18, United States Code, Section 3013, the court is required to
20 impose a special assessment on the defendant of \$100.00. The special assessment is due at the
21 time the defendant enters the plea of guilty, but in no event shall it be paid later than the time of
22 sentencing.

23 **2. Agreements Regarding Sentencing**

24 If the court, after reviewing the plea agreement, concludes that any provision is
25 inappropriate, it may reject the plea agreement giving the defendant, in accordance with
26 Fed. R. Crim. P. 11(c)(5), an opportunity to withdraw the guilty plea.

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1 Other Agreements

2 a. The United States and the defendant stipulate and agree, pursuant to Rule 11(c)(1)(C)
3 of the Federal Rules of Criminal Procedure, that the loss amount for purposes of calculating the
4 defendant's Guideline sentencing range under Section 2B1.1 is \$2,889,492.77.

5 b. The United States and the defendant stipulate and agree, pursuant to Rule 11(c)(1)(C)
6 of the Federal Rules of Criminal Procedure, that a 2-level increase to the defendant's offense
7 level pursuant to Section 2B1.1(b)(2)(A)(ii) apply because the offense was committed through
8 mass-marketing.

9 c. The United States and the defendant stipulate and agree, pursuant to Rule 11(c)(1)(C)
10 of the Federal Rules of Criminal Procedure, that the defendant's sentence shall not exceed a term
11 of 24 months imprisonment. The parties stipulate and agree that a maximum term of
12 imprisonment of 24 months is warranted due to the defendant's advanced age and physical
13 condition as contemplated under Guideline Sections 5H1.1 and 5H1.4. The defendant may argue
14 for a lower sentence, including a probation sentence, on any ground other than the loss amount
15 (addressed at ¶ 2(a)), including requesting a greater departure under Guidelines Sections 5H1.1
16 and 5H1.4. The United States may oppose the defendant's request for a sentence lower than 24
17 months imprisonment.

18 d. The United States will not oppose the defendant's request that, if he receives a
19 sentence of imprisonment, he be allowed to self-surrender in Florida.

20 The United States retains the unrestricted right to make any and all statements it deems
21 appropriate to the Probation Office and to make factual and legal responses to any statements
22 made by the defendant or defense counsel or objections to the presentence report or to questions
23 by the court at the time of sentencing.

24 Acceptance of Responsibility

25 Assuming the defendant makes full and complete disclosure to the Probation Department
26 of the circumstances surrounding the defendant's commission of the offense, if the defendant
27 would be eligible for a recommended two-point reduction pursuant to Section 3E1.1 of the
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1 Guidelines and, if the defendant demonstrates an acceptance of responsibility for this offense
2 up to and including the time of sentencing, and provided defendant accepts the terms of this
3 agreement, the United States will recommend a three-point reduction in the advisory sentencing
4 guideline offense level, pursuant to Section 3E1.1 of the Guidelines.

5 Criminal History Options This plea agreement is expressly conditioned upon the
6 accuracy of the defendant's criminal history as known by the government at the time of the plea.
7 The discovery of any criminal history in addition to that known shall entitle the government to
8 withdraw from this agreement.

9 **3. Agreement to Make Restitution**

10 Defendant specifically agrees to make restitution to the victims in the amount of
11 \$2,889,492.77. This restitution amount does not restrict the Arizona Corporation Commission,
12 or any other party, from seeking additional restitution from the defendant for losses connected
13 with American National Mortgage Partners or its associated entities.

14 **4. Agreement to Dismiss or Not to Prosecute**

15 a. At the time of the defendant's sentencing, the United States will dismiss the
16 remaining counts of the Indictment against the defendant.

17 b. This office will not prosecute the defendant for any other offenses committed by
18 the defendant, and known by the government, in connection with his employment with American
19 National Mortgage Partners or any other entity.

20 c. This agreement does not, in any manner, restrict the actions of the United States
21 in any other district nor bind any other United States Attorney's Office.

22 d. The United States is not presently aware of any other federal/state criminal
23 investigations or charges.

24 **5. Waiver of Defenses and Appeal Rights**

25 The defendant waives any and all motions, defenses, probable cause determinations, and
26 objections which the defendant could assert to the indictment or information or to the Court's
27 entry of judgment against the defendant and imposition of sentence upon the defendant,
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1 providing the sentence is consistent with this agreement. The defendant further waives: (1) any
2 right to appeal the Court's entry of judgment against defendant; (2) any right to appeal the
3 imposition of sentence upon defendant under Title 18, United States Code, Section 3742
4 (sentence appeals); and (3) any right to collaterally attack defendant's conviction and sentence
5 under Title 28, United States Code, Section 2255, or any other collateral attack. The defendant
6 acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the
7 defendant might file challenging his conviction or sentence in this case.

8 **6. Perjury and Other False Statement Offenses or Other Offenses**

9 Nothing in this agreement shall be construed to protect the defendant in any way from
10 prosecution for perjury, false declaration or false statement, or any other offense committed by
11 defendant after the date of this agreement. Any information, statements, documents, and
12 evidence which defendant provides to the United States pursuant to this agreement may be used
13 against the defendant in all such prosecutions.

14 **7. Reinstitution of Prosecution**

15 If defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the
16 United States will be free to prosecute the defendant for all charges of which it has knowledge,
17 and any charges that have been dismissed because of this plea agreement will be automatically
18 reinstated. In such event, defendant waives any objections, motions, or defenses based upon the
19 Statute of Limitations, the Speedy Trial Act or constitutional restrictions in bringing of the later
20 charges or proceedings. The defendant understands that any statements made at the time of the
21 defendant's change of plea or sentencing may be used against the defendant in any subsequent
22 hearing, trial, or proceeding as permitted by Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410.

23 **8. Disclosure of Information to U.S. Probation Office**

24 The defendant will cooperate fully with the United States Probation Office. Such
25 cooperation will include truthful statements in response to any questions posed by the Probation
26 Department including, but not limited to:

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1 *Fourth*, the defendant acted with the intent to defraud; and

2 *Fifth*, the defendant used, or caused to be used, the mails to carry out or attempt to carry
3 out an essential part of the scheme.

4 **Facts**

5 In or about February 2000, I established Creative Financial Funding (“CFF”) to solicit
6 investors to fund “hard money lending.” In or about 2001, I hired Phillip Vigarino and Paul
7 Meka as loan officers for CFF. In May of 2002, Frank Caspare formed American National
8 Mortgage Partners (“ANMP”). I assisted in that formation and, when Frank Caspare’s health
9 made him unable to control the daily business of ANMP, I continued to assist with daily
10 operations. The Arizona Corporation Commission issued a Temporary Cease and Desist Order
11 to CFF on or about October 15, 2001. On or about September 5, 2002, the ACC issued a
12 Temporary Cease and Desist Order to ANMP.

13 The nature of CFF’s, and later ANMP’s (collectively “ANMP”), business was making,
14 negotiating or offering to make or negotiate loans secured by Arizona real property. ANMP
15 would identify individuals who sought a loan but were unable to obtain a conventional loan due
16 to credit problems. The borrowers were willing to pay an interest rate as high as 36 percent.
17 ANMP would locate investors to fund the loans. The investors’ funds would be pooled into one
18 specific loan package and then member-managed limited liability companies (“LLCs”) would
19 be formed and investors would be members of the LLC. The investors’ funds would be secured
20 by liens on the borrowers’ Arizona real property through an “Illinois Land Trust.” ANMP would
21 create an “Illinois Land Trust,” whereby the borrower transferred his personal interest in the
22 property to a trust. ANMP would become the trustee of the trust and investors became the
23 beneficiaries of the trust. If the borrower made scheduled payments on the loan funded by the
24 investor, ANMP would make monthly payments to the investor. If the borrower defaulted on the
25 loan funded by the investor, ANMP would foreclose on the borrower’s real estate, sell the real
26 estate, and refund the investor’s funds.

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1 During the course of ANMP's operations, when borrowers defaulted on their loans,
2 ANMP was unable to repay its investors. As a consequence, ANMP employee Eric Strasser
3 paid new investors with old investors' funds regarding the "Castle" loans. Specifically,
4 investors' funds in the "Roosevelt Street Trust" loan were used to repay old "Castle" loan
5 investors to create the illusion of performing loans. In addition, in an attempt to salvage
6 ANMP's operations, ANMP paid its overhead expenses with new ANMP investors' funds. For
7 example, on or about May 24, 2002, ANMP employee Eric Strasser borrowed funds from the
8 High Chaparral Trust's \$150,000 loan repayment to pay ANMP operating expenses rather than
9 repaying investors with the funds.

10 I knew that the diversion of ANMP investors' funds constituted a misuse of investors
11 funds because ANMP had promised that funds would be invested, protected and collateralized
12 by real property. I knew that ANMP mailed letters and "interest" payments to its investors to
13 falsely assure the investors that their loans were performing and to otherwise create the illusion
14 that non-performing loans were performing, including a letter mailed on or about December 20,
15 2002, to investor Larry Sitkiewicz (Count 5).

16 I understand that I will have to swear under oath to the accuracy of this statement, and if
17 I should be called upon to testify about this matter in the future, any intentional material
18 inconsistencies in my testimony may subject me to additional penalties of perjury or false
19 swearing which may be enforced by the United States under this agreement.

20 **DEFENDANT'S APPROVAL AND ACCEPTANCE**

21 I have read each of the provisions of the entire plea agreement with the assistance of
22 counsel and understand its provisions.

23 I have discussed the case and my constitutional and other rights with my attorney. I
24 understand that by entering my plea of guilty I will be giving up my rights to plead not guilty,
25 to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to present
26 evidence in my defense, to remain silent and refuse to be a witness against myself by asserting
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1 my privilege against self-incrimination -- all with the assistance of counsel -- and to be presumed
2 innocent until proven guilty beyond a reasonable doubt.

3 I agree to enter my guilty plea as indicated above on the terms and conditions set forth
4 in this agreement.

5 I have been advised by my attorney of the nature of the charges to which I am entering
6 my guilty plea. I have further been advised by my attorney of the nature and range of the
7 possible sentence and that my ultimate sentence will be determined after consideration of the
8 advisory Sentencing Guidelines. I understand that the Guideline Range referred to herein or
9 discussed with my attorney is not binding on the court and is merely an estimate.

10 My guilty plea is not the result of force, threats, assurances or promises other than the
11 promises contained in this agreement. I agree to the provisions of this agreement as a voluntary
12 act on my part and I agree to be bound according to its provisions.

13 I fully understand that, if I am granted probation or placed on supervised release by the
14 court, the terms and conditions of such probation/supervised release are subject to modification
15 at any time. I further understand that, if I violate any of the conditions of my
16 probation/supervised release, my probation/supervised release may be revoked and upon such
17 revocation, notwithstanding any other provision of this agreement, I may be required to serve
18 a term of imprisonment or my sentence may otherwise be altered.

19 I agree that this written plea agreement contains all the terms and conditions of my plea
20 and that promises made by anyone (including my attorney), and specifically any predictions as
21 to the guideline range applicable, that are not contained within this written plea agreement are
22 without force and effect and are null and void.

23 I am satisfied that my defense attorney has represented me in a competent manner.

24 I am fully capable of understanding the terms and conditions of this plea agreement. I
25 am not now on or under the influence of any drug, medication, liquor, or other intoxicant or

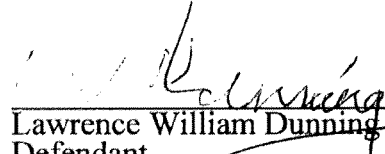
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1 depressant, which would impair my ability to fully understand the terms and conditions of this
2 plea agreement.

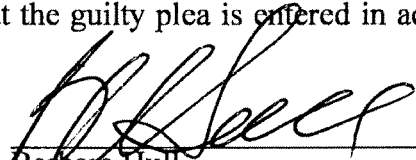
3 5-17-2010
4 Date


Lawrence William Dunning
Defendant

5 **DEFENSE ATTORNEY'S APPROVAL**

6 I have discussed this case and the plea agreement with my client, in detail and have
7 advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the constitutional and
8 other rights of an accused, the factual basis for and the nature of the offense to which the guilty
9 plea will be entered, possible defenses, and the consequences of the guilty plea including the
10 maximum statutory sentence possible. I have further discussed the concept of the advisory
11 sentencing guidelines with the defendant. No assurances, promises, or representations have been
12 given to me or to the defendant by the United States or by any of its representatives which are not
13 contained in this written agreement. I concur in the entry of the plea as indicated above and on
14 the terms and conditions set forth in this agreement as in the best interests of my client. I agree
15 to make a bona fide effort to ensure that the guilty plea is entered in accordance with all the
16 requirements of Fed. R. Crim. P. 11.

17 5/17/10
18 Date

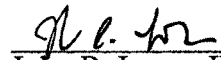

Barbara Hull
Attorney for Defendant

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20 **UNITED STATES' APPROVAL**

21 I have reviewed this matter and the plea agreement. I agree on behalf of the United States
22 that the terms and conditions set forth are appropriate and are in the best interests of justice.

23
24 DENNIS K. BURKE
25 United States Attorney
District of Arizona

26 5/17/10
27 Date


John R. Lopez IV
Assistant U.S. Attorney

COURT'S ACCEPTANCE

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Date

Hon. Mary H. Murguia
United States District Judge

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

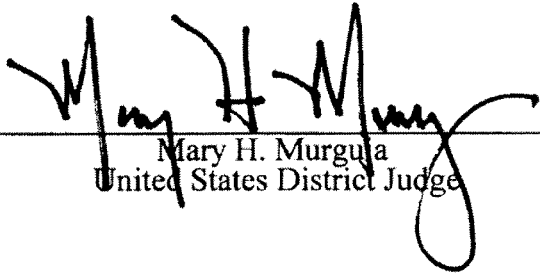
UNITED STATES OF AMERICA,)	Case No.: CR07-1390-PHX-MHM
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
LAWRENCE WILLIAM DUNNING,)	
)	
Defendant.)	

Upon motion of the Defendant, Lawrence William Dunning, and good cause appearing therefor,

IT IS HEREBY ORDERED continuing sentencing until September 29, 2010 at 1:30 p.m.

This Court finds that excludable delay will occur pursuant to §3161(h)(7)(A).

Dated this 21st day of June, 2010.



Mary H. Murgula
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
CRIMINAL MINUTES
CHANGE OF PLEA

07 / 1390 / 3 PHX-MHM
Year Case No. Dft #

DATE: 1/13/10

HONORABLE: MARY H. MURGUIA Judge #: 7027

USA V. Rehm, Robert Kenneth
Last Name First Name Middle Initial

DEFENDANT: [X] Present [] Not Present [X] Released [] Custody [] Writ

Deputy Clerk: Kristen Parris Court Reporter/ECR: Merilyn Sanchez

U.S. Atty: John Lopez and Howard Sukenic Dft Atty: Thomas Hoidal
[] AFPD [] Appointed [X] Retained

Intrpr: Language:

[] Dft not appearing, on mot of US Atty, order bond revoked/forfeited and B/W issued.

PROCEEDINGS: [] ARRAIGNMENT/PLEA [X] CHANGE OF PLEA [] RULE 20 [] SEALED

[X] WAIVER OF INDICTMENT filed. [X] INFORMATION filed.

Dft states true name: Dft sworn [X]

Dft enters: [X] GUILTY PLEA to: Information
Lesser offenses of Counts :

PLEA AGREEMENT: [X] LODGED [] FILED [] SEALED.

SENTENCING SET FOR: July 28, 2010 at 1:30 p.m. SEALED:

TO BE DISMISSED AT SENTENCING: Indictment

[X] ORDER vacate trial date/motion hearings/motions moot.

[X] ORDER defendant remain released pending sentencing.

[] ORDER remanded to custody of U.S. Marshal.

OTHER: The Court accepts the defendant's plea of guilty, but defers acceptance of the plea agreement until the time of Sentencing. IT IS FURTHER ORDERED that the Probation Officer prepare a presentence report.

Time in Court: [] hr 46 mins.

1 DENNIS K. BURKE
United States Attorney
District of Arizona

2
3 John R. Lopez IV
Assistant U.S. Attorney
Arizona State Bar No. 019182
Two Renaissance Square
4 40 N. Central Avenue, Suite 1200
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5 Telephone (602) 514-7500
John.Lopez3@usdoj.gov

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JAN 13 2010	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	Z DEPUTY

6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA

8 United States of America,
9 Plaintiff,

10 v.

11 Robert Kenneth Rehm,
12 Defendant.

CR-07-1390-PHX-MHM
PLEA AGREEMENT

13
14 Plaintiff, United States of America, and the defendant, Robert Kenneth Rehm, hereby
15 agree to dispose of this matter on the following terms and conditions:

16 **1. PLEA**

17 The defendant will plead guilty to an Information charging the defendant with a violation
18 of Title 18, United States Code, Section 4, Misprision of a Felony, a Class E felony offense.

19 **2. MAXIMUM PENALTIES**

20 a. A violation of Title 18, United States Code, Section 4, is punishable by a
21 maximum fine of \$250,000, a maximum term of imprisonment of 3 years, or both and a term of
22 supervised release of up to 1 year.

23 b. According to the Sentencing Guidelines issued pursuant to the Sentencing Reform
24 Act of 1984, the Court shall order the defendant to:

25 (1) make restitution to any victim of the offense pursuant to 18 U.S.C. § 3663
26 and/or 3663A, unless the Court determines that restitution would not be appropriate;

27 (2) pay a fine pursuant to 18 U.S.C. § 3572, unless the Court finds that a fine
28 is not appropriate;

1 (3) serve a term of supervised release when required by statute or when a
2 sentence of imprisonment of more than one year is imposed (with the understanding that the
3 Court may impose a term of supervised release in all other cases); and

4 (4) pay upon conviction a \$100 special assessment for each count to which the
5 defendant pleads guilty pursuant to 18 U.S.C. § 3013(a)(2)(A).

6 c. The Court is required to consider the Sentencing Guidelines in determining the
7 defendant's sentence. However, the Sentencing Guidelines are advisory, and the Court is free
8 to exercise its discretion to impose any reasonable sentence up to the maximum set by statute for
9 the crime(s) of conviction, unless there are stipulations to the contrary that the Court accepts.

10 **3. AGREEMENTS REGARDING SENTENCING**

11 a. Stipulation. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and the
12 defendant stipulate that the loss amount for purposes of calculating defendant's Guideline
13 sentencing range under Section 2B1.1 shall not exceed \$196,157.

14 b. Stipulation. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and the
15 defendant stipulate that the defendant's adjusted offense level (pursuant to Section 2X4.1 and
16 prior to an adjustment for acceptance of responsibility), shall not exceed offense level 7.

17 c. Restitution. Pursuant to 18 U.S.C. § 3663 and/or 3663A, the defendant specifically
18 agrees to make restitution to the victim in an amount to be determined by the Court at the time
19 of sentencing but in no event more than \$ 196,157.

20 d. Assets. The defendant shall make a full accounting of all assets in which the
21 defendant has any legal or equitable interest. The defendant shall not (and shall not aid or abet
22 any other party to) sell, hide, waste, spend, or transfer any such assets or property before
23 sentencing, without the prior approval of the United States (provided, however, that no prior
24 approval will be required for routine, day-to-day expenditures).

25 e. Acceptance of Responsibility. If the defendant makes full and complete disclo-
26 sure to the U.S. Probation Office of the circumstances surrounding the defendant's commission
27 of the offense, and if the defendant demonstrates an acceptance of responsibility for this offense
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1 up to and including the time of sentencing, the United States will recommend a two-level
2 reduction in the applicable Sentencing Guidelines offense level pursuant to U.S.S.G. § 3E1.1(a).
3 If the defendant has an offense level of 16 or more, the United States will recommend an
4 additional one-level reduction in the applicable Sentencing Guidelines offense level pursuant
5 to U.S.S.G. § 3E1.1(b).

6 **4. AGREEMENT TO DISMISS OR NOT TO PROSECUTE**

7 a. Pursuant to Fed. R. Crim. P. 11(c)(1)(A), the United States shall dismiss the
8 following charges: Counts 1 - 3 of the Indictment against the defendant.

9 b. This office shall not prosecute the defendant for any offenses committed by the
10 defendant, and known by the United States, in connection with the defendant's investment or
11 loan activities with Lawrence Dunning or American National Mortgage Partners between 2000
12 and 2003.

13 c. This agreement does not, in any manner, restrict the actions of the United States
14 in any other district or bind any other United States Attorney's Office.

15 **5. COURT APPROVAL REQUIRED; REINSTITUTION OF PROSECUTION**

16 If the Court, after reviewing this plea agreement, concludes that any provision contained
17 herein is inappropriate, it may reject the plea agreement and give the defendant the opportunity
18 to withdraw the guilty plea in accordance with Fed. R. Crim. P. 11(c)(5).

19 If the defendant's guilty plea or plea agreement is rejected, withdrawn, vacated, or
20 reversed at any time, this agreement shall be null and void, the United States shall be free to
21 prosecute the defendant for all crimes of which it then has knowledge and any charges that have
22 been dismissed because of this plea agreement shall automatically be reinstated. In such event,
23 the defendant waives any and all objections, motions, and defenses based upon the Statute of
24 Limitations, the Speedy Trial Act, or constitutional restrictions in bringing later charges or
25 proceedings. The defendant understands that any statements made at the time of the defendant's
26 change of plea or sentencing may be used against the defendant in any subsequent hearing, trial,
27 or proceeding subject to the limitations of Fed. R. Evid. 410.

28

1 **6. WAIVER OF DEFENSES AND APPEAL RIGHTS**

2 Providing the defendant's sentence is consistent with this agreement, the defendant
3 waives (1) any and all motions, defenses, probable cause determinations, and objections that the
4 defendant could assert to the indictment or information; and (2) any right to file an appeal, any
5 collateral attack, and any other writ or motion that challenges the conviction, an order of
6 restitution or forfeiture, the entry of judgment against the defendant, or any aspect of the
7 defendant's sentence, including the manner in which the sentence is determined, including but
8 not limited to any appeals under 18 U.S.C. § 3742 and motions under 28 U.S.C. §§ 2241 and
9 2255. The defendant acknowledges that if the Court has sentenced the defendant according to
10 the terms of this agreement, this waiver shall result in the dismissal of any appeal, collateral
11 attack, or other motion the defendant might file challenging the conviction, order of restitution
12 or forfeiture, or sentence in this case.

13 **7. DISCLOSURE OF INFORMATION**

14 a. The United States retains the unrestricted right to provide information and make
15 any and all statements it deems appropriate to the U.S. Probation Office and to the Court in
16 connection with the case.

17 b. The defendant shall cooperate fully with the U.S. Probation Office. Such
18 cooperation shall include providing complete and truthful responses to questions posed by the
19 U.S. Probation Office including, but not limited to, questions relating to:

- 20 (1) criminal convictions, history of drug abuse, and mental illness; and
21 (2) financial information, including present financial assets or liabilities that
22 relate to the ability of the defendant to pay a fine or restitution.

23 **8. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

24 Nothing in this agreement shall be construed to protect the defendant from administrative
25 or civil forfeiture proceedings or prohibit the United States from proceeding with and/or
26 initiating an action for civil forfeiture. Pursuant to 18 U.S.C. § 3613, all monetary penalties,
27 including restitution imposed by the Court, shall be due immediately upon judgment and subject
28 to immediate enforcement by the United States. If the Court imposes a schedule of payments,

1 the schedule of payments shall be merely a schedule of minimum payments and shall not be a
2 limitation on the methods available to the United States to enforce the judgment.

3 **9. ELEMENTS**

4 **Misprision of a Felony (18 U.S.C. § 4)**

5 1. In or about October 2000, in the District of Arizona;

6 2. The defendant had knowledge of, or was aware of a high probability and deliberately
7 avoided learning the truth about, the actual commission of a felony offense, namely Bank Fraud,
8 in violation of 18 U.S.C. § 1344; and

9 3. The defendant concealed and did not as soon as possible make known the same to
10 some judge or other person in civil authority under the United States.

11 The essential elements of Bank Fraud, as to the instant matter, are as follows:

12 (1) others knowingly carried out a scheme or plan to obtain money or property from a
13 financial institution by making false statements or promises;

14 (2) others knew that the statements or promises were false;

15 (3) the false promises or statements were material, that is they would reasonably influence
16 a bank to part with money or property;

17 (4) others acted with intent to defraud; and

18 (5) the financial institution was federally insured.

19 **10. FACTUAL BASIS**

20 The defendant admits that the following facts are true and that if this matter were to
21 proceed to trial the United States could prove the following facts beyond a reasonable doubt:

22 From on or about July 16, 2000 to on or about October 16, 2000, Larry Dunning
23 (“Dunning”) executed a scheme and artifice to defraud Western Security Bank and National
24 Bank of Arizona by obtaining a \$400,000 cashier’s check from Western Security and loans from
25 National Bank of Arizona to purchase a home at 300 Acacia Drive, Sedona, Arizona (“Sedona
26 house”). Dunning did this to repay investors he had solicited who had loaned money to the
27 owner of the home. The owner had defaulted on this loan.

28 Dunning was the true purchaser of the Sedona house and fraudulently obtained a
\$400,000 deposit in the form of a cashier’s check from Western Security Bank. At Dunning’s

1 request, I became the "straw purchaser" of the Sedona house by allowing residential loan
2 applications to be submitted in my name to National Bank of Arizona in October 2000. National
3 Bank of Arizona was insured by the Federal Deposit Insurance Corporation in October 2000.
4 I did not, in fact, intend to occupy the property, make mortgage payments on it, or otherwise
exercise ownership interests.

5 I later learned that Dunning had defaulted on the loans obtained in my name through the
6 applications. I did not notify any federal or state authority as soon as possible about Dunning
7 using me to commit bank fraud and affirmatively concealed the offense by allowing the
residential loan applications to be made under my name.

8 I did not in any way use my engineering license in this matter and it was not at all related
9 to my business.

10
11 The defendant shall swear under oath to the accuracy of this statement and, if the
12 defendant should be called upon to testify about this matter in the future, any intentional
13 material inconsistencies in the defendant's testimony may subject the defendant to additional
14 penalties for perjury or false swearing, which may be enforced by the United States under
this agreement.

15 **APPROVAL AND ACCEPTANCE OF THE DEFENDANT**

16 I have read the entire plea agreement with the assistance of my attorney. I understand
17 each of its provisions and I voluntarily agree to it.

18 I have discussed the case and my constitutional and other rights with my attorney. I
19 understand that by entering my plea of guilty I shall waive my rights to plead not guilty, to
20 trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to present
21 evidence in my defense, to remain silent and refuse to be a witness against myself by
22 asserting my privilege against self-incrimination, all with the assistance of counsel, and to be
23 presumed innocent until proven guilty beyond a reasonable doubt.

24 I agree to enter my guilty plea as indicated above on the terms and conditions set forth
25 in this agreement.

26 I have been advised by my attorney of the nature of the charges to which I am entering
27 my guilty plea. I have further been advised by my attorney of the nature and range of the
28 possible sentence and that my ultimate sentence shall be determined by the Court after

1 consideration of the advisory Sentencing Guidelines.

2 My guilty plea is not the result of force, threats, assurances, or promises, other than
3 the promises contained in this agreement. I voluntarily agree to the provisions of this
4 agreement and I agree to be bound according to its provisions.

5 Information/Waiver of Indictment I understand that I have a right to have the
6 charge(s) prosecuted by an indictment returned by a concurrence of 12 or more members of a
7 legally constituted grand jury consisting of not less than 16 and not more than 23 members.
8 By signing this agreement, I knowingly waive my right to be prosecuted by indictment and to
9 assert at trial or on appeal any defects or errors arising from the information, the information
10 process, or the fact that I have been prosecuted by way of information.

11 I understand that if I am granted probation or placed on supervised release by the
12 Court, the terms and conditions of such probation/supervised release are subject to
13 modification at any time. I further understand that if I violate any of the conditions of my
14 probation/supervised release, my probation/supervised release may be revoked and upon such
15 revocation, notwithstanding any other provision of this agreement, I may be required to serve
16 a term of imprisonment or my sentence otherwise may be altered.

17 This written plea agreement, and any written addenda filed as attachments to this plea
18 agreement, contain all the terms and conditions of the plea. Any additional agreements, if
19 any such agreements exist, shall be recorded in a separate document and may be filed with
20 the Court under seal; accordingly, additional agreements, if any, may not be in the public
21 record.


22 I further agree that promises, including any predictions as to the Sentencing Guideline
23 range or to any Sentencing Guideline factors that will apply, made by anyone (including my
24 attorney) that are not contained within this written plea agreement, are null and void and have
25 no force and effect.

26 I am satisfied that my defense attorney has represented me in a competent manner.

27 I fully understand the terms and conditions of this plea agreement. I am not now
28 using or under the influence of any drug, medication, liquor, or other intoxicant or depressant

1 that would impair my ability to fully understand the terms and conditions of this plea
2 agreement.

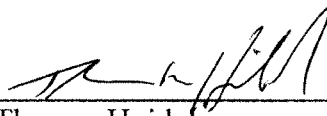
3
4 1/13/2010
5 Date


6
7 Robert Kenneth Rehm
8 Defendant

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10 **APPROVAL OF DEFENSE COUNSEL**

11 I have discussed this case and the plea agreement with my client in detail and have
12 advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the
13 constitutional and other rights of an accused, the factual basis for and the nature of the
14 offense to which the guilty plea will be entered, possible defenses, and the consequences of
15 the guilty plea including the maximum statutory sentence possible. I have further discussed
16 the concept of the advisory Sentencing Guidelines with the defendant. No assurances,
17 promises, or representations have been given to me or to the defendant by the United States
18 or any of its representatives that are not contained in this written agreement. I concur in the
19 entry of the plea as indicated above and that the terms and conditions set forth in this
20 agreement are in the best interests of my client. I agree to make a bona fide effort to ensure
21 that the guilty plea is entered in accordance with all the requirements of Fed. R. Crim. P. 11.

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29 1/13/10
30 Date


31 Thomas Hoidal
32 Attorney for Defendant

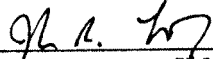
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APPROVAL OF THE UNITED STATES

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth herein are appropriate and are in the best interests of justice.

DENNIS K. BURKE
United States Attorney
District of Arizona

1/13/10
Date


John R. Lopez IV
Assistant U.S. Attorney

ACCEPTANCE BY THE COURT

Date

Mary H. Murguia
United States District Judge

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JAN 13 2010	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	Z DEPUTY

1 DENNIS K. BURKE
 2 United States Attorney
 District of Arizona

3 John R. Lopez IV
 Assistant U.S. Attorney
 Arizona State Bar No. 019182
 4 Telephone: (602) 514-7500
 Two Renaissance Square
 40 North Central Avenue, Suite 1200
 5 Phoenix, Arizona 85004-4408
 John.Lopez3@usdoj.gov

6 UNITED STATES DISTRICT COURT
 7 DISTRICT OF ARIZONA

SEALED

8 United States of America,
 9 Plaintiff,

10 v.

11 Robert Kenneth Rehm,
 12 Defendant.

CR 07-1390-PHX-MHM

**COOPERATION ADDENDUM
 TO THE PLEA AGREEMENT**

(Filed Under Seal)

13 Plaintiff, the United States of America, and the defendant, Robert Kenneth Rehm, hereby
 14 agree to amend and supplement the terms and conditions of the Plea Agreement, dated January
 15 13, 2010, to reflect the agreements, rights, and responsibilities of the parties regarding the
 16 defendant's cooperation with the United States.

17 Except as otherwise expressly provided herein, the terms and conditions set forth in this
 18 Addendum shall supplement and not replace the terms and conditions set forth in the Plea
 19 Agreement. If the Court, after reviewing the Plea Agreement and this Addendum, concludes that
 20 any provision therein or herein is inappropriate, it may reject both the Plea Agreement and this
 21 Addendum, jointly and in whole but not separately or in part, giving the defendant, in accordance
 22 with Fed. R. Crim. P. 11(c)(5), an opportunity to withdraw the guilty plea.

23 **I. Cooperation Required**

24 a. If requested by the United States, the defendant shall meet with representatives of
 25 the United States at any reasonable time and place and, in such meetings, shall (i) waive the Fifth
 26 Amendment privilege against self-incrimination; (ii) answer all questions asked about any topic
 27 whatsoever; and (iii) provide full and complete information about the topics discussed in each
 28

cc: AUSA, Defense, Prob.

1 interview, if necessary by volunteering information about which no questions are asked.

2 b. If requested by the United States, the defendant shall deliver to the United States
3 any documents and other items to which the defendant has access.

4 c. If requested by the United States, the defendant shall testify at any time and place
5 and, when testifying, shall not invoke the Fifth Amendment privilege against self-incrimination.

6 d. All information, evidence, and testimony provided by the defendant pursuant to
7 this Addendum, on any topic whatsoever, shall be truthful, honest, candid, and complete with
8 no knowing and material omissions or false statements. The defendant shall not attempt to either
9 protect or falsely implicate any person or entity through false information or omission.

10 e. When requested by the United States, the defendant shall undergo a polygraph
11 examination on any subject whatsoever. Such examination shall be conducted by a polygrapher
12 chosen, and in a manner determined, in the sole and absolute discretion of the United States. If
13 the truthfulness, honesty, candor, and completeness of the information provided by the defendant
14 is put at issue in any proceeding to enforce or set aside any provision of the Plea Agreement or
15 this Addendum, neither the defendant nor the United States shall object to the admissibility of
16 the results of such examination.

17 f. The United States Attorney's Office for the District of Arizona shall not use
18 directly against the defendant in any criminal proceeding (other than a criminal forfeiture
19 proceeding) any evidence provided by the defendant pursuant to this Addendum. Additionally,
20 pursuant to Section 1B1.8 of the Sentencing Guidelines, the Court shall not use such evidence
21 in determining the defendant's advisory Sentencing Guidelines range. For the avoidance of
22 doubt, however, the United States may (i) make derivative use of evidence provided by the
23 defendant pursuant to this Addendum, and (ii) use such evidence directly against the defendant
24 in any criminal forfeiture proceeding and any administrative or civil proceeding.

25 g. The defendant shall work undercover only under the direct supervision of law
26 enforcement officers and with the prior approval of the Court.

27 h. Without the prior consent of the United States Attorney's Office for the District
28 of Arizona, the defendant shall not disclose or reveal to any third party the fact that the defendant

1 is cooperating, or the nature of any information that has been obtained by the United States. The
2 defendant shall notify the United States as soon as possible of any such disclosures.

3 i. The defendant shall notify the United States as soon as possible of any interactions
4 or contacts with any subject or target of any ongoing criminal investigation, any criminal
5 defendant, or their respective counsel or associates.

6 j. The defendant shall not violate any local, state, federal or foreign laws. The defen-
7 dant shall comply with all terms and conditions of the defendant's pre-trial release.]

8 **II. Additional Agreements Regarding Sentencing**

9 a. The defendant shall request sentencing be deferred for a period of 180 days. After
10 such period, if the United States wishes for the defendant's cooperation to continue, the
11 defendant shall not oppose any motions to continue the defendant's sentencing.

12 b. Prior to the defendant's sentencing, the United States shall in good faith consider
13 moving the Court to depart downward from the Sentencing Guidelines, and if applicable impose
14 a sentence below the level established by law as the minimum sentence, pursuant to Section
15 5K1.1 of the Sentencing Guidelines and 18 U.S.C. § 3553(e), respectively.

16 c. At sentencing and any other appropriate time, the United States shall bring the
17 nature and extent of the defendant's cooperation to the attention of the Court and/or the Federal
18 Bureau of Prisons.

19 **III. Breach of the Plea Agreement or Addendum**

20 a. If the defendant fails to comply with any of the defendant's obligations or promises
21 set forth in the Plea Agreement or this Addendum, the United States may:

22 i. in its sole and absolute discretion, declare any provision of the Plea
23 Agreement and this Addendum null and void, without giving the defendant any right or option
24 to withdraw from the Plea Agreement, this Addendum, or the plea of guilty;

25 ii. recommend any sentence, up to and including the statutory maximum
26 sentence;

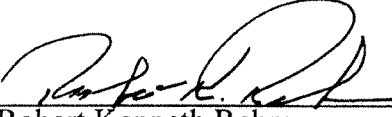
27 iii. prosecute the defendant, or reinstitute prosecution of the defendant, for any
28 and all crimes committed by the defendant, notwithstanding the Statute of Limitations, the

1 I agree that the Plea Agreement and this written Addendum contain all the terms and
2 conditions of my plea and cooperation. I further agree that promises, including any predictions
3 as to the Sentencing Guidelines range or to any Sentencing Guidelines factors that will apply,
4 made by anyone (including my attorney) that are not contained within the Plea Agreement and
5 this written Addendum are null and void and have no force and effect.

6 I am satisfied that my defense attorney has represented me in a competent manner.

7 I fully understand the terms and conditions of this Addendum. I am not now using or
8 under the influence of any drug, medication, liquor, or other intoxicant or depressant, that would
9 impair my ability to fully understand the terms and conditions of this Addendum.

10
11 1/13/2010
Date

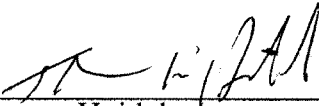


Robert Kenneth Rehm
Defendant

13 **APPROVAL OF DEFENSE COUNSEL**

14 I have discussed this case and this Addendum with my client in detail, and I have advised
15 the defendant of all matters within the scope of Fed. R. Crim. P. 11, cooperation with the United
16 States, and the consequences of failing to satisfy the defendant's cooperation obligations as
17 provided herein. I have further discussed the concept of the advisory Sentencing Guidelines with
18 the defendant. Neither the United States nor any of its representatives has given me or the
19 defendant any assurances, promises, or representations that are not contained in this written
20 Addendum. I concur in the defendant's agreement to cooperate and that the terms and condi-
21 tions set forth in this Addendum are in the best interests of my client. I agree to make a bona
22 fide effort to ensure that the cooperation obligations as provided herein are satisfied.

23
24 1/13/10
Date



Thomas Hoidal
Attorney for the Defendant

25
26
27 **APPROVAL OF THE UNITED STATES**

28 I have reviewed this matter and this Addendum. I agree on behalf of the United States

