

US DISTRICT COURT  
WESTERN DIST ARKANSAS  
FILED

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

JUL 19 2018

DOUGLAS F. YOUNG, Clerk  
By *De*  
Deputy Clerk

UNITED STATES OF AMERICA )  
 )  
vs. )  
 )  
JERRY KENNEDY WALSH )

No. 1:18cr10007-001

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1) of the Federal Rules of Criminal Procedure, the parties hereto acknowledge that they have entered into negotiations which have resulted in this Agreement. The agreement of the parties is as follows:

**WAIVER OF INDICTMENT AND  
PLEA OF GUILTY TO INFORMATION**

1. The Defendant, **JERRY KENNEDY WALSH**, hereby agrees to waive indictment by a grand jury, and consents to the filing of an Information charging the Defendant with conspiracy to knowingly convert to the use of another, property valued at over \$5,000 from an organization receiving in excess of \$10,000 in federal funds, without the authority of that organization, in violation of Title 18 U.S.C. §§ 666(a)(1)(A) and 371.

**ADMISSION OF FACTUAL BASIS IN SUPPORT OF GUILTY PLEA(S)**

2. The Defendant has fully discussed with defense counsel the facts of this case and the elements of the crime(s) to which the Defendant is pleading guilty. The Defendant has committed each of the elements of the crime(s) to which the Defendant is pleading guilty, and admits that there is a factual basis for this guilty plea. By affixing his signature below, WALSH affirms that the following facts are true and undisputed:

JERRY KENNEDY WALSH (WALSH) was a resident of the Western District of Arkansas. WALSH was an employee of South Arkansas Youth Services (SAYS), serving as its Executive Director overseeing company operations in the state of Arkansas. SAYS was an

Arkansas non-profit corporation headquartered at 128 North Washington in Magnolia, Arkansas, which was a provider of youth services to delinquent and at-risk youth. SAYS contracted with the State of Arkansas to provide a variety of youth services in or around Dermot, Mansfield, Lewisville, and Magnolia, Arkansas, among other locations. Magnolia is located in the El Dorado Division of the Western District of Arkansas. SAYS filed its Articles of Incorporation with the Arkansas Secretary of State on June 3, 1977, and was granted a corporate charter. According to the By-Laws of SAYS (By-Laws), in Article VI, Section 2, “[t]he Board of Directors shall be responsible for the business and property of the corporation. It is the responsibility of the Board to set policy, approve budgets, salaries, and contracts...” As its Executive Director, WALSH stipulates that he was an agent of SAYS as that term is defined in Title 18 U.S.C. § 666(d)(1).

For fiscal years 2011 through 2015, each fiscal year beginning July 1 of the indicated year, and ending on June 30 of the following year, SAYS reported total revenue in the amounts indicated below:

<b>Fiscal Year</b>	<b>SAYS Total Revenue</b>
FY2011	\$ 15,238,345
FY2012	\$ 15,468,109
FY2013	\$ 15,841,097
FY2014	\$ 14,582,872
FY2015	\$ 14,505,705
<b>TOTAL</b>	<b>\$ 75,636,128</b>

For fiscal years 2012 through 2015, each fiscal year beginning July 1 of the indicated year, and ending on June 30 of the following year, SAYS received annually at least \$10,000 in funds from the United States government in the form of various grants and federal aid, including, but not limited to, United States Department of Agriculture National School Lunch Program Funds, Social Services Block Grants, Foster Care Funds under Title IV-E, and Negligent and Delinquent Children Funds. Though SAYS received federally-funded grants, the organization relied principally upon contracts between SAYS and the State of Arkansas for revenue.

#### **RELEVANT TAX CODE APPLICABLE TO 501(C)(3) ORGANIZATIONS**

WALSH understood that SAYS was recognized by the Internal Revenue Service (IRS) as a non-profit public charity under Section 501(c)(3) of the Internal Revenue Code (United States Code, Title 26) (Tax Code). As a 501(c)(3) organization, from 2011-2015, WALSH was aware that SAYS applied for, and was granted, exemptions from having to pay federal income taxes. As the Executive Director for SAYS, WALSH understood that SAYS was subject to the IRS “No Substantial Part” rule, which provides that no substantial part of SAYS’s activities may constitute carrying on propaganda, or otherwise attempting to influence legislation. So that the IRS and general public can monitor a tax-exempt organization’s compliance with the “No Substantial Part” Rule, WALSH understood that SAYS was required to disclose any and all political lobbying activity in Part IX (Statement of Functional Expenses) of their annually-filed IRS Forms 990. As SAYS’s Executive Director, WALSH executed and filled out multiple IRS Forms 990, or the “Return of Organization Exempt from Income Tax,” which the IRS required to be filed each year if SAYS had gross receipts greater than or equal to \$200,000, or total assets greater than or equal

to \$500,000. WALSH signed the Forms 990 under the penalty of perjury. WALSH understood that the IRS Forms 990 also required SAYS to report on the organization's non-political activities, finances, governance, compliance with certain federal tax filings, and compensation paid to certain employees of the organization. Specifically, in each IRS Form 990 completed and filed by SAYS for fiscal years 2011 through 2015, SAYS reported that it had no expenses related to lobbying and political activity. Each IRS Form 990 completed and filed by SAYS for fiscal years 2011 through 2014 was signed and certified as true by WALSH as the Executive Director of SAYS.

### **RELEVANT INDIVIDUALS, ENTITIES, AND PROGRAMS**

WALSH knew that Milton Russell Cranford (Cranford) was a registered lobbyist in the State of Arkansas and operated multiple lobbying firms. Lobbying Firm D was a lobbying organization for which WALSH understood Cranford was an authorized representative. WALSH understood Lobbying Firm B and Lobbying Firm D (Lobbying Firms) represented and were paid by, among other clients, youth service provider entities across Arkansas, including SAYS, to advance their interests in the legislature.

WALSH knew "Arkansas Senator C" who served as a Senator in the Arkansas Senate during the 89th General Assembly. WALSH understood Arkansas Senator C, due to his senior position in the Arkansas Senate, had the power to prevent bills from coming to the floor for a vote, had the power to affect which appropriations bills were funded, and had the authority to vote on state contracts due to his position on the Legislative Council. WALSH also understood that Arkansas Senator C was a licensed attorney in the State of Arkansas.

WALSH understood Person #4 was and is a relative of Cranford.

As SAYS's Executive Director, WALSH was aware that the Arkansas Department of Human Services (DHS) was an agency of the State of Arkansas that provided various services to individuals in the State of Arkansas to include behavioral health services, which were provided through the Division of Behavioral Health Services (DBHS). DHS also had regular interaction with youth services providers across the State of Arkansas through their Division of Youth Services (DYS) division. DYS was responsible for monitoring youth service providers' adherence to contract requirements and by providing data and recommendations to the Arkansas legislature, impacted whether or not youth service contracts, like the contracts between Arkansas and SAYS, were ultimately renewed.

### **THE CONSPIRACY**

#### **Object of the Conspiracy**

From in or about 2013, until in or about 2016, in the Western District of Arkansas, El Dorado division, and elsewhere, the defendant, JERRY KENNEDY WALSH, together with Cranford, Arkansas Senator C, and others known and unknown to the United States, did knowingly and unlawfully conspire, confederate, and agree together, and with each other, to embezzle, steal, obtain by fraud, intentionally misapply, and otherwise without authority from SAYS's Board of Directors, knowingly convert to the use of Cranford, Person #4, Arkansas Senator C, and others

known and unknown to the United States, property that was valued at \$5,000 or more, and was owned by, under the care, custody and control of SAYS, an organization receiving in a one year period from July 1, 2013, through June 30, 2014, benefits in excess of \$10,000 under a Federal program, in violation of Title 18, United States Code, Section 666(a)(1)(A).

### **Purposes of the Conspiracy**

The purposes of the conspiracy included, but were not limited to, the following:

- For WALSH, to enrich SAYS by diverting SAYS funds, without authority from the SAYS Board of Directors, to Arkansas Senator C in the form of retainers and legal fees, in exchange for Arkansas Senator C agreeing to take favorable official action to benefit WALSH, SAYS, and others known and unknown to the United States, including influencing Arkansas officials to preserve contracts between SAYS and the State of Arkansas, and to influence DHS and DYS from taking negative action against SAYS;

- For WALSH, to enrich SAYS by diverting SAYS funds, without authority from the SAYS Board of Directors, to Cranford and his Lobbying Firms; and to Person #4 through payments for a job for which Person #4 was not expected to perform any work; in exchange for Cranford, and others known and unknown to the United States, influencing Arkansas officials to preserve contracts between SAYS and the State of Arkansas, and to influence DHS and DYS from taking negative action against SAYS;

- For Arkansas Senator C, to enrich himself by accepting funds diverted from SAYS in the form of retainers and legal fees from WALSH and SAYS, and others known and unknown to the United States, in exchange for Arkansas Senator C agreeing to take favorable official action to benefit WALSH, SAYS, and others known and unknown to the United States, including, but not limited to, influencing Arkansas officials to preserve contracts between SAYS and the State of Arkansas, and to influence DHS and DYS from taking negative action against SAYS; and

- For Cranford, to enrich himself and Person #4, by accepting funds diverted from SAYS to his Lobbying Firms, and facilitating payments to Person #4 for a job for which Person #4 was not expected to perform any work, in exchange for Cranford influencing Arkansas officials to preserve contracts between SAYS and the State of Arkansas, and to influence DHS and DYS from taking negative action against SAYS.

### **Manner and Means**

The manner and means by which WALSH, the conspirators, and others known and unknown to the United States carried out the conspiracy included, but were not limited to, the following:

- WALSH used SAYS funds to pay Arkansas Senator C. WALSH, Cranford, and Arkansas Senator C, understood that these payments were paid to Arkansas Senator C in exchange for Arkansas Senator C using his official capacity to influence officials from DHS and

DYS. To conceal the conspiracy and payments, WALSH diverted funds from SAYS, without authority from the SAYS Board of Directors, and made monthly payments to Arkansas Senator C in the form of retainers and legal fees without the expectation that Arkansas Senator C would perform any legal work. In total, WALSH and SAYS paid Arkansas Senator C over \$120,000.

- WALSH used SAYS funds to pay Cranford and Person #4. WALSH and Cranford understood that these payments were in exchange for Cranford influencing Arkansas officials to preserve contracts between SAYS and the State of Arkansas, and for influencing DHS and DYS from taking negative action against SAYS. To conceal the conspiracy and payments, WALSH diverted funds from SAYS, without authority from the SAYS Board of Directors; made monthly payments to Cranford and his Lobbying Firms; and paid Person #4 for a job for which Person #4 was not expected to perform any work. In total, WALSH paid Cranford and his Lobbying Firms over \$130,000 and paid Person #4 over \$132,000.

- WALSH concealed the payments to Arkansas Senator C, Cranford and his Lobbying Firms, and Person #4, by not seeking the required approval for the payments from SAYS's Board of Directors. WALSH further concealed the payments to Cranford by falsely certifying that SAYS did not participate in lobbying activity on SAYS IRS Forms 990.

#### **Overt Acts in Furtherance of the Conspiracy**

In furtherance of the conspiracy, and to accomplish its purposes, WALSH, Cranford, Arkansas Senator C and others known and unknown to the United States, committed the following acts in the Western District of Arkansas and elsewhere:

#### ***SAYS Lobbying Activity***

On February 24, 2013, Cranford wrote WALSH an email stating "here is the contract brother." Attached to the email was a "consulting" contract for services between Lobbying Firm B and SAYS. According to the terms of the contract, SAYS was obligated to pay \$3,334.00 per month for two years to Lobbying Firm B. In exchange, Lobbying Firm B was, among other things, to provide "representation during the non-legislative session months, regular legislative session months, and committee review of the General Assembly...[and consultation] on state legislative review, government relations, passage of legislation, opposing legislation, leveraging funding[.]"

Between February 9, 2013 and July 29, 2013, SAYS, at WALSH's direction, paid Lobbying Firm B pursuant to this contract in monthly \$3,334.00 increments. WALSH did not request authority from the SAYS Board of Directors to pay Cranford or Lobbying Firm B for lobbying activity, as required by SAYS's By-Laws. Throughout the 2013 legislative session, WALSH spoke with Cranford by telephone and email regarding several bills that impacted youth service providers. Among other matters, Cranford worked for SAYS as a lobbyist to advance HB2278, commonly called the "Juvenile Justice Board Bill," and also worked to defeat SB335, commonly known as "the Close to Home Act," which WALSH believed would negatively impact SAYS. Also during the 2013 legislative session, the Arkansas State Claims Commission was considering whether to reduce an award of damages against DYS resulting from a crime committed by a juvenile in their custody. The initial award against DYS was approximately \$1.6 million.

Youth service providers were told by representatives from DHS and DYS that any amount awarded would come out of DYS contracts with youth service providers. That amount was later reduced on appeal during the Claims Commission process.

On or about March 12, 2013, WALSH emailed a representative of DHS stating, "I did instruct [Cranford] and [another lobbyist working for Cranford] to work that claim hearing on my nickel. A half million is better than [sic] 1.6 million I think every on [sic] efforts minimize this award to the lower figure helped." The DHS representative responded, "I agree and we appreciate the help, Jerry." This response was forwarded to Cranford. On or about March 22, 2013, another representative of DHS wrote to Cranford, "I regret to inform you that the Joint Budget has approved a claim against DYS for one million dollars... we will immediately inform you of where the budget cuts will take place. I assure you that I will do everything I can and look where I can to soften this reduction in funds for everyone." Cranford responded, "[w]e have been told by the legislature these funds will not come out of provider contracts." This response was forwarded from Cranford to WALSH on the same day.

### *The Hiring of Arkansas Senator C*

Near the close of the legislative session in 2013, WALSH became concerned regarding DHS and DYS attempts to award youth service contracts to out-of-state providers and to promulgate new regulations that would negatively impact SAYS. Cranford told WALSH that if WALSH wanted to preserve SAYS's contracts with the State of Arkansas and to prevent DHS and DYS from taking negative action against SAYS, WALSH needed to hire Arkansas Senator C and Person #4 and pay higher lobbying fees to Cranford. On or about May 13, 2013, WALSH wrote to Cranford and asked "What day and time and location is my appointment as we di[s]cussed last week." Cranford responded "Wednesday. Noon. [Little Rock]"

On or about May 15, 2013, Cranford arranged a meeting between WALSH and Arkansas Senator C at the State Capitol in Little Rock, Arkansas. At the meeting, which WALSH and Arkansas Senator C attended, WALSH discussed with Arkansas Senator C SAYS's need to stop DHS and DYS from threatening to pull state contracts from SAYS and Arkansas Senator C agreed to help. In exchange, WALSH agreed to pay Arkansas Senator C retainer and legal fees in an amount set by Cranford. WALSH understood that in exchange for the retainer and legal fees, Arkansas Senator C agreed to take favorable official action to benefit WALSH and SAYS by influencing Arkansas officials to preserve contracts between SAYS and the State of Arkansas, and to influence DHS and DYS from taking negative action against SAYS. WALSH, Arkansas Senator C, and Cranford understood that these payments were made without the expectation that Arkansas Senator C would perform any legal work. On or about May 16, 2013, Arkansas Senator C wrote WALSH, "This email address is my private email address...I look forward to working with you. Feel free to call anytime." WALSH responded, "Thank you sir I did some additional evaluation and I [ ] think we about covered everything so at your convenience please email a contract. We look forward to work [sic] with you." This email was later forwarded to Cranford.

A contract was later provided to WALSH by Arkansas Senator C in which, beginning on July 1, 2013 and ending June 30, 2015, SAYS was to pay \$7,500 per month to Arkansas Senator C for "general legal representation." SAYS records show this agreement was never signed by

Arkansas Senator C. The Board of Directors of SAYS did not authorize this contract with Arkansas Senator C. SAYS Board members did not become aware of the contract with Arkansas Senator C until after the contract had ended in November of 2014. WALSH is not aware of any legal services or representation ever being provided by Arkansas Senator C to SAYS. Between July 1, 2013, and November 11, 2014, WALSH directed approximately \$123,750.00 in SAYS funds, without authorization of the SAYS Board of Directors, to Arkansas Senator C.

#### ***The Hiring of Person #4***

On July 1, 2013, WALSH, at the request of Cranford, and on behalf of SAYS, signed a contract with Person #4 to provide services as a “Coordinator of Government and Agency Relations.” In exchange for providing these services, Person #4 was to be paid \$60,000 per year in 24 monthly payments of \$5,000 per month. WALSH did not request authority from the SAYS Board of Directors to enter into this contract with Person #4 as required by the By-Laws. According to the terms of the contract, a near identical copy of the contract SAYS entered into with Lobbying Firm B, Person #4 was to, among other things, provide “representation during the non-legislative session months, regular legislative session months, and committee review of the General Assembly...The Coordinator will consult the Client on state legislative review, government relations, leverage[sic] funding...”

Between August 8, 2013, and December 16, 2014, WALSH, without the authority of the SAYS Board of Directors, diverted SAYS funds to pay Person #4 \$72,022.70 pursuant to the terms of the July 1, 2013 agreement. WALSH omitted these lobbying expenses from the IRS Form 990’s filed and certified by WALSH on behalf of SAYS. Despite Person #4’s failure to satisfactorily perform under the initial contract toward the conclusion of the July 1, 2013, agreement between SAYS and Person #4, on or about November 19, 2014, WALSH made Person #4 a full-time employee with the title “Child Care Advocate.” On or about December 4, 2014, WALSH was notified by an employee of SAYS that Person #4 did not pass a background check, which was required to be a Child Care Advocate. Even though Person #4 was not qualified to be a full-time Child Care Advocate because of the failure to pass a background check, WALSH approved his hiring. Person #4 failed to “attend work promptly and regularly” as required by the terms of SAYS employment policies. Throughout Person #4’s employment, WALSH understood Person #4 was warned for excessive absenteeism. Person #4 never showed up to his assigned SAYS facility but continued getting paid by SAYS through 2016.

WALSH is aware that Person #4 was paid as a W-2 employee for SAYS beginning in November of 2014 and was paid the following amounts: \$4,307.64 in 2014, \$39,858.96 in 2015, and \$16,192.16 in 2016. During his entire period of employment by WALSH for SAYS, Person #4 was neither expected to, nor required to, perform services for SAYS by WALSH, pursuant to WALSH’s agreement with Cranford.

#### ***New Contract with Cranford***

Pursuant to his agreement with Cranford to increase Cranford’s lobbying fees, WALSH agreed to a new contract with Cranford and his Lobbying Firm D in which Cranford’s lobbying fees increased from \$3,334.00 per month to \$8,000 per month. WALSH did not request authority

from the SAYS Board of Directors to enter into a new contract with Cranford or Lobbying Firm D as required by SAYS's By-Laws. WALSH signed the July contract with Lobbying Firm D which stated the "contract agreement is guarantee[d] by the Board of Directors of [SAYS]" even though the contract had not been authorized by the SAYS Board. Between July 30, 2013, and September 15, 2014, SAYS, without authority of the SAYS Board of Directors, paid Lobbying Firm D approximately \$112,000. In exchange for WALSH making payments to Cranford and his Lobbying Firms, and for WALSH diverting SAYS funds to Person #4, Cranford agreed to engage in lobbying efforts to influence Arkansas officials to preserve contracts between SAYS and the State of Arkansas, and to influence DHS and DYS from taking negative action against SAYS. These unauthorized lobbying expenses were concealed from the IRS and not reported by Walsh on the Form 990s.

### **ADVICE OF RIGHTS**

3. The Defendant hereby acknowledges that he has been advised of and fully understands the following constitutional and statutory rights:

- a. to have an attorney and if the Defendant cannot afford an attorney, to have one provided to him and paid for at government expense;
- b. to persist in his plea of not guilty;
- c. to have a speedy and public trial by jury;
- d. to be presumed innocent until proven guilty beyond a reasonable doubt;
- e. to confront and examine witnesses who testify against him;
- f. to call witnesses on his behalf;
- g. to choose to testify or not testify and that no one could force the Defendant to testify; and
- h. to have at least 30 days to prepare for trial.

### **WAIVER OF RIGHTS**

4. The Defendant hereby acknowledges that he understands with respect to each count to which he pleads guilty, he thereby WAIVES all of the rights listed as (b) through (h) of the above paragraph.



**WAIVER OF ACCESS TO RECORDS**

5. The Defendant hereby waives 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.

**WAIVER OF "HYDE" CLAIM**

6. The Defendant hereby waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A (Statutory Note), for attorney fees and other litigation expenses arising out of the investigation or prosecution of this matter.

**DISCOVERY WAIVER**

7. The Defendant hereby waives the right to further discovery or disclosures of information not already provided at the time of the entry of the guilty plea, other than the information required to be disclosed under Federal Rule of Criminal Procedure 32(i)(2) and exculpatory or impeachment information casting doubt upon sentencing factors.

**WAIVER OF APPELLATE AND POST-CONVICTION RIGHTS**

8. In consideration of the promises and concessions made by the United States in this Plea Agreement, the Defendant knowingly and voluntarily agrees and understands the following appellate and post-conviction terms of this Agreement:
- a. The Defendant waives the right to directly appeal the conviction and sentence pursuant to 28 U.S.C. § 1291 and/or 18 U.S.C. § 3742(a);
  - b. The Defendant reserves the right to appeal from a sentence which exceeds the statutory maximum;

- c. The Defendant expressly acknowledges and agrees that the United States reserves all rights to appeal the defendant's sentence as set forth in 18 U.S.C. § 3742(b), and *U.S. v. Booker*, 125 S. Ct. 738 (2005);
- d. The Defendant waives the right to collaterally attack the conviction and sentence pursuant to 28 U.S.C. § 2255, except for claims based on ineffective assistance of counsel or prosecutorial misconduct;
- e. The Defendant waives the right to appeal the District Court's determination of the amount of restitution and the Court's subsequent restitution order, if any; and
- f. The Defendant waives the right to appeal the District Court's determination of any forfeiture issues and the Court's subsequent forfeiture order, if any.

**EFFECTS OF BREACH OF  
THIS AGREEMENT BY DEFENDANT**

9. The Defendant agrees that if after signing this Plea Agreement the Defendant commits any crimes, violates any conditions of release, or fails to appear for sentencing, or if the Defendant provides information to the Probation Office or the Court that is intentionally misleading, intentionally incomplete, or intentionally untruthful, or if the Defendant violates any term of this Plea Agreement, takes a position at sentencing which is contrary to the terms of this Plea Agreement or attempts to withdraw from this Plea Agreement, this shall constitute a breach of this Plea Agreement which shall release the United States from any and all restrictions or obligations placed upon it under the terms of this Agreement and the United States shall be free to reinstate dismissed charges or pursue additional charges against the Defendant. The Defendant shall, however, remain bound by the terms of the Agreement, and will not be allowed to withdraw this plea of guilty unless permitted to do so by the Court.
10. The Defendant further agrees that a breach of any provisions of this Plea Agreement shall operate as a WAIVER of Defendant's rights under Rule 11(f) of the Federal Rules of Criminal

Procedure and Rule 410 of the Federal Rules of Evidence and the Government shall be allowed to use and to introduce into evidence any one or more of the following:

- a. admissions against interest, both oral and written, made by the Defendant to any person;
- b. statements made by the Defendant during his change of plea hearing;
- c. the factual basis set forth in the Plea Agreement;
- d. any testimony given under oath in these proceedings or to a grand jury or a petit jury;
- e. any and all physical evidence of any kind which the Defendant has provided to the government; and,
- f. any and all information provided by the Defendant to the Government's attorneys, or to federal, state, county, and/or local law enforcement officers.

#### STIPULATIONS

11. The United States and the Defendant agree that the most readily provable amount of loss for which the Defendant should be held accountable is at least \$250,000 but less than \$550,000.

This loss stipulation is made in reference to U.S.S.G. § 2B1.1.

12. The United States and the Defendant agree that the enhancement in U.S.S.G. § 2B1.1(b)(9) should not apply as a specific offense characteristic against this Defendant.

#### MAXIMUM PENALTIES

13. The Defendant hereby acknowledges that he has been advised of the maximum penalty for the counts to which he is pleading guilty. By entering a plea of guilty to the Information, the Defendant agrees that he faces:

- a. a maximum term of imprisonment of five (5) years;
- b. a maximum fine of \$250,000.00;
- c. both imprisonment and fine;

- d. a term of supervised release for not more than 3 years which begins after release from prison;
- e. a possibility of going back to prison if the Defendant violates the conditions of supervised release; and,
- f. a special assessment of \$100.00 for each count of conviction.

**CONDITIONS OF SUPERVISED RELEASE**

14. The Defendant acknowledges that if a term of supervised release is imposed as part of the sentence, the Defendant will be subject to the standard conditions of supervised release as recommended by the United States Sentencing Commission and may be subject to other special conditions of supervised release as determined by the court. The standard conditions of supervised release are as follows:

- a. The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- b. After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- c. The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- d. The defendant shall answer truthfully the questions asked by the probation officer.
- e. The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

- f. The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.
- g. The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or the job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- h. The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- i. If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.
- j. The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or Tasers).
- k. The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- l. If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk, and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- m. The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

**RESTITUTION**

15. The Defendant agrees to pay full restitution to all victims of the offense(s) to which the Defendant is pleading guilty, to all victims of any offense(s) dismissed as a result of this Plea Agreement, and for all losses caused by the Defendant's criminal conduct even if such losses resulted from crimes not charged in the Indictment or Information or admitted to by the Defendant in the factual statement. The Defendant acknowledges and agrees that all restitution as agreed to above shall be governed by the provisions of the Mandatory Victims Restitution Act, 18 U.S.C. § 3663A. The Defendant understands full restitution will be ordered regardless of Defendant's financial resources. The Defendant further understands the restitution will be determined by the Court. The Defendant agrees to cooperate in efforts to collect the restitution obligation, by any means the United States deems appropriate and agrees to waive any defense or objections to any action to enforce the collection of the restitution. The Defendant understands imposition or payment of restitution will not restrict or preclude the filing of any civil suit or administrative action. The Defendant acknowledges that any restitution imposed is not dischargeable in any bankruptcy proceeding pursuant to 18 U.S.C. § 3613(e). The Defendant specifically agrees to the assignment of an additional \$ 100,000.00 to the bankruptcy estate of SAYS to represent the diversion of assets by employees of SAYS that the Defendant is ultimately responsible for.

*[Handwritten signature]*  
*[Handwritten initials]*  
*M.P.*

**NO OTHER CHARGES**

16. The Government agrees that no other federal charges that stem from the activities described in the Indictment will be brought against the Defendant in the Eastern or Western District of Arkansas.

**SENTENCING GUIDELINES ARE ADVISORY BUT NOT MANDATORY**

17. The parties acknowledge that the Court shall consult and take into account the United States Sentencing Commission Guidelines in determining the sentence, but that the Court is not bound by the Guidelines and may sentence the Defendant to any sentence within the statutory range.

**AGREEMENT DOES NOT PROMISE A SPECIFIC SENTENCE**

18. The Defendant acknowledges that discussions have taken place concerning the possible guideline range which might be applicable to this case. The Defendant agrees that any discussions merely attempt to guess at what appears to be the correct guideline range and do not bind the District Court. Further, the Defendant acknowledges that the actual range may be greater than contemplated by the parties. In the event that the actual guideline range is greater than the parties expected, the Defendant agrees that this does not give him the right to withdraw his plea of guilty.

**RELEVANT CONDUCT CONSIDERED**

19. At the sentencing hearing, the Government will be permitted to bring to the Court's attention, and the Court will be permitted to consider, all relevant information with respect to Defendant's background, character and conduct, including the conduct that is the subject of this investigation for which he has not been charged up to the date of this Agreement, and/or which is the basis for any of the counts which will be dismissed pursuant to this Agreement, as provided by § 1B1.3 of the Sentencing Guidelines.

**PERJURY**

20. In the event that it is determined that the Defendant has not been truthful with the Court as to

any statements made while under oath, this Plea Agreement shall not be construed to protect the Defendant from prosecution for perjury or false statement.

**CONCESSIONS BY THE GOVERNMENT**

21. The Government agrees not to object to a recommendation by the probation office or a ruling of the Court which awards the Defendant an appropriate-level decrease in the base offense level for acceptance of responsibility. If the offense level in the Presentence Report is 16 or greater and the Court accepts a recommendation in the Presentence Report that Defendant receive two points for acceptance of responsibility, the United States agrees to move for an additional one-point reduction for acceptance of responsibility for a total of three points. However, the Government will not be obligated to move for an additional one-point reduction or recommend any adjustment for acceptance of responsibility if Defendant engages in conduct inconsistent with acceptance of responsibility including, but not limited to, the following a) falsely denies, or makes a statement materially inconsistent with, the factual basis set forth in this agreement, b) falsely denies additional relevant conduct in the offense, c) is untruthful with the Government, the Court or probation officer, or d) materially breaches this Plea Agreement in any way.
22. The United States agrees to advise the Probation Office and the Court of the extent and nature of the Defendant's cooperation. The Defendant's agreement to cooperate with the United States is made pursuant to U.S.S.G. §§ 1B1.8(a) & (b). If the Defendant provides full, complete, truthful, and substantial cooperation to the United States, the United States reserving the right to make the decision on the nature and extent of the Defendant's cooperation, then the United States agrees to consider moving for a downward departure under U.S.S.G. § 5K1.1, 18 U.S.C. § 3553(e), or Rule 35 of the Federal Rules of Criminal Procedure. Both parties acknowledge



that the District Court has the power to deny a motion for downward departure. The Defendant hereby agrees that the United States does not promise, by the terms of this agreement, to file a Section 5K1.1, 18 U.S.C. § 3553(e) or Rule 35 motion.

**GOVERNMENT'S RESERVATION OF RIGHTS**

23. Although the Government agrees not to object to certain findings by the probation office or to rulings of the Court, it reserves the right to:

- a. make all facts known to the probation office and to the Court;
- b. call witnesses and introduce evidence in support of the Presentence Report;
- c. contest and appeal any finding of fact or application of the Sentencing Guidelines;
- d. contest and appeal any departure from the appropriate Guideline range; and,
- e. defend all rulings of the District Court on appeal including those rulings which may be contrary to recommendations made or positions taken by the Government in this Plea Agreement which are favorable to the Defendant.

**NO RIGHT TO WITHDRAW THE GUILTY PLEA**

24. The Government's concessions on sentencing options are non-binding and made pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure. As a result, if the Court should reject the Defendant's requests or recommendations for certain findings of fact or applications of the Guidelines, the Defendant acknowledges that there is no right to withdraw the guilty plea.

**AGREEMENT NOT BINDING ON THE COURT**

25. The parties agree that nothing in this Agreement binds the District Court to:

- a. make any specific finding of fact;
- b. make any particular application of the Sentencing Guidelines;
- c. hand down any specific sentence;

- d. accept any stipulation of the parties as contained in this Plea Agreement; and,
- e. accept this Plea Agreement.

The Government and the Defendant acknowledge that the Court has an obligation to review the Presentence Report before it accepts or rejects this Plea Agreement.

**AGREEMENT DOES NOT BIND ANY OTHER ENTITY**

26. The parties agree that this Plea Agreement does not bind any governmental entity other than the United States Attorney's Offices for the Eastern and Western District of Arkansas and the Criminal Division of the Public Integrity Section of the Department of Justice.

**REPRESENTATIONS BY DEFENDANT**

27. By signing this Plea Agreement, the Defendant acknowledges that:

- a. The Defendant has read this Agreement (or has had this agreement read to him) and has carefully reviewed every part of it with defense counsel.
- b. The Defendant fully understands this Plea Agreement and is not under the influence of anything that could impede the Defendant's ability to fully understand this Plea Agreement.
- c. No promises, agreements, understandings, or conditions have been made or entered into in connection with the decision to plead guilty except those set forth in this Plea Agreement.
- d. The Defendant is satisfied with the legal services provided by defense counsel in connection with this Plea Agreement and matters related to it.
- e. The Defendant has entered into this Plea Agreement freely, voluntarily, and without reservation and the Defendant's desire to enter a plea of guilty is not the result of threats or coercion directed at the Defendant or anyone connected with the Defendant.

**REPRESENTATIONS BY DEFENSE COUNSEL**

28. By signing this Plea Agreement, counsel for the Defendant acknowledges that:

- a. Counsel has carefully reviewed every part of this agreement with the Defendant and this agreement accurately and completely sets forth the

entire agreement between the United States and the Defendant.

- b. Counsel has explained the ramifications of the Plea Agreement to the Defendant, and believes that the Defendant understands this Plea Agreement, what rights are being lost by pleading guilty, and what the Government has agreed to do in exchange for the plea of guilty.
- c. Counsel believes that the Defendant's decision to enter into this agreement is an informed and voluntary one.

**PLEA AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT**


29. The Defendant and his attorney both acknowledge that this Plea Agreement constitutes the entire agreement of the parties. Further, all parties agree that there are no oral agreements or promises which have been made to induce the Defendant to change his plea to guilty.

Dated this 11<sup>TH</sup> day of July, 2018.


  
 \_\_\_\_\_  
 JERRY WALSH  
 Defendant

DUANE (DAK) KEES,  
UNITED STATES ATTORNEY

  
 \_\_\_\_\_  
 JOHN RICKETT  
 Attorney for Defendant

By:   
 \_\_\_\_\_  
 BENJAMIN WULFF  
 Assistant U.S. Attorney

ANNALOU TIROL,  
Acting Chief, Public Integrity Section

By:   
 \_\_\_\_\_  
 MARCO PALMIERI  
 Trial Attorney,  
 Public Integrity Section,  
 Criminal Division