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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 JAMES A. PULSIFER,

14 Defendant.

NO. CR06-438MJB ^{RSL}

PLEA AGREEMENT

15 The United States of America, by and through Jeffrey C. Sullivan, United States
16 Attorney for the Western District of Washington, and Patricia C. Lally, Assistant
17 United States Attorney for said District, and Defendant, James A. Pulsifer, and his
18 attorney, Robert M. McCallum, enter into the following Agreement, pursuant to Federal
19 Rule of Criminal Procedure 11(c):

20 1. The Charge. Defendant, having been advised of the right to have this matter
21 tried before a jury, agrees to waive that right and enter a plea of guilty to the following
22 charge contained in the Information: False Representation of a Material Fact, as charged in
23 Count 1, in violation of Title 29, United States Code, Section 439(b).

24 By entering this plea of guilty, Defendant hereby waives all objections to the
25 form of the charging document. Defendant further understands that before entering his
26 plea of guilty, Defendant will be placed under oath. Any statement given by Defendant
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1 under oath may be used by the United States in a prosecution for perjury or false
2 statement.

3 2. Elements of the Offense. The elements of the offense of False
4 Representation of a Material Fact, as charged in Count 1, in violation of Title 29,
5 United States Code, Section 439(b), are as follows:

6 a. First, Defendant knowingly made a false statement or representation
7 in a document, report or other financial information required to be filed with the United
8 States Department of Labor;

9 b. Second, the false statement or misrepresentation was of a material
10 fact; and

11 c. The document, report or other financial information was filed with
12 the Department of Labor.

13 3. The Penalties. Defendant understands that the statutory penalties for the
14 offense of False Representation of a Material Fact, as charged in Count 1, are as follows:
15 imprisonment for up to one (1) year, a fine of up to ten thousand dollars (\$10,000), a
16 period of supervision following release from prison of up to one (1) year, and a twenty-
17 five dollar (\$25) penalty assessment. If Defendant receives a sentence of probation, the
18 probationary period could be up to five (5) years. Defendant agrees that the special
19 assessment shall be paid at or before the time of sentencing.

20 Defendant understands that supervised release is a period of time following
21 imprisonment during which he will be subject to certain restrictions and requirements.
22 Defendant further understands that if supervised release is imposed and he violates one or
23 more of its conditions, he could be returned to prison for all or part of the term of
24 supervised release that was originally imposed. This could result in Defendant serving a
25 total term of imprisonment greater than the statutory maximum stated above.

26 Defendant understands that in addition to any term of imprisonment and/or
27 fine that is imposed, the Court may order him to pay restitution to any victim of the
28 offense, as required by law.

1 Defendant agrees that any monetary penalty the Court imposes, including the
2 special assessment, fine, costs or restitution, is due and payable immediately, and further
3 agrees to submit a completed Financial Statement of Debtor form as requested by the
4 United States Attorney's Office.

5 4. Rights Waived by Pleading Guilty. Defendant understands that by pleading
6 guilty, he knowingly and voluntarily waives the following rights:

- 7 a. The right to plead not guilty and to persist in a plea of not guilty;
8 b. The right to a speedy and public trial before a jury of his peers;
9 c. The right to the effective assistance of counsel at trial, including, if
10 Defendant could not afford an attorney, the right to have the Court appoint one for
11 Defendant;
12 d. The right to be presumed innocent until guilt has been established
13 beyond a reasonable doubt at trial;
14 e. The right to confront and cross-examine witnesses against Defendant
15 at trial;
16 f. The right to compel or subpoena witnesses to appear on his behalf at
17 trial;
18 g. The right to testify or to remain silent at trial, at which trial such
19 silence could not be used against Defendant; and
20 h. The right to appeal a finding of guilt or any pretrial rulings.

21 5. United States Sentencing Guidelines. Defendant understands and
22 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
23 under the United States Sentencing Guidelines, together with the other factors set forth in
24 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
25 of the offense; (2) the history and characteristics of the defendant; (3) the need for the
26 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
27 provide just punishment for the offense; (4) the need for the sentence to afford adequate
28 deterrence to criminal conduct; (5) the need for the sentence to protect the public from

1 further crimes of the defendant; (6) the need to provide the defendant with educational and
2 vocational training, medical care, or other correctional treatment in the most effective
3 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
4 and (9) the need to avoid unwarranted sentence disparity among defendants involved in
5 similar conduct who have similar records. Accordingly, Defendant understands and
6 acknowledges that:

7 a. The Court will determine his applicable Sentencing Guidelines range
8 at the time of sentencing;

9 b. After consideration of the Sentencing Guidelines and the factors in
10 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
11 maximum term authorized by law;

12 c. The Court is not bound by any recommendation regarding the
13 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
14 range offered by the parties or the United States Probation Department, or by any
15 stipulations or agreements between the parties in this Plea Agreement; and

16 d. Defendant may not withdraw a guilty plea solely because of the
17 sentence imposed by the Court.

18 6. Ultimate Sentence. Defendant acknowledges that no one has promised or
19 guaranteed what sentence the Court will impose.

20 7. Statement of Facts. The parties agree on the following facts. Defendant
21 admits he is guilty of the charged offense.

22 On or about May 17, 2004, the Society of Professional Engineering
23 Employees in Aerospace (SPEEA), a labor union, retained the services of
24 Stanford, Munko & Co., PLLC, a Certified Public Accounting firm located
25 in Seattle, Washington, for the purposes of preparing its annual United
26 States Department of Labor financial report, commonly referred to as Form
LM-2. JAMES A. PULSIFER was and is an employee of Stanford, Munko
& Co., PLLC, and was assigned to prepare SPEEA's Form LM-2. Both
PULSIFER and his employer are aware that Form LM-2s must be signed by
SPEEA officers and filed with the United States Department of Labor.

27 On June 17th and 18th, 2004, PULSIFER prepared SPEEA's annual
28 LM-2 report for the period ending March 31, 2004. PULSIFER admits that
he intentionally made accounting adjustments that he knew were incorrect

1 that caused certain entries on the Form LM-2 to be materially false. For
2 instance, PULSIFER admits that he incorrectly entered a zero balance for
3 the "lost time payment" expenditure category. PULSIFER admits that the
4 incorrect entry for lost time payment expenditures resulted in a false
5 representation of a material fact, in this case, disbursements listed on
6 Statement B of Form LM-2 and some of the related supporting schedules
7 therein. PULSIFER admits that, in the course of making these accounting
8 adjustments, he misclassified SPEEA's expenditures by approximately
9 \$500,000.

6 Stanford, Munko & Co., PLLC, sent the completed Form LM-2 to the
7 SPEEA officers for their review and signature. SPEEA officers relied on
8 Stanford, Munko & Co., PLLC, to ensure that the Form LM-2 was properly
9 prepared. SPEEA officers believed that the report was free of any errors
10 and in full compliance with the Department of Labor regulations. At no
11 time, did PULSIFER inform SPEEA officers of the improper accounting
12 adjustments he made or the fact that the report contained misclassifications
13 that were materially false.

10 8. Sentencing Factors. The parties agree that the following Sentencing
11 Guidelines provisions apply to this case:

- 12 a. A base offense level of 6, pursuant to USSG § 2E5.3; and
13 b. A two-point addition because Defendant used a special skill in a
14 manner that significantly facilitated the commission of the offense, pursuant to USSG
15 § 3B1.3.

16 The parties agree they are free to argue the application of any other
17 provisions of the United States Sentencing Guidelines. Defendant further understands,
18 that at the time of sentencing, the Court is free to reject these stipulated adjustments, and is
19 further free to apply additional downward or upward adjustments in determining his
20 Sentencing Guidelines range.

21 9. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
22 the United States Attorney's Office for the Western District of Washington agrees not to
23 prosecute Defendant for any additional offenses known to it as of the time of this
24 Agreement that are based upon evidence in its possession at this time, or that arise out of
25 the conduct giving rise to this investigation. In this regard, Defendant recognizes the
26 United States has agreed not to prosecute all of the criminal charges the evidence
27 establishes were committed by Defendant solely because of the promises made by
28

1 Defendant in this Agreement. Defendant agrees, however, that for purposes of preparing
2 the Presentence Report, the United States Attorney's Office will provide the United States
3 Probation Office with evidence of all conduct committed by Defendant.

4 10. Acceptance of Responsibility. The United States acknowledges that if
5 Defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG
6 § 3E1.1(a), his total offense level should be decreased by two (2) levels because Defendant
7 has demonstrated acceptance of responsibility for his offense.

8 11. Breach, Waiver, and Post-Plea Conduct. Defendant agrees that if he
9 breaches this Plea Agreement, the United States may withdraw from this Plea Agreement
10 and Defendant may be prosecuted for all offenses for which the United States has
11 evidence. Defendant agrees not to oppose any steps taken by the United States to nullify
12 this Plea Agreement, including the filing of a motion to withdraw from the Plea
13 Agreement. Defendant also agrees that if he is in breach of this Plea Agreement,
14 Defendant has waived any objection to the reinstatement of any charges in the Information
15 that were previously dismissed or any additional charges that had not been prosecuted.

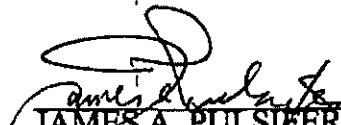
16 Defendant further understands that if, after the date of this Agreement, he
17 should engage in illegal conduct, or conduct that is in violation of his conditions of release
18 (examples of which include, but are not limited to: obstruction of justice, failure to appear
19 for a court proceeding, criminal conduct while pending sentencing, and false statements to
20 law enforcement agents, the Pretrial Services Officer, Probation Officer or Court), the
21 United States is free under this Agreement to file additional charges against Defendant or
22 to seek a sentence that takes such conduct into consideration. Such a sentence could
23 include a sentencing enhancement under the United States Sentencing Guidelines or an
24 upward departure from the applicable sentencing guidelines range.


25 12. Voluntariness of Plea. Defendant agrees that he has entered into this Plea
26 Agreement freely and voluntarily, and that no threats or promises, other than the promises
27 contained in this Plea Agreement, were made to induce Defendant to enter this plea of
28 guilty.

1 13. Statute of Limitations. In the event this Agreement is not accepted by the
2 Court for any reason, or Defendant has breached any of the terms of this Plea Agreement,
3 the statute of limitations shall be deemed to have been tolled from the date of the Plea
4 Agreement to: (1) 30 days following the date of non-acceptance of the Plea Agreement by
5 the Court; or (2) 30 days following the date on which a breach of the Plea Agreement by
6 Defendant is discovered by the United States Attorney's Office.

7 14. Completeness of Agreement. The United States and Defendant
8 acknowledge that these terms constitute the entire Plea Agreement between the parties.
9 This Agreement binds only the United States Attorney's Office for the Western District of
10 Washington. It does not bind any other United States Attorney's Office or any other
11 office or agency of the United States, or any state or local prosecutor.

12 Dated this day of February, 2007.

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16 JAMES A. PULSIFER
Defendant

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19 ROBERT M. McCLALLUM
Attorney for Defendant

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21 ANNETTE L. HAYES
Assistant United States Attorney

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23 
24 PATRICIA C. LALLY
Assistant United States Attorney