

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) Cause No. 3:21-cr-00103-DRL  
 )  
 CHARLES RAY SMITH, )  
 )  
 Defendant. )

**PETITION TO ENTER A GUILTY PLEA**

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, comes now the United States of America, by its counsel, Clifford D. Johnson, United States Attorney for the Northern District of Indiana, through Luke N. Reilander, Assistant United States Attorney, and the defendant, Charles Ray Smith, and David E. Vandercoy, as attorney for the defendant, and show the Court they have entered into a plea agreement as follows:

1. My full true name is Charles Ray Smith and I request that all proceedings against me be had in the name which I here declare to be my true name.

2. I was born in the United States of America. I have attended school and I have the ability to read, write, and speak the English language.

3. I am represented by counsel and my lawyer's name is David E. Vandercoy.

4. I have received a copy of the Indictment in this case, and I have read and discussed it with my lawyer, and I believe and feel that I understand every accusation made against me in this case.

5. I have told my lawyer the facts and surrounding circumstances as known to me concerning the matters mentioned in the Indictment, and I believe and feel that my lawyer is fully informed as to all such matters. My lawyer has since informed me, and has counseled and advised me, as to the nature and cause of every accusation against me and as to any possible defenses I might have in this case.

6. I understand that I am entitled to have all of my rights which may be involved in this matter explained to me, and that I have the right to have any questions I may have answered for me.

7. I understand that I have a right to plead NOT GUILTY to any offense charged against me, and that under a plea of NOT GUILTY the Constitution guarantees me:

(a) the right to a speedy and public trial by a twelve-person jury of my peers, selected according to law, in the Northern District of Indiana, which must return a unanimous verdict of GUILTY before I can be convicted;

(b) the right to be released on reasonable bail until my trial occurs;

(c) the right to see, hear, and cross-examine all the witnesses against me at my trial;

(d) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in my favor at my trial;

(e) the right to the assistance of counsel at every stage of the proceedings, including upon an appeal if need be;

(f) the right not to testify without prejudice; and,

(g) that in the event that I should be found GUILTY of the charge against me, the right to appeal my conviction on such charge to a higher court.

8. I understand that if I plead GUILTY, I waive the right to trial by jury in any and all proceedings in this case and all of the other rights mentioned above.

9. Notwithstanding the existence of the rights mentioned above, I have, with the assistance of counsel, entered into an agreement with the United States Attorney's Office for the Northern District of Indiana as follows:

(a) I agree to plead guilty to Count 4 of the Indictment, which charges me with wire fraud, in violation of Title 18, United States Code, Section 1343, because I am, in fact, guilty of the offense charged.

(b) I understand that in order for the Court to accept my guilty

plea, the Court must receive what is called a factual basis. I agree that the following facts are true and that they shall form the factual basis for my guilty plea:

I admit that from in or about November 2016, and continuing until in or about October 2021, in the Northern District of Indiana and elsewhere, I knowingly devised and intended to devise a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises. I admit that during this time period, I resided in Elkhart, which is in the Northern District of Indiana.

I admit that as part of this scheme, I represented to certain individuals that I was wealthy and had made millions of dollars through previous investments in real estate transactions, in firearms and ammunition deals, and in vehicle purchases. I then represented to these individuals that I knew of additional investment opportunities in which investors could also receive large returns on their investments. Induced by my representations, investors gave me money to invest. I admit that I did not invest this money but instead used the investors' money for my own personal use and benefit.

I admit that I told investors that their investments were being handled by a business called "Chicago Investment Group." I admit that this representation was false, as I did not forward the money given to me by investors to "Chicago Investment Group" or any other investment business.

I admit that for the purpose of executing the scheme described above, I communicated with investors via text messaging, in which I falsely represented that their investments were legitimate. Specifically, I admit that on or about February 23, 2019, I sent a text message from my phone (phone number \*\*\*3605) to investor D.E. (phone number \*\*\*1260) regarding D.E.'s investment. I do not dispute that this text message constituted an interstate wire communication.

I admit that as a result of the scheme, I fraudulently obtained approximately \$315,020.00 belonging to investors, and that I did so with the intent to defraud my investors.

(c) I understand that the maximum possible penalty that may

be imposed upon me for a conviction of the offense of wire fraud, in violation of Title 18, United States Code, Section 1343, as charged in Count 4 of the Indictment, is a term of imprisonment not to exceed 20 years, a fine not to exceed \$250,000.00, or a combination of both imprisonment and a fine, to which may be added a term of supervised release of not greater than three years, plus a mandatory \$100.00 special assessment, in addition to any other penalty imposed.

(d) I understand that under the U.S. Sentencing Guidelines, the Court, in light of an investigation by the United States Probation Office, will determine the applicable sentencing guideline range, and that the Court will determine all matters, whether factual or legal, relevant to the application of the sentencing guidelines including, but not limited to, the adjusted offense level, the relevant circumstances in the case, the criminal history points and category, relevant conduct, the grouping of offenses, victim-related adjustments, role in the offense adjustments, career offender status, criminal livelihood, and acceptance of responsibility, as well as possible departures from the application of the U.S. Sentencing Guidelines. I understand that the U.S. Sentencing Guidelines are advisory only, and that the specific sentence to be imposed upon me will be determined by the judge after a consideration of a pre-sentence investigation report and input from counsel, from the government, and from me.

(e) I understand that the law gives a convicted person the right to appeal the conviction and the sentence imposed. I also understand that no one can predict the precise sentence that will be imposed, and that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for my offense as set forth in this plea agreement. With this understanding and in consideration of the government's entry into this plea agreement, I expressly waive my right to appeal or to contest my conviction and all components of my sentence or the manner in which my conviction or my sentence was determined or imposed, to any Court on any ground other than a claim of ineffective assistance of counsel, including any appeal under Title 18, United States Code, Section 3742, or any post-conviction proceeding, including but not limited to, a proceeding under Title 28, United States Code, Section 2255. I also agree to waive all rights, whether asserted directly or through a representative, to, after sentencing, request or receive from the United States any further records, reports, or documents pertaining to the investigation or

prosecution of this matter. This waiver includes, but is not limited to, rights conferred by the Freedom of Information Act and the Privacy Act of 1974.

(f) As part of this agreement, I agree to make restitution to the victims of my offense in the total amount of \$315,020.00. The specific amount of restitution to each victim is as follows:

C.H.: \$100,000.00

D.E.: \$199,000.00

A.W.: \$3,020.00

M.W.: \$13,000.00

I acknowledge restitution shall be due immediately and paid pursuant to a schedule to be set by the Court at sentencing. I understand that a payment schedule imposed by the Court establishes only a minimum obligation, and does not preclude the United States Attorney's Office from pursuing any other means to collect the restitution judgment pursuant to federal and state law.

(g) I expressly authorize the U.S. Attorney's Office to immediately obtain a credit report in order to evaluate my ability to satisfy any financial obligation imposed by the Court. I agree to submit within 14 days of the filing of the plea agreement a completed financial statement to the U.S. Attorney's Office in a form it provides and as it directs. This statement will be used by the Financial Litigation Unit of the United States Attorney's Office to enforce the Court's sentence. I promise that the financial statement and disclosures will be complete, accurate, and truthful, and I understand that any willful falsehood on the financial statement will be a separate crime and may be punished under 18 U.S.C. § 1001 by an additional five years' incarceration and fine. If deemed necessary by the U.S. Attorney's Office, I agree to submit, prior to sentencing, to an examination under oath on the issue of my ability to pay restitution.

(i) Pursuant to Rule 11(c)(1)(A) of the Federal Rules of Criminal Procedure and in exchange for my guilty plea, the government agrees to move to dismiss Counts 1 through 3, and Counts 5 through 7, of the Indictment at the time of sentencing. However, I understand that the underlying facts of those offenses may be considered for purposes of the Sentencing Guidelines calculation as well as my sentence.

(j) In further consideration for my plea of guilty to Count 4 of the Indictment, the government, pursuant to the Federal Rules of Criminal Procedure 11(c), agrees to make the following non-binding recommendations. Any agreements which follow in these sub-paragraphs are submitted to the Court pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure and are not binding upon the Court; I understand this means that if the Court refuses to follow the recommendations set forth in these sub-paragraphs, I will not be allowed to withdraw my guilty plea.

(1) The government and I agree that in recognition of my acceptance of responsibility for my offense conduct, I am entitled to a two-level reduction in offense level pursuant to § 3E1.1(a) of the Sentencing Guidelines. The government and I further agree that I have assisted authorities in the investigation or prosecution of my own misconduct by timely notifying the United States Attorney's Office of my intention to plead guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently, and we agree that if my offense level is 16 or greater, the government will move at sentencing for me to receive an additional one-level reduction in offense level under § 3E1.1(b). However, I understand that the government's obligation to recommend acceptance of responsibility under this plea agreement is contingent upon my continuing manifestation of acceptance of responsibility. Should I deny my involvement, give conflicting statements of my involvement, or engage in additional criminal conduct including any personal use of controlled substances, the government shall not be bound to recommend any reduction in offense level for acceptance of responsibility.

(2) At the time of sentencing, the government shall recommend that I be sentenced to a period of imprisonment at the low end of the applicable guideline range, said guideline range to be determined by the Court.

(3) I understand that the Court is not bound by these recommendations, that the Court makes the final decision regarding my receipt of a reduction in offense level for acceptance of responsibility as well as the enhancements applicable under

the sentencing guidelines, and that I am not entitled to withdraw this guilty plea if the Court decides not to accept these recommendations.

(k) I understand that the government has reserved the right to tell the Court the good things about me and the bad things about me, and to fully inform the Court of the nature and extent of my offense as well as the full extent of my criminal history.

(l) Other than what is contained in this plea agreement, no predictions, promises, or representations have been made to me as to the specific sentence that will be imposed or any other matter.

10. I am prepared to state to the Court my reasons based on the facts in this matter that cause me to believe that I am GUILTY as charged.

11. I believe and feel that my lawyer has done all that anyone could do to counsel and assist me, and that I now understand the proceedings in this case against me.

12. I declare that I offer my plea of GUILTY freely and voluntarily and of my own accord, and that no promises have been made to me other than those contained in this Petition, and that I have not been threatened in any way by anyone to cause me to plead GUILTY in accordance with this Petition.

13. I understand and acknowledge that this Petition, once filed with the Court, is a public document and available for public viewing.

*s/ Charles Ray Smith*  
Charles Ray Smith, Defendant

*s/ David E. Vandercoy*  
David E. Vandercoy, Attorney for Defendant

APPROVED:

CLIFFORD D. JOHNSON  
UNITED STATES ATTORNEY

By: *s/Luke N. Reilander*  
Luke N. Reilander  
Assistant United States Attorney