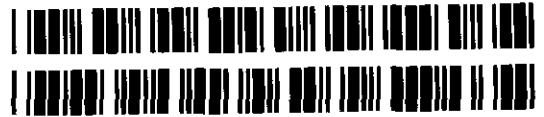
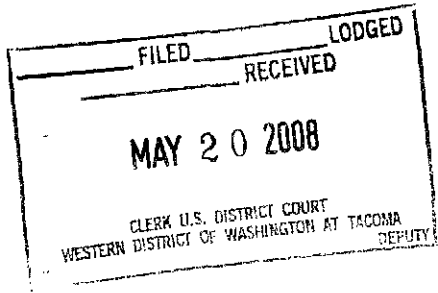


Hon. Ronald B. Leighton



07-CR-05775-PLAGR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

EMILIO A. TORRELLA,

Defendant.

NO. CR07-5775RBL

PLEA AGREEMENT

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, along with Katheryn Kim Frierson and Tessa Gorman, Assistant United States Attorneys for said District, and the defendant, EMILIO A. TORRELLA, and his attorney, Thomas Campbell, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charges. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter pleas of guilty to Conspiracy to Commit Wire Fraud, as charged in Count One of the Indictment, in violation of Title 18, United States Code, Section 371, Wire Fraud, as charged in Count Two of the Indictment, in violation of Title 18, United States Code, Section 1343, and Aggravated Identity Theft, as charged in Count Twenty One of the Indictment, in violation of Title 18, United States Code, Section 1028A. By entering these pleas of guilty, Defendant hereby waives all objections to the form of the charging document.

1 Defendant further understands that before entering his pleas of guilty,
2 Defendant will be placed under oath. Any statement given by Defendant under oath may
3 be used by the government in a prosecution for perjury or false statement.

4 2. Elements of the Offense. The elements of the offense of Conspiracy to
5 Commit Wire Fraud, as charged in Count One, in violation of Title 18, United States
6 Code, Section 371, are as follows:

7 First, that defendant did knowingly agree with one or more persons;

8 Second, to commit offenses against the United States, specifically, Wire
9 Fraud, in violation of Title 18, United States Code, Section 1343; and

10 Third, that someone in the conspiracy committed an overt act in furtherance
11 of the objectives of the conspiracy.

12 The elements of the offense of Wire Fraud, as charged in Count Two, in
13 violation of Title 18, United States Code, Section 1343, are as follows:

14 First, the defendant made up a scheme or artifice to defraud and to obtain
15 property by means of false statements or promises;

16 Second, the defendant knew that the statements or promises were false;

17 Third, the statements or promises were material, that is they would
18 reasonably influence another to part with property;

19 Fourth, the defendant acted with the intent to defraud; and

20 Fifth, the defendant used, or caused to be used, wire communications in
21 interstate or foreign commerce.

22 The elements of Aggravated Identity Theft, as charged in Count Twenty
23 One, in violation of Title 18, United States Code, Section 1028A, are as follows:

24 First, that the defendant, during and in relation to the commission of Wire
25 Fraud, in violation of Title 18, United States Code, Section 1343;

26 Second, the defendant knowingly possessed and used a means of
27 identification of another person.

1 3. The Penalties. Defendant understands that the statutory penalties for the
2 offense of Conspiracy to Commit Wire Fraud, in violation of Title 18, United States
3 Code, Section 371, are imprisonment for up to five (5) years, a fine of up to two hundred
4 and fifty thousand dollars (\$250,000.00), a period of supervision following release from
5 prison of up to three (3) years, and a one hundred dollar (\$100.00) penalty assessment.

6 Defendant understands that the statutory penalty for the offense of Wire
7 Fraud, in violation of Title 18, United States Code, Section 1343, are imprisonment for up
8 to twenty (20) years, a fine of up to two hundred and fifty thousand dollars (\$250,000.00),
9 a period of supervision following release from prison of up to five (5) years, and a one
10 hundred dollar (\$100.00) penalty assessment.

11 Defendant understands that the statutory penalties for the offense of
12 Aggravated Identity Theft, in violation of Title 18, United States Code, Section 1028A,
13 are mandatory imprisonment for two years, a fine of up to \$250,000, a period of
14 supervision following release from prison of up to two (2) years, and a one hundred dollar
15 (\$100.00) penalty assessment.

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

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

28 a. The right to plead not guilty, and to persist in a plea of not guilty;

1 b. The right to a speedy and public trial before a jury of Defendant's
2 peers;

3 c. The right to the effective assistance of counsel at trial, including, if
4 Defendant could not afford an attorney, the right to have the Court appoint one for
5 Defendant;

6 d. The right to be presumed innocent until guilt has been established at
7 trial, beyond a reasonable doubt;

8 e. The right to confront and cross-examine witnesses against Defendant
9 at trial;

10 f. The right to compel or subpoena witnesses to appear on Defendant's
11 behalf at trial;

12 g. The right to testify or to remain silent at trial, at which trial such
13 silence could not be used against Defendant;

14 h. The right to appeal a finding of guilt or any pretrial rulings;

15 i. The right, to the extent required by law, to have sentencing factors
16 charged in the Indictment or determined by a jury beyond a reasonable doubt.

17 5. United States Sentencing Guidelines. Defendant understands and
18 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
19 under the United States Sentencing Guidelines, together with the other factors set forth in
20 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
21 of the offense(s); (2) the history and characteristics of the defendant; (3) the need for the
22 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
23 provide just punishment for the offense; (4) the need for the sentence to afford adequate
24 deterrence to criminal conduct; (5) the need for the sentence to protect the public from
25 further crimes of the defendant; (6) the need to provide the defendant with educational
26 and vocational training, medical care, or other correctional treatment in the most effective
27 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
28 and (9) the need to avoid unwarranted sentence disparity among defendants involved in

1 similar conduct who have similar records. Accordingly, Defendant understands and
2 acknowledges that:

3 a. The Court will determine Defendant's applicable Sentencing
4 Guidelines range at the time of sentencing;

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

8 c. The Court is not bound by any recommendation regarding the
9 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
10 range offered by the parties, or by the United States Probation Department; and

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

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

15 7. Statement of Facts. The parties agree on the following facts in support of
16 Defendant's guilty pleas and sentencing. Defendant admits he is guilty of the charged
17 offenses and expressly waives any right to have these facts determined by a jury beyond a
18 reasonable doubt.

19 a. Beginning in 2005 and continuing through May 2007, Emilio
20 Torrella, together with his wife, Brandy Torrella, owned and operated a business known
21 as BNT Investigations, with offices in Belfair, Washington. BNT Investigations
22 specialized in a practice known as "pretexting," directed at government agencies, banks,
23 pharmacies and hospitals in order to uncover employment, wage, financial and medical
24 information about individuals on behalf of other private investigators throughout the
25 United States. Private investigators who utilized BNT's services include Victoria Tade,
26 Megan Ososke, Robert Grieve, Ziad Sakhleh, Patrick Bombino, Esaun Pinto, and Darci
27 Templeton.

1 b. For example, private investigators requested that BNT uncover
2 detailed income and tax information belonging to specific individuals. To fulfill the
3 request, BNT personnel, at the direction of Mr. and Mrs. Torrella, telephoned the Internal
4 Revenue Service, posing as the individual about whom information was sought, and
5 deceived the IRS representative into disclosing the person's income and other tax
6 information. BNT personnel then reported the information they received from the IRS to
7 the private investigators in return for a fee.

8 c. Private investigators also requested that BNT uncover historical
9 wage, employment, and disability benefits information belonging to other individuals. To
10 fulfill the request, BNT personnel, at the direction of Mr. and Mrs. Torrella, telephoned
11 the Social Security Administration, posing as the individual about whom information was
12 sought, and deceived the SSA representative into disclosing how much the individual had
13 in reported wages and whether he or she received any disability benefits. BNT personnel
14 then reported the information they received from the SSA to the private investigators in
15 return for a fee.

16 d. Other private investigators requested that BNT uncover individuals'
17 bank accounts and balance information. To fulfill the request, BNT personnel, at the
18 direction of Mr. and Mrs. Torrella, telephoned banks, posing as the individual about
19 whom the information was sought, and deceived the banks into disclosing account
20 information. BNT personnel then reported the bank account information to the private
21 investigators in return for a fee.

22 e. Some private investigators requested that BNT uncover medical
23 information about individuals. To fulfill the request, Mrs. Torrella, with the knowledge
24 of Mr. Torrella, telephoned pharmacies ~~and hospitals~~, posing as someone from the
25 individual's doctor's office, and deceived the pharmacy into disclosing medications
26 prescribed for the individual. At times, Mrs. Torrella, with the knowledge of Mr.
27 Torrella, also telephoned hospitals and deceived them into releasing records of hospital
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visits by ^{posing as the} individuals being researched. Mrs. Torrella then reported the medical information to the private investigators in return for a fee.

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f. In order for the BNT personnel to successfully deceive the government agencies, banks, pharmacies and hospitals into disclosing the desired information, they required detailed identification information in order to correctly answer security questions posed by the various institutions. The private investigators who utilized BNT's services understood this requirement and provided BNT with each subject's full name, date of birth, Social Security Number, associated addresses, and names and identifiers for spouses with the understanding that this information will be used by BNT personnel in their pretexting activities.

g. In furtherance of the conspiracy and as part of the scheme and artifice to defraud, Defendant made or caused to be made the following pretext telephone calls on behalf of other private investigators:

Requesting Private Investigator	Date	Interstate Telephone Call	Victim	False Statement
MEGAN OSOSKE	July 18, 2006	BNT Inves. Belfair, WA to SSA Riverbend, WY	L.S.	BNT employee falsely claimed she was L.S. and requested five years of employment and earnings information.
VICTORIA TADE	Jan. 24, 2007	BNT Inves. Belfair, WA to IRS Chamblee, GA	P.B.	Posing as taxpayer, BNT employee falsely claimed that the taxpayer's accountant was charged with embezzlement and tax records were needed to determine if such crime took place and determine whether the tax payer should enter class action lawsuit.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Requesting Private Investigator	Date	Interstate Telephone Call	Victim	False Statement										
PATRICK BOMBINO and ESAUN PINTO, Sr.	March 19, 2007	BNT Inves. Belfair, WA to IRS Philadelphia, PA	J.C.	Posing as taxpayer, BNT employee falsely claimed that hospital would not allow the taxpayer to receive surgery until the taxpayer provides 2005 Federal Income Tax information.										
ROBERT GRIEVE and ZIAD SAHKLEH	March 19, 2007	BNT Inves. Belfair, WA to IRS Memphis, TN	V.D.	Posing as taxpayer, BNT employee falsely claimed that the taxpayer was going to court proceedings and needed federal income tax returns.										
DARCI TEMPLETON	April 23, 2007	BNT Inves. Belfair, WA to IRS Holtsville, NY	C.P.	Posing as taxpayer, BNT employee falsely claimed that the taxpayer's lawyer needed Federal Income Tax Transcripts and Wage Transcripts for court.										

h. From 2005 through 2007, the number of individuals "pretexted" in this manner by BNT personnel is approximately 1,800. None of the individuals who were "pretexted" gave BNT nor the private investigators permission to use their identification information in this manner, or for BNT and the private investigators to access their employment, financial, and medical information.

i. On July 18, 2006, as set forth in Count 2 of the Indictment, a BNT employee, at the direction of Mr. and Mrs. Torrella, made an interstate telephone call from Belfaire, Washington to the Social Security Administration Office in Riverbend, Wyoming, and falsely claimed to be L.S. and fraudulently obtained five years of employment and earnings information belonging to L.S. In addition, Defendant admits that all of the pretexting examples set forth above in the chart in Paragraph 7(g) involved the use of interstate wire communication, specifically, interstate telephone calls on the dates and involving the locations as detailed above in the chart, and that Defendant's

1 actions were knowing and committed with the intent to defraud the government agencies
2 and other businesses and institutions into disclosing confidential information.

3 j. As set forth in Count 21, Defendant also admits that he knowingly
4 and unlawfully used or caused to be used means of identification belonging to victims
5 L.S., P.B., J.C., V.D., and C.P., specifically the names, dates of birth, and Social Security
6 Numbers belonging to these individuals, in order to facilitate the above described
7 pretexting calls as detailed in the chart in Paragraph 7(g). The means of identification
8 were used by BNT personnel to successfully pose as these various individuals and
9 fraudulently obtain confidential information about the individual in the possession of
10 government agencies or other institutions.

11 8. Sentencing Factors. The parties agree and stipulate that the applicable
12 offense guideline in this case from Chapter Two of the United States Sentencing
13 Guidelines is Section 2H3.1, and will recommend to the Court to apply the guideline for
14 purposes of sentencing. Defendant understands, however, that at the time of sentencing,
15 the Court is free to reject this recommendation, and is further free to apply additional
16 downward or upward adjustments in determining Defendant's Sentencing Guidelines
17 range.

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

1 provide the United States Probation Office with evidence of all relevant conduct
2 committed by Defendant.

3 10. Acceptance of Responsibility. The United States acknowledges that
4 Defendant has assisted the United States by timely notifying the authorities of his
5 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
6 and permitting the Court to allocate its resources efficiently. If at the time of sentencing,
7 the United States remains satisfied that Defendant has accepted responsibility, then it will
8 recommend a sentence that takes this acceptance of responsibility into consideration.
9 Defendant understands and agrees that the United States will base its recommendation on
10 factors set forth in the United States Sentencing Guidelines, including Section 3E1.1.

11 11. Cooperation.

12 a. Defendant shall cooperate completely and truthfully with law
13 enforcement authorities in the investigation and prosecution of other individuals involved
14 in criminal activity. Such cooperation shall include, but not be limited to, complete and
15 truthful statements to law enforcement officers, as well as complete and truthful
16 testimony, if called as a witness before a grand jury, or at any state or federal trial, retrial,
17 or other judicial proceedings. Defendant acknowledges that this obligation to cooperate
18 shall continue after Defendant has entered a guilty plea and sentence has been imposed,
19 no matter what sentence Defendant receives. Failure to do so may constitute a breach of
20 this Plea Agreement.

21 b. Defendant understands the United States will tolerate no deception
22 from him. If, in the estimation of the United States Attorney, information or testimony
23 provided from the date of the Plea Agreement, proves to be untruthful or incomplete in
24 any way, regardless of whether the untruthfulness was intended to help or hurt the United
25 States' case, the United States Attorney for the Western District of Washington may
26 consider that Defendant has breached this Plea Agreement.

27 c. The United States Attorney's Office for the Western District of
28 Washington, in turn, agrees not to prosecute Defendant for any other offenses, other than

1 crimes of violence, that Defendant may have committed in the Western District of
2 Washington prior to the date of this Agreement about which: (1) the United States
3 presently possesses information; or (2) Defendant provides information pursuant to this
4 Agreement to cooperate with the authorities.

5 d. The parties agree that information provided by Defendant in
6 connection with this Plea Agreement shall not be used to determine his sentence, except
7 to the extent described in USSG § 1B1.8.

8 e. In exchange for his cooperation, as described above, and conditioned
9 upon his fulfillment of all conditions of this Plea Agreement, the United States Attorney
10 will file a motion pursuant to 18 U.S.C. § 3553(e) and Section 5K1.1 of the United States
11 Sentencing Guidelines, recommending that the Court sentence Defendant to a sentence
12 that reflects his cooperation. Defendant understands that when the United States Attorney
13 files such a sentencing recommendation, that recommendation will be based on
14 consideration of factors and provisions set forth in the United States Sentencing
15 Guidelines.

16 12. Voluntariness of Plea. Defendant acknowledges that he has entered into
17 this Plea Agreement freely and voluntarily, and that no threats or promises, other than the
18 promises contained in this Plea Agreement, were made to induce Defendant to enter this
19 plea of guilty.

20 13. Waiver of Appeal As part of this Plea Agreement and on the condition that
21 the Court grants the United States's motion for downward departure pursuant to 18
22 U.S.C. § 3553(e) and Section 5K1.1, Defendant waives to the full extent of the law:

- 23 a. any right conferred by Title 18, United States Code, Section 3742 to
24 appeal the sentence, including any restitution order imposed; and
25 b. any right to bring a collateral attack against the conviction and
26 sentence, including any restitution order imposed, except as it may
27 relate to the effectiveness of legal representation.
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1 Furthermore, this waiver does not preclude Defendant from bringing an
2 appropriate motion pursuant to 28 U.S.C. 2241, to address the conditions of his
3 confinement or the decisions of the Bureau of Prisons regarding the execution of his
4 sentence.

5 If Defendant breaches this Plea Agreement at any time by appealing or
6 collaterally attacking (except as to effectiveness of legal representation) the conviction or
7 sentence in any way, the United States may prosecute Defendant for any counts, including
8 those with mandatory minimum sentences, that were dismissed or not charged pursuant to
9 this Plea Agreement.

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

16 15. Post-Plea Conduct. Defendant understands that the terms of this Plea
17 Agreement apply only to conduct that occurred prior to the execution of this Agreement.
18 If, after the date of this Agreement, Defendant should engage in illegal conduct, or
19 conduct that is in violation of his conditions of release (examples of which include, but
20 are not limited to: obstruction of justice, failure to appear for a court proceeding, criminal
21 conduct while pending sentencing, and false statements to law enforcement agents, the
22 Pretrial Services Officer, Probation Officer or Court), the United States is free under this
23 Agreement to seek a sentence that takes such conduct into consideration. Such a sentence
24 could include, to the extent the United States Sentencing Guidelines are applicable, a
25 sentencing enhancement or upward departure.

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27 //
28 //

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

Dated this 20 day of May, 2008.


EMILIO A. TORRELLA
Defendant


THOMAS A. CAMPBELL
Attorney for Defendant


KATHERYN KIM FRIERSON
Assistant United States Attorney


TESSA GORMAN
Assistant United States Attorney


CARL BLACKSTONE
Assistant United States Attorney