

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2461 Disciplinary Docket No. 3
: :
Petitioner : No. 48 DB 2018
: :
v. : Attorney Registration No. 45238
: :
BRIAN ARTHUR McCORMICK : (Out of State)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 18th day of May, 2018, upon consideration of the Verified Statement of Resignation, Brian Arthur McCormick is disbarred on consent from the Bar of this Commonwealth, see Pa.R.D.E. 215, and he shall comply with the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 5/18/2018

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2461 Disc. Dkt.
Petitioner : No. 3
v. :
: File No. C1-17-919
:
: Atty. Regis. No. 45238
BRIAN ARTHUR McCORMICK, :
Respondent : (Out of State)

RESIGNATION
UNDER Pa.R.D.E. 215

Brian Arthur McCormick, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. 215 ("Enforcement Rules") and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on November 26, 1985. His attorney registration number is 45238 and he is currently on administrative suspension.

2. He desires to submit his resignation as a member of said bar.

3. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress; and he is fully aware of the implications of submitting this resignation.

FILED

5/7/2018

The Disciplinary Board of the
Supreme Court of Pennsylvania

4. He is aware that there is presently pending an investigation into allegations that he has engaged in misconduct based on his conviction by guilty plea on October 5, 2017, to two counts of Wire Fraud, in violation of 18 U.S.C. § 1343, a felony, in the United States District Court for the District of Maryland in a case captioned **United States of America v. Brian Arthur McCormick**, Docket No. 1:16-cr-00149-JKB-1. The criminal charges are more fully set forth in the Superseding Information and the Judgment in a Criminal Case, true and correct copies of which are attached as "Exhibit A" and "Exhibit B," respectively. The facts and circumstances surrounding the criminal charges are set forth in a written plea agreement letter with attached Factual Stipulation, a true and correct copy of which is attached as "Exhibit C."

5. He acknowledges that the material facts upon which the allegations contained in Exhibit A and Exhibit B are based are true.

6. He acknowledges that all of the facts set forth in the Factual Stipulation (Exhibit C) are true.

7. He is aware that his October 5, 2017 conviction constitutes a *per se* ground for discipline under Rule 214(e) and Rule 203(b)(1) of the Pennsylvania Rules of

Disciplinary Enforcement.

8. He acknowledges that on January 5, 2018, he was sentenced by the Honorable James K. Bredar to a term of imprisonment of fifty-four (54) months on each of the two counts of Wire Fraud, to run concurrently, as reflected in the Judgment in a Criminal Case. See Exhibit B.

9. He submits the within resignation because the said conviction stands as a *per se* ground for discipline under the Enforcement Rules and because he is guilty of the crimes.

10. He submits the within resignation because he knows that he could not successfully defend himself against charges of professional misconduct, as described in the attached exhibits.

11. He is aware that pursuant to Enforcement Rule 215(c), the fact that he has tendered this resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the Secretary of the Board.

12. Upon entry of the order disbarring him on consent, he will promptly comply with the notice, withdrawal, resignation, trust accounting, and cease-and-desist provisions of subdivisions (a), (b), (c) and (d) of

Enforcement Rule 217.

13. After entry of the order disbaring him on consent, he will file a verified statement of compliance as required by Enforcement Rule 217(e)(1).

14. He is aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rule 218(b) shall not begin until he files the verified statement of compliance, and if the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

15. He is fully aware that the submission of this Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b) and (c).

16. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has not retained, consulted with, or acted upon the advice of, counsel, in connection with his decision to execute the within resignation.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S., Section 4904 (relating to unsworn falsification to authorities).

Signed this 28th day of April, 2018.

hils

Brian Arthur McCormick

WITNESS:

[Handwritten signature]

JG
10/4/17

JKMcD:SRD; USAQ#2014R00626

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

BRIAN ARTHUR McCORMICK,

Defendant.

CRIMINAL NO. JFM-16-0149
(Wire Fraud, 18 U.S.C. §1343; Aiding
& Abetting, 18 U.S.C. § 2; Forfeiture).

SUPERSEDING INFORMATION

The United States Attorney for the District of Maryland charges:

COUNT ONE

1. At all times material to this Indictment, **BRIAN ARTHUR McCORMICK** ("**McCORMICK**") resided on Ferry Point Road, Annapolis, Maryland.
2. At all times material to this Indictment, **McCORMICK** was the sole shareholder and president of Triton Structured Finance Group, LLC ("**Triton**") and used brian.mccormick@triton.me.com as his email address.
3. At times material to this Indictment, **McCORMICK** rented an office for Triton on Severn Avenue, Annapolis, Maryland, and later moved Triton's office to his home on Ferry Point Road, Annapolis, Maryland.
4. At all times material to this Indictment, Triton had a bank account at Wachovia Bank (now Wells Fargo Bank), account number ****7884, 7 St. Paul Street, Baltimore, Maryland; **McCORMICK** was the sole signatory on this account.
5. At all times material to this Indictment, Bullion Hospitality and Conference Center, LLC ("**Bullion Hospitality**") was a Kentucky limited liability corporation, with options to purchase land near Fort Knox, Kentucky, for the purpose of building a hotel and conference

center. Individual No. 1 was a principal of Bullion Hospitality.

THE SCHEME TO DEFRAUD

6. From in and around March 2011 to in and around November 2011, in the District of Maryland, the defendant,

BRIAN ARTHUR McCORMICK,

devised and intended to devise a scheme and artifice to defraud and to obtain money by means of material false and fraudulent pretenses, representations and promises by promising that if prospective borrowers for projects would pay money to an escrow account or Triton directly (an "advance fee") then Triton would secure permanent financing for the borrowers and/or **McCORMICK** would supply the desired loan through his personal wealth.

MANNER AND MEANS OF THE SCHEME TO DEFRAUD

7. **McCORMICK** represented to Individual No. 1 and Individual No. 2 that he was personally wealthy and a successful real estate developer.

8. **McCORMICK** represented to Individual No. 1 and Individual No. 2 that Triton had a brokerage account at Synovus Brokerage, account ***4257, with a balance on April 22, 2011, of \$402,677,199.23 and provided a forged statement showing that balance in support of his representation.

9. **McCORMICK** represented to Individual No. 2 that if Individual No. 2 would loan \$500,000 to Bullion Hospitality by transferring the funds directly to Triton that Triton would fund the hotel/conference center project for Bullion Hospitality in exchange for 75% ownership of the project. **McCORMICK** promised to pay \$1.5 million to Individual No. 2 or to fully refund \$500,000 to Individual No. 2.

10. **McCORMICK** received the \$500,000 from Individual No. 2 into the Triton bank

account, spent it on personal and other expenses, refunded \$0 to Individual No. 2 and thereafter made lulling statements to Individual No. 1, Individual No. 2 and others which falsely stated that **McCORMICK** was transferring the project funds to Bullion Hospitality.

THE CHARGE

11. On or about April 22, 2011, in the District of Maryland, the defendant,

BRIAN ARTHUR McCORMICK,

for the purpose of executing the scheme and artifice to defraud, transmitted and caused to be transmitted in interstate commerce, writings, signs and symbols, namely an email from **McCORMICK** in Maryland to Individual No. 1 in Chicago, Illinois, containing a forged statement from Synovus Brokerage for account ***4257, showing a balance of \$402,677,199.23.

18 U.S.C. §1343.

COUNT TWO

The United States Attorney for the District of Maryland further charges:

1. In and around summer 2015, **MCCORMICK** became acquainted over the internet with B.D.B. and J.N., who were principals of an Arkansas company called The Brittingham Group ("Brittingham").
2. B.D.B. and J.N. devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations and promises including the following:
 - a. Brittingham had a number of bank guarantees (BGs) and standby letters of credit (SBLCs) totaling approximately \$40 billion, and if an investor provided €1 million to Brittingham, Brittingham would pay the SWIFT fees to transfer the bank guaranty to a bank that would monetize the BG or SBLC and thereafter, provide the monetized funds to Brittingham's trade bank to be used by Brittingham to buy and sell medium term notes.
 - b. The profits from the trading of the medium term notes were represented by Brittingham to be 100% of the investment thirty-six (36) times per year; the investor's €1 million would never be at risk as those funds would not be released to pay SWIFT fees until after the BG or SBLC had been monetized and funds delivered to Brittingham's trading account.
 - c. Brittingham signed agreements with investors agreeing to split the profits 50-50 with the investors. The investor signed an agreement with **MCCORMICK** to split its profits with **MCCORMICK** with 20% for **MCCORMICK** and 80% for the investor.
 - d. J.N. and B.D.B. also told **MCCORMICK** that individuals could invest with Brittingham which would in turn invest in a trade program with Westpac Bank Australia.

B.D.B. told **MCCORMICK** that investor funds would be used to trigger a credit line that would be used to make the Westpac investment and that as such, investor funds would not be at risk.

4. **MCCORMICK** solicited potential investors outside the United States to invest in the two Brittingham investment schemes. **MCCORMICK** falsely represented to prospective investors that he had great personal wealth and that he had personal funds invested with Brittingham, when in fact he was desperate for money and had no personal funds invested with Brittingham.

5. **MCCORMICK** persuaded P.D., a citizen of Australia, to invest €1 million with Brittingham, and in September 2015, **MCCORMICK** transmitted to P.D. an investment contract with Brittingham, and P.D. transferred €1 million into the Hong Kong Shanghai Bank (HSBC) account ending in 4838 in the name of Gold Express Holdings.

6. **MCCORMICK** persuaded R.T., a citizen of Switzerland, to invest €1 million with Brittingham, and in November 2015, **MCCORMICK** transmitted to R.T. an investment contract with Brittingham, and R.T. wire transferred his funds to HSBC account 9838 in the name of Smart Jobs Limited.

7. **MCCORMICK** persuaded D.G., a citizen of the United Kingdom, to invest € 1 million of his funds with Brittingham, and in January 2016, **MCCORMICK** transmitted to D.G. an investment contract with Brittingham, and D.G. wire transferred his funds to HSBC account ending in 9838 in the name of Smart Jobs Limited.

8. Brittingham has never paid any return on investment to P.D., R.T., and D.G. or refunded their investments.

THE CHARGE

9. On or about November 23, 2015, in the District of Maryland, the defendant,

BRIAN ARTHUR McCORMICK,

for the purpose of executing the scheme and artifice to defraud, and attempting to do so, transmitted and caused to be transmitted in interstate and foreign commerce, writings, signs and symbols, namely an email from **McCORMICK** in Maryland to **B.D.B.** in California, containing a copy of a bank transfer confirmation from **R.T.** showing the transfer of € 1,050,000 from Switzerland to Hong Kong Shanghai Bank account in the name of Smart Jobs Limited, account ending in 9838.

18 U.S.C. Section 1343 and 2

FORFEITURE


1. Pursuant to Rule 32.2, Fed. R. Crim. P., notice is hereby given to the defendant that upon conviction of an offense in violation of 18 U.S.C. §1343 as alleged in Count One, the United States will seek forfeiture of all property, real and personal, which constitutes and is derived from proceeds that the defendant obtained directly and indirectly from the offense, namely \$500,000.

2. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property.

28 U.S.C. §2461(c); 18 U.S.C. §981(a)(1)(C); 18 U.S.C. §1956(c)(7); 18 U.S.C. §1961(1);
21 U.S.C. §853(p)


Stephen M. Schenning
Acting United States Attorney

October 4, 2017
Date

**United States District Court
 District of Maryland**

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed on or After November 1, 1987)

v.

BRIAN ARTHUR MCCORMICK

Case Number: JKB-1-16-CR-00149-001
 Defendant's Attorney: L Barrett Boss
 Emily M. Gurskis
 Assistant U.S. Attorney: Joyce K McDonald
 Sean Delaney

THE DEFENDANT:

- pleaded guilty to counts 1s and 2s of Superseding Information.
- pleaded nolo contendere to count(s) _____, which was accepted by the court.
- was found guilty on count(s) _____ after a plea of not guilty.

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Numbers</u>
18 U.S.C. §1343	Wire Fraud	04/22/2011	1s
18 U.S.C. §1343	Wire Fraud	11/23/2015	2s

The defendant is adjudged guilty of the offenses listed above and sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984 as modified by U.S. v. Booker, 543 U.S. 220 (2005).

- The defendant has been found not guilty on count(s) _____
- The Original Indictment is dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

2018 JAN -9 PM 1:14



Name of Court Reporter: Christine Asif

January 5, 2018
 Date of Imposition of Judgment

James K. Bredar Jan. 8, 2018
 James K. Bredar Date
 United States District Judge

I hereby attest and certify on 2/14/18
 that the foregoing document is a full, true and correct
 copy of the original on file in my office and in my
 legal custody.

FELICIA C. CANNON
 CLERK, U.S. DISTRICT COURT
 DISTRICT OF MARYLAND

By [Signature] Deputy

DEFENDANT: Brian Arthur McCormick

CASE NUMBER: JKB-1-16-CR-00149-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 54 months, consisting of 54 months as to count 1; and 54 months as to count 2, to run concurrent as to count 1.

The court makes the following recommendations to the Bureau of Prisons:

That the defendant be designated to the FPC at Cumberland, in Cumberland, Maryland for service of his sentence.

That the defendant be admitted to any drug abuse treatment program for which he may be eligible, including Residential Drug Abuse Program (RDAP).

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m./p.m. on _____.

as notified by the United States Marshal.

The defendant shall surrender, at his own expense, to the institution designated by the Bureau of Prisons at the date and time specified in a written notice to be sent to the defendant by the United States Marshal. If the defendant does not receive such a written notice, defendant shall surrender to the United States Marshal:

before 12:00 pm on Friday, April 6, 2018.

A defendant who fails to report either to the designated institution or to the United States Marshal as directed shall be subject to the penalties of Title 18 U.S.C. §3146. If convicted of an offense while on release, the defendant shall be subject to the penalties set forth in 18 U.S.C. §3147. For violation of a condition of release, the defendant shall be subject to the sanctions set forth in Title 18 U.S.C. §3148. Any bond or property posted may be forfeited and judgment entered against the defendant and the surety in the full amount of the bond.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY U.S. MARSHAL

DEFENDANT: Brian Arthur McCormick

CASE NUMBER: JKB-1-16-CR-00149-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to counts 1 and 2 to run concurrently.

The defendant shall comply with all of the following conditions:

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

A. MANDATORY CONDITIONS

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance.
- 3) You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
- 4) You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
- 5) You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
- 6) You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
- 7) You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page

B. STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must 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, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.

DEFENDANT: Brian Arthur McCormick

CASE NUMBER: JKB-1-16-CR-00149-001

- 9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10) You must 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).
- 11) You must 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.
- 12) If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
- 13) You must follow the instructions of the probation officer related to the conditions of supervision.

C. SUPERVISED RELEASE ADDITIONAL CONDITIONS

You must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.

You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.

Pay outstanding monetary restitution imposed by the Court.

You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

You must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing methods.

You must participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

You must not use or possess alcohol.

You must not use or possess any controlled substances without a valid prescription. If you do have a valid prescription, you must disclose the prescription information to the probation officer and follow the instructions on the prescription.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Brian Arthur McCormick

CASE NUMBER: JKB-1-16-CR-00149-001

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A \$200.00 Special Assessment is to be paid in full immediately.
- B \$ _____ immediately, balance due (in accordance with C, D, or E); or
- C Not later than _____; or
- D Installments to commence _____ day(s) after the date of this judgment.
- E Restitution is to be paid in monthly installments of \$ 100.00 over the period of supervised release to commence when the defendant is placed on supervised release. Restitution as to Victim #1 (S.M.) is to be paid in full before payments are dispersed to remaining victims.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Unless the court expressly orders otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Bureau of Prisons Inmate Financial Responsibility Program, are to be made to the Clerk of the Court.

NO RESTITUTION OR OTHER FINANCIAL PENALTY SHALL BE COLLECTED THROUGH THE INMATE FINANCIAL RESPONSIBILITY PROGRAM.

If the entire amount of criminal monetary penalties is not paid prior to the commencement of supervision, the balance shall be paid:

- in equal monthly installments during the term of supervision; or
- on a nominal payment schedule of \$ _____ per month during the term of supervision.

The U.S. probation officer may recommend a modification of the payment schedule depending on the defendant's financial circumstances.

Special instructions regarding the payment of criminal monetary penalties:

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

\$500,000.00 pursuant to the Consent Order of Forfeiture



U.S. Department of Justice

United States Attorney
District of Maryland

20170918-3 PM 7:15
K
COUNTY

Joyce K. McDonald
Assistant United States Attorney
Joyce.McDonald@dusdoj.gov

Suite 400
36 S. Charles Street
Baltimore, MD 21201-3119

DIRECT: 410-209-4899
MAIN: 410-209-4800
FAX: 410-962-3091

September 18, 2017

Barry Boss, Esq.
Cozen O'Connor
Suite 300, 1200 19th Street NW
Washington, DC 20036

Re: United States v. McCormick
Criminal No. JFM-16-149

Dear Counsel:

This letter, together with the Sealed Supplement, confirms the plea agreement which has been offered to the Defendant by the United States Attorney's Office for the District of Maryland ("this Office"). If the Defendant accepts this offer, please have him execute it in the spaces provided below. If this offer has not been accepted by September 20, 2017, it will be deemed withdrawn. The terms of the agreement are as follows:

Offenses of Conviction

1. The Defendant agrees to waive indictment and plead guilty to a two count Superseding Information which will charge him with two counts of wire fraud, in violation of 18 U.S.C. § 1343. The Defendant admits that he is, in fact, guilty of that offense and will so advise the Court.

Elements of the Offenses

2. The elements of the offenses to which the Defendant has agreed to plead guilty, and which this Office would prove if the case went to trial, are as follows:

a. First, that there were schemes or artifices to defraud or to obtain money or property by materially false and fraudulent pretenses, representations or promises, as alleged in the Superseding Information;

b. Second, that the Defendant knowingly and willfully participated in the schemes or artifices to defraud, with knowledge of their fraudulent nature and with specific intent to defraud;

c. Third, that in execution of the schemes, the Defendant used or caused the use of interstate wires.

Penalties

3. The maximum sentence provided by statute for each count of wire fraud is as follows: twenty years of imprisonment, a term of supervised release of three years, and a fine of \$250,000 or an alternative fine of twice the gross gain from the offense, pursuant to 18 U.S.C. §3571. The Court can order that the sentences on the two counts be served consecutively or concurrently. In addition, the Defendant must pay \$100 as a special assessment pursuant to 18 U.S.C. § 3013, which will be due and should be paid at or before the time of sentencing. This Court may also order him to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664. If a fine or restitution is imposed, it shall be payable immediately, unless, pursuant to 18 U.S.C. § 3572(d), the Court orders otherwise. The Defendant understands that if he serves a term of imprisonment, is released on supervised release, and then violates the conditions of his supervised release, his supervised release could be revoked - even on the last day of the term - and the Defendant could be returned to custody to serve another period of incarceration and a new term of supervised release. The Defendant understands that the Bureau of Prisons has sole discretion in designating the institution at which the Defendant will serve any term of imprisonment imposed.

Waiver of Rights

4. The Defendant understands that by entering into this agreement, he surrenders certain rights as outlined below:

a. The Defendant has the right to have his case presented to a Grand Jury, which would decide whether there is probable cause to return an indictment against him. By agreeing to proceed by way of Information, he is giving up that right, and he understands that the charges will be filed by the United States Attorney without the Grand Jury.

b. If the Defendant had pled "not guilty," he would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the Defendant, this Office, and the Court all agreed.

c. If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the Defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified, and would have the opportunity to strike a certain number of jurors peremptorily. All twelve jurors would have to agree unanimously before the Defendant could be found guilty of any count. The jury would be instructed that the Defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

d. If the Defendant went to trial, the government would have the burden of proving the Defendant guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the government's witnesses. The Defendant would not have to present any defense witnesses or evidence whatsoever. If the Defendant wanted to call witnesses in his defense, however, he would have the subpoena power of the Court to compel the witnesses to attend.

e. The Defendant would have the right to testify in his own defense if he so chose, and he would have the right to refuse to testify. If he chose not to testify, the Court could instruct the jury that they could not draw any adverse inference from his decision not to testify.

f. If the Defendant were found guilty after a trial, he would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges against him. By pleading guilty, the Defendant knowingly gives up the right to appeal the verdict and the Court's decisions.

g. By pleading guilty, the Defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the Defendant understands that he may have to answer the Court's questions both about the rights he is giving up and about the facts of his case. Any statements the Defendant makes during such a hearing would not be admissible against him during a trial except in a criminal proceeding for perjury or false statement.

h. If the Court accepts the Defendant's plea of guilty, there will be no further trial or proceeding of any kind, and the Court will find him guilty.

i. By pleading guilty, the Defendant will also be giving up certain valuable civil rights and may be unable to hold a license as either a certified public accountant or an attorney.

Advisory Sentencing Guidelines Apply

5. The Defendant understands that the Court will determine a sentencing guidelines range for this case (henceforth the "advisory guidelines range") pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991 through 998. The Defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take into account the advisory guidelines range in establishing a reasonable sentence.

Factual and Advisory Guidelines Stipulation

6. This Office and the Defendant understand, agree and stipulate to the Statement of Facts set forth in Attachment A hereto which this Office would prove beyond a reasonable doubt and to the following applicable sentencing guidelines factors:

a. The parties agree and stipulate that the base offense level is 7, pursuant to U.S.S.G. § 2B1.1(a)(1); and

b. The parties agree and stipulate that 16 levels should be added, pursuant to U.S.S.G. § 2B1.1(b)(1)(F) because the foreseeable loss to investors was more than \$3.5 million, but less than \$9.5 million. Because the offense resulted in substantial financial hardship to one victim, the offense level is increased by two. § 2B1.1 (b)(2)(A)(iii). An additional two levels are added because a substantial part of the fraudulent scheme was committed from outside the United States. U.S.S.G. § 2B1.1(b)(10).

c. This Office does not oppose a two-level reduction in the Defendant's adjusted offense level, based upon the Defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. This Office agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the Defendant's timely notification of his intention to plead guilty. This Office may oppose any adjustment for acceptance of responsibility if the Defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about his involvement in the offense; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw his plea of guilty.

7. The Defendant understands that there is no agreement as to his criminal history or criminal history category, and that his criminal history could alter his offense level.

8. This Office and the Defendant agree that with respect to the calculation of the advisory guidelines range, no sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines will be raised or are in dispute.

Rule 11 (c) (1) (C) Plea

9. The parties stipulate and agree pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) that a sentence of 54 months concurrent on Counts 1 and 2 in the custody of the Bureau of Prisons, together with restitution, forfeiture, and the Special Assessment of \$200 are the appropriate disposition of this case. This agreement does not affect the Court's discretion to impose any lawful terms of supervised release or to set any lawful conditions of probation or supervised release. In the event that the Court rejects this plea agreement, either party may elect to declare the agreement null and void. Should the Defendant so elect, he will be afforded the opportunity to withdraw his plea pursuant to the provisions of Federal Rule of Criminal Procedure 11(c)(5). The parties agree that if the Court finds that the Defendant engaged in obstructive or unlawful behavior and/or failed to acknowledge personal responsibility as set forth in Paragraph 16, neither the Court nor this Office would be bound by the specific sentencing contained in this paragraph, and the Defendant would not be able to withdraw his plea.

Obligations of the United States Attorney's Office

10. At the time of sentencing, this Office will recommend a sentence of fifty-four months (54) months on each count in the custody of the Bureau of Prisons to be served concurrently, restitution as outlined below, no fine, and the Special Assessment of \$200. The government will move to dismiss the original Indictment returned in this case and agrees to being no further charges against the Defendant based upon the conduct set forth in the Statement of Facts in Attachment A described as the "Cormier Fraud," the "Bullion Hospitality Fraud," or the "Brittingham Group Fraud." Further, this Office agrees that the United States Attorney's Office for the Western District of Arkansas has agreed not to bring charges against the defendant for the conduct set forth in the Statement of Facts of Attachment A described as the Brittingham Group Fraud with respect to victims P.D., R.T., or D.G. The defendant's guilty plea is intended to provide protection pursuant to the Double Jeopardy Clause of the U.S. Constitution from prosecution by any other U.S. Attorney or the Department of Justice in any other district for the three frauds described in the Factual Stipulation. The defendant's other criminal conduct, if any, has no protection and is not covered by this agreement.

11. The parties reserve the right to bring to the Court's attention at the time of sentencing, and the Court will be entitled to consider, all relevant information concerning the Defendant's background, character and conduct, including uncharged conduct.

Restitution

12. The Defendant and this Office stipulate that this is a case in which a restitution order is mandatory pursuant to 18 U.S.C. 3663A(c)(1), and that the loss to the victim on Count 1 is \$500,000 and the loss to the victims for Count 2 is in excess of €3 million, with joint and several liability as to Count 2.

Forfeiture

13. The Defendant understands that the Court will, upon acceptance of his guilty plea, enter an order of forfeiture as part of his sentence, and that the order will include assets directly traceable to his offense, substitute assets and/or a money judgment equal to the value of the property subject to forfeiture, which the parties stipulate and agree is at least \$500,000. Specifically, as a consequence of the Defendant's plea of guilty to Counts One and Two of the Superseding Information charging violations of 18 U.S.C. § 1343, the Court will order the forfeiture of all proceeds obtained or retained as a result of the offense pursuant to 18 U.S.C. §981(a)(1)(C); 18 U.S.C. §1956(c)(7), 28 U.S.C. § 2461(c).

14. The Defendant agrees to consent to the entry of a forfeiture money judgment and waives the requirements of Federal Rules of Criminal Procedure 11(b)(1)(I), 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, advice regarding the forfeiture at the change-of-plea hearing, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment.

Assisting the Government with Regard to the Forfeiture

15. The Defendant agrees to assist fully in the forfeiture of assets. The Defendant agrees to disclose all of his assets and sources of income to the United States, and to take all steps necessary to pass clear title to the forfeited assets to the United States, including but not limited to executing any and all documents necessary to transfer such title, assisting in bringing any assets located outside of the United States within the jurisdiction of the United States, and taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. The Defendant also agrees to give this Office permission to request and review his federal and state income tax returns, and any credit reports maintained by any consumer credit reporting entity, until such time as the money judgment is satisfied. In this regard, the Defendant agrees to complete and sign a copy of IRS Form 8821 (relating to the voluntary disclosure of federal tax return information) as well as whatever disclosure form may be required by any credit reporting entity.

Waiver of Further Review of Forfeiture

16. The Defendant further agrees to waive all constitutional, legal and equitable challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The Defendant also agrees not to challenge or seek review of any civil or administrative forfeiture of any property subject to forfeiture under this agreement, and will not assist any third party with regard to such challenge or review or with regard to the filing of a petition for remission of forfeiture.

Waiver of Appeal

17. In exchange for the concessions made by this Office and the Defendant in this plea agreement, this Office and the Defendant waive their rights to appeal as follows:

a. The Defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or otherwise, to appeal his conviction;

b. The Defendant and this Office knowingly waive all right, pursuant to 18 U.S.C. § 3742 or otherwise, to appeal whatever sentence is imposed (including the right to appeal any issues that relate to the establishment of the advisory guidelines range, the determination of the Defendant's criminal history, the weighing of the sentencing factors, and the decision whether to impose and the calculation of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised release).

18. Nothing in this agreement shall be construed to prevent the Defendant or this Office from invoking the provisions of Federal Rule of Criminal Procedure 35(a), or from appealing from any decision thereunder, should a sentence be imposed that resulted from arithmetical, technical, or other clear error.

19. The Defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from this Office or any investigating agency.

Obstruction or Other Violations of Law

20. The Defendant agrees that he will not commit any offense in violation of federal, state or local law between the date of this agreement and his sentencing in this case. In the event that the Defendant (i) engages in conduct after the date of this agreement which would justify a finding of obstruction of justice under U.S.S.G. §3C1.1, or (ii) fails to accept personal responsibility for his conduct by failing to acknowledge his guilt to the probation officer who prepares the Presentence Report, or (iii) commits any offense in violation of federal, state or local law, then this Office will be relieved of its obligations to the Defendant as reflected in this agreement. Specifically, this Office will be free to argue sentencing guidelines factors other than those stipulated in this agreement, and it will also be free to make sentencing recommendations other than those set out in this agreement. As with any alleged breach of this agreement, this Office will bear the burden of convincing the Court of the Defendant's obstructive or unlawful behavior and/or failure to acknowledge personal responsibility by a preponderance of the evidence. The Defendant acknowledges that he may not withdraw his guilty plea because this Office is relieved of its obligations under the agreement pursuant to this paragraph. The Defendant acknowledges that he may not withdraw his guilty plea—even if made pursuant to Rule 11(c)(1)(C)—if the Court finds that the defendant engaged in obstructive or unlawful behavior and/or failed to acknowledge personal responsibility. In that event, neither the Court nor the government would be bound by the specific sentence agreed and stipulated to in Paragraph 9 pursuant to Rule 11(c)(1)(C).

Entire Agreement

21. This letter supersedes any prior understandings, promises, or conditions between this Office and the Defendant and, together with the Sealed Supplement, constitutes the complete plea agreement in this case. The Defendant acknowledges that there are no other agreements, promises, undertakings or understandings between the Defendant and this Office other than those set forth in this letter and the Sealed Supplement and none will be entered into unless in writing and signed by all parties.

If the Defendant fully accepts each and every term and condition of this agreement, please sign and have the Defendant sign the original and return it to me promptly.

Very truly yours,

Stephen M. Schenning
Acting United States Attorney


Joyce K. McDonald

Sean R. Delaney
Assistant United States Attorneys

I have read this agreement, including the Sealed Supplement, and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

9/22/2017
Date

Milo
Brian A. McCormick

I am Mr. McCormick's attorney. I have carefully reviewed every part of this agreement, including the Sealed Supplement, with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

10/5/17
Date

Barry Boss
Barry Boss, Esq.

ATTACHMENT A: Factual Stipulation

2017 OCT -5 PM 7:15

The parties hereby stipulate and agree that had this matter gone to trial, the government would have proven the following facts through competent evidence beyond a reasonable doubt. The parties also stipulate and agree that the following facts do not encompass all of the evidence that would have been presented had this matter gone to trial.

1. Bullion Hospitality Fraud

Bullion Hospitality and Conference Center, LLC ("Bullion Hospitality") was a Kentucky limited liability corporation, with options to purchase land near Fort Knox, Kentucky, for the purpose of building a hotel and conference center. B.B. was a principal of Bullion Hospitality. The Defendant devised a scheme and artifice to defraud S.M. of \$500,000 through an advance fee scheme using Bullion Hospitality. The Defendant represented to B.B., S.M., and others that he was personally wealthy and a successful real estate developer. At that time, the Defendant had very little money and was unable to make either home mortgage or child support payments. The Defendant provided a forged Synovus Brokerage statement to B.B. showing that the Defendant's company, Triton Structure Finance Group, LLC, ("Triton") had account ***4257, with a balance on April 22, 2011, of \$402,677,199.23. The Defendant further represented to S.M. that if S.M. would loan \$500,000 to Bullion Hospitality by transferring the funds directly to Triton that Triton would fund the hotel/conference center project for Bullion Hospitality in exchange for 75% ownership of the project. The Defendant falsely promised that he would pay \$1.5 million to S.M. or fully refund \$500,000 to S.M. On May 16, 2011, the Defendant caused S.M. to wire-transfer \$500,000 from his bank account in Illinois into the Triton bank account at Wachovia Bank (now Wells Fargo), which the Defendant then spent on personal and other expenses. From June 2011 through at least October 2011, the Defendant made false lulling statements to S.M. in which the Defendant

represented to S.M. that glitches in the banking system had delayed the return of his investment or that repayment was imminent. S.M. lost his entire investment of \$500,000.

2. The Cormier Fraud

Defendant met Joseph Cormier (hereafter Cormier) on or about July 1, 2010. Cormier was the owner of A Clear Title and Escrow Exchange (hereafter ACTEE). Thereafter, Cormier and the Defendant devised and executed an advance fee scheme which involved, among other things, Cormier invading his ACTEE escrow account and providing those funds to the Defendant. The Defendant knew that Cormier was without the authority to invade the ACTEE escrow account. The Defendant spent the advance fees he received from Cormier on his personal expenses and delivered no bank instruments, loans, or funds to any victim. In addition to this fraudulent activity, the Defendant knew that Cormier was permitting other persons to misuse ACTEE's escrow account in the same manner. From July 2010 - October 2011, investors who dealt with the Defendant sent over \$2.5 million to ACTEE, and the Defendant received over \$600,000 from ACTEE.

3. The Brittingham Group Fraud

In summer 2015, the Defendant met over the internet The Brittingham Group ("Brittingham") through L.K., an Australian woman. Brittingham had recently been incorporated in Arkansas through its principals, B.D.B. and J.N. In telephone conversations or voice-over-internet conversations which the Defendant had with B.D.B., B.D.B. represented that Brittingham had been successfully trading medium term bank notes in Hong Kong since 2001. The Defendant never met B.D.B. in person and never communicated with him through video teleconference. However, the Defendant viewed B.D.B.'s LinkedIn Profile, and the statements B.D.B. made about his background were consistent with his profile. B.D.B., J.N.,

and K.G. were the principals of Brittingham. J.N. was located in Arkansas but purportedly kept Hong Kong hours so he could conduct trades in the medium term bank notes. B.D.B. and J.N. represented that Brittingham had a number of bank guarantees (BGs) and standby letters of credit (SBLCs) totaling approximately \$40 billion. B.D.B. and J.N. further represented that if an investor provided €1 million to Brittingham, Brittingham would be able to pay the SWIFT fees to transfer the bank guaranty to a bank that would monetize the BG or SBLC and thereafter, provide the monetized funds to Brittingham's trade bank to be used by Brittingham to buy and sell medium term notes. The profits from the trading of the medium term notes were represented by Brittingham to be 100% of the investment thirty-six (36) times per year. Brittingham signed agreements with investors agreeing to split the profits 50-50 with the investors. The investor signed an agreement with the Defendant to splits its profits with the Defendant with 20% for the Defendant and 80% for the investor. In addition, J.N. and B.D.B. represented that the investor's €1 million would never be at risk as those funds would not be released to pay SWIFT fees until after the BG or SBLC had been monetized and funds delivered to Brittingham's trading account.

The Defendant had telephone or voice-over-internet conversations with P.D. about investing with Brittingham in late summer 2015. The Defendant held himself out as a wealthy individual, although he was not, and persuaded P.D. to invest through the Defendant's misrepresentation that he had personally invested his own funds with Brittingham. P.D. made his investment in September 2015 by wire transferring €1 million into the HSBC bank account ending in 4838 in the name of Gold Express Holdings. J.N. and B.D.B. told P.D. and the Defendant that Brittingham had bought "shelf" companies in Hong Kong and never changed the name to "Brittingham". J.N. and B.D.B. stated that K.G. was a signatory on the Gold Express

account. Despite many excuses over a long period of time, Brittingham never paid any returns to P.D.

Besides the investment to pay the SWIFT fees, J.N. and B.D.B. told the Defendant that individuals could invest with Brittingham which would in turn invest in a trade program with Westpac Bank Australia. B.D.B. told the Defendant that investor funds would be used to trigger a credit line that would be used to make the Westpac investment and that as such, investor funds would not be at risk. The Defendant falsely led victim R.T., his broker P.H., and victim D.G. to believe that the Defendant had great personal wealth and that he had personal funds invested with Brittingham. R.T. invested €1 million with Brittingham in November 2015 and wire transferred his funds to HSBC account 9838 in the name of Smart Jobs Limited. D.G. transferred €1 million of his funds to the same Smart Jobs Limited account in January 2016. Brittingham has not repaid any investor and has not paid out any profits. The Defendant participated in causing losses to these investors and P.D. of €3 million. Brittingham never paid the Defendant any funds from any source.

In addition, other potential investors were interested in whether Brittingham was paying out on its promises. The Defendant created a phony bank statement for a purported personal bank account at BB&T which reported a fictitious credit of \$2,199,976 to his account from Brittingham. The Defendant used a Naples, FL, address on this account which was not his address but which was consistent with great personal wealth. The Defendant also placed on the phony bank statement transactions in the northern Virginia area. If asked, the Defendant told investors and brokers that he lived in the northern Virginia area so that no one would search for him on the Internet in Annapolis, MD, because he did not want anyone to find civil law suits,

judgments or any adverse information about him. Besides R.D., R.T. and D.G., no one else whom the Defendant attempted to recruit sent his or her funds to Brittingham.

I have read this agreement, including the Sealed Supplement, and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

10/5/2017
Date


Brian A. McCormick

I am Mr. McCormick's attorney. I have carefully reviewed every part of this agreement, including the Sealed Supplement with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

10/5/17
Date


Barry Boss, Esq.

CERTIFICATE OF COMPLIANCE

I certify that this pleading complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: 

Name: Richard Hernandez

Attorney No. (if applicable): 57254