

DISTRICT COURT, El Paso County, Colorado Court Address: 270 S. Tejon P.O. Box 2980 Colorado Springs, Colorado 80901	<p style="text-align: center;">COURT USE ONLY</p>
PEOPLE OF THE STATE OF COLORADO, Plaintiff, v ROBERT ALLEN ZICKEFOOSE, DOB: 07/19/1964 Defendant	
JOHN W. SUTHERS, Attorney General SEAN CLIFFORD First Assistant Attorney General* 1300 Broadway, 9th Floor Denver, CO 80203 720-508-6698 Registration Number: 28260 *Counsel of Record	Case No. 13CR2329 Div: 1 C
PLEA AGREEMENT	

1. I am the defendant. My name is Robert Allen Zickefoose.
2. I wish to plead guilty to the following: Count 7, Securities Fraud, a class 3 felony; and added Count 8, Theft, a class 3 felony.
3. I understand the nature of the charge(s) and the elements of each offense to which I am pleading and the effect of my plea.
4. The elements of the offense(s) to which I am pleading guilty are:

Securities Fraud, (F3)

- 1) That the defendant,
- 2) in the State of Colorado, at or about the date and place charged,
- 3) in connection with the offer, sale or purchase of any security,
- 4) directly or indirectly,
- 5) willfully
- 6) engaged in any act, practice or course of business which operated or would operate as a fraud or deceit upon any person.

Theft, (F3)

- 1) That the defendant,
 - 2) in the State of Colorado, at or about the date and place charged,
 - 3) knowingly,
 - a. obtained or exercised control over
 - b. anything of value
 - c. which was the property of another person
 - d. by deception, and
 - 4) knowingly
 - a. used, concealed, or abandoned the thing of value
 - b. in such a manner as to permanently deprive the other person of its use or benefit,
 - 5) the value of the thing involved was twenty thousand dollars or more.
5. Concerning the offenses of securities fraud and theft, certain words or phrases have a particular meaning:
- a. A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "willfully" with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.
 - b. "In connection with" means that there was some nexus or relationship between an offer to sell, sale or purchase of any security and a) any device, scheme or artifice to defraud, or b) any untrue statement of material fact or omission of a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or c) any act, practice or course of business which operated as a fraud or deceit upon any person.
 - c. "Offer" means any offer to sell or an offer to purchase.
 - d. "Offer to sell" includes every attempt or offer to dispose of, or solicitation of any offer to buy, a security or interest in a security for value.
 - e. "Sale" or "sell" includes every contract of sale of, contract to sell or disposition of a security or interest in a security for value.

f. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate of subscription; transferable share; investment contract; viatical settlement investment; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. For purposes of this article, an "investment contract" need not involve more than one investor nor be limited to those circumstances wherein there are multiple investors who are joint participants in the same enterprise.

6. I understand that the Attorney General will move to dismiss counts one through six of the indictment in exchange for a guilty plea to counts seven and added count eight and an agreement to restitution.

7. As to sentencing, I agree:

As to Count 7, Securities Fraud, (F3) and Count 8, Theft, (F3), the Attorney General agrees to a sentencing cap of twelve years in the Colorado Department of Corrections. The exact sentence will be determined by the Court.

If Part "7" above states a sentencing agreement, I understand that any sentence imposed by the judge must conform to that agreement. If, after I plead guilty, the judge decides not to accept the sentence recommendation or limitation, I will have the right to withdraw my guilty plea and have a trial.

8. I speak, read and understand the English language.

9. I am not under the influence of any alcohol, medication or drugs. My physical and mental health is satisfactory. I am 50 years of age. My date of birth is 07/19/64. I have gone to school up to and including high school + some college.

10. I have consulted with my lawyer concerning this matter and I am satisfied with what my lawyer has done for me.

11. I have been advised and understand that:

- a. I do not need to make any statement. Any statement I make may be used against me;
- b. I have a right to a lawyer. If I cannot afford a lawyer the Court will appoint one for me;
- c. Any plea I make must be voluntary and must not be the result of any undue influence, coercion, or force by anyone;
- d. I have a right to bail if the offense is bailable, and have been told the amount of my bail;
- e. I have been advised of the nature of the charges against me and of my right to a preliminary hearing and a jury trial.
- f. I have the right to plead "Not Guilty" to any offense charged against me. If I choose to plead "Not Guilty" the Constitution guarantees me:
 1. the right to a speedy and public jury trial;
 2. the right to representation by a lawyer before trial and at trial;
 3. the right to see, hear and face in open court all witnesses called to testify against me and to cross examine them;
 4. the right to have the prosecution prove each element of each offense charged in this matter beyond a reasonable doubt;
 5. the right to remain silent;
 6. the right not to testify;
 7. the right to testify if I want to;
 8. the right to the presumption of innocence;
 9. the right to subpoena and call witnesses on my behalf;
 10. the right to legal defenses and to an alibi defense if one exists;
 11. the right to appeal any conviction;
 12. I understand that if I tender a plea of guilty I give up all of these rights.

12. My plea is voluntary and is not the result of any promises or representations from anyone, including my lawyer, or of undue influence or coercion or force by anyone.
13. I expressly waive my right to trial by jury on all issues.
14. I fully understand that if the Court accepts my plea:
 - a. The possible penalties for Securities Fraud, (F3), include a sentence to the Department of Corrections for a definite term of between 4 years and 12 years and/or a fine of \$3,000 to \$750,000.
 - b. The possible penalties for Theft, (F3), include a sentence to the Department of Corrections for a definite term of between 4 years and 12 years and/or a fine of \$3,000 to \$750,000.
 - c. I agree to allow the Court to determine whether any extraordinary mitigating or aggravating circumstances are present in my case, and agree to waive my right to have a jury make that determination.
 - c. If the Court finds extraordinary aggravating circumstances, the possible penalties include a sentence to the Department of Corrections for a term greater than the presumptive range in 14.a. to double the maximum term, making a term as long as 24 years.
 - d. If the Court finds extraordinary mitigating circumstances then it may sentence me to a term as short as 2 years.
 - e. A mandatory period of parole of 5 year(s) will be added to any sentence I receive. Parole will begin immediately upon my discharge from imprisonment in the Department of Corrections.
 - f. If I am granted probation, the possible penalties include, as a condition of probation, a sentence of up to 90 days in the county jail or up to 2 years in the work release facility for a felony, up to 60 days in the county jail or up to 2 years in the work release facility for a misdemeanor, (or up to the maximum sentence that could be imposed for that misdemeanor, whichever is less) and up to 30 days for a petty offense.
15. I understand that the Court will not be bound by any representations or promises made to me concerning penalties to be imposed or the granting or denial of probation, no matter who made them, unless written down as part of this plea agreement.

16. I agree that there is a factual basis for the plea of guilty to the crime charged in this matter and waive the requirement of showing a factual basis for the plea.
17. I expressly agree to waive any rights I have under C.R.S. §§18-1-1101 through 1108 concerning the preservation, retention, disposal, or destruction of any evidence in this case, including evidence that may contain relevant DNA evidence. I expressly agree to waive any requirements to notice, a right to objection, or the ability to request for hearing. I waive these rights concerning any evidentiary items taken into evidence on the case I am being prosecuted for, and for any of my cases being disposed of or dismissed as part of a plea agreement. I waive any right to review a formal evidence list/summary of said evidence in all cases. I have reviewed with my counsel the discovery in the cases subject to this waiver, including a description of all evidence held in the cases subject to this waiver. The discovery will constitute a written list describing all evidence that is subject to this waiver. I agree to allow the District Attorney and/or the Custodian of Evidence to make all decisions regarding retention and/or destruction of evidence in this case. Any exceptions to this waiver will be listed out explicitly in the plea agreement.
18. I expressly agree to waive and give up any right I may have, now or in the future, to request that any records related to this case be sealed, or to have the Court order such sealing, whether provided by C.R.S. §24-72-308, §24-72-308.5, or any other provision of law. This waiver also applies to the sealing of any of my cases that have been disposed of or dismissed as part of this plea agreement. If, and only if, I am pleading guilty as part of a stipulation for deferred judgment and sentence, I agree that Paragraph 9 of my "Stipulation for Deferred Judgment and Sentence" agreement will govern whether or not I may request to seal any records related to this plea agreement.
19. If I was 18 or 19 years of age when the crime was committed and under 21 years of age when sentenced, I expressly agree to waive and give up any right I may have to be eligible for a sentence to Youth Offender Services, pursuant to C.R.S. §18-1.3-407.5.
20. I agree that if I am granted and accept probation or a deferred judgment and sentence (supervised or unsupervised) in the Fourth Judicial District under the terms and conditions of this plea agreement, including probation or deferred judgment and sentence that is transferred to another jurisdiction, that I shall be prohibited from possessing or using medical marijuana or recreational marijuana during the period of probation or deferred judgment and sentence. I also agree that during my probation or deferred judgment and sentence I shall be prohibited from acting as an assigned caregiver to any medical marijuana patient and I shall be prohibited from operating or

working in any capacity at a medical marijuana dispensary or recreational marijuana business.

21. I agree that if I commit any new crime between now and the time of sentencing or if I fail to appear for sentencing, unless it is unavoidable (to be determined by the judge), then any sentencing recommendation or restriction in Paragraph 7 shall not apply, and sentencing shall be left completely open to the discretion of the judge on all counts to which I have pled guilty. I agree that I will not be allowed to withdraw my pleas(s) and that the district attorney may, in addition, file any applicable bond jump charges.
22. I am a citizen of the United States, or if I am not a citizen of the United States, I understand that conviction of a crime may result in deportation, exclusion from admission to the United States, or denial of naturalization. I certify that my attorney has advised me that my guilty plea may carry a risk of adverse immigration consequences, which may include deportation, a denial of naturalization, and other consequences, and in some cases, depending on the crime to which I am pleading guilty, that deportation is a certainty.
23. I agree to forfeit all weapons, magazines and ammunition held as evidence in this case, or held as evidence in any case disposed of or dismissed as part of this plea agreement, and further I agree to allow the law enforcement agency in possession of these items to dispose of them at their discretion.
26. I agree to pay all restitution of \$660,620 within the term of my original sentence (Theresa Counts (formerly Balfanz) - \$90,620; Patricia Jenner - \$70,000; and Ann Brosh - \$500,000). I agree to pay restitution for all counts and cases governed by this plea agreement, including counts and/or cases that have been dismissed as part of this plea agreement. The restitution amount will include all losses pursuant to statute and case law, including 8% interest from the date of loss and 12% interest from entry of order. Restitution shall be payable jointly and severally with any convicted co-defendants. The Attorney General's Office will act in good faith to provide correct information establishing the amount of restitution within 90 days of sentencing.
27. I agree that my plea will be final. Only the judge will have the power to reject this agreement later. Once I plead guilty in court, I will not be allowed to change my mind.
28. I have read and understand this entire document. I have discussed the document and my plea fully with my lawyer.

Signed by me in the presence
of my attorney on:

7/28/14
Date


Defendant's Signature

3002 Springridge Dr.
Address

Colo. Spgs. CO 80906
City, State, Zip

7/28/14
Date


Sean Clifford
First Assistant Attorney General,
28260