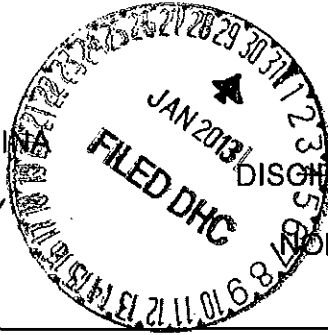


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
13 DHC 9

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
ROBERT HAROLD MELVILLE, JR.,)
Attorney,)
Defendant)

CONSENT ORDER OF
INTERIM SUSPENSION

THIS CAUSE came on to be heard and was heard before the undersigned Chair of the Disciplinary Hearing Commission pursuant to 27 N.C.A.C. 1B §.0115(d). Plaintiff, the North Carolina State Bar, is represented by Margaret Cloutier and Defendant, Robert Harold Melville, Jr., is represented by Alan M. Schneider. Based upon the pleadings and review of certified copies of documents, and with the consent of the parties, the undersigned makes the following:

FINDINGS OF FACT

1. Defendant was licensed to practice law in North Carolina in 1989.
2. Defendant's address of record with the North Carolina State Bar is P. O. Box 173, Lake Waccamaw, North Carolina 28450.
3. On December 11, 2012, Defendant entered a plea of guilty in the United States District Court for the Eastern District of North Carolina to the felony of Conspiracy to Commit Bank and Wire Fraud charged in a criminal information.
4. Defendant has not yet been sentenced for his criminal offense.
5. The North Carolina State Bar intends to file a formal complaint against Defendant alleging he has violated the Rules of Professional Conduct based upon his felony conviction.

Based upon the foregoing Findings of Fact the undersigned makes the following

CONCLUSIONS OF LAW

6. The crime to which Defendant has pled guilty is a criminal offense showing professional unfitness as defined in 27 NCAC 1B, §.0103 (17).

7. Defendant's conviction is final within the meaning of 27 N.C.A.C. 1B §.0115.

8. 27 N.C.A.C. 1B §.0115 provides that the Chair may enter an order suspending the member from practicing law pending disposition of disciplinary proceedings before the Disciplinary Hearing Commission based on the conviction of such a crime.

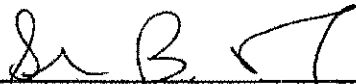
9. An order suspending Defendant's law license on an interim basis is necessary to uphold the standing of the legal profession.

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned Chair of the Disciplinary Hearing Commission enters the following

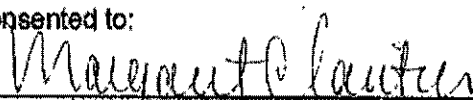
ORDER


The license to practice law in North Carolina of Robert Harold Melville, Jr. is hereby SUSPENDED until the conclusion of all disciplinary proceedings before the North Carolina State Bar relating to Defendant's felony conviction in the United States District Court.

This the 30 day of January, 2013.


Sharon B. Alexander, Chair
Disciplinary Hearing Commission

Consented to:


Margaret Cloutier, Attorney for Plaintiff


Alan M. Schneider, Attorney for Defendant


Robert Harold Melville, Jr., Defendant

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:12-CR-119-H

FILED IN OPEN COURT
ON 12/11/12
Julie A. Richards, Clerk
US District Court
Eastern District of NC

UNITED STATES OF AMERICA)
)
v.) MEMORANDUM OF PLEA AGREEMENT
)
ROBERT HAROLD MELVILLE, JR.)

The United States of America (United States), by and through the United States Attorney for the Eastern District of North Carolina (USA-EDNC), and the Defendant, ROBERT HAROLD MELVILLE, JR., with the concurrence of his attorney, Merritt Wagoner, have agreed that the above-captioned case should be concluded in accordance with this Memorandum of Plea Agreement as follows:

1. This Memorandum constitutes the full and complete record of the Plea Agreement. There are no other agreements between the parties in addition to or different from the terms herein.

2. The Defendant agrees:

- a. To waive indictment and plead guilty to the Criminal Information referenced herein.
- b. To make restitution to any victim in whatever amount the Court may order, pursuant to 18 U.S.C. §§ 3663 and 3663A. Said restitution shall be due and payable immediately.
- c. To waive knowingly and expressly all rights, conferred by 18 U.S.C. § 3742, to appeal whatever sentence is imposed, including any issues that relate to the establishment of the advisory Guideline range, reserving only the right to appeal from a sentence in excess of the applicable advisory Guideline range that is established at sentencing, and further to waive all rights to contest the conviction or sentence in any post-conviction proceeding, including one pursuant to 28 U.S.C. § 2255, excepting an appeal or motion based upon grounds of ineffective assistance of counsel or prosecutorial misconduct not known to the Defendant at the time of the Defendant's guilty plea. The foregoing appeal waiver does not constitute or

I certify the foregoing to be a true and correct copy of the original.
Julie A. Richards, Clerk
United States District Court
Eastern District of North Carolina
By Julie A. Richards
Deputy Clerk

trigger a waiver by the United States of any of its rights to appeal provided by law.

- d. To waive all rights, whether asserted directly or through a representative, to request or receive from the United States any records pertaining to the investigation or prosecution of this matter, except as provided in the Federal Rules of Criminal Procedure. This waiver includes, but is not limited to, rights conferred by the Freedom of Information Act and the Privacy Act of 1974.
- e. To assist the United States in the recovery and forfeiture of any assets which facilitated and/or were acquired through unlawful activities, including all such assets in which the defendant has any interest or control. The Defendant further agrees to sign any documents necessary to effectuate the forfeiture and waives any further notice. In addition, the Defendant forfeits and otherwise waives any ownership right in all items seized during the investigation of the acts alleged in the Criminal Information. The Court has jurisdiction over the disposition of such items and may order the investigative agency to dispose of the items in such manner as provided by the agency's regulations. Forfeited firearms may be ordered destroyed.
- f. To pay a special assessment of \$100.00, pursuant to the provisions of 18 U.S.C. § 3013. The assessment shall be paid by the Defendant at sentencing. The Defendant or Defendant's counsel shall provide a check in payment of the said assessment directly to the Clerk, U.S. District Court/EDNC.
- g. To complete and submit, if requested, a financial statement under oath to the Office of the USA-EDNC no later than two weeks after the entry of the guilty plea.
- h. To abide by any conditions of release pending sentencing and report timely for service of sentence.
- i. Whenever called upon to do so by the United States, (1) to disclose fully and truthfully in interviews with Government agents information concerning all conduct related to the Information and any other

crimes of which the Defendant has knowledge, and (2) to testify fully and truthfully in any proceeding. These obligations are continuing ones. The Defendant agrees that all of these statements can be used against the Defendant at trial if the Defendant withdraws from this plea agreement, if the defendant fails to enter a guilty plea at the time and place scheduled by the court for arraignment, or if the Defendant is allowed to withdraw his guilty plea.

- j. If the Defendant provides false, incomplete, or misleading information or testimony, this would constitute a breach of this Agreement by the Defendant, and the Defendant shall be subject to prosecution for any federal criminal violation. Any information provided by the Defendant may be used against the Defendant in such a prosecution.
- k. To submit to a polygraph examination whenever requested by the Office of the USA-EDNC. The results of these examinations will be admissible only at the Defendant's sentencing, and at any hearing as to whether there has been a breach of this agreement. The United States may rely on these results in determining whether the Defendant has fulfilled any obligation under this Agreement.

3. The Defendant understands, agrees, and admits:

- a. That as to the one count Criminal Information to which the Defendant is pleading guilty, the charge, code section, elements, and applicable penalties are as follows:

(1) Charge: Conspiracy to commit bank and wire fraud.

(2) Code section violated: 18 U.S.C. § 1349.

(3) Elements:

First: That, beginning at a time unknown, but no later than May of 2004, and continuing to a time unknown, but no later than May of 2007, the Defendant and at least one other person combined, conspired, confederated, and agreed as follows:

(a) having devised and intending to devise any scheme and artifice to defraud, and for the purpose of obtaining money and property by means of materially false and fraudulent pretenses, representations, or promises, to transmit and cause to be transmitted by means of wire in interstate commerce, certain writings, signals, and sounds, in violation of Title 18, United States Code, Section 1343; and

(b) to knowingly execute and attempt to execute a scheme and artifice to defraud a financial institution and to obtain any moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

Second: That the Defendant knew the unlawful purpose of the agreement and joined in it willfully, that is, with the intent to further the unlawful purpose;

Third: That, during the existence of the conspiracy, one of the conspirators knowingly committed at least one of the overt acts described in the Information in order to accomplish some object or purpose of the conspiracy.

- (4) Maximum term of imprisonment: 30 years.
 - (5) Minimum term of imprisonment: N/A.
 - (6) Maximum term of supervised release: 5 years.
 - (7) Maximum term of imprisonment upon revocation of supervised release: 3 years.
 - (8) Maximum fine: \$1,000,000.
 - (9) Restitution pursuant to 18 U.S.C. §§ 3663 and 3663A, and as agreed to in Paragraph 2.b. above.
 - (10) Special assessment: \$100.
 - (11) Other penalties: N/A.
- b. That any sentence imposed will be without parole.
 - c. That the Court will take into account, but is not bound by the applicable United States Sentencing Guidelines, that the sentence has not yet been determined by the Court, that any estimate of the sentence received from any source is not a promise, and that even if a sentence up to the statutory maximum is imposed, the Defendant may not withdraw the plea of guilty.
 - d. That, unless Defendant is found unable to pay, the Court will impose a fine, and failure to pay it will subject Defendant to additional criminal and civil penalties pursuant to 18 U.S.C. §§ 3611-14.
4. The United States agrees:
- a. That it reserves the right to make a sentence recommendation.
 - b. That it reserves the right at sentencing to present any evidence and information pursuant to 18 U.S.C. § 3661, to offer argument or rebuttal, to recommend imposition of restitution, and to respond to any motions or objections filed by the Defendant.
 - c. That the USA-EDNC will not further prosecute the Defendant for conduct constituting the basis for the

Information; however, this obligation is limited solely to the USA-EDNC and does not bind any other state or federal prosecuting entities.

- d. That it will make known to the Court at sentencing the full extent of the Defendant's cooperation, but the United States is not promising to move for departure pursuant to U.S.S.G. §5K1.1, 18 U.S.C. § 3553(e), or Fed. R. Crim. P. 35.
- e. Pursuant to U.S.S.G. §1B1.8, that self-incriminating information provided by the Defendant pursuant to this Agreement shall not be used against the Defendant, or in determining the applicable advisory Guideline range, except as provided by §1B1.8 and except as stated in this Agreement. The United States will not, however, withhold from the United States Probation Office any evidence concerning relevant conduct.
- f. That the USA-EDNC agrees not to share any information provided by the Defendant pursuant to this Agreement with other state or federal prosecuting entities except upon their agreement to be bound by the terms of this Agreement.

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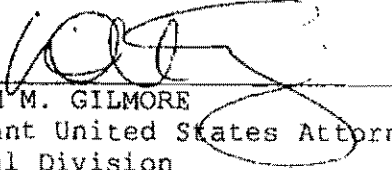
5. The parties agree to the following positions as to sentencing factors, which are not binding on the Court; provided that if Defendant's conduct prior to sentencing changes the circumstances with respect to any such factors, the United States is no longer bound to its positions as to those factors:

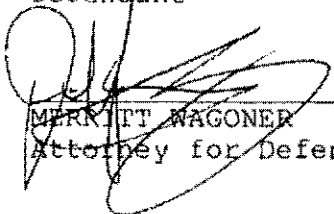
- a. A downward adjustment of three levels for acceptance of responsibility is warranted under U.S.S.G. §3E1.1.

This the 28th day of September, 2012.

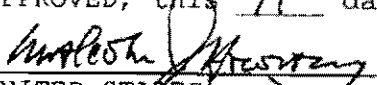
THOMAS G. WALKER
United States Attorney


ROBERT HAROLD MELVILLE, JR.
Defendant

BY: 
WILLIAM M. GILMORE
Assistant United States Attorney
Criminal Division


MERRITT WAGONER
Attorney for Defendant

APPROVED, this 11th day of Dec, 2012.


UNITED STATES District JUDGE