

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA

Plaintiff,

v.

ERIC HAYWOOD WEINSTEIN,

Defendant.

Case No: CR2007-006206-001 DT

PLEA AGREEMENT

(Assigned to the Honorable
Maria del Mar Verdin)

The State of Arizona and the defendant hereby agree to the following disposition of this case:

Plea: The defendant agrees to plead guilty to: **Count 2, Fraudulent Schemes and Artifices, a class 2 felony, in violation of A.R.S. §§13-2310, 13-2301, 13-701, 13-703, 13-801, 13-804 & 13-808 committed on or between August 31, 2003 and February 28, 2006.**

This is a non-dangerous, non-repetitive offense under the criminal code.

Terms: On the following understandings, terms and conditions:

1. The crime carries a presumptive sentence of 5 years; a minimum sentence of 4 years (3 years if trial court makes exceptional circumstances finding); and a maximum sentence of 10 years (12.5 years if trial court makes exceptional circumstances finding). Probation is available. Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required. The maximum fine that can be imposed is **\$150,000** plus an **80%** surcharge (**plus a \$20.00 probation surcharge**). If the defendant is sentenced to prison, the defendant shall also be sentenced to serve a term of community supervision equal to one-seventh of the prison term to be served consecutively to the actual period of imprisonment. If the defendant fails to abide by the conditions of community supervision, the defendant can be required to serve the remaining term of community supervision in prison. **Special conditions regarding sentence imposed by statute (if any) are: Pursuant to A.R.S. § 13-610, the defendant must submit to Deoxyribonucleic Acid (DNA) testing for law enforcement identification purposes. The defendant could be sentenced up to one year in the County Jail as a condition of probation.**

□ 2. The parties stipulate to the following additional terms: **The defendant shall be placed on intensive supervised probation subject to the terms and conditions set by the Court. The defendant's probation shall include "White Collar" terms. The probation sentence in this case shall run consecutively to the prison sentence imposed by the Court in State v. Eric Weinstein, Maricopa County Superior Court Case CR 2007-008904, and shall begin after the defendant's absolute discharge from prison in CR2007-008904. Defendant shall pay restitution to eBay in the amount of \$900,000. Because of the prison disposition in CR 2008-008904, the parties agree that the defendant shall not be sentenced to a jail term at the time of initial sentencing on Count 2, but that this stipulation shall not apply to dispositions in any probation revocation proceedings. The Arizona Attorney General's Office shall not file any further charges arising out of U.S. Secret Service File Nos. 178-791-771-030; 404-770-20045-S and any other U.S. Secret Service File Nos. arising out of the same facts and circumstances as alleged in the indictment.**

□ 3. The following charges are dismissed, or if not yet filed, shall not be brought against the defendant: **Counts 1, 3 & 4; allegation of two or more prior felony convictions pursuant to A.R.S. §§ 13-702.02/13-703,-704; allegation of A.R.S. § 13-604(R)/13-708.**

□ 4. This agreement serves to amend the complaint or information, to charge the offense to which the defendant pleads, without the filing of any additional pleading. However, if the plea is rejected by the court or withdrawn by either party, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea agreement are automatically reinstated.

□ 5. If the defendant is charged with a felony, he hereby waives his rights to a preliminary hearing or other probable cause determination on the charges to which he pleads. The defendant agrees that this agreement shall not be binding on the State should the defendant be charged with or commit a crime between the time of this agreement and the time for sentencing in this cause; nor shall this agreement be binding on the State until the State confirms all representations made by the defendant and his attorney, to-wit: **The defendant has no more than 6 prior felony convictions.**

If the defendant fails to appear for sentencing, the court may disregard the stipulated sentence and impose any lawful sentence which is the same as or exceeds the stipulated sentence in the plea agreement. In the event the court rejects the plea, or either the State or the defendant withdraws the plea, the defendant hereby waives and gives up his right to a preliminary hearing or other probable cause determination on the original charges.

6. Unless this plea is rejected by the court or withdrawn by either party, the defendant hereby waives and gives up any and all motions, defenses, objections, or requests which he has made or raised, or could assert hereafter, to the court's entry of judgment against him and imposition of a sentence upon him consistent with this agreement. By entering this agreement, the defendant further waives and gives up the right to appeal.

7. The parties hereto fully and completely understand and agree that by entering into a plea agreement, the defendant consents to judicial fact-finding by preponderance of the evidence as to any aspect or enhancement of sentence, and that any sentence either stipulated to or recommended herein in paragraph two is not binding on the court. In making the sentencing determination, the court is not bound by the rules of evidence. If after accepting this plea the court concludes that any of the plea agreement's provisions regarding the sentence or the term and conditions of probation are inappropriate, it can reject the plea. If the court decides to reject the plea agreement provisions regarding the sentencing, it must give both the state and the defendant an opportunity to withdraw from the plea agreement. In case this plea agreement is withdrawn, all original charges will automatically be reinstated. The defendant in such case waives and gives up his right to a probable cause determination on the original charges.

8. I understand that if I am not a citizen of the United States that my decision to go to trial or enter into a plea agreement may have immigration consequences. Specifically, I understand that pleading guilty or no contest to a crime may affect my immigration status. Admitting guilt may result in deportation even if the charge is later dismissed. My plea or admission of guilt could result in my deportation or removal, could prevent me from ever being able to get legal status in the United States, or could prevent me from becoming a United States citizen. I understand that I am not required to disclose my legal status in the United States to the court.

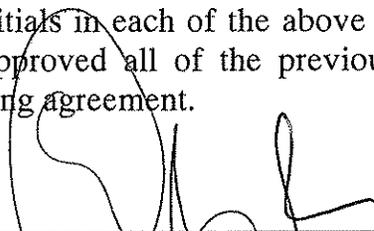
9. If the court decides to reject the plea agreement provisions regarding sentencing and neither the State nor the defendant elects to withdraw the plea agreement, then any sentence either stipulated to or recommended herein in paragraph 2 is not binding upon the court, and the court is bound only by the sentencing limits set forth in paragraph 1 and the applicable statutes.

10. This plea agreement in no way affects any forfeiture proceedings pursuant to A.R.S. § 13-4301, et seq., § 13-2314, or § 32-1993, if applicable, nor does the plea agreement in any way compromise or abrogate any civil actions, including actions pursuant to A.R.S. § 13-2301, et seq., or § 13-4301, et seq., or the provisions of A.R.S. § 13-2314(H) or A.R.S. § 13-4310(C).

11. I have read and understand all of the provisions, on all of the pages, of this agreement, and I have discussed the case and my constitutional rights with my lawyer. I understand that, by pleading guilty, I will be waiving and giving up my right to a determination of probable cause, to a trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to present evidence in my behalf, my right to remain silent, my privilege against self-incrimination, presumption of innocence, my right to a determination by a jury of any fact used to impose a sentence within the sentencing range, and my right to appeal. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this plea agreement, I am granted probation by the court, the terms and conditions thereof are subject to modification at any time during the period of probation. I understand that if I violate any of the written conditions of my probation, my probation may be terminated and I can be sentenced to any term or terms stated above in paragraph one, without limitation.

I have personally and voluntarily placed my initials in each of the above boxes and signed the signature line below to indicate I read and approved all of the previous paragraphs in this agreement, both individually and as a total binding agreement.

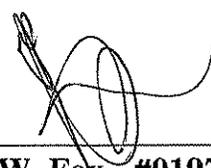
Date 10-6-10



Defendant: Eric Haywood Weinstein
DOB: 9/10/62

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

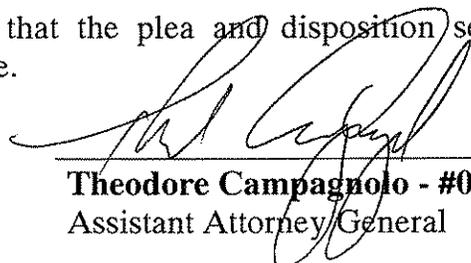
Date 10/6/2010



Taylor W. Fox - #019780
Attorney for Defendant

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date 10/6/10



Theodore Campagnolo - #017167
Assistant Attorney General