

BENJAMIN B. WAGNER
United States Attorney
KIRK E. SHERRIFF
HENRY Z. CARBAJAL III
CHRISTOPHER D. BAKER
Assistant U.S. Attorneys
2500 Tulare Street, Suite 4401
Fresno, California 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

Attorneys for the
United States of America

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	CASE NO.: 1:11-CR-00026 LJO
)	
Plaintiff,)	MEMORANDUM OF PLEA AGREEMENT
)	PURSUANT TO RULE 11(C) OF THE
v.)	FEDERAL RULES OF CRIMINAL PROCEDURE
)	
MICHAEL ANGELO MUNOZ,)	DATE:
)	TIME:
Defendant.)	CTRM:
)	
)	

Pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure, the United States of America, by and through Benjamin B. Wagner, the United States Attorney for the Eastern District of California, and Assistant United States Attorneys Kirk E. Sherriff, Henry Z. Carbajal III, and Christopher D. Baker; and Defendant, MICHAEL ANGELO MUNOZ, and his attorney, Carl Faller, have agreed as follows:

1. Scope of Agreement

This document contains the complete Memorandum of Plea Agreement ("Plea Agreement") between the United States Attorney's Office for the Eastern District of California ("Government") and defendant MICHAEL

1 ANGELO MUNOZ regarding this case. This Plea Agreement is limited to
2 the United States Attorney's Office for the Eastern District of
3 California and cannot bind any other federal, state, or local
4 prosecuting, administrative, or regulatory authorities.

5 2. Charges

6 Defendant MICHAEL ANGELO MUNOZ acknowledges that he has been
7 charged in the Indictment with nine (9) counts, as follows:

8 COUNT 1: Conspiracy to Commit Mail Fraud, Wire Fraud, and
9 Bank Fraud, in violation of Title 18, United
10 States Code, Section 1349;

11 COUNTS 20, 26-29: Mail Fraud, in violation of Title 18, United
12 States Code, Section 1341;

13 COUNTS 54-55: Bank Fraud, in violation of Title 18, United
14 States Code, Section 1344; and

15 COUNT 56: Conspiracy to Launder Money, in violation of Title
16 18, United States Code, Section 1956(h).

17 3. Nature, Elements and Possible Defenses

18 The defendant has read the charges against him contained in the
19 indictment, and those charges have been fully explained to him by his
20 attorney. Further, the defendant fully understands the nature and
21 elements of the crimes in Counts 26 and 28 of the Indictment to which
22 he is pleading guilty, together with the possible defenses thereto,
23 and has discussed them with his attorney.

24 The elements of the crime of Mail Fraud, in violation of 18
25 U.S.C. § 1341, are:

26 First, the defendant knowingly participated in a scheme or
27 plan to defraud, or a scheme or plan for obtaining
28 money or property by false or fraudulent pretenses,
representations, or promises;

1 Second, the statements made or facts omitted as part of the
2 scheme were material; that is, they had a natural
tendency to influence, or were capable of influencing,
a person to part with money or property;

3 Third, the defendant acted with the intent to defraud; that
4 is, the intent to deceive or cheat; and

5 Fourth, the defendant used, or caused to be used, the mails or
any private or commercial interstate carrier to carry
6 out or attempt to carry out an essential part of the
scheme.

7 4. Agreements by the Defendant

8 (a) Defendant agrees that this Plea Agreement shall be filed
9 with the court and become a part of the record of the case.

10 (b) Defendant agrees to enter a plea of guilty to Counts 26 and
11 28 of the Indictment, which charge him with Mail Fraud, in violation
12 of Title 18, United States Code, Section 1341.

13 (c) Defendant understands and agrees that he will not be allowed
14 to withdraw his plea should the Court fail to follow the Government's
15 sentencing recommendations.

16 (d) Defendant knowingly and voluntarily waives his
17 Constitutional and statutory rights to appeal his plea, conviction,
18 restitution imposed, forfeiture order and sentence. This waiver of
19 appeal includes, but is not limited to, an express waiver of
20 defendant's right to appeal his plea, conviction, restitution imposed,
21 forfeiture order and sentence on any ground, including any appeal
22 right conferred by 18 U.S.C. § 3742, and defendant further agrees not
23 to contest his plea, conviction, restitution imposed, forfeiture order
24 and sentence in any post-conviction proceeding, including but not
25 limited to a proceeding under 28 U.S.C. § 2255.

26 (e) Defendant further acknowledges that his plea of guilty is
27 voluntary and that no force, threats, promises or representations have
28 been made to anybody, nor agreement reached, other than those set

1 forth expressly in this agreement, to induce the defendant to plead
2 guilty.

3 (f) Defendant agrees that his base offense level for Mail Fraud,
4 is seven (7) pursuant to Section 2B1.1(a) of the United States
5 Sentencing Commission Guidelines Manual ("Sentencing Guidelines"),
6 plus sixteen (16) levels for loss more than \$1,000,000 but less than
7 \$2,500,000 (§ 2B1.1(b)(1)(I)).

8 (g) Defendant agrees not to move for any downward adjustments in
9 his offense level under either Chapters Two, Three, Four and/or Five
10 of the Sentencing Guidelines. The defendant also agrees not to move
11 for a downward variance of his sentence under the factors set forth in
12 18 U.S.C. § 3553. The defendant understands and agrees that this
13 agreement by him includes, without limitation, not moving for a
14 downward departure and/or variance of his offense level, criminal
15 history category or criminal history points as defined by the
16 Sentencing Guidelines. Additionally, the defendant agrees that the
17 application of the Sentencing Guidelines to his case results in a
18 reasonable sentence and that the defendant will not request that the
19 court apply the sentencing factors under 18 U.S.C. § 3553 to arrive at
20 a sentence different than that called for under the Sentencing
21 Guidelines. The defendant acknowledges that, if the defendant
22 requests or suggests in any manner a different sentence than what is
23 called for under the Sentencing Guidelines, the Government, at its
24 sole discretion, may withdraw from this plea agreement and continue
25 with its prosecution of the defendant as if the parties had not
26 entered into this Plea Agreement.

27 (h) Defendant understands that the Court must consult the
28 Sentencing Guidelines (as promulgated by the Sentencing Commission

1 pursuant to the Sentencing Reform Act of 1984, 18 U.S.C. §§ 3551-3742
2 and 28 U.S.C. §§ 991-998, and as modified by United States v. Booker
3 and United States v. Fanfan, 543 U.S. 220 (2005)), and must take them
4 into account when determining a final sentence. Defendant understands
5 that the Court will determine a non-binding and advisory guideline
6 sentencing range for this case pursuant to the Sentencing Guidelines.
7 Defendant further understands that the Court will consider whether
8 there is a basis for departure from the guideline sentencing range
9 (either above or below the guideline sentencing range) because there
10 exists an aggravating or mitigating circumstance of a kind, or to a
11 degree, not adequately taken into consideration by the Sentencing
12 Commission in formulating the Guidelines. Defendant further
13 understands that the Court, after consultation and consideration of
14 the Sentencing Guidelines, must impose a sentence that is reasonable
15 in light of the factors set forth in 18 U.S.C. § 3553(a).

16 (i) Defendant agrees to waive all rights under the "Hyde
17 Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to recover
18 attorneys' fees or other litigation expenses in connection with the
19 investigation and prosecution of all charges in the above-captioned
20 matter and of any related allegations (including without limitation
21 any charges to be dismissed pursuant to this Plea Agreement and any
22 charges previously dismissed).

23 (j) Defendant agrees that his conduct is governed by the
24 Mandatory Restitution Act pursuant to 18 U.S.C. § 3663A(c)(1)(A)(ii)
25 and agrees to pay the full amount of restitution as ordered by the
26 court to all victims affected by these offenses, including but not
27 limited to the victims covered in the factual basis, victims covered
28 in those counts to be dismissed as part of the plea agreement pursuant

1 to 18 U.S.C. § 3663A(a) (3) and other victims as a result of the
2 defendant's conduct for the offenses charged from the periods of
3 January 2004 through September 2007, and in an amount determined by
4 the court at sentencing.

5 (k) Defendant agrees to make a full and complete disclosure of
6 defendant's assets and financial condition, and will complete the
7 United States Attorney's Office's "Authorization to Release
8 Information" and "Financial Affidavit" within five (5) weeks from the
9 entry of the defendant's change of plea. The defendant also agrees to
10 have the court to enter an order to that effect. The defendant
11 understands that this plea agreement is voidable by the Government if
12 the defendant fails to complete and provide the described
13 documentation to the United States Attorney's Office within the
14 allotted time.

15 (l) Defendant agrees to forfeit to the United States voluntarily
16 and immediately all right, title, and interest to any and all assets
17 seized pursuant to 18 U.S.C. §§ 981(a) (1) (C), 981(a) (1) (D), 982(a) (2),
18 28 U.S.C. § 2461, and Fed. R. Crim. P. 32.2(b) (1).

19 Those assets include, but are not limited to, the following: a
20 personal forfeiture money judgment in an amount of \$1,931,762.09
21 Further, the defendant agrees that that amount is a reasonable
22 reflection of the amount that the defendant obtained directly or
23 indirectly, as the result of the underlying criminal scheme and the
24 violations of 18 U.S.C. §§ 1341, 18 U.S.C. §§ 981(a) (1) (C),
25 981(a) (1) (D), 982(a) (2), and 28 U.S.C. § 2461. As part of the
26 imposition of the personal forfeiture money judgment, the defendant
27 agrees to provide this Office with signed waivers related to federal
28 and state income tax returns, and a waiver of the Right to Financial

1 Privacy Act, which includes, but is not limited to, any credit
2 records, communication records, DMV records, educational records,
3 employment records, military records, business records, and credit
4 reports maintained by any consumer credit reporting entity, until such
5 time as the money judgment is satisfied. In this regard, the
6 Defendant agrees to complete and sign a copy of IRS Form 8821
7 (relating to the voluntary disclosure of federal tax return
8 information), whatever financial information disclosure form which may
9 be required by an agency, as well as this Office's Right to Financial
10 Privacy Act Waiver & Authorization to Release Information form.

11 Defendant agrees to fully assist the Government in the forfeiture
12 of any seized assets or assets later determined to be forfeitable and
13 to take whatever steps are necessary to pass clear title to the United
14 States. Defendant shall not sell, transfer, convey, or otherwise
15 dispose of any assets found to be connected to the criminal events
16 charged in the Indictment.

17 Defendant agrees not to file a claim to any of the seized
18 property in any criminal proceeding or civil proceeding,
19 administrative or judicial, which is or may be initiated. Defendant
20 agrees to waive right to notice of any forfeiture proceeding involving
21 such property, and agrees to not file a claim or assist others in
22 filing a claim in such a proceeding.

23 The defendant waives the notice provisions of Fed. R. Crim. P.
24 7(c) and 32.2(a), waives oral pronouncement of forfeiture at the time
25 of sentencing and any defects in such pronouncement that pertain to
26 forfeiture, and waives any defenses to forfeiture, including any
27 defense predicated on the Ex Post Facto, Double Jeopardy, and
28 Excessive Fines Clauses of the United States Constitution. The

1 defendant knowingly and voluntarily waives any right to jury trial in
2 any criminal or civil forfeiture proceeding.

3 (m) If the defendant's conviction on one or more of the Counts
4 to which he is pleading is ever vacated at the defendant's request, or
5 his sentence is ever reduced at his request, the Government shall have
6 the right to: (1) prosecute the defendant on any of the counts to
7 which he pleaded guilty; (2) reinstate any counts that may be
8 dismissed under this agreement; and (3) file any new charges that
9 would otherwise be barred by this agreement. The decision to pursue
10 any or all of these options is solely in the discretion of the United
11 States Attorney's Office. By signing this agreement, the defendant
12 agrees to waive any objections, motions, and defenses he might have to
13 the Government's decision, including Double Jeopardy. In particular,
14 he agrees not to raise any objections based on the passage of time
15 with respect to such counts including, without limitation, any
16 statutes of limitation or any objections based on the Speedy Trial Act
17 or the Speedy Trial Clause of the Sixth Amendment.

18 If it is determined that the defendant has violated any provision
19 of this Agreement or if the defendant successfully moves to withdraw
20 his plea: (1) all statements made by the defendant to the government
21 or other designated law enforcement agents, or any testimony given by
22 the defendant before a grand jury or other tribunal, whether before or
23 after his Agreement, shall be admissible in evidence in any criminal,
24 civil, or administrative proceedings hereafter brought against the
25 defendant; and (2) the defendant shall assert no claim under the
26 United States Constitution, any statute, the Federal Rules of Criminal
27 Procedure, Rule 410 of the Federal Rules of Evidence, or any other
28 federal rule, that statements made by the defendant before or after

1 this Agreement, or any leads derived therefrom, should be suppressed.
2 By signing this Agreement, the defendant waives any and all rights in
3 the foregoing respects.

4 5. Agreements by the Government

5 (a) The Government will recommend a two-level reduction (if the
6 offense level is less than 16) or a three-level reduction (if the
7 offense level reaches 16) in the computation of his offense level if
8 the defendant clearly demonstrates acceptance of responsibility for
9 his conduct as defined in Section 3E1.1 of the United States
10 Sentencing Commission Guidelines Manual ("Sentencing Guidelines").

11 (b) The government agrees that the defendant's base offense
12 level for Mail Fraud is seven (7) pursuant to Section 2B1.1(a) of the
13 United States Sentencing Commission Guidelines Manual ("Sentencing
14 Guidelines"), plus sixteen (16) levels for loss more than \$1,000,000
15 but less than \$2,500,000 (§ 2B1.1(b)(1)(I)).

16 (c) The Government agrees to recommend that the defendant be
17 sentenced to a term of imprisonment at the low end of the applicable
18 guideline range as determined by the Court, and to a three (3) year
19 term of supervised release. The Government further agrees to
20 recommend that the sentences for Counts 26 and 28 run concurrently.

21 (d) The Government agrees to dismiss the remaining counts of the
22 Indictment as to the defendant at the time of sentencing.

23 (e) The defendant acknowledges and understands that the
24 Government makes no other representations to him regarding fines,
25 whether any other specific offense characteristics apply to his
26 conduct, the restitution owed, his criminal history or criminal
27 history points under Chapter Four or whether additional enhancements
28 or reductions under Chapter Three or Five of the Sentencing Guidelines

1 apply and defendant understands that the government is free to comment
2 and to make recommendations to the court and the probation office
3 regarding those matters.

4 6. Factual Basis

5 Defendant will plead guilty because he is in fact guilty of the
6 crimes set forth in Counts 26 and 28 of the indictment. Defendant
7 also agrees that the following are the facts of this case, although he
8 acknowledges that, as to other facts, the parties may disagree:

9 Between in or about January 2004 to in or about September
10 2007, in the State and Eastern District of California,
11 defendant MICHAEL ANGELO MUNOZ, along with co-defendants
12 David Crisp, Carl Cole, Julie Farmer, Sneha Mohammadi, Jayson
13 Costa, Jeriel Salinas, Caleb Cole, Jennifer Crisp and others,
14 executed a scheme and artifice to defraud mortgage loan
15 companies and federally insured lending/financial
16 institutions (collectively referred to herein as "Lenders")
17 of money and property, and caused money and property to be
18 obtained from such Lenders, including but not limited to
19 SunTrust Mortgage, Inc., Long Beach Mortgage Company, Fremont
20 Investment & Loan, and Aegis Wholesale Corporation, by means
21 of materially false and fraudulent pretenses,
22 representations, and promises.

23 Co-defendants David Crisp and Carl Cole owned and operated
24 Crisp & Cole Real Estate ("CCRE"), a real estate brokerage
25 firm, and Tower Lending, an affiliated mortgage brokerage.

26 During the period of time set forth above, the defendant was
27 employed with CCRE as a licensed real estate agent. In
28 furtherance of the scheme to defraud, defendant purchased
and/or refinanced real properties, including the properties
located at 10322 Ashbourne Dr., 12008 Stonington St., 10800
Stratton Ct., and 8751 Hickory Hills, all in Bakersfield, CA.
In order to qualify for these loans, the defendant knowingly
made material misstatements and/or omitted relevant and
material information in the loan applications he submitted to
the Lenders. The defendant knew and expected that the
Lenders would reasonably rely on such misstatements and
omissions in approving the funding of the mortgage loans for
defendant's purchases of real property.

 The defendant's misstatements and omissions included, but
were not limited to: misstatements concerning his income and
his outstanding liabilities (including his liabilities with
respect to other real properties) and misstatements that he
would use the properties as owner-occupied residences when in
fact he had no intent to reside in the properties. The

1 defendant also failed to disclose to the Lenders that he was
2 acting as a "straw buyer" for CCRE and that he did not intend
3 to make the mortgage payments for these properties. Other
4 co-defendants frequently caused payments to be made for a
5 time on these and other loans in order to keep the loans
6 temporarily current or current enough to avoid immediate
7 foreclosure, so that the defendants could resell or refinance
8 the properties again thereafter for a higher value and skim
9 more equity out of the property through the subsequent
10 transaction. Through such loan payments, defendant and the
11 co-defendants sought to conceal from the Lenders that the
12 defendant, as the borrower, had insufficient income and
13 assets to support the loan payments, that the loans were
14 funded on the basis of false information, and that the loans
15 were used for the benefit of defendants.

16 On loans that MUNOZ and other co-defendants caused to be
17 funded for properties in Kern County, the defendant caused
18 the Recorder's Office to deposit and mail Grant Deeds and
19 Deeds of Trust corresponding to each transaction, to be sent
20 and delivered by the U.S. Postal Service according to the
21 directions indicated thereon. These mailings were in each
22 case in furtherance of the scheme to defraud. The mailings
23 served to notify and assure the Lenders that the conveyance
24 of the properties and the recording of the transactions had
25 occurred properly, and that the Lender's interest in each
26 case was secured. Additionally, the Lender could not sell
27 their completed loans on the secondary market until they had
28 received their filed deed of trust which ensured that their
loan had been secured and was available for resale on the
market.

On or about the dates listed below, within the State and
Eastern District of California, and elsewhere, for purposes
of carrying out the aforementioned scheme and artifice to
defraud, defendant MICHAEL ANGELO MUNOZ, with the intent to
defraud, caused mail matter to be placed in a post office or
an authorized depository for mail matter, to be sent and
delivered by the United States Postal Service, and knowingly
caused to be delivered by mail, as follows:

(i) On or about November 2, 2006, MICHAEL ANGELO MUNOZ
knowingly caused to be delivered by mail from the Kern County
Recorder's Office to Washington Mutual Bank, a Deed of Trust,
document number 0206273019, securing a loan from Washington
Mutual Bank in the amount of \$641,600 for the purchase of the
real property at 10800 Stratton Court, Bakersfield,
California.

(ii) On or about November 10, 2006, MICHAEL ANGELO MUNOZ
knowingly caused to be delivered by mail from the Kern County
Recorder's Office to Aegis Wholesale, a Deed of Trust,
document number 0206279771, securing a loan from Aegis
Wholesale in the amount of \$559,200 for the purchase of the
real property at 8751 Hickory Hills Avenue, Bakersfield,
California.

1 The defendant also provided services to CCRE as a real estate
2 agent in furtherance of the scheme to defraud the
3 Lenders in part by using straw buyers to acquire real
4 properties. These properties were nominally owned in the
5 names of straw buyers, but were controlled by the defendants
6 and held for the benefit of CCRE and the defendants. The
7 defendant received a commission for rendering real estate
8 broker services in connection with these "straw purchase"
9 transactions, including transactions involving other
10 defendants and CCRE employees for properties located at 12706
11 Lanai Ave., 627 A St., and 10613 Prairie Stone Place, all in
12 Bakersfield, CA.

13 At all relevant times herein, in carrying out these actions,
14 the defendant and the co-defendants acted with the intent to
15 defraud. In total, the defendant defrauded Lenders of
16 approximately \$1,931,762 attributable to his role in the
17 scheme to defraud.

18 7. Potential Sentence

19 The following is the maximum potential sentence which defendant
20 faces as to Counts 26 and 28, respectively:

21 (a) Imprisonment.

22 Maximum: Twenty (20) years.

23 (b) Fine.

24 Maximum: \$250,000.

25 (c) Both such fine and imprisonment.

26 (d) Restitution - Mandatory.

27 (e) Term of Supervised Release:

28 Maximum: Three (3) years.

(Should the defendant violate any of the terms of his
supervised release, he can be returned to prison for the
period of supervised release actually imposed by the Court
or two (2) years, whichever is less.)

(f) Penalty Assessment.

Mandatory: One Hundred dollars (\$100.00).

8. Waiver of Rights

Defendant understands that by pleading guilty he surrenders

1 certain rights, including the following:

2 (a) If defendant persisted in a plea of not guilty to the
3 charges against him, he would have the right to be represented by an
4 attorney at all stages of the proceedings, and would have a right to a
5 public and speedy trial. The trial could be either a jury trial or a
6 trial by a judge sitting without a jury. Defendant has a right to a
7 jury trial. However, in order that the trial be conducted by the
8 judge sitting without a jury, defendant, the government and the judge
9 all must agree that the trial be conducted by the judge without a
10 jury.

11 (b) If the trial were a jury trial, the jury would be composed
12 of twelve lay persons selected at random. Defendant and his attorney
13 would have a say in who the jurors would be by removing prospective
14 jurors for cause where actual bias or other disqualification is shown,
15 or without cause by exercising peremptory challenges. The jury would
16 have to agree unanimously before it could return a verdict of either
17 guilty or not guilty. The jury would be instructed that defendant is
18 presumed innocent and that it could not convict him unless, after
19 hearing all the evidence, it was persuaded of his guilt beyond a
20 reasonable doubt.

21 (c) If the trial were held before a judge without a jury, the
22 judge would find the facts and determine, after hearing all the
23 evidence, whether or not he was persuaded of the defendant's guilt
24 beyond a reasonable doubt.

25 (d) At a trial, whether by a jury or a judge, the government
26 would be required to present its witnesses and other evidence against
27 defendant. Defendant would be able to confront those government
28 witnesses and his attorney would be able to cross-examine them. In

1 turn, defendant could present witnesses and other evidence on his own
2 behalf. If the witnesses for defendant would not appear voluntarily,
3 he could require their attendance through the subpoena power of the
4 Court. At trial, the defendant would also have the right to assistance
5 of legal counsel. If he could not afford legal counsel, one would be
6 appointed for him by the court at no expense to him.

7 (e) At a trial, defendant would have a privilege against self-
8 incrimination so that he could decline to testify, and no inference of
9 guilt could be drawn from this refusal to testify. Defendant
10 understands that by pleading guilty he is waiving all of the rights
11 set forth above and defendant's attorney has explained those rights to
12 him and the consequences of her waiver of those rights.

13 9. Questions by Court

14 Defendant understands that if the court questions him under oath,
15 on the record and in the presence of counsel, about the offense(s) to
16 which he has pleaded guilty, his answers, if false, may later be used
17 against him in a prosecution for perjury.

18 10. Entire Agreement

19 This plea of guilty is freely and voluntarily made and not the
20 result of force or threats or of promises apart from those set forth
21 in this plea agreement. There have been no representations or
22 promises from anyone as to what sentence this Court will impose.

23 11. Court not a Party

24 It is understood by the parties that the sentencing court is
25 neither a party to nor bound by this agreement and the sentencing
26 judge is free to impose the maximum penalties as set forth in
27 paragraph 7. Further, in making its sentencing decision, the Court
28 may take into consideration any and all facts and circumstances

1 concerning the criminal activities of defendant, including activities
2 which may not have been charged in the indictment.


3 12. Presentence Report

4 Defendant understands that the United States Probation Office is
5 not a party to this agreement and will conduct an independent
6 investigation of defendant's activities and his background. It will
7 then prepare a presentence report which it will submit to the Court as
8 its independent sentencing recommendation. In addition, the
9 Government will fully apprise the Probation Office, as well as the
10 Court, of the full and true nature, scope and extent of the
11 defendant's criminal activities, including information on his
12 background and criminal history.


13
14 Dated: 10-31-2013

BENJAMIN B. WAGNER
United States Attorney


15
16 By:


KIRK E. SHERRIFF
HENRY Z. CARBAJAL III
CHRISTOPHER D. BAKER
Assistant U.S. Attorneys

17
18
19
20 Dated: 10-30-13


MICHAEL ANGELO MUNOZ
Defendant

21
22 Dated: 10-30-13


CARL FALLER
Attorney for Defendant