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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

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7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 UNITED STATES OF AMERICA)

9 Plaintiff,)

10 vs.)

11 MAYNARD MARTIN RICHARDS,)

12 Defendant.)

2:06-CR-100-RCJ-RJJ

PLEA MEMORANDUM

13
 14 The United States, by and through Gregory A. Brower, United States Attorney, and
 15 Steven W. Myhre, Kimberly M. Frayn and Michael Chu, Assistant United States Attorneys,
 16 Defendant Maynard Martin "Joe" Richards, and Defendant's attorneys, Thomas Pitaro, Esq.
 17 and Leo Flangas, Esq., submit this Plea Memorandum.

18 I.

19 **PLEA AGREEMENT**

20 The United States and defendant have reached the following plea agreement, which
 21 is binding on the Court under Fed. R. Crim. P. 11(c)(1)(C) in the event the Court accepts the
 22 terms of this agreement as set forth below.

23 **A. The Plea**

24 1. Defendant will plead guilty to Count One of the Indictment, charging him with
 25 Wire Fraud/Honest Services Fraud, in violation of Title 18, United States Code, Sections
 26 1343 and 1346.

1 **B. Additional Charges**

2 2. The United States Attorney's Office for the District of Nevada ("United States")
3 will bring no additional charge or charges against defendant arising out of the investigation
4 which culminated in the Indictment and this Plea Memorandum.

5 **C. Binding Recommendations**

6 3. The parties agree that the maximum sentence of imprisonment that may be
7 imposed for the offense of conviction (Title 18, United States Code, Sections 1343 and 1346)
8 is twenty years. However, pursuant to Fed. R. Crim. P. 11(c)(1)(C), the parties agree that
9 should the Court accept the defendant's plea under the terms of this agreement, the Court
10 will **not** impose a sentence that includes a term of imprisonment. This provision does not
11 otherwise bind the Court in its application of the United States Sentencing Guidelines
12 ("USSG" or "Sentencing Guidelines") or otherwise limit its discretion to impose any other
13 sentence or form of punishment authorized by statute or the Sentencing Guidelines,
14 including, but not limited to, the imposition of a fine, special assessment, restitution, and/or
15 the imposition of a term of probation that includes any or all of the mandatory and
16 discretionary conditions set forth in Title 18, United States Code, Section 3563.

17 4. At the sentencing hearing, the United States is free to argue for the imposition
18 of any sentence authorized by statute and/or the Sentencing Guidelines that does not
19 otherwise include a term of imprisonment, including, but not limited to, the imposition of a
20 fine, special assessment, restitution, and/or the imposition of a term of probation that
21 includes any or all of the mandatory and discretionary conditions set forth in Title 18, United
22 States Code, Section 3563.

23 5. At the sentencing hearing, the defendant is not free to argue against the
24 imposition of probation but is free to argue for or against the imposition of any of the
25 discretionary conditions set forth in Title 18, United States Code, Section 3563. Defendant
26 may argue against the imposition of a fine or restitution.

1 6. The defendant understands that the provisions contained in paragraphs 3
2 through 5 above, will not bind the Court or the government in the event that, before imposing
3 sentence, the Court determines, by a preponderance of the evidence, that the defendant:
4 (a) failed to tell the truth, committed perjury, or obstructed justice in the course of, or in
5 connection with, any proceeding related to the plea to the offense of conviction or to the
6 determination and imposition of sentence for the offense of conviction; (b) engaged in any
7 criminal misconduct during the pendency of the resolution of the instant Indictment; (c) failed
8 to appear in any hearing ordered by the Court; or (d) violated any terms or conditions of
9 pretrial release.

10 7. The defendant understands that the provisions of paragraphs 3 through 5
11 above will bind the Court only when, or if, it accepts this Plea Memorandum under Fed. R.
12 Crim. P. 11(c)(3)(A). In the event the Court does not accept this Plea Memorandum, the
13 defendant is not bound to enter a plea of guilty, or may withdraw any plea of guilty, and the
14 provisions of this Plea Memorandum will be null and void as to both parties.

15 8. In the event the Court does not accept this Plea Memorandum, the
16 government agrees to a ten-day extension of time for the filing of any objections to the
17 Report and Recommendation relating to defendant's motion to dismiss the Indictment, which
18 extension will commence from the date the Court rejects the agreement. The parties
19 understand that the agreement to the extension of time is subject to the Court's approval.

20 **D. Sentencing Guideline Calculations**

21 9. The defendant understands that the Court is required to consider the
22 Sentencing Guidelines of November 2008, among other factors in determining defendant's
23 sentence. Defendant understands, however, that the Sentencing Guidelines are advisory
24 only and, that after considering the Sentencing Guidelines, the Court is free to exercise its
25 discretion to impose any sentence it deems reasonable and appropriate, subject to the
26 binding limitations set forth in Section C above.

1 10. Defendant and the United States agree that the following advisory sentencing
2 guidelines may apply for the Offense of Conviction:

3 Base Offense Level [USSG. § 2C1.1(a)(1)]	12
4 The value of the payment equals \$5,000 5 [USSG. §§ 2C1.1(b)(2) and 2B1.1(b)(1)]	+0=12
6 Offense involved an elected official, increase to level 18 7 [USSG. § 2C1.1(b)(3)]	18

8 **Total Offense Level: 18**

9 11. The parties agree that no other specific offense characteristics apply. The
10 parties agree that a total offense level of 18 provides for a sentencing guideline range of at
11 least 27 to 71 months imprisonment.

12 **Acceptance of Responsibility**

13 12. Pursuant to USSG. §3E1.1(a), the United States will recommend that
14 defendant receive a two-level adjustment for acceptance of responsibility unless defendant
15 (a) fails to make a complete factual basis for the guilty plea at the time it is entered; (b) is
16 untruthful with the Court or probation officers; (c) denies involvement in the offense or
17 provides conflicting statements regarding defendant's involvement; (d) attempts to withdraw
18 the guilty plea; (e) engages in criminal conduct; (f) fails to appear in court; (g) violates the
19 conditions of pretrial release, or (h) commits any act which could result in the United States
20 seeking an obstruction of justice enhancement within the meaning of USSG § 3C1.1.

21 13. Provided the total offense level is 16 or greater, the United States will, in its
22 sole discretion, make a motion, under USSG §3E1.1(b), for an additional one-level
23 downward adjustment for acceptance of responsibility prior to sentencing provided the
24 defendant timely notifies the United States of his intention to plead guilty, thereby permitting
25 the United States to avoid preparing for trial and allowing for the efficient allocation of
26 resources.

1 14. The parties agree that if adjusted offense level 18 applied, and if a 3 level
2 reduction for acceptance of responsibility is applied, the applicable offense level of 15 may
3 provide for a sentencing guideline range of 18 to 24 months imprisonment, contingent upon
4 a Criminal History Category of I, or up to 51 months imprisonment with a higher criminal
5 history category.

6 **Criminal History Category**

7 15. Defendant's Criminal History Category will be determined by the Court. The
8 parties understand and accept that the Court will consider defendant's prior convictions, if
9 any, in calculating his Criminal History Category. At the time of this agreement, the parties
10 are unaware of any relevant criminal history.

11 16. Defendant agrees that the Court may consider relevant conduct whether
12 charged or uncharged, in determining the applicable sentencing guidelines range, the
13 propriety and extent of any departure from that range, and the determination of the sentence
14 to be imposed after consideration of the sentencing guidelines and all other relevant factors.

15 **E. Other Sentencing Matters**

16 17. Both defendant and the United States are free to present any evidence, facts
17 or information relevant to sentencing to the United States Probation Office and/or the Court
18 at the time of defendant's sentencing.

19 18. Subject to Section C above, defendant agrees not to withdraw his plea of
20 guilty in the event that the Sentencing Guideline calculations delineated above differ from
21 those determined by the Court at sentencing.

22 **F. Fines and Special Assessment**

23 19. Defendant agrees that the Court may impose a fine due and payable
24 immediately upon sentencing, in an amount to be determined by the Court, which defendant
25 agrees cannot exceed two-hundred fifty-thousand dollars (\$250,000).

26 20. Defendant will pay the special assessment of \$100 per count of conviction

1 at the time of sentencing.

2 **F. Restitution**

3 21. Defendant agrees that the Court may order restitution in an amount to be
4 determined by the Court. Defendant understands that any restitution imposed by the Court
5 may not be discharged in whole or in part in any present or future bankruptcy proceeding.

6 **G. Waiver of Appeal**

7 22. The defendant is aware that Title 18, United States Code, Section 3742 gives
8 the Defendant a right to appeal from any sentence to be imposed for the offense of
9 conviction and that other federal statutes give the defendant the right to appeal other aspects
10 of his conviction. In exchange for concessions made by the United States in this agreement,
11 the defendant knowingly and voluntarily waives the following rights: (a) his right to appeal
12 any sentence that is imposed under the terms of this Plea Agreement, including his right to
13 appeal the manner in which that sentence was determined on the grounds set forth in Title
14 18, United States Code, Section 3742; (b) his right to appeal any aspect of his convictions,
15 including any pretrial suppression matters or other pretrial disposition of motions and issues;
16 (c) his right to bring any collateral attack against his convictions or sentence, except for a
17 claim of ineffective assistance of counsel. This agreement does not affect the rights or
18 obligations of the United States as set forth in Title 18, United States Code, Section 3742(b);
19 and therefore the United States retains all its appeal rights.

20 **H. Additional Promises, Agreements, and Conditions**

21 23. In exchange for the United States entering into this agreement, defendant
22 agrees that (a) the facts set forth in Section IV of this Plea Agreement shall be admissible
23 against defendant under Federal Rule of Evidence 801(d)(2)(A) in the following
24 circumstances: (1) for any purpose at sentencing; and (2) in any subsequent proceeding,
25 including a trial in the event defendant does not plead guilty or withdraws his guilty plea, to
26 impeach or rebut any evidence, argument or representation offered by or on defendant's

1 behalf at any proceeding; and (b) defendant expressly waives any and all rights under
2 Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 with regard to
3 the facts set forth in Section IV of the Plea Agreement to the extent set forth above.

4 24. The parties agree that no promises, agreements, and conditions have been
5 entered into other than those set forth in this Plea Memorandum, and not will be entered into
6 unless in writing and signed by all parties.

7 **I. Limitations**

8 25. This Plea Agreement is limited to the United States Attorney's Office for the
9 District of Nevada and does not bind any other federal, state or local prosecuting,
10 administrative, or regulatory authority. However, this Plea Memorandum does not prohibit
11 the United States through any agency thereof, the United States Attorney's office for the
12 District of Nevada, or any third party from initiating or prosecuting any civil proceeding
13 directly or indirectly involving the defendant.

14 **II.**

15 **PENALTY**

16 26. The maximum penalty for violating Title 18, United States Code, Sections
17 1343 and 1346, is a term of imprisonment of not more than twenty (20) years, a fine of not
18 more than two-hundred fifty-thousand dollars (\$250,000), or both.

19 27. The maximum term of probation is five (5) years, during which time the
20 defendant will be subject to various restrictions and requirements. Defendant understands
21 that if he violates one or more of any conditions of probation imposed, the probationary term
22 may be revoked and the defendant may be sentenced to a term of imprisonment not to
23 exceed the statutory maximum term of imprisonment provided for by law.

24 28. Defendant must pay a special assessment of \$100 for each count of
25 conviction.

26 29. Defendant is required to pay for the costs of imprisonment, probation, and

1 supervised release, unless the defendant establishes that he does not have the ability to pay
2 such costs, in which case the Court may impose an alternative sanction such as community
3 service.

4 **III.**

5 **ELEMENTS**

6 30. The elements for the crime of wire fraud, in furtherance of honest services
7 fraud, in violation of Title 18, United States Code, Sections 1343 and 1346, are the
8 following:

9 First: Defendant devised or participated in a scheme to defraud the
10 citizens of Nye County, Nevada, of the intangible right to the
11 honest services of their elected public officials;

12 Second: Defendant acted with the intent to deprive the citizens of Nye
13 County, Nevada, of their right to honest services;

14 Third: The scheme to defraud was material, or the false pretenses,
15 representations, promises or omissions were related to a
16 material fact; and

17 Fourth: Defendant transmitted or caused to be transmitted by wire in
18 interstate or foreign commerce some communication for the
19 purpose of executing the scheme.

20 See 9th Cir. Model Criminal Jury Instr. 8.102 (2003).

21 **IV.**

22 **FACTS THAT SUPPORT GUILTY PLEA**

23 31. Defendant is pleading guilty because the defendant is guilty of the
24 charged offense.

25 32. In pleading to the offense, defendant acknowledges that if he elected to go
26 to trial instead of entering this plea, the United States could prove facts sufficient to

1 establish defendant's guilt beyond a reasonable doubt.

2 33. Defendant specifically admits and declares under penalty of perjury that all
3 of the facts set forth below are true and correct:

4 a. Nye County is a political subdivision of the State of Nevada. The
5 Nye County Commission consists of five publicly elected commissioners. Each of these
6 commissioners holds a position of trust and owes fiduciary and legal duties to provide
7 honest services to the citizens of Nye County. These duties include the duty not to seek
8 or accept any gift, service, employment or economic opportunity which would tend to
9 improperly influence a reasonable person in the position of a commissioner to depart
10 from the faithful and impartial discharge of the commissioner's duties. These duties also
11 include the duty to not receive compensation from private sources in return for the
12 performance of the official duties of a commissioner, and the duty to exercise the
13 responsibilities and obligations of the office of commissioner impartially and free from
14 deceit, fraud, dishonesty or self-enrichment.

15 b. Nye County permitted and regulated the operation of brothels
16 through County Ordinances enacted by the Nye County Commission. One such
17 Ordinance was Nye County Ordinance § 9.20.130 (the "Ordinance"), which, at all times
18 relevant to the Indictment, prohibited any brothel from being located within 300 yards of
19 any public street, road or highway (the "300 yard rule").

20 c. At all times relevant to the Indictment, Candice Trummell was a
21 duly elected Nye County Commissioner and was secretly working with the Federal
22 Bureau of Investigation as a good citizen cooperating witness.

23 d. At all times relevant to the Indictment, defendant Richards desired
24 and planned to develop a brothel on land he owned in Nye County and located at the
25 corner of Homestead Road and Silver Street, further described as Lot 8, Block 24,
26 Calvada Unit 14, Pahrump, Nevada (the "Calvada 14 property"). However, the Calvada

1 14 property was not large enough to accommodate a brothel without violating the 300
2 yard rule.

3 e. Defendant Richards devised a scheme and artifice to defraud the
4 citizens of the honest services of their elected public officials by causing the Ordinance to
5 be revised in order to repeal the 300 yard rule and to obtain other favors that benefitted
6 him personally, all through payments of money designed to bribe and corruptly influence
7 Nye County Commissioners in the performance of their official duties.

8 f. On or about June 28, 2005, defendant met with Candice Trummell
9 in Las Vegas, Nevada. At the time of the meeting, defendant Richards knew Ms.
10 Trummell to be a duly elected Nye County Commissioner but did not know that she was
11 secretly cooperating with the United States.

12 g. During the meeting, defendant discussed with Ms. Trummell ways
13 that she could assist him and his businesses and secretly paid her \$1,000 cash with the
14 intent that the payment would influence her in her official duties in a manner that would
15 benefit the defendant personally and as compensation for her official actions in
16 connection with revising the Ordinance to repeal the 300 yard rule. Defendant Richards
17 intended that the payment of money, and the purpose of the payment of money, would
18 never be revealed to the citizens of Nye County.

19 h. On or about August 15, 2005, defendant met with Commissioner
20 Trummell in or around the Las Vegas, Nevada, and secretly paid her \$4,000 with the
21 intent that the payment would influence her in official duties in a manner that would
22 benefit the defendant and as compensation for her official actions in connection with
23 revising the Ordinance to repeal the 300 yard rule. Defendant Richards intended that the
24 payment of money, and the purpose of the payment of money, would never be revealed
25 to the citizens of Nye County.

26 i. In furtherance of the scheme to defraud delineated above,

1 defendant participated in a telephone call on November 10, 2005, between himself and
2 Commissioner Trummell. At the time of the call, defendant was located in Nye County,
3 Nevada, while Commissioner Trummell was located in Washington, D.C.

4 **V.**

5 **ACKNOWLEDGMENT**

6 33. Defendant acknowledges by his signature below that he has read this
7 Memorandum of Plea Agreement, that he understands the terms and conditions, and the
8 factual basis, set forth herein, that he has discussed these matters with his attorney, and
9 that the matters set forth in this Memorandum, including those facts which support a plea
10 of Guilty. The undersigned defendant acknowledges that he has been advised, and
11 understands, that by entering a plea of Guilty he is waiving, that is, giving up, certain
12 rights guaranteed to him by law and by the Constitution of the United States. Specifically,
13 he is giving up:

14 a. The right to proceed to trial by jury on the charges in the Indictment,
15 or to a trial by a judge if he and the United States both agree;

16 b. The right to confront the witnesses against him at such a trial, and
17 to cross-examine them;

18 c. The right to remain silent at such trial, with such silence not to be
19 used against him in any way;

20 d. The right, should he so choose, to testify in his own behalf at such
21 a trial;

22 e. The right to compel witnesses to appear at such a trial, and to
23 testify in his behalf; and


24 f. The right to have the assistance of an attorney at all stages of such
25 proceedings.

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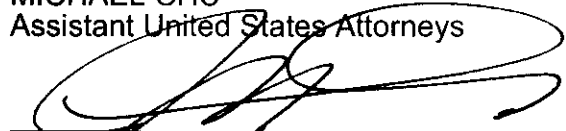
34. The undersigned defendant, his attorney, and the attorney for the United States acknowledge that this Memorandum of Plea Agreement is the entire agreement negotiated by and agreed to by and between the parties, and that no other promise has been made or implied by either defendant, his attorney, or the attorney for the United States.

GREGORY A. BROWER
United States Attorney

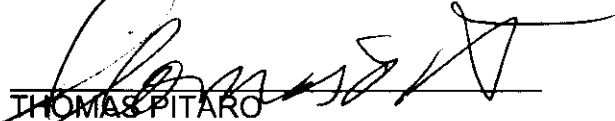


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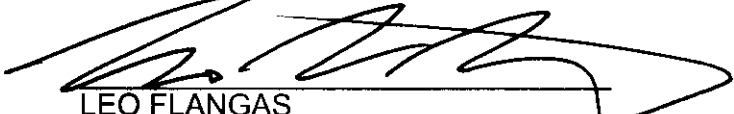
2/12/09
DATED


MAYNARD MARTIN "JOE" RICHARDS
Defendant

2-11-09
DATED


THOMAS PITARO
Co-counsel for Defendant

2/10/09
DATED


LEO FLANGAS
Co-counsel for Defendant

2/10/09
DATED