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Cunha & Harcomb, P.C.

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CLERK, US DISTRICT COURT
NORTHERN DISTRICT OF OHIO
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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.
)	
Plaintiff,)	JUDGE DAVID D. DOWD
)	
v)	
)	
)	
CLARKE T. BLIZZARD,)	<u>PLEA AGREEMENT</u>
)	
Defendant.)	

INTRODUCTION

A. Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure and in consideration of the mutual promises set forth below, the following agreement, which is contained in its entirety in this document, is entered into between the United States Attorney's Office for the Northern and Southern Districts of Ohio and CLARKE T. BLIZZARD. No other agreement, understanding, promise, or condition between the Government and CLARKE T. BLIZZARD exists; nor will such agreement, understanding, promise or condition exist unless it is committed to writing in an amendment attached to this document and signed by the Defendant

CLARKE T. BLIZZARD, an attorney for the Defendant and an Assistant United States Attorney for the Northern and Southern Districts of Ohio.

B. This plea agreement is binding upon the United States Attorney's Offices for the Northern and Southern Districts of Ohio. It does not bind any United States Attorney outside the Northern and Southern Districts of Ohio; nor does it bind any state or local prosecutor or any administrative or regulatory authorities.

II. THE DEFENDANT'S RIGHTS AND OBLIGATIONS

A. CLARKE T. BLIZZARD, having been advised of his constitutional rights, including the right to have the felony charges against him presented to a federal grand jury to consider returning an indictment on such charges, the right to a trial by a jury or by the Court, the right to confront and cross-examine witnesses against him, the right to call witnesses on his behalf, the right to be represented by an attorney at every stage of the proceedings against him, (including the right to appointed counsel at no cost if he cannot afford an attorney), the privilege against self-incrimination, and the right to additional disclosure from the United States, knowingly, intelligently, and voluntarily waives these rights and privileges and agrees to enter a plea of guilty to the sole count in the Information filed against him and admits that he is, in fact, guilty of violating Title 18, United States Code, Section 371 as charged in the Information.

B. CLARKE T. BLIZZARD agrees to abide by the sentencing and cooperation provisions set forth in this plea agreement as applicable to him.

C.T.B.

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III. OBLIGATIONS OF THE UNITED STATES ATTORNEY

A. If Defendant fulfills his obligations as set forth in this Plea Agreement, the United States Attorneys for the Northern and Southern Districts of Ohio shall agree: (a) to bring no additional criminal charges against CLARKE T. BLIZZARD for offenses known to the United States at the time of this agreement and (b) to abide by the sentencing and cooperation provisions set forth in this plea agreement as applicable to it.

B. Nothing in this plea agreement, however, shall preclude the United States from prosecuting the Defendant for murder, attempted murder or any crime of violence. Nor shall anything in this plea agreement affect the prerogatives of the Department of Justice or the Department of Homeland Security or other Governmental agency to enforce the federal immigration laws.

C. Defendant hereby waives all defenses based on the speedy trial clause of the Constitution and the Speedy Trial Act with respect to such charges, which may be tried in accordance with this Agreement.

IV. SENTENCING

A. CLARKE T. BLIZZARD understands and agrees that the maximum penalty for violating Title 18, United States Code, Section 371 is five years imprisonment, a \$250,000 fine and not more than three years of supervised release. The Defendant understands that if he violates the terms of his supervised release he may be sentenced to an additional term of imprisonment, including a term resulting in a total term that may exceed the statutory maximum for the offense set forth above.

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Defendant's Initials



C. CLARKE T. BLIZZARD understands and agrees that he shall be required to pay a special assessment of \$100, pursuant to Title 18, United States Code, Section 3013, which is due at the time of sentencing.

D. The parties agree to recommend that the Court impose a sentence within the range determined pursuant to the advisory United States Sentencing Guidelines in accordance with the computations and stipulations set forth below. The Government will not request a sentence higher than the advisory Sentencing Guidelines range and Defendant will not request a sentence lower than the advisory Sentencing Guidelines range. Nothing in this agreement precludes or in any way limits the right of the Defendant or the Government to argue that the factors set out in Title 18, United States Code, Section 3553(a) merit a lower sentence or a higher sentence within the stipulated advisory guidelines range agreed to by both parties and set forth in this Agreement. To that end, the parties agree to recommend the low-end of the U.S.S.G. range calculated in Section F below. CLARKE T. BLIZZARD understands the obligation of the United States to provide information regarding Defendant, including charged and uncharged criminal offenses, to the United States Probation Office. Defendant also states that he has had ample opportunity and has in fact discussed the impact of the advisory Sentencing Guidelines and the statutory maximums with his attorney and is satisfied with his attorney's advice in this case.

E. CLARKE T. BLIZZARD understands and agrees that the Government reserves, at the time of sentencing, the right of allocution, that is the right to describe fully, both orally and in writing, to the court the nature, seriousness and impact of the Defendant's misconduct related to the charges against him or to any factor lawfully pertinent to the sentence in this case. Defendant further understands and agrees that in exercising this right, the Government may solicit and make known the views of the law enforcement agencies which investigated this matter.

F. CLARKE T. BLIZZARD and the United States Attorney's Offices for the Northern and Southern Districts of Ohio, agree that the following United States Sentencing Guidelines apply based upon the facts of this case:

1. The parties agree that although the 2006 Sentencing Guidelines Manual is in effect, the 2003 Sentencing Guidelines Manual ("U.S.S.G.") governs the guideline calculations in this case because the use of the most current or 2006 Sentencing Guidelines Manual would violate the ex post facto clause of the United States Constitution. Therefore, all references in this agreement to the U.S.S.G. refer to the 2003 manual. (See U.S.S.G. §1B1.1(b)(1).)
2. The parties agree that the base offense level for the Defendant's offense conduct as determined under U.S.S.G. §2X1.1 which refers to §2C1.1 is 10.
3. Because the offense involved more than one bribe or extortion, the parties agree that it is appropriate to adjust the offense level upward by 2 levels pursuant to U.S.S.G. §2C1.1(b)(1).
4. Pursuant to § 2C1.1(b)(2)(A), because the benefit received exceeded \$5,000 the offense level is increased by the number of levels from the table in U.S.S.G. § 2B1.1 corresponding to that amount.

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Defendant's Initials



5. The parties agree that the value of the benefit intended to and actually received in return for the bribes paid to influence Terry Gasper while he was Chief Financial Officer of the Ohio Bureau of Workers' Compensation and others known to the Grand Jury was more than 2.5 million dollars and, for the purposes of this Agreement and sentencing only, not more than 7 million dollars. Specifically, for the purposes of this Agreement and sentencing, the parties also agree that the vast majority of the financial benefit did not, and was not intended to go to BLIZZARD personally, but rather went to and was intended to go to the corporate entity which, during all relevant times, either employed BLIZZARD or owned a majority share of the entity which employed BLIZZARD. The offense level should, accordingly, be increased by 18 levels, pursuant to U.S.S.G. § 2B1.1(J), resulting in an adjusted base offense level of 30.

6. For the purpose of determining whether or not the Defendant is entitled to a three level reduction in his offense level for acceptance of responsibility under § 3E1.1, the Government agrees to advise the Court, at the time of sentencing, that the Defendant timely notified the Government of his intent to plead guilty and that, in its view, the three point adjustment should apply (unless after the date of this agreement the Defendant breaches the agreement in any manner, commits another criminal offense, or engages in perjury or obstruction of justice). However, the Defendant understands that the decision regarding acceptance of responsibility rests with the discretion of the Court and will be determined by the Court following an investigation by the U.S. Probation Office and in accordance with all applicable guideline provisions set forth in the U.S.S.G.

7. CLARKE T. BLIZZARD understands that his Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S.

Probation Office. The Defendant acknowledges that the Government has not promised or agreed that the Defendant will or will not fall within any particular criminal history category or will or will not be a career offender, and that such determinations could affect his guideline range and/or offense level as well as his final sentence.

G. CLARKE T. BLIZZARD and the Government agree that neither party will seek or advocate for or suggest in any way an adjustment to or a departure from the sentencing guidelines other than those explicitly set forth in this agreement or for a sentence outside of the range determined to be applicable under the advisory Sentencing Guidelines, provided that those guidelines are calculated as set forth above. As stated above, the parties agree to recommend the low-end of the U.S.S.G. range calculated herein.

H. CLARKE T. BLIZZARD understands that all final determinations regarding sentencing, including but not limited to the offense level at which he is sentenced, will be made by the Court with the aid of the Probation Department and that if those determinations are different than any of those set forth in this plea agreement, his guilty plea will remain in effect and he may not withdraw it.

I. CLARKE T. BLIZZARD understands that the Court, within its discretion, may order him to pay a fine and to pay the costs of incarceration and supervised release, if any. The costs of incarceration and supervised release and any orders of restitution will be determined by the Court following an investigation by the United States Probation Department. The United States reserves the right to request revocation of probation or supervised release if Defendant fails to pay any restitution ordered.

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J. In addition, CLARKE T. BLIZZARD understands and agrees that he shall make restitution in this case as ordered by the Court as a condition of the sentence, probation, and/or supervised release. Defendant agrees not to seek the discharge of any restitution obligation, in whole or in part, in any pending or future bankruptcy proceeding or conceal or transfer any asset to avoid any obligation under this plea agreement. Given that the parties have agreed that, for the purposes of this Agreement and sentencing only, the value of the benefit intended to be received in return for the bribes paid to influence Terry Gasper while he was Chief Financial Officer and others known to the grand jury did not and was not intended to go to BLIZZARD personally, but rather to his the corporate entity which, during all relevant times, either employed BLIZZARD or owned a majority share of the entity which employed BLIZZARD, the parties also agree that there are no circumstances requiring the imposition of restitution relative to this defendant.

K. Notwithstanding the above, Defendant understands that the final determination regarding all aspects of the appropriate sentence will be made by the Court. Defendant understands that the sentencing recommendations contained herein are not binding on the Court, and the Court may impose any sentence provided for by law up to and including the statutory maximum sentences as set forth above, and if the Court disagrees with the parties' sentencing guidelines recommendations, the guilty plea shall remain in effect and the Defendant will not be permitted to withdraw it.

L. The parties agree that there are no other applicable upward adjustments based upon CLARKE T. BLIZZARD's role in the offenses known to the Government at this time.

M. The parties agree that a 2 level downward adjustment should be made to the guidelines calculation to reflect CLARKE T. BLIZZARD's role as a minor participant, in

Defendant's Initials C.T.B.

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accordance with §3B1.2(b) of the advisory United States Sentencing Guidelines calculation.

The parties agree that there are no other applicable downward adjustments based upon CLARKE

T. BLIZZARD's role in the offenses known to the Government at this time.

V. COOPERATION

A. Defendant agrees to fully cooperate in this and any other case or investigation with attorneys for the United States of America, the State of Ohio, the Internal Revenue Service, the Federal Bureau of Investigation, other federal, state, and local investigative agencies and federal and state grand juries by providing truthful and complete information, evidence and testimony, if required, concerning any unlawful or potentially unlawful activities of which he is aware.

B. The Defendant understands that in the event he, during any criminal proceedings, commits perjury, suborns perjury, or obstructs justice, nothing in this agreement precludes the United States of America or any other law enforcement authority from prosecuting him fully for those crimes or any other crimes of which he may be guilty and from using any of his sworn or unsworn statements against him. The Defendant understands that this plea agreement is explicitly dependent upon his providing completely truthful testimony in any trial or other proceeding, whether called as a witness by the Government, the defense or the Court.

C. The Defendant understands that, in the event this plea agreement is withdrawn or otherwise vacated, the Government may use the information from his sworn or unsworn statements against him and to impeach him or any witness on his behalf.

D. In consideration of his foregoing promises, the Government agrees, except as might otherwise be provided in this agreement, that it will not seek or otherwise pursue additional criminal charges against the Defendant known to the United States as of the date of this

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agreement and for which the Defendant could be prosecuted in the Northern or Southern Districts of Ohio, nor will the Government use any statement offered by the Defendant under this agreement to increase his sentence under the U.S.S.G.

E. The Defendant further acknowledges that the decision to make a motion under Section 5K1.1 under this agreement rests solely and exclusively within the discretion of the United States Attorneys for the Northern and Southern Districts of Ohio.

F. In the event that the Defendant fully cooperates with the Government, as set forth herein, the Government, in consideration for such substantial assistance, will move the Court pursuant to U.S.S.G. Section 5K1.1 for a downward departure of up to 4 levels for his substantial assistance. The Defendant agrees that should the United States make a motion under 5K1.1, that he will not seek or suggest in any way that the Court should apply a downward departure greater than 4 levels. The parties understand and agree that the final decision as to whether to grant any Government motion for a downward departure under Section 5K1.1 and the extent of any such a departure rests with the Court.

G. The Defendant understands that in the event he does not fully cooperate or otherwise acts in a fashion inconsistent with the acceptance of responsibility for his criminal conduct, and/or engages in or commits any other criminal or obstructive act during the period of his cooperation, the Government is released from all its obligations under this agreement, including making a motion under U.S.S.G. Section 5K1.1, and the Defendant has no right to withdraw his guilty plea.

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H. The Defendant agrees to make himself available at all meetings with the Government and to respond truthfully and completely to any and all questions put to him, whether in interviews, before a grand jury, or at any trial or other proceedings.

I. The Defendant agrees not to reveal any information derived from his cooperation to any third party before any such third party is charged with a criminal offense without prior consent of the Government, and to instruct his attorneys to do the same.

J. The Defendant agrees to inform the Government of any attempt by any third party, prior to the filing of criminal charges against any such third party, to interview, depose, or communicate in any way with him regarding this case or his cooperation.

K. The Defendant agrees that with respect to all charges contained in the information, (1) that he is not a "prevailing party" within the meaning of the Hyde Amendment, Section 617, PL 105-119 (Nov. 26, 1997), (2) acknowledges that the Government's position in the instant prosecution was not vexatious, frivolous, or in bad faith, and (3) agrees not to file any claim under the "Hyde Amendment".

L. The Defendant agrees not to accept remuneration or compensation of any sort, directly or indirectly, for the dissemination through books, articles, speeches, interviews, or any other means, of information regarding his relationship with the Ohio Bureau of Workers' Compensation, the transactions alleged in the above-captioned information, or the investigation or prosecution of any civil or criminal cases against him.

M. The Defendant agrees not to oppose any request of the United States that his sentencing be postponed until the Defendant's cooperation is completed. Defendant knowingly waives any rights he may have under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, occasioned

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by such delay. Defendant further understands that, in the event he is sentenced prior to the completion of his cooperation, he agrees that his continued compliance with the condition of cooperation survives the imposition of sentence and that any failure to cooperate is a violation of this agreement which will entitle the Government to seek any remedy allowed under this agreement and pursue any charges dismissed or not filed as a result of this agreement as set forth above.

VI. BREACH AND WAIVER OF THE APPLICABLE STATUTE OF LIMITATIONS

A. Defendant understands that if Defendant breaches any promise in this agreement or if Defendant's guilty plea or conviction in this case are at any time rejected, withdrawn, vacated, or set aside, the Government will be released from all of its obligations under this agreement and may institute or maintain any charges and make any recommendations with respect to sentencing that would otherwise be prohibited under the terms of the agreement. Defendant understands, however, that a breach of the agreement by Defendant will not entitle Defendant to withdraw, vacate, or set aside Defendant's guilty plea or conviction. The parties agree that any determination as to whether the Defendant has breached the terms of this agreement shall be made by a federal judge based upon a preponderance of the evidence at a proceeding at which all the testimony, statements and information provided by the Defendant shall be admissible.

B. The parties agree that if: (1) Defendant violates this agreement or fails to plead guilty or the Court refuses to accept a guilty plea by Defendant pursuant to this agreement, or (2) the Court permits Defendant to withdraw a guilty plea entered pursuant to this agreement or otherwise vacates such a guilty plea, or (3) the conviction following Defendant's guilty plea

Defendant's Initials C.H.B.

pursuant to this agreement is vacated, overturned, or abrogated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of Defendant's signing of this agreement may be commenced or reinstated against Defendant, notwithstanding the expiration of the statute of limitations between Defendant's signing of the agreement and the commencement or reinstatement of such prosecution. It is the intent of this agreement for Defendant to waive all defenses based on the statute of limitations or Speedy Trial Act with respect to any prosecution that is not time-barred on the date of Defendant's signing of this agreement. Defendant understands the waiver of the statute of limitations is effective immediately upon Defendant's signing of this agreement and is not conditioned upon the approval of this agreement by the Court.

VII. FACTUAL BASIS FOR PLEA

A. The parties hereby further agree and stipulate that the following facts would have been established beyond a reasonable doubt at a trial in this matter. The parties also agree that these are not the only facts that would have been established at a trial:

B. Beginning in or about 1912, the Ohio Bureau of Workers' Compensation ("OBWC") began assisting Ohio-based employers and employees to cover expenses related to workplace injuries by providing medical and compensation benefits for work-related injuries, diseases and deaths. Although its main office is located in Columbus, Ohio, the OBWC has 16 customer service offices located across the state of Ohio. At all times relevant to the offenses charged in the Information, the OBWC had assets which averaged 1.9 billion dollars and was one of the largest state-funded workers' compensation bureaus in the United States. The assets were under the management and control of the Chief Financial Officer and the employees of the

Investment Department. The overall operation of the OBWC involved and affected interstate and foreign commerce as did the management and execution of matters regarding its financial investments.

C. At all times relevant to the allegations in the Information, the Defendant, CLARKE T. BLIZZARD, was a marketer or salesperson who was employed by or represented businesses which managed OBWC investment funds.

D. At all times relevant to the allegations in the Information, Terrence W. Gasper was a public official who held the position of Chief Financial Officer ("CFO") of the OBWC for the State of Ohio. In his official capacity, Gasper was in a position to exert both formal and informal influence over decisions regarding all financial matters related to the OBWC, including but not limited to, those regarding the selection, retention and funding of investments, investment or money managers and advisors as well as brokerage firms which administered OBWC's investment portfolio.

E In or about January 1998, Gasper and CLARKE T. BLIZZARD agreed that CLARKE T. BLIZZARD would either directly or indirectly provide things of value to Gasper and others in return for favorable consideration from Gasper with respect to obtaining or maintaining OBWC investment business, on behalf of one of the businesses CLARKE T. BLIZZARD was associated with or employed by, which affected interstate and foreign commerce

F From in or about April 2002 through in or about September 2004, the exact dates being unknown and while Gasper was employed as CFO of the OBWC and in a position to exert control over investment decisions, CLARKE T. BLIZZARD issued checks for the benefit of

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Gasper, to Gasper and those personally close to him, including his girlfriend, and children of Gasper and his girlfriend, for a total of \$20,405. Included among the checks written by CLARKE T. BLIZZARD to or for the benefit of Gasper was one for \$9,005 for "Fall '04 Tuition" made payable to the college that Gasper's son was attending.

G. The checks were drawn on CLARKE T. BLIZZARD's bank account and were transported between CLARKE T. BLIZZARD, Gasper and the others described above via U.S. mail.

H. Although these checks were sometimes written to others, Gasper would deposit the checks into his own bank account. Other times, the person to whom the check was written would deposit the check into his or her own account and make the funds available to Gasper. At all times, the checks were intended to and did provide funds to Gasper in return for official acts he performed while CFO. In exchange for the checks and other things of value provided to either Gasper or those personally close to Gasper, Gasper permitted businesses represented by CLARKE T. BLIZZARD to retain and obtain OBWC investment business.

I. The parties agree that the benefit derived from the illegal conduct described herein, which was reasonably foreseeable to CLARKE T. BLIZZARD based upon his participation in the above-described scheme, was more than 2.5 million dollars and, for the purposes of this Agreement and sentencing only, not more than 7 million dollars. As stated in Section IV (Sentencing) above, for the purposes of this Agreement and sentencing only, the parties agree that the vast majority of the financial benefit did not, and was not intended to go to BLIZZARD personally, but rather went to and was intended to go to the corporate entity which,

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during all relevant times, either employed BLIZZARD or owned a majority share of the entity which employed BLIZZARD.

VIII. WAIVER OF APPELLATE RIGHTS

A. Defendant acknowledges that counsel has advised him of his rights, in limited circumstances, to appeal the conviction or sentence, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. Defendant expressly waives those rights, except as reserved below, including but not limited to waiving the appeal of any sentencing guideline determination by the sentencing judge in this case.

B. The parties reserve the right to appeal. (a) any sentence imposed in excess of the statutory maximum and (b) any sentence imposed to the extent it constitutes a departure from the Sentencing Guideline range deemed most applicable by the Court (other than a departure based on a Government motion pursuant to U.S.S.G. 5K1.1 as provided for in this agreement). Nothing in this section shall act as a bar to the Defendant perfecting any legal remedies he may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

IX. EFFECT OF WAIVER OF A TRIAL AND GUILTY PLEA

A. CLARKE T. BLIZZARD also understands that by pleading guilty he will waive his constitutional and legal rights, including his rights: (1) to be tried by a jury, (2) to confront and cross-examine witnesses against him, (3) not to be compelled to incriminate himself, (4) to subpoena witnesses on his behalf, and (5) to require the Government to prove his guilt beyond a reasonable doubt.

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B. Although they are not part of the criminal justice sentence, CLARKE T. BLIZZARD understands that a guilty plea may subject him to other civil and/or administrative consequences, including but not limited to a prohibition on possessing firearms, and the loss of rights to vote, hold public office and serve on a jury.

X. SIGNATURES OF THE PARTIES

As attorney for the Defendant, CLARKE T. BLIZZARD, I have discussed this case and the plea agreement with my client in detail and have advised him of all matters within the scope of Federal Rule of Criminal Procedure 11, the constitutional and other rights of an accused, the factual basis for and the nature of the offenses to which the guilty plea will be entered, possible defenses, the consequences of the guilty plea and the provisions of the United States Sentencing Guidelines which may apply. I have had ample opportunity to meet with my client and discuss this matter with him. To my knowledge, my client's decision to plead guilty in this case is a knowing and voluntary one, and I concur with my client's decision to plead guilty as provided in this agreement.

Dated: 1/30/07

Helen Holcomb
One Station Street, Suite 500
Boston, MA 02109-3507
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617-523-4350
Holcomb@cunhaHolcomb.com
Attorney for CLARKE T. BLIZZARD

Dated: 1/30/07

John H. Cunha, Jr.
One Station Street, Suite 500
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Attorney for CLARKE T BLIZZARD

I have fully discussed with my attorneys all of my constitutional trial and appeal rights and my right to be indicted by a grand jury, the nature of the charges, the elements of the offenses the United States would have to prove at trial, the evidence the United States would present at such trial, the Sentencing Guidelines and the potential consequences of pleading guilty in this case. I have had sufficient time and opportunity to discuss all aspects of the case in detail with my attorney and have told my attorney everything I know about the charges, any defense that I may have to these charges, and all personal and financial circumstances in possible mitigation of sentence.

My attorney have done everything I have asked my attorneys to do and have been accessible to me, and I am satisfied with the legal services and advice provided to me by my attorney and believe that my attorneys have given me competent and effective representation.

Dated: _____


CLARKE T. BLIZZARD
Defendant

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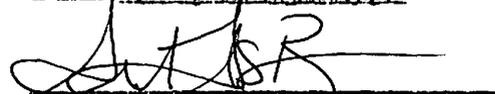
On behalf of Gregory A. White, United States Attorney, I accept and agree to this plea agreement between the United States and CLARKE T. BLIZZARD .

Dated: 2/2/2007



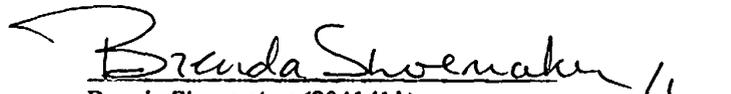
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Dated: 2/2/2007



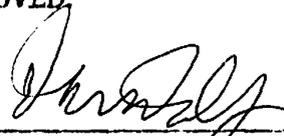
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Dated: 2/2/07



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APPROVED:



UNITED STATES DISTRICT JUDGE

2/3/07
Date

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