

THE STATE OF TEXAS

CAUSE NO. F 16-00539-S-

VS.

282 DISTRICT COURT

FILED

Clifford McCrary

DALLAS COUNTY, TEXAS

PLEA AGREEMENT

2017 APR 13 PM 1:5

State ID No: \_\_\_\_\_ Incident No / TRN: \_\_\_\_\_

Attorney for State: \_\_\_\_\_ Attorney for Defendant: Gary D. Unell

Offense: Misapplication of Fiduciary Property #100,000 - #200,000

Statute for Offense: 32.45 Charging Instrument:  Indictment  Information

Date of Offense: from 10-1-14 thru 3-30-15 Degree of Offense: 2nd

Affirmative finding of deadly weapon:  YES  NO Type of Weapon: \_\_\_\_\_

Affirmative finding of family violence:  YES  NO Ignition Interlock required  YES  NO

Affirmative finding of bias or prejudice:  YES  NO If yes, Group: \_\_\_\_\_

Sentence to run  CONCURRENTLY  CONSECUTIVELY WITH \_\_\_\_\_

Time Credit: From \_\_\_\_\_ To \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_

Sex Offender Registration  DOES  DOES NOT apply. Age of victim at time of offense: \_\_\_\_\_

FELICIA PITRE  
DISTRICT CLERK  
DALLAS COUNTY, TEXAS  
DEPUTY

TO THE HONORABLE JUDGE OF SAID COURT:

The defendant herein and the attorneys for both the defendant and the State waive a jury trial and make the following agreement:

Defendant's Plea:  Guilty  Nolo contendere

Defendant will testify.  Defendant will not testify

Plea to enhancement paragraph(s):  True  Not true

Type of Plea:  Plea bargain  Open plea

Open as to:  Fine  Restitution  Community Supervision  Deferred Adjudication

Other

State's recommendation:

Agreed sentence:

Confinement in  penitentiary  state jail  county jail for \_\_\_\_\_  years  months  days

Post-conviction community supervision, confinement probated for \_\_\_\_\_  years  months  days

Deferred community supervision for 10  years  months  days

Fine of \$ \_\_\_\_\_  to be paid  to be probated

Boot Camp  Shock Probation  Substance Abuse Felony Program

CENIKOR  Judicial Treatment Center  Dallas County Jail Chemical Dependency Program

Restitution in the amount of \$ 215,989.48 to Loss Prevention Services, LLC

Defendant will sign waiver of extradition  Defendant knowingly and voluntarily waives appeal

Defendant Waives a court reporter  Other: see below

Back-time included: \_\_\_\_\_  Back time NOT included

other: (1) The state will dismiss cause #s F15-00541, F15-00542, F16-00538  
 (2) The state will not oppose Defendants early release from Community Supervision after the restitution condition has been fulfilled (i.e. probation)

**CHANGE OF NAME** (Applicable only if box is checked)

The defendant having suggested that his/her true name is other than that set forth in the charging instrument, and having moved that the charging instrument and all other documents in this cause be amended to show his/her true name to be \_\_\_\_\_, said motion is hereby granted. It is so ordered.

**COURT'S ADMONITIONS TO DEFENDANT**

You are charged with the offense of: Misap. Fid. Property #100k-200k  
The punishment range for the offense charged is:

- 1<sup>st</sup> Degree Felony, 5-99 years or Life and an optional fine not to exceed \$10,000.00
- 2<sup>nd</sup> Degree Felony, 2-20 years confinement and an optional fine not to exceed \$10,000.00
- 3<sup>rd</sup> Degree Felony, 2-10 years confinement and an optional fine not to exceed \$10,000.00
- State Jail Felony, 180 days – 2 years State Jail and an optional fine not to exceed \$10,000.00
- \_\_\_\_\_

You have an absolute right to a jury trial, to confront and cross-examine the witnesses against you, and to call witnesses in your own behalf. You have a right to testify, but you cannot be compelled to do so. The prosecuting attorney's recommendation as to punishment is not binding on the Court. If the Court rejects any plea bargain made in this case, you may withdraw your plea of guilty or *nolo contendere*. If the punishment assessed by the Court is not greater than that which you have plea-bargained, you may not appeal on any matter in the case unless the Court grants permission for the appeal or the matters appealed were raised by written motion filed and ruled on before the plea. If you enter a plea of guilty or *nolo contendere* and there is no plea bargain, the court may assess your punishment anywhere within the range allowed by law. If you are not a citizen of the United States, a plea of guilty or *nolo contendere* may, and under current Federal Immigration rules *is almost certain to*, result in your deportation, removal, exclusion from admission to the United States, or denial of naturalization. If you have a court-appointed attorney, you have a right to ten days from the date of the attorney's appointment to prepare for trial. You have the right to be tried on an indictment returned by a Grand Jury, and, unless you are on bond, a right to two entire days after being served with a copy of the charging instrument before being arraigned. If you receive unadjudicated community supervision and violate its conditions, you may be arrested and subjected to a hearing limited to determining whether or not guilt should be adjudicated. If guilt is adjudicated the full range of punishment is open to the Court. All proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision, and an appeal, then continue as if the adjudication of guilt had not been deferred. [In sex offense cases, see Court's Admonition to Sex Offenders, which is incorporated by reference and attached hereto.]

**DEFENDANT'S STATEMENTS AND WAIVERS**

With the approval of counsel, defendant makes the following statements and waivers. I am the accused in the charging instrument and am mentally competent. I understand the nature of the accusation made against me, the range of punishment for such offense, and the consequences of a plea of guilty or *nolo contendere*. I understand that I have an absolute right to a jury trial, that I have the right to remain silent, that anything I say can and will be used against me, that I have the right to confront and cross-examine the witness against me, and that I have a right to be tried upon an indictment returned by a grand jury. I understand that if

I am not a United States citizen, a plea of guilty or *nolo contendere* will probably result in my deportation from the United States, exclusion from admission to the United States, or denial of naturalization under Federal law.

I hereby waive my right to be tried on an indictment returned by a grand jury; any and all defects, errors, or irregularities, whether of form or substance, in the charging instrument; my right to a jury trial; and my right to remain silent. I waive arraignment and reading of the charging instrument; the appearance, confrontation, and cross-examination of witnesses on the issues of guilt and punishment; my right to ten days to prepare for trial after the appointment of counsel (if counsel has been appointed); and the preparation of a pre-sentence report. I consent to the oral or written stipulation of evidence or testimony, to the introduction of testimony by affidavits or written statements of witnesses, and to all other documentary evidence.

I admit and judicially confess that I committed the offense of Misapplication Fid Prop \$100k < on 10/1/2014 - 3/30/15, exactly as alleged in the charging instrument. I affirm that my plea and judicial \$20k confession are freely and voluntarily made, and not influenced by any consideration of fear, persuasion, or delusive hope of pardon or parole.

I understand the admonitions regarding unadjudicated community supervision, and that I will be required to register as a sex offender if convicted of, or placed on community supervision for, one of the offenses enumerated under Court's Admonition to Sex Offenders, attached hereto. I understand that under the Uniform Extradition Act, should I be charged with a violation of my community supervision and be arrested in another state, I have the right to require the issuance and service of a warrant of extradition, the right to hire legal counsel, or, if indigent, to have counsel appointed, and the right to apply for a writ of habeas corpus to contest my arrest and return to this State.

I voluntarily and knowingly waive my rights under the Extradition Act, waive extradition, and waive my right to contest my return to the State of Texas from any jurisdiction where I may be found. I understand and agree that such waiver is irrevocable.

I understand that I have a right to appeal to the Court of Appeals. After consulting with my attorney, I do expressly, voluntarily, knowingly, and intelligently give up and waive my right to any appeal if the Court follows the terms of the State's recommendation as to sentencing.

I waive and give up my right to have a court reporter make a record of these court proceedings as provided by Rule 13.1 of the Texas Rules of Appellate Procedure.

**DEFENDANT'S PLEA TO ENHANCEMENT PARAGRAPH(S) (Applicable only if box is checked)**

I, the defendant, plead true to the enhancement allegations included in the:

first  second  first & second  
enhancement paragraph(s) which is/are contained in the charging instrument or the State's Notice of Enhancement, and judicially confess that I am the same person who was previously duly and legally convicted of the offense(s) alleged therein.

