

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA,

Plaintiff,

vs.

BRIAN RALPH HOUNSHELL,

Defendant.

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) CR2007-006466-001DT  
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) PLEA AGREEMENT  
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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 3: As amended by this plea agreement, Solicitation for Misuse of Public Monies, a Class 6 undesignated felony, in violation of A.R.S. § 13-1002, 35-301, 35-302, 13-105, 13-301, 13-303, 13-304, 13-701, 13-702, 13-702.01, and 13-801, committed on or about May, 2004.**

Terms: On the following understandings, terms and conditions:

- ( ) 1. The crime carries a presumptive sentence of 1 year; a minimum sentence of 0.5 years (0.33 years if trial court makes exceptional circumstances finding); and a maximum sentence of 1.5 years (2 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 **\$150,000.00 plus an 80% surcharge plus \$5.00 pursuant to A.R.S. 12-114.01**. If the Defendant is sentenced to prison, the Defendant shall also be sentenced to serve a term of community supervisions 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 the sentence imposed by statute (if any) are: **Pursuant to A.R.S. 13-610, the Defendant shall submit to DNA testing for law enforcement identification purposes**
- ( ) 2. The Defendant will be placed on Supervised Probation, the length and term to be determined by the Court. In the discretion of the Court, Defendant shall pay restitution for any and all economic loss which may include the other counts of the Indictment, not to exceed \$15,000.00. Defendant shall not be liable for costs of prosecution. This offense will remain an undesignated felony at the time of sentencing. Defendant will submit to the Court at the time of the plea a copy of his letter of resignation as Apache County Sheriff and will simultaneously deliver this letter to the Apache County Board of Supervisors, said resignation to become effective September 30, 2007.
- Further, Defendant agrees not to run for, serve in, or accept appointment to public office again in his lifetime, and agrees that should he do so the State may refile any and all of the charges of the Indictment and that any bar to such refiling, including but not limited to any statute of limitations, is expressly waived by Defendant as a material condition of this plea agreement. Defendant acknowledges that this condition is an essential part of this plea agreement and that the Government would not enter into the plea agreement without this condition.
- ( ) 3. All remaining counts of the Indictment are dismissed.

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- ( ) 5. If the Defendant is charged with a felony, he hereby waives and gives up 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 avows to having no prior felony convictions in any jurisdiction under any name and was not on felony probation, parole, release or community supervision at the time of the offense.** 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 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. 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.
- ( ) 9. 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 or A.R.S. § 13-4310.
- ( ) 10. 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.

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( ) 11. I have read and understand the provisions of pages one, two, and three of this agreement. I have discussed the case and my constitutional rights with my lawyer. My lawyer has explained the nature of the charge(s) and the elements of the crime(s) to which I am pleading. 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 determine guilt and to determine any fact used to impose a sentence within the range stated above in paragraph one, to confront, cross-examine, compel the attendance of witnesses, to present evidence in my behalf, my right to remain silent, my privilege against self-incrimination, presumption of innocence and 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: \_\_\_\_\_ Defendant BRIAN RALPH HOUNSHELL

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I have also explained the nature of the charge(s) and the elements of the crime(s). 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: \_\_\_\_\_ Defense Counsel MICHAEL D. KIMERER

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: \_\_\_\_\_ Prosecutor GRANT WOODS  
Special Assistant Attorney General  
Special Deputy Apache County Attorney