

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

THE STATE OF ARIZONA,

Plaintiff,

v.

JOHN DAVID MacDONALD,

Defendant.

Case No: CR 2012 - 009016 - 001 DT

PLEA AGREEMENT
Page 1 of 9

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 1, Failure to Report Principal Expenditures, a class 1 misdemeanor in violation of A.R.S. §§41-1232.02(A), 41-1232, 41-1231 & 41-1237, 13-301, 13-302, 13-303, 13-304, 13-306, 13-707 and 13-802, committed on or about November 23, 2009.

This is a non-dangerous, non-repetitive offense under the criminal code.

Terms: On the following understandings, terms and conditions:

A 1. This crime carries a sentence of up to six months in the county jail. 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 \$ 2,500.00 plus an 84% surcharge. Special conditions regarding the sentence imposed by statute (if any) are:

None

A 2. The parties stipulate to the following additional terms:

A. The Defendant shall pay a fine of not less than \$1,000.00, plus applicable surcharges, with the exact amount to be determined by the Court.

- B. The Defendant agrees that the factual basis attached as Exhibit A accurately describes the actions of himself and the others mentioned therein, and agrees that this statement constitutes his factual basis for his plea of guilty in this matter.
- C. The Defendant shall be sentenced to probation, subject to the terms in the attached Exhibit B.
- D. The Defendant agrees to abide by the terms of the attached Exhibit B.
- E. At or before the time of entry of this agreement, the Defendant agrees to produce any and all records in his possession, subject to the terms in the attached Exhibit C.
- F. The Defendant waives any claim that ~~that~~ ^{the} filing of the charges in this matter or his guilty plea are precluded by the time limitations in A.R.S. § 13-107(B)(2).

3. The following charges are dismissed, or if not yet filed, shall not be brought against the defendant by the Arizona Attorney General's Office:

The Attorney General's Office agrees not to file any additional charges against this Defendant arising out of Attorney General's Office reports P002-2010-001322, P002-2012-000201 and P002-2012-001375.

4. This agreement serves to amend the complaint or information, to charge the offense to which the defendant pleads, without the filing of any additional pleading. However, if the plea is rejected by the court or withdrawn by either party, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea agreement are automatically reinstated.

5. If the defendant is charged with a felony, he/she hereby waives his/her rights to a preliminary hearing or other probable cause determination on the charges to which he/she 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/her attorney, to-wit:

Defendant avows that he has no prior felony convictions, diversions or deferred prosecutions under any name, and that he was not on probation, parole, community supervision, work furlough, work release, pre-trial release, bond or any other form of court-ordered or court-



supervised monitoring on any date of any offense alleged in the
Indictment.

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/her 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/she has made or raised, or could assert hereafter, to the court's entry of judgment against him/her and imposition of a sentence upon him/her 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 the 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/her right to a probable cause determination on the original charges. 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.

8. 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.

JH 9. 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.

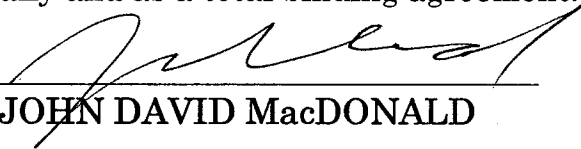
JH 10. This plea agreement does not in any way compromise, or provide any protection or defense with regard to, any civil action, whether by or on behalf of a victim or any government entity, and whether previously or later filed, including but not limited to an action pursuant to A.R.S. Title 13, Chapter 23 or § 13-4301-4315; nor does it abrogate or limit the provisions of A.R.S. § 13-2314(H) or A.R.S. § 13-4310(C), or in any other way adversely affect the State in any current or future forfeiture proceeding or other civil action pursuant to A.R.S. § 13-2314, § 13-4301-4315, or § 32-1993, if applicable.

JH 11. I have read and understand all of the provisions, on all of the pages, of this agreement, and I have discussed the case and my constitutional rights with my lawyer. 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 confront, cross-examine, and compel the attendance of witnesses, to present evidence in my behalf, my right to remain silent, my privilege against self-incrimination, presumption of innocence, my right to a determination by a jury of any fact used to impose a sentence within the sentencing range, and my 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 8/21/2012 Defendant 
JOHN DAVID MacDONALD

I have discussed this case with my client in detail and advised him/her of his/her constitutional rights and all possible defenses. 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 8/21/2012 
ALAN BASKIN, ESQ
Attorney for Defendant

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

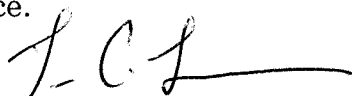
Date 7 SEP 2012 
TODD C. LAWSON #020216
Assistant Attorney General



Exhibit A
Factual Basis for Plea of Guilty

The Defendant affirms that the following statement of facts accurately depicts the actions of the Defendant and others mentioned, and constitutes the factual basis for his plea of guilty in this case:

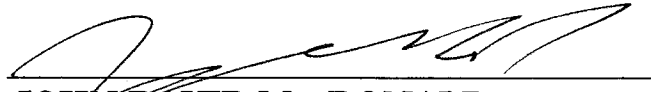
On or about November 23, 2009, in Maricopa County, Arizona, I, John David MacDonald, did knowingly file a document provided for in Title 41, Chapter 7, Article 8.1 that contained a materially false statement. Said conduct occurred when I filed a "Principal Annual Report of Lobbying Expenditures" for my client the Tostitos Fiesta Bowl for the year 2008 which contained a material false statement, to wit, that expenditures benefitting nine (9) legislators as a part of a trip to Boston, Massachusetts, on or about October 16-19, 2008, were reportable as Special Event expenses, when they were not in fact Special Event expenses because all members of the legislature were not invited on the trip. I did this as a part of my representation of the Arizona Sports Foundation d/b/a Tostitos Fiesta Bowl as a part of my work with Husk Partners, Inc., Gary Husk, Velma Martin, and Christine Martin.

I acknowledge that this statement, contained in this Exhibit A, is part of my plea of guilty in CR 2012- 009016 -001 DT, and that the facts in this statement are true and correct.

Date

8/21/2012

Defendant



JOHN DAVID MacDONALD



Exhibit B
Testimony Agreement

1. This two-page agreement is being entered into by the Arizona Attorney General's Office based upon, and premised upon, the truthful statements made to law enforcement officers by John David MacDonald during interviews on November 21, 2011 and February 7, 2012.
2. John David MacDonald will waive his rights under the 5th Amendment and agrees to provide information and testify at any time requested by the State of Arizona, including, but not limited to, at any Grand Jury proceeding, hearing, trial, or retrial (if necessary), and in any forfeiture or related proceeding. All such information and testimony shall, at all times, be truthful and honest and with no material mis-statements or omissions. John David MacDonald avows that the statements made on November 21, 2011 and February 7, 2012 are truthful. John David MacDonald understands that this Agreement may require him to provide information and to testify in multiple trials involving the pending case and in other cases, pending or to be brought in the future, which he may have information about.
3. John David MacDonald shall waive his rights pursuant to Rule 26.3, Arizona Rules of Criminal Procedure, and agrees that the sentencing shall be deferred until the substantial completion of his cooperation pursuant to this Agreement, the time to be mutually agreed upon by the parties.
4. If John David MacDonald complies with the terms of this Agreement, the parties agree that he shall be sentenced to a term of supervised probation. The parties stipulate that the probation shall not include a term of initial jail as a condition of probation.
5. In the event John David MacDonald does not complete his duties pursuant to this Agreement, John David MacDonald understands and agrees that he shall be sentenced to a term of supervised probation with no restriction on the sentencing Court's ability to order him to serve a term of initial jail as a condition of probation. John David MacDonald further understands that this provision allows him to be sentenced to up to six months in the Maricopa County Jail as a condition of probation.

Exhibit B continues on Page 8 of 9



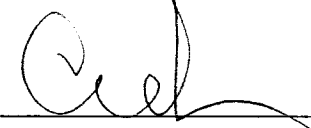
6. In the event John David MacDonald violates any provision of this Agreement, John David MacDonald understands and agrees that:
- a. Any charges dismissed pursuant to this Agreement can and will be automatically re-filed, and that said filing could be as Class 6 felonies instead of as Class 1 misdemeanors;
 - b. Any charges which were not filed pursuant to this Agreement can and will be filed against John David MacDonald;
 - c. John David MacDonald will not be permitted to withdraw his plea of guilty already entered, however, any agreements concerning sentencing on these offenses shall be null and void;
 - d. The State of Arizona may and will use any information and testimony provided by John David MacDonald against him in any prosecutions; and
 - e. All other obligations of the State of Arizona under this Agreement are null and void.
7. John David MacDonald's obligations under this Agreement will remain in full force and effect until the State notifies him in writing that his obligations are concluded.
8. The parties shall, at all times, act in good faith in order to carry out the intent of the parties in entering into this Agreement.

This testimony agreement, contained in this two-page Exhibit B, is part of the Defendant's plea of guilty in CR 2012- 009016 -001 DT.

Date 8/21/2012

Defendant 
JOHN DAVID MacDONALD

Date 8/21/2012


ALAN BASKIN, ESQ.
Attorney for Defendant

Date 7 SEP 2012

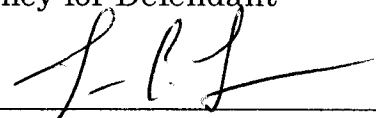

TODD C. LAWSON #020216
Assistant Attorney General



Exhibit C

Records to be Disclosed Prior to Entering this Agreement

I, John David MacDonald, acknowledge that I have previously been provided with a grand jury subpoena dated July __, 2012, incorporated by reference, which requires me to produce the documents listed therein. I agree to provide those documents to the State's investigators at the time of, or prior to, the entry of this plea agreement in CR 2012- 009016 -001 DT.

I agree that I will produce all of the requested records, and that any alteration, material omission, or falsification of the requested records shall constitute a violation of this plea agreement and the State may seek any remedy that is set forth in Paragraph 6 of Exhibit B. Further, as needed by the State, I agree to testify about the requested documents consistent with my obligations in Exhibit B.

I acknowledge that this statement, contained in this Exhibit C, is part of my plea of guilty in CR 2012- 009016 -001 DT, and that the facts in this statement are true and correct.

Date 8/21/2012

Defendant 
JOHN DAVID MacDONALD

