

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt:

From in or about June 2007 through in or about January 2008, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant WILLIAM WELLHAUSEN conspired and agreed with his co-defendants and with others known and unknown that he would accept money and property from co-defendants Dumitru Curescu and Lavinia Curescu and others, said money and property being given and accepted with the intent to influence and reward co-defendant WELLHAUSEN in connection with any business, transaction, and series of transactions of the City of Chicago involving things of value of \$5,000 or more, that is, conducting a favorable zoning inspection on a piece of real property located at 1637-39 West Granville, Chicago, Illinois (“the Granville property”) and related City approvals, the City of Chicago being a local government that received in excess of \$10,000 in federal funding in the twelve-month period from June 1, 2007, through May 31, 2008, in violation of Title 18, United States Code, Section 666(a), all in violation of Title 18, United States Code, Sections 371 and 2.

Specifically, WILLIAM WELLHAUSEN was a zoning investigator for the Department of Zoning. WELLHAUSEN had been employed with the City of Chicago since June 16, 1994. Zoning investigators performed on-site investigation of projects to ensure compliance with the Zoning Ordinance and Certificate of Occupancy (“COO”) reviews. Individual A was an expediter who assisted homeowners and other property developers in applying for and receiving City approval for construction projects. Unbeknownst to WELLHAUSEN, as of May 21, 2007, Individual A was

cooperating with the government. On August 27, 2007, Individual A contacted WELLHAUSEN regarding a zoning inspection that WELLHAUSEN was scheduled to perform at 1637-39 West Granville, a 13-unit building. Co-defendants Dumitru Curescu and Lavinia Curescu, the Granville property owners, wished to develop two additional illegal basement units in the building for a total of 15 units. Individual A indicated to WELLHAUSEN that the owners of the Granville property, who WELLHAUSEN subsequently learned were Dumitru and Lavinia Curescu, were willing to pay a bribe in exchange for a zoning inspection report indicating that there were 15 pre-existing units in the building. WELLHAUSEN said that he would go to the property in the next day or two.

On August 29, 2007, WELLHAUSEN met with the owner of the Granville property, who WELLHAUSEN subsequently learned was Dumitru Curescu, at the Granville property to perform the zoning inspection and take photographs of the property. WELLHAUSEN observed the basement and the rest of the building.

On August 30, 2007, Individual A called WELLHAUSEN. WELLHAUSEN informed Individual A about the results of the inspection and discussed the bribe payment. Specifically, WELLHAUSEN told Individual A, “we’re adding two. I mean, it’s a bare basement. He’s only got one down there, I mean, so I’m giving him two extra ones that he’s going to build. He has nothing. I mean, I’m completely fabricating two other ones ... But we’ll be able to do that. It’ll work out fine.” WELLHAUSEN told Individual A that he was “was very creative on the photography and the way it works out.” Individual A said, “And as far as the price goes I know these are, you know, really ...” WELLHAUSEN replied, “I always don’t worry about you. Whatever you give is fine, I’ll take from you.”

On August 30, 2007, WELLHAUSEN wrote a favorable zoning inspection report indicating that the basement units were preexisting. Specifically, WELLHAUSEN falsely stated in the report that “Building has 15 pre-1957 apartments with three of them being garden—#1 apt in garden is being demo’d but obvious evidence of unit exist—#2 and #3 have full apts just need updated [sic].” WELLHAUSEN attached to his report misleading photographs of the Granville property that concealed the absence of units in the basement. The photographs were taken by WELLHAUSEN when he performed the inspection on August 29, 2007.

On August 31, 2007, Individual A arranged to meet with WELLHAUSEN at a gas station on the corner of Touhy and Cicero to make the bribe payment for the favorable Granville property inspection performed by WELLHAUSEN. WELLHAUSEN approached Individual A’s car and spoke with Individual A. Individual A said, “He gave me, he gave me four on each for you,” and WELLHAUSEN replied, “Oh, I appreciate that very much.” WELLHAUSEN then took an envelope containing \$8,000 cash from Individual A.

7. Defendant also acknowledges that for the purpose of computing his sentence under the Sentencing Guidelines, the following conduct, to which he stipulates, constitutes relevant conduct under Guideline §1B1.3:

In approximately early 2006, WELLHAUSEN accepted a bribe of between \$1000 and \$1500 from Individual A in exchange for a favorable zoning inspection report regarding an illegal basement unit in a building on Belle Plaine. In approximately October 2006, WELLHAUSEN accepted a \$6,000 bribe from Individual A in exchange for a favorable zoning inspection report reflecting two illegal dwelling units as preexisting at a building at 3915 West Altgeld. In approximately January 2007, WELLHAUSEN accepted a bribe from Individual A in exchange for

a favorable zoning inspection report reflecting three illegal dwelling units as preexisting at a building at 4034 West School Street. WELLHAUSEN shared the bribe with zoning investigator Anthony Valentino. On July 17, 2007, WELLHAUSEN accepted a bribe of \$1,000 from Individual A in exchange for expedited favorable COO inspections at 1340 West Washtenaw and 857 North Hermitage. On November 1, 2007, WELLHAUSEN accepted a bribe of \$500 from Individual A in exchange for a favorable COO inspection at 859 North Hermitage. On December 27, 2007, WELLHAUSEN received a \$200 Bloomingdales gift card from co-defendant Beny Garneata. The gift card was given to WELLHAUSEN by Garneata in exchange for continued favorable treatment.

Additionally, on approximately ten occasions, WELLHAUSEN accepted a bribe from co-defendant Beny Garneata. The amount of the bribe he received from Garneata varied depending on the action that WELLHAUSEN took. For example, if Garneata asked WELLHAUSEN to overlook a minor violation, Garneata paid a bribe of \$100 to WELLHAUSEN. On approximately six occasions, WELLHAUSEN accepted bribes ranging from \$1,000 to \$1,500 from Garneata to overlook an illegal dwelling unit in a building. In approximately December 2005, WELLHAUSEN received a \$100 Marshall Fields gift card from Garneata. In approximately December 2006, WELLHAUSEN received a \$200 Nordstrom's gift card from Garneata.

WELLHAUSEN accepted cash bribes on several occasions from developers for conducting COO inspections quicker than they ordinarily would have taken place. WELLHAUSEN typically received a bribe of approximately \$500 for a COO inspection.

Individual C, a contractor, paid bribes to WELLHAUSEN in the amount of \$200 or \$300 on two or three occasions to get approval for an illegal basement unit in a building.

In approximately 2003, WELLHAUSEN accepted a bribe in the form of work in his house from Individual D. Individual D was performing contracting work on a home without a permit. Individual D offered to install a tile floor at WELLHAUSEN's house if WELLHAUSEN overlooked the fact that Individual D was performing work without a permit. WELLHAUSEN agreed, and received the tile floor installed by Individual D.

In 2007 and 2008, WELLHAUSEN performed landscape inspections in addition to his other duties. WELLHAUSEN accepted two bribes from Individuals E and F, a married couple, to overlook some landscape violations. Individuals E and F owned four properties that they were developing. Two of the properties were on the north side of the City, and two on the south side, at approximately 35th and Michigan. In one instance, Individuals E and F installed the wrong kind of fence for a trash enclosure. In the other instance, Individuals E and F planted two less trees than were required by the Landscape Ordinance. Individual F paid bribes of \$200 and \$300 to WELLHAUSEN to overlook the landscape violations.

Company G was a family-owned business involved in the construction of single family homes in the Southport and Wrigleyville neighborhoods. One of the family members called WELLHAUSEN on numerous occasions to ask for an inspection to be done quickly because he had a closing. On each occasion, WELLHAUSEN accepted bribe payments of \$200 from the family member in exchange for favorable inspections.

Individual H called WELLHAUSEN on multiple occasions on behalf of Polish contractors with requests for COO inspections. Typically, the contractor needed the COO the next day, although the normal turnaround time for COOs was two to three weeks. When WELLHAUSEN turned in his paperwork for inspections on behalf of Individual H, he advised the clerical employee

at the Department of Zoning that it was an emergency situation and the COO needed to be processed as quickly as possible. WELLHAUSEN performed the inspections for Individual H in exchange for bribes. Individual H initially paid \$100 to WELLHAUSEN for each inspection, but the bribe payments increased to \$300 per inspection. From 2005 through 2008, WELLHAUSEN received a total of approximately \$3,000 to \$5,000 in bribe payments from Individual H.

8. The foregoing facts are set forth solely to assist the Court in determining whether a factual basis exists for defendant's plea of guilty, and are not intended to be a complete or comprehensive statement of all the facts within defendant's personal knowledge regarding the charged crimes and related conduct.

Maximum Statutory Penalties

9. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 5 years' imprisonment. This offense also carries a maximum fine of \$250,000. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty imposed.

Sentencing Guidelines Calculations

10. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

11. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2008 Guidelines Manual.

b. **Offense Level Calculations.**

i. The base offense level for the charge in the indictment is 14, pursuant to Guideline § 2C1.1(a)(1).

ii. The offense level is increased by two levels because the offense and relevant conduct involved more than one bribe, pursuant to Guideline § 2C1.1(b)(1).

iii. The offense level is further increased by six levels because the value of the bribe payments received for which the defendant is accountable is approximately \$43,000, which is greater than \$30,000 but less than \$70,000, pursuant to Guideline §§ 2C1.1(b)(2) and 2B1.1(b)(1)(D).

iv. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline §3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine that may be imposed in this case, a two-level reduction in the offense level is appropriate.

v. In accord with Guideline §3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline §3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 19, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 30 to 37 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of

this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that while none of the Guideline calculations set forth above are binding on the Court or the Probation Office, the parties have agreed pursuant to Fed.R.Crim.P. 11(c)(1)(B) that certain components of those calculations – specifically, those set forth above in subparagraphs (b)(i) through (b)(iii) of this paragraph – are binding on the parties, and it shall be a breach of this Plea Agreement for either party to present or advocate a position inconsistent with the agreed calculations set forth in the identified subparagraphs.

Cooperation

12. Defendant agrees he will fully and truthfully cooperate in any matter in which he is called upon to cooperate by a representative of the United States Attorney's Office for the Northern District of Illinois. This cooperation shall include providing complete and truthful information in any investigation and pre-trial preparation and complete and truthful testimony in any criminal, civil or administrative proceeding. Defendant agrees to the postponement of his sentencing until after the conclusion of his cooperation.

Agreements Relating to Sentencing

13. With respect to the custodial component of the sentence, at the time of sentencing, the government shall make known to the sentencing judge the extent of defendant's cooperation. If the government determines that defendant has continued to provide full and truthful cooperation as required by this plea agreement, then the government shall move the Court, pursuant to Guideline §5K1.1, to depart downward from the low end of the applicable guidelines range, and shall

recommend a sentence of 50 percent of the low end of the applicable guidelines range. Defendant shall be free to recommend any sentence. Defendant understands that the decision to depart, and the extent of any departure, from the applicable guidelines range rests solely with the Court.

14. If the government does not move the Court, pursuant to Sentencing Guideline §5K1.1, to depart from the applicable Guideline range, as set forth above, the preceding paragraph of this plea agreement will be inoperative, and the Court shall impose a sentence taking into consideration the factors set forth in 18 U.S.C. § 3553(a) as well as the Sentencing Guidelines without any downward departure for cooperation pursuant to §5K1.1. Defendant may not withdraw his plea of guilty because the government has failed to make a motion pursuant to Sentencing Guideline §5K1.1.

15. With respect to the fine component of the sentence, this Agreement will be governed, in part, by Federal Rule of Criminal Procedure 11(c)(1)(C). That is, the parties have agreed that the sentence imposed by the Court shall include a fine in the amount of \$33,500. Other than the agreed fine amount, the parties have agreed that the Court remains free to impose the sentence it deems appropriate. If the Court accepts and imposes the agreed fine amount set forth herein, defendant may not withdraw this plea as a matter of right under Federal Rule of Criminal Procedure 11(d) and (e). If, however, the Court refuses to impose the agreed fine amount set forth herein, thereby rejecting this plea agreement, or otherwise refuses to accept defendant's plea of guilty, either party has the right to withdraw from this plea agreement.

16. The parties further agree, pursuant to Title 18, United States Code, Section 3583(d), that the sentence to be imposed by the Court shall include, as a condition of any term of supervised release or probation imposed in this case, a requirement that defendant repay the United States

\$9,500 as compensation for government funds that defendant received during the investigation of the case.

17. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

18. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining count of the indictment as to this defendant.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

19. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 08 CR 398-5.

20. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver or release by the United States or any of its agencies of any administrative or judicial civil claim, demand or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities, except as expressly set forth in this Agreement.

21. Defendant understands that nothing in this Plea Agreement shall limit the Internal Revenue Service (IRS) in its collection of any taxes, interest or penalties from defendant and his spouse.

Waiver of Rights

22. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

b. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution or forfeiture, in exchange for the concessions made by the

United States in this Plea Agreement. Defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, and (in any case in which the term of imprisonment and fine are within the maximums provided by statute) his attorney's alleged failure or refusal to file a notice of appeal, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel, which relates directly to this waiver or to its negotiation, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

c. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

23. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing, including the nature and extent of defendant's cooperation.

24. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the

Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline §3E1.1 and enhancement of his sentence for obstruction of justice under Guideline §3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

25. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

26. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

27. Defendant agrees to cooperate with the Internal Revenue Service (IRS) in any tax examination or audit of defendant and his spouse which directly or indirectly relates to or arises out

of the course of conduct which defendant has acknowledged in this Plea Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records which the IRS may request.

28. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed.R.Cr.P. 6(e)(3)(E)(I). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency (including but not limited to the Internal Revenue Service), for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or administrative proceeding involving, or investigation of, defendant and his spouse. Nothing in this paragraph or the preceding paragraph precludes defendant and his spouse from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

Conclusion

29. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record and may be disclosed to any person.

30. Defendant understands that his compliance with each part of this Plea Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this

Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

31. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Plea Agreement to cause defendant to plead guilty.

32. Defendant acknowledges that he has read this Plea Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

PATRICK J. FITZGERALD
United States Attorney

WILLIAM WELLHAUSEN
Defendant

CHRISTOPHER P. HOTALING
Assistant United States Attorney

KEITH SCHERER
Attorney for Defendant