

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 10-cr-00563-CMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. BROOKS L. KELLOGG,

Defendant.

**PLEA AGREEMENT AND STATEMENT OF FACTS
RELEVANT TO SENTENCING**

The United States of America, by and through John Walsh, United States Attorney, and Robert Brown, Assistant United States Attorney for the District of Colorado, and the defendant, Brooks L. Kellogg, personally and by counsel, Larry Pozner, submit the following Plea Agreement and Statement of Facts Relevant to Sentencing pursuant to D.C.COLO.LCrR 11.1 and Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

I. PLEA AGREEMENT

The defendant agrees to plead guilty to count five of the Superseding Indictment which charges a violation of 18 U.S.C. § 1958(a), Travel in Interstate Commerce in Commission of Murder-For-Hire. The government, in exchange for this guilty plea, agrees to file a motion to dismiss the remaining counts of the Superseding Indictment. The government agrees to file a motion pursuant to USSG Section 3E1.1(b) consenting to an additional, one-level decrease in the offense level for acceptance of responsibility. In addition, the government agrees to not oppose a

Count 1

motion by the defendant that his sentence vary from the sentencing range recommended for this offense by the United States Sentencing Guidelines, which variance would result in a sentence of 72 months. The government's agreement to not oppose such a motion only applies to a motion for a variant sentence based upon the defendant's personal characteristics and background prior to the time period leading to the commission of this offense. The agreement does not extend to any motion for a variant sentence based upon any aspect of the offense to which the defendant is pleading guilty. In exchange for this agreement by the government, the defendant agrees to not seek any variance from the Sentencing Guidelines to a level which would result in a sentence of less than 72 months. The parties agree to recommend the Court impose a sentence of 72 months which would be sufficient but not greater than necessary to comply with the purposes of Title 18, United States Code, Section 3553(a)(2).

The defendant understands the government's agreement to not oppose his motion for a sentence which varies from that recommended by the Sentencing Guidelines, or any other recommendation, is not binding upon the Court. The defendant understands the Court is free to impose any sentence, limited only by the statutory maximum of ten years. The defendant understands the government's agreement does not bar the victim in this case from exercising his right under Title 18, United States Code, Section 3771 to make a statement to the Court advising the Court of his opinion as to an appropriate sentence, or to offer any input to the Probation Department or the Court in any other manner provided by law.

II. STATUTORY PENALTIES

The maximum statutory penalty is not more than ten years imprisonment; not more than a \$250,000.00 fine, or both; not more than three years of supervised release; and a \$100.00 special

assessment fee.

The conviction may cause the loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury. A violation of the conditions of probation or supervised release may result in a separate prison sentence.

III. ELEMENTS OF OFFENSE

1. The defendant traveled in interstate commerce.
2. With the intent that a murder be committed in violation of the laws of any State or of the United States;
3. As consideration for the receipt of, or as consideration for a promise or agreement to pay anything of pecuniary value.

IV. STIPULATION OF FACTUAL BASIS AND FACTS RELEVANT TO SENTENCING

The parties agree that there is no dispute as to the material elements which establish a factual basis of the offense of conviction.

Pertinent facts are set out below in order to provide a factual basis of the plea and to provide facts which the parties believe are relevant, pursuant to §1B1.3, for computing the advisory sentencing guideline range and in determining the appropriate sentence under 18 U.S.C. § 3553(a)(1)-(7).

To the extent the parties disagree about the facts relevant to making this guideline calculation or to sentencing, the statement of facts identifies the facts in dispute.

The statement of facts herein does not preclude either party from presenting and arguing, for sentencing purposes, additional facts or factors not included herein which are relevant to sentencing and/or to the guideline computation.

The parties agree that the government's evidence would show the following:

The lawsuit

In 2004 a lawsuit was filed in the District Court of Routt County, Colorado, in Steamboat Springs, case no. 04CV140. The Plaintiff in that action was First Land Development, LLC (hereinafter *First Land*). Paul Stephen Bunyard, who was known by the name of Steve Bunyard, was a principal of that LLC. The Defendants included a number of entities, including Chadwick Estates, LLC (hereinafter *Chadwick Estates*). The defendant, Brooks L. Kellogg, was an officer and manager of Chadwick Estates, although the primary local, hands-on manager of the entity was an individual referenced hereinafter as "RF." A trial of that lawsuit began in the Spring of 2006. During this trial, the defendant, Brooks L. Kellogg, met Stephen Bunyard. During the trial, Brooks Kellogg made a personal offer to Stephen Bunyard to settle the lawsuit. Mr. Bunyard declined his offer. However, the trial came to a conclusion when parties to the lawsuit filed a Stipulated Settlement Agreement. As a part of the settlement, the defendant, personally, together with corporate defendants including Chadwick Estates LLC, agreed to make payments to First Land upon the occurrence of certain events involving the sale of certain real estate in the Steamboat Springs area. The Agreement provided if certain notices of sales and payments were not made in accordance with the Agreement, a stipulated judgment of 2.375 million dollars, plus interest, could be entered.

On or about May 25, 2010, after having become aware of a possible violation of the Stipulated Settlement, First Land filed with the Routt County District Court an Application for Final Order and Judgment against the parties to the Agreement, the corporate defendants and Brooks Kellogg, personally. In the Application, First Land alleged a breach of the Settlement

Agreement. After a response was filed by the defendant herein and other defendants in that civil action, on June 30, 2010, the Routt County District Court entered a judgment against Brooks L. Kellogg and other corporate defendants in the amount of 2.375 million dollars, plus interest of over \$200,000 and post-judgment interest at a rate of 18% per annum. In addition to applying for a final judgment, First Land sought and obtained from the court the issuance of a contempt citation directed at RF, in his capacity as a representative of Chadwick Estate Villas, LLC, one of the corporate defendants in the lawsuit. A court appearance on the contempt citation was scheduled for mid-October 2010.

After the judgment was entered, attorneys for First Land, The Law Office of Ralph A. Cantafio, P.C., including Ralph Cantafio and Reed Morris, began to pursue legal action during the summer of 2010 seeking to enforce the judgment. These actions included interrogatories and depositions focusing upon the holdings of Brooks Kellogg and of RF.

The relationship

Some time prior to 2010, the defendant began a personal relationship with a woman named Barbara Blackmore. They met through an online social network site. The defendant lived and worked in both Steamboat Springs, Colorado and Chicago, Illinois. The defendant's profession was that of real estate developer. Barbara Blackmore was unemployed whose primary source of income was social security disability payments. She lived in Colorado.

Barbara Blackmore and the defendant generally communicated via telephone, telephone text messages, email, and instant messaging (IM) via the internet. The defendant supplied Barbara Blackmore with a computer and with a cellular telephone. At times communications occurred between the defendant and Barbara Blackmore's cell phone or computer when the

defendant believed he was communicating with someone other than Barbara Blackmore. During their relationship, Barbara Blackmore became aware of the difficulty the aforementioned lawsuit was causing the defendant. He confided his concerns to her.

Communications between Blackmore, others and the defendant regarding Stephen Bunyard

During the Summer of 2010, the defendant began communicating via telephone and the internet with Barbara Blackmore about harming Stephen Bunyard. Barbara Blackmore told the defendant that she had a friend named Rickie Strong who would harm Stephen Bunyard for him, for a fee. Barbara Blackmore told the defendant that Rickie Strong could communicate with him (Kellogg) via her (Blackmore's) cell phone and email address¹ and screen name via emails and instant messaging (IM). In fact, Barbara Blackmore knew Rickie Strong, who she married in June 2010, but nothing was communicated to him about harming Stephen Bunyard. Barbara Blackmore communicated with the defendant about harming Stephen Bunyard acting as if she were Rickie Strong via the internet and via text messages. As a result of those communications, the defendant caused funds to be transferred to an account of Rickie Strong² in payment for causing harm to Stephen Bunyard. During the communications about harming Stephen Bunyard between Barbara Blackmore (acting as if she were Rickie Strong) and the defendant, Blackmore brought up the subject of killing Stephen Bunyard. The defendant adopted the concept of killing Stephen Bunyard. On October 1, 2010, Barbara Blackmore contacted Stephen Bunyard's

¹ The email address Barbara Blackmore used to communicate with the defendant was bobbilov@yahoo.com. The email address the defendant used was gvkell@yahoo.com. The defendant also had another email account with AOL and used the screen name gvkell@aol.com.

² The account was a joint account of Rickie Strong and Barbara Blackmore. The defendant was unaware of the fact it was a joint account.

attorney and advised him of the plot. He contacted law enforcement authorities.

Records obtained by the government from Barbara Blackmore, Verizon, ATT, America Online, and Yahoo verify communications concerning discussions of harm being done to Stephen Bunyard which evolved into a plan to kill Stephen Bunyard. Records obtained from JP Morgan Chase Bank and Vectra Bank reflect payments being made to a person the defendant believed to be Rickie Strong for payment for his services in harming Stephen Bunyard. The original idea of the defendant was to harm Stephen Bunyard. Initially, the idea was that Stephen Bunyard was to be beaten up badly enough to require hospitalization. Barbara Blackmore introduced the idea of killing Stephen Bunyard, and the defendant agreed with and sought to implement such an outcome.

Those records of communications and interviews of witnesses reflect:

<u>Date/Time</u>	<u>Text or event</u>
09/08/10 6:13 a.m.	email: <u>KELLOGG to BLACKMORE</u> I need to talk with Rickie
9/9/2010	<u>IM</u> <u>KELLOGG and BLACKMORE (acting as STRONG)</u> gvkell: Hello gvkell: back gvkell: <ding> gvkell: text or call me when you can talk gvkell: I am expecting company in 15 mins so we need to be quick bobbielov: Couldnt figure out this piece of shit bobbielov: I need orders gvkell: ok bobbielov: all I got was a address gvkell: Did you get the info on Steve Maynard? gvkell: That is what I have bobbielov: Just a address with no orders gvkell: I would like him to have to spend a few weeks in a hospital recovering bobbielov: not a problem

gvkell: you don't need to explain why or who
bobbilov: what mes. do I give
gvkell: none
bobbilov: what good will that do u
bobbilov: I don't see the point but I will do my job
gvkell: he will find out without us having to connect the dots for him
bobbilov: sounds easy enough
bobbilov: I would like a discription
gvkell: his attorney will need to explain to him if he doesn't get it on his own
bobbilov: I don't want to get the wrong person
bobbilov: Do you still have the address with you?
gvkell: mid to late 50"s, blond hair 5'10" approx 180 lbs
gvkell: yes
gvkell: Ill try to get a photo
bobbilov: can I get it again so I now I got the correct one from Bobbie
bobbilov: a photo will be good
gvkell: ok Ill resend on this email
bobbilov: that is fine. I will also need traveling expenses
bobbilov: and a amount I get for this job
gvkell: ok what else will you need and do I pay you a flat fee or do you let me know later?
bobbilov: I I already took care of the other problem
gvkell: I heard
gvkell: what fee would you like
bobbilov: I had to do a couple jobs for them so they would turn their heads the other way
bobbilov: 5000 half now half when it is done
gvkell: I hope they were not difficult ones for you
bobbilov: Robert is taking care of the other
gvkell: deal
bobbilov: not much is dif. for me lol I do this for a living
gvkell: how much travel exp?
bobbilov: I would say 1000
gvkell: send it to your bank acct?
bobbilov: romms and all
bobbilov: yes
bobbilov: you got the info
gvkell: I had and assume I still do
gvkell: Ill send it out tomorrow
bobbilov: If you need it get ahold of Bobbie
bobbilov: She keeps a log
gvkell: along with whatever info I can dig on him
gvkell: ok
bobbilov: I need as much as you got

	<p>gvkell: haha gvkell: my bills too? bobbielov: I would hate to sit for a few weeks bobbielov: lol I ment info gvkell no I need to do asap gvkell: haha bobbielov: Get all the info and get it to me gvkell I will wire \$6K will do bobbielov: Yes that is fine gvkell need to run now bobbielov: when will it be wired gvkell: tomorrow first thing bobbielov: When will I get the info gvkell: Ill let Bobbie know gvkell: she is very curious but don't tell her anything bobbielov: I never do gvkell: as soon as I can but expect to email tomorrow bobbielov: ok talk to you then gvkell: His development is all the way at the west end of Destin bobbielov: I will deal with it gvkell: ok night now</p>
<p>09/09/10 11:39 p.m. (CDT)</p>	<p>email: KELLOGG to RF at Chadwick Estates email acct: We need to wire 6K to Rickie Strong today. Tina [accountant] should have his wire instructions. If we can find a photo of Steve, or any other info please forward to me. He want to confirm that we don't want to give a message to Steve.</p>
<p>09/10/10</p>	<p>An accountant for Chadwick Estates and related businesses in Steamboat Springs verifies that RF authorizes a wire transfer to an account of Rickie Strong from one of the business accounts of the Chadwick/Kellogg corporations.</p>
<p>9/10/10</p>	<p>Chase Bank records: Wire transfer of \$6,000.00 into JP Morgan Chase account of Rickie Strong, Wilcox, AZ from account of Uniplace LLC (a Kellogg/Chadwick Estates entity) at Vectra Bank, Steamboat Springs</p>
<p>09/11/10 11:47 a.m.</p>	<p>email: KELLOGG to BLACKMORE (Strong). This is what I have. Steve goes by his middle name Paul Steven BUNYARD. owns [***redacted personal information of Stephen Bunyard***] Attached is the only photo I can find on him He is white male, 61 years old Blond curly hair [a photo was attached]</p>
<p>09/15/10 1:01 a.m.</p>	<p>email: KELLOGG to BLACKMORE. Sorry I had unplanned visitors show up this eve. I wanted to add that I think</p>

	I want a a warning given along the lines that he has made someone mad at him and that there wont be a warning next time
09/15/10 4:46 a.m.	email KELLOGG to BLACKMORE. Cant figure out how to get rid of the crap on my yahoo that puts message on the side . Anyway I was saying that I had unexpected company last night and couldn't get online until late. I wanted to say that I have reconsidered your concern that our man understands the reason for your visit. So I was suggesting you tell him that he must have got someone mad at him. Maybe he had better find a way to back off and disappear. You can suggest that his family as well as himself are at risk.
09/22/10 11:45 a.m.	email: BLACKMORE ("STRONG") to KELLOGG. I do not like wasting my time. I would like to get that pic. All I have gotten from you describes half on this shit hole. Also I think you might have Barb talk to that Atty so we can make sure the man is even in this part of the country. I have seen several people going around that home but most are woman.
09/22/10 1:37 p.m.	email: RF to KELLOGG. Forwarding address of BUNYARD
09/22/10 2:10 p.m.	email: KELLOGG(AOL) to KELLOGG(Yahoo). Forwarding email from RF to Bkellog@aol.com with BUNYARD's addresses.
09/22/10 8:20 p.m.	email: KELLOGG TO BLACKMORE. Subj. Fwd BUNYARD forwarded from Bkellog@aol.com, From RF's email address forwarding address for BUNYARD
09/27/10 8:34 p.m.	email: KELLOGG to BLACKMORE. Pls tell Rick that I cant read messenger most times so please use email.
09/30/10 10:48 a.m.	email: BLACKMORE (STRONG) to KELLOGG. I need to get in touch with you!!! Tellthe ladies when you will be on.... Rick
09/30/10 1:54 p.m.	email: KELLOGG to BLACKMORE (STRONG). I am not getting any communication fm anyone. Help! Sent from my iPhone -- response to Rick's message of same date.
09/30/10 9:59 p.m.	email: KELLOGG to BLACKMORE (STRONG). I'll be online in 30 minutes 5:30 central time Sent from iPhone.
10/1/10	IM session KELLOGG and Blackmore acting as "STRONG." gvkell: Im online for a bit gvkell: Hi there bobbielov: Just wanted to touch ase

	<p>gvkell: any luck? bobbielov: It will be done in the next couple of days gvkell: good gvkell: he is there then good bobbielov: I question is if he ends up not making it through this will there be a problem gvkell: no not at all bobbielov: don't know if I can get to him without using a bullet bobbielov: He has to many people in and out gvkell: without being sarcastic he has brought this on himself bobbielov: Im not here to judge just to do a job gvkell: never sure that an asshole goes away when threatened anyway bobbielov: so you want him dead gvkell: if that is necessary yes bobbielov: you got to let me know bobbielov: I don't like half assed jobs gvkell: well our thought was to give him a warning but if thats not safe for you to do then the bullet is fine bobbielov: They always come back to bite your ass gvkell: yes I worry about that gvkell: that was why we had a business solution first bobbielov: you decide and let me know. because if a warning don't work your just in a deaper whole gvkell: He just made it more difficult bobbielov: I see that gvkell: decision made bobbielov: it would be easier if things just learned to go our way bobbielov: so what decision do you want gvkell: bullet is the only way to safely get the job done bobbielov: Cool will be done soon gvkell: If that is the only option gvkell: then do that gvkell: good bobbielov: well I will come on tonight and let you know all I got gvkell: ok gvkell: I am at a gvkell: n affair tonight but can take calls or read email bobbielov: ok bobbielov: well tell the ladies what time gvkell: if u email code is fine say ... clear weather or something like that</p>
<p>10/01/10 11:44 a.m.</p>	<p>email: KELLOGG to BLACKMORE. im on this morning call me [***redacted telephone number ***]</p>

Involvement of the FBI

Late in the afternoon of Friday, October 1, 2010, Barbara Blackmore telephoned the law offices of Reed Morris, an attorney who was representing Stephen Bunyard in the aforementioned lawsuit. She had previously spoken to Mr. Morris about representing her, which never occurred. She reported to him that a plot to kill Stephen Bunyard existed and Brooks Kellogg was involved. She did not relate the details of her involvement and expressed a desire that Mr. Morris not contact authorities. Morris contacted the Routt County Sheriff's Office and advised them of the communication. He indicated time may be of the essence due to the fact the plot may focus on the avoidance of an upcoming court appearance in mid-October. A deputy sheriff finally made contact with Barbara Blackmore who described the plot. Although somewhat skeptical, due to the interstate nexus of the plot the deputy sheriff relayed the information to FBI Agent Ken Jackson in Glenwood Springs, Colorado. SA Jackson contacted FBI Agent John Piatanesi in the Grand Junction office who contacted Blackmore who described the plot to him.

In the next few days, the FBI interviewed Barbara Blackmore in more detail and checked into her past and that of the defendant. She provided copies of some emails and IM sessions which she had saved on her computer which corroborated her description of the plot to harm and then to kill Stephen Bunyard. Ms. Blackmore acknowledged her criminal past and that she served five years in prison for theft and issuing bad checks, which the FBI knew from running a records check. She agreed to make a telephone call to the defendant which the FBI agents could monitor and record.

A monitored telephone call between Ms. Blackmore and the defendant on October 5, 2010, gave credence to Ms. Blackmore's allegations. A portion of that call, which verified that

her story was credible, included:

BB: I talked to Rick and he said that, um, he'll be getting with you within the next couple days, and he's gonna go ahead and wanted to know if the, if this is the best phone to call you on.

BK: Yes.

BB (Blackmore): OK. Cause I I don't know which number you wanted me to give him or even if you wanted me to...

BK (Kellogg): Yeah

BB: ...give him your number or...

BK: Uh no this is fine.

BB: OK um the the money never made it in the account so I

BK: Really

BB: I couldn't leave today but uh um we'll probably head out tomorrow or something

BK: Um it's it's there so not quite sure why you're not picking it up.

BB: UI (unintelligible)

BK: It's just it went into Old Pilot Building account first and then Tina was transferring it over and I think that's good verify that it got transferred and she was looking for it and Larry said that it went out so it should be there it could be just a bank accounting problem.

BB: Oh maybe they just didn't, be tomorrow or something UI tomorrow.

BK: UI For sure it will be there in the morning first thing. Cause I'm not sure how they transferred it if they transferred by wire or uh I just don't know cause all I got from Larry was that it got billed today. He confirmed that the money was uh in Steamboat and uh I've gotten several e-mails from Tina so I know that she's the one that told someone to, it's the Old Pilot accounts.

BB: K um one more thing

BK: I'm sure it's there.

BB: Rick asked me that Rick asked me to ask you one more thing for sure. Um he wants to make sure that um Richard ok okayed this too because he doesn't want either of you on different pages and his ass ending up in trouble.

BK: Right

BB: So he told me to make sure that...

BK: I already did.

BB: Oh good, cause

BK: So you can tell him that UI

BB: OK cause that's

BK: Plan A, Plan A or Plan B

BB: OK. Cause that's like a major concern

BK: (Laughing)

BB: Alright well, I'm gonna leave this between the two of you guys

because I surely don't want in the middle of this one.

BK: (laughing, deep breath) OK

B: OK I just wanted to call and let you know everything's going OK and

BK: OK, K

* * *

BB: OK well I love you and will talk to you , you know, later.

BK: OK thanks for calling appreciated that and I'm glad to hear from, talk to ya. Love you too.

BB: and he will definitely be contacting you in the next few days.

BK: OK (TV noise)

BB: ..talk about it

BK: Uh, right now it needs to be as soon as possible.

BB: As soon as possible, yeah

BK: Cause it's important now. It's, it's stuck out long enough now that won't, it needs to be as quick as he can safely. OK?

BB: I'll get on him about it. He just, He just

BK: yeah, it

BB: he just doesn't wanna contact me no more and he doesn't...know that

BK: That's ok just it's

BB: he does not...talk to you and him

BK: ...just get a message to him that it, it's, it needs to be done right away.

BB: He said he did UI like. I said when I talked to him he said he wants it just between you two.

BK: Yep

BB: So

BK: Now we had, his plan B that he just wanted to make sure Richard was on board, on I, we, Rick and I had talked about it before as a possibility. And so I already knew before I okayed it otherwise I would have talked to Richard first.

BB: OK

BK: OK thanks for calling.

BB: Alright bye bye.

BK: OK

END OF CALL

After the consensual recorded telephone call was completed, the FBI no longer utilized Ms. Blackmore as a source of information. The FBI did encourage her not to have personal contact with the defendant. Thus, the FBI chose to make direct contact quickly by utilizing an undercover agent (UC) to make contact with the defendant to determine his intentions.

As reflected in the emails and IM sessions prior to FBI involvement, Ms. Blackmore, acting as the contract killer Rick Strong, led the defendant to believe that he (Strong) was in Florida conducting a surveillance of the victim where the defendant had advised him Bunyard lived. On October 7, 2010, the undercover FBI agent (UC) made telephonic contact with the defendant and introduced himself as Rickie. During this call the defendant confirmed he was expecting Strong's call. The UC indicated to the defendant he was in Florida but that the targeted victim had apparently left the state as he had followed him to an airport. The UC indicated he would be leaving Florida since the target was no longer there. The UC indicated he wanted to meet with the defendant in person to get more expense money in order to return and complete the job. The UC told the defendant he had seen the victim's home and had things mapped out and had a plan as to how to do it. He also told the defendant he did not want Blackmore involved anymore as he did not want others involved. The UC suggested the week of October 18 as a time to meet as the UC would be traveling from Arizona back to Florida. The UC said he wanted to meet in Denver, not Chicago. The defendant told the UC he would think about that scenario. The defendant was concerned about his other commitments from a scheduling standpoint. The UC made it clear that weekends were the best time to catch the victim at home. Finally, the defendant agreed to the idea of meeting in Denver as he had other reasons to go to Denver. The defendant told the UC they would make contact to confirm dates.

Text messages saved on Barbara Blackmore's cell phone and the defendant's iPhone confirm the defendant was intending to meet "Rickie" in Denver, as he indicated to the UC. On October 9, the defendant advised Barbara Blackmore via text message that he was planning on meeting Rickie the following week in Denver. He also texted her that she should not tell anyone.

On October 16, 2010, the defendant texted Barbara Blackmore's phone that he expected to talk to Rick on Monday (October 18). They texted each other about plans to meet when the defendant came to Denver.

On October 18, 2010, the UC received a telephone call from the defendant's cell phone number which appeared on his telephone's caller ID. The UC did not answer the call. Two hours later the UC called the defendant and recorded the call. The defendant, who was in Chicago, Illinois, informed the UC he would be leaving for Denver the next morning for their meeting. Surprised by the meeting being arranged for the next day, the UC told the defendant he would see what he could do with a flight from Phoenix (where he supposedly was) to Denver and call the defendant back. Text messages recovered from the defendant's iPhone also reflected the defendant's plans to travel to Denver and meet with Rickie.

A second call was made less than an hour later. In that call the UC advised the defendant of his flight arrangements from Phoenix to Denver (to meet with the defendant) and then to Pensacola, Florida (near the victim's home). The UC confirmed the defendant had the cash and the job (the killing of Stephen Bunyard) would be completed that coming weekend.

The following day, October 19, 2010, the defendant sent text messages to Barbara Blackmore's cell phone indicating he was meeting Rickie when he landed and then Rickie was flying out. He also texted that his flight out of Chicago was delayed and he would miss his connection in Minneapolis. He texted that his new arrival time in Denver was 2:30.

That afternoon the defendant arrived at Denver International Airport (DIA) on a flight from Chicago, through Minneapolis. The UC met with the defendant on the mezzanine level on Concourse A at DIA in the State and District of Colorado at approximately 2:49 p.m. The

defendant gave the UC \$2,000.00 in cash which was additional payment to “Rickie Strong” for the killing of Stephen Bunyard, confirmed the identity of Paul Stephen Bunyard by identifying a photo which had previously been emailed by the defendant to Blackmore (acting as Strong) on September 23, 2010, and confirmed with the UC that he wanted Stephen Bunyard killed. The defendant also explained to the UC his problems with Stephen Bunyard and how it had reached this juncture. He explained his difficult financial condition. Although a recording device was being worn by the UC, the recording equipment failed to record the meeting due to the fact the person monitoring the device failed to operate the equipment properly. However, SA Ken Jackson listened to the meeting and made notes of the conversation between the UC and the defendant.

During the meeting, the UC advised the defendant that he was the customer and he (Kellogg) had to tell him what he wanted done. The UC asked the defendant if he wanted Stephen Bunyard dead. The defendant replied, “Yeah.” The defendant stated he knew if the UC was caught, he (Kellogg) would be caught. Numerous times during the meeting the defendant expressed a desire to have Stephen Bunyard killed. The UC inquired as to the defendant’s motive. The defendant explained that he felt Stephen Bunyard had extorted him. The UC asked the defendant if he wanted the murder to happen quickly or slowly. The defendant indicated quickly would be safest. The UC asked if a message was to be delivered prior to the murder and the defendant stated he did not because he “did not believe in revenge.” An airport security camera did monitor the meeting between the UC and the defendant which lasted for approximately 11 minutes. The defendant was arrested after the meeting concluded. Documents recovered from the defendant, and records obtained from Delta Airlines, reflected he had left

Chicago that morning on a Delta Airlines flight which went to Minneapolis and then connected to another flight to Denver.

V. SENTENCING COMPUTATION

The parties understand that the sentencing guidelines are advisory and that the sentence in this case will be determined based on a number of factors, including those outlined in 18 U.S.C. §3553(a).

The parties also understand that the court may impose any sentence, up to the statutory maximum, regardless of any advisory guideline range computed, and that the court is not bound by any position of the parties. The court is free to reach its own findings after considering the parties' stipulations, the presentence investigation, and other relevant information.

To the extent the parties disagree about the advisory guideline calculations, the computations below identify the factors which are in dispute.

The 2010 Edition of the Sentencing Guidelines applies in this case.

- A. The offense guideline is § 2E1.4, with a base offense level of **32**.
- B. No victim-related, role-in-offense, obstruction and/or multiple count adjustments apply.
- C. The adjusted offense level would be **32**.
- D. The defendant should receive the maximum downward adjustment for acceptance of responsibility of three levels under USSG 3E1.1, resulting in a total offense level of **29**.
- E. The parties acknowledge the Defendant's criminal history will be investigated by the United States Probation Department, and his criminal history category will be determined by the Court. The parties believe the Defendant's criminal history category is I. The parties believe

the career offender/criminal livelihood adjustments do not apply.

F. The advisory guideline range for an offense level of 29, and a Criminal History Category of I is from 87 - 108 months. The parties acknowledge the advisory guideline range for an offense level 29 may range from 87 months (bottom of Category I), to 188 months (top of Category VI). However, any sentence would be limited by the statutory maximum of 10 years.

G. Pursuant to guideline §5E1.2, assuming the estimated offense level of 29, the fine range for this offense would be \$15,000 to \$150,000.

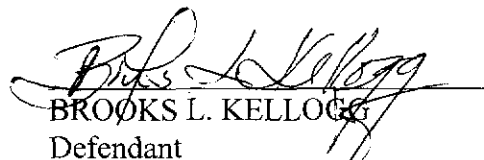
H. Pursuant to guideline §5D1.2, if the Court imposes the term of supervised release, that term cannot be more than three years.

VI. WHY THE PROPOSED PLEA DISPOSITION IS APPROPRIATE

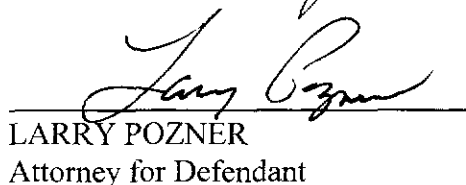
The parties believe the sentencing ranges resulting from the proposed plea agreement are appropriate because all relevant conduct is disclosed, the sentencing guidelines and 18 U.S.C. §3553 take into account all pertinent sentencing factors with respect to this defendant, and the charges to which the defendant has agreed to plead guilty adequately reflect the seriousness of the actual offense behavior.

This document states the parties' entire agreement. There are no other promises, agreements, terms, conditions, understandings or assurances, express or implied. In entering this agreement, neither the government nor the defendant has relied, or is relying, on any terms, promises, conditions or assurances not expressly stated in this agreement.

Date: APR 28, 2011


BROOKS L. KELLOGG
Defendant

Date: 4/28/2011


LARRY POZNER
Attorney for Defendant

Date: 4/28/11


ROBERT BROWN
Assistant U.S. Attorney