

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

THE STATE OF ARIZONA,

Plaintiff,

vs.

JEFFREY MARCUSSEN

DOB: [REDACTED]

Defendant.

CR2020-001908-001 DT

PLEA AGREEMENT

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: FRAUD SCHEMES, A CLASS 2 FELONY, in violation of A.R.S. §§ 13-2310, 13-2301, 13-701, 13-702, 13-811, 13-2314.01 AND 13-801, committed on or between August 1, 2017 and March 1, 2019

Count 2 (as amended): THEFT, A CLASS 4 FELONY, in violation of A.R.S. §§ 13-1801, 13-1802(A), 13-701, 13-702, AND 13-801, committed on or between August 1, 2017 and March 1, 2019

These are **non-dangerous, non-repetitive** offenses under the criminal code.

THIS OFFER EXPIRES AND IS REVOKED IF NOT ENTERED IN COURT BY 4/5/2022

Terms: On the following understandings, terms and conditions:

1.

Count 1: The crime carries a presumptive sentence of **5** years; a minimum sentence of **4** years; a mitigated sentence of **3** year; a maximum sentence of **10** years; and an aggravated sentence of **12.5** years. Probation is available.

Count 2: The crime carries a presumptive sentence of **2.5** years; a minimum sentence of **1.5** years; a mitigated sentence of **1** year; a maximum sentence of **3** years; and an aggravated sentence of **3.75** years. Probation is available.

Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required. Pursuant to A.R.S. §13-805 at the time restitution is ordered the court may enter a criminal restitution order including interest and collection fees. The maximum fine that can be imposed is **\$150,000.00** plus an **83% surcharge** plus, if applicable, **\$20.00** probation fee pursuant to A.R.S. § 12-269 plus a **\$13.00** assessment pursuant to A.R.S. § 12-116.04, plus a **\$2.00** assessment pursuant to A.R.S. § 12-116.09, If the Defendant is sentenced to prison, the Defendant shall also be sentenced to serve a term of community supervision 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. Within 30 days of being sentenced, pursuant to A.R.S. 13-610, the defendant shall provide a sufficient sample of blood or other bodily substance for deoxyribonucleic acid (DNA) testing and extraction to be used for law enforcement identification purposes and/or for use in a criminal prosecution and/or for use in a proceeding under title 36, chapter 37. Special conditions regarding the sentence imposed by statute (if any) are: Pursuant to 13-811B and 13-2314.01, all fines shall be paid to the Attorney General's anti-racketeering revolving fund.

- ___ 2. The parties stipulate to the following additional terms, subject to court approval at the time of sentencing as set forth in paragraph 7:

Count 1:

Defendant shall be placed on supervised probation. Probation terms shall include white collar terms. Pursuant to 13-811B and 13-2314.01, Defendant shall pay a fine of \$1,000 plus 78% surcharge for a total of \$1780. Fine shall be paid to the Arizona Attorney General's anti-racketeering revolving fund. Defendant shall pay restitution to all victims, even if count is dismissed, modified or amended pursuant to this plea agreement. Defendant shall pay restitution to Arizona Department of Revenue for \$11, 818.

Count 2:

No agreements as to sentencing except if Defendant is placed on probation, Defendant shall serve an initial and flat jail term, not to be deleted or deferred, of one year. If Defendant is placed on probation and sentenced to jail, the State does not object to work furlough/work release if Defendant is approved by the probation department, Court and jail.

Defendant shall pay restitution to all victims, even if count is dismissed, modified or amended pursuant to this plea agreement. Defendant shall pay restitution to Suns Legacy Partners/NBA Phoenix Suns in an amount of \$458,218.

Defendant shall pay \$458,218 in restitution to the Clerk of the Court prior to the change of plea. Upon proof that a \$458,218 restitution payment has been paid to the Clerk of the Court, the State will agree to proceed with the change of plea. If the \$458,218 in restitution is not paid to the Clerk of Court prior to the change of plea, this plea agreement is withdrawn.

If Defendant is placed on probation in Count 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: Counts 3 & 4; allegation of multiple offenses committed on different dates; allegation of 13-1802(H) and 13-2310(C).
- ___ 4. This agreement serves to amend the complaint, indictment, 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 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: **Defendant has no prior felony conviction in any jurisdiction under any name and was not on probation, parole or supervised release at the time of this 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, including aggravating circumstances and matters dismissed or not filed, without formal or written allegation. Moreover, the parties agree 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 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.
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.
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 JEFFREY MARCUSSEN

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 _____

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 SHAWN STEINBERG