

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY, FLORIDA

STATE OF FLORIDA,  
Plaintiff,  
vs.

CASE NO: 052018CF038046AXXXXX

TIMOTHY VINCENT KERSTETTER  
Defendant.

**PLEA AGREEMENT**  
(Fla. R. Crim. P. 3.172)

The undersigned Defendant has been formally charged by  Information,  Indictment as follows:

Offense	Mandatory Minimum	Maximum Sentence
1) RICO (F1)		30 years / \$10,000 fine
2) ORGANIZED FRAUD (UNDER \$20,000.00) (F3)		5 years / \$5,000 fine
<u>3, 6-7, 11, 14-15, 17, 20-22, 28, 31, 34, 38-41, 44)</u>		
GRAND THEFT (\$300 OR MORE BUT LESS THAN \$5,000) (F3) <u>18 counts</u>		5 years / \$5,000 fine <u>each count</u>
<u>25 &amp; 35)</u> PETIT THEFT (M1) <u>2 counts</u>		1 year / \$1,000 fine <u>each count</u>
<u>16)</u> PETIT THEFT (M2)		60 days / \$500 fine
<u>4, 12, 18, 23, 26, 29, 32, 36, 42)</u> DEALING IN STOLEN PROPERTY (F2) <u>9 counts</u>		15 years / \$10,000 fine <u>each count</u>
<u>5, 13, 19, 24, 27, 30, 33, 37, 43)</u> GIVING FALSE VERIFICATION OF OWNERSHIP WHEN CONDUCTING TRANSACTION WITH A PAWNBROKER (F3) <u>9 counts</u>		5 years / \$5,000 fine <u>each count</u>

The undersigned Defendant withdraws the previously entered plea(s) of not guilty and tenders a plea of  guilty,  no contest as follows:

**Offense(s)**

1) RICO (F1)		30 years / \$10,000 fine
2) ORGANIZED FRAUD (UNDER \$20,000.00) (F3)		5 years / \$5,000 fine
<u>3, 6-7, 11, 14-15, 17, 20-22, 28, 31, 34, 38-41, 44)</u>		
GRAND THEFT (\$300 OR MORE BUT LESS THAN \$5,000) (F3) <u>18 counts</u>		5 years / \$5,000 fine <u>each count</u>
<u>25 &amp; 35)</u> PETIT THEFT (M1) <u>2 counts</u>		1 year / \$1,000 fine <u>each count</u>
<u>16)</u> PETIT THEFT (M2)		60 days / \$500 fine
<u>4, 12, 18, 23, 26, 29, 32, 36, 42)</u> DEALING IN STOLEN PROPERTY (F2) <u>9 counts</u>		15 years / \$10,000 fine <u>each count</u>
<u>5, 13, 19, 24, 27, 30, 33, 37, 43)</u> GIVING FALSE VERIFICATION OF OWNERSHIP WHEN CONDUCTING TRANSACTION WITH A PAWNBROKER (F3) <u>9 counts</u>		5 years / \$5,000 fine <u>each count</u>

Defendant initials \_\_\_\_\_

If my plea is guilty, I hereby acknowledge that I am in fact guilty of the foregoing offense(s). When asked by the Judge, I will provide a factual basis to support my plea. If my plea is no contest, I believe such plea is in my best interest and recognize that the Judge will find me guilty after being provided a factual basis. The State of Florida and I have agreed upon the following sentence to be imposed as a condition of this plea:

**Count 1 (RICO – F1):** Adjudication of guilt, 57.075 months DOC followed by 5 years drug offender probation with additional special conditions as outlined in this plea agreement.

**Counts 2-7, 11-15, 17-24, 26-34, 36-44a;** Adjudication of guilt, 5 years drug offender probation with additional special conditions as outlined in this plea agreement. The probation in these counts is CONSECUTIVE to the DOC in Count 1, but CONCURRENT with the drug offender probation in Count 1, as well as CONCURRENT with each other.

**Counts 16, 25 & 35:** Adjudication of guilt, credit for time served.

**Special conditions of probation:**

- Enroll in a DOC approved in-patient drug treatment program upon release from the Department of Corrections and follow the rules of that program. The Defendant will be under Community Control conditions until the first available bed opens in the in-patient drug treatment program.
- The Defendant shall apply to the DOC approved in-patient drug treatment within 30 days of release from the Department of Corrections.
- Complete a Parenting Class within 6 months of completion of in-patient drug treatment program.
- Complete an anti-theft / impulse control class within 6 months of completion of in-patient drug treatment program.
- No return to any Home Depot store
- No contact, including direct, indirect or third-party contact, with co-defendant's Angela Hall or Kate Vickers.
- Defendant must provide DNA and fingerprints
- COP \$100, COI \$944.44 to Melbourne PD
- Restitution ordered to the following Home Depot stores in the following amounts, joint & several with co-defendants:
  - 5100 N. Wickham Rd, Melbourne, FL 32940 → \$1,887.66
  - 2829 West New Haven Ave, West Melbourne, FL 32904 → \$3,146.58
  - 1140 Malabar Rd SE, Palm Bay, FL 32907 → \$2,215.13
  - 13361 US Highway 1, Sebastian, FL 32958 → \$727.03
  - 1885 58<sup>th</sup> Ave, Vero Beach, FL 32966 → \$430.11
  - Restitution is payable at \$25 per store, per month. When the Sebastian and Vero Beach stores restitution has been paid in full, the Defendant shall pay \$50 per month toward the restitution for the Melbourne store and West Melbourne store, respectively.

**NOTE: This is an agreed upon downward departure based upon a legitimate, uncoerced plea bargain.**

**I understand** that if I am not a United States Citizen, entry of this plea will probably subject me to deportation by the United States Immigration Service.

**I understand** that if probation is a part of my sentence, the Court may impose any condition of probation authorized by law and, unless conditions are specifically attached hereto, those conditions are by this agreement left to the discretion of the Court. **I further understand** that statutory costs may be imposed as part of my sentence unless the Court waives those costs.

**I understand** that if probation is a part of my sentence, unless excluded by this agreement, the Court may impose a term of imprisonment in the County Jail as a condition of probation or community control up to 364 days.

**I understand** that **I have the right** to plead not guilty and to be tried by a jury with the assistance of counsel; the right to compel attendance of witnesses on my behalf; the right to confront and cross examine witnesses against me; the right to present defenses to the jury; and the right not to take the stand and testify; I waive those rights by entering this plea.

**I understand** that if I enter a plea without reserving the right to appeal, I will give up my right to appeal all matters relating to the judgment, including the issue of guilt or innocence except for the limited review available by collateral attack.

**I understand** that the Court may ask me questions under oath about this plea and that my answers, if untruthful, may be used against me later in a prosecution for perjury.

**I enter this plea freely and voluntarily.** No person, including my lawyer, has forced, threatened, pressured, or coerced me into entering this plea. No person has made any promise to me that induced me to enter this plea, except those matters specifically set forth in this plea agreement.

There have been **no promises** made to me by anyone regarding how many points I will score on my sentencing scoresheet.

**My lawyer has reviewed** all evidence disclosed through discovery, and has discussed the nature of that evidence with me, including the existence of any physical evidence for which DNA testing might exonerate me. I am satisfied with the representation my lawyer has given me and I have fully discussed my case and the contents of this agreement with my lawyer.

**I understand** that if I am plea to a felony offense or a sex offense I must register as a convicted felon or as a sex offender as required by law.

**I understand** that if I am pleading guilty or no contest to a sexually violent offense or a sexually motivated offense, or if I have previously been convicted of such an offense, I may be subject to involuntary civil commitment as a sexually violent predator upon completion of any prison or jail sentence imposed.

**I hereby give up** my right to a speedy trial.

**I do not suffer** from any physical or mental disabilities to the degree that I am incapable of understanding this agreement, the nature of the proceeding against me or assisting my lawyer in my behalf. I am not under the influence of alcohol or any drug at this time.

**If I am not in custody**, I acknowledge that part of the plea agreement in this case includes my release or continued release pending sentencing on bond, pretrial release or recognizance. I understand that this portion of the plea agreement is conditioned upon the following:

1. I must appear at probation and schedule a presentence investigation not later than the first business day following the entry of my plea.
2. I must obey the order of the Court requiring me to undergo drug or alcohol screening or for other evaluation if such an order has been made in my case.
3. I must appear on time for all appointments with the assigned probation officer and not be under the influence of any illegal drugs or alcohol.
4. I must appear in court on time for sentencing and not be under the influence of any illegal drugs or alcohol.
5. I must have no contact, either direct or indirect, with the victim.
6. I must not be arrested for a violation of any criminal law. If sufficient evidence is found to support my arrest by a preponderance of the evidence, the arrest will constitute a violation of this plea agreement. See Neeld v. State, 977 So.2d 740 (2008).

**I realize** that this agreement is subject to being accepted or rejected by the Court, and if it is rejected for any reason other than for a breach of this agreement, I may withdraw my plea and go to trial.

**I understand** and agree that if I fail to comply with any of the conditions set forth above I will have breached my plea agreement. In that event I will not be allowed to withdraw my plea and the Court may sentence me to any sentence authorized by law for the offense(s) to which I have pled, including the statutory maximum penalty for each crime to which I have pled under this document.

**I have completed** the \_\_\_\_\_ grade in school. I read, write, and understand the English language. I understand each and every word on this plea form, and any and all of my questions about it have been answered.

\_\_\_\_\_  
TIMOTHY VINCENT KERSTETTER  
Defendant  
Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_

**CERTIFICATE OF DEFENSE ATTORNEY**

I certify that I have fully discussed this case and this plea agreement with the defendant including the nature of the charges, their elements, the evidence of which I am aware, including physical evidence for which DNA testing may exonerated the defendant, any possible defenses, the maximum and minimum penalties which may be imposed, the probable guideline range/CPC score, and the defendant's right to appeal.

\_\_\_\_\_  
Counsel for the Defendant  
Florida Bar #0553883

**CERTIFICATE OF PROSECUTION**

The State accepts the terms of this agreement.

\_\_\_\_\_  
KATHRYN M. SPEICHER  
Assistant State Attorney  
Florida Bar #0021855

SWORN TO BY THE DEFENDANT, SIGNED, AND FILED IN OPEN COURT, IN MY PRESENCE,  
AND ACCEPTED BY ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
MORGAN LAUR REINMAN  
Circuit Judge

*(optional)*

Although there is not an agreement by the parties, the Defendant requests the court hear testimony regarding the following:

- Defendant requests waiver /reduction of Costs of Supervision
- Defendant requests a Quarterman’s release and understands that he/she is bound by the terms set forth in the body of this agreement

Defendant initials \_\_\_\_\_