

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FILED IN CHAMBERS
U.S.D.C. Atlanta

OCT 24 2011

**1:11-cr-00310-RWS -CCH
USA v. Vaughn
Honorable Richard W. Story**

JAMES N. HATTEN, Clerk
By:  Deputy Clerk

Minute Sheet for proceedings held In Open Court on 10/24/2011.

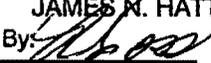
TIME COURT COMMENCED: 2:05 P.M.
TIME COURT CONCLUDED: 2:25 P.M. COURT REPORTER: Sharon Upchurch
TIME IN COURT: 00:20 DEPUTY CLERK: Rick Goss
OFFICE LOCATION: Atlanta

DEFENDANT(S): [1]Charles Michael Vaughn Present at proceedings
ATTORNEY(S) Raymond Burby representing Charles Michael Vaughn
PRESENT: Shanya Dingle representing USA
PROCEEDING CATEGORY: Change of Plea;
MINUTE TEXT: Sentence hearing date: 1/5/12 @ 10:30 a.m. Defendant shall remain on bond.

OCT 24 2011

GUILTY PLEA and PLEA AGREEMENT

United States Attorney
Northern District of Georgia

JAMES N. HATTEN, Clerk
By:  Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CRIMINAL NO. 1:11-CR-310

The United States Attorney for the Northern District of Georgia ("the Government") and Defendant CHARLES MICHAEL VAUGHN, enter into this plea agreement as set forth below in Part IV pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure. CHARLES MICHAEL VAUGHN, Defendant, having received a copy of the above-numbered fourteen-count Indictment and having been arraigned, hereby pleads GUILTY to Count One thereof.

I. ADMISSION OF GUILT

The Defendant admits that he is pleading guilty because he is in fact guilty of the crime charged in Count One of the Indictment.

II. ACKNOWLEDGMENT & WAIVER OF RIGHTS

The Defendant understands that by pleading guilty, he is giving up the right to plead not guilty and the right to be tried by a jury. At a trial, the Defendant would have the right to an attorney, and if the Defendant could not afford an attorney, the Court would appoint one to represent the Defendant at trial and at every stage of the proceedings. During the trial, the Defendant would be presumed innocent and the Government would have the burden of proving him guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the witnesses against him. If the Defendant wished, he could testify on his own behalf and present evidence in his defense, and he could subpoena witnesses to testify on his behalf. If, however, the Defendant did

not wish to testify, that fact could not be used against him, and the Government could not compel him to incriminate himself. If the Defendant were found guilty after a trial, he would have the right to appeal the conviction.

The Defendant understands that by pleading guilty, he is giving up all of these rights and there will not be a trial of any kind.

By pleading guilty, Defendant also gives up any and all rights to pursue any affirmative defenses, Fourth Amendment or Fifth Amendment claims, and other pretrial motions that have been filed or could have been filed.

The Defendant also understands that he ordinarily would have the right to appeal his sentence and, under some circumstances, to attack the conviction and sentence in post-conviction proceedings. By entering this Plea Agreement, the Defendant may be waiving some or all of those rights to appeal and to collaterally attack his conviction and sentence, as specified below.

Finally, the Defendant understands that, to plead guilty, he may have to answer, under oath, questions posed to him by the Court concerning the rights that he is giving up and the facts of this case, and the Defendant's answers, if untruthful, may later be used against him in a prosecution for perjury or false statements.

III. ACKNOWLEDGMENT OF PENALTIES

The Defendant understands that, based on his plea of guilty, he will be subject to the following maximum and mandatory minimum penalties:

As to Count One

- (a) Maximum term of imprisonment: 20 years.
- (b) Mandatory minimum term of imprisonment: None.
- (c) Term of supervised release: 2 years to 3 years.
- (d) Maximum fine: \$250,000, due and payable immediately.
- (e) Full restitution, due and payable immediately, to all victims of the offenses and relevant conduct.
- (f) Mandatory special assessment: \$100.00, due and payable immediately.
- (g) Forfeiture of any and all proceeds from the commission of the offense and any and all property used to facilitate the offense.

The Defendant understands that, before imposing sentence in this case, the Court will be required to consider, among other factors, the provisions of the United States Sentencing Guidelines and that, under certain circumstances, the Court has the discretion to depart from those Guidelines. The Defendant further understands that the Court may impose a sentence up to and including the statutory maximum as set forth in this paragraph and that no one can predict his exact sentence at this time.

IV. PLEA AGREEMENT

The Defendant, his counsel, and the Government, subject to approval by the Court, have agreed upon a negotiated plea in this case, the terms of which are as follows:

No Additional Charges

The United States Attorney for the Northern District of Georgia agrees not to bring further criminal charges against the Defendant related to the charges to which he is pleading guilty. The Defendant understands that this provision does not bar prosecution by any other federal, state, or local jurisdiction.

Factual Basis

The parties agree that if this case went to trial, the Government would prove by admissible evidence and beyond reasonable doubt the following facts:

1. The Defendant founded and operated CM Vaughn, LLC, a Georgia limited liability company based in multiple locations in and around Atlanta, Georgia, in the Northern District of Georgia, from in or about August 22, 2001 through March 3, 2008.

2. CM Vaughn, LLC originally provided tax and financial consulting services to primarily corporate clients. However, beginning in or around July 2004, and continuing until at least October 2007, Defendant sold investments in a pooled investment fund or "hedge fund" called "CM Vaughn Emerging Ventures Fund." During this period, over fifty individuals sent funds to CM Vaughn, LLC for purposes of investing in the Fund.

4. The Defendant represented to investors that the Fund earned from fifteen (15%) to as much as fifty percent (50%) per year, and stated that their investments would be "insured." In addition, the Defendant represented that the Fund was subject to a "stop loss" policy where, if the

investments dropped below a certain value, the Defendant would terminate all investment activity in order to prevent further losses.

5. The Defendant prepared CM Vaughn, LLC client statements that purported to reflect the current value of each of the investor's accounts. While these statements generally showed substantial investment gains, the performance numbers and account balance figures provided were false, as none of the monies provided to CM Vaughn, LLC, had actually been invested in any investment fund.

6. The Defendant concealed from his investors that he had not actually invested their funds in any investment fund, but rather had used their investments to finance various private companies he owned and/or operated and also to pay his personal expenses and make payments to earlier investors.

7. In furtherance of this scheme, the Defendant caused investors to send money to the Fund via multiple wire transfers and mailings, including a wire transfer by an investor on October 19, 2006, in the amount of \$260,000.

Sentencing Guidelines Recommendations

Base/Adjusted Offense Level Stipulations

Based upon the evidence currently known to the Government, the Government and the Defendant agree to the following applications of the Sentencing Guidelines:

- (a) The applicable offense guideline is Section 2B1.1, with a base offense level of 7.
- (b) The amount of loss resulting from the offenses of conviction and all relevant conduct is more than \$7,000,000 but less than \$20,000,000, which results in an increase of 20 levels.

(c) The offenses of conviction and all relevant conduct involved more than 50 victims but less than 250 victims, which results in an increase of 4 levels.

(d) The Defendant's adjusted offense level is 31.

The Government will not recommend the application of any other adjustments or enhancements under the Sentencing Guidelines.

Acceptance of Responsibility

The Government will recommend that the Defendant receive the two-level adjustment for acceptance of responsibility pursuant to Section 3E1.1 of the Sentencing Guidelines, and the additional one-level adjustment if the offense level is 16 or higher. However, the Government will not be required to recommend acceptance of responsibility if, after entering this Plea Agreement, the Defendant engages in conduct inconsistent with accepting responsibility. Thus, by way of example only, should the Defendant falsely deny or falsely attempt to minimize Defendant's involvement in relevant offense conduct, give conflicting statements about Defendant's involvement, fail to pay the special assessment, fail to meet any of the obligations set forth in the Financial Cooperation Provisions set forth below, or participate in additional criminal conduct, including unlawful personal use of a controlled substance, the Government will not be required to recommend acceptance of responsibility.

Right to Answer Questions, Correct Misstatements, and Make Recommendations

The Government reserves the right to inform the Court and the Probation Office of all facts and circumstances regarding the Defendant and this case, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Except as expressly stated elsewhere in this Plea Agreement, the Government also reserves the right to make recommendations

regarding application of the Sentencing Guidelines.

Right to Modify Recommendations

With regard to the Government's recommendation as to any specific application of the Sentencing Guidelines as set forth elsewhere in this Plea Agreement, the Defendant understands and agrees that, should the Government obtain or receive additional evidence concerning the facts underlying any such recommendation, the Government will bring that evidence to the attention of the Court and the Probation Office. In addition, if the additional evidence is sufficient to support a finding of a different application of the Guidelines, the Government will not be bound to make the recommendation set forth elsewhere in this Plea Agreement, and the failure to do so will not constitute a violation of this Plea Agreement.

Sentencing Recommendations

Specific Sentence Recommendation

The parties agree to recommend jointly that the Defendant be sentenced to 51 months' imprisonment, to be followed by three years of supervised release. The Government is requesting a downward variance, resulting in a sentence below the applicable Guidelines range. The parties agree further that the recommended sentence set forth in this Plea Agreement is reasonable under the factors set forth in 18 U.S.C. § 3553(a).

Fine--No Recommendation

The Government agrees to make no specific recommendation as to the fine to be imposed on the Defendant within the applicable guideline range.

Restitution

The Defendant agrees to pay full restitution to all victims of the offenses to which he is pleading guilty and all relevant conduct, including, but not limited to, any counts dismissed as a result of this Plea Agreement. The Defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing. The Defendant also agrees to cooperate fully in the investigation of the amount of restitution and the identification of victims.

Financial Cooperation Provisions

Special Assessment

The Defendant agrees that, within 30 days of the guilty plea, he will pay a special assessment in the amount of \$100 by money order or certified check made payable to the Clerk of Court, U.S. District Court, 2211 U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303. The Defendant agrees to provide proof of such payment to the undersigned Assistant United States Attorney within 30 days of the guilty plea.

Fine/Restitution - Terms of Payment

The Defendant agrees to pay any fine and/or restitution imposed by the Court to the Clerk of Court for eventual disbursement to the appropriate account and/or victim(s). The Defendant also agrees that the full fine and/or restitution amount shall be considered due and payable immediately. If the Defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the Probation Office at any time, he agrees that the custodial agency and the Probation Office will have the authority to establish payment schedules to ensure payment of the fine and/or restitution. The Defendant understands that this payment schedule represents a minimum obligation and that, should Defendant's financial situation establish that he is able to pay more toward the fine

and/or restitution, the Government is entitled to pursue other sources of recovery of the fine and/or restitution. The Defendant further agrees to cooperate fully in efforts to collect the fine and/or restitution obligation by set-off of program payments, execution on non-exempt property, and any other means the Government deems appropriate. Finally, the Defendant and his counsel agree that Government officials may contact the Defendant regarding the collection of any fine and/or restitution without notifying and outside the presence of his counsel.

Disclosure of Assets

The Defendant agrees to make a full accounting of all assets and other real and personal property in which Defendant has any legal or equitable interest. The Defendant further agrees that Defendant will not sell, hide, waste, encumber, destroy, or otherwise devalue any such asset worth more than \$5,000 before sentencing, without the prior approval of the Government. The Defendant understands and agrees that Defendant's failure to comply with this provision of the Plea Agreement should result in Defendant receiving no credit for acceptance of responsibility.

Financial Disclosure

The Defendant agrees to cooperate fully in the investigation of the amount of restitution and in the identification of assets to be applied toward restitution. The Defendant's cooperation obligations include: (A) fully and truthfully completing the Department of Justice's Financial Statement of Debtor form, and any addenda to said form deemed necessary by the Government, within ten days of the change of plea hearing; (B) submitting to a financial deposition or interview (should the Government deem it necessary) prior to sentencing regarding the subject matter of said form; (C) providing any documentation within his possession or control requested by the Government regarding his financial condition and that of his household; and (D) fully and truthfully

answering all questions regarding his past and present financial condition and that of his household in such interview(s).

So long as the Defendant is completely truthful, the Government agrees that anything related by the Defendant during his financial interview or deposition or in the financial forms described above cannot and will not be used against him in the Government's criminal prosecution. However, the Government may use the Defendant's statements to identify and to execute upon assets to be applied to restitution in this case. Further, the Government is completely free to pursue any and all investigative leads derived in any way from the interview/deposition/financial forms, which could result in the acquisition of evidence admissible against the Defendant in subsequent proceedings. If the Defendant subsequently takes a position in any legal proceeding that is inconsistent with the interview/deposition/financial forms—whether in pleadings, oral argument, witness testimony, documentary evidence, questioning of witnesses, or any other manner—the Government may use the Defendant's interview/deposition/financial forms, and all evidence obtained directly or indirectly therefrom, in any responsive pleading and argument and for cross-examination, impeachment, or rebuttal evidence. Further, the Government may also use the Defendant's interview/deposition/financial forms to respond to arguments made or issues raised sua sponte by the Magistrate or District Court.

Recommendations/Stipulations Non-binding

The Defendant understands and agrees that the recommendations of the Government incorporated within this Plea Agreement, as well as any stipulations of fact or guideline computations incorporated within this Plea Agreement or otherwise discussed between the parties, are not binding on the Court and that the Court's failure to accept one or more of the

recommendations, stipulations, and/or guideline computations will not constitute grounds to withdraw his guilty plea or to claim a breach of this Plea Agreement.

Limited Waiver of Appeal

LIMITED WAIVER OF APPEAL: To the maximum extent permitted by federal law, the Defendant voluntarily and expressly waives the right to appeal his conviction and sentence and the right to collaterally attack his conviction and sentence in any post-conviction proceeding (including, but not limited to, motions filed pursuant to 28 U.S.C. § 2255) on any ground, except that the Defendant may file a direct appeal of an upward departure or a variance from the sentencing guideline range as calculated by the district court. The Defendant understands that this Plea Agreement does not limit the Government's right to appeal, but if the Government initiates a direct appeal of the sentence imposed, the Defendant may file a cross-appeal of that same sentence.

Miscellaneous Waivers

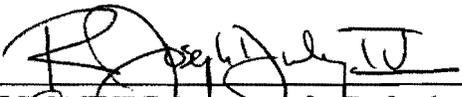
FOIA/Privacy Act Waiver

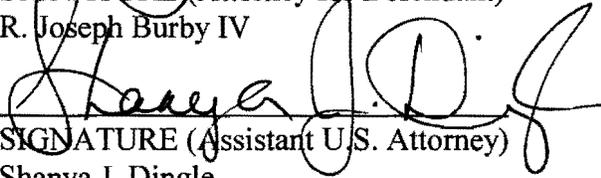
The Defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including, without limitation, any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act of 1974, Title 5, United States Code, Section 552a.

No Other Agreements

There are no other agreements, promises, representations, or understandings between the Defendant and the Government.

In Open Court this 24th day of October, 2011.


SIGNATURE (Attorney for Defendant)
R. Joseph Burby IV


SIGNATURE (Assistant U.S. Attorney)
Shanya J. Dingle


SIGNATURE (Approving Official)
Glenn Baker

10/20/11
DATE


SIGNATURE (Defendant)
Charles Michael Vaughn

I have read the Indictment against me and have discussed it with my attorney. I understand the charges and the elements of each charge that the Government would have to prove to convict me at a trial. I have read the foregoing Plea Agreement and have carefully reviewed every part of it with my attorney. I understand the terms and conditions contained in the Plea Agreement, and I voluntarily agree to them. I also have discussed with my attorney the rights I may have to appeal or challenge my conviction and sentence, and I understand that the appeal waiver contained in the Plea Agreement will prevent me, with the narrow exceptions stated, from appealing my conviction and sentence or challenging my conviction and sentence in any post-conviction proceeding. No one has threatened or forced me to plead guilty, and no promises or inducements have been made to me other than those discussed in the Plea Agreement. The discussions between my attorney and the Government toward reaching a negotiated plea in this case took place with my permission. I am fully satisfied with the representation provided to me by my attorney in this case.

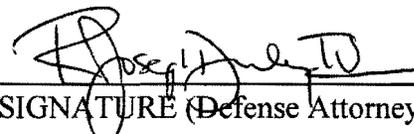


SIGNATURE (Defendant)

10/24/11

DATE

I am Charles Michael Vaughn's lawyer. I have carefully reviewed the charges and the Plea Agreement with my client. To my knowledge, my client is making an informed and voluntary decision to plead guilty and to enter into the Plea Agreement.



SIGNATURE (Defense Attorney)

10/24/11

DATE

INFORMATION BELOW MUST BE TYPED OR PRINTED

R. Joseph Burby
NAME (Attorney for Defendant)

Charles Michael Vaughn
NAME (Defendant)

1201 W. Peachtree St., Suite 1400
STREET

STREET

Atlanta, GA 30309
CITY & STATE ZIP CODE

CITY & STATE ZIP CODE

PHONE NUMBER 404-572-6815

PHONE NUMBER _____

STATE BAR OF GEORGIA NUMBER 094503

Filed in Open Court

By _____

U. S. DEPARTMENT OF JUSTICE
Statement of Special Assessment Account

This statement reflects your special assessment only. There may be other penalties imposed at sentencing.

ACCOUNT INFORMATION	
CRIMINAL ACTION NO.:	1:11-CR-310
DEFENDANT'S NAME:	Charles Michael Vaughn
PAY THIS AMOUNT:	\$100

INSTRUCTIONS:

1. PAYMENT MUST BE MADE BY **CERTIFIED CHECK** OR **MONEY ORDER**
PAYABLE TO:

CLERK OF COURT, U.S. DISTRICT COURT

PERSONAL CHECKS WILL NOT BE ACCEPTED

2. PAYMENT MUST REACH THE CLERK'S OFFICE WITHIN 30 DAYS OF THE ENTRY OF YOUR GUILTY PLEA
3. PAYMENT SHOULD BE SENT OR HAND DELIVERED TO:

Clerk, U.S. District Court
2211 U.S. Courthouse
75 Spring Street, S.W.
Atlanta, Georgia 30303

(Do not Send Cash)

4. INCLUDE DEFENDANT'S NAME ON **CERTIFIED CHECK** OR **MONEY ORDER**
5. ENCLOSE THIS COUPON TO INSURE PROPER AND PROMPT APPLICATION OF PAYMENT
6. PROVIDE PROOF OF PAYMENT TO THE ABOVE-SIGNED AUSA WITHIN 30 DAYS OF THE GUILTY PLEA