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Plea deal in the works for Stokes

**1Point creditors invited to Friday meeting by federal prosecutors;
company's founder expected to plead guilty and serve up to 22 years**

By Walker Duncan

08-26-2008 5:45 AM —

Barry Stokes' creditors last night received an e-mail from the U.S. Attorney's office inviting them to a meeting this Friday at the downtown library.

According to the letter, a copy of which was obtained by *NashvillePost.com*, the meeting will be an opportunity for some of Stokes' thousands of alleged victims to discuss the possible plea agreement being worked out between federal prosecutors and Stokes' defense.

The fallen 401(k) manager was indicted on numerous counts, including embezzlement, wire fraud, mail fraud and money laundering, and was arrested in October of 2006.

The letter outlines various aspects of the deal, which calls for Stokes to plead guilty to 29 counts of embezzlement in addition to various charges including the mail and wire frauds.

He would also agree to a minimum of 35 sentencing levels that would necessitate his serving between 168 and 210 months. The prosecutors will also be able to argue for an additional two levels bringing the sentence to between 210 and 268 months – just shy of 22 years.



How

Among the other concessions Stokes is expected to agree to include admitting that he is liable for the restitution of about \$20 million, waiving his right to all appeals and agreeing to forfeit the roughly 200 pieces of Japanese art investigators tracked down in Austin, Texas.

Should the deal falter for some reason, his trial is set to begin on Sept. 9 in Judge Robert Echols' court.

A full copy of the letter is available **here**.



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Middle District of Tennessee

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August 25, 2008

Re: Potential Plea Agreement in United States v. Barry Stokes
USAO No. 2006R00368; Case no. 3:06-00204

To Whom It May Concern:

The U.S. Department of Justice believes it is important to keep victims of federal crime informed of court proceedings and other public developments in criminal cases. This notice provides the latest information about the above-referenced criminal case.

As you may know, the defendant has been indicted on numerous charges, including embezzlement of ERISA funds, wire fraud, mail fraud, money laundering, criminal contempt and obstruction, all related to his alleged embezzlement of employee benefit plan funds while he was the CEO of 1 Point Solutions, LLC. A trial on these charges is scheduled to begin at 9:00 a.m. on Tuesday, September 9, 2008, before Senior United States District Judge Robert L. Echols.

At this time, a plea agreement is contemplated whereby the defendant would plead guilty to various charges. As we have emphasized before, the Crime Victims' Rights Act (CVRA) gives victims of criminal offenses certain rights in federal court, to include the reasonable right to confer with the Government attorney on the case. In keeping with that right, the government wishes to advise you that, if executed, the contemplated plea agreement would contain the following provisions:

- The defendant would plead guilty to twenty-nine counts of embezzlement of ERISA funds, in addition to several counts of wire fraud, mail fraud, money laundering and criminal contempt.
- Based upon the United States Sentencing Guidelines (U.S.S.G.), the defendant would agree to a minimum base offense level of 35 levels, which would result in a sentencing guidelines range of 168-210 months.
- From there, the government would be free to petition the court and argue for an additional upward enhancement of 2 levels. If the court finds that this additional enhancement is applicable based on the evidence presented by the government and

the facts of the case, the result would be an offense level of 37, which would result in an anticipated sentencing guidelines range of 210-262 months.

- The defendant will admit to the conduct surrounding each and every criminal act, including admitting that he embezzled over approximately \$16,000,000 in ERISA funds from over 1,000 individual participants.
- The defendant will waive all appeals.
- The defendant would agree that he is liable for full restitution of an estimated loss amount of approximately \$20,000,000, though the exact figure for restitution will be determined at sentencing.
- The defendant would agree to the forfeiture of approximately 200 pieces of art that were recovered by investigators in Austin, Texas, as he would agree that this art is proceeds of his unlawful activity.
- The defendant will agree to be barred from any form of employment in the financial industry.

If you have any questions or concerns, or wish to be consulted regarding the details of this potential plea agreement, the following avenues of communication available to all victims:

1.) **On Friday, August 29, 2008, the United States Attorney's Office will host a "town hall" meeting at 11:00 a.m. at the Nashville Public Library, located in downtown Nashville at 615 Church Street, Nashville, Tennessee.** This will be an opportunity for all victims in this case to speak with the prosecutors about the proposed plea agreement.

2.) If you are not able to attend the meeting on August 29, 2008, but would still like to comment on the proposed plea agreement, please visit the website for the United States Attorney's Office for the Middle District of Tennessee at <http://www.usdoj.gov/usao/tnm>. In the section related to United States v. Barry R. Stokes, you will find an email link that will allow you to send an email to the United States Attorney's Office regarding your thoughts about the proposed plea agreement.

This phase of consultation pertains to the plea agreement process only: all victims will have ample opportunity to be heard and to submit an impact statement to the court before the defendant is sentenced. Please remember that, pursuant to the CVRA, you have the right to be heard at any public hearing regarding sentencing. **At the time of sentencing, you will again be contacted with information regarding how to let the court know about the impact that the defendant's alleged crimes have had on you.**

Finally, please remember that, because the criminal investigation related to the collapse of 1 Point Solutions is ongoing, the government cannot comment on future actions or issues related to the case. However, to the extent possible, any developments or updates that can be discussed will be posted on this website regularly.

Sincerely,

EDWARD M. YARBROUGH
United States Attorney

By:

A handwritten signature in black ink, appearing to read 'C. Trombly', written over a horizontal line.

Courtney D. Trombly, AUSA