



**John S. Foote, District Attorney for Clackamas County**  
Clackamas County Courthouse, 807 Main Street Room 7, Oregon City, Oregon 97045  
503 655-8431, FAX 503 650-8943, [www.co.clackamas.or.us/da/](http://www.co.clackamas.or.us/da/)

October 1, 2014

Jim Bernstein  
Attorney at Law  
219 7<sup>th</sup> Street  
Oregon City, OR 97045

Re: *State of Oregon v. Gerald Matthew Wiese, CR 14-0348*

Dear Mr. Bernstein:

The Clackamas County District Attorney's Office (CCDA) and the above named defendant hereby enter in the following Cooperation Agreement in connection with the disposition of certain criminal charges against the defendant pursuant to a Plea Agreement, filed in this case, which is incorporated herein by this reference as an essential part of this agreement. The parties agree that the CCDA may offer this Cooperation Agreement as a letter at the sentencing hearing, and that the CCDA will retain custody of the letter following the hearing.

- 1. Information:** Defendant agrees to provide truthful and complete information, with no material misstatements or omissions of fact, relating directly or indirectly to any criminal activity. Defendant will neither attempt to protect any person or entity who has been involved in criminal activity, nor falsely implicate any person or entity in criminal activity. Defendant agrees to cooperate with any efforts and requests by the CCDA to verify that information provided is truthful and complete. Defendant agrees that any interview may be electronically recorded or otherwise documented.
- 2. No Disclosure of Cooperation:** Defendant agrees not to reveal this cooperation or any information about this agreement or any related investigation or prosecution to anyone, without the prior consent of the CCDA.
- 3. No Direct Use of Statements:** Except as outlined herein, the CCDA agrees that statements made by your client after signing this agreement may not be used in the CCDA's case-in-chief against your client should a trial be held for any charges pending or later filed in the course of this investigation.
- 4. Collateral Use:** If defendant should testify materially contrary to the substance of the cooperation, or otherwise presents in any legal proceeding a position materially inconsistent with the cooperation, any information or evidence obtained through that cooperation may be used against defendant in any fashion, including as the basis for a prosecution for offenses involving perjury, false swearing or other related criminal charges for providing false information.
- 5. Derivative Use:** The CCDA may make any derivative use of, and may pursue investigative leads suggested by, any statements or information provided by your client under this agreement. This provision eliminates the requirement of a hearing pursuant to *Kastigar v. United States*, 406

U.S. 441, 460 (1972), wherein the CCDA would otherwise have to prove that the evidence it sought to introduce against your client was derived from "a legitimate source wholly independent" of statements or information from the client.

6. **Sentencing Information:** Defendant understands that the CCDA may provide information given under this agreement to the sentencing judge.
7. **Testimony:** Defendant agrees to testify under oath truthfully and completely in any federal or state grand jury, trial, hearing, or any other proceeding to which defendant may be called as a witness including but not limited to the *State of Oregon v. Floyd William Marsh*, CR 14-1585, in which Mr. Marsh is indicted for Robbery I, Robbery II x 2, Kidnapping II, Unlawful Use of a Stun Gun, Burglary I, Aggravated Theft I and Money Laundering for criminal activity between 10/1/11 - 11/1/11.
8. **Breach of Cooperation:** It is expressly understood and agreed by the parties that the determination for whether these cooperation terms have been breached rests exclusively with the CCDA, so long as that determination is made in good faith and not arbitrarily. Should the CCDA determine that the defendant, after the date of this agreement: (a) has committed any further crime or has violated any condition of release or supervision imposed by the Court (whether or not charged); (b) has given false, incomplete, or misleading information; or (c) has otherwise breached any condition of this agreement, the CCDA will have the right, in its sole discretion, to void this agreement in whole or in part. Furthermore, defendant agrees that substantial compliance of this agreement is not acceptable and will be considered a breach of the cooperation agreement.
9. **Consequences of Breach:** The parties further agree that should the CCDA determine that the defendant breached this agreement: (a) defendant may not withdraw any guilty plea; (b) the CCDA is free to make any sentencing recommendation and is not bound by this agreement or the Plea Agreement; and (c) defendant may be prosecuted for any crime committed by defendant, whether or not such crime was the subject of this agreement. Furthermore, the defendant waives any challenges involving a claim of Double Jeopardy, Speedy Trial or the Statute of Limitations and may be prosecuted in United States District Court by the United States Attorney's Office if Defendant violates the terms of this agreement.
10. **Memorialization of Agreement:** No promises, agreements or conditions other than those set forth in this agreement and the plea agreement will be effective unless memorialized in writing and signed by all of the parties listed below or confirmed on the record before the Court.
11. **Duration of Agreement:** Defendant stipulates that the cooperation agreement shall remain in effect throughout the duration of any and all criminal cases that arise through the course of defendant's cooperation with the state. This will include defendant's full participation throughout the course of the criminal investigation and prosecution of all cases in which defendant cooperates with the state. In order to enforce this agreement, the defendant waives any future challenges to his rights to a speedy trial, the statute of limitations and his rights against double jeopardy.

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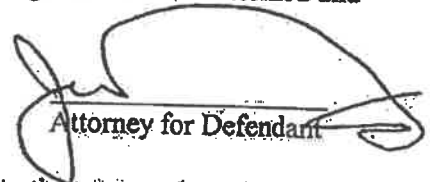
I have carefully reviewed every part of this agreement with my attorney. I understand and voluntarily agree to its terms.

10/11/14  
Date

  
Defendant

I represent the defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge, defendant's decision to make this agreement is an informed and voluntarily one.

10/11/14  
Date

  
Attorney for Defendant

I represent the CCDA as a Deputy District Attorney. I agree to the terms and conditions as outlined in the agreement.

10/11/14  
Date

  
Deputy District Attorney

