

## **U.S. Department of Justice**

Criminal Division
Organized Crime & Racketeering Section

Please reply to: STEVEN D. CLYMER Assistant United States Attorney 1110 Third Avenue, 5th Floor Seattle, Washington 98101-3903 Direct Line: (315) 448-0684 Tel: (206) 262-0460 Fax: (206) 262-2329

## By Electronic Mail May 19, 2009

Carl Edward Johnson c/o Larry Joe Dowling 1602 East Seventh Street Austin, TX 78702 larryjoedowling@aol.com

Re: Proffer Agreement

Dear Mr. Johnson:

As I have discussed with your attorney, Mr. Dowling, Special Agents from the Federal Bureau of Investigation are interested in interviewing you in connection with their investigation of the murder of Assistant United States Attorney Thomas Wales on October 11, 2001. Based on those discussions, I am writing to offer you a form of immunity, known as "use immunity," in exchange for your participation in an interview. In legal terminology, such interviews are known as "proffers."

In order to ensure that there are no obstacles to you providing complete and truthful information during your proffer, the Organized Crime and Racketeering Section of the Criminal Division of the United States Department of Justice ["this Office"] is willing to assure you that statements that you make during your interview will not be admitted against you in the event that a criminal prosecution is brought against you. Accordingly, this Office is willing to enter into the agreement set out below. This agreement is between you and this Office. It does not bind any other federal, state, or local law enforcement or regulatory agency.

You and this Office agree to the following terms:

- 1. No statements that you make during the proffer session will be admitted into evidence against you by this Office during the government's case-in-chief at trial in the event that there is a criminal prosecution of you for conduct that is described in your proffer. This guarantee of non-use of your statements applies only to statements made during the proffer session and is subject to the limitations and exceptions described below.
- 2. The government, including this Office, remains free to use any statements that you make or information that you provide during the proffer session to develop and pursue investigative leads. In the event that there is a criminal prosecution brought against you, the government, including this Office, will be free to use such derivative evidence

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(that is, evidence derived from your statements) against you in its case-in-chief or otherwise, without regard to the limitation described above in paragraph #1. This provision is designed to avoid and eliminate the need for a so-called *Kastigar* hearing at which the government would be obligated to demonstrate that none of its evidence was derived from statements that you made.

- 3. The government, including this Office, remains free to use any statements that you make or information that you provide during the proffer session, including derivative evidence, to rebut any contrary testimony, evidence, or argument that you or your attorney may offer, directly or through other witnesses or counsel, at any future hearing, trial, or other proceeding, including a criminal prosecution of you, without regard to the limitation described above in paragraph #1. Such use may occur during cross-examination or through the presentation of extrinsic evidence, or both.
- 4. You will provide only complete, truthful, and accurate information and refrain from providing incomplete, false, or misleading information. You must neither attempt to protect any person or entity through false or misleading information or omission, nor falsely implicate any person or entity. You must not minimize or exaggerate any information during your proffer. If this Office decides, in its sole discretion, that you have knowingly given false or misleading information, you will be subject to potential prosecution for any applicable federal criminal violations including, but not limited to, false statements and obstruction of justice. If such a prosecution is brought against you, the government, including this Office, will be free to use against you any and all statements that you made in your proffer session, as well as any evidence derived from such statements, without limitation.

This letter is not intended and should not be construed to limit the discretion of the government, including this Office, to determine whether federal criminal charges should be sought against any person (including you) in connection with this investigation, and, if so, what charges should be sought.

The parties agree that Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence have no application to any statements made during the proffer session.

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Any changes, additions, deletions, or amendments to this agreement must be in writing and signed by all of the parties.

Very truly yours,

BRUCE G. OHR

Chief, Organized Crime and Racketeering Section, Criminal Division United States Department of Justice

STEVEN D. CLYMER Assistant United States Attorney

I have received a copy of this letter, have read it, and have discussed it with my attorney. I agree to the terms set out in this letter. I acknowledge that this letter fully describes my agreement with the Organized Crime and Racketeering Section of the Criminal Division of the United States Department of Justice. I enter into this agreement freely and voluntarily. There have been no additional promises or representations, either express or implied, made to me.

Dated:	Carl Edward Johnson
of this letter and how it applies to hout in this letter. To my knowledge	d it to my client. I believe that he understands the contents im. With my agreement, my client agrees to the terms set e, he is entering into this agreement freely and voluntarily. In no additional promises or representations, either express
Dated:	Larry Joe Dowling