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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 3:06CR218
Plaintiff,)	
)	Judge David A. Katz
vs.)	
)	
Boni L. Segura,)	
)	
Defendant.)	<u>PLEA AGREEMENT</u>

Pursuant to Rule 11(c), Federal Rules of Criminal Procedure, the United States of America, by and through its attorney Thomas A. Karol, Assistant United States Attorney for the Northern District of Ohio, Western Division, and the Defendant, BONI L. SEGURA, after consulting with her attorney, Brian D. Jones, agree as follows.

Plea and Maximum Sentence

1. Defendant agrees to plead guilty to Count 1 of the Indictment in this case, because in fact she is guilty as charged in the Indictment. The defendant understands that the maximum statutory penalty upon conviction for labor union embezzlement in violation of 29 U.S.C. § 501(c), is five (5) years imprisonment, up to three (3) years of supervised release following any term of imprisonment, and up to a \$250,000.00 fine. Defendant understands that if a term of supervised release is imposed and she violates a condition of supervised release, she may be required to serve a term of imprisonment for the entire term of supervised release, without any

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credit for the supervised release time already served prior to the violation. Furthermore, there is a mandatory special assessment of \$100 imposed upon conviction.

Advice of Rights

2. The defendant, having been advised of her constitutional rights, including her right to a trial by jury, her right to confront and cross-examine witnesses against her, her right to testify if she so chooses and to call witnesses on her behalf, her right to be represented by an attorney at every stage of the proceedings against her, and her privilege against self-incrimination, knowingly and voluntarily waives these rights and privileges and agrees to enter a plea of guilty as set forth in paragraph 1 of this plea agreement. Defendant further acknowledges that a plea of guilty is not being entered as a result of force or threats.

Non-binding on Court

3. Defendant understands that the Court is not a party to and is not bound by this agreement nor any recommendations made by the parties. Thus, the Court is free to impose upon defendant any sentence up to and including the maximum sentence provided by law. Further, if the Court imposes a sentence with which defendant is dissatisfied, the defendant will not be permitted to withdraw any guilty plea for that reason alone, nor will the defendant be permitted to withdraw any plea should the Court decline to follow any recommendations by any of the parties to this agreement.

Sentencing Guidelines

4. Defendant understands that federal sentencing law requires the Court to impose a sentence which is reasonable and that the Court must consider the advisory U.S. Sentencing Guidelines in effect at the time of sentencing in determining a reasonable sentence.

Sentencing Stipulations and Agreements

5. The parties agree that the computations and stipulations set forth below are based upon readily provable facts.

a. From July 11, 2003, to June 30, 2004, the defendant was an office clerk and secretary of the International Union of Operating Engineers, Local 18.

b. While employed by the union, defendant embezzled \$5,729.20 from the union by a check substitution scheme in which she omitted or under recorded entry of check receipts to union records in order to disguise that she was withholding cash payments from deposit.

c. The base offense level is 6 under U.S.S.G. § 2B1.1(a)(2). There is a 2 level enhancement under U.S.S.G. § 2B1.1(b)(1)(B), as the loss amount is \$5,729.20. There is a 2 level enhancement under U.S.S.G. § 3B1.3, for abuse of position of trust. The parties agree and stipulate that there should not be an enhancement under U.S.S.G. § 3C1.1, for obstruction of justice.

6. The government agrees, that as of the date of this agreement, it is not aware of any circumstances that would prevent defendant from obtaining the maximum level of reduction available for acceptance of responsibility under the Sentencing Guidelines as provided in U.S.S.G. §3E1.1. Defendant understands that whether she is found to accept responsibility is dependant, in part, on her conduct and statements to both the Court and the United States Probation Officer.

Restitution

7. The defendant further understands that the Court will order defendant to pay restitution to the victims of the offense, such restitution to be determined by the time of sentencing.

Nonbinding Guideline Calculation

8. The parties contemplate that if the defendant is sentenced pursuant to the stipulations and reductions identified above, the defendant's final Offense Level would be 8 corresponding to a sentencing range of 0 to 6 months, which is Zone A (see U.S.S.G. § 5C1.1(b)), which permits for a sentence of probation. The parties base their non-binding guideline calculation on the defendant having a Criminal History Category I. The defendant understands and has discussed with her attorney that her Criminal History Category could be higher than Category I, resulting in a longer term of imprisonment.

Right to Appeal

9. Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255.

Defendant expressly waives those rights except as reserved below. Defendant reserves the right to appeal: (a) any punishment in excess of the statutory maximum; (b) any sentence to the extent it exceeds the maximum of the sentencing range determined under the advisory Sentencing Guidelines in accordance with the sentencing stipulations and computations in this agreement, using the Criminal History Category found applicable by the Court. Nothing in this paragraph shall act as a bar to the defendant perfecting any legal remedies defendant may otherwise have

on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

Right of Allocution

10 Both the government and the defendant reserve the right of allocution at the time of sentencing.

Voluntariness of Agreement


11. The defendant acknowledges that she has read this Plea Agreement, that she has had an opportunity to discuss it with her attorney, that she fully understands the agreement, that she is satisfied with the representation of her attorney, and that she is voluntarily signing the agreement. Furthermore, the attorney for the defendant acknowledges that he has discussed the agreement with the defendant, that he has fully explained the agreement to the defendant, and that he concurs in the defendant's decision to sign the agreement.

No Additional Agreements

12. Both the United States of America and defendant, agree that no additional promises, agreements, or conditions have been entered into other than those set forth in this agreement and none will be entered into unless in writing and signed by the parties.



Thomas A. Karol
Assistant United States Attorney



Brian D. Jones
Attorney for Defendant

8/8/2006
Date



Boni L. Segura
Defendant

Accepted
8/8/06
