

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA
2004 NOV -1 AM 10:28
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DANNY J. FULLER,)
)
Defendant.)

Cause No. IP 04-173-CR H/F

FILED
NOV 16 2004
U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA

INFORMATION

The United States Attorney charges that:

Beginning in or about October 1999 and continuing to approximately October 2002, in Shelbyville, Indiana, within the Southern District of Indiana,

DANNY J. FULLER

the defendant herein, then being an officer of a labor organization did embezzle and steal moneys and funds from the labor organization; to wit, DANNY J. FULLER, while holding the position of financial secretary in the Glass Molders Plastics Local 32 labor union, did embezzle and steal moneys and funds of said labor union in the approximate amount of \$19,546.19.

All of which is a violation of Title 29, United States Code, Section 501(c).



SUSAN W. BROOKS
United States Attorney

STATE OF INDIANA)
)
COUNTY OF MARION)

SS:

Gayle L. Helart, being first duly sworn, upon her oath deposes and says that she is an Assistant United States Attorney in and for the Southern District of Indiana, that she makes this affidavit for and on behalf of the United States of America and that the allegations in the foregoing Information are true as she is informed and verily believes.

Gayle L. Helart
Gayle L. Helart
Assistant United States Attorney

Subscribed and sworn to before me, a notary public, on this 22nd day of October, 2004.

Sharon Szeszycki
Sharon Szeszycki
Notary Public

My Commission Expires:
November 19, 2006
My County of Residence:
Hancock



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UNITED STATES OF AMERICA,)
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 Plaintiff,)
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 v.)
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 DANNY J. FULLER,)
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 Defendant.)

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

IP 04-CR-173-01 H/F

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PLEA AGREEMENT

The United States of America, by counsel, Susan W. Brooks, United States Attorney for the Southern District of Indiana, and by Gayle L. Helart, Assistant United States Attorney, and the Defendant, DANNY J. FULLER, in person and by counsel, James C. McKinley, hereby inform the Court that a Plea Agreement has been reached in this cause pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B) and the following is its terms and conditions:

1. DANNY J. FULLER agrees to plead guilty to a one Count Information charging him with a violation of Title 29, United States Code §501(c) (embezzling moneys and funds of a labor union of which he is an officer).

The statutory penalty for a violation of 29 U.S.C. §501(c) is a term of imprisonment of not more than 5 years, a fine of not more than \$250,000, and a term of supervised release of not more than 3 years. The elements of the offense alleged in Count One of the Information are: 1) the defendant was an officer of a labor organization; 2) at the time that the defendant was an officer, the defendant embezzled moneys and funds of the labor organization without authorization.

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GENERAL PROVISIONS

2. DANNY J. FULLER understands that, should the Court accept this Plea Agreement, he will be sentenced pursuant to the Sentencing Guidelines established by the United States Sentencing Commission. He understands that the final determination concerning the applicable guideline calculation, criminal history category, and sentencing guideline range will be made by the Court.

3. DANNY J. FULLER acknowledges that this Plea Agreement is governed by Federal Rule of Criminal Procedure 11(c)(1)(B) and that the determination of his sentence is within the discretion of the Court. He understands that if the Court decides to impose a sentence higher or lower than any recommendation of either party, or determines a different sentencing guideline range applies in this case, or decides to depart from the otherwise applicable sentencing guideline range pursuant to Title 18, United States Code, §3553(b), then he will not be permitted to withdraw his plea of guilty for that reason and will be bound by his plea of guilty.

4. DANNY J. FULLER understands and agrees that the Government's position is based on the information currently known to the Government.

SPECIFIC PROVISIONS

5. DANNY FULLER will pay a total of \$100 on the date of sentencing or as ordered by the Court to the Clerk, United States District Court, which amount represents the mandatory special assessment fee imposed pursuant to Title 18, United States Code, §3013.

6. At the time of sentencing, the Government will not ask the Court to impose an upward departure.

7. At the time of sentencing, the Government will make known to the Court the nature, extent and timing of the acceptance of responsibility of DANNY J. FULLER.

8. The parties agree that DANNY J. FULLER will be ordered to pay restitution to:

GMP International
608 E. Baltimore Pike
Media, PA 19063

in the amount of \$19,546.19, pursuant to 18 United States Code, §3663A (mandatory restitution to a victim who suffered a pecuniary loss). As of the date of this plea agreement, DANNY J. FULLER has paid \$680.00, leaving the restitution to be ordered paid in the amount of \$18,866.19.

9. DANNY J. FULLER understands that as a consequence of his guilty plea, he will be barred from serving as an officer in a labor organization for a period of thirteen (13) years after his conviction pursuant to 29 U.S.C. §504(a).

10. Both parties reserve the right to present evidence and arguments concerning whether the Court should impose a fine in this case and the amount of any such fine.

11. DANNY J. FULLER understands that he has the statutory right to appeal the sentence imposed and the manner in which the sentence was determined. Acknowledging this right and in exchange for the concessions made by the United States in this Plea Agreement, he agrees that in the event the Court sentences him to 12 months or less, he expressly waives his right to appeal the sentence conferred by Title 18, United States Code, §3742.

Additionally, he also expressly agrees not to contest his sentence or the manner in which it

was determined in any collateral attack, including, but not limited to, an action brought under Title 28, United States Code, §2255.

12. The parties further agree, in support of Count 1 of the Information, that the following facts are true:

- a. DANNY J. FULLER is currently a member of Glass Molders Plastics (GMP) Local 32, a labor organization, and has been a member since 1977. DANNY J. FULLER served as Financial Secretary, an officer position within the labor organization, from approximately October 1999 to October 2002.
- b. During the time DANNY J. FULLER was an officer and was serving as Financial Secretary of Local 32, he took moneys and funds without authorization. DANNY J. FULLER took moneys and funds by various means, including: 1) Charging personal items on the Local 32 credit card and using Local 32 moneys to pay the charges; 2) Taking unauthorized salary advances for his duties as an officer that were not repaid; 3) Submitting lost time vouchers for time he did not actually work on Local 32 union business; and 4) Submitting vouchers for "off day" pay for days he did not attend union meetings.
- c. DANNY J. FULLER agrees that the loss amount is \$19,546.19.

SENTENCING GUIDELINES STIPULATIONS

13. Pursuant to Section 6B1.4 of the Sentencing Guidelines, the parties agree to the Stipulations below. The parties understand and agree that these Stipulations are binding on the parties but are only a recommendation to the Court and that the Court will determine the

sentencing guidelines applicable in this case. The parties agree that no stipulation regarding any factors in Chapter 4, Criminal History Category, of the Sentencing Guidelines has been made, and that such determination will be made by the Court.

(a) The parties stipulate that Guideline §2B1.1 covers violations of 18 U.S.C. §501(c) (embezzlement by an officer of a labor union), and provides a base offense level of six (6).

(b) The parties stipulate that a four (4) level increase pursuant to §2B1.1(b)(1)(C) applies because the loss exceeded \$10,000.

(c) The parties stipulate that a two (2) level increase pursuant to §3B1.3 applies because the offense involved an abuse of a position of trust that significantly facilitated the commission or concealment of the offense.

Acceptance of Responsibility

14. To date, DANNY J. FULLER has demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. Based upon his willingness to accept a plea agreement and enter a plea of guilty to the criminal conduct noted in this agreement, the Government agrees that DANNY J. FULLER should receive a two (2) level reduction *provided* he satisfies the criteria set forth in Guideline §3E1.1(a) and (b) up to and including the time of sentencing. DANNY J. FULLER timely notified the government of his intention to enter a plea of guilty, thereby permitting the government and the court to allocate their resources efficiently. The parties reserve the right to present evidence and arguments concerning DANNY J. FULLER's acceptance of responsibility at the time of sentencing.

FINAL PROVISION

15. DANNY J. FULLER acknowledges that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this document, to induce DANNY J. FULLER to plead guilty. This document is the complete and only plea agreement between DANNY J. FULLER and the United States Attorney for the Southern District of Indiana and is binding only on the parties to this agreement, supersedes all prior understandings, if any, whether written or oral, and cannot be modified except in writing, signed by all parties and filed with the Court, or on the record in open court.

Respectfully submitted,

SUSAN W. BROOKS
United States Attorney

10/22/04
DATE

Gayle L. Helart
Gayle L. Helart
Assistant United States Attorney

10/22/04
DATE

Christina McKee
Christina McKee
Chief, Criminal Division

10/19/04
DATE

Danny Fuller
DANNY J. FULLER
Defendant

10/21/04
DATE

James C. McKinley
James C. McKinley
Attorney for Defendant

STATEMENT OF THE DEFENDANT

I have read the entire Plea agreement and discussed it with my attorney.

I understand all the terms of the Plea Agreement and those terms correctly reflect the results of plea negotiations.

I am fully satisfied with my attorney's representation during all phases of this case.

I am freely and voluntarily pleading guilty in this case.

I am pleading guilty as set forth in this Plea Agreement because I am guilty of the crime to which I am entering my plea.

My attorney has informed me, and I understand, that I have the right to appeal any conviction and sentence that I receive, unless I have waived my right to appeal as part of this Plea Agreement. If I have not waived my right to appeal, I understand that I must file a notice of Appeal within 10 days of the entry of the judgment in this case; I further understand that the Clerk of the Court will prepare and file a Notice of Appeal on my behalf if I ask that to be done. I also understand that the United States has the right to appeal any sentence that I receive under this Plea Agreement.

Finally, my attorney has informed me, and I understand, that if I provide or cause to be provided materially false information to a judge, magistrate-judge, or probation office, then Section 3C1.1 of the Sentencing Guidelines allows the Court to impose a two (2) level increase in the offense level.

10/19/04
Date


DANNY J. FULLER
Defendant

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No. IP 04¹⁷³-CR-01 H/T

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PETITION TO ENTER A PLEA OF GUILTY
and
REQUEST FOR PRESENTENCE INVESTIGATION

Defendant, individually and by counsel, petitions the court for leave to withdraw the plea of not guilty and enter a plea of guilty. The defendant represents to the Court as follows:

1. My full true name is Danny Joe Fuller.
2. My date of birth is .
3. My social security number is .
4. I can read and write the English language.
5. I have attended school and graduated from high school.
6. I have received a copy of the information. I have read the information and I have discussed it with my attorney and I understand the charges brought against me in this case.
8. I understand that the maximum statutory punishment for the charge

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against me is:

<u>Count</u>	<u>Imprisonment</u>	<u>Fine</u>	<u>Supervised Release</u>
1	5 years	\$250,000	3 years

9. I understand that I will be ordered to pay, at the time of sentencing, a Special Assessment of \$100.

10. I understand that I may have to pay a fine.

11. I understand that I may have to pay restitution.

12. I understand that I have the right to be represented by an attorney at every stage of this legal proceeding and if necessary an attorney will be appointed to represent me.

13. I understand that I have a right to plead "Not Guilty," or to persist in a "Not Guilty" plea already made, and that if I choose to plead "Not Guilty" the

Constitution guarantees me:

DF (a) the right to a speedy and public trial by jury in the district in which I am charged;

DF (b) the right to confront and cross-examine adverse witnesses;

DF (c) the right to use the power and the process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor, at my trial;

DF (d) the right to the assistance of counsel at every stage of the proceedings, including an appeal if need be;

DF (f) the right to remain silent, including a right not to be compelled to testify at my trial;

DF (f) the right to testify in my own defense at the trial; and

DF (g) a right to appeal my conviction and my sentence to a higher court even if I am financially unable to pay the cost of an appeal.

14. I understand that I am pleading guilty to a felony offense. I understand that if my plea of guilty is accepted by the Court, and I am adjudged guilty, I stand to lose valuable civil rights as a convicted felon, including the right to vote, the right to hold public office, the right to serve on a jury, and the right to own or possess a firearm or ammunition of any kind.

15. I understand that if my plea of guilty is accepted by the Court there will not be a further trial of any kind and that by pleading guilty I waive the right to a trial.

16. I am hopeful of receiving a lower sentence as a result of my guilty plea, but I understand that if I plead "Guilty," the Court may impose the same punishment as if I had pled "Not Guilty," had stood trial and been convicted by a jury.

17. Except for the provisions of the written plea agreement filed with the Court, I declare that no officer or agent of any branch of government (federal, state or local), nor any other person, has made any promise or suggestion of any kind to me, or within my knowledge to anyone else, that I would receive a lighter sentence or any other consideration if I would plead "Guilty," and no such person has made any threats against me if I exercise my right to go to trial.

18. I declare that I offer my plea of "Guilty" freely and voluntarily and of my own accord.

19. I waive the reading of the information in open court, I waive formal

arraignment, and I request the Court to accept and enter now my plea of "Guilty" to Count 1 of the Information.

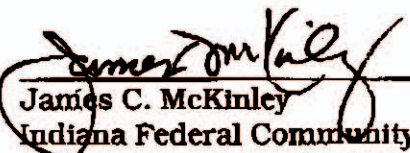
20. I request a presentence investigation by the probation office of this Court to be commenced immediately. I consent to the review of my presentence report by the Judge, by my attorney and myself, and by counsel for the government prior to the acceptance of my plea of guilty by the Court.

Dated: 10/19/04



Danny Joe Fuller

Dated: 10/21/04



James C. McKinley
Indiana Federal Community Defenders, Inc.
111 Monument Circle, Suite 752
Indianapolis, IN. 46204-5172
(317) 383-3520
Attorney for Defendant

CERTIFICATE OF SERVICE

I certify a copy of the foregoing Motion was personally served on Gayle Helart of the office of the United States Attorney for the Southern District of Indiana, October 21, 2004.

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James C. McKinley