



RECEIVED

NOV 10 2004
FEDERAL PUBLIC DEFENDER

U.S. Department of Justice
Karin J. Immergut
United States Attorney
District of Oregon
1000 S.W. Third Avenue, Suite 600
Portland, OR 97204-2902

Office: (503)727-1000
Fax: (503) 727-1117

Scott M. Kerin
Assistant United States Attorney

Direct: (503) 727-1002
Scott.Kerin@usdoj.gov

November 9, 2004

Chris Schatz
Assistant Federal Public Defender
Federal Public Defender's Office
101 SW Main St., Suite 1700
Portland, OR 97204

Re: United States v. Joy Torrance, CR 04-311 (MO)
Amended Plea Offer

Dear Mr. Schatz:

The government proposes that this matter be resolved as follows:

1. **Parties/Scope:** This plea agreement is between this United States Attorney's Office (USAO) and defendant, and thus does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority. This agreement does not apply to any other charges other than those specifically mentioned herein.
2. **Plea and Maximum Penalties:** Your client agrees to plead guilty to the indictment which charges her with embezzlement of labor union assets, in violation of 29 U.S.C. § 501(c). The maximum penalty for this offense is five years imprisonment, a \$250,000 fine, a three-year term of supervised release and a \$100 special fee assessment. Defendant agrees to pay the special assessment prior to sentencing.
3. **Summary of Factual Basis for the Plea:** The defendant agrees that on or between August 1, 1998 through October 31, 2003, in the District of Oregon, while employed as the secretary of the United Brotherhood of Carpenters and Joiners, Local 1094, a labor organization engaged in an industry affecting commerce, she embezzled, stole, and unlawfully and willfully abstracted and converted to her own use approximately \$31,640.02 of moneys and funds of said labor organization to which she was not entitled by:
 - A. Taking and converting to her own personal use union members monthly membership dues, initiation fees, and funds union members used to purchase Local 1094 merchandise;
 - B. Creating and distributing to herself unauthorized pay checks from Local 1094 checking account ;

C. Creating and issuing unauthorized checks from Local 1094's checking, savings, and money marketing accounts to herself and third parties to satisfy personal debts; and,

D. Using Local 1094's business credit card to make personal purchases .

4. **Resolution of Sentencing Issues (Blakey waiver):** In addition to waiving the right to a jury trial on the issue of guilt, defendant knowingly and voluntarily agrees that sentencing issues in this case do not need not be alleged in a grand jury indictment or proven to a trial jury. Defendant also knowingly and voluntarily consents to judicial fact finding and resolution of any and all sentencing issues. Defendant further agrees that her admissions and stipulations with respect to sentencing enhancements constitute proof beyond a reasonable doubt. Defendant will be sentenced under the United States Sentencing Guidelines (USSG).

5. **Relevant Conduct:** The parties agree that defendant's relevant conduct for sentencing purposes, pursuant to USSG §§ 2B1.1 and 1B1.3, is more than \$30,000 but less than \$70,000. The parties understand that the court will make the final determination of relevant conduct for sentencing purposes.

6. **Restitution:** This plea offer is conditioned upon defendant's compliance with 18 U.S.C. §§ 3663, 3663A and 3664, concerning victim restitution. The defendant agrees that the court's judgment order shall require her to pay full restitution to the United Brotherhood of Carpenters and Joiners, Local 1094, and their members. The government will ask that the court's judgment state that the entire amount of restitution due immediately and that any unpaid amounts be paid in monthly installments.

7. **Government's Sentencing Position:** In exchange for the agreements set forth above, the government agrees to:

A. Recommend a two-level reduction in offense level for acceptance of responsibility, pursuant to USSG §3E1.1(a). If defendant's total adjusted offense level is 16 or more and defendant accepts this plea agreement in a timely fashion, the government will then recommend a three-level total reduction in the offense level for acceptance of responsibility, pursuant to USSG §3E1.1(a) and (b).

B. If defendant's total adjusted offense level falls within Zone A or Zone B the government will recommend a non-custody sentence of probation. If defendant's sentencing range falls within Zone C or Zone D, the government will recommend a sentence at the low-end of the applicable range. The government reserves the right to ask the court to impose a fine in all cases, as well as community service in any probationary sentence.

- C. The USAO further agrees not to bring additional charges against defendant in the District of Oregon arising out of this investigation, known to the USAO at the time of this agreement.
- D. The government will not seek an upward adjustment based upon the abuse of trust provision of USSG § 3B1.3.

8. **Court Not Bound:** The defendant understands that pursuant to F.R.Crim.P. 11(c)(1)(B), the court is not bound to adopt or accept the government's recommendations. If the court refuses to accept the government's recommendations, defendant may not withdraw her guilty plea. Defendant understands that her total offense level and criminal history score will be determined by the court after a presentence report has been prepared for the court and parties.

9. **Departures:** The defendant is free to request a departure from the guidelines and the government is free to respond to any such request after receipt of the presentence report.

10. **Waiver of Appeal/Post-Conviction Relief:** Defendant also knowingly, intelligently, and voluntarily waives her right to appeal her conviction in this case. Defendant similarly knowingly, intelligently, and voluntarily waives her right to appeal the sentence imposed by the court, provided she is sentenced in accordance with the government's sentencing recommendations outlined above. In addition, defendant knowingly, intelligently, and voluntarily waives her right to bring a collateral challenge pursuant to 28 U.S.C. § 2255, against either her conviction, or the sentence imposed in this case, except for a claim of ineffective assistance of counsel.

11. **Full Disclosure/Reservation of Rights:** The USAO will fully inform the PSR writer and the court of the facts and law related to defendant's case. Except as set forth in this agreement, the parties reserve all other rights to make sentencing recommendations and to respond to motions and arguments by the opposition.

12. **Breach of Plea Agreement:** If defendant breaches the terms of this agreement, or commits any new criminal offenses between signing this agreement and sentencing, the USAO is relieved of its obligations under this agreement, but defendant may not withdraw any guilty plea.

13. **Total Agreement:** This letter sets forth the terms of a plea agreement between this office and your above-named client. This is the full agreement of the parties, and no further agreement should be inferred unless agreed to in writing.

14. **Deadline:** This plea offer expires if not accepted by November 12, 2004 at Noon.

Very truly yours,

KARIN J. IMMERGUT
United States Attorney


SCOTT M. KERIN
Assistant United States Attorney

Acceptance of Plea Agreement

United States v. Joy Torrance,

CR 04-311 (MO)

Plea Offer

I HAVE READ THIS AGREEMENT CAREFULLY AND REVIEWED EVERY PART OF IT WITH MY ATTORNEY. I UNDERSTAND AND VOLUNTARILY AGREE TO IT. I AM PLEADING GUILTY BECAUSE I AM GUILTY.

DATE: 11/11/04


JOY TORRANCE
DEFENDANT

I REPRESENT DEFENDANT AS HER LEGAL COUNSEL. I HAVE CAREFULLY REVIEWED EVERY PART OF THIS AGREEMENT WITH DEFENDANT. TO MY KNOWLEDGE HER DECISION TO ENTER INTO THIS AGREEMENT IS AN INFORMED AND VOLUNTARY ONE. I RECOMMEND THAT THE COURT ACCEPT AND FOLLOW THE AGREEMENT.

DATE: 11/11/04


CHRIS SCHATZ
COUNSEL FOR DEFENDANT