



U.S. Department of Justice

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Christopher L. Cardani  
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March 5, 2004

Mark Weintraub  
Assistant Federal Public Defender  
44 West Broadway, Suite 400  
Eugene, OR 97401

MAR - 8 2004

Re: United States v. Hubbard, CR 03-60111-01-AA  
**Plea Offer**

Dear Mark:

The following represents the government's plea offer in this case.

1) Mr. Hubbard will waive indictment by grand jury and plead guilty to the one count information charging him with a violation of Title 18, United States Code, Section 664. The offense is punishable by up to five years in prison, a \$250,000 fine and a period of supervised release. The elements of this offense are that defendant: willfully stole, embezzled or converted property to his own use or the use of another; and that the property belonged to an employee benefit plan subject to the Employee Retirement Income Security Act. Mr. Hubbard agrees that the government can prove each of these elements beyond a reasonable doubt.

2) We agree that the loss for purposes of the 2003 edition of the United States Sentencing Guidelines, including relevant conduct, is more than \$10,000, but less than \$30,000, and that the offense involved an abuse of trust as that term is defined in §3B1.3 of the Guidelines. The loss is comprised of \$18,002 which Mr. Hubbard unlawfully utilized from the Roofer's Union Local 156 Vacation Fund. We agree that any other losses sustained by the Union are not readily provable for purposes of sentencing.

3) Mr. Hubbard agrees, pursuant to 18 U.S.C. §3664(d)(3) (The Mandatory Victims Restitution Act or MVRA), to prepare and file with the probation officer an affidavit fully describing his financial resources, including a complete listing of all assets he owns or controls, all of his and his dependents' financial needs and earning abilities, and other information that the court requires relating to such other factors as the court deems appropriate, so restitution may be ordered.



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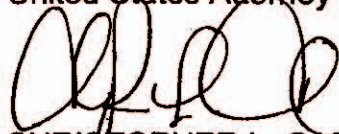
- 4) The government agrees that, by entering a guilty plea pursuant to this plea offer, and by agreeing to the factual and legal basis set forth in the Information, and by his agreement to comply with the MVRA as described above, Mr. Hubbard will have demonstrated acceptance of responsibility, and the government will therefore recommend a two level downward adjustment pursuant to Sentencing Guideline §3E1.1. Should Mr. Hubbard engage in conduct inconsistent with acceptance of responsibility after the plea, the government reserves the right to oppose the downward adjustment.
- 5) The government will not seek an upward departure or any upward adjustments not mentioned in this letter. Mr. Hubbard will not seek a downward departure or any downward adjustments not mentioned in this letter.
- 6) The government will agree to recommend that Mr. Hubbard be sentenced to a five year term of probation, with a special condition that he serve a six month term of home detention, if he qualifies for such a sentence.
- 7) So long as the court accepts the sentencing recommendations in this offer, Mr. Hubbard agrees to waive all rights he would otherwise have to appeal his conviction or sentence on any ground whatsoever. Mr. Hubbard also agrees not to file a habeas petition under 28 U.S.C. §2255 on any ground except for ineffective assistance of counsel or retroactive amendments to the Guidelines.
- 8) Mr. Hubbard understands that, as part of the preparation of a presentence report and for the sentencing hearing, the U.S. Attorneys Office will provide the U.S. Probation Office all of the information collected during the investigation in this case, and meet with representatives of that office to discuss the case. Mr. Hubbard also understands and agrees that the victims of his offense may provide information to the court or probation office, to include providing testimony at the sentencing hearing or the submission of victim impact statements supplied to them by probation or the U.S. Attorney's Office.
- 9) This agreement will be governed by Federal Rule of Criminal Procedure 11(c)(1)(B), meaning that the agreements herein are not binding on the court and may be rejected by the court. If so, Mr. Hubbard agrees that he may not withdraw his guilty plea.
- 10) This agreement represents the entire agreement between the government and Mr. Hubbard

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11) This plea offer will remain open until Monday, March 21, 2004. If the offer is accepted, please sign in the spaces below and return a copy to me. We will then ask the Court to schedule a time for the plea hearing.

Very truly yours,

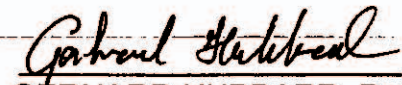
KARIN J. IMMERGUT  
United States Attorney



CHRISTOPHER L. CARDANI  
Assistant U.S. Attorney

I, GERHARD HUBBARD HAVE READ THIS AGREEMENT CAREFULLY AND REVIEWED EVERY PART OF IT WITH MY ATTORNEY. I UNDERSTAND THE TERMS OF THIS AGREEMENT AND VOLUNTARILY AGREE TO EVERY TERM.

DATE: 3-24-04



GERHARD HUBBARD, Defendant

DATE: 3-24-04



MARK WEINTRAUB, Attorney for Defendant

cc: Greg Michigan



**RECEIVED**  
APR 02 2004

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**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
CRIMINAL MINUTES**

U.S. ATTORNEY  
EUGENE, OR

**CASE NO: CR 03-60111-1-AA**

**DATE: April 2, 2004**

**PRESIDING JUDGE: ANN AIKEN**

**DEPUTY CLERK: Leslie Engdall**

**COURT REPORTER: Kristi Anderson**

Record of hearing on defendant's oral motion to change plea: Defendant placed under oath. Waiver of indictment filed. Defendant enters plea of guilty to one count information. Ordered defendant referred to Probation Office for presentence investigation, and case continued for sentencing to Tuesday, June 22, 2004, at 9:30 a.m.

**UNITED STATES OF AMERICA**

v.  
Defendant:

**Christopher Cardani,  
Asst. U.S. Attorney  
DEFENDANT'S COUNSEL**

1. **GERHARD HUBBARD**  
X Present Custody X Released

**Mark Weintraub**  
X Present X Appointed Retained

cc:  Chambers  Probation Officer  
 Counsel of Record  U.S. Marshal  
 Judge Hogan  Pretrial Services Officer

**CRIMINAL MINUTES**

**DOCUMENT NO: \_\_\_\_\_**