

**UNITED STATES DISTRICT COURT
District of Oregon**

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

v.

Dennis Paul Talbott

Case Number: Cr. 02-488 BR

Michael Levine, Pat McLaughlin
Defendant's Attorney

FILED 04 JUL 15 14 43 500 ORF

THE DEFENDANT:

- pleaded guilty to count(s) 1.
- pleaded nolo contendere to count(s) ___ which was accepted by the court.
- was found guilty on count(s) ___ after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18:1954	Accepting a Granuity in Connection with Duties as Trustee for Employee Benefit Plan	9/1998	1

The defendant is sentenced as provided in pages 2 through ___ of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) ___, and is discharged as to such count(s). Count(s) ___ (is)(are) dismissed on the motion of the United States.
- Defendant shall pay a special assessment in the amount of \$ 100.00 for Count(s) 1 payable immediately to the Clerk, U.S. District Court.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and the United States Attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: July 15, 2004

Certified to be a true and correct copy of original.
Dated 7/15/04
Donald M. Cinnamon, Clerk
BY [Signature] Deputy

[Signature]
Signature of Judicial Officer
ANNA J. BROWN, U.S. DISTRICT JUDGE
Name & Title of Judicial Officer

Date: 15 July 2004

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Defendant: Dennis Paul Talbot
Case Number: CR 02-488 BR

PROBATION

The defendant is hereby placed on probation for a term of 3 years

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter.

The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with any additional conditions attached to this judgment.

SPECIAL CONDITIONS OF PROBATION

- . The defendant shall pay a fine of \$1,000.00 as indicated below.
- . If the defendant is unable to pay the fine in full within 60-days, maximum monthly payments shall be made in an amount not less than 200.00 per month.
- . If the defendant is unable to pay the fine in full within 60-days, the defendant shall authorize release to the U.S. Probation Officer any and all financial information by execution of a release of financial information form, or by any other appropriate means, as directed by the probation officer.
- . If the defendant is unable to pay the fine in full within 60-days, the defendant shall disclose all assets and liabilities to the probation officer. Defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the probation officer.
- . Probation shall be supervised in the District of Oregon, and defendant may report by correspondence as determined by the probation officer.

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

The Judges of the District of Oregon adopt the following standard conditions of probation and supervised release to apply in every case in which probation and/or supervised release is imposed upon a defendant. The individual judge may impose other conditions deemed advisable in individual cases of probation or supervised release supervision, as consistent with existing or future law.

1. The defendant shall report in person to the probation office for the district to which he or she is released within 72 hours of release from the custody of the Bureau of Prisons.

2. The defendant shall not commit another federal, state or local crime and shall not illegally possess a controlled substance. Revocation of probation or supervised release is mandatory for illegal possession of a controlled substance.

3. The defendant shall not possess a firearm, destructive, or dangerous device.

4. If the defendant illegally uses drugs or abuses alcohol, has a history of drug or alcohol abuse, or drug use or possession is determined to be an element of the defendant's criminal history or instant offense, the defendant shall participate in a substance abuse treatment program as directed by the probation officer which may include urinalysis testing to determine if the defendant has used drugs or alcohol.

5. The defendant shall submit to a search of his/her person, residence, office or vehicle, when conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

6. The defendant shall not leave the judicial district without the permission of the court or probation officer.

7. The defendant shall report to the probation officer as directed by the court or probation officer, and shall submit a truthful and complete written report within the first five days of each month.

8. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer. The defendant may decline to answer inquiries if a truthful response would tend to incriminate him/ her. Such a refusal to answer may constitute grounds for revocation.

9. The defendant shall support his/ her dependents and meet other family responsibilities to the best of his or her financial ability.

10. The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.

11. The defendant shall notify the probation officer within 72 hours of any change in residence or employment.

12. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician. If at any time, the probation officer has reasonable cause to believe the defendant is using illegal drugs or is abusing alcohol, the defendant shall submit to urinalysis testing, breathalyzer testing, or reasonable examination of the arms, neck, face, and lower legs.

13. The defendant shall not knowingly frequent places where controlled substances are illegally sold, used, distributed, or administered.

14. The defendant shall not knowingly associate with any persons engaged in criminal activity, and shall not knowingly associate with any person convicted of a felony unless granted permission to do so by the probation officer.

15. The defendant shall permit a probation officer to visit him/her at any reasonable time at home or elsewhere, and shall permit confiscation of any contraband observed in plain view by the probation officer.

16. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.

17. The defendant shall not enter into any agreement to act as an informant or special agent of a law enforcement agency without the permission of the court.

18. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by his or her criminal record or personal history and characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such a notification requirement. This requirement will be exercised only when the probation officer believes a reasonably foreseeable risk exists or a law mandates such notice. Unless the probation officer believes the defendant presents an immediate threat to the safety of an identifiable individual, notice shall be delayed so the probation officer can arrange for a court hearing and the defendant can obtain legal counsel.

Defendant: Dennis Paul Talbott

Case Number: CR 02-488 BR

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in this judgment.

<u>Fine</u>	<u>Restitution</u>	<u>TOTAL</u>
\$ 1,000.00	\$	\$ 1,000.00

The determination of restitution is deferred until ___ An Amended Judgment in a Criminal Case (AO 245c) will be entered after such determination.

The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. §3664(I), all non-federal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
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TOTALS	\$ ___	\$ ___
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If applicable, restitution amount ordered pursuant to plea agreement \$ ___

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

___ The interest requirement is waived for the ___ fine and/or ___ restitution.

___ The interest requirement for the ___ fine and/or ___ restitution is modified as follows:

Any payment shall be divided proportionately among the payees named unless otherwise specified.

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

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SCHEDULE OF PAYMENTS - Probation

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A Lump sum payment of \$ ___ due immediately, balance due
 ___ not later than ___, or
 ___ in accordance with C ___ or D ___ below; or
- B Payment to begin immediately (may be combined with C ___ or D ___ below);
- C Payment in monthly installments of not less than \$ ___ over a period of ___ (e.g., months) to commence immediately on the date of this judgment; or
- D Special instruction regarding the payment of criminal monetary penalties:

If defendant is unable to pay the fine imposed in full within 60-days, maximum monthly installments shall be paid in an amount not less than \$200 per month.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court at the address below, unless otherwise directed by the court, the probation officer, or the United States attorney.

Clerk, US District Court
1000 S.W. Third Avenue
Suite 740
Portland, OR 97204-2902

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant Name, Case Number, and Joint and Several Amount:

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court costs:

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

CR. No. 02-488 BR

Plaintiff,

ORDER

v.

Dennis Paul Talbott,

Defendant.

**FINDINGS OF FACT ORDER
(STATEMENT OF REASONS)**

(1) **Adjudication:** Defendant has been adjudged guilty of the crime of Accepting Gratuity in Connection with Duties as Trustee for Employee Benefit Plans in violation of 18 U.S.C. § 1954 as charged in Count 1 of the Information.

(2) **Presentence Report:** A Presentence Investigation Report (PSR) dated February 12, 2003, and Addendum thereto dated April 19, 2004, have been prepared and presented for review and comment pursuant to Federal Rule of Criminal Procedure 32 without any information being withheld.

The following are identified tentatively in the PSR:

- Sentencing Guidelines range at 4-10 months,
- Offense Level Total of 9, and
- Criminal History Category of I.

(3) **Resolution of Objections and Disputes to the PSR:** Specific objections and legal disputes were raised concerning the statements and conclusions contained in the PSR and were resolved by argument during the sentencing hearing held July 15, 2004. Resolution of the specific objections are indicated below:

Objection (A): Defendant objected to imposition of Restitution as recommended in the PSR. Defendant argued he lacks financial resources to pay restitution, Capital Consultants is not the victim of the crime charges, and the victim, the Sheet Metal Workers' Local Union or trust fund, has entered into a settlement agreement with him. The Government concurred with the PSR writer's recommendation for the imposition of Restitution.

Decision (A): The Court finds that imposition of Restitution is not required by law and, in the exercise of discretion, the Court concludes no Restitution is warranted in this case.

The Court also finds all uncontroverted facts contained in the Presentence Report to be true and accurate.

(4) **Credit for Acceptance of Responsibility:** The Court finds Defendant properly was given a 2-point reduction (from the Adjusted Offense Level of 11) at paragraph 26 for acceptance of responsibility. This leads to a Total Offense Level of 9.

(5) **Adoption of the Presentence Report:** Other than those paragraphs previously amended, clarified, adjusted, or on which no finding is necessary, the Court adopts the Presentence Report referenced in paragraph (2) above as its own findings and conclusions.

(6) **Departure(s) from the Sentencing Guidelines:** The Government moved for a 2-level

downward departure pursuant to Guideline §5K1.1 based on Defendant's substantial assistance to the Government.

In the exercise of its discretion, the Court finds a departure is warranted. This leads to a Total Offense Level of 7, in Criminal History Category I, for an appropriate Sentencing Guideline Range of 0-6, in Zone A of the Sentencing Table.

(7) **Sentence:**

(A) **Probation:** Defendant is placed on probation for a period of 3 years subject to the standards of supervision adopted in this District and subject to the following special conditions:

1. The defendant shall pay a fine of \$1,000.00 as indicated below.
2. If the defendant is unable to pay the fine in full within 60-days, maximum monthly payments shall be made in an amount not less than \$200.00 per month.
3. If the defendant is unable to pay the fine in full within 60-days, the defendant shall authorize release to the U.S. Probation Officer any and all financial information by execution of a release of financial information form, or by any other appropriate means, as directed by the probation officer.
4. If the defendant is unable to pay the fine in full within 60-days, the defendant shall disclose all assets and liabilities to the probation officer. Defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the probation officer.
5. Probation shall be supervised in the District of Oregon, and defendant may report by correspondence as determined by the probation officer.

(B) **Application of the Sentencing Guidelines:** The sentence is within the Sentencing Guideline range, and that range does not exceed 24 months.

(C) **Fee Assessment:** Pursuant to 18 U.S.C. § 3013, Defendant shall pay a fee assessment of \$100.00.

(D) **Fine Assessment:** A fine in the amount of \$1,000.00 is imposed, as indicated in the Judgment.

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(E) **Restitution:** No restitution is imposed.

DATED this 15th day of July, 2004.


ANNA J. BROWN
United States District Judge

Defendant's SSN:
Defendant's DOB:
Defendant's USM No.:
Defendant's Mailing Address:

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