

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

FILED
J.S. DISTRICT COURT
EVANSVILLE DIVISION
2005 MAR 29 PM 1:10

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 BERNARD P. SCHELLER,)
)
 Defendant.)

Cause No. EV 05- 09 -CR-01-Y/H

INFORMATION

[29 U.S.C. § 501(c)- Embezzlement by a Labor Organization Officer]

The United States Attorney charges that:

Between July 20, 2000 and May 1, 2003, in the Southern District of Indiana,
Evansville Division,

BERNARD P. SCHELLER,

the defendant herein, when he was the secretary-treasurer of the Communications Workers of America, Local 14448, a labor organization, did embezzle, steal, and unlawfully and willfully convert to his own use and the use of another the monies, funds, property and other assets of the Communications Workers of America, Local 14448, in the approximate sum of \$22,250.00, by writing checks from the Local 14448 Mailers Union account to himself and forging the required co-signature on the checks.

All in violation of Title 29, United States Code, Section 501(c).

Susan W. Brooks
SUSAN W. BROOKS *RAM*
United States Attorney

STATE OF INDIANA)
)
COUNTY OF VANDERBURGH) SS:

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

Todd S. Shellenbarger
Todd S. Shellenbarger
Assistant United States Attorney

Subscribed and sworn to before me, a notary public, on this 21st day of March, 2005.

Deborah E. Barton
Notary Public, Deborah E. Barton

My Commission Expires:
November 4, 2009

My County of Residence:
Vanderburgh

UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,)
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 Plaintiff,)
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 v.)
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 BERNARD P. SCHELLER,)
)
)
 Defendant.)

Cause No. EV ⁰⁵⁻⁰⁹ -CR- 01-4/H

PLEA AGREEMENT

Comes now the United States of America, by counsel, Susan W. Brooks, United States Attorney for the Southern District of Indiana, and Todd S. Shellenbarger, Assistant United States Attorney, and the Defendant, BERNARD P. SCHELLER, in person and by counsel, Glenn Grampp, and 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 are its terms and conditions:

1. BERNARD P. SCHELLER will waive indictment and enter a plea of guilty to the offense charged in the Information, a violation of 29 U.S.C. § 501(c) (Embezzlement of Labor Organization Funds).
2. The elements of the offense are:
 - A. The defendant, while an officer of a labor organization, did unlawfully and willfully;

B. embezzle, steal, and convert to his own use or the use of another;

C. the monies, funds, property and other assets of the labor organization.

3. The penalties for a violation of 29 U.S.C. § 501(c), Embezzlement of Labor Organization Funds, are not more than 5 years imprisonment, a fine of not more than \$10,000, and a term of supervised release of not more than 3 years.

GENERAL PROVISIONS

4. BERNARD P. SCHELLER understands that, should the Court accept this plea agreement, the Court will use its discretion to fashion a sentence within the statutory range set forth in Paragraph 3. BERNARD P. SCHELLER agrees and understands that the Court will consider the factors set forth in 18 U.S.C. § 3553(a) in determining the appropriate sentence within the statutory range. BERNARD P. SCHELLER understands that the final determination concerning the advisory guideline calculation, criminal history category, and sentencing guideline range will be made by the Court.

5. BERNARD P. SCHELLER 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. BERNARD P. SCHELLER 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, Section 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.

SPECIFIC PROVISIONS

6. BERNARD P. SCHELLER will waive indictment and plead guilty to the offense charged in the Information.

7. BERNARD P. SCHELLER will pay a total of \$100.00 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, Section 3013.

8. BERNARD P. SCHELLER will provide all requested financial information to the Financial Litigation Unit of the United States Attorney's Office for the Southern District of Indiana for use in the collection of any fines or restitution imposed by the Court. The parties agree that BERNARD P. SCHELLER has made full restitution to Local 14448 in this case.

9. BERNARD P. SCHELLER understands that pursuant to Title 29, United States Code, Section 504, he will be prohibited from serving as an officer or in any other position described by that Statute in or for any labor organization, other than in his capacity as a member, for a period of thirteen (13) years after conviction or after the end of any term of imprisonment, whichever is later.

10. BERNARD P. SCHELLER acknowledges and agrees that nothing in this agreement shall protect him in any way from prosecution for any offense not specifically covered by this agreement.

11. The parties agree that the amount of fine and term of supervised release that may be imposed shall be determined by the Court at the time of sentencing.

12. The government agrees not to oppose any request made by BERNARD P.

SCHELLER for a recommendation by the Court that BERNARD P. SCHELLER serve any period of imprisonment in a specific facility. BERNARD P. SCHELLER acknowledges and understands that any recommendation by the Court does not bind the United States Bureau of Prisons.

13. The defendant is free to argue for any sentence which is not inconsistent with the stipulations set forth below.

14. BERNARD P. SCHELLER understands that he has a statutory right to appeal the conviction and 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, BERNARD P. SCHELLER expressly waives his right to appeal the conviction and sentence imposed in this case on any ground, including the right to appeal conferred by Title 18, United States Code, Section 3742. Additionally, BERNARD P. SCHELLER expressly agrees not to contest his conviction and sentence or the manner in which his conviction and sentence were determined in any collateral attack, including, but not limited to, an action brought under Title 28, United States Code, Section 2255.

15. BERNARD P. SCHELLER agrees and understands that the Court will use its discretion to fashion a sentence within the statutory range set forth in Paragraph 3. BERNARD P. SCHELLER agrees and understands that the Court will consider the factors set forth in 18 U.S.C. § 3553(a) in determining the appropriate sentence within the statutory range. BERNARD P. SCHELLER agrees and understands that the Court will also consult and take into account the United States Sentencing Guidelines ("Sentencing Guidelines" or "U.S.S.G.") in determining the appropriate sentence within the statutory range. BERNARD P. SCHELLER agrees and

understands that the Sentencing Guidelines are not mandatory or binding on the Court, but are advisory in nature. BERNARD P. SCHELLER agrees and understands that the final determination of the sentence, including the applicable advisory guideline calculation, criminal history category, and advisory sentencing guideline range will be made by the Court.

SENTENCING GUIDELINES STIPULATIONS

16. 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 advisory 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. The 2004 version of the Sentencing Guidelines Manual has been used by the parties to make the stipulations specified below:

- A. Pursuant to U.S.S.G. § 2B1.1(a)(2) the base offense level is 6. Because the offense involved a loss of more than \$5,000 and less than \$10,000, 2 levels are added pursuant to U.S.S.G. § 2B1.1(b)(1)(B). The defendant will stipulate that the evidence available to the government in this case establishes beyond a reasonable doubt that the guideline loss amount is more than more than \$5,000 and less than \$10,000. This amount reflects a credit against the loss pursuant to Application Note 3(E) of U.S.S.G. § 2B1.1 based on the defendant's return of approximately \$14,750 to Local 14448 before the offense was detected.
- B. Pursuant to U.S.S.G. § 3B1.3 2 levels are added because the defendant abused a position of private trust.
- C. To date the defendant has demonstrated acceptance of responsibility for his criminal conduct. In the event that he continues to accept responsibility, the defendant should receive a 2 level reduction under section 3E1.1(a).

- D. No other specific offense characteristics, Chapter 3 adjustments, or Chapter 5 departures are applicable.

FINAL PROVISIONS

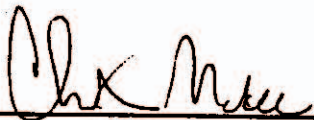
17. BERNARD P. SCHELLER acknowledges that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this document, to induce BERNARD P. SCHELLER to plead guilty. This document is the complete and only plea agreement between BERNARD P. SCHELLER and 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.

18. The terms of this agreement shall not be binding on the Office of the United States Attorney for the Southern District of Indiana, or upon BERNARD P. SCHELLER, until signed by BERNARD P. SCHELLER and his counsel and by counsel for the United States of America.


Respectfully submitted,

SUSAN W. BROOKS
UNITED STATES ATTORNEY

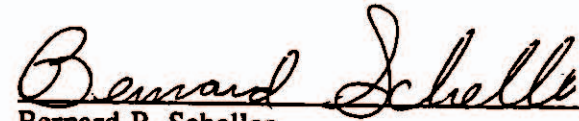
3/25/05
DATE


Christina McKee
Chief, Criminal Division


3-17-05
DATE


Todd S. Shellenbarger
Assistant United States Attorney

3-14-05
DATE


Bernard P. Scheller
Defendant

3-15-05
DATE


Glenn Grampp
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(s) to which I am entering my plea(s).

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 officer, then Section 3C1.1 of the Sentencing Guidelines allows the Court to impose a two (2) level increase in the offense level.

3-14-05
DATE


Bernard P. Scheller
Defendant

United States District Court

SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA

SUMMONS IN A CRIMINAL CASE

v.

BERNARD P. SCHELLER

CASE NUMBER: EV 05- 09 CR-01-Y/H

YOU ARE HEREBY SUMMONED to appear before the United States District Court at the place, date and time set forth below.

Place	FEDERAL COURTHOUSE 101 N.W. MLK, JR. BLVD. EVANSVILLE, IN 47707	Room	335
Before:	WILLIAM G. HUSSMANN, JR., U.S. MAGISTRATE JUDGE	Date and Time	4/25/2005 @ 2:45 P.M.

To answer a(n)

Indictment Information Complaint Violation Notice Probation Violation Petition

Charging you with a violation of Title 29, United States Code, Section 501(c).

Brief description of offense:

embezzlement by a labor organization officer


CLERK

Signature of Issuing Officer

3/29/2005

Date

Name and Title of Issuing Officer

