ORIGINAL

FILED IN OPEN COURT
U.S.D.C Atlanta

MAY 2 2007

JAMES N. HATTEN, Clerk
By Deputy Clerk

GUILTY PLEA and PLEA AGREEMENT

United States Attorney
Northern District of Georgia

Antitrust Division
Atlanta Field Office

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CRIMINAL NO. 1:07-CR-139

EVELYN MYERS SCOTT, defendant, having received a copy of the above-numbered Criminal Information and having waived indictment, hereby pleads GUILTY to Count(s) One thereof. The defendant, her counsel, the United States Attorney for the Northern District of Georgia and the United States Department of Justice – Antitrust Division (both the United States Attorney for the Northern District of Georgia and the United States Department of Justice – Antitrust Division collectively referred to herein as "the Government"), subject to approval by the Court, have agreed upon a negotiated plea in this case, the terms of which are as follows:

ADMISSIONS

1. The defendant admits that she is pleading guilty because she is in fact guilty of the crime charged in Count One of the Criminal Information.

WAIVERS

2. The defendant understands that by pleading guilty, she is giving up the right to plead not guilty and the right to be tried by a jury. At a trial, the defendant would have the right to an attorney, and if the defendant could not afford an attorney, the Court would appoint one to represent the defendant. During the trial, the defendant would be presumed innocent and the Government would have the burden of proving

her guilty beyond a reasonable doubt. The defendant would have the right to confront and cross-examine the witnesses against her. If the defendant wished, she could testify on her own behalf and present evidence in her defense, and she could subpoena witnesses to testify on her behalf. If, however, the defendant did not wish to testify, that fact could not be used against her. If the defendant were found guilty after a trial, she would have the right to appeal the conviction. The defendant understands that by pleading guilty, she is giving up all of these rights and there will not be a trial of any kind. The defendant also understands that she ordinarily would have the right to appeal her sentence and, under some circumstances, to attack the sentence in post-conviction proceedings. By entering this Plea Agreement, the defendant may be waiving some or all of those rights to appeal or collaterally attack her sentence, as specified below. Finally, the defendant understands that, to plead guilty, she may have to answer questions posed to her by the Court concerning the rights that she is giving up and the facts of this case, and the defendant's answers, if untruthful, may later be used against her in a prosecution for perjury or false statements.

3. APPEAL WAIVER. The defendant understands that 18 U.S.C. § 3742 provides for the appeal by a defendant of her sentence under certain circumstances. To the maximum extent permitted by federal law, the defendant voluntarily and expressly waives the right to appeal her sentence and the right to collaterally attack her sentence in any post-conviction proceeding on any ground (to include, but not limited to, any motions pursuant to 28 U.S.C. §§ 2254 or 2255), except if the Court imposes a sentence higher than the advisory sentencing guidelines range or a sentence higher than the statutory maximum. The defendant understands that this Agreement

does not limit the Government's right to appeal, but if the Government files an appeal, the Defendant may also appeal.

SENTENCING INFORMATION

4. The defendant understands that, based on her plea of guilty, she will be subject to the following maximum and mandatory minimum penalties:

(a) Maximum term of imprisonment: 5 years

(b) Mandatory minimum term of imprisonment: none

(c) Term of supervised release: 0 years to 3 years.

(d) Maximum fine: $250,000.

(e) Full restitution to all victims of the offense(s) and relevant conduct.

(f) Mandatory special assessment: $100.

5. Application of the Sentencing Guidelines. The defendant understands that, before imposing sentence in this case, the Court will be required to consider, among other factors, the provisions of the United States Sentencing Guidelines. Ultimately, it is within the Court's discretion to impose a sentence up to and including the statutory maximum. The defendant also understands that no one can predict her exact sentence at this time.

6. Guidelines Recommendation. The Government agrees to recommend that the Defendant be sentenced to the LOW END of the applicable guidelines range. The Government also agrees to recommend that, pursuant to U.S.S.G. § 3B1.2(b), Defendant should receive a 2 level role adjustment as a minor participant.

7. Staggered Sentencing Recommendation. The Government will recommend that defendant Arthur R. Scott's and defendant Evelyn Myers Scott's custodial sentences be staggered so as to ensure, to the extent possible, that their service of same does not substantially overlap.

8. Acceptance of Responsibility. The Government will recommend that the defendant receive the two-level adjustment for acceptance of responsibility pursuant to Section 3E1.1 of the Sentencing Guidelines, and the additional one-level adjustment if the offense level is 16 or higher. However, the Government will not be required to recommend acceptance of responsibility if, after entering this Plea Agreement, the defendant engages in conduct inconsistent with accepting responsibility. Thus, by way of example only, should the defendant falsely deny or falsely attempt to minimize her involvement in relevant offense conduct, give conflicting statements about her involvement, fail to pay the special assessment, or participate in additional criminal conduct, including unlawful personal use of a controlled substance, the Government will not be required to recommend acceptance of responsibility.

ADDITIONAL PROVISIONS

9. Restitution. The defendant agrees to pay full restitution to all victims of the offense(s) to which she is pleading guilty and any relevant conduct. The defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing, but agrees that the total of such restitution, including relevant conduct and loss amount, is at least $323,524.50. The defendant also agrees to

cooperate fully in the investigation of the amount of restitution and the identification of victims.

The defendant also agrees to cooperate fully in the investigation of the amount of restitution and in the identification of assets to be applied toward restitution. The defendant's cooperation obligations include fully and truthfully completing the Department of Justice's Financial Statement of Debtor form within ten (10) days of the change of plea hearing; submitting to a financial deposition or an interview or interviews (if necessary) regarding her past and present financial condition as well as that of all members of her household, prior to sentencing; providing any documentation requested by the Government regarding her financial condition as well as that of all household members; and fully and truthfully answering all questions regarding her past and present financial condition in such interview(s).

The Defendant also agrees that the full amount of restitution ordered by the Court shall be considered due and payable immediately. If the Defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the Probation Office at any time, she agrees that the custodial agency and the Probation Office will have the authority to establish payment schedules to ensure payment of restitution. The Defendant further agrees to cooperate fully in efforts to collect her restitution obligation by set-off of program payments, execution on non-exempt property, and any other means the Government deems appropriate.

10. Cooperation. The Defendant agrees to cooperate truthfully and completely with the Government, including being debriefed and providing truthful testimony at any proceeding resulting from or related to cooperation. The Defendant also agrees to disclose the existence of and to produce to the Government any and all books,

papers, documents, and other items of evidentiary value that are in her actual or constructive possession. The Defendant understands that the Government alone will determine what forms of cooperation to request from the defendant, and the Defendant agrees that he will not engage in any investigation that is not specifically authorized by the Government.

The Government agrees to make the extent of the Defendant's cooperation known to the sentencing court. In addition, if the cooperation is completed before sentencing and the Government determines that such cooperation qualifies as "substantial assistance" pursuant to Title 18, United States Code, Section 3553(e) and/or Section 5K1.1 of the Sentencing Guidelines, the Government will consider whether to file a motion at sentencing recommending a downward departure from the applicable guideline range. If the cooperation is completed after sentencing and the Government determines that such cooperation qualifies as "substantial assistance" pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, the Government will consider whether to file a motion for reduction of sentence. In either case, the Defendant understands that the determination as to whether she has provided "substantial assistance" rests solely with the Government. Good faith efforts by the Defendant that do not substantially assist in the investigation or prosecution of another person who has committed a crime will not result in either a motion for downward departure or a Rule 35 motion. The Defendant also understands that, should the Government decide to file a motion pursuant to this paragraph, the Government may recommend any specific sentence, and the final decision as to what credit, if any, the Defendant should receive for his cooperation will be determined by the Court. If the Defendant fails to cooperate truthfully and completely, or if the Defendant engages in additional criminal conduct or other conduct inconsistent with

cooperation, she will not be entitled to any consideration whatsoever pursuant to this paragraph.

Pursuant to Section 1B1.8 of the Sentencing Guidelines, the Government agrees that any self-incriminating information that was previously unknown to the Government and is provided to the Government by the defendant in connection with cooperation will not be used in determining the applicable sentencing guideline range, although such information may be disclosed to the Probation Office and the Court. The Government also agrees not to bring additional charges against the defendant, with the exception of charges resulting from or related to violent criminal activity, based on any information provided by the defendant in connection with her cooperation that was not known to the Government prior to the cooperation. However, if the Government determines that the defendant has not been completely truthful and candid in her cooperation with the Government, she may be subject to prosecution for perjury, false statements, obstruction of justice, and any other appropriate charge, and all information she has provided may be used against her in such a prosecution.

11. No Further Charges. The United States Attorney for the Northern District of Georgia and the United States Department of Justice – Antitrust Division agree not to bring further criminal charges against the defendant related to the charges to which she is pleading guilty. The defendant understands that this provision does not bar prosecution by any other federal, state, or local jurisdiction.

12. Pre-Payment of Special Assessment. The Defendant agrees that, within 30 days of entry of her guilty plea, she will pay a special assessment in the amount of

$100.00 by money order or certified check made payable to the Clerk of Court, U.S. District Court, 2211 U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303, and that she will provide proof of such payment to the Government within 30 days of the guilty plea.

13. Right to Inform Court. The Government reserves the right to inform the Court and the Probation Office of all facts and circumstances regarding the defendant and this case, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Except as expressly stated elsewhere in this Plea Agreement, the Government also reserves the right to make recommendations regarding application of the Sentencing Guidelines.

14. No Biological Evidence. The parties agree that no biological evidence (as defined in 18 USC § 3600A) has been identified in this case; therefore, the defendant understands and agrees that no evidence will be preserved for DNA testing.

15. Breach of Plea Agreement. If the defendant fails in any way to fulfill each one of her obligations under this Plea Agreement, the Government may elect to be released from its commitments under this Plea Agreement. The Government may then prosecute the defendant for any and all Federal crimes that she has committed related to this case, including any charges dismissed pursuant to this Plea Agreement, and may recommend to the Court any sentence for such crimes up to and including the maximum sentence. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date she signs this Plea

Agreement. In addition, the defendant agrees that, in such a prosecution, all admissions and other information that she has provided at any time, including all statements she has made and all evidence she has produced during proffers, interviews, testimony, and otherwise, may be used against her, regardless of any constitutional provision, statute, rule, or agreement to the contrary. Finally, the defendant understands that her violation of the terms of this Plea Agreement would not entitle her to withdraw his guilty plea in this case.

16. Recommendations Non-Binding. The defendant understands and agrees that the recommendations of the Government incorporated within this Plea Agreement or otherwise discussed between the parties are not binding on the Court and that the Court's failure to accept one or more of the recommendations will not constitute grounds to withdraw her guilty plea or to claim a breach of this Plea Agreement.

17. Entire Agreement. There are no other agreements, promises, representations, or understandings between the defendant and the Government.

In Open Court this 24 day of ~~April~~ May, 2007.

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SIGNATURE (Attorney for Defendant)
C. MICHAEL ABBOTT

SIGNATURE (Defendant)
EVELYN MYERS SCOTT

SIGNATURE (Assistant U.S. Attorney)
AARON M. DANZIG

SIGNATURE (Antitrust Division)
KAREN SAMPSON JONES

SIGNATURE (Assistant U.S. Attorney)
GLENN D. BAKER

SIGNATURE (Antitrust Division)
SALLY B. MOLLOY

THIS DOCUMENT IS A DRAFT FOR THE PURPOSE OF DISCUSSION. NO PLEA OFFER IS MADE UNTIL AND UNLESS THIS DOCUMENT IS SIGNED BY AN APPROVAL OFFICIAL FOR THE UNITED STATES ATTORNEY'S OFFICE.

SIGNATURE (Approving Official)
SALLY QUILLIAN YATES
First Assistant U.S. Attorney

SIGNATURE (Approving Official)
NEZIDA S. DAVIS
Chief, Atlanta Field Office

3/02/07
DATE

I have read the Criminal Information against me and have discussed it with my attorney. I understand the charges and the elements of each charge that the Government would have to prove to convict me at a trial. I have read the foregoing Plea Agreement and have carefully reviewed every part of it with my attorney. I understand the terms and conditions contained in the Plea Agreement, and I voluntarily agree to them. I also have discussed with my attorney the rights I may have to appeal or challenge my sentence, and I understand that the appeal waiver contained in the Plea Agreement will prevent me, with the narrow exceptions stated, from appealing my sentence or challenging my sentence in any post-conviction proceeding. No one has threatened or forced me to plead guilty, and no promises or inducements have been made to me other than those discussed in the Plea Agreement. The discussions between my attorney and the Government toward reaching a negotiated plea in this case took place with my permission. I am fully satisfied with the representation provided to me by my attorney in this case.

Evelyn M Scott
SIGNATURE (Defendant)

5/2/07
DATE

I am EVELYN MYERS SCOTT's lawyer. I have carefully reviewed the charges and the Plea Agreement with my client. To my knowledge, my client is making an informed and voluntary decision to plead guilty and to enter into the Plea Agreement.

SIGNATURE (Defense Attorney)

5/02/07
DATE

C. MICHAEL ABBOTT
NAME (Attorney for Defendant)

3127 Maple Dr
STREET

Atlanta 30305
CITY & STATE ZIP CODE

PHONE NUMBER (404) 262-6510

EVELYN MYERS SCOTT
NAME (Defendant)

[redacted]
STREET

[redacted]
CITY & STATE ZIP CODE

PHONE NUMBER [redacted]

STATE BAR OF GEORGIA NUMBER 000 250

Filed in Open Court

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By _____