

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA

v.

LYNN Y. ZOIOPOULOS

No. 14 CR 50012

Judge Frederick J. Kapala

**PLEA AGREEMENT**

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and defendant LYNN Y. ZOIOPOULOS, and her attorneys, GAL PISSETZSKY and MICHAEL P. SCHMIEGE, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

**Charges in This Case**

2. The indictment in this case charges defendant with false declarations in relation to a bankruptcy proceeding, in violation of Title 18, United States Code, Section 152(3) (Counts One and Two), and mail fraud, in violation of Title 18, United States Code, Section 1341 (Counts Three, Four, and Five).

3. Defendant has read the charges against her contained in the indictment, and those charges have been fully explained to her by her attorney.

4. Defendant fully understands the nature and elements of the crimes with which she has been charged.

### **Charges to Which Defendant Is Pleading Guilty**

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to Count Two, which charges defendant with a false declaration in relation to a bankruptcy proceeding, in violation of Title 18, United States Code, Section 152(3).

### **Factual Basis**

6. Defendant will plead guilty because she is in fact guilty of the charge contained in Count Two of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt:

a. Generally, defendant admits that on or about August 11, 2009, at Rockford, in the Northern District of Illinois, Western Division, she knowingly and fraudulently made a material false verification under section 1746 of Title 28, in and in relation to a case under Title 11, specifically *In re: Lynn Y. Zoiopoulos*, case number 09 B 73371, in that she fraudulently stated that the Schedules she filed in the bankruptcy case were true and correct to the best of her knowledge, information, and belief, when in fact, as the defendant well knew, she had an interest in the Estate of Martha C. Yencko that she had intentionally concealed and omitted from Schedule B;

b. Specifically, defendant admits that:

i. At various times, she has used the names Lynn Shelton-Zoiopoulos, Lynn Y. Shelton, Lynn Yenke, Lynn Yenke Zoiopoulos, Lynn Yenke Shelton-Zoiopoulos, and Lynn Zoiopoulos;

ii. On August 11, 2009, she was a resident of Rockford, Illinois. On that date, pursuant to her instructions, her attorney electronically filed a bankruptcy petition, schedules, and a statement of financial affairs with the Bankruptcy Court for the Western Division of the Northern District of Illinois in Rockford, Illinois. The case was titled *In re: Lynn Y. Zoiopoulos* and was assigned case number 09-73371;

iii. The bankruptcy petition, schedules, and statement of financial affairs contained the defendant's electronic signature. On August 10, 2009, the defendant personally signed a Declaration Regarding Electronic Filing in which the defendant declared under penalty of perjury that the information provided in her electronically filed schedules was true and correct. The defendant had her attorney electronically file the Declaration Regarding Electronic Filing on August 11, 2009;

iv. At the time that she had her attorney file her Schedules, the defendant knew that Question 20 on Schedule B of the defendant's Schedules required her to list all "contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust;"

v. The defendant answered “None” in response to Question 20 on Schedule B, but knew when her Schedules were filed that the answer was false;

vi. At the time she answered None to Question 20, the defendant was the executor of the Estate of Martha Elizabeth Yenke, also known as Martha C. Yenke (the “Estate”), and knew that she had an interest in the Estate;

vii. Defendant concealed her interest in the Estate from the bankruptcy trustee and intentionally omitted the interest from her Schedule B, where its disclosure was required. The defendant’s concealment was not the result of any mistake or accident by the defendant, but was done in order to deceive the bankruptcy trustee;

viii. The defendant’s false declaration on Schedule B and concealment by omission of her interest in the Estate were material and capable of influencing the administration of the defendant’s bankruptcy case and the bankruptcy trustee.

7. Defendant, for purposes of computing her sentence under Guideline §1B1.2, stipulates to having committed the following additional offense:

a. Generally, defendant admits that beginning not later than June 2, 2008, and continuing to at least November 13, 2012, at Rockford, in the Northern District of Illinois, Western Division, and elsewhere, she devised, intended to devise

and participated in a scheme and artifice to defraud the Estate, and to obtain money and property by means of materially false and fraudulent pretenses, promises and representations, and by concealment of material facts.

b. Specifically, defendant admits that:

i. On June 4, 2001, the Register of Wills for Washington County, Pennsylvania issued Letters Testamentary to the defendant in case number 63-01-0701 in the Orphans' Court Division of the Court of Common Pleas of Washington County, Pennsylvania, appointing the defendant Executor of the Estate and requiring her to administer the Estate;

ii. Throughout the existence of the Estate, the defendant knew that as its Executor she owed a fiduciary duty to the Estate;

iii. In 2001, the defendant opened an account at Citibank with the number \*\*\*\*\*142 ("the Account"). The account was opened in the name Lynn Yenke Shelton, Executor of the Estate of Martha Elizabeth Yenke, also known as Martha C. Yenke. The defendant deposited certain Estate assets into the Account. The highest balance in the account reached \$855,178 on May 27, 2006.

iv. On or about October 13, 2008, the defendant used \$550,000 of money from the Account to purchase Allianz Life Insurance Company of North America annuity contract number \*\*\*\*\*579 (the "Annuity"), which after its purchase became an asset of the Estate;

v. Beginning not later than June 2, 2008, and continuing to at least November 13, 2012, with the intent to deceive and defraud the Estate, the

defendant engaged in a scheme to embezzle, and did embezzle assets of the Estate by converting them to her own use after she had received them in her capacity as Executor of the Estate;

vi. At the time she embezzled assets of the Estate, the defendant knew that she had a fiduciary duty not to use the assets of the Estate for her personal benefit;

vii. The defendant made efforts to conceal her embezzlements, including by intentionally failing to complete her duties as Executor, and by not filing the required inventory, accounting, tax returns, and status reports for the Estate;

viii. The defendant also intended to conceal her embezzlements when, in or about October 2008, she transmitted \$35,000 to her sister for the purpose of lulling her sister into believing defendant was properly administering the Estate. With the \$35,000, the defendant sent her sister a letter which falsely represented that the defendant had invested the rest of the Estate money in government T-bills and government-backed securities for their safety, until she could pay the estate taxes and estimated expenses for Martha Yenko's funeral. In fact, the defendant had not invested the rest of the Estate money in government T-bills and government-backed securities but had embezzled it. The defendant's purpose for sending the letter was to prevent her sister from making further inquiries into the status of the Estate.

ix. On or about October 17, 2012, the defendant requested Allianz disburse the remaining balance of the Allianz annuity to her at her address in Chicago, Illinois. Allianz distributed the remaining annuity balance of \$227,170.18 by check no. 0009190455 dated November 5, 2012 payable to the defendant. On approximately November 5, 2012, the defendant for the purpose of executing the scheme to defraud, caused Allianz to deposit the check into the United States mail for delivery to the defendant's address in Chicago. The defendant received the check and used the money for her personal benefit although she knew the money was an asset of the Estate. Defendant admits that Allianz' mailing of the check through the United States mails was reasonably foreseeable to her.

#### **Maximum Statutory Penalties**

8. Defendant understands that the charge to which she is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 5 years' imprisonment. This offense also carries a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater. The defendant further understands that the judge also may impose a term of supervised release of not more than three years. The Court also may order restitution to any persons as agreed by the parties.

b. Defendant further understands that the judge may impose a sentence of probation of not less than one nor more than five years.

c. Defendant further understands that the Court must order restitution to the victims of Count Two and the stipulated offense in an amount

determined by the Court. The Court also may order restitution to any persons as agreed by the parties.

d. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the count to which she has pled guilty, in addition to any other penalty or restitution imposed.

### **Sentencing Guidelines Calculations**

9. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specified below:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2014 Guidelines Manual.

b. **Offense Level Calculations.**

i. Pursuant to Guideline §§ 1B1.2(c), 3D1.2(d) and 3D1.3(b), Counts Two and the stipulated offense are grouped, and the offense level is determined on the basis of the aggregated amount of loss and applicable specific offense enhancements.



ii. The base offense level is 6, pursuant to Guideline § 2B1.1(a)(1).

iii. The government contends, and the defendant reserves the right to disagree, that the offense level must be increased by 14 levels to level 20, pursuant to Guideline § 2B1.1(b)(1)(H), because the loss was more than \$550,000 but less than \$1,500,000.

iv. The offense level must be increased by 2 levels to level 22, pursuant to Guideline § 2B1.1(b)(9)(B), because the offense involved a misrepresentation or other fraudulent action during the course of a bankruptcy proceeding.

v. The government contends, and the defendant reserves the right to disagree, that the offense level must be increased by 2 levels to level 24, pursuant to Guideline § 3B1.3, because the stipulated offense involved an abuse of position of trust.

vi. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for her actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to her ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of her intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, and according to the government's calculation, the anticipated offense level is 21, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 36 to 47 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and her attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply

in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw her plea on the basis of the Court's rejection of these calculations.

11. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw her plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

### **Agreements Relating to Sentencing**

12. Each party is free to recommend whatever sentence it deems appropriate.

13. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the

Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw her guilty plea.

14. Regarding restitution, defendant acknowledges that pursuant to Title 18, United States Code, § 3663A, the Court must order defendant to make full restitution to victims of the offense in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing.

15. Regarding restitution, defendant also acknowledges that pursuant to Title 18, United States Code, § 3663(a)(3), the Court may order defendant to make full restitution to victims of the stipulated offense in an amount to be determined by the Court at sentencing, which amount shall reflect credit for any funds repaid prior to sentencing. Defendant agrees to pay restitution to victims of the stipulated offense.

16. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), she is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect her ability to pay restitution.

17. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

18. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

19. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment.

### **Forfeiture**

20. Defendant agrees to the entry of a personal money judgment in an amount equal to the amount of restitution determined at the time of sentencing, which represents the total amount of funds involved in the stipulated offense. Defendant consents to the immediate entry of a preliminary order of forfeiture setting forth the amount of the personal money judgment she will be ordered to pay.

21. Defendant admits that because directly forfeitable property is no longer available for forfeiture as described in Title 21, United States Code, Section 853(p)(1), the United States is entitled to seek forfeiture of any other property of defendant, up to the value of the personal money judgment, as substitute assets pursuant to Title 21, United States Code, Section 853(p)(2).

22. Defendant agrees to forfeiture of the following specific property to the United States as substitute assets:

- a. Erte Serigraph—"Faubourg St. Honore"—Paris Days and Nights Suite

- b. Erte Serigraph—"Place De L' Opera"— Paris Days and Nights Suite
- c. Erte Serigraph—"Byzantine"
- d. Buckles Serigraph—"The Huntress"
- e. Buckles Serigraph—"Villa Capulet"
- f. Buckles Serigraph—"El Camino Monterey"
- g. Buckles Serigraph—"Son Et Lumiere"
- h. Erte Bronze Sculpture—"Astra"
- i. Erte Bronze Sculpture—"Stranded"
- j. Disney Reproduction Cel—101 Dalmatians—"Reunited with Pongo"

In doing so, defendant represents that she owns these assets and that no third party has any claim of possession, security, or ownership interest in the assets. Defendant consents to the immediate entry of a preliminary order of forfeiture as to this specific property, thereby extinguishing any right, title, or interest defendant has in it. If any of the specific property is not yet in the custody of the United States, defendant agrees to seizure of that property so that it may be disposed of according to law.

23. Defendant understands that forfeiture shall not be treated as satisfaction of any fine, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment. In this case, however, the United States Attorney's Office will recommend to the Attorney General that any net proceeds derived from any forfeited assets be remitted or restored to eligible victims of the offense pursuant to Title 18, United States Code, Section 981(e), Title 28, Code of Federal Regulations, Part 9, and other applicable law.

24. Defendant agrees to waive all constitutional, statutory, and equitable challenges in any manner, including but not limited to direct appeal or a motion

brought under Title 28, United States Code, Section 2255, to any forfeiture carried out in accordance with this agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment.

### **Acknowledgments and Waivers Regarding Plea of Guilty**

#### **Nature of Agreement**

25. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 14 CR 50012.

26. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

27. Defendant understands that nothing in this Agreement shall limit the Internal Revenue Service or Pennsylvania Department of Revenue in collection of any taxes, interest or penalties from defendant or the Estate of Martha C. Yenke.

#### **Waiver of Rights**

28. Defendant understands that by pleading guilty she surrenders certain rights, including the following:

a.     **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against her, and if she does, she would have the right to a public and speedy trial.

i.       The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii.      If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and her attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii.     If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict her unless, after hearing all the evidence, it was persuaded of her guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv.      If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering



each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and her attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in her own behalf. If the witnesses for defendant would not appear voluntarily, she could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that she could decline to testify, and no inference of guilt could be drawn from her refusal to testify. If defendant desired to do so, she could testify in her own behalf.

viii. With respect to forfeiture, defendant understands that if the case were tried before a jury, she would have a right to retain the jury to determine whether the government had established the requisite nexus between defendant's offense and any specific property alleged to be subject to forfeiture.

b. **Appellate rights.** Defendant further understands she is waiving all appellate issues that might have been available if she had exercised her right to trial, and may only appeal the validity of this plea of guilty and the

sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

29. Defendant understands that by pleading guilty she is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to her, and the consequences of her waiver of those rights

**Presentence Investigation Report/Post-Sentence Supervision**

30. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against her, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

31. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of her financial circumstances, including her recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of her sentence for

obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

32. For the purpose of monitoring defendant's compliance with her obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

### **Other Terms**

33. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

34. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure to the Internal Revenue Service or the Pennsylvania Department of Revenue of documents, testimony, and related investigative materials that may constitute grand jury

material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the IRS or Pennsylvania Department of Revenue for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or administrative proceeding involving, or the investigation of defendant or the Estate of Martha C. Yenke.

35. Defendant understands that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

### **Conclusion**

36. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

37. Defendant understands that her compliance with each part of this Agreement extends throughout the period of her sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event she violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific

performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

38. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

39. Defendant and her attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

40. Defendant acknowledges that she has read this Agreement and carefully reviewed each provision with her attorney. Defendant further acknowledges that she understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: \_\_\_\_\_

\_\_\_\_\_  
ZACHARY T. FARDON  
United States Attorney

\_\_\_\_\_  
LYNN Y. ZOIOPOULOS  
Defendant

\_\_\_\_\_  
MICHAEL D. LOVE  
Assistant U.S. Attorney

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GAL PISSTEZSKY  
Attorney for Defendant

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MICHAEL P. SCHMIEGE  
Attorney for Defendant