

FILED
RICHARD W. NAGEL
CLERK OF COURT

2015 JUN 10 PM 3:27

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

UNITED STATES OF AMERICA,	:	No. 2:15 CR 148
	:	
Plaintiff,	:	Judge: SMITH
	:	
vs.	:	18 U.S.C. § 371
	:	
KAREN L. FINLEY,	:	
	:	
Defendant.	:	

PLEA AGREEMENT

Plaintiff United States of America and Defendant KAREN L. FINLEY (“the defendant”), together referred to as “the parties,” hereby enter into a Plea Agreement pursuant to Rule 11(c)(1)(B) and (C) of the Federal Rules of Criminal Procedure:

1. The defendant will enter a plea of guilty to a one-count Information in the Southern District of Ohio charging her with Conspiracy, in violation of 18 U.S.C. § 371.
2. The defendant understands that the maximum penalty that may be imposed pursuant to her plea of guilty to Count 1 of the Information is a term of imprisonment of five (5) years, a fine of \$250,000 or a fine of twice the pecuniary gain or loss pursuant to 18 U.S.C. § 3571(d), and a term of supervised release of three (3) years.
3. The defendant will pay a special assessment of \$100.00 at the time her guilty plea is entered as required by 18 U.S.C. § 3013. The defendant will furnish a receipt to the U.S. Attorney’s Office. The \$100.00 shall be paid to the United States District Court, at the Clerk’s Office, 85 Marconi Boulevard, Columbus, Ohio, 43215.

4. This Agreement is governed, in part, by Fed. R. Crim. P. 11(c)(1)(C). The parties agree that any sentence of imprisonment and supervised release imposed in this matter will run concurrently with any sentence of imprisonment and supervised release imposed in the matter of *United States v. Karen Finley, et al.*, No. 1:14-cr-00135-3, now pending in the Northern District of Illinois. The parties further agree that, if the sentencing in Case No. 1:14-cr-00135-3 (NDIL) takes place prior to the sentencing in this matter, a downward departure to Criminal History Category I is warranted pursuant to United States Sentencing Guidelines (“U.S.S.G.” or “Sentencing Guidelines”) § 4A1.3(b)(1). The parties agree that adding points for the sentence imposed in Case No. 1:14-000135-3 (NDIL) would substantially over-represent the seriousness of the defendant’s criminal history, as Case No. 1:14-cr-00135-3 (NDIL) involves (a) unrelated but similar conduct that occurred during a similar time frame as the conduct in this matter, and (b) conduct that could have been joined with this matter for contemporaneous resolution, which would have resulted in no additional criminal history points. Other than the agreed concurrent sentences and the agreed downward departure to Criminal History Category I, the parties agree that the Court remains free to impose the sentence it deems appropriate. If the Court accepts and imposes the agreed concurrent sentence and the departure to Criminal History Category I, the defendant may not withdraw this plea as a matter of right under Fed. R. Crim. P. 11(d) and (e). If, however, the Court refuses to impose the agreed concurrent sentence and the departure to Criminal History Category I, thereby rejecting this Agreement, or otherwise refuses to accept the defendant’s plea of guilty, either part has the right to withdraw from this Agreement.

5. The defendant further understands that she has the following rights, among others:
 - a. To be represented by an attorney at every stage of the proceeding, and that, if necessary, one will be appointed to represent her;
 - b. To plead not guilty and to be tried by a jury;
 - c. To be assisted by counsel during such trial;
 - d. To confront and cross-examine adverse witnesses;
 - e. To use compulsory process to summon witnesses for the defense;
 - f. Not to be compelled to testify; and
 - g. To be presumed innocent throughout trial until and unless found guilty by a jury.

6. The defendant understands that if her plea of guilty to the charge set forth in the Information is accepted by the Court, there will not be a further trial of any kind. By pleading guilty she waives, or gives up, her right to a trial.

7. The defendant understands that the Court intends to question her on the record about the offense to which she pleads guilty, which questioning may be under oath and which could provide a basis for a later prosecution of the defendant for perjury or false statements if she does not tell the truth.

8. If her guilty plea to the one-count Information herein is entered and not withdrawn and the defendant acts in accordance with all other terms of this agreement, the United States Attorney for the Southern District of Ohio and the U.S. Department of Justice, Criminal Division, Public Integrity Section agree not to charge her with any other offense arising from the circumstances of this case as set forth in the Information.

9. Pursuant to Rule 11(c)(1)(B) of the Rules of Federal Criminal Procedure, and as advisory only, the parties agree that: (a) under Sentencing Guidelines § 2C1.1, the base offense level for this offense is 12; (b) pursuant to U.S.S.G. § 2C1.1(b)(1), the offense involved more than one bribe, thus increasing the offense level by two levels; (c) pursuant to U.S.S.G. § 2C1.1(b)(2), the value of the payment was greater than \$70,000.00, thus increasing the offense level by eight; and (d) pursuant to U.S.S.G. § 2C1.1(b)(3), the offense involved an elected public official, thus increasing the offense by four levels. The defendant further agrees to the Statement of Facts that is Attachment A to this Plea Agreement. The parties further understand that these agreements on the guidelines are *not* binding on the Court and the final determination concerning the defendant's guideline calculations rests with the Court, subject to the provisions set forth in paragraph 4.

10. The defendant agrees to pay restitution in the amount determined by the Court. The defendant is aware that, in light of *United States v. Booker*, 125 S.Ct. 738 (2005), the Sentencing Guidelines are advisory and are no longer mandatory. Subject to the provisions in paragraph 4 above, the defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set forth for the offense to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is further aware that any estimate of a probable sentencing range under the Sentencing Guidelines that the defendant may have received, or may receive in the future, from her counsel, the United States, or the probation office is a prediction, not a promise, and is not binding on the United States, the Probation Department or the Court. Other than the agreement in paragraph 4, above, the United States makes no promise or representation concerning the sentence that the

defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

11. The defendant waives any motions described in Fed. R. Crim. P. 12(b)(3), any and all motions, defenses, probable cause determinations, and objections which the defendant could assert to the Indictment or the Court's entry of judgment against the defendant and imposition of any sentence under 18 U.S.C. § 3742. The defendant further waives: (a) any right to appeal the Court's entry of judgment against the defendant; (b) any right to appeal the imposition of sentence under 18 U.S.C. § 3742; (c) any right to collaterally attack the conviction and sentence under 28 U.S.C. § 2241, or any other collateral attack; and (d) any right to file a motion for modification of sentence, including under 18 U.S.C. § 3582(c). The defendant acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the defendant might file challenging the conviction or sentence in this case. If the defendant files a notice of appeal or a habeas petition, notwithstanding this agreement, the defendant agrees that this case shall, upon motion of the United States, be remanded to the District Court to determine whether defendant is in breach of this Agreement and, if so, to permit the United States to withdraw from the Plea Agreement. This waiver shall not be construed to bar a claim by defendant as to ineffective assistance of counsel or prosecutorial misconduct.

12. By virtue of her plea of guilty to the charge set forth in the Information, the defendant understands that she is not a prevailing party, as defined by 18 U.S.C. § 3006A, and hereby expressly waives her right to sue the United States.

13. Pursuant to U.S.S.G. § 5K1.1 and 18 U.S.C. § 3553(e), in the event this matter were to proceed to sentencing, the United States Attorney for the Southern District of Ohio

agrees that, if the defendant provides substantial assistance in the investigation and/or prosecution of others who have committed criminal offenses, the United States Attorney may move the Court pursuant to U.S.S.G. § 5K1.1, and/or 18 U.S.C. § 3553(e) for an appropriate departure from the otherwise applicable sentencing guideline range and sentence, and will in connection therewith make known to the Court the nature and extent of the defendant's assistance. The defendant understands that such motion may not be filed until the United States Attorney is satisfied that the defendant has substantially cooperated. The defendant understands that whether such motion should be filed lies within the discretion of the United States Attorney for the Southern District of Ohio and the U.S. Department of Justice, Criminal Division, Public Integrity Section and that whether and to what extent such motion should be granted are solely matters for determination by the Court.

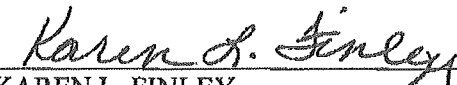
14. The government recommends that, as of the time of the execution of this Plea Agreement, the defendant has accepted responsibility for the offense to which she has agreed to plead guilty. If the defendant continues to accept responsibility through the time of sentencing, the United States will notify the district court pursuant to U.S.S.G. § 3E1.1(b) that the defendant has timely notified authorities of her intention to plead guilty and that she is entitled to an overall three-level reduction for acceptance of responsibility.

15. It is agreed that if the Court refuses to accept this Plea Agreement, neither party is bound by any of its provisions, the defendant may withdraw her guilty plea and the United States Attorney for the Southern District of Ohio and the U.S. Department of Justice, Criminal Division, Public Integrity Section may proceed with prosecution of the same or additional charges without prejudice.


16. This plea agreement is binding only upon the United States Attorney for the Southern District of Ohio and the U.S. Department of Justice, Criminal Division, Public Integrity Section.

17. No additional promises, agreements, or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

Dated: 3-31-15


KAREN L. FINLEY
Defendant

Dated: 3-31-15



MICHAEL D. KIMERER
Kimerer & Derrick, P.C.
1313 East Osborn Suite 100
Phoenix, Arizona 85014
Telephone: (602) 279-5900
Facsimile: (602) 264-5566

Attorney for Defendant


CARTER M. STEWART
United States Attorney

Dated: 4-28-15

By:


J. MICHAEL MAROUS (0015322)
Assistant United States Attorney
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215
Telephone: (614) 469-5715
Facsimile: (614) 469-5653

RAYMOND N. HULSER
Acting Chief, Public Integrity Section


EDWARD P. SULLIVAN
Trial Attorney, Public Integrity Section
Criminal Division
U.S. Department of Justice
1400 New York Avenue, 12th Floor
Washington, D.C. 20530
Telephone: 202-514-1412
Facsimile: 202-514-3003

FILED
RICHARD W. NAGEL
CLERK OF COURT
2015 JUN 10 PM 3:27
U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNDER SEAL

UNITED STATES OF AMERICA,	:	No. 2:15 cr 148
	:	
Plaintiff,	:	Judge: SMITH
	:	
vs.	:	18 U.S.C. § 371
	:	
KAREN L. FINLEY,	:	
	:	
Defendant.	:	

STATEMENT OF FACTS

In support of the defendant's plea of guilty to Count 1 of the Information, charging Conspiracy, in violation of Title 18, United States Code, Section 371, KAREN L. FINLEY (hereinafter referred to as the "defendant") admits that the following facts are true and that, if this matter were to proceed to trial, the United States could prove, through competent evidence, the following facts beyond a reasonable doubt:

1. The defendant was the President and Chief Executive Officer of Company A from in or about December 2005 to in or about February 2013.
2. COMPANY A was a Delaware corporation with its headquarters located in Phoenix, Arizona. COMPANY A's reported business focus was to enhance public safety through the use of technologies, such as red-light and speed photo enforcement solutions. Among other things, COMPANY A operated photo enforcement systems in numerous cities in the United States and Canada, including several cities in the State of Ohio.
3. EXECUTIVE A was the Executive Vice President, Sales of COMPANY A.

4. CONSULTANT A was a consultant and lobbyist based in Columbus, Ohio. From in or about 2005 through in or about 2013, FINLEY, EXECUTIVE A, and COMPANY A worked with CONSULTANT A in connection with business that COMPANY A was seeking to obtain and retain with municipalities in Ohio, including Columbus and Cincinnati.

5. Between in or about 2005 and in or about 2013, elected public officials in the City of Columbus and Cincinnati solicited, received, and attempted to receive campaign contributions from COMPANY A by soliciting CONSULTANT A, who then conveyed these solicitations to EXECUTIVE A and COMPANY A. EXECUTIVE A informed FINLEY regarding these solicitations.

6. FINLEY, EXECUTIVE A, and others agreed to provide campaign contributions to these elected public officials in return for the elected public officials agreeing to take, and actually taking, official acts on behalf of COMPANY A to obtain and retain municipal contracts.

7. FINLEY, EXECUTIVE A, and others used CONSULTANT A to funnel conduit or pass-through campaign contributions from COMPANY A to the elected public officials.

8. After CONSULTANT A conveyed the campaign contribution requests to EXECUTIVE A and COMPANY A, CONSULTANT A, EXECUTIVE A, and FINLEY would conceal and disguise the true nature and source of the payments by creating false and fraudulent invoices. EXECUTIVE A, FINLEY, and others coordinated the payments by COMPANY A to CONSULTANT A. The transmission and/or communication of the payments and fraudulent invoices occurred through the use of the U.S. Mail and interstate wire communications.

9. In return for campaign contributions that the elected public officials received and attempted to receive, the elected public officials agreed to perform, attempted to perform, and actually performed official acts that benefitted FINLEY, EXECUTIVE A, and COMPANY A,

including but not limited to the following: (a) obtaining a photo red light enforcement contract with the City of Columbus in or about 2005; (b) extending the contract in or about 2009; (c) modifying, extending, and expanding the contract in or about 2010; and (d) attempting to obtain a photo red light enforcement contract with the City of Cincinnati between 2005 and 2008.

10. On or about September 24, 2007, CONSULTANT A sent an e-mail to EXECUTIVE A, conveying contribution requests, totaling \$30,000, for the campaigns of certain officials in the City of Columbus and the City of Cincinnati. CONSULTANT A explained to EXECUTIVE A how each elected official was “supportive” and “necessary” in Columbus or “leading the charge in Cincinnati.”

11. On or about October 9, 2007, EXECUTIVE A (copying FINLEY and other employees of COMPANY A) sent an e-mail to CONSULTANT A, expressing concern about the \$30,000 amount and asking, “What is the minimum you would recommend, that would still get us recognition and keep you (and us) in good graces?”

12. On or about October 9, 2007, during an internal discussion of the \$30,000 amount, FINLEY sent an e-mail to EXECUTIVE A and another COMPANY A employee stating, in part: “WOW that is a big handout. Is this how our local city handles campaign financing - now I understand the ‘order of protection’ for our friends”.

13. On or about October 12, 2007, CONSULTANT A provided an invoice to COMPANY A for \$30,000 for “Consulting Services.” The invoice was sent to FINLEY’s attention. With FINLEY’s approval, COMPANY A paid the invoice on or about the same day. FINLEY knew at the time of her approval that the payment was not for consulting services rendered by CONSULTANT A; instead, CONSULTANT A would use the proceeds to make

contributions to the campaigns of public officials in the City of Columbus and the City of Cincinnati.

14. Between on or about October 17, 2007, and on or about November 23, 2007, CONSULTANT A made campaign contributions in CONSULTANT A's own name. CONSULTANT A also paid others who made campaign contributions in their own names.

15. In or around mid-October 2009, CONSULTANT A sent EXECUTIVE A an invoice (dated October 12, 2009) for \$5,000. When CONSULTANT A had not received the payment by October 21, 2009, CONSULTANT A had the following e-mail exchange with EXECUTIVE A:

CONSULTANT A: Need to know if or when the package has been sent. they are all over me. Less than two weeks out. Please advise

EXECUTIVE A: I am working on it - It is not easy to ask for these out of cycle. I have been obliged historically, but governance is hammering me. Working on it. . . . Please hang in there.

CONSULTANT A: I need a timeline to tell them. Time is running out for them.

EXECUTIVE A: What is the absolute deadline? This is more critical.

CONSULTANT A: As I told you earlier they are less than two weeks out. Anything after this will be a major problem at this end

EXECUTIVE A: I will keep trying. It aint easy, you know I have been back to that well many, many times over the years. . . . I will remain confident.

CONSULTANT A: If you can't get it here this week I will have to take [COMPANY A] off the list and then I will lose control of any timelines

16. On or about October 22, 2009, EXECUTIVE A forwarded CONSULTANT A's request to FINLEY for payment. FINLEY urgently requested a check from COMPANY A's finance department.

17. On or about October 22, 2009, COMPANY A paid CONSULTANT A \$5,000, with EXECUTIVE A sending an e-mail to CONSULTANT A stating: "The check is going out in FedEx today. All good?" CONSULTANT A sent an e-mail replying, "I'm here w/[elected public official in Columbus]. [Elected public official in Columbus] says THANKS. Will call later[.]"

18. On or about October 23, 2009, CONSULTANT A made a \$5,000 contribution to the Franklin County Democratic Party in his own name.

19. On or about September 21, 2011, EXECUTIVE A received an e-mail from the campaign of an official in the City of Columbus, discussing a possible \$20,000 contribution. The e-mail, sent from a campaign representative, references a prior conversation the same date between EXECUTIVE A and the elected public official.


20. On or about October 6, 2011, CONSULTANT A provided a \$20,000 invoice to COMPANY A for a "success fee" concerning an extension of the City of Columbus's photo red light program.

21. On or about October 6, 2011, FINLEY signed a "Memorandum of Understanding" to pay a "success fee" to CONSULTANT A. at the time she executed the Memorandum of Understanding, FINLEY knew the payment to CONSULTANT A was not a success fee; instead, CONSULTANT A would use the proceeds to make campaign contributions in the City of Columbus.


22. On or about October 14, 2011, COMPANY A provided CONSULTANT A with a \$20,000 payment.

23. On or about October 21, 2011, CONSULTANT A contributed \$20,000 to the Ohio Democratic Party in his own name.

24. The defendant has read this Statement of Facts and has discussed it with her attorney. The defendant fully understands the contents of this Statement of Facts and agrees without reserve that it accurately describes the events and ~~his~~^{her} acts. The defendant acknowledges that the contents of this Statement of Facts do not constitute all of the facts relevant to the matters discussed herein.


KAREN L. FINLEY
Defendant

3-31-15
Date


MICHAEL D. KIMERER, ESQ.
Counsel for Defendant

3-31-15
Date