UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

FILED
APR 18 2011
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES OF AMERICA,	)	Criminal No.:
	)	
	)	Filed:
v.	)	
	)	Violations:
	)	18 U.S.C. § 371
DARLENE MATHIS-GARDNER,	)	Conspiracy to Defraud the United States
	)	
	)	18 U.S.C. § 287
Defendant.	)	Making of False Claims Upon the United States
	)	

PLEA AGREEMENT

The United States of America and Darlene Mathis-Gardner ("defendant") hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."):

RIGHTS OF DEFENDANT

1. The defendant understands her rights:

(a) to be represented by an attorney;

(b) to be charged by Indictment;

(c) to plead not guilty to any criminal charge brought against her;

(d) to have a trial by jury, at which she would be presumed not guilty of the charges and the United States would have to prove every essential element of a charged offense beyond a reasonable doubt for her to be found guilty;

(e) to confront and cross-examine witnesses against her and to subpoena witnesses in her defense at trial;

(f) not to be compelled to incriminate herself;

(g) to appeal her conviction, if she is found guilty; and

(h) to appeal the imposition of sentence against her.

AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS

2. The defendant knowingly and voluntarily waives the rights set out in Paragraph 1(b)-(g) above. The defendant also knowingly and voluntarily waives any objection or defense she might have based on the United States joining in a single count the distinct and separate false claims offenses charged in Count Two of the attached Information. The defendant also knowingly and voluntarily waives the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2241 or 2255, that challenges the sentence imposed by the Court if that sentence is consistent with or below the recommended sentence in Paragraph 11 of this Plea Agreement, regardless of how the sentence is determined by the Court. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). Nothing in this paragraph, however, shall act as a bar to the defendant perfecting any legal remedies she may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty at arraignment to a two-count Information to be filed in the United States District Court for the District of Columbia. The Information will charge the defendant with (i) participating in a conspiracy to defraud the United States during the period March 2007 to June 2007 by providing false and fraudulent information, representations, and documents to United States government contracting officers in obtaining an award of a contract for interior design and project management services to be provided in the District of Columbia in violation

of 18 U.S.C. § 371; and (ii) making and presenting false claims to the United States for work performed under the foregoing contract by defendant's company, by creating and submitting invoices to the United States that materially overstated the number of hours worked on the contract by defendant's company's personnel.

3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charges described in Paragraph 2 above and will make a factual admission of guilt to the Court in accordance with Fed. R. Crim. P. 11 as set forth in the attached Statement of Offenses. The defendant agrees that the facts set forth in the attached Statement of Offenses establish her guilt beyond a reasonable doubt.

FACTUAL BASIS FOR OFFENSES CHARGED

4. The defendant agrees that the attached Statement of Offenses fairly and accurately describes her actions and involvement in the offenses to which she is pleading guilty. Before the plea hearing, defendant will adopt and sign the Statement of Offenses as a written proffer of evidence.

POSSIBLE MAXIMUM SENTENCE

5. The defendant understands that the statutory maximum penalty which may be imposed against her upon conviction for a violation of 18 U.S.C. § 371 is:

(a) a term of imprisonment for five (5) years (18 U.S.C. § 371);

(b) a fine in an amount equal to the greatest of (1) $250,000, (2) twice the gross pecuniary gain derived from the crime, or (3) twice the gross pecuniary loss caused to the victims of the crime (18 U.S.C. § 3571(b) and (d)); and

(c) a term of supervised release of three years following any term of

imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to two years in prison (18 U.S.C. § 3559(a)(4); 18 U.S.C. § 3583(b)(2) and (e)(3); and U.S.S.G. §5D1.2(a)(2)).

6. The defendant understands that the statutory maximum penalty which may be imposed against her upon conviction for a violation of 18 U.S.C. § 287 is:

(a) a term of imprisonment for five (5) years (18 U.S.C. § 287);

(b) a fine in an amount equal to the greatest of (1) $250,000, (2) twice the gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross pecuniary loss caused to the victims of the crime by the conspirators (18 U.S.C. § 3571(b) and (d)); and

(c) a term of supervised release of three years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be required to serve up to two years in prison (18 U.S.C. § 3559(a)(4); 18 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines ("U.S.S.G.," "Sentencing Guidelines," or "Guidelines") §5D1.2(a)(2)).

7. In addition, the defendant understands that:

(a) pursuant to 18 U.S.C. §§ 3663(a)(3) and 3663A(c)(1), the Court shall order her to pay restitution to the victims of the offenses; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a $100.00 special assessment per count upon conviction for the charged crimes.

SENTENCING GUIDELINES

8. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing sentence. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

SENTENCING AGREEMENT

9. The United States and the defendant understand, agree and stipulate to the following applicable Sentencing Guidelines considerations and factors:

(a) The November 1, 2010 edition of the Guidelines applies;

(b) The controlling Guidelines are U.S.S.G. §§2B1.1 and 2X1.1;

(c) The offenses to which defendant is pleading guilty are grouped pursuant to Guideline §3D1.2;

(d) The "loss" for purposes of Guideline §2B1.1(b)(1) is greater than $200,000 and less than $400,000;

(e) Pursuant to Guideline §2B1.1(a)(2), the base offense level is 6, which is increased by 12 as provided in Guideline §2B1.1(b)(1)(G);

(f) The defendant qualifies for a two-level reduction under Guideline §3E1.1(a) because she accepted responsibility for her offense; and

(g) The adjusted offense level that applies is 16.

10. The defendant agrees to the entry of a restitution order for the full amount of the victim's losses pursuant to 18 U.S.C. §§ 3556, 3663A(c)(1), and 3664(f)(1)(A). The United States and the defendant agree that the government can establish by a preponderance of the evidence an actual loss of $389,738 to Immigration and Customs Enforcement ("ICE"), Department of Homeland Security, a victim of the offense, and the defendant waives any right to contest a loss determination in that amount. The parties agree, though, that the restitution order shall be subject to the defendant's ability to pay as determined by the Court based on the presentence investigation, and the United States agrees not to oppose the imposition of a reasonable payment schedule, as permitted by 18 U.S.C. §§ 3572(d) and 3664(f).

11. The United States agrees that it will recommend, as the appropriate disposition of this case, that the Court impose a sentence within the applicable Guidelines range requiring the defendant to pay to the United States a criminal fine of $18,000, pursuant to 18 U.S.C. § 3571(b)(3) and Guideline §5E1.2(a)-(d), payable in full before the fifteenth (15th) day after the date of judgment; a period of imprisonment of 21-27 months; a period of supervised release of three years pursuant to 18 U.S.C. § 3583(a); and a restitution order in accordance with Paragraph 10 above ("the recommended sentence"). The parties agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the United States Sentencing Commission in formulating the Guidelines justifying a departure pursuant to U.S.S.G. §5K2.0. The defendant is free, however, to ask the Court to consider the factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence; the defendant understands that the United States may oppose the defendant's sentencing recommendation based on those factors. The defendant understands that the Court will order her to pay a $100 special

assessment pursuant to 18 U.S.C. § 3013(a)(2)(A) in addition to any fine imposed.

12. The United States and the defendant understand that the Court retains complete discretion to accept or reject either party's sentencing recommendation provided for in Paragraph 11 of this Plea Agreement. The defendant understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a sentence consistent with either party's sentencing recommendation, she nevertheless has no right to withdraw her plea of guilty.

GOVERNMENT'S AGREEMENT

13. Upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of sentence, the United States will not bring further criminal charges against the defendant for any act or offense committed before the date of this Plea Agreement that was undertaken in furtherance of crimes arising from the pursuit, award, and performance of the government contracts that were the subject of the investigation that led to this Plea Agreement, which are:

(a) the PCN Contract, as defined in the Statement of Offenses; and

(b) a contract for goods and services related to the National Intellectual Property Rights Coordination Center at 2451 Crystal Drive, Arlington, Virginia (a.k.a. the "IPR Center Contract").

The non-prosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal tax or securities laws, or to any crime of violence.

REPRESENTATION BY COUNSEL

14. The defendant has reviewed all legal and factual aspects of this case with her attorney and is fully satisfied with her attorney's legal representation. The defendant has

thoroughly reviewed this Plea Agreement with her attorney and has received satisfactory explanations from her attorney concerning each paragraph of this Plea Agreement and alternatives available to the defendant other than entering into this Plea Agreement. After conferring with her attorney and considering all available alternatives, the defendant has made a knowing and voluntary decision to enter into this Plea Agreement.

VOLUNTARY PLEA

15. The defendant's decision to enter into this Plea Agreement and to tender pleas of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement. The United States has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

VIOLATION OF PLEA AGREEMENT

16. The defendant agrees that, should the United States determine in good faith, during the period that any Federal Proceeding is pending, that the defendant has violated any provision of this Plea Agreement, the United States will notify the defendant or her counsel in writing by personal or overnight delivery or facsimile transmission and may also notify her counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph), and the defendant shall be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement. The defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against the defendant for any offense described in

Paragraph 13 of this Plea Agreement, the statute of limitations period for such offense shall be tolled for the period between the date of the signing of this Plea Agreement and six (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

17. The defendant understands and agrees that in any further prosecution of her resulting from the release of the United States from its obligations under this Plea Agreement based on the defendant's violation of the Plea Agreement, any documents, statements, information, testimony, or evidence provided by her to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against her in any such further prosecution. In addition, the defendant unconditionally waives her right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

ENTIRETY OF AGREEMENT

18. This Plea Agreement and the attached Statement of Offenses constitute the entire agreement between the United States and the defendant concerning the disposition of the criminal charges in this case. This Plea Agreement and the attached Statement of Offenses cannot be modified except in writing, signed by the United States and the defendant.

19. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

20. A facsimile signature shall be deemed an original signature for the purpose of executing this Plea Agreement and attached Statement of Offenses. Multiple signature pages are

authorized for the purpose of executing this Plea Agreement and attached Statement of Offenses.

DATED: 03/14/2011

BY: _____
Darlene Mathis Gardner
Defendant

_____
Michele Peterson
Jonathan Jeffress
Federal Public Defender
625 Indiana Avenue, NW
Washington, DC 20036
Tel. (202) 208-7500
Fax (202) 208-7515

Respectfully submitted,

BY: _____
Mary N. Strimel
Matthew Lunder
Attorneys
U.S. Department of Justice
Antitrust Division
450 5th St. NW, Suite 11300
Washington, DC 20530
Tel. (202) 616-5949
Fax (202) 514-6525