

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
AT LONDON**

CRIMINAL ACTION NO. 6:18-CR-00027-CHB

UNITED STATES OF AMERICA

PLAINTIFF

V.

PLEA AGREEMENT

BETH N. SALLEE

DEFENDANT

* * * * *

1. Pursuant to Federal Rule of Criminal Procedure 11(c), the Defendant will enter a guilty plea to Count 1 of the Indictment, charging a violation of 18 U.S.C. § 1343, wire fraud, and to Count 9 of the Indictment, charging a violation of 18 U.S.C. § 1028A(a)(1), aggravated identity theft.

2. The essential elements of Count 1 are:

- (a) The Defendant devised a scheme to defraud in order to obtain money or property;
- (b) The scheme included a material misrepresentation or concealment of a material fact;
- (c) The Defendant had the intent to defraud; and
- (d) The Defendant used wire communications or caused another to use wire communications in interstate commerce in furtherance of the scheme.

3. The essential elements of Count 9 are:

- (a) The Defendant committed the felony violation charged in Count 1, a felony enumerated in 18 U.S.C. § 1028A(c);

- (b) The Defendant knowingly used a means of identification of another person without lawful authority;
- (c) The Defendant knew the means of identification belonged to another person; and
- (d) The use was during and in relation to the crime charged in Count 1.

4. The statutory punishment for Count 1 is imprisonment for not more than 20 years, a fine of not more than \$250,000, and a term of supervised release of not more than 3 years. A mandatory special assessment of \$100 applies, and the Defendant will pay this assessment to the U.S. District Court Clerk at the time of the entry of the plea.

5. The statutory punishment for Count 9 is a mandatory term of imprisonment for two years to run consecutively to any term of imprisonment imposed on Count 1, a fine of not more than \$250,000, and a term of supervised release of not more than 1 year. A mandatory special assessment of \$100 applies, and the Defendant will pay this assessment to the U.S. District Court Clerk at the time of the entry of the plea.

6. As to Counts 1 and 9, the United States could prove the following facts that establish the essential elements of the offense beyond a reasonable doubt, and the Defendant admits these facts:

- (a) At all relevant times, the Defendant was employed as Treasurer of Jackson County. In this capacity, the Defendant held responsibility for receiving all money due Jackson County and for disbursing such money in such manner and for such purpose as authorized by appropriate authority of the Jackson County Fiscal Court. The Defendant was not authorized to issue checks without the approval of the Jackson County Fiscal Court.
- (b) At all relevant times, Jackson County used a number of Jackson County Bank accounts for official county business. These included a payroll account, which was used to issue paychecks to Jackson County

employees, and a general fund account, which was used for a wide range of county expenses. Additionally, Jackson County used a distinct bank account to receive Department of Emergency Services funds from a federal grant program. All checks drawing on bank accounts owned by the Jackson County Fiscal Court required a countersignature to confirm their validity.

- (c) As reflected in Attachment 1, in 2013, 2014, 2015, and 2016, the Defendant misappropriated Jackson County funds for her own personal use and benefit. The Defendant obtained checks drawing on various Jackson County Fiscal Court accounts, including the Department of Emergency Services grant account, the payroll account, and the general fund account, and wrote a series of checks payable to herself without authorization. The Defendant tendered the fraudulent checks at her bank for deposit to her personal checking account and for cash, totaling approximately \$161,808.23. These checks were drawn on Jackson County Bank in Kentucky and required wire transmissions to a Federal Reserve Bank in Atlanta, Georgia. The Defendant deliberately did not seek authorization from the Jackson County Fiscal Court to write these checks to herself, nor did the Defendant inform the Jackson County Fiscal Court that she had done so.
- (d) On the majority of these checks, the Defendant knowingly forged the signature of other Jackson County employees, including S.H. and S.G., without their knowledge or permission. Such forgeries include a check dated May 30, 2013, drawing on the Jackson County Fiscal Court's payroll account in the amount of \$2,294.31, on which the Defendant used the name and signature of S.H. without authorization.
- (e) During a routine audit of the Jackson County Fiscal Court by the Kentucky Auditor of Public Accounts, the Defendant manipulated or destroyed certain documents in an effort to conceal her scheme. Specifically, the Defendant removed pages of documents and obscured the page numbers of the remaining pages with white-out. In addition, the Defendant requested that Jackson County Bank remove the check images from certain statements to be produced to auditors.

7. Pursuant to Rule 11(c)(1)(B), the United States and the Defendant recommend the following sentencing guidelines calculations, and they may object to or argue in favor of other calculations. This recommendation does not bind the Court.

- (a) The United States Sentencing Guidelines (U.S.S.G.) 2018 manual will determine the Defendant's guidelines range.
- (b) Pursuant to U.S.S.G. § 1B1.3, the Defendant's relevant conduct includes all fraudulent checks used by the Defendant to enrich herself with misappropriated Jackson County funds, indicated in Attachment 1.
- (c) Pursuant to U.S.S.G. § 2B1.1(a)(1), the base offense level is 7.
- (d) Pursuant to U.S.S.G. § 2B1.1(b)(1)(F), increase the offense level by 10 levels because the loss amount exceeded \$150,000.
- (e) Pursuant to U.S.S.G. § 3B1.3, increase the offense level by 2 because the Defendant abused a position of public trust in a manner that significantly facilitated the commission of the offense.
- (f) Pursuant to U.S.S.G. § 3C1.1, increase the offense level by 2 levels because the Defendant attempted to obstruct or impede the administration of justice with respect to the investigation, prosecution, or sentencing of the instance offense of conviction, and the obstructive conduct related to the defendant's offense of conviction and any relevant conduct.
- (g) Pursuant to U.S.S.G. § 3E1.1 and unless the Defendant commits another crime, obstructs justice, or violates a court order, decrease the offense level by 2 levels for the Defendant's acceptance of responsibility. If the offense level determined prior to this 2-level decrease is level 16 or greater, the United States will move at sentencing to decrease the offense level by 1 additional level based on the Defendant's timely notice of intent to plead guilty.
- (h) Pursuant to U.S.S.G. § 2B1.6, if the Defendant is convicted of violating 18 U.S.C. § 1028A, the guideline sentence is the term of imprisonment required by statute, to run consecutively to any other term of imprisonment.
- (i) Pursuant to U.S.S.G. § 5E1.1, restitution is \$161,808.23, and the victim is the Jackson County Fiscal Court.

8. No agreement exists about the Defendant's criminal history category pursuant to

U.S.S.G. Chapter 4.

9. The Defendant will not file a motion for a decrease in the offense level based on a mitigating role pursuant to U.S.S.G. § 3B1.2 or a departure motion pursuant to U.S.S.G. Chapter 5, Parts H or K.

10. The Defendant waives the right to appeal the guilty plea, conviction, and sentence. Except for claims of ineffective assistance of counsel, the Defendant also waives the right to attack collaterally the guilty plea, conviction, and sentence.

11. The United States will recommend releasing the Defendant on the current conditions for future court appearances if the Defendant does not violate the terms of the order setting conditions of release.

12. The Defendant agrees to the imposition of a money judgment in the amount of \$161,808.23, which represents proceeds obtained by the Defendant as a result of the offense. The Defendant agrees that this property is subject to forfeiture because a nexus exists between the property and the offense, as set out in the forfeiture allegation of the Indictment.

13. The Defendant agrees to cooperate fully with the Government by making a full and complete financial disclosure. Within 30 days of pleading guilty, the Defendant agrees to complete and sign a financial disclosure statement or affidavit disclosing all assets in which the Defendant has any interest or over which the Defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third party, and disclosing any transfer of assets that has taken place within three years preceding the entry of this plea agreement. The Defendant will submit to an examination, which may be taken under oath and may include a polygraph examination. The Defendant will not encumber,

transfer, or dispose of any monies, property, or assets under the Defendant's custody or control without written approval from the United States Attorney's Office. If the Defendant is ever incarcerated in connection with this case, the Defendant will participate in the Bureau of Prisons Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments. If the Defendant fails to comply with any of the provisions of this paragraph, the United States, in its discretion, may refrain from moving the Court pursuant to U.S.S.G. § 3E1.1(b) to reduce the offense level by one additional level, and may argue that the Defendant should not receive a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a).

14. The Defendant understands and agrees that, pursuant to 18 U.S.C. § 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States. If the Court imposes a schedule of payments, the Defendant agrees that it is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. The Defendant waives any requirement for demand of payment on any fine, restitution, or assessment imposed by the Court and agrees that any unpaid obligations will be submitted to the United States Treasury for offset. The Defendant authorizes the United States to obtain the Defendant's credit reports at any time. The Defendant authorizes the U.S. District Court to release funds posted as security for the Defendant's appearance bond in this case, if any, to be applied to satisfy the Defendant's financial obligations contained in the judgment of the Court.

15. If the Defendant violates any part of this Agreement, the United States may void this Agreement and seek an indictment for any violations of federal laws, and the Defendant waives any right to challenge the initiation of additional federal charges.

16. This document and the supplement contain the complete and only Plea Agreement between the United States Attorney for the Eastern District of Kentucky, the Criminal Division's Public Integrity Section, and the Defendant. The United States has not made any other promises to the Defendant.

17. This Agreement does not bind the United States Attorney's Offices in other districts, or any other federal, state, or local prosecuting authorities.

18. The Defendant and the Defendant's attorney acknowledge that the Defendant understands this Agreement, that the Defendant's attorney has fully explained this Agreement to the Defendant, and that the Defendant's entry into this Agreement is voluntary.

ROBERT M. DUNCAN, JR.
UNITED STATES ATTORNEY

Date: _____

By: _____
Andrew T. Boone
Assistant United States Attorney

ANNALOU TIROL
ACTING CHIEF
PUBLIC INTEGRITY SECTION

Date: _____

By: _____
Jessica C. Harvey
Trial Attorney

Date: _____

Beth N. Sallee
Defendant

Date: _____

David S. Hoskins
Attorney for Defendant

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SUPPLEMENT TO PLEA AGREEMENT

BETH N. SALLEE

DEFENDANT

* * * * *

The Defendant will cooperate fully with the United States in the investigation and prosecution of other persons who have committed offenses, including testifying in all proceedings. All statements and testimony that the Defendant provides must be truthful, and this Agreement does not preclude the prosecution of the Defendant for perjury or making false statements. If requested by the United States, the Defendant will submit to a polygraph examination by an examiner selected by the United States. If the Defendant provides substantial assistance in the investigation or prosecution of other persons who have committed offenses, the United States will consider filing a motion for a downward departure pursuant to U.S.S.G. § 5K1.1, unless the Defendant commits another crime, obstructs justice, or violates a court order. The determination as to whether to file such a motion is solely within the discretion of the United States.

ROBERT M. DUNCAN, JR.
UNITED STATES ATTORNEY

Date: _____

By: _____
Andrew T. Boone
Assistant United States Attorney

ANNALOU TIROL
ACTING CHIEF
PUBLIC INTEGRITY SECTION

Date: _____

By: _____
Jessica C. Harvey
Trial Attorney

Date: _____

Beth N. Sallee
Defendant

Date: _____

David S. Hoskins
Attorney for Defendant