

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

UNITED STATES OF AMERICA

v.

KAREN ANN TURNER

) DOCKET NO.: 1:17CR109MOC-DLH  
)  
) PLEA AGREEMENT  
)  
)  
)

NOW COMES the United States of America, by and through Jill Westmoreland Rose, United States Attorney for the Western District of North Carolina, and the United States Department of Justice, Consumer Protection Branch (collectively "the United States"), and the defendant, Karen Ann Turner, in person and through counsel, Jack W. Stewart, and respectfully inform the Court that they have reached an agreement pursuant to Federal Rule of Criminal Procedure ("Rule") 11.

**I. Plea**

1. The defendant agrees to enter a voluntary plea of guilty to Counts 1 – 2 as set forth in the Bill of Information, and admits to being in fact guilty as charged in Counts 1 – 2.
2. The defendant understands that each and every provision set forth below is a material term of the Plea Agreement. The defendant's failure to fully comply with any provision of the Plea Agreement, attempt to withdraw the guilty plea or violation of any federal, state or local law, or any order of any court, including any condition of pre-trial or pre-sentence, or post-sentence release, is a breach of the Plea Agreement.
3. In addition to any other remedy available in law, the defendant's breach (a) will relieve the United States of its obligations under the Plea Agreement, but the defendant will not be relieved of the defendant's obligations or allowed to withdraw the guilty plea; (b) may constitute the defendant's failure to accept responsibility under U.S.S.G. § 3E1.1; and (c) will permit the United States to proceed on any dismissed, pending, superseding or additional charges.

**II. Sentence**

4. The defendant is aware that the statutory minimum and maximum sentences for each count are as follows:

Count 1: a violation of 18 U.S.C. § 371; a maximum term of 5 years imprisonment, \$250,000 fine, or both, and no more than three years supervised release.

Count 2: a violation of 18 U.S.C. § 1957; a maximum term of 10 years imprisonment; a \$250,000 fine, or both, and no more than three years supervised release. The court may impose an alternate fine of not more than twice the amount of the criminally derived property involved in the transaction.

5. The defendant understands that a violation of supervised release may subject the defendant to an additional period of incarceration.

6. The defendant is aware that the Court: (a) will consider the advisory *United States Sentencing Guidelines [U.S.S.G.]* in determining the sentence; (b) has not yet determined the sentence and any estimate of the likely sentence is a prediction rather than a promise; (c) has the final discretion to impose any sentence up to the statutory maximum for each count; and (d) is not bound by recommendations or agreements by the United States. Knowing this, the defendant understands that the defendant may not withdraw the plea as a result of the sentence imposed.

7. Pursuant to Rule 11(c)(1)(B), the parties agree that they will jointly recommend that the Court make the following findings and conclusions as to the U.S.S.G.:

a. The amount of fraud loss that was known to or reasonably foreseeable by the defendant was in excess of \$550,000 but less than \$1,500,000. The defendant understands that “loss” under U.S.S.G. § 2B1.1 may be different from, greater, or lesser than restitution under 18 U.S.C. § 3556.

b. The offense level for the subject offenses are as follows:

**Base Offense Level [U.S.S.G. § 2B1.1]: 6**

Specific Characteristics:

[U.S.S.G. § 2B1.1(b)(1)(H)]	+14
[U.S.S.G. § 2S1.1(b)(2)(A)]	+1

c. The United States agrees that the defendant’s entry of plea is timely for purposes of U.S.S.G. § 3E1.1(b).

d. With the exception of Paragraph 7.e below, the parties agree that they will make the above recommendations as to the offense level, and will not seek any other enhancements or reductions to the offense level.

e. The parties agree that either party may argue their respective positions regarding the number of victims involved in the offense and the application of the sentencing enhancement at U.S.S.G. § 2B1.1(b)(2)(A)(i) for the number of victims involved in the offense.

f. The parties agree that either party may seek a departure or variance from the “applicable guideline range” (U.S.S.G. § 5C1.1) determined by the district court at sentencing.

g. The United States will inform the Court and the probation office of all facts pertinent to the sentencing process and will present any evidence requested by the Court.

8. The defendant agrees to the following with respect to financial disclosures, monetary penalties, forfeiture and restitution:

a. To pay full restitution, regardless of the resulting loss amount, to all victims directly or indirectly harmed by the defendant’s “relevant conduct,” including conduct pertaining to any dismissed counts or uncharged conduct, as defined by U.S.S.G. §1B1.3, regardless of whether such conduct constitutes an “offense” under 18 U.S.C. §§ 2259, 3663 or 3663A.

b. To make full disclosure of all current and projected assets to the United States Probation Office immediately and prior to the termination of the defendant’s supervised release or probation, such disclosures to be shared with the United States Attorney’s Office, including the Financial Litigation Unit, for any purpose.

c. To truthfully complete under penalty of perjury within thirty days of the execution of this Plea Agreement a financial statement provided by the United States Attorney’s Office and to update the statement with material changes within seven days of the change.

d. That monetary penalties imposed by the Court will be (i) subject to immediate enforcement as provided for in 18 U.S.C. § 3613, and (ii) submitted to the Treasury Offset Program so that any federal payment or transfer of returned property the defendant receives may be offset and applied to federal debts but will not affect the periodic payment schedule.

9. With regard to each and every asset listed in the Bill of Information or seized in a related investigation or administrative, state, or local action the defendant stipulates and agrees:

a. To its forfeiture herein, if necessary as substitute property under 21 U.S.C. § 853(p), as made applicable by 18 U.S.C. § 982(b)(1) or any other statute, or in a separate administrative or civil judicial proceeding.

b. That the defendant has or had a possessory interest, or other legal interest, in each item or property.

c. To the Magistrate Judge conducting all proceedings necessary for any civil forfeiture of the property, including entry of judgment, pursuant to 28 U.S.C. § 636(c).

d. That the property may be returned to the true owner or treated as abandoned property.

e. To assist the United States in the recovery of all assets by (i) taking whatever steps are necessary or requested by the United States to pass clear title to the United States; (ii) preventing the disbursement of any monies and sale of any property or assets; (iii) not encumbering or transferring any real estate after the defendant's signing of this Plea Agreement; and (iv) directing all financial institutions to turn over and surrender to the United States all funds and records regarding accounts listed in any document signed by the defendant pursuant to this Plea Agreement, as criminal proceeds or substitute property.

10. The defendant waives all rights to notice of forfeiture under Rule 32.2 and of any other action or proceeding regarding such assets. The defendant consents and waives all rights to compliance by the United States with any applicable deadlines under 18 U.S.C. § 983(a). Any related administrative claim filed by the defendant is hereby withdrawn.

11. If the United States discovers that the defendant has not fully disclosed all assets, the United States may seek forfeiture of any subsequently-discovered assets, and the defendant agrees to the immediate forfeiture of any such assets.

12. The defendant further agrees to participate in the Inmate Financial Responsibility Program to fulfill all financial obligations due and owing under this agreement and the law.

### **III. Procedure**

13. The defendant agrees that a duly-qualified federal Magistrate Judge may conduct the hearing required by Rule 11.

14. The defendant stipulates that there is a factual basis, as required by Rule 11(b)(3), for the plea of guilty. The defendant further stipulates that the defendant has read and understood the Factual Basis filed with this Plea Agreement, and that such Factual Basis may be used by the Court and the United States Probation Office without objection by the defendant to determine the applicable advisory guideline range or the appropriate sentence under 18 U.S.C. § 3553(a), unless the Factual Basis itself notes that the defendant's right to object to a particular fact(s) was explicitly reserved.

### **IV. Waivers**

15. The defendant is aware that the law provides certain limited rights to withdraw a plea of guilty, has discussed these rights with defense counsel and knowingly and expressly waives any right to withdraw the plea once the Magistrate Judge has accepted it.

16. The defendant acknowledges that Rule 11(f) and Fed. R. of Evid. 408 and 410 are rules which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions. The defendant knowingly and voluntarily waives these rights and agrees that any statements made in the course of the defendant's guilty plea or this Plea Agreement (in part

or in its entirety, at the sole discretion of the United States) and the Factual Basis will be admissible against the defendant for any purpose in any criminal or civil proceeding if the defendant fails to enter or attempts to withdraw the defendant's guilty plea, or in any post-conviction proceeding challenging the knowing or voluntary nature of the guilty plea.

17. The defendant agrees that by pleading guilty, the defendant is expressly waiving the right: (a) to be tried by a jury; (b) to be assisted by an attorney at trial; (c) to confront and cross-examine witnesses; and (d) not to be compelled to incriminate him or herself.

18. The defendant has discussed with her attorney: (1) defendant's rights pursuant to 18 U.S.C. § 3742, 28 U.S.C. § 2255, and similar authorities to contest a conviction and/or sentence through an appeal or post-conviction action after entering into a Plea Agreement; (2) whether there are potential issues relevant to an appeal or post-conviction action; and (3) the possible impact of any such issue on the desirability of entering into this Plea Agreement.

19. The defendant, in exchange for the concessions made by the United States in this Plea Agreement, waives all such rights to contest the conviction and/or sentence except for claims of: (1) ineffective assistance of counsel or (2) prosecutorial misconduct. The defendant also knowingly and expressly waives all rights conferred by 18 U.S.C. § 3742 or otherwise to appeal whatever sentence is imposed with the two exceptions set forth above. The defendant agrees that the United States preserves all its rights and duties as set forth in 18 U.S.C. § 3742(b). Should the United States Sentencing Commission and/or Congress in the future amend the Sentencing Guidelines to lower the guideline range that pertains to the defendant's offense(s) and explicitly make such an amendment retroactive, the United States agrees that it will not assert this waiver as a bar to the defendant's filing a motion with the district court pursuant to 18 U.S.C. § 3582(c)(2). However, if the defendant files such a motion, the United States reserves the right to oppose the motion on any other grounds, and reserves the right to assert this waiver as a bar to an appeal from the district court's decision regarding the motion.

20. The defendant waives all rights, whether asserted directly or by a representative, to request or to receive from any department or agency any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

#### **V. Effects of Plea**

21. The defendant understands that if this case is governed by 18 U.S.C. §§ 3143(a)(2) and 3145(c) that a judicial officer shall order that a person who has been found guilty of an offense of this kind be detained, unless there are statutory justifications why such person's detention would not be appropriate.

22. The defendant recognizes that pleading guilty may have consequences, with respect to the defendant's immigration status, if the defendant is not a citizen of the United States. The defendant understands that no one can predict to a certainty the effect of the

defendant's conviction(s) on the defendant's immigration status and wants to plead guilty regardless, even if the consequence is the defendant's automatic removal from the United States.

### VI. Conclusion

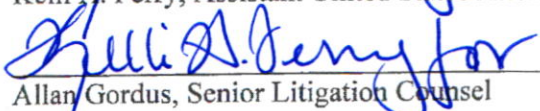
23. This agreement is effective and binding once signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this Plea Agreement at the date and time scheduled by the Court.

24. There are no agreements, representations, or understandings between the parties in this case, other than those explicitly set forth in this Plea Agreement, or as noticed to the Court during the plea colloquy and contained in writing in a separate document signed by all parties.

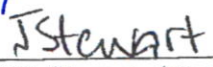
SO AGREED:

  
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Kelli H. Ferry, Assistant United States Attorney


DATED: 8-30-17

  
\_\_\_\_\_  
Allan Gordus, Senior Litigation Counsel

DATED: 8-30-17

  
\_\_\_\_\_  
Jack W. Stewart, Attorney for Defendant

DATED: 8/29/17

  
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Karen Ann Turner, Defendant

DATED: 8/29/17