

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

DELORES J. MOSIER

No. 15 CR 365

Judge Gary Feinerman

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and defendant DELORES J. MOSIER, and her attorney, JEFFREY JAY LEVINE, 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 mail fraud, in violation of Title 18, United States Code, Section 1341 (Counts 1-4), and wire fraud, in violation of Title 18, United States Code, Section 1343 (Counts 5 and 6).

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.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following count of the indictment: Count One, which charges defendant with mail fraud, in violation of Title 18, United States Code, Section 1341. In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because she is in fact guilty of the charge contained in Count One of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

Beginning no later than in or about March 2007, and continuing until at least in or about April 2015, at Harwood Heights and elsewhere, in the Northern District of Illinois, and elsewhere, defendant Delores J. Mosier devised, intended to devise, and participated in a scheme to defraud and obtain money from Victim A and other victims (“the victims”), by means of materially false and fraudulent pretenses, representations, and promises, and concealment of material facts.

Specifically, defendant was a financial advisor and investor, holding multiple professional licenses. Throughout the period of the scheme, defendant advised her client-victims to purchase purported short term, one-year, debt securities issued by the City of Chicago and called “Chicago Anticipatory Notes,” knowing that no such

notes existed. Defendant falsely represented that the notes had high annual interest rates of 7% and above, intending that those misrepresentations would induce her client-victims to purchase the fictitious notes. When the client-victims agreed, defendant advised them to make their checks payable to “Chicago Anticipatory Note,” knowing that she had opened a bank account in her name that was titled “CAN.” Defendant knew and intended that this would allow her to deposit those client-victims’ checks into her account and use the money for her own benefit. Defendant did use the money for her own benefit, which included making payments on a mortgage loan for her property located at 3003 North U.S. Highway 35, La Porte, Indiana.

To convince her client-victims that the fictitious notes were legitimate, defendant created and provided them fraudulent documents. Those documents included the following: (1) fictitious disclosure statements, which set forth the notes’ purported initial principal investment amount, annual interest rate, term, and other specifications of the purported notes; (2) fictitious quarterly interest statements, which set forth the purported interest earned and purported interest and principal reinvested for the applicable quarter; and (3) fictitious balance statements, which purported to reflect the client-victims’ current principal and interest balances in their notes. Defendant advised her client-victims to reinvest the purported interest they were supposedly earning on the notes, and to roll over the notes’ purported principal into another note at the end of each note’s one-year term. At times, when a client-victim requested an interest payment on a return of

the principal, defendant made those payments using funds fraudulently obtained from other client-victims.

Victim A was one of defendant's client-victims. Defendant met with Victim A in January 2011, and advised Victim A to purchase one of the fictitious notes for \$50,000; Victim A took defendant's advice. Defendant directed Victim A to make Victim A's check payable to "Chicago Anticipatory Note," knowing and intending that she would be able to deposit Victim A's money into her own CAN bank account. Defendant did deposit Victim A's \$50,000 check into her CAN account and used the money for her own benefit. She used approximately \$28,000 of it for general personal and household purchases. She used the other approximately \$22,000 of it to make purported interest payments to other victims for their purchases of the fictitious notes.

As charged in Count One of the indictment, on May 16, 2011, to falsely convince Victim A that Victim A had a legitimate investment, and in furtherance of the scheme, defendant intentionally created and mailed Victim A a fictitious quarterly interest statement titled, "Chicago Anticipatory Note #1 - February 1, 2011- April 30, 2011 Interest Payment." In the document, defendant falsely represented that Victim A had made an investment of \$50,000 in a "Chicago Anticipatory Note," the term of which began on February 1, 2011; that the note had been earning interest at a rate of 7.5% annually; that Victim A had earned \$937 in interest on that investment during the identified three-month period; and that the interest earnings had been reinvested.

The government contends that In total, during the course of the scheme, defendant fraudulently obtained approximately \$4,274,071 from approximately nine victims for purported purchases of the fictitious notes. Defendant reserves the right to present evidence prior to and during her sentencing that the amount she fraudulently obtained was less than \$4,274,071.

Maximum Statutory Penalties

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

a. A maximum sentence of 20 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. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court. The Court also may order restitution to any persons as agreed by the parties.

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

Sentencing Guidelines Calculations

8. 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.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specifically provided 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 2015 Guidelines Manual.

b. **Offense Level Calculations.**

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

ii. According to the government, the base offense level is increased sixteen levels because defendant caused a loss of approximately \$2,994,855, which was more than \$1 million but not more than \$3 million, pursuant to Guideline § 2B1.1(b)(1)(I); defendant reserves the right to contend that she caused a loss of less than \$2,994,855.

iii. According to the government, the base offense level is increased two levels because defendant's offense involved sophisticated means, pursuant to Guideline § 2B1.1(b)(10)(C); defendant disagrees that her offense involved sophisticated means.

iv. The base offense level is increased two levels because defendant abused her position of private trust in a manner that significantly facilitated the commission and concealment of the offense, pursuant to Guideline § 3B1.3.

v. If the Court determines at the time of sentencing that defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct 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 will be appropriate. The government reserves the right to take whatever position it deems appropriate at the time of sentencing with respect to whether defendant has accepted responsibility within the meaning of Guideline § 3E1.1(a).

vi. If the Court determines that defendant has fully accepted responsibility within the meaning of Guideline § 3E1.1(a), and that the offense level is 16 or higher prior to the application of any reduction for acceptance of responsibility pursuant to § 3E1.1(a), the government will move for an additional one-level reduction in the offense level pursuant to Guideline § 3E1.1(b) because 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.

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. 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.

10. 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

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

12. 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.

13. Regarding restitution, defendant acknowledges that the total amount of restitution owed to the victims of the offense is approximately \$2,935,729, minus any credit for funds repaid prior to sentencing, and that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant to make full restitution in the amount outstanding at the time of sentencing.

14. 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.

15. 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.

16. 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.

17. 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 as to defendant.

Forfeiture

18. Defendant understands that by pleading guilty, she will subject to forfeiture to the United States all right, title, and interest that she has in any property constituting or derived from proceeds traceable to the offense. Defendant agrees to forfeiture of the following specific property to the United States: the real property commonly known as 3003 North U.S. Highway 35, La Porte, Indiana 46350; and the real property commonly known as 3003 North U.S. Highway 35, Parcel -B, AS 112 +/- ACRES OF VACANT LAND, La Porte, Indiana 46350. In doing so, defendant admits that the property described above represents proceeds traceable to the offense, as alleged in the indictment. 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.

19. In addition, defendant agrees to the entry of a personal money judgment in the amount of \$2,935,729, which represents the total amount of proceeds traceable to the 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.

20. Defendant admits that because the directly forfeitable property, other than the specific property noted above, 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).

21. Defendant understands that forfeiture shall not be treated as satisfaction of any fine, restitution, 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.

22. 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. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

23. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 15 CR 365.

24. 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.

25. Defendant understands that nothing in this Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant.

Waiver of Rights

26. 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.

27. 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

28. 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.

29. 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.

30. 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

31. 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.

32. 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

33. 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.

34. 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.

35. 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.

36. 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.

37. 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

DELORES J. MOSIER
Defendant

YUSEF DALE
Assistant U.S. Attorney

JEFFREY JAY LEVINE
Attorney for Defendant