

FILED
VANESSA L. ARMSTRONG, CLERK

MAR 28 2016

U.S. DISTRICT COURT
WEST'N DIST KENTUCKY
PLAINTIFF

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:15-CR-~~80~~-JHM

acc

TIFFANY ELLIOTT

DEFENDANT

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the United States of America, by John E. Kuhn, Jr., United States Attorney for the Western District of Kentucky, and defendant, Tiffany Elliott, and her attorney, Scott Cox, have agreed upon the following:

1. Defendant acknowledges that she has been charged in the Indictment in this case with violations of Title 26, United States Code, Section 7206(2).
2. Defendant has read the charges against her contained in the Indictment, and those charges have been fully explained to her by her attorney. Defendant fully understands the nature and elements of the crimes with which she has been charged.
3. Defendant will enter a voluntary plea of guilty to Counts 1 through 16 in the Indictment in this case. Defendant will plead guilty because she is in fact guilty of the charges.

The parties agree to the following factual basis for this plea:

The conduct of the defendant, Tiffany Elliott, described and specified below, took place in Jefferson County, Kentucky, in the Western District of Kentucky, and elsewhere.

From at least on or about January 5, 2010, through at least on or about February 15, 2013, defendant Tiffany Elliott prepared fraudulent tax returns through her business, Tax Time, Inc., by creating false deductions for certain items, including losses from a sole proprietorship, or by creating false earned income from a sole proprietorship, whereas defendant Tiffany Elliott knew the taxpayers were not entitled to claim the specified deductions or earned income from a sole proprietorship.

Specifically, defendant Tiffany Elliott willfully aided and assisted in, and counseled and advised in the preparation and presentation to the Internal Revenue Service of U.S. Individual Income Tax Returns, Forms 1040, which were false and fraudulent as to material matters, as specified in the chart below:

| Count | Date of Offense | Taxpayer(s) | Calendar Tax Year | Falsified Items |
|-------|-------------------------------|-------------|-------------------|--|
| 1 | On or about February 4, 2012 | D.E. & R.E. | 2011 | \$3,500 in investment expenses and \$5,113 in losses from a sole proprietorship |
| 2 | On or about February 5, 2013 | D.E. & R.E. | 2012 | \$3,000 in investment expenses, \$14,347 in losses from a sole proprietorship, and \$850 in job search expenses |
| 3 | On or about February 13, 2012 | M.P. | 2011 | \$6,795 in charitable donations, \$3,000 in investment expenses, \$18,915 in losses from a sole proprietorship, and \$859 in job search expenses |
| 4 | On or about February 1, 2013 | M.P. | 2012 | \$3,500 in charitable donations and \$12,471 in losses from a sole proprietorship |
| 5 | On or about January 23, 2012 | D.R. | 2011 | \$2,000 in investment expenses, \$4,796 in losses from a sole proprietorship, |

| | | | | |
|----|-------------------------------|------|------|---|
| | | | | \$520 in union dues, and \$590 in job search expenses |
| 6 | On or about January 16, 2013 | D.R. | 2012 | \$1,500 in investment expenses, \$5,225 in losses from a sole proprietorship, and \$418 in union dues |
| 7 | On or about January 5, 2010 | T.B. | 2009 | \$3,500 in investment fees, \$8,340 in losses from a sole proprietorship, and \$2,770 in job search expenses |
| 8 | On or about January 20, 2011 | T.B. | 2010 | \$20,264 in losses from a sole proprietorship and \$1,250 in union dues |
| 9 | On or about January 31, 2012 | T.B. | 2011 | \$3,500 in investment fees and \$7,861 in losses from a sole proprietorship |
| 10 | On or about February 7, 2013 | T.B. | 2012 | \$2,200 in investment fees and \$17,681 in losses from a sole proprietorship |
| 11 | On or about January 31, 2012 | A.B. | 2011 | \$11,169 in profits from a sole proprietorship |
| 12 | On or about February 15, 2013 | A.B. | 2012 | \$3,950 in profits from a sole proprietorship |
| 13 | On or about February 9, 2012 | T.J. | 2011 | \$2,000 in investment expenses, \$6,952 in losses from a sole proprietorship, \$419 in union dues, \$650 in job search expenses, \$1,391 in work uniform expenses, and \$575 in job supply expenses |
| 14 | On or about February 1, 2013 | T.J. | 2012 | \$3,500 in investment expenses \$9,435 in losses from a sole proprietorship, \$619 in union dues, \$650 in job search expenses, \$1,250 in work uniform expenses, and \$675 in job supply expenses |
| 15 | On or about January 25, 2012 | C.N. | 2011 | \$1,500 in investment expenses, \$572 in union dues, \$600 in job search expenses, \$1,275 in work uniform expenses, and \$600 |

| | | | | |
|----|------------------------------------|------|------|--|
| | | | | in job supply expenses |
| 16 | On or about January 31, 2013 | C.N. | 2012 | \$3,000 in investment expenses, \$485 in union dues, \$895 in job search expenses, \$1,195 in work uniform expenses, and \$585 in job supply expenses |

4. Defendant understands that the charges to which she will plead guilty carry a combined maximum term of imprisonment of 48 years, a combined maximum fine of \$1,600,000, and a one-year term of supervised release. Defendant understands that an additional term of imprisonment may be ordered if the terms of the supervised release are violated, as explained in 18 U.S.C. § 3583.

5. Defendant understands that if a term of imprisonment of more than one year is imposed, the Sentencing Guidelines require a term of supervised release and that she will then be subject to certain conditions of release. §§5D1.1, 5D1.2, 5D1.3.

6. Defendant understands that by pleading guilty, she surrenders certain rights set forth below. Defendant's attorney has explained those rights to her and the consequences of her waiver of those rights, including the following:

A. If defendant persists in a plea of not guilty to the charges against her, she has the right to a public and speedy trial. The trial could either be a jury trial or a trial by the judge sitting without a jury. If there is a jury trial, the jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent and that it could not convict her unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt.

B. At a trial, whether by a jury or a judge, the United States 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. In turn, 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.

C. At a trial, defendant would have a privilege against self-incrimination and she could decline to testify, without any inference of guilt being drawn from her refusal to testify. If defendant desired to do so, she could testify in her own behalf.

7. Defendant understands that the United States Attorney's Office has an obligation to fully apprise the District Court and the United States Probation Office of all facts pertinent to the sentencing process, and to respond to all legal or factual inquiries that might arise either before, during, or after sentencing. Defendant admits all acts and essential elements of the indictment counts to which she pleads guilty.

8. Defendant understands she may also be responsible for penalties as the IRS may determine. Those penalties will not and cannot be part of this criminal judgment, but may be assessed in a separate administrative proceeding. Defendant will sign and execute IRS Form 870 on which she acknowledges she owes \$255,938 to the Internal Revenue Service, exclusive of penalties and interest.

9. Defendant acknowledges liability for the special assessment mandated by 18 U.S.C. § 3013 and will pay the assessment in the amount of \$1,600 to the United States District Court Clerk's Office by the date of sentencing.

10. At the time of sentencing, the United States will

-recommend a sentence of imprisonment at the lowest end of the applicable Guideline Range, but not less than any mandatory minimum term of imprisonment required by law.

-recommend a reduction of 3 levels below the otherwise applicable Guideline for "acceptance of responsibility" as provided by §3E1.1(a) and (b), provided the defendant does not engage in future conduct which violates any federal or state law, violates a condition of bond, constitutes obstruction of justice, or otherwise demonstrates a lack of acceptance of responsibility. Should such conduct occur and the United States, therefore, opposes the reduction for acceptance, this plea agreement remains binding and the defendant will not be allowed to withdraw her plea.

11. Both parties have independently reviewed the Sentencing Guidelines applicable in this case, and in their best judgment and belief, conclude as follows:

A. The Applicable Offense Level should be determined as follows:

| | | |
|-------------------------------|---|-----------|
| 2T1.4(a)(1) & 2T4.1(G) | Base Offense Level (Loss more than \$250,000) | 18 |
| 2T1.4(b)(1)(B) | Defendant in business of preparing tax returns | +2 |
| Adjusted Offense Level | | 20 |
| 3E1.1(a)&(b) | Acceptance and Timeliness | -3 |
| Total Offense Level | | 17 |

B. The Criminal History of defendant shall be determined upon completion of the presentence investigation, pursuant to Fed. R. Crim. P. 32(c).

Both parties reserve the right to object to the USSG §4A1.1 calculation of defendant's criminal history.

C. The foregoing statements of applicability of sections of the Sentencing Guidelines and the statement of facts are not binding upon the Court. The defendant understands the Court will independently calculate the Guidelines at sentencing and defendant may not withdraw the plea of guilty solely because the Court does not agree with either the statement of facts or Sentencing Guideline application.

12. Defendant is aware of her right to appeal her conviction and that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Unless based on claims of ineffective assistance of counsel or prosecutorial misconduct, the Defendant knowingly and voluntarily waives the right (a) to directly appeal her conviction and the resulting sentence pursuant to Fed. R. App. P. 4(b) and 18 U.S.C. § 3742, and (b) to contest or collaterally attack her conviction and the resulting sentence under 28 U.S.C. § 2255 or otherwise.

13. Defendant understands and agrees that by entering into this Plea Agreement, she becomes subject to 12 U.S.C. § 1829 which precludes her from participating, directly or indirectly, in the conduct of the affairs of any insured depository institution without the prior written consent of the Federal Deposit Insurance Corporation or other federal financial institution regulatory agency.

14. Defendant waives and agrees to waive any rights under the Speedy Trial Act and understands and agrees that sentencing may be delayed. The reason for such waiver is so that at sentencing the Court will have the benefit of all relevant information.

15. Defendant agrees not to pursue or initiate any civil claims or suits against the United States of America, its agencies or employees, whether or not presently known to

defendant, arising out of the investigation or prosecution of the offenses covered by this Agreement.

16. The defendant hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States 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 of 1974, 5 U.S.C. § 552a.

17. Defendant agrees to interpose no objection to the United States transferring evidence or providing information concerning defendant and this offense, to other state and federal agencies or other organizations, including, but not limited to the Internal Revenue Service, other law enforcement agencies, and any licensing and regulatory bodies, or to the entry of an order under Fed. R. Crim. P. 6(e) authorizing transfer to the Examination Division of the Internal Revenue Service of defendant's documents, or documents of third persons, in possession of the Grand Jury, the United States Attorney, or the Criminal Investigation Division of the Internal Revenue Service.

18. It is understood that pursuant to Fed. R. Crim. P. 11(c)(1)(B), the recommendations of the United States are not binding on the Court. In other words, the Court is not bound by the sentencing recommendation and defendant will have no right to withdraw her guilty plea if the Court decides not to accept the sentencing recommendation set forth in this Agreement.

19. Defendant agrees that the disposition provided for within this Agreement is fair, taking into account all aggravating and mitigating factors. Defendant states that she has informed the United States Attorney's Office and the Probation Officer, either directly or through

her attorney, of all mitigating factors. However, defendant specifically reserves the right to argue for a downward departure or a variance based on the sentencing factors included in Title 18, United States Code, Section 3553.

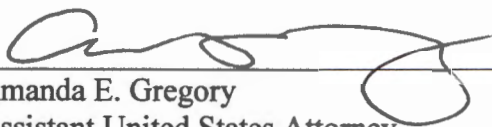
20. This document and the supplemental plea agreement state the complete and only Plea Agreements between the United States Attorney for the Western District of Kentucky and defendant in this case, and are binding only on the parties to this Agreement, supersedes all prior understandings, if any, whether written or oral, and cannot be modified other than in writing that are signed by all parties or on the record in Court. No other promises or inducements have been

or will be made to defendant in connection with this case, nor have any predictions or threats been made in connection with this plea.

AGREED:

JOHN E. KUHN, JR.
United States Attorney

By:



Amanda E. Gregory
Assistant United States Attorney

3-22-16

Date

I have read this Agreement and carefully reviewed every part of it with my attorney. I fully understand it and I voluntarily agree to it.

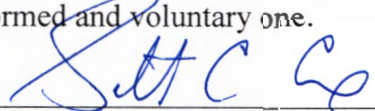


Tiffany Elliott
Defendant

3-28-16

Date

I am the defendant's counsel. I have carefully reviewed every part of this Agreement with the defendant. To my knowledge my client's decision to enter into this Agreement is an informed and voluntary one.



Scott Cox
Counsel for Defendant

3-28-16

Date

JEK:AEG:030716