

7/30/2012



United States Attorney
District of Maryland
Northern Division

Rod J. Rosenstein
United States Attorney

Kathleen O. Gavin
Assistant United States Attorney

36 South Charles Street
Fourth Floor
Baltimore, Maryland 21201

DIRECT: 410-209-4887
MAIN: 410-209-4800
FAX: 410-962-3091
TTY/TDD: 410-962-4462
Kathleen.Gavin@usdoj.gov

July 30, 2012

Deborah Boardman, Esquire
Assistant Federal Public Defender
Tower II, Suite 900
100 South Charles Street
Baltimore, MD 21201

Re: United States v. Wanda Henderson

Dear Ms. Boardman:

This letter, together with the Sealed Supplement, confirms the plea agreement which has been offered to the defendant by the United States Attorney's Office for the District of Maryland ("this Office"). If the defendant accepts this offer, please have her execute it in the spaces provided below. If this offer has not been accepted by August 15, 2012, it will be deemed withdrawn. The terms of the agreement are as follows:

Offense of Conviction

1. The defendant agrees to waive Indictment and plead guilty to a Criminal Information which will charge her with embezzlement by a bank employee, in violation of 18 U.S.C. Section 656. The defendant admits that she is, in fact, guilty of that offense and will so advise the Court.

Elements of the Offense

2. The elements of the offense to which the defendant has agreed to plead guilty, and which this Office would prove if the case went to trial, are as follows:

First, that at the time the offense occurred, the defendant was an officer, director, agent or employee of, or was connected in some capacity with Hebron Savings Bank ("the bank");

Second, that at the time the offense occurred, the bank was insured by the Federal Deposit Insurance Corporation;

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Third, that the defendant willfully ^{misapplied} or embezzled funds or credits belonging to the bank or entrusted to the care and custody of the bank; ✓

Fourth, that the defendant intended to injure or defraud the bank; and

Fifth, that the amount defendant embezzled or misapplied was greater than \$1,000.

Penalties

3. The maximum sentence provided by statute for the offense to which the defendant is pleading guilty is as follows: thirty years' imprisonment, five years of supervised release and a fine of \$250,000 or twice the amount of gain or loss caused by the offense conduct, whichever is greater. In addition, the defendant must pay \$100 as a special assessment pursuant to 18 U.S.C. § 3013, which will be due and should be paid at or before the time of sentencing. This Court may also order her to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.¹ If a fine or restitution is imposed, it shall be payable immediately, unless, pursuant to 18 U.S.C. § 3572(d), the Court orders otherwise. The defendant understands that if she serves a term of imprisonment, is released on supervised release, and then violates the conditions of her supervised release, her supervised release could be revoked - even on the last day of the term - and the defendant could be returned to custody to serve another period of incarceration and a new term of supervised release. The defendant understands that the Bureau of Prisons has sole discretion in designating the institution at which the defendant will serve any term of imprisonment imposed.

Waiver of Rights

4. The defendant understands that by entering into this agreement, she surrenders certain rights as outlined below:

a. If the defendant had pled not guilty, she would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the defendant, this Office, and the Court all agreed.

b. If the defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified, and would have the opportunity to strike a certain number of jurors peremptorily. All

¹ Pursuant to 18 U.S.C. § 3612, if the Court imposes a fine in excess of \$2,500 that remains unpaid 15 days after it is imposed, the defendant shall be charged interest on that fine, unless the Court modifies the interest payment in accordance with 18 U.S.C. § 3612(f)(3).

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twelve jurors would have to agree unanimously before the defendant could be found guilty of any count. The jury would be instructed that the defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

c. If the defendant went to trial, the government would have the burden of proving the defendant guilty beyond a reasonable doubt. The defendant would have the right to confront and cross-examine the government's witnesses. The defendant would not have to present any defense witnesses or evidence whatsoever. If the defendant wanted to call witnesses in her defense, however, she would have the subpoena power of the Court to compel the witnesses to attend.

d. The defendant would have the right to testify in her own defense if she so chose, and she would have the right to refuse to testify. If she chose not to testify, the Court could instruct the jury that they could not draw any adverse inference from her decision not to testify.

e. If the defendant were found guilty after a trial, she would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges against her. By pleading guilty, the defendant knowingly gives up the right to appeal the verdict and the Court's decisions.

f. By pleading guilty, the defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the defendant understands that she may have to answer the Court's questions both about the rights she is giving up and about the facts of her case. Any statements the defendant makes during such a hearing would not be admissible against her during a trial except in a criminal proceeding for perjury or false statement.

g. If the Court accepts the defendant's plea of guilty, there will be no further trial or proceeding of any kind, and the Court will find her guilty.

h. By pleading guilty, the defendant will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status. The defendant recognizes that if she is not a citizen of the United States, pleading guilty may have consequences with respect to her immigration status. Under federal law, conviction for a broad range of crimes can lead to adverse immigration consequences, including automatic removal from the United States. Removal and other immigration consequences are the subject of a separate proceeding, however, and the defendant understands that no one, including her attorney or the Court, can predict with certainty the effect of a conviction on immigration status. The defendant nevertheless affirms that she wants to plead guilty regardless of any potential immigration consequences.

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Advisory Sentencing Guidelines Apply

5. The defendant understands that the Court will determine a sentencing guidelines range for this case (henceforth the "advisory guidelines range") pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991 through 998. The defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take into account the advisory guidelines range in establishing a reasonable sentence.

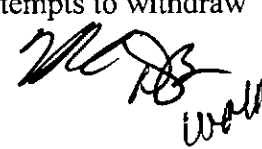
Factual and Advisory Guidelines Stipulation

6. This Office and the defendant understand, agree and stipulate to the Statement of Facts set forth in Attachment A which this Office would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors:

The applicable guideline for theft or embezzlement by a bank employee is Section 2B1.1. The base offense level is seven (7). Section 2B1.1(a)(1). The offense level is increased by fourteen (14), because the loss was more than \$400,000 and less than \$1 million. Section 2B1.1(b)(1)(H). An additional two levels are added because the defendant abused a position of trust in a manner that significantly facilitated the commission and concealment of the offense. Section 3B1.3.

This Office does not oppose a two-level reduction in the defendant's adjusted offense level, based upon the defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for her criminal conduct. This Office agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the defendant's timely notification of her intention to plead guilty. This Office may oppose *any* adjustment for acceptance of responsibility if the defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about her involvement in the offense; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw her plea of guilty.

The final adjusted offense level, therefore, is twenty-one (20).

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7. The defendant understands that there is no agreement as to her criminal history or criminal history category, and that her criminal history could alter her offense level if

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she is a career offender or if the instant offense was a part of a pattern of criminal conduct from which she derived a substantial portion of her income.

8. This Office and the defendant agree that with respect to the calculation of the advisory guidelines range, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines will be raised or are in dispute.

Regulatory Action

9. The defendant agrees to consent to any regulatory action separately taken by a federal financial institution regulatory agency to permanently remove her from office and/or prohibit her from participating, whether as an institution-affiliated party or otherwise, in the conduct of the affairs of any insured depository institution or depository institution holding company, or any other organizations or entities related to the financial industry, as provided in Section 8(e) of the Federal Deposit Insurance Act, 12 U.S.C. Section 1818(e), or in any other statute, rule, or regulation.

Obligations of the United States Attorney's Office

10. At the time of sentencing, this Office will recommend that the defendant receive a sentence of imprisonment that falls ~~within the final~~ guideline range determined by the Court to be applicable. *at the low end of the final*

11. The parties reserve the right to bring to the Court's attention at the time of sentencing, and the Court will be entitled to consider, all relevant information concerning the defendant's background, character and conduct. *RB 7/4*

Forfeiture

12. The defendant understands that the Court will, upon acceptance of her guilty plea, enter an order of forfeiture as part of her sentence, and that the order of forfeiture may include assets directly traceable to her offense, substitute assets and/or a money judgment equal to the value of the property derived from, or otherwise involved in, the offense. Specifically, the court will order the forfeiture of any property constituting, or derived from, proceeds the defendant obtained directly or indirectly as the result of the offense, including but not limited to \$457,351.71. The defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 11(b)(1)(J), 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, advice regarding the forfeiture at the change-of-plea hearing, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment.

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Assisting the Government with Regard to the Forfeiture

13. The defendant agrees to assist fully in the forfeiture of the foregoing assets. The defendant agrees to disclose all of her assets and sources of income to the United States, and to take all steps necessary to pass clear title to the forfeited assets to the United States, including but not limited to executing any and all documents necessary to transfer such title, assisting in bringing any assets located outside of the United States within the jurisdiction of the United States, and taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. The defendant further agrees that she will not assist any third party in asserting a claim to the forfeited assets in an ancillary proceeding and that she will testify truthfully in any such proceeding.

Waiver of Further Review of Forfeiture

14. The defendant further agrees to waive all constitutional, legal and equitable challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The defendant also agrees not to challenge or seek review of any civil or administrative forfeiture of any property subject to forfeiture under this agreement, and will not assist any third party with regard to such challenge or review or with regard to the filing of a petition for remission of forfeiture.

Waiver of Appeal

15. In exchange for the concessions made by this Office and the defendant in this plea agreement, this Office and the defendant waive their rights to appeal as follows:

- a). The defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or otherwise, to appeal the defendant's conviction;
- b). The defendant and this Office knowingly waive all right, pursuant to 18 U.S.C. § 3742 or otherwise, to appeal whatever sentence is imposed (including the right to appeal any issues that relate to the establishment of the advisory guidelines range, the determination of the defendant's criminal history, the weighing of the sentencing factors, and the decision whether to impose and the calculation of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised release), except as follows: (i) the defendant reserves the right to appeal any term of imprisonment to the extent that it exceeds forty-six (46) months' imprisonment; (ii) and this Office reserves the right to appeal any term of imprisonment to

[Handwritten signature]
WAP

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the extent that it is below thirty-~~seven~~ ^{THIRTY} (33) months' imprisonment.

- c) Nothing in this agreement shall be construed to prevent the defendant or this Office from invoking the provisions of Federal Rule of Criminal Procedure 35(a), or from appealing from any decision thereunder, should a sentence be imposed that resulted from arithmetical, technical, or other clear error.
- d) The defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from this Office or any investigating agency.

Obstruction or Other Violations of Law

16. The defendant agrees that she will not commit any offense in violation of federal, state or local law between the date of this agreement and her sentencing in this case. In the event that the defendant (i) engages in conduct after the date of this agreement which would justify a finding of obstruction of justice under U.S.S.G. § 3C1.1, or (ii) fails to accept personal responsibility for her conduct by failing to acknowledge her guilt to the probation officer who prepares the Presentence Report, or (iii) commits any offense in violation of federal, state or local law, then this Office will be relieved of its obligations to the defendant as reflected in this agreement. Specifically, this Office will be free to argue sentencing guidelines factors other than those stipulated in this agreement, and it will also be free to make sentencing recommendations other than those set out in this agreement. As with any alleged breach of this agreement, this Office will bear the burden of convincing the Court of the defendant's obstructive or unlawful behavior and/or failure to acknowledge personal responsibility by a preponderance of the evidence. The defendant acknowledges that she may not withdraw her guilty plea because this Office is relieved of its obligations under the agreement pursuant to this paragraph.

Court Not a Party

17. The defendant expressly understands that the Court is not a party to this agreement. In the federal system, the sentence to be imposed is within the sole discretion of the Court. In particular, the defendant understands that neither the United States Probation Office nor the Court is bound by the stipulation set forth above, and that the Court will, with the aid of the Presentence Report, determine the facts relevant to sentencing. The defendant understands that the Court cannot rely exclusively upon the stipulation in ascertaining the factors relevant to the determination of sentence. Rather, in determining the factual basis for the sentence, the Court will consider the stipulation, together with the results of the presentence investigation, and any other relevant information. The defendant understands that the Court is under no obligation to accept this Office's recommendations, and the Court has the power to impose a sentence up to and including the statutory maximum stated above. The defendant understands that if the Court ascertains factors

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different from those contained in the stipulation set forth above, or if the Court should impose any sentence up to the maximum established by statute, the defendant cannot, for that reason alone, withdraw her guilty plea, and will remain bound to fulfill all of her obligations under this agreement. The defendant understands that neither the prosecutor, her counsel, nor the Court can make a binding prediction, promise, or representation as to what guidelines range or sentence the defendant will receive. The defendant agrees that no one has made such a binding prediction or promise.


Entire Agreement

18. This letter supersedes any prior understandings, promises, or conditions between this Office and the defendant and, together with the Sealed Supplement, constitutes the complete plea agreement in this case. The defendant acknowledges that there are no other agreements, promises, undertakings or understandings between the defendant and this Office other than those set forth in this letter and the Sealed Supplement and none will be entered into unless in writing and signed by all parties.

If the defendant fully accepts each and every term and condition of this agreement, please sign and have the defendant sign the original and return it to me promptly.

Very truly yours,

Rod J. Rosenstein
United States Attorney

By: 
Kathleen O. Gavin
Assistant United States Attorney

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I have read this agreement, including the Sealed Supplement, and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

9/5/12
Date

Wanda Henderson
Wanda Henderson

I am Ms. Henderson's attorney. I have carefully reviewed every part of this agreement, including the Sealed Supplement with her. She advises me that she understands and accepts its terms. To my knowledge, her decision to enter into this agreement is an informed and voluntary one.

9/5/12
Date

Deborah Boardman
Deborah Boardman, Esquire
Counsel for the defendant

Attachment A - Statement of Facts

The United States and defendant Wanda Henderson stipulate and agree to the following facts that the United States would have proven beyond a reasonable doubt had this case proceeded to trial. They further stipulate and agree that these are not all of the facts that the United States would have proven had this matter gone to trial:

At all times relevant, Wanda Henderson was employed at Hebron Savings Bank ("the Bank") in Hebron, Maryland, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation. Henderson was the Vice-President and Executive Assistant to the President of the Bank. In that position, Henderson had access to the Bank's vault, the computer system and the Bank's loan files.

Beginning in approximately 2005, and continuing until April, 2011, Henderson engaged in a scheme to obtain monies from the Bank to which she was not entitled by creating false and fraudulent loan applications and by creating fraudulent loan and line of credit accounts at the Bank in her name and in the names of family members. Henderson forged the signatures of various Bank officials, including the President of the Bank, as the approving loan officer on the loan applications. Henderson also forged the initials of other Bank employees on paperwork that authorized the transfer of the various loan proceeds into Henderson's personal checking account or the checking account of a family member.

Henderson concealed the fraudulent loans from Bank officials by manipulating and changing data in the books and records of the Bank. In particular, Henderson altered the origination dates for the fraudulent loans so that they did not appear on the monthly New Loan Reports. Henderson also altered the Bank's quarterly Large Borrowers' Reports by removing the fraudulent loans entirely from those Reports.

As the various loans became due over time, Henderson obtained new fraudulent loans by again creating accounts in the Bank computer system and forging approval signatures of other Bank officials. Henderson used some or all of the proceeds from the new loans to pay off the previous loans, thereby continuing the fraudulent scheme until April of 2011.

In all, Henderson obtained 20 separate loans for herself or for members of her family by forging signatures and manipulating Bank records between 2005 and April 2011. The total unpaid principal balance on the fraudulent loans that have since gone into default is \$457,351.71.¹

¹ The total unpaid balance of all of the outstanding loans is \$682,236.77. For several of the loans that Henderson obtained for family members, however, the family members have continued to make timely payments pursuant to the terms of the loan agreements.

On or about July 21, 2008, Henderson caused the Bank to transfer \$60,000 in Bank funds into her personal checking account pursuant to a line of credit loan account that she created on the Bank's computer system. Henderson changed the origination date of the loan on the system so that the loan would not appear on the monthly New Loan Report. Henderson was not entitled to the \$60,000, which was money belonging to and under the care and custody of the Bank. Henderson used those funds for her own personal use and benefit.

At all times, Henderson acted knowingly and with the intent to defraud the Bank. These events all took place in the District of Maryland.

I have reviewed the foregoing statement of facts with my attorney, understand it, agree with it, and do not wish to change any part of it. I further understand that it is included as part of my plea agreement with the government in this case.

Agreed to this __ day of July, 2012.

Wanda Henderson
Wanda Henderson