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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)No. 4:02-CR-495 CDP
)
CASSANDRA OWENS,)
)
Defendant.)

PLEA HEARING

BEFORE THE HONORABLE CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

AUGUST 22, 2003

APPEARANCES:

For Plaintiff: John M. Bodenhausen, Esq.
OFFICE OF U.S. ATTORNEY
111 South Tenth Street, 20th Floor
St. Louis, MO 63102

For Defendant: John D. Stobbs, II, Esq.
346 W. St. Louis Avenue
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REPORTED BY: ANGELA K. DALEY, CSR, RPR
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(PROCEEDINGS STARTED AT 11:30 A.M.)

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT AND WITH
THE DEFENDANT PRESENT.)

THE COURT: We're here in the case of United States
of America versus Cassandra Owens, number 4:02-CR-595.
Ms. Owens, would you step with your lawyer up to the lectern.
Ms. Owens, I've been told by the lawyers that it's your
intention to change your plea and enter a plea of guilty to an
information that the Government will file, and that you have
reached an agreement with the Government to do this. Is this
right?

THE DEFENDANT: Yes, ma'am.

THE COURT: Okay. Before I accept your waiver of the
indictment or your plea to the information, I have to ask you
some questions, and I'm going to have you placed under oath
before I ask you those questions. Once you have sworn to tell
the truth, your answers to my questions are subject to the
penalties of perjury. Do you understand that?

THE DEFENDANT: Yes, ma'am.

THE COURT: Would you swear the defendant please.

(DEFENDANT SWORN BY THE CLERK.)

THE COURT: Would you state your full name please.

THE DEFENDANT: Cassandra Owens.

THE COURT: How old are you, ma'am?

THE DEFENDANT: Forty-seven.

1 THE COURT: How far did you go in school?

2 THE DEFENDANT: Twelfth.

3 THE COURT: Can you pull that microphone a little
4 closer to you. You can scoot it there. Okay. Do you read
5 and write in English?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you have -- you said 12th. Do you
8 have a high school diploma?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: Do you have a GED?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Okay. Now how is your health at the
13 current time?

14 THE DEFENDANT: It's not as good as it used to be.

15 THE COURT: Are you being treated by a doctor or a
16 psychiatrist for any reason?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Do you take any medicines on an ongoing
19 basis?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: What kind of health problems do you have?

22 THE DEFENDANT: I've been having chest pains.

23 THE COURT: Chest pains?

24 THE DEFENDANT: Yes.

25 THE COURT: Have you seen the doctor about that?

1 THE DEFENDANT: No, I haven't.

2 THE COURT: Okay. Do you feel okay here today?

3 THE DEFENDANT: I feel okay. I feel kind of weak,
4 but I feel okay. I'm okay. I'm okay.

5 THE COURT: Okay. Well, if there's any reason that
6 you don't feel well enough to proceed, we don't have to
7 proceed today.

8 THE DEFENDANT: Yes, ma'am. I feel okay.

9 THE COURT: You feel okay?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Within the last 24 hours, have you taken
12 any medicines or drugs or drunk any alcohol?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Okay. So you feel okay and ready to
15 proceed?

16 THE DEFENDANT: Yes, ma'am, uh-huh.

17 THE COURT: Does either counsel have any doubts as to
18 the defendant's competence to proceed?

19 MR. BODENHAUSEN: The Government has none, Your
20 Honor.

21 MR. STOBBS: None whatsoever, Judge.

22 THE COURT: Okay. Now we've got two things going on
23 here today. You were charged in an indictment, and that
24 indictment charges you with bank fraud in a number of counts.
25 I believe you are charged in only one count, okay, one count

1 of bank fraud.

2 MR. BODENHAUSEN: Which is count eight.

3 THE COURT: Count eight; right?

4 MR. BODENHAUSEN: I believe that's correct, Your
5 Honor.

6 THE COURT: But what you're talking about pleading
7 guilty to is something called a superseding information, and
8 in that superseding information, that's a charge brought by
9 the United States Attorney where the Government charges that
10 on or about May 16, 2001, within the Eastern District of
11 Missouri, that you with intent to deceive did falsely
12 represent in connection with a real estate transaction for the
13 sale of real property located at 6040 Emma in St. Louis,
14 Missouri, that the number was not the social security account
15 number assigned to you by the Commissioner of Social Security,
16 and you did that for the purpose of obtaining and using
17 something of value, specifically completing the real estate
18 transaction when in truth and fact you knew the number you
19 represented was not your real social security number, and
20 that's charged as a violation of Title XLII, United States
21 Code Section 408A(7)(b). So that's what the superseding
22 information is. Do you understand that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Now do you have a -- have you seen a copy
25 of that?

1 THE DEFENDANT: Yes, I have.

2 THE COURT: Okay. Now this information is a charge
3 brought by the prosecuting attorney. This charge hasn't been
4 presented to the Grand Jury. When you were indicted by the
5 Grand Jury on the charge of bank fraud, that was done by the
6 Grand Jury, but this is just done by the prosecutor. Under
7 the Constitution, you have a right to have a charge like this
8 brought -- I'm assuming this is a felony?

9 MR. BODENHAUSEN: Yes, Your Honor.

10 THE COURT: Okay. You have the right to have a
11 charge like this brought by the Grand Jury. You can waive
12 that right if you want to, and that's what the lawyers have
13 told me you want to do here today, but I need to make sure you
14 understand the rights you're giving up when you do that. You
15 do have a right, a constitutional right, to have to be charged
16 by a Grand Jury. And what a Grand Jury is is it's at least 16
17 and not more than 23 people, and the Government presents
18 evidence to them, and at least 12 of the grand jurors have to
19 find that there is possible cause to believe that the
20 defendant committed a crime before an indictment can be
21 returned. If your case was presented to the Grand Jury, if
22 this case was presented to the Grand Jury, the charges in this
23 superseding information, the Grand Jury might or might not
24 indict you on these charges, but if you waive indictment and
25 agree to plead guilty to this information, then the case will

1 proceed just the same as if you had been indicted by the Grand
2 Jury on these charges. Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Now in this case, you have been appointed
5 counsel. You had an earlier lawyer, and then Mr. Stobbs was
6 appointed to represent you, and he is here today. You do have
7 the right to be represented by counsel at all stages. Have
8 you had enough time to discuss your case with your lawyer?

9 THE DEFENDANT: I have.

10 THE COURT: Are you satisfied with Mr. Stobbs'
11 representation of you in this case?

12 THE DEFENDANT: Yes, I am.

13 THE COURT: Is there anything you've wanted him to do
14 in representing you that he's failed or refused to do?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Have you discussed with him fully both
17 the issue of pleading guilty to this information and the issue
18 of waiving your right to be indicted by a Grand Jury on these
19 charges?

20 THE DEFENDANT: Yes, we have.

21 THE COURT: And do you wish to waive indictment; in
22 other words, agree that we can proceed on this information?

23 THE DEFENDANT: I do.

24 THE COURT: Okay. I believe that the Government
25 attorney has a waiver form, and I will ask you to sign that

1 and have your lawyer sign it.

2 MR. BODENHAUSEN: Your Honor, I am placing that
3 there. It's a waiver of indictment with today's date.

4 THE COURT: Yeah. And Ms. Owens, let me just ask you
5 this before you sign that. Has anybody threatened you or
6 forced you to get you to either plead guilty or waive
7 indictment?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Okay. You can go ahead and sign that
10 then if that's what you wish to do.

11 MR. STOBBS: Judge, as kind of a housekeeping matter
12 while she is signing that, we would move I think on an
13 indictment to sever her out and continue her case until I
14 guess the day of sentencing here.

15 MR. BODENHAUSEN: At which time the Government would
16 of course move to dismiss count eight against her.

17 THE COURT: Right. And that is how it works and that
18 will be granted. I don't know that I have to do a separate
19 order doing that, but I will state that because obviously it's
20 not dismissed until the time of sentencing, but the
21 contemplation would be that the indictment would be dismissed
22 at the time of sentencing.

23 All right. I will accept the defendant's waiver of
24 indictment as I find that she is competent to do this and she
25 is entering it -- understands the rights and is entering this

1 waiver knowingly and voluntarily. Now I want to talk to you
2 about pleading guilty. You have an agreement here with the
3 Government that you would waive indictment and plead guilty to
4 the charges in this information, but let me make sure you
5 understand your rights if you do this.

6 If you didn't plead guilty, you would be entitled --
7 if you pleaded not guilty in other words, you would be
8 entitled to a speedy and a public trial before a judge or a
9 jury. And in fact, the trial on the indictment is set for
10 Monday as I'm sure you know, and we'll be going forward with
11 your co-defendants, and if you choose not to plead guilty here
12 today, then you can go to trial on Monday. Certainly, this
13 case has been pending for awhile, and that is when the trial
14 is set. At a trial, you would be presumed innocent, and the
15 Government would have to prove you guilty by competent
16 evidence and beyond a reasonable doubt. You would not have to
17 prove that you were innocent. The Government would have the
18 burden of proving you guilty. They would try to do that by
19 bringing witnesses into court who would testify in your
20 presence. You could hear what the witnesses against you had
21 to say, and your attorney could cross-examine the Government's
22 witnesses and object to the Government's evidence, and your
23 attorney could offer evidence and call witnesses on your
24 behalf.

25 At a trial, you would have the right to testify, but

1 you would also have the right not to testify because you have
2 a privilege against self-incrimination. That means you don't
3 have to give testimony in a criminal trial. And if you choose
4 not to testify, there can't be any inference or suggestion of
5 guilt drawn by the jury from the fact that you didn't testify.
6 Additionally, even though there are co-defendants in this
7 case, the jury would be told that they have to consider each
8 case against each individual separately if you went to trial
9 jointly with your co-defendants. So those are all the rights
10 you would have if you went to trial and pleaded not guilty.
11 But if you plead guilty here today, you will be giving up
12 those rights, and there won't be any trial. A judgment of
13 guilty will be entered on your plea just the same as if you
14 had been convicted of these same charges by a jury. Do you
15 understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. Has anybody threatened you or
18 forced you to get you to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Now the lawyers have given me a document
21 called Plea Agreement, Guidelines, Recommendations, and
22 Stipulations. Do you have a copy of that there in front of
23 you?

24 MR. STOBBS: Yes, ma'am.

25 THE COURT: It's got your name in the caption,

1 Ms. Owens, and then over on the back page, which is page 16,
2 there are three signatures. Mr. Bodenhause, the prosecutor,
3 has signed up at the top, and Mr. Stobbs, your lawyer, signed
4 at the bottom, and there is a signature in the middle above
5 where your name is typed. Is that your signature?

6 THE DEFENDANT: Yes, it is.

7 THE COURT: Did you sign this document here today?

8 THE DEFENDANT: Yes, I did.

9 THE COURT: Did you read it and discuss it with your
10 lawyer before you signed it?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Is everything in this document true to
13 the best of your knowledge and understanding?

14 THE DEFENDANT: Yes, it is.

15 THE COURT: Is there anything in here that you either
16 disagree with or you don't understand?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Does this document contain the entire
19 agreement between you and the Government?

20 THE DEFENDANT: Yes.

21 THE COURT: In other words, there aren't any side
22 agreements or promises that have been made to you that weren't
23 written down here?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Okay. What this says is that in exchange

1 for your plea of guilty to the superseding information, the
2 one I just read to you, the U.S. Attorney's Office is agreeing
3 not to bring any other federal prosecution against you related
4 to your attempted bank fraud on December 7th and December 13,
5 2001 as charged in the indictment as well as any other charges
6 against you relating to the false social security number
7 during real estate closings in May 2001 or December 7th or
8 December 13, 2001. In other words, they won't bring any other
9 charges against you for anything they know about at this time.
10 Do you understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Now as part of your agreement in this
13 case -- well, I'll tell you what. We'll come back and discuss
14 this agreement in more detail, but I want to talk to you about
15 the elements of the offense and the sentencing process before
16 we talk about the other parts of your plea agreement.

17 Elements of the offense, okay, page ten of the agreement, I
18 think there is a typographical error because it refers to
19 count eight, and I believe that's the count of the original
20 indictment, and this is really count one of the superseding
21 information that we're talking about here; right?

22 MR. BODENHAUSEN: That's right, Your Honor.

23 THE COURT: Okay. And I will ask you all, it's just
24 a matter of changing it to count one I think, and I'll just
25 hand you the original and ask you to make that change because

1 as I read that, it looks like you've got the elements correct
2 and everything. It's just the number.

3 Okay. That's fine. So elements of the offense is
4 something I need to explain to you, Ms. Owens. Elements of
5 the offense are the things the Government would have to prove
6 for you to be guilty of this crime. And in this case, the
7 elements of the offense charged in this superseding
8 information are that you represented a number to be your true
9 social security number, that you knew that it was false and
10 that that wasn't your real number, and that you did that with
11 the intent to deceive in connection with a real estate
12 transaction. Now the maximum penalty for this offense is
13 imprisonment of not more than five years, a fine of not more
14 than \$250,000, or both imprisonment and a fine, and I can also
15 impose a period of supervised release of three years.
16 Supervised release is a period of time that follows jail. If
17 you get jail time in federal court, then you usually also get
18 supervised release, and when you're on supervised release, if
19 you violate the conditions of your supervised release, I could
20 revoke that release and send you back to jail. So it is an
21 important part of the maximum penalties in the case. Do you
22 understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Now there's also a mandatory special
25 assessment of \$100 that I have to impose as part of the case,

1 and there may be restitution required as part of the sentence
2 as well. Do you understand that? Can you tell me about the
3 restitution situation here?

4 MR. BODENHAUSEN: Your Honor, I don't believe we're
5 going to have any restitution in this matter.

6 THE COURT: Okay. And that's because?

7 MR. STOBBS: There was only attempted loss.

8 MR. BODENHAUSEN: There was only attempted loss
9 that's attributable to her that we have agreed to.

10 THE COURT: Okay. So there aren't actual losses, so
11 there probably won't be an order of restitution.

12 MR. BODENHAUSEN: Your Honor, I think at the bottom
13 of page 12, "the Government believes that there is no
14 mandatory restitution attributable to this defendant."

15 THE COURT: That's what it says. Okay. All right.
16 Do you understand that, Ms. Owens?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Okay. Now these are the maximum
19 penalties in the case. There is also -- the sentence will be
20 determined in large part by something called the sentencing
21 guidelines. Have you discussed generally with your lawyer
22 what the guidelines are and how they probably apply in your
23 case?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: As I'm sure he told you, the guidelines

1 are a set of rules that apply points for different things.
2 There is points for the crime in the case, and those get added
3 up to a score called the offense level, and then there are
4 points for any prior convictions you have, and those get added
5 up to a different score called the criminal history category.
6 Once we have applied the guidelines to your case, we take
7 those two scores, and we apply them to something called a
8 sentencing table that is in the guidelines book. Have you
9 seen that sentencing table or have you seen the guidelines
10 book?

11 THE DEFENDANT: I haven't actually seen the book.

12 THE COURT: Okay. We'll show it to you right now
13 just so you can see what it looks like. There's lots of
14 different versions of this book. It comes in different
15 colors, etc., but there is this table at the back of it with a
16 grid.

17 THE DEFENDANT: Oh, yeah.

18 THE COURT: You have seen that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: I knew Mr. Stobbs usually carries that
21 little version around, so I figured you'd probably seen it
22 because most of his clients have. But we apply your scores to
23 this grid and then that results -- that table tells us what
24 the range of imprisonment will be in your particular case. In
25 most cases, I'm required to sentence you under the sentencing

1 guidelines. Sometimes there are cases where I can depart from
2 the sentencing guidelines. An upward departure is a higher
3 sentence than the guidelines call for, and a downward
4 departure is a lower sentence. But in most cases, I am
5 required to sentence within the guidelines range. Do you
6 understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Now we will have a presentence report
9 prepared by the Probation Office, and that presentence report
10 will have a lot of information about you and your background
11 and the crime in this case. It will also have a section where
12 the Probation Office will calculate what they believe the
13 sentencing guidelines are. You and your lawyer and the
14 Government lawyer will get a copy of that presentence report
15 before sentencing, and you all have a right to object. If you
16 think there is something wrong, you should object. I will not
17 sentence you until I have reviewed the presentence report and
18 heard any objections that you may file. Do you understand
19 that?

20 THE DEFENDANT: Yes.

21 THE COURT: Now I haven't -- your presentence report
22 hasn't been prepared yet, so I don't know what your sentence
23 will be in this case. All I know about you is what's written
24 in this document. And frankly, I haven't really studied it in
25 the kind of detail I would need to because I need the whole

1 file including the presentence report. You and the Government
2 have some agreements or what are called in here
3 recommendations about the sentencing guidelines levels, but
4 those are just recommendations that you all are making to me.
5 I'm not bound by those, and if for some reason I decide I
6 should not follow them, I don't have to. And even if I don't
7 follow those recommendations, you would still be stuck with
8 your guilty plea. You wouldn't be able to withdraw your
9 guilty plea just because I don't go along with these
10 recommendations that you all are making. Do you understand
11 that?

12 THE DEFENDANT: Yes.

13 THE COURT: Now again, since I haven't reviewed your
14 presentence report, I don't know if I'll go along with them or
15 not. In most cases I do, but I have to wait until I get the
16 report to see for sure. Do you understand?

17 THE DEFENDANT: All right. Yes, ma'am.

18 THE COURT: All right. Let's go back through your
19 agreement. On page two and the top of page three, you have a
20 waiver of post conviction rights, and these are important
21 parts of your plea agreement. With the waiver of appeal, if
22 you didn't have this part of the agreement, both you and the
23 Government could appeal your sentence if you thought there was
24 something wrong with it. In this case though as part of your
25 deal, both you and the Government are giving up your right to

1 appeal this sentence unless I should depart from the
2 sentencing guidelines. If I were to give you an upward
3 departure, you could still appeal, and if I gave you a
4 downward departure, the Government could still appeal. But
5 except for that, you are both giving up your right to appeal.
6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: And you are also giving up your right to
9 file a habeas corpus or a post conviction motion, also called
10 a 2255 in the federal system, and that's a claim where you
11 would come back later and say there was something wrong with
12 these proceedings and that your rights had been violated some
13 way. And there is a minor exception there as well, and that
14 is if you later found out something that you believed was
15 prosecutorial misconduct or ineffective assistance of counsel,
16 then you could still file a 2255, but there is a short time
17 period for doing that under the rule. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: What these two provisions mean when you
20 take them together is that with very limited exceptions, when
21 I sentence you, the sentence I give will be the final word,
22 and you won't be able to go to the Court of Appeals or any
23 other Court or come back to me to get that sentence changed
24 once it's imposed. Do you understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. Now it says on page three that you
2 will provide financial information to the Probation Office and
3 they can share that with the U.S. Attorney's Office, and it
4 also says on page four that you understand that there is
5 nothing in these agreements that limits the rights of the
6 United States of America to take any civil, tax, or
7 administrative action against you if the Government thought
8 they had the right to bring that sort of action against you.
9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: Then it has your guidelines
12 recommendations. And again, as I said, I don't know if I will
13 follow those or not. I have to wait until I get the
14 presentence report to understand exactly what the guidelines
15 range will be, so I'm not making any promises in that regard.
16 Do you understand that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Then at the bottom of page seven and it
19 goes over to page eight, nine, and down to almost the bottom
20 of page ten, there is a section called Stipulation of Facts
21 Relative to Sentencing, and that sets out the facts of these
22 financial and real estate transactions that you were involved
23 in including the information about the social security number
24 you used. Let me ask you this. Is all of that section of
25 this agreement true?

1 THE DEFENDANT: Which one was that again please?

2 THE COURT: All of the stuff about what it says you
3 did from page seven over to page ten. It talks about the
4 transactions --

5 MR. STOBBS: Judge, if I could clarify. It doesn't
6 say what she did. It says what other people did. She's only
7 implicated in terms of the use of the social security numbers.

8 THE COURT: Okay.

9 MR. STOBBS: I think that's a critical thing this
10 point out.

11 THE COURT: Okay. Let's go through it then. That is
12 important. Well, it says that you did on May 16th of 2001
13 within the Eastern District of Missouri -- I'm sorry, did I
14 say that right? May 16, 2001, it says the defendant closed on
15 a sale of property located at 6040 Emma of St. Louis,
16 Missouri. And is that true?

17 THE DEFENDANT: Yes.

18 THE COURT: And then it says that you signed an
19 affidavit as to judgments in which you indicated your social
20 security number was 500-13-1625. Did you sign an affidavit
21 showing that was your social security number?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: And, in fact, that wasn't your social
24 security number?

25 THE DEFENDANT: No, it wasn't.

1 THE COURT: And it also said -- this also says that
2 the affidavit that you signed identified two prior civil
3 judgments against Cassandra Owens, but that the affidavit you
4 signed said that those prior judgments weren't against you but
5 were about somebody else with a similar name and that that was
6 false. Is that right?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: So in other words, those were really your
9 debts, but you signed an affidavit saying they weren't?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And so then it goes on to say that
12 because you made that false statement and you used the false
13 social security number, you were able to close this without
14 having to pay those judgments at the closing; is that true?

15 THE DEFENDANT: Yes.

16 THE COURT: Now the remainder of this talks about --
17 well, let's go through this. This goes on to talk about
18 relevant conduct that will be considered for sentencing
19 purposes. Do you understand -- do you see that part?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Some of this does relate to things that
22 you did, and others talks about what other people did. Are
23 you in agreement with everything that's set forth in this part
24 of the agreement because it will be used at sentencing
25 purposes for determining your sentence? Do you understand

1 that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Is there anything there that you disagree
4 with?

5 THE DEFENDANT: Where it says Government's?

6 THE COURT: No. All the way down to that point.

7 Everything in between page eight to that point on page ten.

8 MR. STOBBS: Starting about here, page eight and page
9 nine, read it again and make sure it's all okay, okay?

10 THE DEFENDANT: Okay. Yes, ma'am.

11 THE COURT: So you do agree with all of that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And where it talks about things that you
14 actually did, such as going -- on December 7th of 2001, it
15 says that you and someone with an ID card in the name of
16 Antonio Hutti went to Phoenix Title's closing office to close
17 on the sale of these two properties. You actually did that?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: Okay. So every time it talks about
20 something you did, that's true; right?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. And you are in agreement with the
23 amounts set forth there and the amounts that will be used for
24 sentencing purposes to determine the relevant conduct in your
25 case?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. Do you have any questions about
3 that or about the sentencing process in general?

4 THE DEFENDANT: No, ma'am, not at this time.

5 THE COURT: Do you have any other questions for me at
6 this point in time?

7 THE DEFENDANT: I don't really have any right now.

8 THE COURT: I'm sorry, ma'am, I can't hear you, and
9 everything you say has to be on the record here unless you
10 need to consult with your lawyer. So whatever you just said
11 we didn't get on the record because we couldn't hear it, so I
12 need to hear it again or if you're talking to your lawyer, you
13 can go talk to him. If you need to talk to your lawyer, you
14 certainly may. Did you want to --

15 THE DEFENDANT: No, ma'am, I don't have any questions
16 at this time.

17 THE COURT: Okay. Well, what you have told me is
18 enough for me to accept your guilty plea, but I want to make
19 sure this is really what you want to do, and so I want to ask
20 you this, do you still want to go forward with this guilty
21 plea?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Is anybody forcing you or threatening you
24 to make you do this?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Are you doing this -- do you believe you
2 are guilty of what you are pleading guilty to?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Then let me ask you formally and for the
5 record, how do you plead to the charge set forth in the
6 superseding information, guilty or not guilty?

7 THE DEFENDANT: On the social security numbers,
8 guilty.

9 THE COURT: That's what I'm asking. Okay. I will
10 accept your guilty plea. I find that the defendant is
11 competent to enter this plea, understands her rights, and that
12 the plea is being entered knowingly and voluntarily and has a
13 factual basis that contains all the elements of the offense.
14 I will set your case for sentencing on Friday, November 14th,
15 at 1:30. Any objections to the presentence report will be due
16 three weeks before that or on October 24th. So Friday,
17 November 14th at 2:30 is the date for sentencing.

18 MR. STOBBS: One second, Judge.

19 THE COURT: I think I said that wrong. I think I
20 said two different things. It's November 14th at 1:30.

21 MR. BODENHAUSEN: Okay. I had 1:30.

22 THE COURT: I know. I just said it when I misspoke
23 just now. All right. We need to talk about the defendant's
24 bond status. Ms. Owens, I'm sure your lawyer wants me to
25 allow you to remain free on bond today and not send you to

1 jail today. I'm concerned about doing that because you have
2 not complied with the conditions of your bond because you keep
3 missing your drug tests. And, you know, you've been on bond a
4 long time in this case, and I show that you have missed as
5 recently as August the 11th. That was just a couple weeks
6 ago. You missed two in May, one in December, and one in
7 November. You missed a counseling session back in November
8 and a mental health counseling in December, and then it says
9 in February, there was a warrant for failure to appear on a
10 financial -- on an ordinance violation from Overland,
11 Missouri. The old stuff I'm not so concerned with, but you
12 missed a drug test just a couple weeks ago. What's going on?

13 THE DEFENDANT: Yes, ma'am. I can remember the one
14 that you're speaking of in August. There was a discrepancy
15 with the date. I came in to -- if I'm not mistaken, if this
16 is the right date, okay, I came in to be tested, and they were
17 saying that I wasn't supposed to have been there that day, so
18 the girl at the front desk, she made another appointment for
19 me to come back, and when I came back that day, the guy wasn't
20 there. So I came back like the latter part of August, and
21 they didn't want to drop me because I -- well, I was scheduled
22 for counseling that particular day, so when I came back, I was
23 letting him know that I hadn't had a drug drop and I was there
24 for counseling. So one of the supervisors or the girl behind
25 the desk said that I needed to sign a form, and signing

1 documents is kind of what got me where I am now, and I was a
2 little bit reluctant to sign the document, so I called the
3 attorney and, you know, let him know what was going on, and
4 they refused to let me drop or see a counselor because I did
5 not sign the documents. However, I did get in there before
6 the end of this month to get the drop and see the counselor,
7 you know, for that period of time.

8 Now I was in there again just recently. I was in
9 there again just recently. I'm just trying to think as I talk
10 here because I didn't document any of this stuff here, but I
11 came in and they said that I had missed the drop, and I later
12 on found out that I did not actually miss a drop because their
13 color was not called, and the way I learned that is that there
14 were two other girls that were in there that said they were
15 calling for the whole entire month of August and the color
16 hadn't come in, okay? And this was just recently. I didn't
17 really get a chance to tell you about this. But I called my
18 P.O., and I let him know, and I asked him if he could call up
19 to the front desk and find out why they were -- or they
20 weren't scheduled for a drop and I was scheduled for a drop,
21 and we all have the same colors. So I don't know if they've
22 gotten it straightened out, but I know that I did do two drops
23 for this month, and I did see a counselor for this month. And
24 then there was another incident where I got there at -- they
25 said they close at 9:00, and I got there at five minutes to

1 nine, and nobody was there. And there has been times that I
2 have called and when I called, my color was not on the line,
3 and then I get busy and I forget.

4 THE COURT: Okay. Well, your pretrial officer is
5 willing to continue to work with you in all of that, and I'm
6 going to let you stay out on bond, but it's really important
7 that you understand that any violations of your bond will be
8 reported directly to me, and I'm going to be the one doing
9 your sentencing, and if you -- I don't know what your sentence
10 will be in this case. But it will be very much in your best
11 interest for you to show that you are extremely responsible
12 and do everything required of you between now and sentencing.
13 And you know, I don't have any evidence that you're using
14 drugs. You're not using drugs, are you?

15 THE DEFENDANT: I don't do drugs, no, ma'am. That's
16 another thing I'm not understanding. Why am I taking time
17 away from something else that I could be doing to go down here
18 and take drug drops. I don't use drugs.

19 MR. STOBBS: Judge, and to be honest, I was going to
20 file some motion to amend her bond. I didn't do it because
21 quite frankly, I was more focused on getting ready for trial
22 than I was on which I consider something kind of a minor
23 problem. But since you've brought it up, I for the life of me
24 can't understand why someone who doesn't have any sort of as
25 far as I know have any sort of a drug history being required

1 to come in to take drug tests. And, you know, with regard
2 to --

3 THE COURT: I don't have the original Pretrial
4 Services report. Normally, that's put on there when someone
5 does have a history of drug abuse.

6 THE DEFENDANT: No, ma'am. What they have in my
7 folder is that because I asked them why am I coming down here
8 to take drug drops and I don't do drugs. They asked me before
9 about alcohol, okay, and I told them I drink occasionally, and
10 then they asked me about drugs. I told them I don't do drugs.
11 I have tried drugs, but I do not do drugs, and this was 20
12 years ago. So when I asked them about that -- I just get kind
13 of aggravated when I go down there, okay?

14 THE COURT: Okay. I'll tell you what I'll do. I
15 will check with the pretrial and look at that and consider
16 whether to modify it, but until your lawyer calls you and
17 tells you something has changed or unless he does because I
18 may not change it, then you must continue to do everything
19 your Pretrial Services officer tells you to do. But
20 Mr. Stobbs, you don't have to file a motion. I will look at
21 that, and I will talk to Pretrial. I don't have the original
22 report.

23 MR. STOBBS: I have not even looked at the report.

24 THE COURT: Right, because it was before you came
25 into the case. I understand that. But I will look at it and

1 I will consider that. But, you know, the most important thing
2 is that you not use drugs, but also that you take
3 responsibility for your actions and you do everything you're
4 supposed to do. So you keep doing whatever your Pretrial
5 Services officer tells you including calling for your color
6 and going and doing the drops, but I will look at that and
7 consider whether to change it, and I will allow you to
8 continue on your bond pending sentencing.

9 THE DEFENDANT: Thank you.

10 THE COURT: All right. Then defendant is released on
11 the existing bond and Court is in recess.

12

13 (PROCEEDINGS CONCLUDED AT 12:10 P.M.)

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CERTIFICATE

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I, Angela K. Daley, Registered Professional Reporter and Certified Shorthand Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 29 inclusive and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated at St. Louis, Missouri, this 15th day of December, 2003.

/s/Angela K. Daley
Angela K. Daley, CSR, RPR
Official Court Reporter