

**FILED**

**DEC 30 2009**

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS OFFICE

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
TARA MORGAN, )  
a/k/a "Tara Prince," )  
a/k/a "Tara Jones," )  
Defendant. )

CRIMINAL NO. : 09-40090-JPG

**PLEA AGREEMENT**

The attorney for the Government and the attorney for the Defendant have engaged in discussions and have reached an agreement pursuant to Federal Rule of Criminal Procedure 11. As a result of that agreement, the Defendant intends to plead guilty in this case. The full and complete Plea Agreement is as follows:

**I.**

1. Defendant acknowledges that she has been advised and does fully understand the following:

(a) the nature of the charge to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law;

(b) that she has the right to plead not guilty or to persist in that plea if it has already been made, and she has the right to be tried by a jury and at that trial has the right to the assistance of counsel, the right to confront and cross-examine witnesses against him, and the right not to be compelled to incriminate himself;

(c) that if she pleads guilty, there will not be a further trial of any kind, so that by pleading guilty, she waives the right to a trial;

(d) that if she pleads guilty, the Court may ask her questions about the offense to which she has pleaded, and if she answers these questions under oath, on the record, and in the presence of counsel, her answers may later be used against him in a prosecution for perjury or false statement;

(e) that if she pleads guilty, she will waive her right to persist in her plea of not guilty, to be tried by a jury, to have assistance of counsel at the trial, and to confront and cross-examine witnesses against him at trial;

(f) that if she pleads guilty, she is pleading guilty to a felony punishable by a term of imprisonment exceeding one year. Therefore, no matter what sentence the Court imposes (whether probation or any term of imprisonment), she will be forbidden by federal firearms laws from possessing any type of firearm in her lifetime, unless she obtains relief pursuant to 18 U.S.C. § 925, or other appropriate federal statute.

2. Defendant agrees that the Plea Agreement and Stipulation of Facts constitute the entire agreement between her and the United States and that no promises, inducements or representations, other than those specifically set forth in this Plea Agreement and Stipulation of Facts, were made to induce her to enter into this Plea Agreement.

3. It is further understood that this agreement is limited to the Southern District of Illinois, and cannot bind other federal, state or local prosecuting authorities. It is further understood that this Plea Agreement does not prohibit the United States, any agency thereof, or any third party from initiating or prosecuting any civil proceedings directly or indirectly involving Defendant.

4. Defendant understands that this offense is subject to Title 28, United States Code, Section 994(a). Defendant has been advised and understands that the Sentencing Guidelines are advisory and that the Court will consider the applicable Guidelines in conjunction with 18 U.S.C. § 3553(a), in determining the appropriate sentence.

5. Defendant understands that pursuant to Title 18, United States Code, Section 3013, the Court will assess a "Special Assessment" of \$100 per felony count. Defendant agrees that she will pay the full amount of the special assessment prior to or at the time of sentencing.

6. Defendant understands that the Court will impose a term of "supervised release" to follow any incarceration. *See* 18 U.S.C. § 3583; U.S.S.G. § 5D1.1.

7. Defendant understands that the Court may impose a fine, costs of incarceration, and costs of supervision. The Government will not recommend the imposition of a fine given the amount of restitution. The estimated costs of such incarceration or community confinement or supervision, pursuant to an advisory notice from the Administrative Office of the United States Courts dated May 24, 2006, are, for imprisonment: \$2,159.88 per month; for community confinement: \$1,990.13 per month; and for supervision: \$311.94 per month. The Defendant agrees to make complete financial disclosure by truthfully filling out, at the request of the United States Attorney, a Financial Statement (OMB-500).

8. The Defendant understands and agrees that if she commits any offense in violation of any federal, state, or local law, or violates any condition of release, or violates any term or condition of this agreement, the Government is not bound by the provisions herein and may request that the Court impose on the Defendant any penalty allowable by law, including the filing of additional charges or sentencing enhancement notices, in addition to any sanctions that may be imposed for violation of the Court's order setting the conditions of release. No action taken or recommendation made by the Government pursuant to this paragraph shall be grounds for the Defendant to withdraw her plea.

9. The Defendant understands that the Government may move for an order pursuant to 18 U.S.C. § 6003 requiring the Defendant to give testimony or provide other information and that if such order is granted and the Defendant refuses to give such testimony or other information she may be subject to punishment for contempt.

10. The Defendant states that she has read this agreement and has discussed it with her attorney, and understands it.

## II.

1. Defendant agrees to waive in open court prosecution by Indictment, and does consent that the proceeding may be by Information rather than by Indictment.

2. The Defendant states that she is actually guilty and will enter a plea of guilty to Count 1 of the Information, which charges her with the offense of Mail Fraud, in violation of Title 18, United States Code, Section 1341. The maximum penalty that can be imposed for the offense charged in Count 1 is twenty (20) years' imprisonment or a \$250,000 fine, or both, and up to three (3) years' supervised release.

3. The Government and the Defendant agree that the following constitute the essential elements of the offense:

- a. First, that the defendant knowingly participated in the scheme to defraud as described in the information;
- b. Second, that the defendant did so knowingly and with the intent to defraud; and
- c. Third, that for the purpose of carrying out the scheme or attempting to do so, the defendant used a private or commercial interstate carrier in the manner charged in the information.

The Defendant agrees and admits these essential elements of the offense are established by her conduct.

4. The Government submits that it appears that under the Sentencing Guidelines, after all factors have been considered, Defendant will have an Offense Level of twenty (20) and a Criminal History Category of I, where the sentencing range is 33-41 months' imprisonment. The Government further submits that it appears that under the Sentencing Guidelines, after all factors have been considered, the Defendant's fine range will be \$7,500 to \$75,000, according to U.S.S.G. § 5E1.2.

5. The Government and Defendant also acknowledge to the Court that these submissions are not intended to be binding on the Court and that the Court ultimately will determine the guideline range after receiving the Presentence Report and giving both parties the opportunity to comment thereon. The Defendant expressly recognizes that, regardless of the guideline range found or the sentence imposed by the Court, she will not be permitted to withdraw her plea. The Government and the Defendant agree that the offense level and the criminal history category calculations submitted by the parties herein constitute the parties' respective good faith efforts to inform the Court of their beliefs as to the applicable sentencing range and acknowledge that it is the Court which is ultimately responsible for determining the applicable Guideline range and determining the sentence which will be imposed. **The Government agrees to recommend a sentence that is at the low end of the advisory Guideline imprisonment range ultimately found by the Court. The Defendant expressly reserves the right to argue for a sentence below the advisory guidelines, based on the factors set forth in 18 U.S.C. § 3553(a).**

6. Defendant further understands that the Government will recommend the maximum three-year term of supervised release with a special condition relating to the payment of restitution that will become joint and several with Co-Defendant, Laura Zoller in case number 4:09CR40006-001(JPG). The Government will file a Rule 35 motion in Laura Zoller's case. Because restitution liability is joint and several, the Government agrees that it will ask the Court to re-sentence Zoller based upon the same restitution figures that are ultimately determined for Tara Prince. The Defendant agrees to make a complete disclosure of all personal assets and assets of any corporation or business of which she is or has been associated and to otherwise cooperate in the payment of restitution to the victims.

7. The Government specifically reserves the right to argue for, present testimony, or otherwise support the Probation Office's or the Court's findings as to Offense Level and Criminal History Category (which may be in excess of the calculations set forth herein by the Defendant and the Government). The Defendant understands that the Sentencing Guidelines are advisory only and that the Court has the discretion to sentence the Defendant anywhere up to the statutory maximum sentence after consideration of the Sentencing Guidelines, and the factors set forth in 18 U.S.C. § 3553(a), including the nature and circumstances of the offense and the criminal history and characteristics of the Defendant.

**Advisory Guideline Calculation:**

8. The Defendant and the Government agree that the initial Guideline Base Offense Level in this case is seven (7) pursuant to U.S.S.G. § 2B1.1(a)(1).

9. The Defendant and the Government agree that the amount of loss in this case has yet to be finally ascertained. For purposes of ascertaining the applicable guideline ranges of fine

and imprisonment that may apply in this case, the Government submits that based upon its current estimate, the specific offense characteristic of U.S.S.G. § 2B1.1(b)(1)(H) applies and the offense level should be increased by fourteen (14) levels because a loss of more than \$400,000 but not more than \$1,00,000 may have resulted.

- a. The Defendant reserves the right to present evidence and argument in support of her position that U.S.S.G. § 2B1.1(b)(1)(H) does not apply in this case. As is set forth in Section III, *infra*, however, Defendant waives the right to appeal any decision by the District Court to apply any specific offense characteristic of U.S.S.G. § 2B1.1(b)(1) as well as a decision to impose a sentence that is consistent with the application of that guideline.

10. Defendant and the Government agree that no victim-related adjustments apply to this offense. *See* U.S.S.G. § 3A.

11. The Government submits that that the specific offense characteristic of U.S.S.G. § 3B1.3 applies and the offense level should be increased by two (2) levels because the Defendant abused a position of private trust.

- a. The Defendant reserves the right to present evidence and argument in support of her position that U.S.S.G. § 3B1.3 does not apply. As is set forth in Section III, *infra*, however, Defendant waives the right to appeal any decision by the District Court to adjust the base offense level pursuant to § 3B1.3 as well as a decision to impose a sentence that is consistent with the application of that guideline.

12. Defendant and the Government agree that Defendant has voluntarily demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct, and the Government will recommend a reduction of three (3) Levels, reducing the Offense Level from Offense Level twenty-three (23) to the Offense Level twenty (20). *See* U.S.S.G. § 3E1.1.

13. Defendant and the Government submit to the Court that it appears that the Defendant has amassed no Criminal History points and her Sentencing Guideline Criminal History Category is therefore I.

14. Defendant expressly recognizes that the final calculation will be determined by the Court after considering the Presentence Report, the views of the parties and any evidence submitted prior to sentencing. Defendant recognizes that, regardless of the criminal history found by the Court, he will not be able to withdraw her plea.

15. Defendant and the Government agree that based upon substantial assistance rendered through the complete and total cooperation of Defendant, the Government may, in the sole discretion of the United States Attorney, file either a motion under § 5K1.1 of the Sentencing Guidelines or a motion under Rule 35 of the Federal Rules of Criminal Procedure advising the Court of a recommended reduction in sentence. The Motion, if any, will only be filed if the assistance rendered by the Defendant is found to be complete and thoroughly truthful, regardless of the outcome of any trial or hearing at which the Defendant may testify. The Defendant understands that any reduction of sentence, and the extent of that reduction, lies in the discretion of the Court.



16. Defendant will cooperate fully with the United States Probation Office in its collection of information and preparation of the Presentence Report in this matter. Said cooperation will include signing all releases, as requested

17. The Defendant acknowledges that Title 18, United States Code, Section 3143(a)(2) requires that upon a plea of guilty in this case, the Court must order the Defendant detained pending sentencing, in the absence of exceptional circumstances as set forth in Title 18, United States Code, Section 3145(c). The Defendant is permitted to argue that exceptional circumstances apply and request that her bail be continued pending sentencing.

### III.

1. The Defendant understands that by pleading guilty, she is waiving all appellate issues that might have been available if she had exercised her right to trial. The Defendant states that she is fully satisfied with the representation she has received from her counsel, that they have discussed the Government's case, possible defenses and have explored all areas which the Defendant has requested relative to the Government's case and her defense.

2. The Defendant is aware that Title 18, Title 28 and other provisions of the United States Code afford every defendant limited rights to contest a conviction and/or sentence. Acknowledging all this, and in exchange for the recommendations and concessions made by the United States in this plea agreement, the Defendant knowingly and voluntarily waives her right to contest any aspect of her conviction and sentence that could be contested under Title 18 or Title 28, or under any other provision of federal law, except that if the sentence imposed is in excess of the Sentencing Guidelines as determined by the Court (or any applicable statutory

minimum, whichever is greater), the Defendant reserves the right to appeal the reasonableness of the sentence. Defendant's waiver of appeal as set forth in this section specifically includes a waiver of any right to appeal or collaterally challenge a decision of the District Court to apply any specific offense characteristic or decision to adjust the base offense level, or impose a sentence that is consistent with the application of U.S.S.G. provisions, including:

- a. the specific offense characteristic set forth in U.S.S.G. § 2B1.1(b)(1);
- b. to adjust the base offense level pursuant to § 3B1.3 as well as a decision to impose a sentence that is consistent with the application of that guideline.

The Defendant acknowledges that in the event such an appeal is taken, the Government reserves the right to fully and completely defend the sentence imposed, including any and all factual and legal findings supporting the sentence, even if the sentence imposed is more severe than that recommended by the Government. Defendant knowingly and voluntarily waives her right to seek a pardon, whether before or after her release from custody.

3. Defendant's waiver of her right to appeal or bring collateral challenges shall not apply to: 1) any subsequent change in the interpretation of the law by the United States Supreme Court or the United States Court of Appeals for the Seventh Circuit, which is declared retroactive by those Courts, and which renders the defendant actually innocent of the charges covered herein, and 2) appeals based upon Sentencing Guideline amendments which are made retroactive by the United States Sentencing Commission (see U.S.S.G. § 1B1.10). The Government reserves the right to oppose such claims for relief.

4. Defendant's waiver of her appeal and collateral review rights shall not affect the Government's right to appeal Defendant's sentence pursuant to Title 18, United States Code, Section 3742(b). This is because United States Attorneys lack any right to control appeals by the

United States, through plea agreements or otherwise; that right belongs to the Solicitor General.  
28 C.F.R. § 0.20(b).

5. 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, Title 5, United States Code, Section 552, or the Privacy Act of 1974, Title 5, United States Code, Section 552a.

6. Defendant waives all claims under the Hyde Amendment, Title 18, United States Code, Section 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

7. A. The Defendant acknowledges that the Government has provided complete discovery compliance in this case. Defendant states that she has reviewed said discovery compliance with her attorney.

B. The Defendant states that she has been advised of her rights under 18 U.S.C. §§ 3600 and 3600A. Defendant states that she waives those rights and consents to the destruction of all items of physical evidence seized in this case.

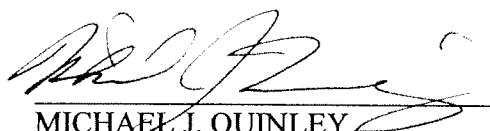
IV.

No matters are in dispute.

A. COURTNEY COX  
United States Attorney

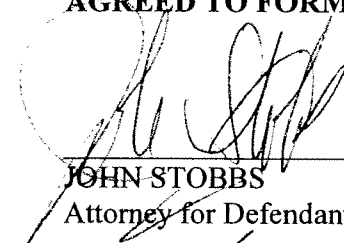
 12-30-09  
STEVEN D. WEINHOEFT

Assistant United States Attorney



MICHAEL J. QUINLEY  
Assistant United States Attorney

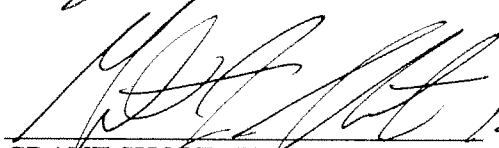
**AGREED TO FORM AND CONTENT:**



12-30-09  
JOHN STOBBS  
Attorney for Defendant



TARA PRINCE  
Defendant



12-30-09  
GRANT SHOSTAK  
Attorney for Defendant