

ORIGINAL

FILED
100364
OCT 16 2006
RECEIVED
CLERK
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE



06-CR-00364-PLAGR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

STEPHEN J. PLOWMAN,

Defendant.

NO. CR 06-3642

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Ronald J. Friedman and Richard E. Cohen, Assistant United States Attorneys for said District, and the defendant, Stephen J. Plowman, an attorney acting as his own counsel, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charges. The defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to an Information charging him with failure to file a currency transaction report in violation of Title 31, United States Code, Sections 5331(a) and 5322(b). By entering this plea of guilty, the defendant hereby waives all objections to the form of the charging document. He further understands that before entering this plea of guilty, he will be placed under oath. Any statement he gives under oath may be used by the government in a prosecution for perjury or false statement.

2. Elements of the Offenses. The elements of the offense are:

1 That on or about the time period alleged, within the Western District of
2 Washington, the defendant:

3 (1) An individual engaged in a trade or business,

4 (2) Did in the course of such trade or business receive more than ten thousand
5 dollars (\$10,000.00) currency in a transaction,

6 (3) Did willfully fail to file a report (IRS Form 8300) regarding such transaction as
7 required by law, and

8 (4) This unlawful activity was part of a pattern of such unlawful activity involving
9 more than \$100,000 in a 12-month period.

10 3. The Penalties. The defendant understands that the statutory penalties for this
11 offense are imprisonment for up to ten (10) years, a fine of up to five hundred thousand
12 (\$500,000) dollars, a period of supervision to follow imprisonment of up to three (3) years,
13 and a \$100 penalty assessment. The defendant agrees that the penalty assessment shall be
14 paid at or before the time of sentencing.

15 The defendant understands that another consequence of pleading guilty may include
16 the forfeiture of certain property either as a part of the sentence imposed by the Court, or
17 as a result of civil judicial or administrative process.

18 The defendant agrees that any monetary penalty the Court imposes, including the
19 special assessment, fine, costs or restitution, is due and payable immediately, and further
20 agrees to submit a completed Financial Statement of Debtor form as requested by the
21 United States Attorney's Office.

22 The defendant understands that supervised release is a period of time following
23 imprisonment during which he will be subject to certain restrictions and requirements.
24 The defendant further understands that if supervised release is imposed and he violates one
25 or more of its conditions, he could be returned to prison for all or part of the term of
26 supervised release that was originally imposed. This could result in him serving a total
27 term of imprisonment greater than the statutory maximum stated above.
28

1 4. Rights Waived by Pleading Guilty. The defendant understands that, by
2 pleading guilty, he knowingly and voluntarily waives the following rights:

- 3 a. The right to indictment by a federal grand jury;
- 4 b. The right to plead not guilty and to persist in a plea of not guilty;
- 5 c. The right to a speedy and public trial before a jury of his peers;
- 6 d. The right to the effective assistance of counsel at trial and the right to have
7 the Court appoint an attorney for him if he could not afford one;
- 8 e. The right to be presumed innocent until guilt has been established beyond a
9 reasonable doubt at trial;
- 10 f. The right to confront and cross-examine witnesses against him at trial;
- 11 g. The right to compel or subpoena witnesses to appear on his behalf at trial;
- 12 h. The right to testify or to remain silent at trial, and his silence could not be
13 used against him; and
- 14 I. The right to appeal a finding of guilt or any pretrial rulings.

15 5. United States Sentencing Guidelines. The defendant understands and
16 acknowledges that at sentencing the Court must consider the sentencing range calculated
17 under the United States Sentencing Guidelines, together with the other factors set forth in
18 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
19 and of the offense; (2) the history and characteristics of the defendant; (3) the need for the
20 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
21 provide just punishment for the offense; (4) the need for the sentence to afford adequate
22 deterrence to criminal conduct; (5) the need for the sentence to protect the public from
23 further crimes of the defendant; (6) the need to provide the defendant with educational and
24 vocational training, medical care, or other correctional treatment in the most effective
25 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
26 and (9) the need to avoid unwarranted sentence disparity among defendants involved in
27 similar conduct who have similar records. Accordingly, the defendant understands and
28 acknowledges that:

1 a. The Court will determine his applicable Sentencing Guidelines range at the
2 time of sentencing;

3 b. After consideration of the Sentencing Guidelines and the factors in Title 18,
4 United States Code, Section 3553(a), the Court may impose any sentence authorized by
5 law, up to the maximum term authorized by law;

6 c. The Court is not bound by any recommendation regarding the sentence to be
7 imposed, or by any calculation or estimation of the Sentencing Guidelines range offered by
8 the parties or the United States Probation Department, or by any stipulations or
9 agreements between the parties in this Plea Agreement; and

10 d. The defendant may not withdraw a guilty plea solely because of the sentence
11 imposed by the Court.

12 6. Ultimate Sentence. Defendant acknowledges that no one has promised or
13 guaranteed what sentence the Court will impose.

14 7. Statement of Facts. The parties agree on the following facts in
15 support of the defendant's guilty plea and sentencing. The defendant admits that he is
16 guilty of the charged offense.

17 During 2005, Stephen J. Plowman, an attorney, was a member of the Washington
18 State Bar engaged in the practice of civil and criminal law in Washington State. His
19 professional clients included Carlos Ford, since convicted of narcotics trafficking in
20 CR05-391RSM.

21 During May 2005, Carlos Ford became interested in acquiring a laundry mat,
22 known as "Queen Anne Maytag Laundry" located in the Queen Anne neighborhood of
23 Seattle, Washington. Mr. Plowman, acting as attorney for Carlos Ford, assisted Ford in
24 making the purchase. The negotiated price was in excess of \$150,000. Mr. Plowman met
25 with Ford in Seattle and received 2 cashier's checks from Ford, totaling approximately
26 \$56,000, in the names of third parties, which Mr. Plowman deposited into his client trust
27 account to be used in partial payment for the laundromat. Mr. Plowman then met with
28 Ford at a residence in West Seattle and received approximately \$120,000 cash from Ford

1 to be used to pay the balance for the laundromat. The money was received in paper bags.
2 Mr. Plowman brought the money to his law office in Bellevue, Washington, and stored it
3 in a safe. The currency was proceeds derived by Ford from Ford's participation in cocaine
4 trafficking in Seattle, Washington. Mr. Plowman did not document his receipt of this
5 currency in any way. Further, he willfully failed to file a "Report of Cash Payments Over
6 \$10,000 Received in a Trade or Business" (IRS Form 8300) with the Internal Revenue
7 Service, as required by law, documenting his receipt of this currency from Ford. The
8 8300 Form requires the recipient of the currency who is involved in a trade or business,
9 to report the receipt of the cash, including indicating the identity of the individual from
10 whom the cash was received, the person on whose behalf such transaction was
11 conducted, and describing the transaction. Such information assists the Internal
12 Revenue Service in identifying the illegal movement of money through the U.S.
13 economy and individuals involved in such activity.

14 On or about June 29, 2005, Mr. Plowman met with the seller of the laundromat and
15 delivered the seller a check drawn on his client trust account of approximately \$60,000. In
16 addition, Mr. Plowman delivered approximately \$100,000 of the cash received from Ford
17 to the seller to pay the balance due on the laundromat. The purchase and sale agreement
18 were drafted by Mr. Plowman to reflect a total sales price of approximately \$60,000,
19 whereas the true sales price was approximately \$160,000.00. Of the remaining cash
20 received from Ford, some was used to pay laundromat expenses, and some was taken by
21 Mr. Plowman as his fee.

22 The defendant agrees that the above conduct was one of multiple occasions wherein
23 he failed to file a Currency Transaction Report as required by law, involving over
24 \$100,000 in a 12-month period.

25 During 2006, Mr. Plowman participated in multiple meetings with the United States
26 during which he acknowledged his participation in the above-described events.

27 8. Guideline Estimations. The parties estimate and agree as follows:
28

1 (a) That the base offense level is Level 16 pursuant to Section 2S1.3(a)(2) and
2 (b)(2) of the Federal Sentencing Guidelines. The parties further agree that the defendant
3 shall receive an upward 2 level adjustment pursuant to Section 3B1.3 of the Guidelines
4 as the conduct involved an abuse of his position of public and private trust as an
5 attorney, resulting in an offense Level 18.

6 (b) That assuming the defendant cooperates with U.S. Probation, he is entitled to
7 a 3-point reduction in offense level under Section 3E1.1 of the Guidelines for acceptance
8 of responsibility, resulting in a final offense level of 15, and a projected advisory
9 Guideline range of 18 - 24 months imprisonment, assuming a Criminal History Category
10 I.

11 9. Cooperation. The defendant agrees to continue to cooperate fully with law
12 enforcement and prosecutorial authorities, to fully and truthfully answer any and all
13 questions asked of him concerning his knowledge of criminal activity, and to testify
14 fully and truthfully if called as a witness before the grand jury or at any trial(s)
15 concerning such matters.

16 10. Breach. Failure of the defendant to fulfill any obligations stated herein shall
17 constitute a material breach of this Agreement and shall entitle the United States, at its election
18 to: (a) make any sentencing recommendation permitted by law; or (b) withdraw from this
19 Agreement and try the defendant upon any and all charges supported by the evidence, including
20 filing any additional charges supported by law.

21 11. Sentencing Recommendation: The United States agrees not to recommend a
22 sentence in excess of the advisory Guideline range.

23 12. Waiver of Appeal. The defendant agrees to waive his right to appeal his sentence so
24 long as such sentence does not exceed the advisory Guideline range.

25 13. Non-Prosecution of Additional Offenses. The United States agrees not to
26 prosecute the defendant for any additional offenses known to it as of the time of this Agreement
27 that are based upon evidence in its possession at this time and that arise out of the conduct giving
28 rise to this investigation. In this regard, the defendant recognizes that the United States has agreed

1 not to prosecute all of the criminal charges which may have been brought by the United States in
2 this matter.

3 14. Voluntariness of Plea. The defendant acknowledges that he has entered into this
4 *Plea Agreement* freely and voluntarily, and that no threats or promises, other than the promises
5 contained in this *Plea Agreement*, were made to induce him to enter this plea of guilty.

6 15. Statute of Limitations. In the event that this Agreement is not accepted by the Court
7 for any reason, or the defendant has breached any of the terms of this *Plea Agreement*, the statute
8 of limitations shall be deemed to have been tolled from the date of the *Plea Agreement* to: (1) 30
9 days following the date of non-acceptance of the *Plea Agreement* by the Court; or (2) 30 days
10 following the date on which a breach of the *Plea Agreement* by the defendant is discovered by the
11 United States Attorney's Office.


12 16. Post-Plea Conduct. The defendant understands that the terms of this *Plea*
13 *Agreement* apply only to conduct that occurred prior to the execution of this Agreement. If, after
14 the date of this Agreement, the defendant should engage in illegal conduct, or conduct that is in
15 violation of his conditions of release (examples of which include, but are not limited to:
16 obstruction of justice, failure to appear for a court proceeding, criminal conduct while pending
17 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,
18 Probation Officer or Court), the United States is free under this Agreement to seek a sentence that
19 takes such conduct into consideration. Such a sentence could include a sentencing enhancement
20 under the *United States Sentencing Guidelines* or an upward departure from the applicable
21 sentencing guidelines range.

22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

17. Completeness of Agreement. The United States and the defendant acknowledge that these terms constitute the entire Plea Agreement between the parties. This Agreement only binds the United States Attorney's Office for the Western District of Washington. It does not bind any other United States Attorney's Office or any other office or agency of the United States, or any state or local prosecutor.

Dated this 12 day of ~~September~~, 2006.
October



STEPHEN J. PLOWMAN
Defendant, acting as his own counsel

~~STEPHEN J. PLOWMAN~~

Attorney for Defendant



DOUGLAS WHALLEY
Assistant United States Attorney



RONALD J. FRIEDMAN
Assistant United States Attorney



RICHARD E. COHEN
Assistant United States Attorney