

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
03 MAY -7 PM 1:51
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 MARVIN HAMPTON,)
)
 Defendant.)

Cause No. 1:08-cr-

1:08-cr-0068-SEB-KPF

PLEA AGREEMENT

The United States of America, by counsel, Timothy M. Morrison, United States Attorney for the Southern District of Indiana, and by Gayle L. Helart and Doris L. Pryor, Assistant United States Attorneys, and the defendant, MARVIN HAMPTON, in person and by counsel, Joshua T. Robertson, hereby inform the Court that a Plea Agreement has been reached in this cause pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B).

1. MARVIN HAMPTON agrees to plead guilty to Count 1 of the Information. Count 1 charges that MARVIN HAMPTON did commit mail fraud, in violation of Title 18, United States Code, Section 1341. This felony offense may be punished by a term of imprisonment of up to twenty (20) years, a fine of not more \$250,000, and a term of supervised release of not more than three (3) years following any term of imprisonment. The elements of the offense are:

First, that the Defendant knowingly devised or participated in a scheme to obtain money by means of false pretenses, representations, or promises as charged in the information:

Second, that the Defendant did so knowingly and with the intent to defraud; and

Third, that the Defendant used or caused to be used, for purposes of carrying out the scheme, the United States Postal Service or any private or interstate commercial carrier.

GENERAL PROVISIONS

2. MARVIN HAMPTON agrees and understands that the Court will use its discretion to fashion a sentence within the statutory range set forth in Paragraph 1. MARVIN HAMPTON agrees and understands that the Court will consider the factors set forth in 18 U.S.C. § 3553(a) in determining the appropriate sentence within the statutory range. MARVIN HAMPTON agrees and understands that the Court will also consult and take into account the United States Sentencing Guidelines in determining the appropriate sentence within the statutory range. MARVIN HAMPTON agrees and understands that the Sentencing Guidelines are not mandatory or binding on the Court, but are advisory in nature. MARVIN HAMPTON agrees and understands that the final determination of the sentence, including the applicable advisory guideline calculation, criminal history category, and advisory sentencing guideline range will be made by the Court.

3. MARVIN HAMPTON understands and agrees that the Government's position is based on the information currently known to the Government.

SPECIFIC PROVISIONS

4. MARVIN HAMPTON will plead to Count 1 charged in the Information. At the time of sentencing, the Government will make known to the Court the nature, timing, and extent of MARVIN HAMPTON's acceptance of responsibility and cooperation with law enforcement authorities.

5. MARVIN HAMPTON will pay a total of \$100 on the date of sentencing or as ordered

by the Court to the Clerk, United States District Court, which amount represents the mandatory special assessment fee imposed pursuant to Title 18, United States Code, Section 3013.

6. MARVIN HAMPTON understands that the government will request restitution in the amount of \$262,424.76, relating to funds that MARVIN HAMPTON received after the closings, pursuant to 18 U.S.C. § 3663A (mandatory restitution to a victim who suffered a pecuniary loss).

7. The government will not request a fine in light of the amount of restitution.

8. MARVIN HAMPTON will provide all requested financial information to the Financial Litigation Unit of the United States Attorney's Office for the Southern District of Indiana for use in the collection of any fines or restitution imposed by the Court.

9. MARVIN HAMPTON agrees to cooperate with the Government, including, but not limited to, providing:

a. Complete, total, and truthful debriefings concerning any and all information regarding his involvement and that of others in the mail fraud violations, without restriction to the Southern District of Indiana or to any charge presently pending against him;

b. Complete, total, and truthful testimony before grand juries and at trials, as deemed necessary by the Government, concerning any and all information provided by him during the course of his debriefings.

10. This cooperation agreement extends beyond the Southern District of Indiana, to the extent any other judicial district agrees to accept the terms of this Plea Agreement. If MARVIN HAMPTON has not completed his cooperation at the time of sentencing, he recognizes that his

obligation to cooperation continues. The parties recognize that a refusal to complete this cooperation agreement will be deemed by the Government to be a breach of this Plea Agreement.

11. The Government and MARVIN HAMPTON recognize that the full, complete, and truthful information and testimony he provides pursuant to this agreement will not be used to bring criminal charges against him with the following three exceptions:

a. Prosecution in this case;

b. If MARVIN HAMPTON were to testify falsely before any grand jury or at any trial, he could be prosecuted for false statements before a grand jury or perjury, whichever is appropriate, and

c. He could be prosecuted for any actions which resulted, directly or indirectly, in physical injury to another individual.

12. The Government agrees that any self-incriminating information that MARVIN HAMPTON provides as a result of the cooperation required by the terms of this Plea Agreement, although available to the Court, will not be used against him in determining his applicable guideline range for sentencing pursuant to the United States Sentencing Commission Guidelines, or in determining his sentence. The provisions of this paragraph shall not be applied to restrict any such information:

a. Known to the attorney for the Government prior to the date of this Plea Agreement;

b. Concerning the existence of prior convictions and sentences in determining §4B1.1 (career offender);

c. In a prosecution for perjury or giving a false statement; or

d. In the event there is a breach of the cooperation provisions of this Plea Agreement.

U.S.S.G. §1B1.8.

13. Nothing in this plea agreement shall protect MARVIN HAMPTON in any way from prosecution for any offense committed after the date of this agreement.

14. The government will consider whether to file a motion pursuant to U.S.S.G. § 5K1.1 if the government determines that MARVIN HAMPTON's cooperation with law enforcement authorities provided information that was of substantial assistance in the investigation and prosecution of another person who has committed a criminal offense. The government will not file such a motion unless MARVIN HAMPTON's information was truthful and complete. Assuming his cooperation was complete, total, and truthful, and that it was of substantial assistance to the government as provided in U.S.S.G. §5K1.1, then at the time of sentencing, the government agrees to file a statement of substantial assistance, pursuant to U.S.S.G. § 5K1.1 and 18 U.S.C. § 3553(c) (Section 5K1.1 statement). The government will recommend a departure of two (2) levels, pursuant to the terms of Section 5K1.1, in consideration of the substantial assistance provided to authorities. MARVIN HAMPTON is free to ask for a further reduction.

15. The parties intend to request the Court to continue his sentencing in this matter until after the trial of the cases involving any other defendants and involved parties in this mail fraud scheme. This will allow the Court to fully consider whether MARVIN HAMPTON's cooperation was truthful and complete before imposing sentence. MARVIN HAMPTON waives any potential challenges to his prosecution arising from this delay and he recognizes that his delay will not prejudice his ability to answer the charges in this case or present any sentencing arguments.

SENTENCING GUIDELINE STIPULATIONS

16. Pursuant to Section 6B1.4 of the Sentencing Guidelines, the parties agree to the Stipulations below. The parties understand and agree that these Stipulations are binding on the parties but are only a recommendation to the Court and that the Court will determine the advisory sentencing guidelines applicable in this case. The parties agree that the stipulation regarding any factors in Chapter 4, Criminal History Category, of the Sentencing Guidelines has been made, and that such determination will be made by the Court.

- (a) The parties agree that U.S.S.G. §2B1.1 covers violations of 18 U.S.C. § 1341 (mail fraud). The parties agree that the base offense level is seven (7) per U.S.S.G. §2B1.1(a)(1) because mail fraud has a statutory maximum term of imprisonment of 20 years or more.
- (b) The parties agree that there is a twelve (12) level increase because the loss exceeded \$200,000 but was less than \$400,000 per U.S.S.G. §2B1.1(b)(G).

17. The total offense level for Count 1 of the Information, therefore, is 19.

Acceptance of Responsibility

18. To date, MARVIN HAMPTON has demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. Based upon his willingness to accept a plea agreement and enter a plea of guilty to the criminal conduct noted in this agreement, the Government agrees that MARVIN HAMPTON should receive a two (2) level reduction *provided* he satisfies the criteria set forth in Guideline § 3E1.1(a) and (b) up to and including the

time of sentencing. MARVIN HAMPTON timely notified the government of his intention to enter a plea of guilty, thereby permitting the government and the court to allocate their resources efficiently. After MARVIN HAMPTON enters a plea of guilty, the government intends to file a motion pursuant to U.S.S.G. § 3E1.1(b) requesting that the Court decrease the offense level by one (1) additional level. The parties reserve the right to present evidence and arguments concerning MARVIN HAMPTON acceptance of responsibility at the time of sentencing.

Waiver of Appeal

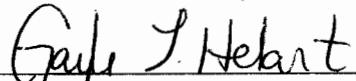
19. MARVIN HAMPTON understands that he has a statutory right to appeal the conviction and sentence imposed and the manner in which the sentence was determined. Acknowledging this right, and in exchange for the concessions made by the United States in this Plea Agreement, he agrees that in the event the Court sentences him to a sentence within the range consistent with the stipulations herein, or any lesser offense level, then he expressly waives his right to appeal the guilty plea, conviction, and sentence imposed in this case on any ground, including the right to appeal conferred by Title 18, United States Code, Section 3742. Additionally, he also expressly agrees not to contest his conviction and sentence or the manner in which it was determined in any collateral attack, including, but not limited to, an action brought under Title 18 United States Code Section 2255. This waiver of appeal specifically includes all provisions of the sentence imposed in this case, including the terms of the guilty plea, supervised release and the amount of any restitution, fine, or forfeiture.

FINAL PROVISION

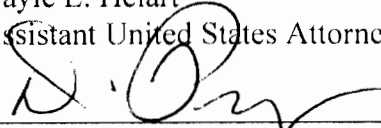
20. MARVIN HAMPTON acknowledges that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this document, to induce MARVIN HAMPTON to plead guilty. This document is the complete and only plea agreement between MARVIN HAMPTON and the United States Attorney for the Southern District of Indiana and is binding only on the parties to the plea agreement, supersedes all prior understands, if any, whether written or oral, and cannot be modified except in writing, signed by all parties and filed with the Court, or on the record in open court.

Respectfully submitted,

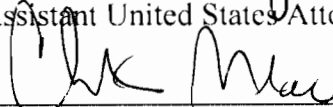
TIMOTHY M. MORRISON
United States Attorney



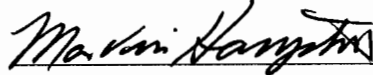
Gayle L. Helart
Assistant United States Attorney



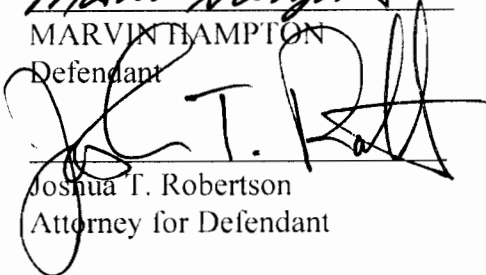
Doris L. Pryor
Assistant United States Attorney



Christina McKee
Chief, Criminal Division



MARVIN HAMPTON
Defendant



Joshua T. Robertson
Attorney for Defendant

5/7/08
DATE

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STATEMENT OF THE DEFENDANT

I have read the entire Plea agreement and discussed it with my attorney.

I understand all the terms of the Plea Agreement and those terms correctly reflect the results of plea negotiations.

I am fully satisfied with my attorney's representation during all phases of this case.

I am freely and voluntarily pleading guilty in this case.

I am pleading guilty as set forth in this Plea Agreement because I am guilty of the crime to which I am entering my plea.

My attorney has informed me, and I understand, that I have the right to appeal any conviction and sentence that I receive, unless I have waived my right to appeal as part of this Plea Agreement. If I have not waived my right to appeal, I understand that I must file a notice of Appeal within 10 days of the entry of the judgment in this case; I further understand that the Clerk of the Court will prepare and file a Notice of Appeal on my behalf if I ask that to be done.

I also understand that the United States has the right to appeal any sentence that I receive under this Plea Agreement.

Finally, my attorney has informed me, and I understand, that if I provide or cause to be provided materially false information to a judge, magistrate-judge, or probation office, then Section 3C1.1 of the Sentencing Guidelines allows the Court to impose a two (2) level increase in the offense level.

5-7-08
Date


MÁRVIN HAMPTON
Defendant