



FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND  
U.S. Department of Justice  
United States Attorney  
District of Maryland

SS 10/30/13

Kathleen O. Gavin  
Chief, Fraud & Corruption  
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2013 DEC -5 P 12: 56

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BY \_\_\_\_\_ DEPUTY

October 30, 2013

Scotland Morris, Esquire  
Simms Showers LLP  
20 South Charles Street, Suite 702  
Baltimore, MD 21201

Re: Jeffrey Dail

Dear Mr. Morris:

This letter, together with the Sealed Supplement, confirms the plea agreement which has been offered to Jeffrey Dail, the defendant, by the United States Attorney's Office for the District of Maryland ("this Office"). If the defendant accepts this offer, please have him execute it in the spaces provided below. If this offer has not been accepted by Friday, November 8, 2013, it will be deemed withdrawn.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 him with one count of conspiracy to commit bank fraud in violation of 18 U.S.C. Section 1349. The defendant admits that he is, in fact, guilty of that offense and will so advise the Court.

Elements of the Offense

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



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- a. The defendant and at least one other person entered into an unlawful agreement;
- b. The purpose of the agreement was to knowingly execute or attempt to execute a scheme or artifice to defraud a financial institution or to obtain money, funds, assets or other property owned by or under the custody or control of a financial institution by means of false pretenses, representations, or promises;
- c. The financial institution's deposits were insured by the Federal Deposit Insurance Corporation; and
- d. The defendant knowingly and willfully became a member of the conspiracy.

#### Penalties

3. The maximum sentences provided by statute for the offense to which the defendant is pleading guilty is 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 him to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.<sup>1</sup> 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 he serves a term of imprisonment, is released on supervised release, and then violates the conditions of his supervised release, his 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, he surrenders certain rights as outlined below:

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<sup>1</sup> 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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a. If the defendant had persisted in his plea of not guilty, he 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 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 his defense, however, he would have the subpoena power of the Court to compel the witnesses to attend.

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

e. If the defendant were found guilty after a trial, he 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 him. 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 he may have to answer the Court's questions both about the rights he is giving up and about the facts of his case. Any statements the defendant makes during such a hearing would not be admissible against him 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 him 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

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recognizes that if he is not a citizen of the United States, pleading guilty may have consequences with respect to his 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 his attorney or the Court, can predict with certainty the effect of a conviction on immigration status. The defendant nevertheless affirms that he wants to plead guilty regardless of any potential immigration consequences.

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 hereto, which this Office would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors:

The applicable guideline for conspiracy to commit bank fraud is U.S.S.G. Section 2B1.1. The base offense level is seven (7). Section 2B1.1(a)(1). The offense level is increased by twelve (12), because the actual loss that was reasonably foreseeable to the defendant was more than \$200,000 and less than \$400,000. Section 2B1.1(b)(1)(G). The adjusted offense level, therefore, is nineteen (19).

This Office does not oppose a two-level reduction in the defendant's adjusted offense level for conspiracy to commit bank fraud, based upon the defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. This Office agrees to make a motion pursuant to U.S.S.G. Section 3E1.1(b) for an additional one-level decrease in recognition of the defendant's timely notification of his 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 his 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 his plea of guilty.

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7. The defendant understands that there is no agreement as to his criminal history or criminal history category, and that his criminal history could alter his offense level if he is a career offender or if the instant offense was a part of a pattern of criminal conduct from which he derived a substantial portion of his 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. Either party will be free to argue for a variance sentence under 18 U.S.C. § 3553(a), but must notify the Court, the United States Probation Officer and opposing counsel, in writing, at least ten days in advance of the sentencing of the facts or issues the party intends to raise in connection with any such argument. The parties agree that a failure to provide such notice constitutes a waiver of the right to argue for a sentence outside to the final advisory guideline range.

#### Obligations of the United States Attorney's Office

9. At the time of sentencing, this Office will recommend that the defendant be sentenced to a term of imprisonment that falls within the final guideline range determined by the Court to be applicable. This Office will further recommend full restitution in the amount of the actual loss caused by the defendant's criminal conduct.

10. 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.

#### Restitution

11. The defendant agrees that, pursuant to 18 U.S.C. Sections 3663 and 3663A and Sections 3563(b)(2) and 3583(d), the Court may order restitution of the full amount of the actual, total loss caused by the offense conduct set forth in the factual stipulation. The defendant further agrees that he will fully disclose to the probation officer and to the Court, subject to the penalty of perjury, all information, including but not limited to copies of all relevant bank and financial records, regarding the current location and prior disposition of all funds obtained as a result of the criminal conduct set forth in the factual stipulation. The defendant further agrees to take all reasonable steps to retrieve or repatriate any such funds and to make them available for restitution. If the defendant does not fulfill this provision, it will be considered a material breach of this plea agreement, and this Office may seek to be relieved of its obligations under this agreement.

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Forfeiture

12. The defendant understands that the Court will, upon acceptance of his guilty plea, enter an order of forfeiture as part of his sentence, and that the order will include assets directly traceable to his offense, substitute assets and/or a money judgment equal to the value of the property subject to forfeiture. Specifically, as a consequence of the defendant's plea of guilty to an Information charging a violation of 18 U.S.C. § 1349, the Court will order the forfeiture of "all proceeds obtained directly or indirectly" as a result of the offense, pursuant to 18 U.S.C. §982(a)(2)(A). The parties agree that the forfeiture amount should not exceed ~~\$312,075, which is the actual amount of loss reasonably foreseeable to the defendant.~~ *as determined by the Court at sentencing.*

13. 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.

Assisting the Government with Regard to the Forfeiture

14. The defendant agrees to assist fully in the forfeiture of the foregoing assets. The defendant agrees to disclose all of his 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 also agrees to give this Office permission to request and review his federal and state income tax returns, and any credit reports maintained by any consumer credit reporting entity, until such time as the money judgment is satisfied. In this regard, the defendant agrees to complete and sign a copy of IRS Form 8821 (relating to the voluntary disclosure of federal tax return information) as well as whatever disclosure form may be required by any credit reporting entity.

15. This office will recommend to the Attorney General that any net proceeds derived from the sale or seizure of forfeited assets be remitted or restored to eligible victims of the offense, pursuant to 18 U.S.C. § 981(e), 28 C.F.R. Pt. 9, and other applicable law, it being understood that this Office has authority only to recommend such relief and that the final decision of whether to grant relief rests with the Department of Justice, which will make its decision in accordance with applicable law.

Waiver of Further Review of Forfeiture

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16. 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

17. 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 the final applicable guideline range; (ii) and this Office reserves the right to appeal any term of imprisonment to the extent that it is below the final applicable guideline range.

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

18. The defendant agrees that he will not commit any offense in violation of federal, state or local law between the date of this agreement and his sentencing in this case. In the event that the defendant (i) engages in conduct after the date of this agreement which would

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justify a finding of obstruction of justice under U.S.S.G. § 3C1.1, or (ii) fails to accept personal responsibility for his conduct by failing to acknowledge his 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 he may not withdraw his guilty plea because this Office is relieved of its obligations under the agreement pursuant to this paragraph.

#### Court Not a Party

19. 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 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 his guilty plea, and will remain bound to fulfill all of his obligations under this agreement. The defendant understands that neither the prosecutor, his 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

20. 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.

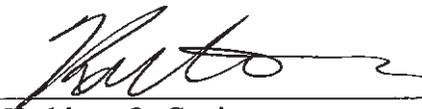
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If the defendant fully accepts each and every term and condition of this agreement, please

sign and have the defendant sign the original and return it to me promptly.

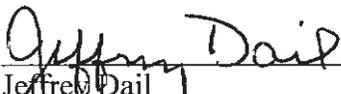
Very truly yours,

Rod J. Rosenstein  
United States Attorney

By:   
Kathleen O. Gavin  
Assistant United States Attorney

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.

11-7-13  
Date

  
Jeffrey Dail

I am Jeffrey Dail's attorney. I have carefully reviewed every part of this agreement, including the Sealed Supplement with him. He advises me that he understands and accepts its terms. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

11/7/13  
Date

  
Scotland Morris, Esquire

**Attachment A - Statement of Facts**

*The United States and defendant Jeffrey Dail 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, Jeffrey Dail was a resident of Cambridge, Maryland. His co-conspirator ("Co-Conspirator"), worked at SunTrust Bank ("the Bank") in Salisbury, Maryland, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, as a loan and settlement processor in the mortgage department, using her then married name. In June, 2007, the Bank terminated Co-Conspirator's employment as part of a reduction of its workforce. Shortly thereafter, the manager of the Bank's mortgage department privately hired Co-Conspirator to continue to work for him without the knowledge of the Bank's regional management. The manager paid Co-Conspirator out of his own funds to continue to do the same loan processing work that she had performed as an employee of the Bank. Although she was not an employee of the Bank, the manager gave Co-Conspirator full access to the Bank premises, its computer system and loan files. Co-Conspirator continued to represent herself as a Bank employee in her contacts and dealings with title companies and other businesses.

Beginning sometime before January, 2006, and continuing until at least August, 2009, Jeffrey Dail and Co-Conspirator (hereinafter "the conspirators") engaged in a scheme to obtain monies from the Bank by applying for mortgage loans in the names of various family members and using the proceeds of those loans for their own personal use and benefit. The conspirators forged or caused to be forged the signatures of the family members and various Bank officials on the loan applications, thereby causing the Bank to approve the applications and to authorize the distribution of loan proceeds at settlement. In each instance, the family members whose identities were used on the loan applications, and whose properties were used as collateral for the loans, had no knowledge of the applications or the loans.

Co-Conspirator then delivered or caused to be delivered the documents containing the forged signatures to a local title company for settlement and disbursement of the loan proceeds. Based on assurances from Co-Conspirator, with whom the title company had a well-established business relationship, employees at the title company notarized the signatures of the family members on the settlement documents even though the employees had never seen any of those individuals sign any of the documents. The title company then proceeded to the settlements, disbursing the funds, as directed by Co-Conspirator, to Co-Conspirator herself, to Jeffrey Dail, and to their various creditors.

The conspirators caused the Bank to authorize and issue loans for 612 Twin Point Cove Road and 1024 River Point Road in Cambridge, Maryland. The principal loan amounts obtained from the Bank in connection with those properties totaled approximately \$505,500. These loans were collateralized with the named properties. As described above, the loan applications, deeds of trust and settlement documents all had forged signatures so that for the most part, the Bank

had neither a borrower nor collateral to look to for repayment.<sup>1</sup> The total principal amount unpaid on the loans is approximately \$248,075.

At all times, Jeffrey Dail acted knowingly and with the intent to obtain monies of the Bank through false and fraudulent means. 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 5<sup>th</sup> day of December, 2013.

  
Jeffrey Dail

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<sup>1</sup> For the River Point Road property, the Bank recovered all of the principal loan amount when the property was re-financed. The remaining unpaid principal amount for that property, when it was sold at foreclosure by a subsequent lender, was approximately \$64,000. No fraud was involved in the re-financing.