



United States Department of Justice

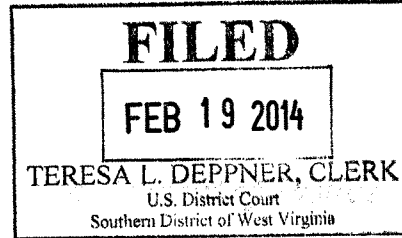
*United States Attorney
Southern District of West Virginia*

*Robert C. Byrd United States Courthouse
300 Virginia Street, East
Suite 4000
Charleston, WV 25301
1-800-659-8726*

*Mailing Address
Post Office Box 1713
Charleston, WV 25326
304-345-2200
FAX: 304-347-5104*

November 15, 2013

John H. Tinney, Jr., Esq.
The Tinney Law Firm, PLLC
P.O. Box 3752
Charleston, WV 25337



Re: United States v. Jackie D. Cantley
Criminal No. 3:13-cr-00245 (USDC SDWV)

Dear Mr. Tinney:

This will confirm our conversations with regard to your client, Jackie D. Cantley (hereinafter "Defendant"). As a result of these conversations, it is agreed by and between the United States and Defendant as follows:

1. **PENDING CHARGES.** Defendant is charged in a six-count indictment as follows:

- (a) Counts One, Two and Three each charge Defendant with a violation of 18 U.S.C. § 1344 (Bank Fraud); and
- (b) Counts Four, Five and Six each charge Defendant with a violation of 18 U.S.C. § 656 (Misallocation of Bank Funds).

2. **RESOLUTION OF CHARGES.** Defendant will plead guilty to Count Four of said Indictment, which charges him with a violation of 18 U.S.C. § 656. Following final disposition, the United States will move the Court to dismiss Counts One, Two, Three, Five, and Six in Criminal No. 3:13-cr-00245 (USDC SDWV) as to Defendant.

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3. **MAXIMUM POTENTIAL PENALTY.** The maximum penalty to which Defendant will be exposed by virtue of this guilty plea is as follows:

- (a) Imprisonment for a period of 30 years;
- (b) A fine of \$1,000,000;
- (c) A term of supervised release of not less than two years but not more than five years;
- (d) A mandatory special assessment of \$100 pursuant to 18 U.S.C. § 3013; and
- (e) An order of restitution pursuant to 18 U.S.C. §§ 3663A and 3664, or as otherwise set forth in this plea agreement.

4. **SPECIAL ASSESSMENT.** Prior to the entry of a plea pursuant to this plea agreement, Defendant will tender a check or money order to the Clerk of the United States District Court for \$100, which check or money order shall indicate on its face the name of defendant and the case number. The sum received by the Clerk will be applied toward the special assessment imposed by the Court at sentencing. Defendant will obtain a receipt of payment from the Clerk and will tender a copy of such receipt to the United States, to be filed with the Court as an attachment to this plea agreement. If Defendant fails to provide proof of payment of the special assessment prior to or at the plea proceeding, the United States will have the right to void this plea agreement. In the event this plea agreement becomes void after payment of the special assessment, such sum shall be promptly returned to Defendant.

5. **RESTITUTION.** Notwithstanding the offenses of conviction, Defendant agrees that he owes restitution at least in the amount of \$175,000 and no more than \$1,420,000, and agrees to pay such restitution, with interest as allowed by law, to the fullest extent financially feasible. In aid of restitution, Defendant further agrees as follows:

- (a) Defendant agrees to fully assist the United States in identifying and locating any assets to be applied toward

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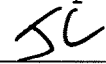
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restitution and to give signed, sworn statements and testimony concerning assets upon request of the United States.

- (b) Defendant will fully complete and execute, under oath, a Financial Statement and a Release of Financial Information on forms supplied by the United States and will return these completed forms to counsel for the United States within seven calendar days from the date of the signing of this plea agreement.
- (c) Defendant agrees not to dispose of, transfer or otherwise encumber any real or personal property which he currently owns or in which he holds an interest, including:
- (d) Defendant agrees to fully cooperate with the United States in the liquidation of assets to be applied towards restitution, to execute any and all documents necessary to transfer title of any assets available to satisfy restitution, to release any and all right, title and interest he may have in and to such property, and waives his right to exemptions under the Federal Debt Collection Procedures Act upon levy against and the sale of any such property.
- (e) Defendant agrees not to appeal any order of the District Court imposing restitution unless the amount of restitution imposed exceeds \$1,420,000. However, nothing in this provision is intended to preclude the Court from ordering Defendant to pay a greater or lesser sum of restitution in accordance with law.

6. **PAYMENT OF MONETARY PENALTIES.** Defendant agrees not to object to the District Court ordering all monetary penalties (including the special assessment, fine, court costs, and any restitution that does not exceed the amount set forth in this plea agreement) to be due and payable in full immediately and subject to immediate enforcement by the United States. So long as the monetary penalties are ordered to be due and payable in full immediately, Defendant further agrees not to object to the District Court imposing



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any schedule of payments as merely a minimum schedule of payments

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and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment.

7. **COOPERATION.** Defendant will be forthright and truthful with this office and other law enforcement agencies with regard to all inquiries made pursuant to this agreement, and will give signed, sworn statements and grand jury and trial testimony upon request of the United States. In complying with this provision, Defendant may have counsel present except when appearing before a grand jury. Further, Defendant agrees to be named as an unindicted co-conspirator and unindicted aider and abettor, as appropriate, in subsequent indictments or informations.

8. **USE IMMUNITY.** Unless this agreement becomes void due to a violation of any of its terms by Defendant, and except as expressly provided for in paragraph nine below, nothing contained in any statement or testimony provided by Defendant pursuant to this agreement, or any evidence developed therefrom, will be used against Defendant, directly or indirectly, in any further criminal prosecutions or in determining the applicable guideline range under the Federal Sentencing Guidelines.

9. **LIMITATIONS ON IMMUNITY.** Nothing contained in this agreement restricts the use of information obtained by the United States from an independent, legitimate source, separate and apart from any information and testimony provided pursuant to this agreement, in determining the applicable guideline range or in prosecuting Defendant for any violations of federal or state laws. The United States reserves the right to prosecute Defendant for perjury or false statement if such a situation should occur pursuant to this agreement.

10. **STIPULATION OF FACTS AND WAIVER OF FED. R. EVID. 410.** The United States and Defendant stipulate and agree that the facts comprising the offenses of conviction and relevant conduct include the facts outlined in the "Stipulation of Facts," a copy of which is attached hereto as "Plea Agreement Exhibit A."

Defendant agrees that if he withdraws from this agreement, or this agreement is voided as a result of a breach of its terms by Defendant, and Defendant is subsequently tried on any of the charges

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in the indictment, the United States may use and introduce the Stipulation of Facts in the United States case-in-chief, in cross-examination of Defendant or of any of his witnesses, or in rebuttal of any testimony introduced by Defendant or on his behalf. Defendant knowingly and voluntarily waives, see United States v. Mezzanatto, 513 U.S. 196 (1995), any right he has pursuant to Fed. R. Evid. 410 that would prohibit such use of the Stipulation of Facts. If the Court does not accept the plea agreement through no fault of the defendant, or the Court declares the agreement void due to a breach of its terms by the United States, the Stipulation of Facts cannot be used by the United States.

The United States and Defendant understand and acknowledge that the Court is not bound by the Stipulation of Facts and that if some or all of the Stipulation of Facts is not accepted by the Court, the parties will not have the right to withdraw from the plea agreement.

11. **AGREEMENT ON SENTENCING GUIDELINES.** Based on the foregoing Stipulation of Facts, the United States and Defendant agree that the following provisions of the United States Sentencing Guidelines apply to this case.

Counts One and Four of the Indictment (which group under U.S.S.G. § 3D1.2):

U.S.S.G. §2B1.1

Base offense level	7
Loss greater than \$1,000,000	+ 16

The United States and Defendant do not agree as to whether other Guidelines adjustments apply.

The United States and Defendant acknowledge and understand that the Court and the Probation Office are not bound by the parties' calculation of the United States Sentencing Guidelines set forth above and that the parties shall not have the right to withdraw from the plea agreement due to a disagreement with the Court's calculation of the appropriate guideline range.

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12. **WAIVER OF APPEAL AND COLLATERAL ATTACK.** Defendant knowingly and voluntarily waives his right to seek appellate review of his conviction and of any sentence of imprisonment, fine, or term of supervised release imposed by the District Court, or the manner in which the sentence was determined, on any ground whatsoever including any ground set forth in 18 U.S.C. § 3742(a), except that the defendant may appeal any sentence that exceeds the maximum penalty prescribed by statute. The United States also agrees to waive its right to appeal any sentence of imprisonment, fine, or term of supervised release imposed by the District Court, or the manner in which the sentence was determined, on any ground whatsoever, including any ground set forth in 18 U.S.C. § 3742(b), except that the United States may appeal any sentence that is below the minimum penalty, if any, prescribed by statute.

Defendant also knowingly and voluntarily waives the right to challenge his guilty plea and conviction resulting from this plea agreement, and any sentence imposed for the conviction, in any collateral attack, including but not limited to a motion brought under 28 U.S.C. § 2255.

The waivers noted above shall not apply to a post-conviction collateral attack or direct appeal based on a claim of ineffective assistance of counsel.

13. **WAIVER OF FOIA AND PRIVACY RIGHT.** Defendant knowingly and voluntarily 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 any limitation any records that may be sought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a, following final disposition.

14. **NON-PARTICIPATION IN BANKING INDUSTRY.** Defendant agrees to consent to any regulatory action taken by a Federal financial institution regulatory agency to permanently remove him from office and/or prohibit him from participating, whether as an institution-affiliated party or otherwise, in the conduct of the affairs of any insured depository institution or depository institution holding company, or any other organizations or entities



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related to the financial industry, as provided in section 8(e) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(e), or in any other statute, rule, or regulation.

15. **FINAL DISPOSITION.** The matter of sentencing is within the sole discretion of the Court. The United States has made no representations or promises as to a specific sentence. The United States reserves the right to:

- (a) Inform the Probation Office and the Court of all relevant facts and conduct;
- (b) Present evidence and argument relevant to the factors enumerated in 18 U.S.C. § 3553(a);
- (c) Respond to questions raised by the Court;
- (d) Correct inaccuracies or inadequacies in the presentence report;
- (e) Respond to statements made to the Court by or on behalf of Defendant;
- (f) Advise the Court concerning the nature and extent of Defendant's cooperation; and
- (g) Address the Court regarding the issue of Defendant's acceptance of responsibility.

16. **VOIDING OF AGREEMENT.** If either the United States or Defendant violates the terms of this agreement, the other party will have the right to void this agreement. If the Court refuses to accept this agreement, it shall be void.

17. **ENTIRETY OF AGREEMENT.** This written agreement constitutes the entire agreement between the United States and Defendant in this matter. There are no agreements, understandings or recommendations as to any other pending or future charges against Defendant in any Court other than the United States District Court for the Southern District of West Virginia.

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Acknowledged and agreed to on behalf of the United States:

R. BOOTH GOODWIN II
United States Attorney

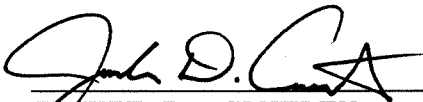


By:

EUMI L. CHOI
Assistant United States Attorney

ELC/fgc

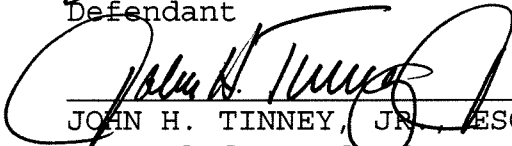
I hereby acknowledge by my initials at the bottom of each of the foregoing pages and by my signature on the last page of this eight-page agreement that I have read and carefully discussed every part of it with my attorney, that I understand the terms of this agreement, and that I voluntarily agree to those terms and conditions set forth in the agreement. I further acknowledge that my attorney has advised me of my rights, possible defenses, the Sentencing Guideline provisions, and the consequences of entering into this agreement, that no promises or inducements have been made to me other than those in this agreement, and that no one has threatened me or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.



JACKIE D. CANTLEY
Defendant

1-10-14

Date Signed



JOHN H. TINNEY, JR., ESQ.
Counsel for Defendant

1-10-14

Date Signed

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:13-cr-00245

JACKIE D. CANTLEY

STIPULATION OF FACTS

The United States and defendant Jackie D. Cantley ("Cantley") stipulate and agree that the facts comprising the offense of conviction (Count Four of the Indictment in the Southern District of West Virginia, Criminal No. 3:13-cr-00245), and the relevant conduct for that offense, include the following:

First State Bank was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation, located in Barboursville and elsewhere in West Virginia. From approximately May 27, 2003, to approximately September 7, 2012, Cantley was employed by First State Bank (the "Bank"). From approximately July 1, 2010, to approximately September 7, 2012, Cantley was a commercial lender at the Bank, holding the position of vice-president, and thus was an agent and officer of the Bank.

Cantley's lending authority was initially an aggregate amount of \$100,000, and then, in or about March - April 2012, became an aggregate amount of \$250,000 per borrower. For loan applications in amounts exceeding his loan authority, Cantley was required to present these loan applications to the Bank's Officers' Loan Committee ("OLC") for review and approval or rejection. Cantley was also required to disclose an applicant's prior borrower relationship(s) to the OLC to ensure that he did not exceed his aggregate lending authority per borrower.


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Further, to authorize loans, Bank policies and procedures and sound banking practices required that Cantley determine that a loan applicant was credit-worthy, had sufficient collateral and was of good character. This in turn entailed that Cantley obtain documents such as tax returns, personal and business financial statements (including bank statements and wage statements), guarantor information, credit reports, cash-flow analyses, appraisals, promissory notes, and deeds of trust that would establish that a loan applicant was credit-worthy, had sufficient collateral and was of good character in order to receive a Bank loan.

Loans to Defendant's Cousin E.Y. and Y.L. Co.

On or about January 23, 2012, at or near Barboursville, Cabell County, West Virginia, and within the Southern District of West Virginia, Cantley authorized an aggregate loan amount of \$335,000 to E.Y., his cousin, and Y.L. Co., a business owned by E.Y., in loan numbers ****4778 and ****1499. Cantley authorized these loans without disclosing the loan applications to the Bank's OLC, as he knew he was supposed to do, and for the purpose of avoiding Bank scrutiny of the loans.

Further, Cantley authorized a loan for E.Y., number ****4778, and forged the signature of E.Y. on documents related to said loan. Cantley also authorized loans to E.Y. and Y.L. Co., loan numbers ****4778 and ****1499, without sufficient collateral for said loans, and without loan applications, tax returns or financial statements, knowing that E.Y. was not credit-worthy for the loans.

Cantley thus willfully misapplied over \$1,000 in monies, funds, or credits, belonging to or entrusted in the care of the Bank, with the intent to injure or defraud the Bank by authorizing these loans to E.Y. and Y.L. Co. which, as he knew, the Bank would not have approved.

Additionally, Cantley transferred \$18,959.11 in funds from a loan to E.Y., loan number ****9341, to an account for J.H., who then obtained a cashier's check with those funds to purchase a pizza business in the name of J.H. and Cantley. As Cantley knew, the transfer of the funds was contrary to the purpose of said loan, nor was it authorized by E.Y.

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RELEVANT CONDUCT

Loans to J.M. and 1 W.L. Development

On or about May 21, 2012, through on or about August 14, 2012, at or near Barboursville, Cabell County, West Virginia, and within the Southern District of West Virginia, Cantley authorized an aggregate loan amount of over \$1 million to J.M. and 1 W.L. Development, a business entity owned by J.M., in excess of his maximum loan authority, loan numbers ****9379, ****8850, ****9351, ****1228, ****7529 and ****9862, without disclosing the loans to the Bank's OLC, as he knew he was supposed to do, and for the purpose of avoiding Bank scrutiny of the loans.

Further, Cantley authorized loans to J.M. and 1 W.L. Development, numbers ****8850, ****9351, ****1228 and ****7529, without the required documentation, such as tax returns, financial statements, guarantor information, and cash-flow analyses, and without obtaining sufficient collateral, knowing that J.M. was not credit-worthy for the loans.

Thus, Cantley caused the Bank to fund an aggregate amount over \$735,000 pursuant to these loans which it otherwise would not have done.

Loans to D.R. and D.L., LLC

On or about July 12, 2012, through on or about September 4, 2012, at or near Barboursville, Cabell County, West Virginia, and within the Southern District of West Virginia, authorized an aggregate loan amount over \$350,000 to D.R. and D.L., LLC, a business entity owned by D.R., in excess of his maximum loan authority, loan numbers ****7375, ****6003 and ****2223, without disclosing the loans to the Bank's OLC, as he knew he was supposed to do, and for the purpose of avoiding Bank scrutiny of the loans.

Further, Cantley authorized loans to D.R. and D.L., LLC, numbers ****7375, ****6003 and ****2223, without the required documentation, such as tax returns, financial statements, appraisals, promissory notes, deeds of trusts, and guarantor

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information, knowing that D.R. was not credit-worthy for said loans.

Thus, Cantley caused the Bank to fund an aggregate loan amount over \$350,000 to D.R. and D.L., LLC, pursuant to these loans which it otherwise would not have done.

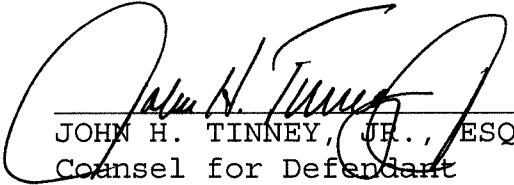
This Stipulation of Facts does not contain each and every fact known to defendant Jackie D. Cantley and to the United States concerning his involvement and the involvement of others in the charges set forth in the Indictment, and is set forth for the limited purpose of establishing a factual basis for the defendant's guilty plea.

Stipulated and agreed to:



JACKIE D. CANTLEY
Defendant

1-10-14
Date



JOHN H. TINNEY, JR., ESQ.
Counsel for Defendant

1-10-2014
Date



EUMI L. CHOI
Assistant United States Attorney

2-18-14
Date

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