

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF OKLAHOMA**

FILED

FEB 24 2014

UNITED STATES OF AMERICA,)
)
) *Plaintiff,*)
)
 vs.)
)
 W.A. Moore, JR., a/k/a Dub Moore,)
)
) *Defendant.*)

By PATRICK KEANEY
Clerk, U.S. District Court
Deputy Clerk

Case No. CR-14-17-RAW

PLEA AGREEMENT

PARTIES

This plea agreement is entered into by and between the United States, by and through the United States Attorney for the Eastern District of Oklahoma and the above-captioned defendant.

I. THE PLEA

DEFENDANT'S PLEA


The defendant agrees to voluntarily plead guilty to and admits to being guilty of the following charges in the Eastern District of Oklahoma:

Count	Offense	Statute
1	Bank Fraud	18 U.S.C. § 1344

as set forth in the Information to be filed by the United States and for which the defendant waives indictment by a Grand Jury. At the time the guilty plea is entered, the defendant shall admit to the Court that the defendant is, in fact, guilty of the offense charged in the Information.

MAXIMUM POSSIBLE IMPRISONMENT AND/OR FINE

The defendant understands that the *maximum* possible penalty for Bank Fraud is imprisonment for a period of 30 years and/or a fine of \$1,000,000.00, a term of supervised

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release to be determined by the Court, and a special assessment in the amount of \$100.00. The defendant understands that the Court may impose a fine pursuant to the Sentencing Reform Act of 1984. The willful failure to pay any fine imposed by the Court, in full, may be considered a breach of this plea agreement. Further, the defendant acknowledges that willful failure to pay the fine may subject the defendant to additional criminal violations and civil penalties pursuant to Title 18, United States Code, Section 3611, et seq.

FACTUAL BASIS FOR PLEA

The defendant agrees that if this matter was to proceed to trial, the United States could prove the following facts beyond a reasonable doubt, and that these facts accurately represent the defendant's provable offense conduct and specific offense characteristics:

Beginning in October, 2009 and continuing to March, 2011, Defendant, as president of First National Bank of Davis, an FDIC insured bank located in the Eastern District of Oklahoma, with two co-conspirators and customers of the Bank, committed bank fraud by approving large under-collateralized loans in the name of unqualified straw borrowers in order to provide funds to the two co-conspirators. The two co-conspirators were unable to borrow the funds in their names due to their large outstanding loans with the bank in violation of the Bank's legal lending limit. The "straw loans" were made without the knowledge of the bank's board of directors.

The defendant understands that defendant will have to swear under oath to the accuracy of this statement, and if defendant should be called upon to testify about this matter in the future, any inconsistencies in such testimony may subject defendant to additional penalties of perjury which may be enforced by the United States under this agreement.

II. LIMITATIONS OF THE AGREEMENT

NO OTHER CHARGES (TAX CHARGES EXCLUDED)

The United States Attorney's Office for the Eastern District of Oklahoma agrees that it will not bring any other criminal charges against the defendant, his wife, Patsy Moore, and daughter, Laura Karlik, which are known to the United States Attorney's Office for the Eastern District of Oklahoma as of the date of this agreement. However, nothing in this agreement will limit prosecution for criminal tax charges, if any, arising out of such offense.

COURT, IRS & OTHERS NOT BOUND

The defendant understands that the Court is not a party to and is not bound by this agreement nor any recommendations made by the parties. Nothing in this agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties due from the defendant arising out of or related in any way to the offenses identified in this agreement. Nothing in this agreement shall bind any other federal, state or local district, jurisdiction or law enforcement agency.

III. WAIVERS

SPEEDY TRIAL ACT WAIVER

The defendant waives and agrees to waive any rights under the Speedy Trial Act.

WAIVER OF CIVIL CLAIMS AND HYDE ACT CLAIMS

The defendant agrees not to pursue or initiate any civil claims or suits against the United States of America, its agencies or employees, whether or not presently known to the defendant.

FREEDOM OF INFORMATION ACT (FOIA) WAIVER

The defendant 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

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the investigation or prosecution of this case including, but not limited to, any records that may be sought under the Freedom of Information Act, 5 U.S.C. §552, or the Privacy Act of 1974, 5 U.S.C. §552a.

WAIVER OF APPELLATE AND POST-CONVICTION RIGHTS

In consideration of the promises and concessions made by the United States in this Plea Agreement, the defendant knowingly and voluntarily agrees and understands the following appellate and post-conviction terms of this agreement:

- a. the defendant waives the right to directly appeal the conviction and sentence pursuant to 28 U.S.C. § 1291 and/or 18 U.S.C. § 3742(a);
- b. the defendant reserves the right to appeal from a sentence which exceeds the statutory maximum;
- c. the defendant expressly acknowledges and agrees that the United States reserves all rights to appeal the defendant's sentence as set forth in 18 U.S.C. § 3742(b), and *U.S. v. Booker*, 125 S. Ct. 738 (2005);
- d. the defendant waives the right to collaterally attack the conviction and sentence pursuant to 28 U.S.C. § 2255, except for claims based on ineffective assistance of counsel which challenge the validity of the guilty plea or this waiver;
- e. the defendant waives the right to have the sentence modified pursuant to 18 U.S.C. § 3582(c), except for a rule 35(b) motion filed by the government;
- f. the defendant waives the right to appeal the District Court's determination of the amount of restitution and the Court's subsequent restitution order, if any; and
- g. the defendant waives the right to appeal the District Court's determination of any forfeiture issues and the Court's subsequent forfeiture order, if any.

WAIVER OF "DEPARTURE" AND "VARIANCE" RIGHTS

In consideration of the promises and concessions made by the United States in this Plea Agreement, the defendant knowingly and voluntarily agrees and understands the following waiver of rights:

- a. the defendant waives the right to request, recommend, or file a "departure" motion with the U.S. Probation Office or Court recommending a sentence below the

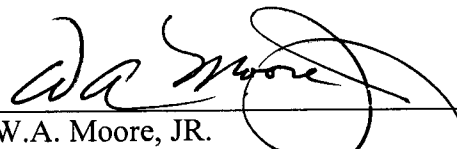
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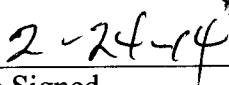
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Guidelines range through application of Chapters Four or Five of the Sentencing Guidelines; and

b. the defendant waives the right to request, recommend, or file a "variance" motion with the U.S. Probation Office or Court requesting a sentence below the Guidelines range through the application of 18 U.S.C. § 3553(a).

The defendant has been represented by counsel and is fully satisfied with the services rendered by the defense attorneys and agrees that such representation has been competent legal representation and has provided the best result for the defendant possible under the circumstances of this case. The defendant expressly acknowledges that counsel has explained defendant's trial, sentencing, appellate and post-conviction rights; that defendant understands these rights; and that defendant knowingly and voluntarily waives and relinquishes those rights as set forth above.



W.A. Moore, JR.


Date Signed

IV. WITHDRAWAL OF PLEA OR BREACH OF AGREEMENT

WITHDRAWAL OF PLEA

If the Court imposes a sentence with which the defendant is dissatisfied, the defendant will not be permitted to withdraw any guilty plea for that reason alone, nor will the defendant be permitted to withdraw any plea should the Court decline to follow any recommendations by any of the parties to this agreement.

BREACH OF AGREEMENT

In the event the United States believes the defendant has failed to fulfill any obligations under this agreement or has falsely implicated an innocent person in the commission of a crime, the United States shall, in its discretion, have the options of declaring any provision of this

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agreement null and void. The defendant and the United States agree that in the event the Court concludes that the defendant has breached this agreement:

- a. the defendant will not be permitted to withdraw any guilty plea tendered under this agreement and agrees not to petition for withdrawal of any guilty plea;
- b. the United States will be free to make any recommendations to the Court regarding sentencing in this case;
- c. any evidence or statements made by the defendant during the cooperation phase will be admissible at any trials or sentencings; and
- d. the United States will be free to bring any other charges it has against the defendant.

RE-INSTITUTION OF PROSECUTION

If defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the United States will be free to prosecute the defendant for all charges of which it then has knowledge, and any charges that have been dismissed will be automatically reinstated or may be represented to a grand jury with jurisdiction over the matter. In such event, defendant waives any objections, motions or defenses based upon the Statute of Limitations, Speedy Trial Act, or any constitutional restrictions as to the time of bringing such charges.

V. COOPERATION REQUIRED OF DEFENDANT

GENERAL COOPERATION REQUIRED OF THE DEFENDANT

The defendant agrees to cooperate fully with the United States. The defendant understands and agrees that complete and truthful cooperation is a material condition of this agreement. Cooperation shall include providing all information known to the defendant regarding any criminal activity, including but not limited to the offenses described in this agreement. Cooperation also includes complying with all reasonable instructions from the United States, submitting to interviews by investigators and attorneys at such reasonable times and places to be determined by counsel for the United States and to testify fully and truthfully before any grand juries, hearings, trials or any other proceedings where the defendant's testimony

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is deemed by the United States to be relevant. The defendant understands that such cooperation shall be provided to any state, local and federal law enforcement agencies designated by counsel for the United States. Further, it is understood and agreed that the defendant shall not directly, indirectly, or intentionally disclose anything defendant knows or has done concerning the plaintiff's investigation to anyone other than defendant's attorney. Defendant agrees to take no steps directly or indirectly to "tip" or warn any subject of this investigation that defendant, subject or anyone else is being investigated.

SPECIFIC COOPERATION - SUBSTANTIAL ASSISTANCE

The defendant agrees to cooperate with the United States regarding specific crimes, targets and investigations. Upon completion of such cooperation, if the United States believes the defendant has provided "substantial assistance" pursuant to Title 18, United States Code, Section 3553(e), the United States may in its discretion request the Court to depart below the advisory guideline range when fixing a sentence for this defendant or may move the Court to order relief pursuant to Rule 35, Rules of Criminal Procedure.

At or before the time of sentencing, the United States will advise the Court of any assistance provided by defendant in any ongoing investigations into criminal activity within the Eastern District of Oklahoma and elsewhere, or in the prosecution of another person who has committed a criminal offense. The United States may, but shall not be required to, make a motion requesting the Court to depart from the sentencing range called for by the guidelines in the event defendant provides "substantial assistance." This decision shall be in the sole discretion of the United States Attorney.

The United States agrees to consider the totality of the circumstances, including but not limited to the following factors, in determining whether the defendant has provided "substantial

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assistance" which would merit a government request for a downward departure from the applicable guideline sentencing range:

- a. the United States' evaluation of the significance and usefulness of any assistance rendered by defendant;
- b. the truthfulness, completeness, and reliability of any information or testimony provided by defendant;
- c. the nature and extent of defendant's assistance;
- d. any injuries suffered or any danger/risk of injury to defendant or defendant's family resulting from defendant's assistance, and;
- e. the timeliness of any assistance provided by defendant.

The defendant understands that even if the United States files a motion for departure based upon defendant's perceived "substantial assistance," the final decision as to how much, if any, reduction in sentence is warranted because of that assistance, rests solely with the Court.

As of the date of this plea agreement, the defendant has provided "substantial assistance" and a motion for departure based on said "substantial assistance" will be filed by the Government, provided the Defendant continues to abide by the terms of the plea agreement and continues to cooperate with the Government.

LIMITING USE OF CERTAIN INFORMATION

The defendant agrees to cooperate with the United States by providing information concerning the unlawful activities of others. The United States agrees that any self-incriminating information so provided by the defendant will not be used against the defendant in determining the applicable guideline range except to the extent provided in this agreement. This provision, however, shall not be applied to restrict the use of information:

- a. known to the United States prior to entering into this plea agreement;
- b. concerning the existence of prior convictions and sentences;
- c. in a prosecution for perjury, false statement, or obstruction of justice;
- d. in the event there is a breach of this plea agreement; or
- e. independently derived from a source or sources other than defendant.

VI. CRIME VICTIMS' RIGHTS ACT PROVISIONS

CRIME VICTIMS' RIGHTS ACT (18 U.S.C. §3771)

Pursuant to the Crime Victims' Rights Act (18 U.S.C. §3771) and the regulations promulgated under the Act by the Attorney General of the United States, the defendant understands that a crime victim has the following rights:

- a. The right to be reasonably protected from the accused.
- b. The right to reasonable, accurate, and timely notice of any public court proceeding, involving the crime or of any release or escape of the accused.
- c. The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at the proceeding.
- d. The right to be reasonably heard at any public proceeding in the district court involving release, plea or sentencing. The defendant understands that the victim's comments and recommendations may be different than those of the parties to this agreement.
- e. The reasonable right to confer with the attorney for the Government in the case. The defendant understands that the victim's opinions and recommendations may be different than those presented by the United States.
- f. The right to full and timely restitution as provided by law, including, but not limited to, restitution for property loss, personal injury or death.
- g. The right to proceedings free from unreasonable delay.
- h. The right to be treated with fairness and with respect for the victim's dignity and privacy.

The definition of "crime victim" under the Crime Victims' Rights is a person directly and proximately harmed as a result of the commission of a Federal offense. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights. In no event, shall the defendant be named as such guardian or representative.

VII. PRE-SENTENCE REPORT AND SENTENCING PROVISIONS

INFORMATION TO BE CONSIDERED AT SENTENCING

The defendant understands that the United States may bring to the Court's attention, and the Court may consider, all relevant information with respect to the defendant's background, character and conduct, including the conduct that is the subject of the charges which the United States has agreed to dismiss, and the nature and extent of the defendant's cooperation, if any. The United States may bring to the Court's attention and the Court may consider any failure by the defendant to fulfill any obligation under this agreement.

SENTENCING RECOMMENDATION(S)

Acceptance of Responsibility and Third Point Motion

Counsel for the defendant has affirmatively indicated that the defendant not only wishes to enter a plea of guilty, but clearly demonstrates a recognition and affirmative acceptance of responsibility as required by the sentencing guidelines. Provided that the defendant clearly demonstrates acceptance of responsibility in a timely manner, the United States agrees to recommend a two-point reduction in the offense level pursuant to U.S.S.G. §3E1.1. If the defendant can adequately demonstrate this recognition and affirmative acceptance of responsibility to the Court, the United States Attorney's Office will move that the defendant receive a third-point reduction in the defendant's offense level for acceptance of responsibility, if the defendant is eligible for such relief under the United States Sentencing Guidelines. The failure of the Court to find that the defendant is entitled to a reduction for acceptance of responsibility shall not be a basis to void this plea agreement.

VIII. FINANCIAL OBLIGATIONS

RESTITUTION INVOLVING OFFENSE OF CONVICTION

The defendant agrees to make full restitution in full accordance with a schedule to be determined by the Court. Even if the defendant does not agree to full restitution, the defendant also understands that restitution for the full loss caused by the defendant's conduct may be imposed by the Court and, if so imposed, shall be a condition of any probation or term of supervised release that the defendant receives.

The defendant understands that if the offense of conviction occurred after April 24, 1996, restitution is mandatory without regard to the defendant's ability to pay.

RESTITUTION FOR OTHER OFFENSES OR FOR RELEVANT CONDUCT NOT RESULTING IN CONVICTION

The defendant agrees the Court's consideration of the amount of restitution shall NOT be limited to the amounts alleged in the courts to which the defendant is pleading guilty, and may include all relevant conduct in addition to any stipulated amounts set forth above, pursuant to 18 U.S.C. §3663.

FORFEITURE

The parties agree that a money judgment in the amount equal to the amount of restitution is appropriate and the Defendant agrees to said money judgment.

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture which are in the possession or control of the defendant or defendant's nominees. Such assets to be forfeited may include cash, stocks, bonds, certificates of deposit, personal property and real estate.

The defendant further agrees to fully assist the United States in the recovery and return to the United States of any assets or portions thereof wherever located. The defendant further

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agrees to make a full and complete disclosure of all assets over which he exercises control and those which are held or controlled by a nominee. The defendant further agrees to be polygraphed on the issue of assets if it is deemed necessary by the United States. The defendant agrees to forfeit all interests in the properties as described above and to take whatever steps which will facilitate the passing or are necessary to pass clear title to the United States. These steps include but are not limited to: the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents which may facilitate or are necessary to effectuate such transfers. The defendant agrees not to object to any civil forfeiture brought against these properties by the United States or any agency thereof.

IX. OTHER TERMS

FINANCIAL INSTITUTION FRAUD

The United States and the defendant agree that the defendant shall, within thirty days of executing this plea agreement, consent to any regulatory action taken by a Federal financial institution regulatory agency to permanently remove defendant from office and/or prohibit defendant 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 organization or entity provided in Section 89e) of the Federal Deposit Insurance Act, 12 U.S.C. §1818(e). The defendant agrees to provide an executed copy of this agreement to the relevant federal financial institution regulatory agency within forty-five days of the public filing of the plea agreement. Furthermore, if applicable, the defendant will cooperate with any administrative removal/prohibition proceedings instituted against the defendant pursuant to 12 U.S.C. §1818(e) (banks), 1786(g) (credit unions), or 2264-65 (farm credit system institutions).


X. CONTRACTUAL SPECIFICATIONS

REASONS FOR AGREEMENT

The United States enters into this plea agreement with the defendant because this disposition of the matter fairly and adequately addresses the gravity of the series of offenses from which the charges are drawn, as well as the defendant's role in such offenses; takes into account the public interest in a prompt and certain disposition of the case; adequately protects the public; and promotes respect for the law, thereby serving the ends of justice.

COMPLETE AGREEMENT/TERMS NOT SEVERABLE/CONSTRUCTION

The parties agree that this plea agreement was negotiated between competent legal counsel and shall not be construed against either the United States or the defendant because both parties acknowledge responsibility for the plea agreement reached as a result of negotiation with respect hereto and the expressed herein. The subject headings herein are for convenience only and are not part of this plea agreement. This document sets forth the complete and only terms of the plea agreement between the United States Attorney for the Eastern District of Oklahoma and the defendant in this case, and is binding only on the United States Attorney's Office for the Eastern District of Oklahoma and the defendant. This written agreements supersedes all prior understandings, if any, whether written or oral, and cannot be modified other than by a writing that is signed by all parties or on the record in Court. No other promises or inducements have been or will be made to the defendant in connection with this case, nor have any predictions or threats been made in connection with this plea. This agreement is not contingent in any way upon the outcome of any investigation, proceeding or subsequent trial.

Defendant Initials 

TIME LIMIT

The original of this agreement must be signed by the defendant and defense counsel and received by the United States Attorney's Office on or before 5:00 p.m., February 24, 2014. Otherwise, the invitation to offer shall be deemed withdrawn.

SIGNATURE REQUIREMENTS

None of the terms of this agreement shall be binding on the Office of the United States Attorney for the Eastern District of Oklahoma until this agreement is signed by the defendant, defense counsel and the United States Attorney, or his authorized representative.

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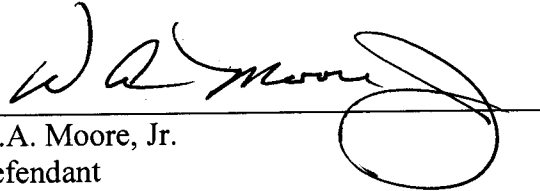
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ACKNOWLEDGMENTS

I have read this agreement and carefully reviewed every part of it with my attorney. I fully understand it and I voluntarily agree to it without reservation. No promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it. I do this of my own free will. No threats have been made to me, nor am I under the influence of anything that could impede my ability to fully understand this plea agreement.

2-24-14


Date


W.A. Moore, Jr.
Defendant

I am the defendant's counsel. I have carefully reviewed every part of this agreement with the defendant. It accurately and completely sets forth the entire agreement between the United States and the defendant. The defendant's decision to enter into this agreement is an informed and voluntary one.

2/24/14

Date

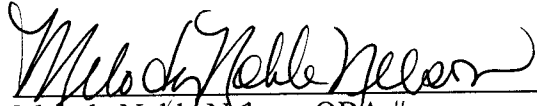

John D. Russell, OBA # 13343
800 Kennedy Building
321 South Boston Avenue
Tulsa, OK 74103
(918) 599-0621
Counsel for Defendant

On behalf of the Office of the United States Attorney for the Eastern District of Oklahoma, I accept this agreement of the defendant to plead guilty under the terms and conditions set forth herein.

Date

2/24/14

Date

MARK F. GREEN
United States Attorney

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