

ORIGINAL

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

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CLERK *L. J. G. G.*
SO. DIST. OF GA.

UNITED STATES OF AMERICA

)
) CASE NO. CR 106-083

v.

)
) Count One 18 U.S.C. §152(1)
) Bankruptcy Fraud: Concealment

CHARLES E. ROLLAND and
CAROLYN L. ROLLAND

)
) Count Two 18 U.S.C. §152(2)
) Bankruptcy Fraud: False
) Statement

Defendants.

)

PLEA AGREEMENT

DEFENDANT'S NAME: CHARLES E. ROLLAND

DEFENSE COUNSEL: J. MICHAEL SPENCE

ASSISTANT U.S. ATTORNEY: JAY S. WEIMER

STATUTES CHARGED:

Count One
18 U.S.C. § 152(1)
Bankruptcy Fraud: Concealment

Count Two
18 U.S.C. §152(2)
Bankruptcy Fraud: False Statement

COUNTS PLEADING TO:

Count One
18 U.S.C. § 152(1)
Bankruptcy Fraud: Concealment

PENALTY:

Count One 18 U.S.C. §152(1) (Bankruptcy Fraud - Concealment)

NOT MORE THAN FIVE (5) YEARS IMPRISONMENT; A FINE OF NOT MORE THAN \$250,000; A TERM OF SUPERVISED RELEASE OF NOT MORE THAN THREE (3) YEARS; AND A \$100 SPECIAL ASSESSMENT.

ELEMENTS OF OFFENSE:

Count One
18 U.S.C. § 152(1)

- FIRST: That on or about the date charged, there was pending in the United States Bankruptcy Court for the Southern District of Georgia, a bankruptcy case docketed as Case Number 02-10841-JSD wherein the Defendant was the Debtor;
- SECOND: That the property or an interest in the property described in the indictment was a part of the bankruptcy estate of such Debtor; and
- THIRD: That the Defendant knowingly, willfully and fraudulently concealed the property from creditors or the Bankruptcy Administrator or the United States Trustee who had responsibility for the control or custody of such property as charged.

PLEA AGREEMENT

Jay S. Weimer, Assistant United States Attorney, and J. Michael Spence, attorney for the defendant, pursuant to the provisions of Rule 11, Federal Rules of Criminal Procedure, as amended, have, with the authorization of the undersigned defendant, heretofore entered into discussions with a view towards reaching a pretrial conclusion of the charge pending in the Indictment styled above, and a Plea Agreement has been reached by said parties in the following respects:

GOVERNMENT OBLIGATIONS

1. Upon the defendant's entry of a plea of guilty to the offense charged in Count One of the Indictment, his full compliance with all promises made hereinafter as a part of this agreement, and his adherence to all representations and understandings recited hereinafter, the attorney for the government will do the following:

- a. Will dismiss Count Two of the Indictment; and
- b. Make no recommendation as to a specific sentence within the defendant's Sentencing Guidelines range; however, the Government reserves the right to inform the Court and the United States Probation Office of any and all the facts and to make any recommendations or arguments deemed appropriate regarding the application of the Guidelines; and
- c. Will not object to a recommendation from the probation officer that the defendant receive a 2-point reduction for acceptance of responsibility under the provisions of Chapter Three, Part E of the Sentencing Guidelines, and where applicable under the U.S.S.G. § 3E1.1(b), will file a motion for an additional 1-point reduction for acceptance of responsibility, provided the defendant truthfully admits the conduct comprising the offense of conviction, has fully complied with the terms of pretrial release, if applicable, has not engaged in criminal conduct subsequent to arrest or initial appearance in this matter, and truthfully admits or does not falsely deny any additional relevant conduct for which the defendant is accountable under the United States Sentencing Guidelines; and
- d. Stipulate that the facts recited in paragraph 4d are true and correct.

OBLIGATIONS OF THE DEFENDANT

2. THE DEFENDANT AGREES:

- a. to plead guilty to Count One of the indictment;
- b. to cooperate truthfully and completely at all times;
- c. that the facts recited in paragraph 4d are true and correct; and
- d. WAIVER OF APPEAL AND COLLATERAL ATTACK

Understanding that 18 U.S.C. § 3742 provides for an appeal by a defendant of the sentence under certain circumstances, the defendant as a part of this agreement and in consideration for the government's promises hereunder, expressly waives any and all rights conferred by that statute to appeal any sentence imposed that is within the statutory maximums set out above.

The defendant, as a part of this agreement and in consideration for the government's promises hereunder, also expressly waives any and all rights to collateral post-conviction attack of the sentence imposed or the voluntariness, providence, or factual basis of the guilty plea entered pursuant to this agreement.

Notwithstanding these waivers, the defendant reserves the right to file a direct appeal (but not a collateral attack) of the sentence imposed (but not the voluntariness, providence, or factual basis of the defendant's entry of a guilty plea pursuant to this agreement), in the event the sentencing Court upwardly departs from the guideline range it finds as a matter of fact and law to be applicable to the defendant and the offense, whether that upward departure is made pursuant to U.S.S.G. §4A1.3 (from criminal history) or U.S.S.G. §5K2.0 (from offense level). The defendant understands and agrees that all other aspects of these waivers of appeal and collateral attack rights, and all

guideline findings of fact and law by the sentencing Court, would remain in full force and effect notwithstanding the defendant's appeal of an upward departure.

3. **The Defendant also understands that the provisions of the Federal Sentencing Guidelines apply and will be used by the Court in an advisory capacity in the Court's determination of what sentence to impose in this case.**

4. **DEFENDANT'S REPRESENTATIONS TO THE COURT AND FURTHER OBLIGATIONS UNDER THIS AGREEMENT**

a. FACTUAL BASIS

The defendant understands that Count One of the Indictment charges that on or about September 8, 2004 in Richmond County, Georgia, and elsewhere, within the Southern District of Georgia, the defendants herein:

CHARLES E. ROLLAND and CAROLYN L. ROLLAND

aided and abetted by one another, did, in connection with a case under Title 11 of the United States Code, specifically Bankruptcy Number 02-10841-JSD, knowingly and fraudulently conceal from creditors and the United States Trustee property belonging to the estate of the debtor, specifically: a parcel of land located in the 128th District G.M. of Columbia County, Georgia of Columbia County, Georgia, containing 4.46 acres and being designated as Tract 10 as shown on Plat of Survey thereof prepared by John M. Harriss, R.L.S., No. 1769, dated December 10, 1983, a copy of which is recorded in PlatBook 13, page 260 and transferred to PC AA, Slide 286 #13 in the Office of the Superior Court of Columbia County, Georgia, all done in violation

of 18 U.S.C. §§152(1) and 2, and that the defendant's guilty plea constitutes proof as to that count.

The defendant understands and agrees that nothing in this agreement shall abrogate the duty and right of the government to bring all sentencing facts to the attention of the sentencing court, and the defendant further agrees that the government shall not be bound to make any recommendation under this agreement if to do so would directly contradict facts relevant to the offense conduct or the defendant's prior conduct or criminal history, which first come to the attention of the government, or are confirmed as true, only after the signing of this agreement.

The defendant understands that the Court is not a party to this agreement, that the government can only make recommendations which are not binding on the Court, and that after the entry of the defendant's guilty plea, the defendant has no absolute right to withdraw the plea. Thus, the Court is free to impose any sentence authorized by law up to the statutory maximum sentence.

The defendant further advises the Court that the defendant understands that the U.S. Probation Office will prepare a presentence investigation report for the Court, and that the U.S. Probation Office will consider all of defendant's conduct related to the offense to which he is pleading, as well as the defendant's criminal history, and that these facts will be considered by the Court in determining the defendant's sentence. The defendant understands that the offense level and criminal history category determined by the United States Probation Office and the Court may differ from that estimated or projected by defendant's counsel or the United States Attorney.

The defendant advises the Court that the defendant understands that if the relevant conduct, guideline sentencing range, or sentence imposed by the Court is more or greater than the defendant expected or, in the case of relevant conduct, is found to be more extensive than the defendant has admitted to, the defendant will still have no absolute right to withdraw his guilty plea.

b. FINES, ASSESSMENTS, AND FORFEITURES

The defendant understands that any assessments imposed pursuant to 18 U.S.C § 3013 by the Court at sentencing must be paid on the date of sentencing.

The defendant understands that if a fine or restitution is imposed by the Court at sentencing, or if the United States is pursuing the forfeiture of any property in which the defendant has an interest, whether by administrative, civil, or judicial proceeding, the defendant shall meet with a member of the Debt Collection Unit of the United States Attorney's Office on the day of sentencing and complete a written personal financial statement setting forth the defendant's assets and liabilities. The defendant further understands that by completing the financial statement, the defendant is representing that it is true and accurate to the best of the defendant's information, knowledge and belief, and agrees to make an honest, good faith effort to pay said fine as directed by the financial litigation section of the United States Attorney's Office.

c. FOIA AND PRIVACY ACT WAIVER

The defendant retains all discovery rights to documents pertaining to the investigation and prosecution of this case as may by law apply to any post-conviction litigation as to which the right to proceed has not otherwise been waived or relinquished by the defendant in this agreement or otherwise; HOWEVER, notwithstanding any right on the part of the defendant

to post-conviction litigation, the defendant, as a part of this agreement and in consideration of the promises being made the government hereunder, waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any record pertaining to the investigation or prosecution of this case under the authority of the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a, and all subsequent amendments thereto.

d. FACTUAL STIPULATIONS

The government and the defendant stipulate that, for purposes of calculating relevant conduct and the defendant's sentencing guideline range, though not for purposes of calculating restitution, if any, the loss amount at issue was less than \$5,000.

5. DEFENDANT'S FURTHER REPRESENTATIONS TO THE COURT:

a. The defendant represents to the Court that the defendant has had the services of an attorney the defendant believes to be competent; that the defendant has met with said attorney on a sufficient number of occasions and for a sufficient period of time to discuss the defendant's case and receive advice; that the defendant has been truthful with his attorney and related all information of which the defendant is aware pertaining to the case; that the defendant and defendant's attorney have discussed possible defenses, if any, to the charge in the indictment, including the existence of any exculpatory or favorable evidence or witnesses, discussed the defendant's right to a public trial by jury or by the Court, the right to the assistance of counsel throughout the proceedings, the right to call witnesses in the defendant's behalf and compel their attendance at trial by subpoena, the right to confront and cross-examine the government's witnesses, the defendant's right to testify in the defendant's own behalf, or to remain silent and

have no adverse inferences drawn from the defendant's silence; and that the defendant, with the advice of counsel, has weighed the relative benefits of a trial by jury or by the Court versus a plea of guilty pursuant to this Agreement, and has entered this Agreement as a matter of the defendant's free and voluntary choice, and not as a result of pressure or intimidation by any person.

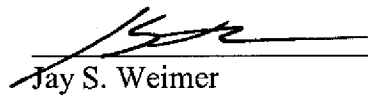
b. The defendant further represents to the Court that the plea agreement as set forth herein and the plea to be entered by the defendant is the result of prior discussions between the attorney for the government and the attorney for the defendant, conducted with the defendant's authorization, knowledge and consent; that this plea agreement contains the entire agreement and understanding between the government and the defendant; and that the defendant has no other agreements, understandings, or deals with any person other than those set out in this plea agreement, that is, the defendant advises the Court that the defendant's entire understanding of this Plea Agreement is completely set forth in writing in this document.

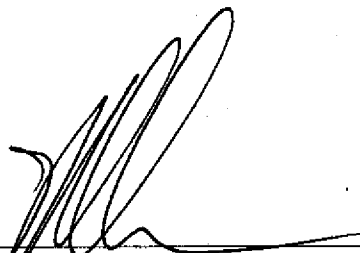
c. The defendant represents to the Court that the defendant has been advised of the nature of the charge to which the plea of guilty is to be offered, of the maximum possible penalty provided by law, as set forth above, and that by entering a plea of guilty the defendant gives up all of the rights set out in paragraph "a" above, gives up any defenses to the charge, and understands that there will not be a further trial of any kind. The defendant further understands that in entering a plea of guilty, the Court will ask questions about the offense to which the plea is entered. The defendant understands that the defendant will be under oath and on the record in answering those questions, and that the defendant's answers may later be used against the

defendant in a criminal prosecution for perjury or false statement if those answers are not truthful.

This 20th day of July, 2006.

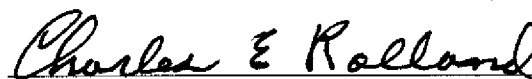
LISA GODBEY WOOD
UNITED STATES ATTORNEY


Jay S. Weimer
Assistant United States Attorney
Texas Bar No. 24013727
P.O. Box 2017
Augusta, GA 30901


J. Michael Spence
Attorney for the Defendant

07/19/2006
Date

I have read the foregoing Plea Agreement, consisting of 11 pages, including this page, and I understand what it says and means, and by my signature hereunder I swear or affirm under penalty of perjury that the matters and facts set forth therein are true, and accurately and correctly state the representations that have been made to me by my attorney and government agents and/or prosecutors, and accurately set forth the terms and conditions of the plea agreement that has been reached by my attorney on my behalf and with my permission.



Charles E. Rolland

Defendant