

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Case No.-CR-00572-RDP-RRR
)	
)	
MILDRED A. COSTON)	

PLEA AGREEMENT

The United States of America and defendant **MILDRED A. COSTON** hereby acknowledge the following plea agreement in this case:

PLEA

The defendant agrees to plead guilty to **COUNTS ONE** and **TWO** of the indictment filed in the above numbered and captioned matter. In exchange, the United States Attorney, acting on behalf of the United States and through the undersigned Assistant United States Attorney, agrees to recommend the disposition specified below.

TERMS OF THE AGREEMENT

I. MAXIMUM PUNISHMENT:

The Parties understand that the maximum statutory punishment

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that may be imposed for the crime of Bankruptcy Fraud, in violation of Title 18, United States Code, Section 152(2), as charged in COUNT ONE,

- is:
- a. Imprisonment for not more than 5 years;
 - b. A fine of not more than \$250,000, or,
 - c. Both a and b;
 - d. Supervised release of not more than 3 years; and
 - e. Special Assessment Fee of \$100 per count.

The Parties understand that the maximum statutory punishment that may be imposed for the crime of Bankruptcy Fraud, in violation of Title 18, United States Code, Section 152(2), as charged in COUNT TWO,

- is:
- a. Imprisonment for not more than 5 years;
 - b. A fine of not more than \$250,000, or,
 - c. Both a and b;
 - d. Supervised release of not more than 3 years; and
 - e. Special Assessment Fee of \$100 per count.

II. FACTUAL BASIS FOR PLEA:

The United States would be prepared to prove the following facts at the trial of this case:

On June 3, 2004, Defendant filed a Chapter 7 Bankruptcy petition, case #04-04884-TOM-7. On September 21, 2004, Defendant received her discharge.

On September 22, 2004, Defendant's husband died and left insurance policies with Defendant as beneficiary. Subsequently, Defendant filed a motion to reopen her bankruptcy case and amended Schedules A - J. On Schedule B, Defendant listed \$350,000.00 life insurance proceeds and \$40,000.00 from the Retirement Systems of Alabama (RSA). She further listed on Schedule C the insurance proceeds and RSA amount as "exempt property." The Trustee objected to Defendant's claim of exemptions.

On August 15, 2005, pursuant to an Order by the Bankruptcy Judge, Defendant submitted to an oral examination. Defendant was questioned about \$75,000.00. Defendant answered that her daughter told her that the money had been stolen.

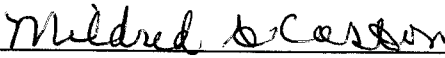
On September 27, 2005, pursuant to an Order by the Bankruptcy Judge, Defendant submitted to another oral examination. The Trustee questioned her about \$157,000.00 that was no longer in any of



Defendant's bank accounts. Defendant testified, *inter alia*, that the money had been lost by her daughter, Jenafer Coston, while Jenafer was in Panama City, Florida. According to Defendant, the money was taken out of the trunk of Jenafer's car while Jenafer was in Florida.

On October 25, 2005, Defendant's daughter, Jenafer, was deposed by the Trustee. Initially Jenafer testified that the money was stolen from the trunk of her car while she was in Panama City. Later, after further questioning by the Trustee, Jenafer admitted that the money had not been stolen and that her mother had told her to lie about the money.

The defendant hereby stipulates that the facts as stated above are substantially correct.



MILDRED A. COSTON

III. RECOMMENDED SENTENCE:

Pursuant to Rule 11(c)(1)(B), Fed.R.Crim.P., the United States will recommend the following disposition:

- (a) That the defendant be awarded an appropriate

reduction in offense level for acceptance of responsibility;

- (b) That Defendant be sentenced at the low end of the applicable ADVISORY guideline range;
- (c) That the Court must consider ordering restitution at sentencing.
- (d) That Defendant pay a Special Assessment fee of \$200, said amount due and owing as of the date sentence is pronounced.
- (e) That Count Three of the Indictment be dismissed with prejudice.

IV. WAIVER OF RIGHT TO APPEAL AND POST-CONVICTION RELIEF:

In consideration of the recommended disposition of this case, I, MILDRED A. COSTON, hereby waive and give up my right to appeal my conviction in this case, as well as any fines, restitution, and/or sentence the court might impose upon me. Further I waive and give up the right to challenge any conviction or sentence imposed or the manner in which the sentence was determined in any collateral

attack, including, but not limited to, a motion brought under 28 U.S.C. § 2255, subject to the following limitations:

Defendant reserves the right to contest in an appeal or post-conviction proceeding any or all of the following:


- (a) Any sentence imposed in excess of the applicable statutory maximum sentence(s); and
- (b) Any sentence that constitutes an upward departure from the advisory guideline sentencing range calculated by the court at the time sentence is imposed.

Defendant acknowledges that before giving up these rights, she discussed the Federal Sentencing Guidelines and their application to her case with her attorney, who explained them to her satisfaction. Defendant further acknowledges and understands that the United States retains its right to appeal where authorized by statute.

I, MILDRED A. COSTON, hereby place my signature on the line directly below to signify that I fully understand the foregoing paragraphs, and that I am knowingly and voluntarily entering into this



waiver.


MILDRED A. COSTON

V. UNITED STATES SENTENCING GUIDELINES:

Counsel has explained to Defendant, that in light of the United States Supreme Court's recent decision in United States v. Booker, the federal sentencing guidelines are advisory in nature. Sentencing is in the court's discretion and is no longer required to be within the guideline range. Defendant agrees that, pursuant to this agreement, the court may use facts it finds by a preponderance of the evidence to reach an advisory guideline range and defendant explicitly waives any right to have those facts found by a jury beyond a reasonable doubt.

VI. AGREEMENT NOT BINDING ON COURT:

The Parties fully and completely understand and agree that it is the Court's duty to impose sentence upon the defendant and that any sentence recommended by the United States is NOT BINDING UPON THE COURT, and that the Court need not accept the United States' recommendation. Further, Defendant understands that if the Court does

not accept the United States' recommendation, she does not have the right to withdraw her plea.

VII. VOIDING OF AGREEMENT:

Defendant understands that should she: (a) violate any federal, state, or local law after entering into this Plea Agreement, (b) move the Court to accept her plea of guilty in accordance with, or pursuant to, the provisions of North Carolina v. Alford, 400 U.S. 25 (1970), or (c) tender a plea of *nolo contendere* to the charges, the agreement will become NULL and VOID, and the United States will not be bound by any of the terms, conditions, or recommendations, express or implied, which are contained therein.

VIII. OTHER DISTRICTS AND JURISDICTIONS:

The Parties understand and agree that this agreement DOES NOT BIND any other United States Attorney in any other district, or any other state or local authority.

IX. TAX, FORFEITURE AND OTHER CIVIL/ADMINISTRATIVE PROCEEDINGS:

Unless otherwise specified herein, the parties understand and acknowledge that this agreement does not apply to or in any way limit

any pending or prospective proceedings related to Defendant's tax liabilities, if any, or to any pending or prospective forfeiture or other civil or administrative proceedings.

X. DEFENDANT'S UNDERSTANDING:

I have read and understand the provisions of this agreement consisting of Eleven (11) pages. I have discussed the case and my constitutional and other rights with my lawyer. I am satisfied with my lawyer's representation in this case. I understand that by pleading guilty, I will be waiving and giving up my right to continue to plead not guilty, to a trial by jury, to the assistance of counsel at that trial, to confront, cross-examine, or compel the attendance of witnesses, to present evidence in my behalf, to maintain my privilege against self-incrimination, and to the presumption of innocence. I agree to enter my plea as indicated above on the terms and conditions set forth herein.

NO OTHER PROMISES OR REPRESENTATIONS HAVE BEEN
MADE TO ME BY THE PROSECUTOR, OR BY ANYONE ELSE,
NOR HAVE ANY THREATS BEEN MADE OR FORCE USED TO
INDUCE ME TO PLEAD GUILTY.



I further state that I have not had any drugs, medication, or alcohol within the past 48 hours except as stated hereafter:

Lortab, Morphine, Bendryl, Valium, _____

I understand that this Plea Agreement will take effect and will be binding as to the Parties **only** after all necessary signatures have been affixed hereto.

I have personally and voluntarily placed my initials on every page of this Agreement and have signed the signature line below to indicate I have read and approve all of the previous paragraphs of this Agreement, and understand all of the provisions of this Agreement, both individually and as a total binding agreement.

1/19/07
DATE

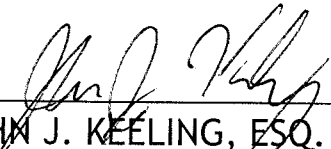
Mildred A. Coston
MILDRED A. COSTON
Defendant

XI. COUNSEL'S ACKNOWLEDGMENT:

I have discussed this case with my client in detail and have advised her of her rights and all possible defenses. My client has conveyed to me

that she understands this Agreement and consents to all its terms. I believe the plea and disposition set forth herein are appropriate under the facts of this case and are in accord with my best judgment. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

1/19/07
DATE

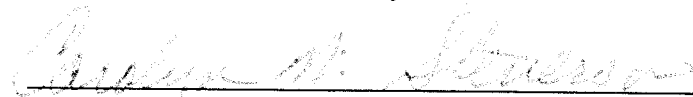


JOHN J. KEELING, ESQ.
Defendant's Counsel

XII. GOVERNMENT'S ACKNOWLEDGMENT:

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

1/22/07
DATE

ALICE H. MARTIN
United States Attorney


CAROLYN W. S TEVERSON
Assistant United States Attorney