



U. S. Department of Justice

*United States Attorney
Northern District of Iowa*

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March 25, 2015

The Honorable Jon S. Scoles
Chief Magistrate Judge
United States Courthouse
111 7th Ave SE
Cedar Rapids, IA 52401

Re: *United States v. Teresa Ann Kobriger*, No. 15-CR-00026

Dear Judge Scoles:

I am writing in regard to the Rule 11 hearing scheduled to be held at 2:00 p.m. on April 1, 2015. The attorneys appearing at the hearing will be Tony Morfitt and Al Willett.

In Count 1 of the Information, defendant is charged with Embezzlement by a Bank Employee, in violation of 18 U.S.C. § 656. Defendant has indicated she intends to plead guilty.

The parties have entered into a plea agreement, which is attached as Government Exhibit 1.

STATUTES

Title 18, United States Code, Section 656, provides in pertinent part:

Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank,

branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act, or a receiver of a national bank, insured bank, branch, agency, or organization or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank, branch, agency, or organization or holding company or any moneys, funds, assets or securities intrusted to the custody or care of such bank, branch, agency, or organization, or holding company or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

ELEMENTS OF THE OFFENSE

The crime of embezzlement of bank funds, as charged in Count 1 of the Information, has five elements, which are:

- One, the defendant was an employee of Iowa Falls State Bank in Iowa Falls, Iowa;
- Two, beginning in or about December 2008, and continuing through about December 2012, in the Northern District of Iowa, the defendant embezzled or misapplied the funds of the bank;
- Three, the amount so embezzled or misapplied was more than \$1000;
- Four, the defendant did so with the intent to defraud the bank; and
- Five, the bank was insured by the FDIC.

“Embezzlement” means the voluntary and intentional taking, or conversion to one’s own use, of the property of another, which property came into the defendant’s possession lawfully, by virtue of some office, employment, or position of trust which the defendant held.

“Misapplication” means the unauthorized, or unjustifiable or wrongful use of a bank’s funds. Misapplication includes the wrongful taking or use of money of the

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bank by a bank officer or employee for his own benefit or for the use and benefit of some other person.

To act with “intent to defraud” means to act with intent to deceive or cheat, for the purpose of causing a financial loss to someone else or bringing about a financial gain to the defendant or another.

See Eighth Circuit Model Criminal Jury Instruction No. 6.18.656.

MAXIMUM AND MINIMUM PENALTIES

Count 1 of the Information is punishable by the following maximum penalties: (1) not more than 30 years’ imprisonment without the possibility of parole; (2) a fine equal to the greater of twice the gross gain to defendant resulting from the offense, twice the gross loss resulting from the offense, or \$1,000,000; (3) a mandatory special assessment of \$100; and (4) a term of supervised release of not more than five years.

OTHER CONSEQUENCES OF THE PLEA

As a felon, defendant will lose her right to vote, to serve on a jury, to hold public office, and to possess a firearm and ammunition.

PLEA AGREEMENT/ FACTUAL BASIS FOR THE PLEA

A factual basis for the plea is contained in the plea agreement that is attached as Government Exhibit 1.

PRIOR PLEA AGREEMENTS

A prior plea proposal dated February 13, 2015, was tendered to defendant and was rejected and/or expired.

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DETENTION

Defendant is not in custody. Detention is not mandatory

Sincerely,

KEVIN W. TECHAU
United States Attorney

By: /s/ Anthony Morfitt

ANTHONY MORFITT
Assistant United States Attorney

cc: Al Willett