



**BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

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RELEASE OF INFORMATION
RE: BARBARA MORRIS ZOCCOLA, BPR #013020
CONTACT: TRAVIS M. LAMPLEY
BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

January 15, 2020

SHELBY COUNTY LAWYER SUSPENDED

On January 15, 2020, the Tennessee Supreme Court suspended Barbara Morris Zoccola from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Ms. Zoccola was suspended based upon her guilty plea for Theft of Public Money, Property, or Thing of Value in the matter of *United States of America v. Barbara Zoccola*, in the United States District Court for the Western District of Tennessee. During her employment with the United States Department of Justice as an Assistant United States Attorney, Ms. Zoccola misreported and falsely certified her time and attendance records. By doing so, Ms. Zoccola accrued leave time to which she was not entitled. The Supreme Court's Order is effective immediately.

Pursuant to the Order of the Supreme Court, the matter has been referred to the Board to institute formal proceedings to determine the extent of the final discipline to be imposed upon Ms. Zoccola as a result of her conviction of a serious crime.

Ms. Zoccola must comply with Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of suspended attorneys.

Zoccola 3061-9 rel.doc

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
01/15/2020
Clerk of the
Appellate Courts

IN RE: BARBARA MORRIS ZOCCOLA, BPR #013020
An Attorney Licensed to Practice Law in Tennessee
(Shelby County)

No. M2020-00078-SC-BAR-BP
BOPR No. 2020-3061-9-TL-22.3

ORDER OF ENFORCEMENT

This matter is before the Court pursuant to Tenn. Sup. Ct. R. 9, § 22.3, upon a Notice of Submission filed by Disciplinary Counsel for the Board of Professional Responsibility consisting of a certified copy of the Order on Plea to an Information and a certified copy of the Plea Agreement in the matter of *United States of America v. Barbara Zoccola*, in the United States District Court for the Western District of Tennessee, (attached as Exhibit A) demonstrating that Barbara Morris Zoccola, an attorney licensed in Tennessee, has pled guilty to Theft of Public Money, Property, or Thing of Value in violation of 18 U.S.C. § 641.

IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

1. Barbara Morris Zoccola is suspended from the practice of law on this date pending further orders of this Court, pursuant to Tenn. Sup. Ct. R. 9, § 22.3;
2. This matter shall be referred to the Board of Professional Responsibility for the institution of a formal proceeding in which the sole issue to be determined shall be the extent of the final discipline;
3. Barbara Morris Zoccola shall fully comply with the provisions of Tenn. Sup. Ct. R. 9, § 28, concerning suspended attorneys; and
4. The Board of Professional Responsibility shall cause notice of this suspension to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

PER CURIAM

FILED
01/15/2020
Clerk of the
Appellate Courts

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
Plaintiff,)	
v.)	19-20282-WLC
BARBARA ZOCCOLA,)	
Defendant.)	

ORDER ON PLEA TO AN INFORMATION

This cause came to be heard on November 21, 2019, the Assistant United States Attorney, John Christopher Suedekum, appearing for the Government and the defendant, Barbara Zoccola, appearing in person and with counsel, Leslie Ballin.

With leave of the Court, the defendant waived Indictment and entered a plea of guilty as to Count 1 of the Misdemeanor Information.

Plea colloquy was held and the Court accepted the guilty plea.

SENTENCING in this case is SET for Thursday, March 5, 2020, at 10:30 a.m. in Courtroom No. 3, on the 3rd floor of the Jackson Courthouse before Judge William L. Campbell, Jr.

Pursuant to Local Criminal Rule 32.1, the Presentence Report prepared by the United States Probation Officer shall be provided to the parties at least thirty-five (35) days prior to sentencing. Counsel for the parties shall submit any objections or requests in writing to the Probation Officer no more than fourteen (14) days after receiving the report and attempt to resolve any issues involving the report. No more than twenty-one (21) days after receiving the report, the parties shall file their position papers on sentencing with the Court. At least 7 days before the sentencing, the Probation Officer shall submit the final report to the Court and the parties.

Defendant is released on own recognizance.

IT IS SO ORDERED, this the 3rd day of December, 2019

s/William L. Campbell, Jr.
WILLIAM L. CAMPBELL, JR.
UNITED STATES DISTRICT JUDGE

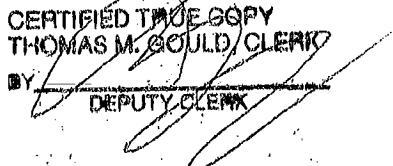
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THOMAS M. GOULD/CLERK
BY  DEPUTY CLERK

Exhibit A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA)
)
v.) Cr. No.: 2:19-cr-20282
)
BARBARA ZOCCOLA) Judge William L. Campbell, Jr.
)

PLEA AGREEMENT

The United States of America, through Donald Q. Cochran, United States Attorney for the Middle District of Tennessee, and Assistant United States Attorneys Brent A. Hannafan and Chris Suedekum, acting under authority conferred by 28 U.S.C. § 515, and defendant, Barbara Zoccola, through defendant's counsel, Leslie I. Ballin, pursuant to Rule 11(c)(1)(A) and (B) of the Federal Rules of Criminal Procedure, have entered into an agreement, the terms and conditions of which are as follows:

Charges in This Case

1. Defendant acknowledges that she has been charged in the Information in this case with one misdemeanor count of intentionally converting to her use leave time, a thing of value, in violation of Title 18, United States Code Section 641 (Theft of Public Money).

2. Defendant has read the charge against her contained in the Information, and that charge has been fully explained to her by her attorney. Defendant fully understands the nature and elements of the crime with which she has been charged.

Charge to Which Defendant is Pleading Guilty

3. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the Information, charging her with one misdemeanor count of intentionally converting to her use leave time, a thing of value.

CERTIFIED TRUE COPY
THOMAS M. GOULD, CLERK
BY _____
DEPUTY CLERK

4. Based upon defendant's agreement to plead guilty to the charged offense, the government agrees not bring additional charges in connection with the matters under investigation.

Penalties

5. The parties understand and agree that the offense to which defendant will enter a plea of guilty carries the following maximum penalties: up to 1 year imprisonment; 1 year of supervised release; a fine of \$100,000; and a \$25 special assessment. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court.

Acknowledgements and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

6. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case number 2:19-cr-20282.

7. Defendant understands that by pleading guilty she surrenders certain trial rights, including the following:

a. If defendant persisted in a plea of not guilty to the charge against her, she would have the right to a public and speedy trial. Defendant has a right to a jury trial, and the trial would be by a judge rather than a jury only if defendant, the government, and the Court all agreed to have no jury.

b. If the trial were a jury trial, the jury would be composed of twelve laypersons selected at random. Defendant and her attorney would have a say in who the jurors would be by removing prospective jurors for cause, or without cause by exercising so-called peremptory challenges. The jury would have to agree unanimously before it could return a verdict

of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent; that the government bears the burden of proving defendant guilty of the charge(s) beyond a reasonable doubt; and that it must consider any counts in the Information or Indictment against defendant separately.

c. If the trial were held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded of defendant's guilty beyond a reasonable doubt.

d. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and her attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence on her own behalf. If the witnesses for defendant would not appear voluntarily, she could require their attendance through the subpoena power of the Court.

e. At a trial, defendant would have a privilege against self-incrimination so that she could testify or decline to testify, and no inference of guilt could be drawn from her refusal to testify.

8. Defendant understands that by pleading guilty she is waiving all of the trial rights set forth in the prior paragraph. Defendant's attorney has explained those rights to her, and the consequences of her waiver of those rights.

Factual Basis

9. Defendant will plead guilty because she is in fact guilty of charge contained in the Information. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt:

At all times relevant to the Information, Barbara Zoccola was employed by the United States Department of Justice as an Assistant United States Attorney for the United States Attorney's Office for the Western District of Tennessee. Beginning no later than June 12, 2018, and continuing up until on or around June 11, 2019, in the Western District of Tennessee, Barbara Zoccola did knowingly and intentionally convert to her use a thing of value belonging to the United States Department of Justice by misreporting and falsely certifying her time and attendance records. By doing so, Zoccola accrued leave time to which she was not entitled.

As set forth in the sole count of the Information, on or around October 25, 2018, Zoccola certified her time and attendance records for Pay Period 21, in which she falsely reported that she had worked full, 8-hour days on October 16, 18, 23, and 25, 2018. However, in her time certification, Zoccola knowingly failed to report approximately 9 hours of unclaimed leave time that she had taken on October 16, 18, 23, and 25, 2018. As a result of this conduct, Zoccola was able to accrue approximately 9 hours of leave time to which she was not entitled.

Defendant also acknowledges that, for the purpose of determining the applicable advisory sentencing range under the United States Sentencing Guidelines (hereinafter "U.S.S.G."), the following conduct, to which she stipulates, constitutes relevant conduct under U.S.S.G. §1B1.3: between June 2018 and June 2019, Zoccola similarly submitted time certifications in which she failed to report other unclaimed leave time that she had taken, thereby allowing her to accrue additional leave time to which she was not entitled. Zoccola agrees that the value of the unreported leave time she obtained was greater than \$6,500 but less than \$15,000.

This statement of facts is provided to assist the Court in determining whether a factual basis exists for defendant's plea of guilty and to assess relevant conduct for purposes of the United States Sentencing Guidelines. The statement of facts does not contain each and every fact known to defendant and to the United States concerning defendant's and/or others' involvement in the offense conduct and other matters.

Sentencing Guidelines Calculations

10. The parties understand that the Court will take account of the United States Sentencing Guidelines (hereinafter "U.S.S.G."), together with the other sentencing factors set forth at 18 U.S.C. § 3553(a), and will consider the U.S.S.G. advisory sentencing range in imposing defendant's sentence. The parties agree that the U.S.S.G. to be considered in this case are those in effect at the time of sentencing, unless its use results in an ex post facto issue, in accordance with U.S.S.G. § 1B1.11.

11. For purposes of determining the U.S.S.G. advisory sentencing range, the United States and defendant recommend to the Court, pursuant to Rule 11(c)(1)(B), the following:

a. Offense Level Calculations.

i. The base offense level for the count of conviction is 6, pursuant to U.S.S.G. § 2B1.1(a)(2).

ii. The offense level is increased by 2 levels pursuant to U.S.S.G. § 2B1.1(b)(1)(B) because, including relevant conduct, the amount of loss was more than \$6,500, but less than \$15,000.

iii. Assuming defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the government, through her allocution and subsequent conduct prior to the imposition of sentence, a 2-level reduction will be warranted, pursuant to U.S.S.G. § 3E1.1(a).

b. Recommended Offense Level.

i. Therefore, the parties agree to recommend to the Court a final offense level of 6 (the "Recommended Offense Level"). Defendant understands that the offense level as ultimately determined by the Court (the "court-determined offense level") may be different from the Recommended Offense Level. Defendant likewise understands that the guidelines range as ultimately determined by the Court (the "court-determined guidelines range") may be based on an offense level different from the Recommended Offense Level.

c. Defendant is aware that the Recommended Offense Level is a prediction, not a promise, and is not binding on the Probation Office or the Court. Defendant understands that the Probation Office will conduct its own investigation and make

its own recommendations, that the Court ultimately determines the facts and law relevant to sentencing, that the Court's determinations govern the final guidelines calculations, and that the Court determines both the final offense level and the final guidelines range. Accordingly, the validity of this agreement is not contingent upon the Probation Officer's or the Court's concurrence with the above calculations. In the event that the Probation Office or the Court contemplates any U.S.S.G. adjustments, departures, or calculations different from those recommended above, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same. Defendant further acknowledges that if the Court does not accept the U.S.S.G. recommendations of the parties, defendant will have no right to withdraw her guilty plea.

Agreements Relating to Sentencing

12. Each party is free to recommend whatever sentence it deems appropriate.
13. It is understood by the parties that the Court is neither a party to nor bound by this Plea Agreement and, after consideration of the U.S.S.G., may impose the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw her guilty plea. Similarly, defendant understands that any recommendation by the Court related to location of imprisonment is not binding on the Bureau of Prisons.
14. Regarding restitution, the parties acknowledge and defendant agrees that the amount of restitution owed to the United States Department of Justice is \$10,000, and that pursuant to Title 18, United States Code, Sections 3663(a)(3) and 3663A, the Court must order defendant to make restitution in this amount, minus any credit for funds repaid prior to sentencing.

In light of defendant's agreement to pay restitution in the amount of \$10,000, the government agrees not to recommend any fine. Defendant agrees to pay the \$10,000 in restitution owed to the United States Department of Justice at or before the time of sentencing.

15. Defendant agrees to pay the special assessment of \$25 at the time of sentencing to the Clerk of the U.S. District Court.

Presentence Investigation Report/Post-Sentence Supervision

16. Defendant understands that the United States Attorney's Office, in its submission to the Probation Office as part of the Presentence Report and at sentencing, shall fully apprise the District Court and the United States Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against her, as well as any related matters. The government will make known all matters in aggravation and mitigation relevant to the issue of sentencing.

17. Defendant agrees to execute truthfully and completely a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the United States Probation Office, and the United States Attorney's Office regarding all details of her financial circumstances, including her recent income tax returns as specified by the Probation Officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1 and enhancement of her sentence for obstruction of justice under U.S.S.G. § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001, or as a contempt of the Court.

18. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Plea Agreement, nothing herein shall constitute a limitation, waiver, or release by the United

States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Plea Agreement are limited to the United States Attorney's Office for the Middle District of Tennessee, acting under authority conferred by 28 U.S.C. § 515, and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Plea Agreement.

19. Defendant understands that nothing in this Plea Agreement shall limit the Internal Revenue Service (IRS) in its collection of any taxes, interest, or penalties from defendant.

Entry of Guilty Plea

20. The parties jointly request that the Court accept defendant's plea of guilty as set forth in this agreement and enter an order reflecting the acceptance of the plea while reserving acceptance of this plea agreement until receipt of the pre-sentence report and sentencing.

Waiver of Appellate Rights

21. Regarding the issue of guilt, defendant hereby waives all (i) rights to appeal any issue bearing on the determination of whether she is guilty of the crime to which she is agreeing to plead guilty; and (ii) trial rights that might have been available if she exercised her right to go to trial. Regarding sentencing, Defendant is aware that 18 U.S.C. § 3742 generally affords a defendant the right to appeal the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal any sentence within or below the Recommended Guidelines Range. Defendant also knowingly waives the right to challenge the sentence imposed in any motion pursuant to 18 U.S.C. § 3582(c)(2) and in any collateral attack, including, but not limited to, a motion brought pursuant to 28 U.S.C. § 2255 and/or § 2241. However, no waiver of the right to appeal, or to challenge the adjudication of guilt or the sentence imposed in any collateral attack,

shall apply to a claim of involuntariness, prosecutorial misconduct, or ineffective assistance of counsel. Likewise, the government waives the right to appeal any sentence within or above the Recommended Guidelines Range.

Other Terms

22. Defendant agrees that, prior to her entry of a guilty plea on the Information, defendant will resign from her position of employment with the United States Attorney's Office for the Western District of Tennessee, effective as of the day she gives notice, and defendant agrees to waive any employment-related claims regarding her departure from the office, including but not limited to any administrative rights or remedies regarding the termination of her employment.

23. Defendant agrees to request that the district judge set a plea hearing within seven (7) days of her being charged by Information.

24. Defendant waives her right to consent to proceed before a magistrate judge for entry of a guilty plea and sentencing.

25. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office. Defendant further agrees that any monetary penalties imposed by the Court will be subject to immediate enforcement as provided for in 18 U.S.C. § 3613, and submitted to the Treasury Offset Programs so that any federal payment or transfer of returned property the defendant receives may be offset and applied to federal debts but will not affect the periodic payment schedule.

26. Defendant agrees to cooperate with the IRS in any tax examination or audit of defendant that directly or indirectly relates to or arises out of the course of conduct defendant has acknowledged in this Plea Agreement, by transmitting to the IRS original records or copies thereof,

and any additional books and records that the IRS may request. Nothing in this paragraph precludes defendant from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

27. Should defendant engage in additional criminal activity after she has pled guilty but prior to sentencing, defendant shall be considered to have breached this Plea Agreement, and the government at its option may void this Plea Agreement.

Conclusion

28. Defendant understands that the Information and this Plea Agreement will be filed with the Court, will become matters of public record, and may be disclosed to any person.

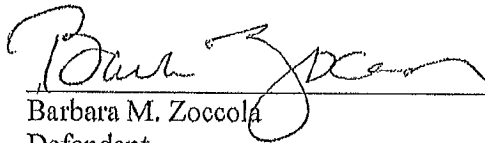
29. Defendant understands that her compliance with each part of this Plea Agreement extends until such time as she is sentenced, and failure to abide by any term of the Plea Agreement is a violation of the Plea Agreement. Defendant further understands that in the event she violates this Plea Agreement, the government, at its option, may move to vacate the Plea Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Plea Agreement, or may require defendant's specific performance of this Plea Agreement.

30. Defendant and her attorney acknowledge that no threats have been made to cause defendant to plead guilty.

31. No promises, agreements, or conditions have been entered into other than those set forth in this Plea Agreement, and none will be entered into unless memorialized in writing and signed by all of the parties listed below.

32. Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending Information. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines that may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with my attorney. I understand this Plea Agreement, and I voluntarily agree to it.

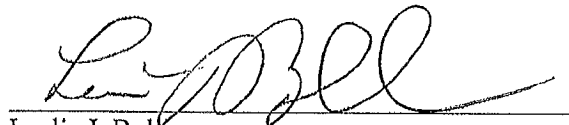
Date: 11-21-19



Barbara M. Zoccola
Defendant

33. Defense Counsel Signature: I am counsel for defendant in this case. I have fully explained to defendant her rights with respect to the pending Information. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements, and I have fully explained to defendant the provisions of those guidelines that may apply in this case. I have reviewed carefully every part of this Plea Agreement with defendant. To my knowledge, defendant's decision to enter into this Plea Agreement is an informed and voluntary one.

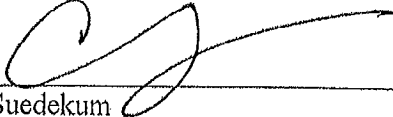
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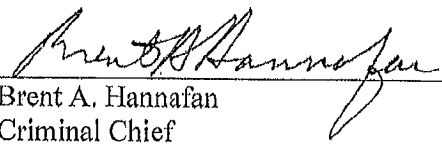


Leslie I. Ballin
Defendant's Counsel

Respectfully submitted,

DONALD Q. COCHRAN
United States Attorney

By: 
Chris Suedekum
Assistant U.S. Attorney


Brent A. Hannafan
Criminal Chief

Acting Under Authority Conferred by
28 U.S.C. § 515