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NA FORM 13040 (10-86)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

DOCKETED
MAY 20 1983

*Return
To
Judge
Moran*

UNITED STATES OF AMERICA

vs.

LAURENCE KELLY

)
MAY 9 1983
)

No. 80 CR 517-7
Judge James B. Moran

H. Stuart Cunningham, Clerk
United States District Court

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America, by Dan K. Webb, United States Attorney for the Northern District of Illinois, and the defendant, Laurence Kelly and his attorney, Patrick Tuite, have agreed upon the following:

1. Defendant acknowledges that he has been charged in the indictment in this case with a violation of Title 18, United States Code, Section 1962(d) (Count 1); Section 1341 (Counts 32-41); and 26 U.S.C. § 7203 (Count 90).
2. Defendant has read the charge against him contained in the indictment and the charge has been fully explained to him by his attorney.
3. Defendant fully understands the nature and elements of the crime with which he has been charged.
4. Defendant will enter a voluntary plea of guilty to Count One of the indictment in this case.
5. Defendant agrees that this Plea Agreement shall be filed and become a part of the record in this case.
6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One. In pleading defendant acknowledges that Count One charges:

The Special January 1979 Grand Jury charges:

1. At all times material to this indictment the Board of Appeals of Cook County (hereinafter referred to as the Board of Appeals) was located

in Chicago, Illinois, and was a governmental body authorized and empowered by the laws of the State of Illinois to receive, hear, and review complaints pertaining to real estate property tax assessments in Cook County and to direct the county assessor of Cook County to raise or lower said assessments to obtain a full, fair, and impartial assessment of all real estate in Cook County.

2. At all times material to this indictment the Board of Appeals was an "enterprise" as that term is defined in Title 18, United States Code, Section 1961(4), which engaged in and the activities of which affected interstate commerce.

3. At all times material to this indictment the laws of the State of Illinois and the rules of the Board of Appeals provided and required that real estate tax assessment complaints on real estate located in each of the townships in Cook County be filed on the official complaint form adopted by the Board of Appeals within the twenty-day period specified for each township in the official publication of the Board of Appeals; that said complaint be signed by the real estate owner or his attorney; that the Board of Appeals hold public hearings on complaints timely filed by property owners or their attorneys; and that, in each instance in which an assessment was ordered corrected, the Board of Appeals make and sign a brief written statement of the reason for such change and the manner in which the method used by the assessor in making such assessment was erroneous.

4. Thomas Lavin was a hearing officer at the Board of Appeals from approximately December, 1970 until 1974 and a Deputy Commissioner to Commissioner Harry Semrow from approximately 1974 to January, 1978.

5. Beginning in June, 1970 Donald Erskine was an employee at the Board of Appeals. From approximately January, 1973 to November, 1978, Donald Erskine was Deputy Commissioner to Commissioner Seymour Zaban.

6. At all times material to this indictment, Jimmie Smith was a hearing officer, and since January, 1978 acted as office manager at the Board of Appeals.

7. At all times material to this indictment, James Woodlock was a computer programmer at the Board of Appeals.

8. At all times material to this indictment, Robert E. Allen was a hearing officer at the Board of Appeals.

9. At all times material to this indictment a bribery statute of the State of Illinois, Illinois Revised Statutes, Chapter 38, Section 33-1, was in effect, which was punishable by imprisonment for more than one year.

10. At all times material to this indictment a mail fraud statute of the United States, Title 18, United States Code, Section 1341, was in effect, which made it an offense to devise a scheme to defraud and to use the United States mails in furtherance of the scheme.

11. Beginning in 1974 and continuing until the date of this indictment at Chicago, in the Northern District of Illinois, Eastern Division,

THOMAS LAVIN,
DONALD ERSKINE,
JIMMIE SMITH,
STANLEY BALODIMAS,
VINCENT BATTISTA,
BARTLEY BURNS,
LAURENCE KELLY,
KENNETH VALERUGO, and
JOHN VANDENBERGH,

defendants herein, with other co-conspirators both known and unknown to the grand jury, did knowingly combine, conspire and agree with each other to knowingly conduct or participate in the conduct of the affairs of the Board of Appeals through a pattern of racketeering activity by committing multiple acts of bribery and mail fraud, involving payments of money to officials at the Board of Appeals to corruptly influence assessment reductions, in violation of Title 18, United States Code, Section 1962(c) and to conceal the nature and objects of the conspiracy. These acts of racketeering activity were in violation of Ill.Rev.Stat. Ch. 38 Section 33-1 and Title 18, U.S.C. Section 1341. The mailings in Counts Two through Eighty-Two of this indictment constitute some of these acts of racketeering.

12. It was a part of the conspiracy that Robert A. Allen, Stanley Balodimas, Vincent Battista, Bartley Burns, Roger Burton, Thomas Gavin, Laurence Kelly, Ronald Lynch, Marvin Siegel, Kenneth Valerugo, John Vandenberg and others acted as "runners", recruiting property owners who wished to obtain property assessment reductions.

13. It was further part of the conspiracy that the runners gave to Deputy Commissioner Thomas Lavin and Donald Erskine Board of Appeals complaint forms which contained information about the property on which the owner sought tax reductions.

14. It was further part of the conspiracy that Thomas Lavin and Donald Erskine caused property assessment reductions to be made on those complaints.

15. It was further part of the conspiracy that the initials of Commissioner Semrow were forged on complaint files by Thomas Lavin and James Woodlock, indicating that an assessment reduction was approved. Review of these complaints by Commissioner Zaban was circumvented by (1) James Woodlock placing these complaints among legitimate complaints already reviewed by Commissioner Zaban, and (2) Donald Erskine approving these complaints for Commissioner Zaban.

16. It was further part of the conspiracy that notices of reduction were mailed from the Board of Appeals to the property owners or their attorneys. The property owners paid fees, usually one-half of the savings in property tax to the runners, who would in turn split the fee with Thomas Lavin and Donald Erskine.

17. It was further part of the conspiracy that after Thomas Lavin left the Board of Appeals in January, 1978, Thomas Lavin, Donald Erskine, James Woodlock, Jimmie Smith and others agreed that Thomas Lavin would continue to forge the initials of Commissioner Semrow on complaint files by coming to the Board of Appeals after hours or by having the complaint files brought to him. Some complaints brought in by runners were processed by Donald Erskine and others who initialed complaint files for the Commissioners.

18. It was further part of the conspiracy that property assessments were corruptly reduced in over two thousand cases for a total reduction in property assessments of approximately thirty million dollars.

19. Paragraphs Twelve through Seventeen of Count One and the mailings in Counts Two through Eighty-two of this indictment are overt acts committed in furtherance of the conspiracy;

In violation of Title 18, United States Code, Section 1962(d).

7. Defendant acknowledges that he did in fact, knowingly and wilfully participate in a scheme with Thomas Lavin. Defendant acknowledges that the objects of the scheme were to fraudulently process real estate tax assessment reductions through the Board of Appeals. As part of the scheme the defendant acknowledges that he solicited property owners in Cook County for the purpose of filing assessment reduction complaints at the Board of Appeals. He further acknowledges he collected fees from these property owners and split them with Thomas Lavin. He further acknowledges that he paid money to Lavin while Lavin was Deputy Commissioner of the Board of Appeals and thereafter, to influence assessment reductions.

8. Defendant understands that the charge to which he will plead guilty carries a maximum penalty of twenty years imprisonment and/or a \$25,000 fine and that, absent a change of circumstances, the Court cannot impose a sentence greater than previously imposed upon him.

9. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

(1) If defendant persisted in a plea of not guilty to the charges against him, he would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by the judge sitting without a jury. The defendant has a right to a jury trial. However, in order that the trial

be conducted by the judge sitting without a jury, the defendant, the government and the judge all must agree that the trial be conducted by the judge without a jury.

(2) If the trial is a jury trial, the jury would be composed of twelve laypersons selected at random. Defendant and his attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising so-called preemptory 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, and that it could not convict him unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt, and that it was to consider each count of the indictment separately.

(3) If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not he was persuaded of defendant's guilt beyond a reasonable doubt.

(4) 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 his attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the court.

(5) At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

10. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraph. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

11. Nothing in this agreement shall limit the Internal Revenue Service in its collection of any taxes, interest, or penalties from the defendant.

(1) Defendant agrees to transmit his original records or copies thereof, to the Examination Division of the Internal Revenue Service so that the Internal Revenue Service can complete its civil audit of defendant.

(2) Defendant agrees to provide any additional books and records of his which may be helpful to the Examination Division of the Internal Revenue Service to complete its civil audit of defendant.

(3) Defendant will interpose no objection to the entry of an order under F.R.Cr.P. 6(e) authorizing transfer to the Examination Division of the Internal Revenue Service of his documents, or documents of third parties, in possession of the federal grand jury, the United States Attorney, or the Federal Bureau of Investigation.

12. Defendant understands that the United States Attorney reserves the right to notify any state or federal agency by whom defendant is licensed, or with whom defendant does business, of defendant's conviction.

13. Defendant was convicted in 80 CR 517, on ten (10) counts of mail fraud, one count of failure to file a tax return and one (1) count of racketeering. The racketeering count, Count One, to which the defendant now pleads guilty, had been reversed for a new trial. The remaining Counts, charging mail fraud, (Counts 32-41) and failure to file (Count 90) were remanded for resentencing. In exchange for defendant's plea of guilty to Count One, the government has only made one promise; to wit: that the government will not

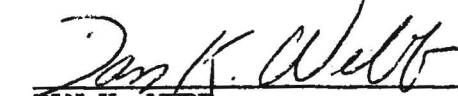
object to the fine portion of the sentence, presently \$5,000, being changed from a fine to restitution, to be paid to the Treasurer of Cook County.

14. The defendant understands that the government will recommend that the court reimpose its original sentence of fifteen months incarceration on Count One, followed by three years consecutive probation on Counts 32-41 and 90 and \$5,000 restitution.

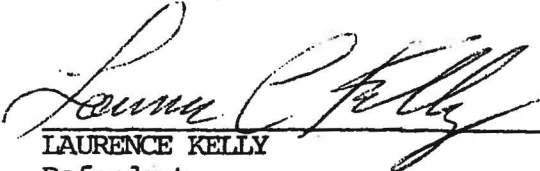
15. The defendant agrees to waive the presentence investigation by the Probation Office.

16. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this agreement, to induce defendant to plead guilty.


AGREED:




DAN K. WEBB
United States Attorney



LAURENCE KELLY
Defendant



STEPHEN J. SENDEROWITZ
Assistant United States Attorney



PATRICK TUTTLE
Attorney for Defendant

SJS:emr

11
UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge, Honorable JAMES B. MORAN

Cause No. 80 CR 517-7

Date May 9, 1983

Title of Cause U.S.A. VS LAURENCE KELLY

Brief Statement of Motion Change of Plea

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorney. Please do this immediately below (seperate lists may be appended).

Names and Addresses of moving counsel

Representing

MAY 1983

Names and Addresses of other counsel entitled to notice and names of parties they represent.

DOCKETED
MAY 20 1983

J. Moran

Reserve space below for notations by minute clerk
Defendant withdraws plea of not guilty to count 1. Defendant enters plea of guilty to count 1. Defendant informed of rights. Judgment of guilty entered. Same bond to stand. Cause referred to the probation department for an updated pre-sentence investigation. Sentencing set for May 20, 1983 at 1:00 p.m.

Hand this memorandum to the Clerk.
Counsel will not rise to address the Court until motion has been called.

