



NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: I13060037

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This investigation was initiated based on information obtained from the Office of Audits about suspicious purchases made by an NSF employee¹ using his government purchase card. Based on our review of the purchases and an interview with the employee's supervisor², we referred the matter to the DOJ Public Integrity Section. We obtained and executed search warrants for the employee's residence and NSF workspace. During our interview, the employee admitted that he used the purchase card to make personal purchases, including cell phones, cell phone voice and data service, iTunes purchases, and various electronic devices and computing equipment for himself and family and friends.

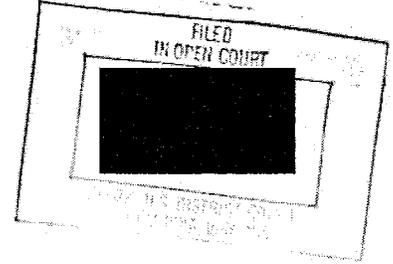
We determined that over the course of several years, the employee purchased \$94,493 in items and services for personal use. Of the items seized from the employee's residence, NSF determined it could put equipment valued at \$16,690 into circulation; therefore, the loss amount was reduced by \$16,690.

The employee pled guilty in federal district court to one count of theft of government property (18 USC § 641).³ He resigned from NSF, effective December 7, 2013, and forfeited his annual leave balance of \$10,263. Subsequently, he was sentenced to 10 months in prison followed by 3 years of supervised release and ordered to pay restitution of \$77,803.

When informed that NSF was going to propose removal from federal service, the employee's supervisor retired effective March 31, 2014.

Accordingly, this case is closed.

[REDACTED]



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

v.

[REDACTED]

Defendant,

)
) CRIMINAL NO. [REDACTED]
)
) 18 U.S.C. § 641
) Theft of Government Property
)
)
)

CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

1. At all times material to this criminal information, [REDACTED], the defendant, was employed by the National Science Foundation ("NSF"), an agency of the federal government of the United States, and served as an Information Technology ("IT") Specialist for the NSF [REDACTED]

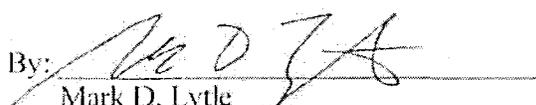
[REDACTED]. In that position, [REDACTED] was issued a government purchase card to allow him to make authorized purchases to support his office and mission requirements.

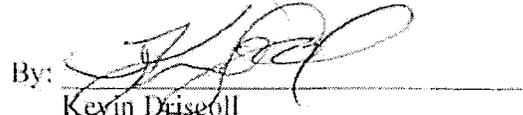
2. From in or about 2010 through July 2013, in the Eastern District of Virginia, the defendant did steal and convert something of value belonging to the United States for his own use, without authority, and did so willfully, knowingly, and with the intent to deprive the owner of the use or benefit of the money, that is, the defendant used his government-issued purchase card to purchase items for his personal use and the personal use of others.

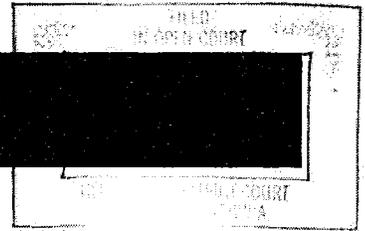
(In violation of Title 18, United States Code, Section 641.)

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Acting United States Attorney

Jack Smith
Chief, Public Integrity Section

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By: 
Kevin Daiseoll
Menaka Kalaskar
Trial Attorneys
Public Integrity Section
United States Department of Justice



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

v.

[REDACTED]

Defendant.

)
) CRIMINAL NO. [REDACTED]
)
) 18 U.S.C. § 641
) Theft of Government Property
)
)
)

PLEA AGREEMENT

Dana J. Boente, Acting United States Attorney for the Eastern District of Virginia; Mark D. Lytle, Assistant United States Attorney; Jack Smith, Chief of the Public Integrity Section, United States Department of Justice; Kevin Driscoll, Trial Attorney, Public Integrity Section; Menaka Kalaskar, Trial Attorney, Public Integrity Section; the defendant, [REDACTED]; and the defendant's counsel, Judith Wheat, have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

1. Offense and Maximum Penalties

The defendant agrees to waive indictment and plead guilty to a single-count criminal information charging the defendant with theft of government property, in violation of Title 18, United States Code, Section 641. The maximum penalties for this offense are a maximum term of ten (10) years of imprisonment, a fine of the greater of \$250,000.00 or twice the gross gain or loss, full restitution, a special assessment, and three years of supervised release. The defendant understands that this supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. Factual Basis for the Plea

The defendant will plead guilty because the defendant is in fact guilty of the charged offense. The defendant admits the facts set forth in the statement of facts filed with this plea agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of facts, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

3. Assistance and Advice of Counsel

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

4. Role of the Court and the Probation Office

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above but that the Court will determine the defendant's actual sentence in accordance with Title 18, United States Code, Section 3553(a). The defendant understands that the Court has not yet determined a sentence and that any estimate

of the advisory sentencing range under the U.S. Sentencing Commission's Sentencing Guidelines Manual the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. Additionally, pursuant to the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220, 125 S. Ct. 738 (2005), the Court, after considering the factors set forth in Title 18, United States Code, Section 3553(a), may impose a sentence above or below the advisory sentencing range, subject only to review by higher courts for reasonableness. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

Further, in accordance with Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the United States and the defendant will recommend to the Court that the following provisions of the Sentencing Guidelines apply:

Sentencing Guidelines Calculation Table	Levels
BASE OFFENSE LEVEL, pursuant to U.S.S.G. § 2B1.1(a)(2)	6
SPECIFIC OFFENSE CHARACTERISTIC, pursuant to U.S.S.G. § 2B1.1(b)(1)(E), value of loss exceeded \$70,000	+8
ACCEPTANCE OF RESPONSIBILITY, pursuant to U.S.S.G. § 3E1.1(a)	-2
TOTAL OFFENSE LEVEL	12
TOTAL IMPRISONMENT RANGE at Criminal History Category I	10-16 mos.

The Government agrees not to seek a 2-point upward adjustment pursuant to U.S.S.G. § 3B1.3, Abuse of Position of Trust or Use of Special Skill.

5. Waiver of Appeal, FOIA, and Privacy Act Rights

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the statutory maximum described above (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

6. Special Assessment

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

7. Payment of Monetary Penalties

The defendant understands and agrees that, pursuant to Title 18, United States Code, Section 3613, whatever monetary penalties are imposed by the Court will be due immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, within 14 days of a request, the defendant agrees to provide all of the defendant's financial information to the United States and the Probation Office and, if requested, to

participate in a pre-sentencing debtor's examination and/or complete a financial statement under penalty of perjury. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

8. Restitution

Defendant agrees that restitution is mandatory pursuant to 18 U.S.C. § 3663A. Defendant agrees to the entry of a Restitution Order for the full amount of the victims' losses. Pursuant to 18 U.S.C. § 3663A(c)(2), the defendant agrees that an offense listed in § 3663A(c)(1) gave rise to this plea agreement and as such, victims of the conduct described in the charging instrument, statement of facts or any related or similar conduct shall be entitled to restitution.

Without limiting the amount of restitution that the Court must impose, the defendant agrees to a Restitution Order pursuant to 18 U.S.C. § 3663A(b)(1)(A) & (b)(1)(B). Under 18 U.S.C. § 3663A(b)(1)(A), the defendant agrees to a Restitution Order that orders the defendant to relinquish to the National Science Foundation all electronics and electronic accessories seized pursuant to the search warrants effected on defendant's residence and defendant's desk and work area on July 19, 2013, as well as all electronics and electronic accessories returned voluntarily to the National Science Foundation. The defendant agrees that this property lawfully belongs to the National Science Foundation and agrees to hold the United States, its agents, and employees harmless from any claims whatsoever in connection with the seizure and any Restitution Order.

The defendant warrants that he has not purported to provide or attempted to provide an ownership interest in the property to any third party. The defendant further agrees that, pursuant to 18 U.S.C. § 3663A(b)(1)(B), the return of the above property is inadequate in fulfilling the defendant's full restitution obligation. The defendant agrees that the Restitution Order shall therefore require the defendant to pay an additional \$77,803.02 to the National Science Foundation.

9. Immunity from Further Prosecution in this District

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the specific conduct described in the information or statement of facts.

10. Breach of the Plea Agreement and Remedies

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement, including any obligation to seek a downward departure or a reduction in sentence. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date

this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and

- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence.

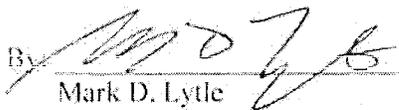
11. Nature of the Agreement and Modifications

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any

modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

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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 Title 18, United States Code, Section 3553 and the provisions of the Sentencing Guidelines Manual 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 agreement and voluntarily agree to it.

Date: 

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending information. Further, I have reviewed Title 18, United States Code, Section 3553 and the Sentencing Guidelines Manual, and I have fully explained to the defendant the provisions that may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: 


Judith Wheat, Esq.
Counsel for the Defendant