

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

ANTIONETTE CHENIER

No. 14 CR 185

Judge Samuel Der-Yeghiayan

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and defendant ANTIONETTE CHENIER, and her attorney, GEOFFREY MEYER, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with theft of government funds, in violation of Title 18, United States Code, Section 666(a)(1)(A) (Counts 1-6), and tax evasion, in violation of Title 26, United States Code, Section 7201 (Counts 7-10).

3. Defendant has read the charges against her contained in the indictment, and those charges have been fully explained to her by her attorney.

4. Defendant fully understands the nature and elements of the crimes with which she has been charged.

Charges to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the indictment: Count 1, which charges defendant, being an agent of the City of Chicago, a local government that received in excess of \$10,000 in federal funding in a twelve-month period from January 1, 2009 through December 31, 2009, with embezzling, stealing, obtaining by fraud, and otherwise without authority converting to her own use, property valued at \$5,000 or more, in violation of Title 18, United States Code, Section 666(a)(1)(A); and Count 10, which charges defendant with tax evasion, in violation of Title 26, United States Code, Section 7201.

Factual Basis

6. Defendant will plead guilty because she is in fact guilty of the charges contained in Counts 1 and 10 of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline § 1B1.3:

a. With respect to Count 1 of the indictment:

In 2009, at Chicago, in the Northern District of Illinois, Eastern Division, defendant Antionette Chenier, being an agent of the City of Chicago, a local government that received in excess of \$10,000 in federal funding in a twelve-month period from January 1, 2009 through December 31, 2009, embezzled, stole, obtained by fraud, and otherwise without authority knowingly converted to her own use, property valued at \$5,000 or more, namely, checks payable to the City of Chicago

Office of Emergency Management and Communication, in violation of Title 18, United States Code, Section 666(a)(1)(A).

More specifically, CHENIER was employed by the City of Chicago from May 1990 until January 2014. From 1993 to December 31, 2005, CHENIER was assigned to the Chicago Department of Transportation (CDOT). From 2006 through 2008, she was assigned to the Office of Emergency Management and Communication (OEMC). From 2008 through 2014, CHENIER was again assigned to CDOT. As a clerk at CDOT, CHENIER was involved in processing payments received from companies that had been issued van and dumpster permits. Although CDOT administered the program while CHENIER was employed at CDOT, companies seeking permits usually made the checks payable to OEMC.

In approximately August 2008, CHENIER opened a personal bank account at Charter One Bank. In March 2009, she opened a business account at Charter One Bank using the name "OEMC Chenier." Beginning no later than August 2008, CHENIER stole checks payable to CDOT and OEMC from her City of Chicago office and deposited them into the accounts she had opened at Charter One Bank. During 2009, CHENIER stole \$86,010 in checks from the City of Chicago and deposited them into the accounts under her control. CHENIER then used the funds she stole from the City of Chicago for her personal use. CHENIER acknowledges that between August 2008 and January 10, 2014, she deposited checks totaling approximately \$741,299, which she had stolen from the City of Chicago, into the two accounts she controlled. CHENIER further acknowledges that the City of

Chicago is a unit of local government that received more than \$10,000 in federal funding in each twelve-month period from January 2008 through 2014.

b. With respect to Count 10 of the indictment:

Beginning on or about January 1, 2012, and continuing until at least on or about June 3, 2013, in the Northern District of Illinois, Eastern Division, Antionette Chenier did willfully attempt to evade and defeat the income tax due and owing by her to the United States of America for the 2012 calendar year by committing the following affirmative acts:

a. depositing checks payable to OEMC and the City of Chicago into her business account; and

b. causing the filing of a tax return on or about June 3, 2013 that falsely represented on line 4 that her adjusted gross income was \$52,043, when defendant knew that her total income substantially exceeded that amount, in violation of Title 26, United States Code, Section 7201.

More specifically, CHENIER failed to disclose to the Internal Revenue Service that she had misappropriated no less than \$166,885 from the City of Chicago during tax year 2012 as part of the conduct described in Count One of the Indictment. CHENIER acknowledges that because of her failure to disclose her true income, she owes the Internal Revenue Service \$46,958 in unpaid tax for tax year 2012.

7. Defendant, for purposes of computing her sentence under Guideline § 1B1.2, stipulates to having committed the following additional offense(s):

First Stipulated Offense

Beginning on or about January 1, 2009, and continuing until at least on or about February 11, 2010, in the Northern District of Illinois, Eastern Division, Antionette Chenier did willfully attempt to evade and defeat the income tax due and owing by her to the United States of America for the 2009 calendar year by committing the following affirmative acts:

- a. depositing checks payable to OEMC and the City of Chicago into her business account; and
- b. causing the filing of a tax return on or about February 11, 2010 that falsely represented on line 15 that her adjusted gross income was \$44,518, when defendant knew that her total income substantially exceeded that amount, in violation of Title 26, United States Code, Section 7201.

More specifically, CHENIER failed to disclose to the Internal Revenue Service that she had misappropriated no less than \$86,010.86 from the City of Chicago during tax year 2009 as part of the conduct described in Count One of the Indictment. CHENIER acknowledges that because of her failure to disclose her true income, she owes the Internal Revenue Service \$20,251 in unpaid tax for tax year 2009.

Second Stipulated Offense

Beginning on or about January 1, 2010, and continuing until at least on or about May 30, 2011, in the Northern District of Illinois, Eastern Division, Antionette Chenier did willfully attempt to evade and defeat the income tax due

and owing by her to the United States of America for the 2010 calendar year by committing the following affirmative acts:

a. depositing checks payable to OEMC and the City of Chicago into her business account; and

b. causing the filing of a tax return on or about May 30, 2011 that falsely represented on line 22 that her total income was \$55,066, when defendant knew that her total income substantially exceeded that amount, in violation of Title 26, United States Code, Section 7201.

More specifically, CHENIER failed to disclose to the Internal Revenue Service that she had misappropriated no less than \$143,535.16 from the City of Chicago during tax year 2010 as part of the conduct described in Count One of the Indictment. CHENIER acknowledges that because of her failure to disclose her true income, she owes the Internal Revenue Service \$39,462 in unpaid tax for tax year 2010.

Third Stipulated Offense

Beginning on or about January 1, 2011, and continuing until at least on or about May 9, 2013, in the Northern District of Illinois, Eastern Division, Antionette Chenier did willfully attempt to evade and defeat the income tax due and owing by her to the United States of America for the 2011 calendar year by committing the following affirmative acts:

a. depositing checks payable to OEMC and the City of Chicago into her business account; and

b. causing the filing of a tax return on or about May 9, 2013 that falsely represented on line 4 that her adjusted gross income was \$50,307, when defendant knew that her total income substantially exceeded that amount, in violation of Title 26, United States Code, Section 7201.

More specifically, CHENIER failed to disclose to the Internal Revenue Service that she had misappropriated no less than \$147,858 from the City of Chicago during tax year 2011 as part of the conduct described in Count One of the Indictment. CHENIER acknowledges that because of her failure to disclose her true income, she owes the Internal Revenue Service \$40,825 in unpaid tax for tax year 2011.

Maximum Statutory Penalties

8. Defendant understands that the charges to which she is pleading guilty carry the following statutory penalties:

a. Count 1 carries a maximum sentence of 10 years' imprisonment. Count 1 also carries a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater. Defendant further understands that with respect to Count 1 the judge also may impose a term of supervised release of not more than three years.

b. Count 10 carries a maximum sentence of 5 years' imprisonment. Count 10 also carries a maximum fine of \$250,000. Defendant further understands that the Court must order costs of prosecution, estimated not to exceed \$500.

Defendant further understands that with respect to Count 10, the judge also may impose a term of supervised release of not more than three years.

c. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court.

d. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which she has pled guilty, in addition to any other penalty or restitution imposed.

e. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 15 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$500,000, or twice the gross gain or gross loss resulting from the offenses of conviction, whichever is greater, mandatory costs of prosecution, a period of supervised release, and special assessments totaling \$200, in addition to any restitution ordered by the Court.

Sentencing Guidelines Calculations

9. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following

statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2014 Guidelines Manual.

b. Offense Level Calculations.

Count 1:

i. The base offense level is 6, pursuant to Guideline § 2B1.1(a)(2).

ii. The offense level is increased by 14 levels because the loss amount attributable to the defendant is more than \$400,000 but less than \$1,000,000, pursuant to Guideline § 2B1.1(b)(1)(H).

iii. iii. The offense level is increased by 2 levels because defendant abused a position of public trust in a manner that significantly facilitated the commission and concealment of the offense, pursuant to Guideline § 3B1.3.

Count 10 and the Stipulated Offenses:

iv. Count 10 and the stipulated offenses are grouped together, pursuant to Guideline § 3D1.2(d). The base offense level for Count 10 and the stipulated offenses is 16 because the total tax loss is \$154,826, which is more than \$80,000 but less than \$200,000, pursuant to Guideline §§ 2T1.1 and 2T4.1.

Combined Offense Level

v. Count 1 has the highest offense level (offense level 22). Pursuant to Guideline § 3D1.4(a), Count 1 is assigned one unit and Count 10 and the stipulated offense are assigned one-half unit because the offense level for Count

10 and the stipulated offenses is from five to eight levels less serious than the Group with the highest offense level. This results in a one-level increase in the offense level, pursuant to Guideline § 3D1.4. The combined offense level is 23.

vi. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for her actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to her ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vii. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of her intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.**

Therefore, based on the facts now known to the government, the anticipated offense level is 20, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 33 to 41 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and her attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guidelines provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw her plea on the basis of the Court's rejection of these calculations.

11. Both parties expressly acknowledge that this Agreement is not governed by Fed. R. Crim. P. 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a

statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw her plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

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 sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to 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. Regarding restitution, defendant acknowledges that the total amount of restitution owed to the City of Chicago is \$86,010, minus any credit for funds repaid prior to sentencing, and that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant to make full restitution in the amount outstanding at the time of sentencing. Defendant also agrees to pay restitution to the City of Chicago totaling \$655,289, and to the United States Treasury totaling \$154,826, pursuant to Title 18, United States Code §§ 3663(a)(3) and 3664. Defendant understands that the amount of tax loss as calculated by the Internal Revenue Service may exceed the amount of tax due as calculated for restitution in the criminal case.

14. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), she is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect her ability to pay restitution.

15. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

16. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

17. After sentence has been imposed on the counts to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to defendant.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

18. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 14 CR 185.

19. This Agreement concerns criminal liability only. Except as expressly set forth in this 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 Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

20. Defendant understands that nothing in this Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant. Defendant understands that the amount of tax as calculated by the IRS may exceed the amount of tax due as calculated for the criminal case.

Waiver of Rights

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

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against her, and if she does, she would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and her attorney

would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict her unless, after hearing all the evidence, it was persuaded of her guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. 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 the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. 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.

vi. At a trial, defendant could present witnesses and other evidence in her own behalf. If the witnesses for defendant would not appear voluntarily, she could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

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

b. **Appellate rights.** Defendant further understands she is waiving all appellate issues that might have been available if she had exercised her right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

22. Defendant understands that by pleading guilty she is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to her, and the consequences of her waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

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

24. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to

and shared among the Court, the 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 Guideline § 3E1.1 and enhancement of her sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

25. For the purpose of monitoring defendant's compliance with her obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

26. 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.

27. Regarding matters relating to the Internal Revenue Service, defendant agrees as follows (nothing in this paragraph, however, precludes defendant from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS):

a. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant which directly or indirectly relates to or arises out of the course of conduct that defendant has acknowledged in this Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records that the IRS may request.

28. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency (including but not limited to the Internal Revenue Service), for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in

connection with a civil or administrative proceeding involving, or investigation of, defendant. Nothing in this paragraph or the preceding paragraph precludes defendant from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

29. Defendant understands that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

Conclusion

30. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

31. Defendant understands that her compliance with each part of this Agreement extends throughout the period of her sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event she violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement

may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

32. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

33. Defendant and her attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

34. Defendant acknowledges that she has read this Agreement and carefully reviewed each provision with her attorney. Defendant further acknowledges that she understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

ZACHARY T. FARDON
United States Attorney

ANTIONETTE CHENIER
Defendant

STEVEN A. BLOCK
Assistant U.S. Attorney

GEOFFREY MEYER
Attorney for Defendant