



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

DAS:PT/AAS
F.#2012R01861

271 Cadman Plaza East
Brooklyn, New York 11201

May 3, 2013

By Hand and ECF

The Honorable Jack B. Weinstein
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Shirley Huntley
Criminal Docket No. 13-54 (JBW)

Dear Judge Weinstein:

On January 30, 2013, the above-referenced defendant pleaded guilty to an information charging her with one count of conspiracy to commit mail fraud, in violation of 18 U.S.C. § 371. The government respectfully submits this letter in connection with the defendant's sentencing, which is scheduled for May 9, 2013 at 11:00 a.m.

I. The Defendant's Criminal Conduct

A. The Offense of Conviction

In approximately 1994, the defendant founded and incorporated Parents Information Network ("PIN"), a nonprofit organization based in Queens, New York with the mission of helping educate and assist parents of New York City public schoolchildren. Presentence Investigation Report ("PSR") ¶ 4. From 1994 through in or about 2008, PIN received New York State grants ("State Funds"), commonly referred to as "member item funds," from the New York State Department of Education (the "NYSED"). Before and after the NYSED disbursed State Funds to PIN, PIN was required to submit certification forms to the NYSED certifying that the State Funds would be used, and had been used, for a specific purpose to support PIN's charitable mission.

After completing the certification forms, a representative of PIN mailed them to the NYSED. PSR ¶ 5.

From about October 2005 to October 2008, the defendant embezzled approximately \$87,700 in State Funds from PIN.¹ PSR ¶ 6. In furtherance of her embezzlement scheme, the defendant repeatedly made false representations to the NYSED about the use of State Funds disbursed to PIN. Id. While representing to the NYSED that State Funds would be used to support PIN's charitable mission, the defendant instead embezzled State Funds provided by the NYSED for her own use and the use of family members and associates. Id.

The defendant controlled the bank account which held PIN funds (the "PIN Account"), including State Funds, and abused this control to effect the embezzlement. PSR ¶ 7. She withdrew cash from the PIN Account and wrote checks to herself and family members. Id. In addition, the defendant embezzled funds by using "straw recipients" (the "Straw Recipients") to pose as legitimate recipients of payments from PIN for work they purportedly performed in support of PIN's charitable mission. PSR ¶ 9. The defendant wrote checks totaling \$24,500 to the Straw Recipients from the PIN Account and wrote false notations on these checks describing the work that the Straw Recipients had purportedly performed for PIN. Id. In fact, the Straw Recipients did not use these funds to perform the work described on the checks. Id. Instead, at the defendant's direction, the Straw Recipients deposited these checks into their own bank accounts and thereafter provided the defendant with cash roughly equal to the amount of the checks. Id.

B. Other Criminal Conduct

(1) The JFK Airport Bribery Scheme

In March 2012, a New York State Senator ("State Senator #1") asked the defendant, who at that time was also a New York State Senator, if she could assist a businessman (the "Businessman") who was seeking to expand his business at John F. Kennedy International Airport ("JFK Airport") in Queens, New York. PSR ¶ 13. JFK Airport was located in the defendant's Senate District. Id. State Senator #1 suggested to the defendant that she use her official influence on behalf of the

¹ Although the defendant was not an officer with PIN during this time period, she remained involved with the organization. PSR ¶ 6.

Businessman with the Port Authority of New York and New Jersey (the "PA"), which operated JFK Airport, in exchange for payment from the Businessman. Id.

State Senator #1 arranged a meeting between the defendant and the Businessman. PSR ¶ 14. In the meeting, the Businessman stated that the PA was unwilling to provide the Businessman with additional space at JFK Airport necessary to expand his business. Id. The defendant agreed to contact an official at the PA and use her official influence to assist the Businessman in obtaining the lease. Id.

Between March 2012 and May 2012, the defendant contacted an official at the PA in an effort to convince the PA to lease additional space at JFK Airport to the Businessman. PSR ¶ 15. In May 2012, the Businessman provided the defendant a cash payment of \$1,000. Id. The defendant accepted this payment in return for her ongoing efforts to help the Businessman obtain additional space at JFK Airport. Id. The defendant did not disclose the payment to the New York State Board of Elections. Id. Ultimately, the PA did not lease additional space to the Businessman.

Pursuant to her plea agreement with the government, the defendant agreed to make a \$1,000 restitution payment to the PA in connection with this bribery scheme. PSR ¶ 12.

(2) Parent Workshop

Since approximately 2006, Lynn Smith, who is the defendant's niece, and Patricia Savage, who was one of the defendant's political aides, operated a nonprofit organization called Parent Workshop. PSR ¶ 32. Based in Valley Stream, New York, Parent Workshop had the mission of assisting parents of inner-city schoolchildren. Id. While serving in the New York State Senate, the defendant sponsored a May 2008 \$30,000 payment in state funds to Parent Workshop. Id.

In December 2011, the New York State Attorney General ("NYSAG") charged Smith and Savage with larceny and other crimes in connection with Parent Workshop. Id. As set forth in the NYSAG indictment, the NYSAG investigation revealed that Parent Workshop provided no charitable activities or public services and

that virtually all of the public funds disbursed to Parent Workshop were embezzled by Smith and Savage.²

During the course of the Parent Workshop investigation, the defendant assisted others in falsifying and backdating letters to create the false impression that Parent Workshop had held certain events, which in fact never took place. Id. For this conduct, the defendant was criminally charged by the NYSAG. On or about February 13, 2013, the defendant pleaded guilty in Nassau County Supreme Court to the felony charge of tampering with physical evidence, in violation of New York Penal Law section 215.40(1)(a). On March 29, 2013, the defendant was sentenced to five years' probation and a \$1,000 fine for this conduct. Id.

II. The Sentencing Guidelines

The PSR calculates a total offense level of 15, as follows: (1) a base offense level of 6; (2) an 8-level enhancement for loss of more than \$70,000; (3) a 2-level enhancement for making the misrepresentation that the defendant was acting on behalf of a charitable organization; (4) a 2-level enhancement for aggravating role; and (5) a 3-level reduction for acceptance of responsibility. PSR ¶¶ 20-30. Based on a Criminal History Category of I, the PSR further calculates an applicable Guidelines range of 18 to 24 months. PSR ¶¶ 30, 34, 65. The government concurs with the United States Probation Department's Guidelines calculation.

III. The Defendant's Attempted Cooperation

In April and May of 2012, law enforcement authorities conducted a judicially-authorized wiretap of Huntley's cellular telephone. The wiretap revealed evidence of Huntley's participation in the three criminal schemes described above. Shortly before this wiretap concluded, FBI agents approached the defendant and confronted her about various statements she had made which were intercepted during the wiretap. After this meeting with the FBI, the defendant retained counsel and thereafter attempted to cooperate with the government.

² Smith and Savage each pleaded guilty in Nassau County Supreme Court to attempted grand larceny in the third degree, in violation of New York Penal Law section 110/155.35(1).

A. Recorded Meetings

Between June 2012 and August 2012, the defendant, while acting at the direction of the government, made numerous recordings of meetings with nine different people, including seven elected officials and two individuals who had previously been employed as a staff member or a consultant by elected officials. Recordings of four of the elected officials, as well as the two non-elected individuals, did not yield any evidence of criminal activity. However, recordings of meetings the defendant held separately with State Senator #1 and two other elected officials did yield evidence useful to law enforcement authorities, and the details of those recordings are discussed in a separate sealed letter to be filed next week.

B. The Government's Decision not to Enter into a Cooperation Agreement with the Defendant

Between June 2012 and November 2012, the government conducted numerous proffer sessions with the defendant, wherein she discussed her own criminal conduct and the criminal conduct of others. To her credit, the defendant generally accepted responsibility for the criminal conduct discussed. Notably, the defendant generally acknowledged her criminal conduct as early as the first proffer sessions with the government. When pressed for details, however, the defendant often provided answers which were false, implausible and inconsistent.

Nowhere were these difficulties more manifest than in the defendant's description of her theft of funds from PIN. While consistently accepting responsibility for the theft as a general matter, the defendant provided incomplete, inaccurate and inconsistent information regarding details concerning the extent of her theft, as well as the nature and extent of the involvement of other co-conspirators. Indeed, the defendant frequently changed her answers to such questions multiple times during the course of the same proffer session. Moreover, in multiple instances, the defendant adamantly defended her false representations, only relenting when confronted with documentary evidence contradicting her claims.

These problems persisted throughout the many proffer sessions conducted by the government, even well after the defendant was warned that further false statements would seriously undermine any possibility of entering into a cooperation agreement with the government. Under these circumstances, the government concluded that the defendant could

not serve as an effective cooperating witness, and therefore declined to offer her a cooperation agreement.

IV. The Section 3553(a) Factors

Pursuant to 18 U.S.C. § 3553(a), the Court must weigh various factors when imposing sentence, including the nature and circumstances of the offense, the defendant's characteristics and general deterrence. The offense of conviction is a serious crime that motivated by greed. Moreover, as noted above, the defendant committed two other crimes as well. The defendant's criminal conduct is particularly troubling in light of the defendant's former position as an elected official.

Nonetheless, the defendant does present compelling personal circumstances, including the current serious health problems suffered by her daughter, which are outlined in the defendant's sentencing submission. Moreover, while the defendant's failure to provide truthful, complete and consistent information during proffer sessions fatally undermined her efforts at cooperation, her recordings did bear some fruit useful to law enforcement authorities, as outlined in the government's sealed submission to be filed next week.

Under these circumstances, therefore, the government respectfully submits that there are a range of reasonable sentences in this case. While a sentence within the advisory Guidelines range is justified based on the record set forth above, a sentence below the Guidelines range would also be reasonable given the circumstances presented here.

Respectfully submitted,

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