



U.S. Department of Justice

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July 25, 2016

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Portland, Oregon 97225

Steven L. Myers
The Myers Law Firm
7307 SW Capitol Hwy
Portland, Oregon 97219

Re: *United States v. Nika Larsen*, Case No. 3:16-CR-00318-BR
Plea Agreement Letter

Dear Counsel:

1. **Parties/Scope:** This plea agreement is between this United States Attorney's Office (USAO), Deschutes County District Attorney, and, on behalf of all other Oregon State District Attorneys, the Umatilla County District Attorney (hereinafter collectively "Prosecuting Authorities") and the above named individual, and thus does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority. This agreement does not apply to any charges other than those specifically mentioned herein.
2. **Charges:** Defendant agrees to waive indictment and plead guilty to Count One and Count Two of the Information, which charges two counts of obtaining a controlled substance by misrepresentation, fraud and deception in violation of Title 21, United States Code, Section 843(a)(3).
3. **Penalties:** The maximum sentence is four years' imprisonment, a fine of \$250,000, one year of supervised release, and a \$100 fee assessment per count. Defendant agrees to pay the fee assessment by the time of entry of guilty plea or explain to the Court why this cannot be done.
4. **Statement of Facts:** The factual basis for the plea is set forth in a pleading captioned as "Statement of Facts," which is incorporated as if set forth herein.

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5. **Dismissal/No Prosecution:** The USAO and the Prosecuting Authorities further agree not to bring additional charges against defendant in the District of Oregon arising out of this investigation, known to the USAO and the Prosecuting Authorities at the time of this agreement.

6. **Sentencing Factors:** The parties agree that the Court must first determine the applicable advisory guideline range, then determine a reasonable sentence considering that range and the factors listed in 18 U.S.C. § 3553(a). Where the parties agree that sentencing factors apply, such agreement constitutes sufficient proof to satisfy the applicable evidentiary standard.

7. **Initial Guideline Calculation Prior to Upward Departure, Adjustments, or Variance:** The parties agree that defendant's Base Offense Level pursuant to U.S.S.G. § 2D2.2 is a Base Offense Level of 8, prior to adjustments.

8. **Additional Departures, Adjustments, or Variances:** The parties agree that a twelve-level upward variance is appropriate based upon the factors set forth in 18 U.S.C. § 3553(a). Additionally, the parties agree that a two-level upward adjustment under U.S.S.G. § 3B1.3 is appropriate based upon an abuse of a position of trust. Specifically, as set forth in the Statement of Facts filed with this agreement, the nature and circumstances of the offense, the abuse of a position of trust, the disruption of a government function and the forgoing of prosecution by state authorities of hundreds of uncharged state criminal offenses including: Official Misconduct, Theft, Tampering with Evidence and Possession of Controlled Substances, warrant an upward variance and adjustment. The Total Offense Level is 22 prior to acceptance of responsibility.

9. **Acceptance of Responsibility:** Defendant must demonstrate to the Court that she fully admits and accepts responsibility under U.S.S.G. § 3E1.1 for her unlawful conduct in this case. The USAO agrees that as of the date of this agreement, defendant qualifies for a three-level reduction in defendant's offense level. The USAO reserves the right to change this recommendation if defendant, between plea and sentencing, commits any criminal offense, obstructs or attempts to obstruct justice as explained in U.S.S.G. § 3C1.1, or acts inconsistently with acceptance of responsibility as explained in U.S.S.G. § 3E1.1.

10. **Joint Sentencing Recommendation:** The parties agree that the defendant is a Criminal History Category I and the Total Offense Level will be 19 resulting in an advisory guideline range of 30-37 months. The parties jointly recommend a sentence of 36 months in Bureau of Prisons' custody. The parties also agree that the Court should impose 250 hours of community service as a condition of supervised release. The parties request the Court to recommend the RDAP program if the defendant qualifies while in the custody of the Bureau of Prisons. The government agrees to represent to the Court at sentencing that defendant had a documented pattern of substance abuse and dependence within the twelve-month period preceding her arrest on the offenses.

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11. **Waiver of Appeal/Post-Conviction Relief:** Defendant knowingly and voluntarily waives the right to appeal from any aspect of the conviction and sentence on any grounds, except for a claim that: (1) the sentence imposed exceeds the statutory maximum, or (2) the Court arrives at an advisory sentencing guideline range by applying an upward departure under the provisions of Guidelines Chapters 4 or 5K, or (3) the Court exercises its discretion under 18 U.S.C. § 3553(a) to impose a sentence which exceeds the advisory guideline sentencing range as determined by the Court. Should defendant seek an appeal, despite this waiver, the USAO may take any position on any issue on appeal. Defendant also waives the right to file any collateral attack, including a motion under 28 U.S.C. § 2255, challenging any aspect of the conviction or sentence on any grounds, except on grounds of ineffective assistance of counsel, and except as provided in Fed. R. Crim. P. 33 and 18 U.S.C. § 3582(c)(2).

12. **Court is Bound by Plea Agreement:** The parties sentencing recommendation is entered into under Fed. R. Crim. P. 11(c)(1)(C). Defendant understands that the Court may accept this agreement, reject it, or defer its decision until a presentence report has been prepared. If the Court accepts this plea agreement the Court will be bound to impose the recommended sentence. The parties understand that all other sentencing issues, including the conditions of supervised release, are governed by the provisions of Fed. R. Crim. P. 11(c)(1)(B) and that the Court is not bound by the parties' recommendations with respect to any other aspect of defendant's sentence not set forth in this agreement.

13. **Full Disclosure/Reservation of Rights:** The USAO will fully inform the PSR writer and the Court of the facts and law related to defendant's case. Except as set forth in this agreement, the parties reserve all other rights to make sentencing recommendations and to respond to motions and arguments by the opposition.

14. **Breach of Plea Agreement:** If defendant breaches the terms of this agreement, or commits any new criminal offenses between signing this agreement and sentencing, the USAO is relieved of its obligations under this agreement, but defendant may not withdraw any guilty plea.

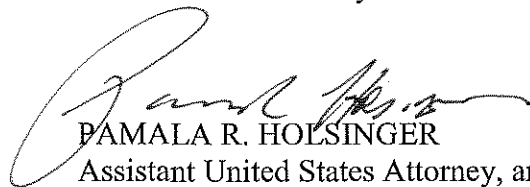
If defendant believes that the government has breached the plea agreement, she must raise any such claim before the district court, either prior to or at sentencing. If defendant fails to raise a breach claim in district court, she has waived any such claim and is precluded from raising a breach claim for the first time on appeal.

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15. **Memorialization of Agreement:** No promises, agreements or conditions other than those set forth in this agreement will be effective unless memorialized in writing and signed by all parties listed below or confirmed on the record before the Court. If defendant accepts this offer, please sign and attach the original of this letter to the Petition to Enter Plea.

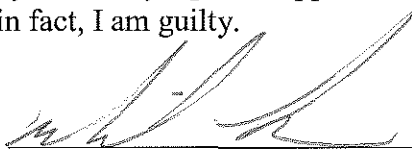
Sincerely,

BILLY J. WILLIAMS
United States Attorney


PAMALA R. HOLSINGER
Assistant United States Attorney, and
On Behalf of Prosecuting Authorities

I have carefully reviewed every part of this agreement with my attorney. I understand and voluntarily agree to its terms. I expressly waive my rights to appeal as outlined in this agreement. I wish to plead guilty because, in fact, I am guilty.

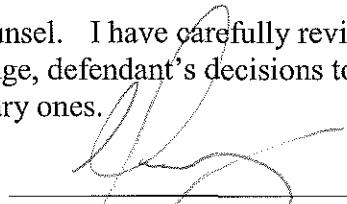
8.5.16
Date



Nika Larsen, Defendant

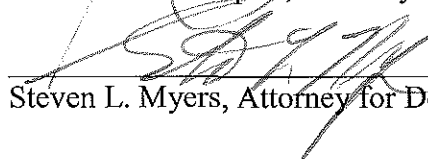
I represent the defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge, defendant's decisions to make this agreement and to plead guilty are informed and voluntary ones.

8/5/16
Date



Michael W. Staropoli, Attorney for Defendant

8/5/16
Date



Steven L. Myers, Attorney for Defendant