



**U.S. Department of Justice**

United States Attorney

*District of Columbia*

*Judiciary Center  
555 Fourth St. N.W.  
Washington, D.C. 20530*

**FILED**

DEC 19 2008

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

November 7, 2008

Kathleen E. Voelker, Esquire  
1776 K Street N.W.  
Washington, D.C. 20006-2333

Re: Felipe E. Sixto 08cr345 (RBW)

Dear Mrs. Voelker:

This letter sets forth the full and complete plea offer to your client, Felipe E. Sixto, from the Criminal Division of the Office of the United States Attorney for the District of Columbia (hereinafter referred to as "the Government" or "this Office"). This plea offer is binding only upon this office. If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the Plea Agreement. The terms of the offer are as follows:

**1) Charges and Statutory Penalties**

Your client agrees to waive indictment and plead guilty to a one-count information, a copy of which is attached, charging Theft Concerning a Program Receiving Federal Funds, in violation of 18 U.S.C. § 666.

Your client understands that this charge carries a maximum sentence of ten years of imprisonment, a fine of \$250,000, or a fine of twice the pecuniary gain or loss pursuant to 18 U.S.C. § 3571(d), a \$100 special assessment, a three-year term of supervised release, an order of restitution, and an obligation to pay any applicable interest or penalties on fines or restitution not timely made.

In consideration of your client’s plea to the above offense, your client will not be further prosecuted criminally by this Office for the conduct set forth in the attached Statement of the Offense. Moreover, the following individuals will not be prosecuted criminally by this Office for the conduct set forth in the attached Statement of the Offense: Felipe Humberto Sixto, Ofelia Sixto, Carmen Sixto, Andres Sixto, Emilio Sixto, and Angel Sixto.

**2) Factual Stipulations**

Your client agrees that the attached Statement of the Offense fairly and accurately describes your client’s actions and involvement in the offense to which your client is pleading guilty. It is anticipated that prior to or during the plea hearing, your client will adopt and sign the Statement of the Offense as a written proffer of evidence.

**3) Sentencing Guidelines Stipulations**

Your client understands that the sentence in this case will be determined by the Court, pursuant to the factors set forth in 18 U.S.C. § 3553(a), including a consideration of the guidelines and policies promulgated by the United States Sentencing Commission, Guidelines Manual (hereinafter “Sentencing Guidelines” or “U.S.S.G.”). The parties agree that the 2007 edition of the U.S.S.G. applies. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), and to assist the Court in determining the appropriate sentence, the parties stipulate to the following:

**A. Offense Level under the Guidelines**

The applicable Guideline is § 2B1.1.

The following is a correct calculation of all relevant Sentencing Guidelines factors:

2B1.1	Base Offense Level	6
2B1.1(b)(1)(H)	Loss greater than \$400,000	14
2B1.1(b)(9)(C)	Involved sophisticated means	2
<b>TOTAL</b>		<b>22</b>

**Acceptance of Responsibility:** 3-level reduction. Provided that your client continues to clearly demonstrate acceptance of responsibility, to the satisfaction of the Government, through your client’s allocution and subsequent conduct prior to the imposition of sentence, the Government agrees that a 3-level reduction would be appropriate, pursuant to § 3E1.1(a).

In accordance with the above, the applicable **Guidelines Offense Level is 19.**

**B. Criminal History Category**

Based upon the information now available to the government (including representations by the defense), your client has no prior criminal convictions.

In accordance with the above, your client's **Criminal History Category is I.**

**C. Applicable Guideline Range**

Based upon the calculation set forth above, your client's stipulated Sentencing Guidelines range is 30 to 37 months (the "Stipulated Guidelines Range") in Zone D of the Sentencing Guidelines. In addition, the parties agree should the Court impose a fine, at Guidelines level 19, the applicable fine range is \$6,000 to \$60,000.

The parties agree that under the Sentencing Guidelines neither a downward or an upward departure from the Stipulated Guidelines Range set forth above is warranted. Accordingly, neither party will seek such a departure or seek any adjustment not set forth herein. Nor will either party suggest that the Court consider such a departure or adjustment.

**D. Sentencing Allocation**

The parties further agree that a sentence within the Stipulated Guidelines Range would constitute a reasonable sentence in light of all of the factors set forth in Title 18 U.S.C. § 3553 (a). However, the defendant may seek a sentence outside of the Stipulated Guidelines Range and suggest that the Court consider a sentence outside of the Stipulated Guidelines Range, based upon the factors to be considered in imposing a sentence pursuant to Title 18 U.S.C. § 3553(a). The government reserves the right to oppose any sentence outside of the Stipulated Guidelines Range.

**E. Restitution**

Your client has paid restitution in the amount of \$644,884.60 to the Center for a Free Cuba.

**4) Court Not Bound by the Plea Agreement**

It is understood that pursuant to Federal Rules of Criminal Procedure 11(c)(1)(B) and 11(c)(3)(B) the Court is not bound by the above stipulations, either as to questions of fact or as to the parties' determination of the applicable Guidelines range, or other sentencing issues. In the event that the Court considers any Guidelines adjustments, departures, or calculations different from any stipulations contained in this Agreement, or contemplates a sentence outside the Guidelines range based upon the general sentencing factors listed in Title 18, United States Code, Section 3553(a), the parties reserve the right to answer any related inquiries from the Court.

5) **Court Not Bound by the Non-Mandatory Sentencing Guidelines**

It is understood that the sentence to be imposed upon your client is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. Your client acknowledges that your client's entry of a guilty plea to the charged offense authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence, which may be greater than the applicable Guidelines range. The Government cannot, and does not, make any promise or representation as to what sentence your client will receive. Moreover, it is understood that your client will have no right to withdraw your client's plea of guilty should the Court impose a sentence outside the Guidelines range.

6) **Release/Detention**

Your client acknowledges that while the Government will not seek to detain your client pending sentencing, the final decision regarding your client's bond status or detention will be made by the Court at the time of your client's plea of guilty. Should your client engage in further criminal conduct prior to sentencing, however, the Government may move to change your client's conditions of release. If your client is sentenced to a prison term, the Government will not seek to detain your client pending designation to the Bureau of Prisons.

7) **Breach of Agreement**

Your client understands and agrees that if, after entering this Plea Agreement, your client fails specifically to perform or to fulfill completely each and every one of your client's obligations under this Plea Agreement, or engages in any criminal activity prior to sentencing, your client will have breached this Plea Agreement. In the event of such a breach: (a) the Government will be free from its obligations under the Agreement; (b) your client will not have the right to withdraw the guilty plea; (c) your client shall be fully subject to criminal prosecution for any other crimes, including perjury and obstruction of justice; and (d) the Government will be free to use against your client, directly and indirectly, in any criminal or civil proceeding, all statements made by your client and any of the information or materials provided by your client, including your client's statements made during proceedings before the Court pursuant to Fed. R. Crim. P. 11. However, the government will not use against your client any information and materials provided pursuant to this Agreement or during the course of any debriefings conducted in anticipation of, or after entry of this Agreement.

Your client acknowledges discussing with you Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410, rules which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. Your client knowingly and voluntarily waives the rights which arise under these rules.

Your client understands and agrees that the Government shall only be required to prove a breach of this Plea Agreement by a preponderance of the evidence. Your client further understands

and agrees that the Government need only prove a violation of federal, state, or local criminal law by probable cause in order to establish a breach of this Plea Agreement.

Nothing in this Agreement shall be construed to permit your client to commit perjury, to make false statements or declarations, to obstruct justice, or to protect your client from prosecution for any crimes not included within this Agreement or committed by your client after the execution of this Agreement. Your client understands and agrees that the Government reserves the right to prosecute your client for any such offenses. Your client further understands that any perjury, false statements or declarations, or obstruction of justice relating to your client's obligations under this Agreement shall constitute a breach of this Agreement. However, in the event of such a breach, your client will not be allowed to withdraw this guilty plea.

**8) Waiver of Statute of Limitations**

It is further agreed that should the conviction following your client's plea of guilty pursuant to this Agreement be vacated for any reason, then any applicable statute of limitations on the date of the signing of this Agreement (including any counts that the Government has agreed not to prosecute or to discuss at sentencing pursuant to this Agreement) shall be tolled from the date of the signing of this Agreement through the date of any Order vacating your client's conviction following his plea of guilty pursuant to this Agreement. It is the intent of this Agreement to exclude the period from the date of the signing of this agreement to the date of any Order vacating the conviction from any calculation of limitations applicable to any prosecution that is not time-barred on the date that this Agreement is signed.

**9) Waiver of Right to DNA Testing**

By entering this plea of guilty, your client waives any and all right your client may have, pursuant to 18 U.S.C. § 3600, to require DNA testing of any physical evidence in the possession of the Government. Your client fully understands that, as a result of this waiver, any physical evidence in this case will not be preserved by the Government and will therefore not be available for DNA testing in the future.

**10) Complete Agreement**

No other agreements, promises, understandings, or representations have been made by the parties or their counsel than those contained in writing herein, nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by your client, defense counsel, and an Assistant United States Attorney for the District of Columbia.


Your client further understands that this Agreement is binding only upon the Criminal Division of the United States Attorney's Office for the District of Columbia. This Agreement does not bind the Civil Division of this Office or any other United States Attorney's Office, nor does it bind any other state, local, or federal prosecutor. It also does not bar or compromise any civil, tax,

or administrative claim pending or that may be made against your client. Furthermore, it does not prohibit this Office from bringing charges against your client for any fraudulent activity that is not included as relevant conduct for sentencing purposes in this case.

If the foregoing terms and conditions are satisfactory, your client may so indicate by signing the Agreement in the space indicated below and returning the original to Assistant United States Attorney Jonathan Haray once it has been signed by your client and by you or other defense counsel.

Sincerely yours,

  
JEFFREY A. TAYLOR  
UNITED STATES ATTORNEY

  
Vasu B. Muthyala, D.C. Bar No. 496935  
Assistant United States Attorney  
Fraud & Public Corruption Section  
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Washington, DC 20530  
(202) 514-7541  
[vasu.muthyala@usdoj.gov](mailto:vasu.muthyala@usdoj.gov)

**DEFENDANT'S ACCEPTANCE**

I have read this Plea Agreement and have discussed it with my attorney, Kathleen E. Voelker, Esq. I fully understand this Agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Agreement fully. I am pleading guilty because I am in fact guilty of the offense identified in this Agreement.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this Plea Agreement. I am satisfied with the legal services provided by my attorney in connection with this Plea Agreement and matters related to it.

Date: 11/11/08

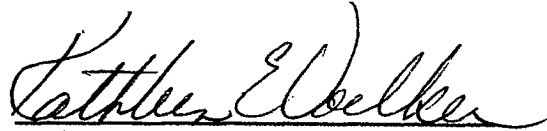


Felipe E. Sixto  
Defendant

**ATTORNEY'S ACKNOWLEDGMENT**

We have read each of the pages constituting this Plea Agreement, reviewed them with our client, and discussed the provisions of the Agreement with our client, fully. These pages accurately and completely sets forth the entire Plea Agreement. We concur in our client's desire to plead guilty as set forth in this Agreement.

Date: 11/17/08



Kathleen E. Voelker, Esquire  
Attorney for the Defendant