

ORIGINAL  
**FILED**

DISTRICT COURT OF GUAM

MAY 23 2013

JEANNE G. QUINATA  
CLERK OF COURT

**FILED**

DISTRICT COURT OF GUAM

MAY 20 2013

JEANNE G. QUINATA  
CLERK OF COURT

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IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BERNICE RIVERA,

Defendant.

CRIMINAL CASE NO. 13-00037

AMENDED  
PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, BERNICE RIVERA, enter into the following plea agreement:

1. The defendant, BERNICE RIVERA, agrees to waive Indictment and enter a guilty plea to an Information charging her with Misapplication of Bank Funds, in violation of Title 18, United States Code, Section 657.

2. The defendant understands that the maximum sentence for Misapplication of Bank Funds, is imprisonment for not more than one (30) years, a \$1,000,000 fine, together with any restitution as the court may order, and a \$100 special assessment fee. Any sentence of incarceration shall include a term of supervised release of not more than five (5) years. If the court revokes sentence of supervised release, pursuant to 18 U.S.C. § 3503(e), the court may impose additional incarceration for up to three (3) years. The total of \$100 special assessment

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1 fee must be paid upon sentencing. The United States agrees to recommend that defendant  
2 receive a sentence of probation.

3 The government will recommend a fine within the Sentencing Guidelines range. If  
4 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
5 full disclosure of her financial status to the United States Attorney's Office by completing a  
6 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.  
7 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

8 3. The defendant understands that to establish a violation of Misapplication of Bank  
9 Funds, a violation of Title 18, United States Code, Section 657, the government must prove each  
10 of the following elements beyond a reasonable doubt:

11 First, the defendant was an employee of the Coast 360 Federal Credit Union;

12 Second, the defendant knowingly and willfully misapplied funds belonging to the credit  
13 union;

14 Third, the defendant acted with intent to <sup>injure</sup> ~~injury~~ the credit union;

15 Fourth, the credit union was an insured <sup>by institution whose funds accounts are insured</sup> ~~bank~~ by the National Credit Union  
16 Administration; <sup>Board</sup> ~~and~~;

17 Fifth, the amount of money taken was over \$1,000 dollars.

18 4. The defendant understands that the Sentencing Guidelines apply to this offense. The  
19 government and the defendant stipulate to the following facts for purposes of the Sentencing  
20 Guidelines:

21 a. The defendant was born in 1960, and is a citizen of the United States.

22 b. In the year 2012, the defendant, BERNICE RIVERA, willfully and intentionally  
23 misapplied approximately \$11,891 which were customer funds being held by Coast 360 Federal  
24 Credit Union <sup>by</sup> ~~Administration~~, which is chartered and insured by the National Credit Union <sup>by</sup> ~~Administration Board~~.  
25 Defendant made a series of withdrawals between August 2010 through January of 2013 and  
26 would use these funds for her own personal purposes. Most of the withdrawals ranged between  
27 \$500 and \$2,000. When confronted with these misapplications of funds, the defendant  
28



1 apologized for her conduct which was in violation of Coast 360 Federal Credit Union's policies  
2 and returned the money she had taken.

3 c. The defendant understands that notwithstanding any agreement of the parties, the  
4 United States Probation Office will make an independent application of the Sentencing  
5 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
6 Sentencing Guidelines range projected by her counsel or any other person, such discrepancy is  
7 not a basis to withdraw her guilty plea.

8 5. Parties agree that full restitution has already been paid to victim.

9 6. The defendant agrees to waive any right to appeal or to collaterally attack this  
10 conviction. The defendant reserves the right to appeal the sentence actually imposed in this case.

11 7. The defendant acknowledges that she has been advised of her rights as set forth below  
12 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
13 had sufficient opportunity to reflect upon, and understands the following:

14 a. The nature and elements of the charge and the mandatory minimum penalty  
15 provided by law, if any, and the maximum possible penalty provided by law;

16 b. Her right to be represented by an attorney;

17 c. Her right to plead not guilty and the right to be tried by a jury and at that trial, the  
18 right to be represented by counsel, the right to confront and cross-examine witnesses against her,  
19 and the right not to be compelled to incriminate herself, that is, the right not to testify;

20 d. That if she pleads guilty, there will not be a further trial of any kind on the charges  
21 to which such plea is entered so that by entering into this plea agreement, she waives, that is,  
22 gives up, the right to a trial;

23 e. That, upon entry of a plea of guilty, or thereafter, the Court may ask her questions  
24 about the offenses to which she has pled, under oath, and that if she answers these questions  
25 under oath, on the record, her answers may later be used against her in prosecution for perjury or  
26 false statement if an answer is untrue;

1 f. That she agrees that the plea agreement is voluntary and not a result of any force,  
2 threats or promises apart from this plea agreement;

3 g. That she reads, writes and speaks the English language and has no need for an  
4 interpreter;

5 h. That she has read the plea agreement and understands it; and

6 i. The defendant is satisfied with the representation of her lawyer and feels that her  
7 lawyer has done everything possible for her defense.

8  
9 DATED: 4/30/13

Bernice Rivera  
BERNICE RIVERA  
Defendant

10  
11  
12 DATED: 4/30/13

F. Randall Cunliffe  
F. RANDALL CUNLIFFE  
Attorney for Defendant

13  
14 ALICIA A.G. LIMTIACO  
15 United States Attorney  
16 Districts of Guam and NMI

17 DATED: 5/19/13

18 By: Frederick A. Black  
FREDERICK A. BLACK  
Assistant U.S. Attorney