

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

ENDORSED
First Judicial District Court

OCT 28 2015

Santa Fe, Rio Arriba &
Los Alamos Counties
PO Box 2268
Santa Fe, NM 87504-2268

CR No. D-101-CR-2015-00478

STATE OF NEW MEXICO,

Plaintiff,

vs.

DIANNA J. DURAN

Defendant.

PLEA AND DISPOSITION AGREEMENT

The State of New Mexico and the defendant agree to this disposition of the above cause number:

PLEA

CHARGES: The defendant agrees to plead Guilty to the following charges:

1. **EMBEZZLEMENT (OVER \$250 BUT NOT MORE THAN \$500)**, a misdemeanor offense, occurring on or about December 29, 2014, as charged in Count 2 of Information D-101-CR-2015-00478.
2. **MONEY LAUNDERING (UNDER \$10,000)**, a misdemeanor offense, occurring on or about December 29, 2014, as charged in Count 4 of Information D-101-CR-2015-00478.
3. **EMBEZZLEMENT (OVER \$500 BUT NOT MORE THAN \$2,500)**, a fourth degree felony offense, occurring on or about July 15, 2014, as charged in Count 5 of Information D-101-CR-2015-00478.
4. **EMBEZZLEMENT (OVER \$2,500 BUT NOT MORE THAN \$20,000)**, a third degree felony offense, occurring on or about November 20, 2014, as charged in Count 13 of Information D-101-CR-2015-00478.
5. **CAMPAIGN FUNDS LIMITATION ON EXPENDITURES**, a misdemeanor offense, occurring on or about October 3, 2014, as charged in Count 18 of Information D-101-CR-2015-00478.

6. CAMPAIGN PRACTICES; CONTENT OF REPORT VIOLATION, a misdemeanor offense, occurring on or about April 14, 2014, as charged in Count 64 of Information D-101-CR-2015-00478.

TERMS

This agreement is made according to the following conditions:

SENTENCING AGREEMENT: A pre-sentence report shall be ordered prior to sentencing. The State recommends a suspended sentence on the condition of five years of supervised probation so long as the Court orders the following special conditions of supervised probation at initial sentencing: 1) Defendant shall comply with all conditions of supervised probation; 2) Defendant shall not have access to or supervisory control of public funds; 3) Defendant shall make full restitution in an amount not to exceed \$14,000 to individual campaign donors or the State Treasury on all counts, including those being dismissed, as provided by law; 4) Defendant shall participate in counseling and treatment as recommended by probation which may include treatment for gambling addiction; 5) Defendant shall not enter any commercial gaming or gambling establishment. The State does not request findings of fact under NMSA 1978 § 31-18-15.4 (2012), and therefore does not seek the additional fine described in that section. The State will defer to the Court regarding the granting of a conditional discharge or deferred sentence. The balance of the information will be dismissed at sentencing. There are no further agreements as to sentence.

PENALTIES:

1. **EMBEZZLEMENT (OVER \$250 BUT NOT MORE THAN \$500)**, a misdemeanor offense, with a basic sentence of three hundred sixty four (364) days in jail and not more than a \$1,000 fine.

2. **MONEY LAUNDERING (UNDER \$10,000)**, a misdemeanor offense, with a basic sentence of three hundred sixty four (364) days in jail and not more than a \$1,000 dollar fine.

3. **EMBEZZLEMENT (OVER \$500 BUT NOT MORE THAN \$2,500)**, a fourth (4th) degree felony offense, with a basic sentence of eighteen (18) months imprisonment and not more than a \$5,000 dollar fine, followed by one (1) year of parole.

4. **EMBEZZLEMENT (OVER \$2,500 BUT NOT MORE THAN \$20,000)**, a third (3rd) degree felony offense, with a basic sentence of three (3) years imprisonment and not more than a

\$5,000 dollar fine, followed by two (2) years of parole.

5. **CAMPAIGN FUNDS LIMITATION ON EXPENDITURES**, a misdemeanor offense, with a basic sentence of three hundred sixty four (364) days in jail and not more than a \$1,000 dollar fine.

6. **CAMPAIGN PRACTICES; CONTENT OF REPORT VIOLATION**, a misdemeanor offense, with a basic sentence of three hundred sixty four (364) days in jail and not more than a \$1,000 dollar fine.

Defendant shall pay all mandatory fines and fees.

POTENTIAL INCARCERATION: If the Court accepts this agreement, the Defendant may be ordered to serve a period of incarceration at initial sentencing. The Defendant may also be ordered to serve a period of probation or parole. If the Defendant later violates probation or parole, the Defendant may be incarcerated for the balance of the sentence, without limitation of the “cap” that was agreed upon at initial sentencing.

CHARGES TO BE DISMISSED: Balance of Counts in D-101-CR-2015-00478.

RESTITUTION: Restitution will be ordered in accordance with Section 31-17-1. The defendant, in cooperation with the probation office, will prepare a restitution plan to be incorporated into the court's sentence. The defendant agrees to make restitution on all charges arising out of this matter even if those charges are dismissed or not filed because of this agreement. The defendant agrees not to discharge the restitution obligation in bankruptcy.

UNDISCLOSED PRIOR CONVICTIONS: The State may bring habitual offender proceedings, as provided by law, based on any convictions not admitted in this plea. The State may also choose to withdraw this plea agreement if it discovers any such convictions.

STIPULATIONS

TIME LIMITS: By entering this agreement with the State, the defendant waives defendant's rights under the rules governing time of commencement of trial until the agreement is either accepted or rejected by the court.

WAIVER OF DEFENSES AND APPEAL: Unless this plea is rejected or withdrawn,

the defendant gives up all motions, defenses, objections, or requests which defendant has made or could make concerning the Court's entry of judgment against the defendant if that judgment is consistent with this agreement. The defendant specifically waives defendant's right to appeal as long as the court's sentence is imposed according to the terms of this agreement.

REJECTION OF PLEA: If the Court finds the provisions of this agreement unacceptable, after reviewing it and any pre-sentence report, the Court will allow the withdrawal of the plea, and this agreement will be void. If the plea is withdrawn, neither the plea nor any statements arising out of the plea proceeding shall be admissible against the defendant in any criminal proceedings.

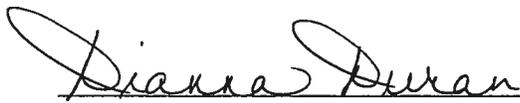
I have read and I understand this agreement. My lawyer has informed me of the specific immigration consequences I face as a result of this plea agreement, and I understand that if I am not a U.S. citizen, this plea agreement will affect my immigration or naturalization status. I have discussed the case and my constitutional rights with my lawyer. I understand that when I plead guilty I give up the following rights: my right to a trial by jury, my right to confront, cross-examine, and compel the attendance of witnesses, and my privilege against self-incrimination.

I agree that the State may void any sentencing agreement, including any cap on incarceration, OR the state may withdraw this plea agreement if I:

- 1) violate any laws while pending sentencing; OR
- 2) violate any condition of release; OR
- 3) fail to appear for the pre-sentence report interview as scheduled; OR
- 4) fail to appear for a scheduled court hearing, including but not limited to a sentencing hearing; OR
- 5) fail to turn myself in to begin serving any period of incarceration as court ordered. I understand that by admitting my identity on the prior conviction or convictions, I give up my privilege against self-incrimination if habitual offender proceedings are filed in this case under this agreement. I understand that when I admit the validity of the prior convictions I give up my right to collaterally attack these convictions in any habitual offender proceedings which are filed under this agreement.

I understand that if the court grants me probation, a suspended sentence, a deferred sentence or a conditional discharge, the terms and conditions of the sentence are subject to modification if I violate any of the terms or conditions imposed.

10-23-15
DATE


DIANNA DURAN, DEFENDANT

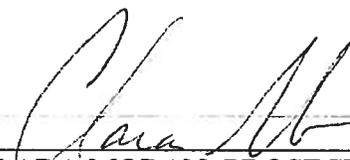
I have discussed this case with my client in detail and have advised the defendant of defendant's constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I agree with the plea outlined in this agreement and its terms and conditions.

10.23-15
DATE


ERLINDA JOHNSON, DEFENSE COUNSEL

I have reviewed this matter and agree that the plea and disposition are appropriate and are in the interest of justice.

10-23-15
DATE


CLARA MORAN, PROSECUTOR

APPROVED:


HONORABLE T. GLENN ELLINGTON,
DISTRICT COURT JUDGE