

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	No. <u>06-00352-01-CR-W-JTM</u>
)	
Plaintiff,)	<u>COUNT ONE</u>
)	29 U.S.C. § 439(c)
v.)	NMT One Year Imprisonment
)	NMT \$10,000 Fine
ALLISON COLE,)	NMT One Year Supervised Release
[DOB: 02/11/65])	Class A Misdemeanor
)	
Defendant.)	\$50 Mandatory Special Assessment

INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

Between on or about October 21, 2004, and on or about November 30, 2004, in the Western District of Missouri, ALLISON COLE, defendant herein, did knowingly and willfully make false entries in records, reports, and statements of Branch 30, National Association of Letter Carriers (NALC), AFL-CIO, in that defendant willfully prepared false vouchers for Branch 30 checks representing union funds which she had converted to her own use and which records, reports, and statements, Branch 30, NALC, was required to keep and maintain pursuant to the provisions of Title 29.

All in violation of Title 29, United States Code, Section 439(c).

Respectfully submitted,

Bradley J. Schlozman
United States Attorney

By /s/ D. Michael Green

D. Michael Green #36738
Assistant United States Attorney

Dated: October 30, 2006

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No.
)
 ALLISON COLE,)
)
 Defendant.)

6 CR 352

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the parties described below have entered into the following plea agreement:

1. **The Parties.** The parties to this agreement are the United States Attorney's Office for the Western District of Missouri (otherwise referred to as "the Government" or "the United States"), represented by Bradley J. Schlozman, United States Attorney, and D. Michael Green, Assistant United States Attorney, and the defendant, Allison Cole ("the defendant"), represented by Martin Warhurst.

The defendant understands and agrees that this plea agreement is only between her and the United States Attorney for the Western District of Missouri, and that it does not bind any other federal, state, or local prosecution authority or any other government agency, unless otherwise specified in this agreement.

2. **Defendant's Guilty Plea.** The defendant agrees to and hereby does plead guilty to an Information charging her with a violation of 29 U.S.C. § 439(c), that is, making false entries in union records. By entering into this plea agreement, the defendant admits that she knowingly committed this offense, and is in fact guilty of this offense.

3. Factual Basis for Guilty Plea. The parties agree that the facts constituting the offense to which she is pleading guilty are as follows:

Defendant was the office secretary for Branch 30 of the National Association of Letter Carriers, AFL-CIO. Her duties included opening mail and preparing Branch 30 bills. On approximately October 21, 2004, defendant wrote herself a check drawing on union funds in the amount of \$1,887. To cover herself, defendant prepared two false vouchers for the check. One false voucher stated that the check was written to a "Lucy Miller" for "picnic expenses," and the other voucher falsely stated that the check was written to United Missouri Bank to pay a withholding tax. Also, on or about November 30, 2004, defendant prepared a false voucher for a check drawing on union funds which defendant wrote to herself and deposited into her account. Defendant falsely wrote that this union check was "void per reimb deposit" Branch 30, NALC was required by the provisions of Title 29, United States Code, to make and keep accurate records and reports of how it spent union funds.

4. Use of Factual Admissions. The defendant acknowledges, understands and agrees that the admissions contained in Paragraph 3 and other portions of this plea agreement will be used for the purpose of determining her guilt and advisory sentencing range under the United States Sentencing Guidelines ("U.S.S.G."), including the calculation of the defendant's offense level in accordance with U.S.S.G. § 1B1.3(a)(2). The defendant acknowledges, understands and agrees that all other uncharged related criminal activity may be considered as "relevant conduct" pursuant to U.S.S.G. § 1B1.3(a)(2) in calculating the offense level for the charge to which she is pleading guilty.

5. Statutory Penalties. The defendant understands that upon her plea of guilty to the Information charging her with a violation of 29 U.S.C. § 439(c), the maximum penalty the Court may impose is not more than one year of imprisonment, a \$10,000 fine, one year of supervised release, an order of restitution and a \$50 mandatory special assessment which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class A misdemeanor.

6. Sentencing Procedures. The defendant acknowledges, understands and agrees to the following:

a. in determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are advisory in nature, and the Court may impose a sentence either less than or greater than the defendant's applicable Guidelines range, unless the sentence imposed is "unreasonable";

b. the Court will determine the defendant's applicable Sentencing Guidelines range at the time of sentencing;

c. in addition to a sentence of imprisonment, the Court may impose a term of supervised release of up to one year; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one year is imposed;

d. if the defendant violates a condition of her supervised release, the Court may revoke her supervised release and impose an additional period of imprisonment of up to one year without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed one year, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

e. the Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;

h. The defendant understands and agrees that the factual admissions contained in paragraphs 3 and 4 of this plea agreement, and any admissions that she will make during her plea colloquy, support the imposition of the agreed Guidelines calculations contained in this agreement.

11. Effect of Non-Agreement on Guidelines Applications. The parties understand, acknowledge and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed in Paragraph 10, and its subsections. As to any other Guidelines issues, the parties are free to advocate their respective positions at the sentencing hearing.

12. Change in Guidelines Prior to Sentencing. The defendant agrees that if any applicable provision of the Guidelines changes after the execution of this plea agreement, then any request by defendant to be sentenced pursuant to the new Guidelines will make this plea agreement voidable by the United States at its option. If the Government exercises its option to void the plea agreement, the United States may charge, reinstate, or otherwise pursue any and all criminal charges that could have been brought but for this plea agreement.

13. Government's Reservation of Rights. The defendant understands that the United States expressly reserves the right in this case to:

- a. oppose or take issue with any position advanced by defendant at the sentencing hearing which might be inconsistent with the provisions of this plea agreement;
- b. comment on the evidence supporting the charge in the Information;
- c. oppose any arguments and requests for relief the defendant might advance on an appeal from the sentences imposed; and
- d. oppose any post-conviction motions for reduction of sentence, or other relief.

14. Waiver of Constitutional Rights. The defendant, by pleading guilty, acknowledges that she has been advised of, understands, and knowingly and voluntarily waives the following rights:

- a. the right to plead not guilty and to persist in a plea of not guilty;
- b. the right to be presumed innocent until her guilt has been established beyond a reasonable doubt at trial;
- c. the right to a jury trial, and at that trial, the right to the effective assistance of counsel;
- d. the right to confront and cross-examine the witnesses who testify against her ;
- e. the right to compel or subpoena witnesses to appear on her behalf; and
- f. the right to remain silent at trial, in which case her silence may not be used against her.

The defendant understands that by pleading guilty, she waives or gives up those rights and that there will be no trial. The defendant further understands that if she pleads guilty, the Court may ask her questions about the offense or offenses to which she pleaded guilty, and if the defendant answers those questions under oath and in the presence of counsel, her answers may later be used against her in a prosecution for perjury or making a false statement.

15. Waiver of Appellate and Post-Conviction Rights.

a. The defendant retains her right to appeal any Sentencing Guidelines issues that have not been agreed upon by the parties. However, the defendant otherwise expressly waives her right to appeal her sentence, directly or collaterally, on any ground, including agreed-upon Sentencing Guidelines issues, except a sentence imposed in excess of the statutory maximum or an illegal sentence, that is, sentencing error more serious than an abuse of discretion or the imposition of an unreasonable sentence. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may, as part of the Government's

appeal, cross-appeal her sentence as authorized by 18 U.S.C. § 3742(a) on any grounds except those expressly stipulated to or agreed upon in this plea agreement.

16. Waiver of FOIA Request. The defendant waives all of her rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

17. Waiver of Claim for Attorney's Fees. The defendant waives all of her claims under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

18. Defendant's Agreement to Destruction of Biological Evidence. In accordance with 18 U.S.C. § 3600A(c)(2), the defendant knowingly and voluntarily waives her right to request DNA testing of any biological evidence which may have been obtained or seized by law enforcement in her case. Defendant agrees that all biological evidence which may have been obtained or seized may be destroyed by law enforcement authorities.

19. Defendant's Breach of Plea Agreement. If the defendant commits any crimes, violates any conditions of release, or violates any term of this plea agreement between the signing of this plea agreement and the date of sentencing, or fails to appear for sentencing, or if the defendant provides information to the Probation Office or the Court that is intentionally misleading, incomplete, or untruthful, or otherwise breaches this plea agreement, the United States will be released from its obligations under this agreement. The defendant, however, will

remain bound by the terms of the agreement, and will not be allowed to withdraw her plea of guilty.

The defendant also understands and agrees that in the event she violates this plea agreement, all statements made by her to law enforcement agents subsequent to the execution of this plea agreement, any testimony given by her before a grand jury or any tribunal or any leads from such statements or testimony shall be admissible against her in any and all criminal proceedings. The defendant waives any rights that she might assert under the United States Constitution, Federal Rule of Criminal Procedure 11(f), Federal Rule of Evidence 410, or any other federal rule or statute that pertains to the admissibility of any statements made by her subsequent to this plea agreement.

20. Defendant's Representations. The defendant acknowledges that she has entered into this plea agreement freely and voluntarily after receiving the effective assistance, advice and approval of counsel. The defendant acknowledges that she is satisfied with the assistance of counsel, and that counsel has fully advised her of her rights and obligations in connection with this plea agreement. The defendant further acknowledges that no threats or promises, other than the promises contained in this plea agreement, have been made by the United States, the Court, her attorneys or any other party to induce her to enter her plea of guilty.

21. No Undisclosed Terms. The United States and defendant acknowledge and agree that the above-stated terms and conditions constitute the entire plea agreement between the parties, and that any other terms and conditions not expressly set forth in this agreement do not constitute any part of the parties' agreement and will not be enforceable against either party.

22. Standard of Interpretation. The parties agree that, unless the constitutional implications inherent in plea agreements require otherwise, this plea agreement should be interpreted according to general contract principles and the words employed are to be given their normal and ordinary meanings. The parties further agree that, in interpreting this agreement, any drafting errors or ambiguities are not to be automatically construed against either party, whether or not that party was involved in drafting or modifying this agreement.

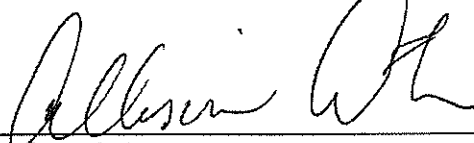
Bradley J. Schlozman
United States Attorney

Dated 11/21/06

By 
D. Michael Green
Assistant United States Attorney

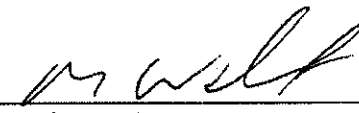
I have consulted with my attorney and fully understand all of my rights with respect to the offense charged in the Information. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and I voluntarily agree to it.

Dated 11-21-06


Allison Cole
Defendant

I am Allison Cole's attorney. I have fully explained to her her rights with respect to the offense charged in the Information. Further, I have reviewed with her the provisions of the Sentencing Guidelines which might apply in this case. We have carefully reviewed every part of this plea agreement with her. To my knowledge, Allison Cole's decision to enter into this plea agreement is an informed and voluntary one.

Dated 11/21/06


Martin Warhurst
Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA

-vs-

Case No.: 06-00352-01-CR-W-JTM

ALLISON COLE

USM Number: 19540-045

Martin Warhurst, Retained
1125 Grand Suite 704
Kansas City, MO 64106

JUDGMENT IN A CRIMINAL CASE

The defendant pleaded guilty to Count one on November 21, 2006 of the Information. Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
29 U.S.C. 439(c)	False Entries in Union Records	November 30, 2004	one

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: March 22, 2007

/s/ John T. Maughmer
JOHN T. MAUGHMER
UNITED STATES MAGISTRATE JUDGE

March 23, 2007

PROBATION

The defendant is hereby placed on probation for a term of **3 Years**.

While on probation, the defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

If this judgment imposes a fine or restitution, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer **at least ten (10) days prior** to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

ADDITIONAL CONDITIONS OF PROBATION

The defendant shall also comply with the following additional conditions of probation:

1. The defendant shall pay any restitution balance during the first **30 months** of probation on the schedule set by the Court.
2. The defendant shall not incur new credit card charges or open additional lines of credit without the approval of the Probation Office, while court ordered financial obligations are outstanding.
3. The defendant shall provide the Probation Officer access to any requested financial information.
4. The defendant shall successfully participate in any mental health counseling program, as approved by the Probation Office, and pay any associated costs, as directed by the Probation Office.
5. The defendant shall not enter any gambling establishment or engage in any type of gambling, including off-shore or Internet gambling.
6. As directed by the Probation Office, the defendant shall be required to disclose her criminal history to any employer or potential employer.

ACKNOWLEDGMENT OF CONDITIONS

I have read or have had read to me the conditions of supervision set forth in this judgment and I fully understand them. I have been provided a copy of them.

I understand that upon finding of a violation of probation or supervised release, the Court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

Defendant

Date

United States Probation Officer

Date

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

<u>Total Assessment</u>	<u>Total Fine</u>	<u>Total Restitution</u>
\$25.00 due immediately	Waived	\$4,731.49

The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(l), all nonfederal victims must be paid in full prior to the United States receiving payment.

You are hereby ordered to begin payment immediately and continue to make payments to the best of your ability until this obligation is satisfied. While in custody you are directed to participate in the Bureau of Prisons Financial Responsibility Program, if eligible, and upon your release from custody you shall adhere to a payment schedule as determined by the Probation Office.

<u>Name of Payee</u>	<u>Total Loss</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
NALC - Branch 30 6320 Manchester Avenue, Suite 41A Kansas City, MO 64133	\$250.00	\$250.00	
Zurich, c/o Harriet Kalanzi Recovery Center Claim No. 6850151055 P.O. Box 66944 Chicago, IL 60666-0944	\$4,481.49	\$4,481.49	

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

Since the Court finds the defendant does not have the ability to pay interest, any interest is waived.

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

Lump sum payment of **\$4,756.49** due immediately, balance due in accordance with F below.

F. Special instructions regarding the payment of criminal monetary penalties:

If unable to pay the full amount immediately, the defendant shall make monthly payments of \$150.00 or 10 percent of gross income, whichever is greater, while on supervision.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.