SENTENCING SCENARIO #1

Offense of Conviction: Embezzlement **Statutory Penalties**: Up to ten years imprisonment

Plea Agreement Summary

The government has agreed not to argue for a particular sentence but does reserve the right to contest any factual inaccuracies raised by the defendant.

Nature and Circumstances of the Offense

The defendant was employed in the accounting division of a federal government agency. The position was unsupervised, and the defendant was given broad discretion. An audit revealed that between December 2011 and April 2012 the defendant embezzled $210,000 from the agency. A criminal investigation following the audit confirmed the embezzlement and the fact that the defendant had not returned any of the $210,000 before the offense was detected. According to the defendant, he committed the offense "stupidly" because he became involved in online sports gambling over a period of one year and was trying to pay his gambling debt.

Acceptance of Responsibility

The offender expressed remorse for his offense and is interested in rendering restitution in the future.

Offender Characteristics

Personal and Family Data

The defendant, 49 years old, was raised in a suburban community and is a college graduate. He is married with two children. He is currently employed full time at a financial services company. The defendant has no history of alcohol or drug treatment and reports that he does not drink or take illicit drugs. His family is very stable and his extended family is very close and supportive. He had never been in any type of trouble before, and the instant offense conduct is by all accounts an unusual deviation from an otherwise law abiding life. No one in his extended family has ever been in trouble with the law before.

Risk and Needs Assessment

Overview of Risk and Needs Assessment Instrument

On the recommendation of the probation officer, an actuarial risk/needs assessment tool, which has been validated on federal defendants, was administered in this case. The tool examines a number of risk factors shown by research to be predictive of re-offending. The instrument assesses numerous factors including criminal history, education, employment, drug or alcohol use, social networks, antisocial cognitions. Identification of these factors assists the court in considering the factors set out in 18 U.S.C. 3553 (a), particularly the need to protect the public from further crimes and providing the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. Assessed factors in the risk/needs assessment instrument are scored and lead to placement into one of three risk categories: low, medium, and high. Defendants categorized as "low" have a 7% re-arrest rate and 10% revocation rate within a three year period following release from prison. Defendants

categorized as “medium” have a 25% re-arrest rate and 45% revocation rate within a three year period following release from prison. Finally, defendants categorized as “high” have a 45% re-arrest rate and 75% revocation rate within a three year period following release from prison.

Overall Risk of Recidivism

In this case, the defendant was determined by the risk/needs assessment instrument to be in the “low” risk category. Defendants categorized as “low” have a 7% re-arrest rate and 10% revocation rate within a three year period following release from prison.

Criminal History

The defendant has no prior record.

Offense Level Computation

Chapter Two Offense Guideline	§2B1.1 (Embezzlement, Larceny, Theft, Fraud)
• §2B1.1(a)(2)	6 (base offense level)
• §2B1.1(b)(1)(C)	+12 (loss amount of $210,000)
Chapter Three Adjustments	
• §3B1.3	+2 (Abuse of Position of Trust or Use of Special Skill)
• §3E1.1(a)&(b)	-3 (Acceptance of Responsibility)
Offense Level Total	**17**

Sentencing Guidelines Range

24-30 months (Based on Offense Level 17 and Criminal History Category I)

Zone D – No imprisonment substitutions provided for under the guidelines, pursuant to §5C1.1(f), because the guideline range of 24-30 months is in Zone D of the Sentencing Table.