

STB

FD-33388 (SUB92)

1-7-00

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2 OF 3

1. Zone employees
 - a. Southern Tier, Harrisburg, Pittsburgh, Alleghany A, Alleghany B, Youngstown, Michigan, Toledo, or Chicago all to NSR
 - b. Buffalo, New England, Mohawk, or Cleveland all to CSXT
 - c. Detroit to SAA until sufficiently staffed, as determined by the railroads, rest to NSR
 - d. New Jersey to SAA until sufficiently staffed, as determined by the railroads, rest to NSR and certain positions to CSXT, as determined by the railroads
 - e. Philadelphia to SAA until sufficiently staffed, as determined by the railroads, rest to NSR and certain positions to CSXT, as determined by the railroads
 - f. Columbus or Southwest to CSXT, except certain positions, as determined by the railroads, to NSR.

2. Regional employees
 - a. District seniority only on a single District
 - i. Buffalo, New England, Mohawk, Cleveland, or Southwest to CSXT
 - ii. rest to NSR
 - b. District seniority on Multiple Districts
 - i. use District having earliest seniority date
 - ii. Buffalo, New England, Mohawk, Cleveland, or Southwest to CSXT, rest to NSR
 - c. Only Regional seniority - apportion by residence

C. Roadway Shop and Rail Plant employees

1. Canton
 - a. 56 transferred to Charlotte (NSR)
 - b. 20 transferred to Richmond (CSXT)
 - c. non-transfers (all to NSR)
2. Lucknow
 - a. 5 transferred to Atlanta (NSR)
 - b. non-transfers (all to NSR)

D. Employees eligible for Sub-Plan benefits, on leave of absence, or disabled allocated as set forth above, treating the last position held as if it was the position held on allocation date:

1. if was District position allocate as in Part A
2. if was Production Zone or Regional position allocate as in Part B

3. if was Roadway Shop or Rail Plant position
allocate as in Part C

II. Unavailable Employees

Other CRC employees with BMWE seniority will be placed on a list, in the order of their respective CRC District seniority, for new hire preference. An attempt to offer these employees available positions will be made prior to employing new hires.

CSXT Appendix B

I. CSXT Eastern Seniority District

A. Track and Bridge and Building operations and associated work forces of the former B&O, and portions of the former C&O, Conrail, RF&P and SCL will be merged into the newly formed operating district and seniority district hereinafter described:

The area from New York/New Jersey to south of Richmond, VA west to Charlottesville, VA, Huntington, WV, north to Willard, OH and Cleveland, OH.

The above includes all mainlines, branch lines, yard tracks, industrial leads, stations between points identified, and all terminals that lie at the end of a line segment except: North and South Jersey SAA.

B. All employees assigned to positions within the above-described district will constitute one common work force working under one labor agreement. The B&O labor Agreement, as modified by this implementing agreement, will apply in the Eastern District.

II. CSXT Western Seniority District

A. Track and Bridge and Building operations and associated work forces of the former B&O, and portions of the former B&O, B&OCT, C&O(PM), C&O, C&EI, Monon, L&N and Conrail will be merged into the newly formed operating district and seniority district hereinafter described:

The area from St. Louis, MO to Chicago, IL to a point east of Cleveland, OH and south to Cincinnati, OH and Columbus, OH and Louisville, KY and Evansville, IN.

The above includes all mainlines, branch lines, yard tracks, industrial leads, stations between points identified, and all terminals that lie at the end of a line segment except Detroit SAA.

B. All employees assigned to positions within the above-described district will constitute one common work force working under one labor agreement. The B&O labor Agreement, as modified by this implementing agreement, will apply in the Western District.

III. CSXT Northern Seniority District

A. Track and Bridge and Building operations and associated work forces of the former Conrail not included in either the above CSXT Eastern or Western Districts will be merged into the newly formed operating district and seniority district hereinafter described:

The area from New York/New Jersey east to Boston/New Bedford, MA north to Adirondack Junction, Quebec and west to Cleveland, OH.

The above includes all mainlines, branch lines, yard tracks, industrial leads, stations between points identified, and all terminals that lie at the end of a line segment except: North Jersey SAA.

B. All employees assigned to positions within the above-described district will constitute one common work force working under one labor agreement. The CRC labor Agreement, as modified by this implementing agreement, will apply in the Northern District.

AGREEMENT

BETWEEN

CSX TRANSPORTATION, INC.
And its Railroad Subsidiaries

and

CONSOLIDATED RAIL CORPORATION

and

their Employees Represented by

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS
SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

WHEREAS, CSX Corporation ("CSX"), CSX Transportation, Inc. and its railroad subsidiaries ("CSXT"); and Norfolk Southern Corporation ("NS"), Norfolk Southern Railway Company and its railroad subsidiaries ("NSR"); and Conrail, Inc. ("CRR") and Consolidated Rail Corporation ("CRC") have filed an application with the Surface Transportation Board ("STB") in Finance Docket No. 33388 seeking approval of acquisition of control by CSX and NS of CRR and CRC, and for the division of the use and operation of CRC's assets by NSR and CSXT and the operation of Shared Assets Areas by CRC for the exclusive benefit of CSX and NS ("the transaction");

WHEREAS, in its decision served July 23, 1998 in the proceeding captioned Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail, Inc. and Consolidated Rail Corporation, and related proceedings, the STB has imposed the employee protective conditions set forth in New York Dock Ry. - Control - Brooklyn Eastern District, 360 I.C.C. 60 (1979) ("New York Dock conditions") (copy attached) on all aspects of the Primary Application; Norfolk and Western Railway Company - Trackage Rights - Burlington Northern, Inc., 354 I.C.C. 653 (1980) on related authorization of trackage rights; Oregon Short Line Railroad - Abandonment - Goshen, 360 I.C.C. 91 (1979), on related abandonment authorizations; and Mendocino Coast Railway,

Inc. - Lease and Operate - California Western Railway, 360 I.C.C. 653 (1980), on the related track leases;

WHEREAS, the railroads gave notice on August 24, 1998, of their intention to consummate the transaction and to coordinate certain maintenance-of-way work, including performing roadway equipment maintenance and repair work pursuant to Article I, Section 4 of the New York Dock conditions and other employee protective conditions.

NOW, THEREFORE, IT IS AGREED:

ARTICLE I

Upon seven (7) days advance written notice by CSXT and CRC, CSXT and CRC may affect this consolidation as set forth below.

ARTICLE II

CSXT will integrate its allocated former CRC roadway equipment mechanics into CSXT's Roadway Mechanic system under CSXT Labor Agreement 12-126-92, as amended, on a basis similar to the method used to integrate those employees who were present at the time of the original roadway equipment consolidation on CSXT. As such, CSXT will advertise all of the roadway mechanic positions on the allocated CRC lines to be operated by CSXT and the CRC allocated roadway shop positions to be established at CSXT's Richmond facility at the same time and follow the general principles of the original CSXT Labor Agreement 12-126-92. Once integrated, the former CRC employees will work under and be governed by the provisions of CSXT Labor Agreement 12-126-92, as amended.

ARTICLE III

This Agreement shall fulfill the requirements of Article I, Section 4, of the New York Dock conditions and all other

conditions which have been imposed in Decision No. 89 by the STB
in Finance Docket No. 33388.

AGREEMENT

BETWEEN

NORFOLK SOUTHERN RAILWAY COMPANY
and its Railroad Subsidiaries

and

CONSOLIDATED RAIL CORPORATION

and

their Employees Represented by

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS
INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS,
BLACKSMITHS, FORGERS AND HELPERS
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
BROTHERHOOD RAILWAY CARMEN DIVISION - TCU
SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION
NATIONAL CONFERENCE OF FIREMEN AND OILERS

WHEREAS, Norfolk Southern Corporation ("NS"), Norfolk Southern Railway Company and its railroad subsidiaries ("NSR"); and CSX Corporation ("CSX") and CSX Transportation, Inc. and its railroad subsidiaries ("CSXT"); and Conrail, Inc. ("CRR") and Consolidated Rail Corporation ("CRC") have filed an application with the Surface Transportation Board ("STB") in Finance Docket No. 33388 seeking approval of acquisition of control by NS and CSX of CRR and CRC, and for the division of the use and operation of CRC's assets by NSR and CSXT and the operation of Shared Assets Areas by CRC for the exclusive benefit of CSX and NS (the "transaction");

WHEREAS, in its decision served July 23, 1998 in the proceeding captioned Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail, Inc. and Consolidated Rail Corporation, and related proceedings, the STB has imposed the employee protective conditions set forth in New York Dock Ry. - Control - Brooklyn Eastern District, 360 I.C.C. 60 (1979) ("New York Dock conditions") (copy attached) on all aspects of the Primary Application; Norfolk and Western Railway Company - Trackage Rights - Burlington Northern, Inc., 354 I.C.C. 653 (1980), on related authorization of trackage rights; Oregon Short Line

report at the date and time specified unless he makes other arrangements with the proper authority or is prevented from doing so due to circumstances beyond his control. Any remaining positions no longer needed at the Canton, Ohio Maintenance-of-Way Equipment Repair Shop as a result of the transfer of work will be abolished by giving a minimum of five calendar days notice.

(c) Should there remain unfilled positions after fulfilling the requirements of Article I, Section 1(a) and 1(b) above, the positions may be assigned in reverse seniority order, beginning with the most junior employee holding a regular assignment at the transferring location, until all positions are filled. Upon receipt of such assignment, those employees must, within seven (7) days, elect in writing one of the following options: (1) accept the assigned position and report to the position pursuant to Article I, Section 2(b) above, or (2) be furloughed without protection. In the event an employee fails to make such an election, the employee shall be considered to have exercised option (2).

(d) Employees transferring under this section will have their seniority date(s) dovetailed in accordance with the procedures set forth in Article II on the appropriate roster(s) at the receiving location.

ARTICLE II

Section 1

Employees transferring to the Charlotte Roadway Equipment Shop under Article I, Section 1 above will have their respective Canton Shop seniority date as shown on the respective roster dovetailed on the appropriate seniority roster of the respective craft and location in which they obtained a position. Thereafter, employees' rights to exercise seniority will be governed by the applicable provisions of the respective collective bargaining agreements.

Employees holding active positions at Canton Shop on the effective date of the Agreement who do not transfer to Charlotte under Article I, Section 1 above will establish seniority pursuant to Article II of the BMW Master Implementing Agreement or other arrangement entered into under the employee protective conditions to govern the allocation of CRC BMW-represented employees.

Section 2

The seniority dates of employees recorded on existing rosters will be accepted as correct. Where employees are dovetailed into existing rosters, and as a result thereof, employees on such rosters have identical seniority dates, then the roster standing among such employees shall be determined as follows:

1. earlier hire date shall be ranked senior;
2. previous service with carrier shall be ranked senior;
3. employee with earlier month and day of birth within any calendar year shall be ranked senior.

ARTICLE III

This Agreement shall fulfill the requirements of Article I, Section 4, of the New York Dock conditions and all other conditions which have been imposed in Decision No. 89 by the STB in Finance Docket No. 33388.

AGREEMENT

BETWEEN

NORFOLK SOUTHERN RAILWAY COMPANY
and its Railroad Subsidiaries

and

CONSOLIDATED RAIL CORPORATION

and

their Employees Represented by

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

WHEREAS, Norfolk Southern Corporation ("NS"), Norfolk Southern Railway Company and its railroad subsidiaries ("NSR"); and CSX Corporation ("CSX") and CSX Transportation, Inc. and its railroad subsidiaries ("CSXT"); and Conrail, Inc. ("CRR") and Consolidated Rail Corporation ("CRC") have filed an application with the Surface Transportation Board ("STB") in Finance Docket No. 33388 seeking approval of acquisition of control by NS and CSX of CRR and CRC, and for the division of the use and operation of CRC's assets by NSR and CSXT and the operation of Shared Assets Areas by CRC for the exclusive benefit of CSX and NS (the "transaction");

WHEREAS, in its decision served July 23, 1998 in the proceeding captioned Finance docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail, Inc. and Consolidated Rail Corporation, and related proceedings, the STB has imposed the employee protective conditions set forth in New York Dock Ry. - Control - Brooklyn Eastern District, 360 I.C.C. 60 (1979) ("New York Dock conditions") (copy attached) on all aspects of the Primary Application; Norfolk and Western Railway Company - Trackage Rights - Burlington Northern, Inc., 354 I.C.C. 653 (1980), on related authorization of trackage rights; Oregon Short Line Railroad - Abandonment - Goshen, 360 I.C.C. 91 (1979), on related abandonment authorizations; and Mendocino Coast Railway, Inc. - Lease and Operate - California Western Railway, 360 I.C.C. 653 (1980), on the related track leases;

WHEREAS, the railroads gave notice on August 24, 1998, of their intention to consummate the transaction and to coordinate certain maintenance-of-way work, including work associated with maintenance-

of-way equipment repair, pursuant to Article 1, Section 4 of the New York Dock conditions and other employee protective conditions; and

WHEREAS, the parties signatory hereto desire to reach an agreement providing for the selection and rearrangement of forces performing line-of-road maintenance and repairs to roadway equipment on the former New York Central lines of the allocated CRC territory to be operated by NSR.

NOW, THEREFORE, IT IS AGREED:

ARTICLE I

Section 1

Upon seven (7) days advance written notice by NSR and CRC, all work of line-of-road maintenance or repairs of roadway equipment performed on the allocated CRC territory to be operated by NSR, that prior to this transaction was contained within the scope of the agreement between CRC and IAM, will be placed under the scope of the agreement in effect on NSR between BMW and Norfolk and Western Railway Company ("NW") dated July 1, 1986, as amended (agreement currently applicable on former Norfolk and Western and Wabash lines), which is extended to cover all of the allocated CRC territory to be operated by NSR.

Section 2

On the date specified in the notice served under Article I, Section 1 of this Agreement, those employees located on the former New York Central lines of the allocated CRC territory to be operated by NSR, who are represented by IAM and performing work of line-of-road maintenance or repairs of roadway equipment (i.e., D. D. Hill, E. D. Walker, T. D. Dancer, B. R. Eckel, D. M. Stevens, J. K. Becker, and B. J. Keatts, or their successors holding such positions at the time of the Notice provided under Article I, Section 1) will become employees exclusively of NSR and will be available to perform service on a coordinated basis subject to the NW/Wabash Agreement dated July 1, 1986, as amended.

These employees will have their IAM seniority dates as shown on the applicable CRC roster dovetailed into the applicable BMW Agreement Roadway Machine Repairman Roster covering the Dearborn Division and will be removed from any IAM seniority roster applicable to NSR or CRC. Thereafter, employees' rights to exercise seniority will be governed by the applicable provisions of the collective bargaining agreement.

-Section 3

The seniority dates of employees recorded on existing rosters will be accepted as correct. Where employees are dovetailed into new or existing rosters, and as a result thereof, employees on such rosters have identical seniority dates, then the roster standing among such employees shall be determined as follows:

1. earlier hire date shall be ranked senior;
2. previous service with carrier shall be ranked senior;
3. employee with earlier month and day of birth within any calendar year shall be ranked senior.

ARTICLE II

This Agreement shall fulfill the requirements of Article I, Section 4, of the New York Dock conditions and all other conditions which have been imposed in Decision No. 89 by the STB in Finance Docket No. 33388.

DECLARATION OF JOEL MYRON

11:45 02/06
SURFACE TRANSPORTATION BOARD,

Finance Docket No. 33388 (Sub No. ____)

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
-CONTROL AND OPERATING LEASES/AGREEMENTS-
CONRAIL, INC. AND CONSOLIDATED RAIL CORPORATION
TRANSFER OF RAILROAD LINE BY NORFOLK SOUTHERN
RAILWAY COMPANY TO CSX TRANSPORTATION, INC.

DECLARATION OF JOEL MYRON

I, JOEL MYRON declare under penalty of perjury pursuant to 28 U.S.C. §1746 that the following is true and correct.

1. I am Director of Research for the Brotherhood of Maintenance of Way Employees ("BMWE"), and I submit this declaration in support of BMWE's petition for vacation of the *New York Dock* employee protective conditions of the arbitration award issued by William E. Fredenberger, Jr. ("Award") involving BMWE, CSX Transportation ("CSXT"), Norfolk Southern Ry. ("NSR") and Consolidated Rail Corp. ("Conrail") in connection with the CSX/NS acquisition of control and division Conrail. BMWE seeks to vacate the Award because of the recent revelation that Fredenberger is a convicted felon, liar, tax cheat and participant in fraud against the federal government. Apparently a criminal investigation that led to the conviction was under way and known by the NMB, but not BMWE at the time Fredenberger was appointed.

2. BMWE did not participate in the selection of Fredenberger. BMWE and the carriers were unable to agree on an arbitrator so the Carriers asked that one be imposed by the National Mediation Board ("NMB"). BMWE asked that the NMB provide the parties with a list of arbitrators from which an arbitrator could be selected, but the NMB refused to do so and instead

imposed arbitrator Fredenberger. BMWWE would never have voluntarily accepted him to hear this case. For many years BMWWE found Fredenberger unacceptable and he was an arbitrator that BMWWE would never voluntarily use.

3. There was a pre-hearing conference among representatives of the parties and arbitrator Fredenberger shortly after his appointment regarding scheduling. The Carriers insisted that a hearing be held within 30 days of Fredenberger's appointment even though that would provide the parties with very limited time to prepare, and Fredenberger virtually no time to review extensive submissions prior to the hearing; and even though that meant that briefing and hearings would have to be done in the few weeks after Thanksgiving and just before Christmas. BMWWE argued that it was inequitable and indeed counter-productive to fair and adequate proceedings to hold hearings as quickly as the Carriers desired. The Carriers argued that their requested schedule was consistent with the *New York Dock* conditions; but BMWWE's representatives argued that those time frames were not honored in recent memory, probably because of the expanded scope of proceedings since 1983, and they challenged the Carrier representatives to cite one case that had actually proceeded in the time frame they sought. The Carriers could not cite such case, but they insisted on the schedule they sought because they said it was necessary, given their planned split date of March 1, 1999 (curiously, only two months later, and a day or two after issuance of the Fredenberger Award in accordance with the rushed schedule, the Carriers announced that the split date had been postponed until June 1, 1999). The shopcraft unions were also swept into the proceeding with relation to a comparatively small class of employees represented by BMWWE on Conrail, but by the shopcraft unions on CSXT and NSR. The shopcraft unions argued that they had not received adequate notice and opportunity to

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negotiate; and they and BMW argued for two proceedings in fairness to all involved. But Fredenberger essentially accepted the Carriers' schedule.

4. Fredenberger's conduct of the hearing was troubling but did not suggest the sort of gross ethical, in fact criminal, nature of his character that was revealed months later. Fredenberger brought an apparent assistant to the hearings without consent of the parties. Fredenberger described her as an observer, but her heavy note-taking suggested that she was an assistant. Since the Carriers had recently obtained the replacement of another *New York Dock* arbitrator in another arbitration because he planned to use an assistant, BMW objected to the NMB. The NMB made inquiry to the arbitrator and relayed an assurance that the person was only an observer and not an assistant. At that time the NMB did not inform BMW that there was reason to doubt Fredenberger's veracity, given facts known by the NMB regarding the ongoing criminal investigation of Fredenberger. Fredenberger also allowed the Carriers to consume disproportionate quantities of the allotted hearing time; most seriously by drastically truncating the time available for BMW's rebuttal.

BMW thought that Fredenberger's actions were unfair and indeed prejudicial to BMW, but BMW did not then suspect that its protests and those of the shopcraft unions were brushed aside because the arbitrator was an unscrupulous scofflaw.

5. The NMB had been subpoenaed to produce records in the criminal investigation of Fredenberger. But the NMB appointed Fredenberger anyway, instead of many other arbitrators on its roster; and the NMB made no disclosure to BMW regarding the investigation.

6. BMW became aware of the criminal investigation and the conviction based on Fredenberger's guilty plea in the summer of 1999. BMW obtained public court papers

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regarding the conviction from the United States District Court for the Eastern District of Virginia. The United States Attorney for the Eastern District of Virginia filed a Criminal Information that William E. Fredenberger "knowingly, and willfully, aided, assisted in procured, counseled and advised in the presentation under the internal revenue laws of the personal income tax return of Shelby Fredenberger for the 1995 tax year, which was false and fraudulent as to a material matter...". Fredenberger also admitted that he had not filed a tax return between 1986 and 1996, and participated in his wife's fraudulent conversion of Veterans Administration benefits. This Criminal Information was filed pursuant to a Waiver of Indictment by defendant Fredenberger filed on that same day along with a Statement of Facts and Plea Agreement signed by defendant Fredenberger. See Myron Exhibit 1.

7. Since BMWWE did not use Fredenberger as an arbitrator it was not contacted in the criminal investigation so it was unaware that the criminal investigation was pending at the time the appointment was made. BMWWE would have vehemently objected to Fredenberger's appointment had it known of the investigation. BMWWE subsequently became aware of Fredenberger's crimes and began inquiries regarding the conviction and the NMB's knowledge of the conviction. BMWWE then filed Freedom of Information Act requests with the STB and NMB.

Documents released by the NMB to BMWWE over several months reveal that the NMB was aware of the investigation of Fredenberger over a year and one-half before the Board appointed him to decide this important case that was clearly permeated throughout with legal issues. As early as May of 1997, investigators from the IRS' Criminal Investigations Division, not a Revenue Agent or tax auditor, showed up at the NMB's offices with a subpoena for records

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concerning Fredenberger. Several months later, but also over a year before Fredenberger was picked by the NMB from among all of the many NMB panel arbitrators to hear this case, the Criminal Investigations Division sought additional materials from the NMB. Myron Ex. 2. Thus the NMB was fully aware that there was a serious criminal investigation of Fredenberger that was ongoing at the time the NMB chose him to decide this case. The documents produced by the NMB do not show whether the NMB made any inquiry to Fredenberger or the Criminal Investigations Division about the investigation.

8. BMWWE obtained the information regarding Fredenberger only after the Award was issued and after BMWWE had withdrawn a petition for review of the Award on its merits after settlements with CSXT and NSR. Once the Board failed to act on a petition for a stay before the division date for Conrail, and because there was a need for certainty in the lives of BMWWE's members with the split date looming, BMWWE entered agreements with CSXT and NSR; in CSXT's case a new agreement was negotiated, but in NSR's case the agreement merely made minor changes in the Award. At that time BMWWE did not realize that the problem was not only Fredenberger's infidelity to the statute and the employee protection conditions, but also that Fredenberger had no regard whatsoever for the most basic requirements of the law and was unfit to decide the matters in dispute. Once this unfitness came to light, BMWWE began the inquiries that led to this petition.

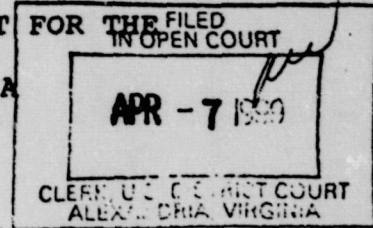
I, declare under penalty of perjury pursuant to 28 U.S.C. §1746 that the following is true and correct.

12/23/99
Date

Joel Myron
Joel Myron

MYRON EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA

v.

WILLIAM E. FREDENBERGER,

Defendant.

Criminal No. 99-134-A

CRIMINAL INFORMATION

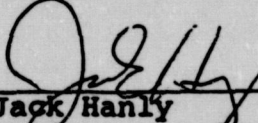
THE UNITED STATES ATTORNEY CHARGES THAT:

On or about April 15, 1996, in the Eastern District of Virginia and elsewhere, WILLIAM E. FREDENBERGER, defendant herein, knowingly and willfully aided, assisted in, procured, counseled, and advised the preparation and presentation under the internal revenue laws of the personal income tax return of Shelby G. Fredenberger for the 1995 tax year, which was false and fraudulent as to a material matter, in that the return falsely stated the amount of gross income, taxable income, and tax due and owing.

(In violation of Title 26, United States Code, Section 7206(2))

HELEN F. FAHEY
UNITED STATES ATTORNEY

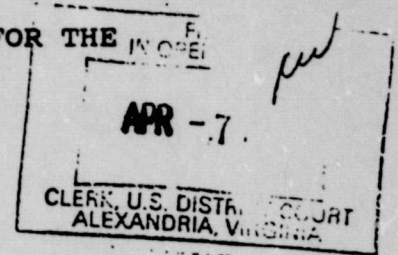
By:


Jack Hanly
Assistant United States Attorney
Virginia State Bar No. 23969

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA

v.

WILLIAM E. FREDENBERGER

CRIMINAL NO. 99-131-A

WAIVER OF INDICTMENT

I, WILLIAM E. FREDENBERGER, the above named defendant, accused of willfully assisting in the preparation of a fraudulent personal income tax return in violation of Title 26, United States Code Section 7206(2), being advised of the nature of the charge, the proposed information, and of my rights, hereby waive in open court prosecution by indictment and consent that the proceeding may be by information rather than by indictment.

Date:

4-7-99

William E. Fredenberger, Jr.
Defendant

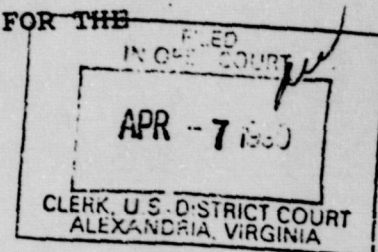
Maureen E. Ay
Counsel for Defendant

Before:

Sam C. Collier
UNITED STATES DISTRICT JUDGE

4/7/99

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA)

v.)

WILLIAM E. FREDENBERGER)

Criminal No. 99-134-A

STATEMENT OF FACTS

Prior to 1992, Ruby Martin was receiving benefits from the United States Department of Veteran Affairs (VA), because she was the widow of a veteran who had been receiving benefits. In September 1991, the defendant's wife, Shelby G. Fredenberger, acting under a power of attorney for her aunt, Ruby Martin, authorized the VA to deposit Ms. Martin's benefits directly into a checking account at Patriot Bank. Mrs. Fredenberger had signature authority over the account.

On January 25, 1992, Ms. Martin died and, as a result, no one was entitled to continue receiving the benefits she had been receiving from the VA. On February 21, 1992, Mrs. Fredenberger sent a letter to the VA, informing the VA that Ms. Martin had died, but the VA continued depositing the benefits on a monthly basis.

By late 1992, Mrs. Fredenberger had begun making withdrawals by writing checks on the account to the defendant, who endorsed the checks and deposited them into the Fredenberger's joint account. On many of the checks, Mrs. Fredenberger wrote "loan" on the memo section of the check, but there were no loan

documents completed. During 1994, 1995, and 1996, Mrs.

Fredenberger withdrew money from Ruby Martin's account at Patriot Bank by writing checks payable to the defendant. During those three years, Mrs. Fredenberger withdrew respectively \$12,485, \$13,900, and \$7,000, which constituted income to her.

During 1994, 1995, and 1996, the defendant and his wife were residents of Stafford County, Virginia. Mrs. Fredenberger was employed in 1994 by Stat Temp, Inc., in 1995 by Stat Temp, Inc. and Stafford County, and in 1996 by Stafford County. During those three years, she earned respectively from her employment \$3,712, \$12,772, and \$13,959. She also earned four dollars in interest in 1994, five dollars in 1995, and \$18 in 1996.

Mrs. Fredenberger filed personal income tax returns with the IRS for 1994, 1995, and 1996. Each year she filed under the status of being married, but filing separately. The defendant filed no personal income tax returns for those years; however, he prepared his wife's returns. On each of the three returns, the defendant showed his wife's income from her employment and interest payments, but did not include the income obtained by withdrawing money from Ruby Martin's account.

As a result, the defendant prepared false and fraudulent personal income tax returns for his wife for 1994, 1995, and 1996. The three returns showed respectively gross income of \$3,716, \$12,777, and \$13,977; when in fact the true gross income amounts for Mrs. Fredenberger were \$16,200, \$26,676, and \$20,977. The three returns showed respectively taxable income of \$3,716,

\$12,308, and \$11,428; when in fact the true taxable income amounts for Mrs. Fredenberger were \$10,575, \$20,901, and \$15,077. The three returns showed respectively that the tax amounts were \$559, \$1,849, and \$1,714; when in fact the correct tax amounts were \$1,586, \$3,324, and \$2,261.

At the time the defendant prepared the false returns for his wife, he knew about the additional income to his wife from the Ruby Martin account and knew that the returns he prepared for her, which did not account for that income, were false and fraudulent.

Although the defendant personally earned income and was required to file personal tax returns with the IRS for the years 1985 through 1996, he did not file tax returns for any of those years. During 1993 through 1996, the defendant was an attorney who was retained by the National Mediation Board to arbitrate matters involving the transportation industry. During 1993 through 1996, he was paid respectively for his arbitration work amounts totaling \$57,706, \$64,693, \$51,704, and \$58,704. The Internal Revenue Service has calculated that if the defendant had filed returns for those years jointly with his wife, and they had taken the deductions and exemptions most favorable to them, their personal income tax for the four years would have totaled \$30,226.

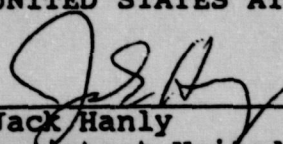
The defendant and his wife, however, paid only \$4,122 in federal personal income taxes for the years 1993 through 1996. Accordingly, the defendant willfully failed to pay \$26,104 that

he and his wife owed the IRS.

Respectfully submitted,

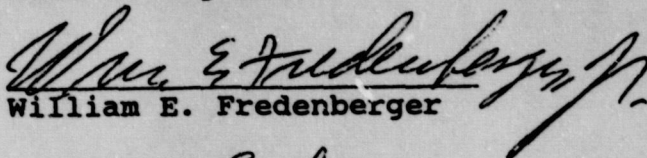
HELEN F. FAHEY
UNITED STATES ATTORNEY

By:

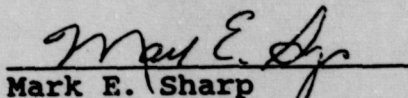


Jack Hanly
Assistant United States Attorney
Virginia State Bar No. 23969

Seen and agreed:



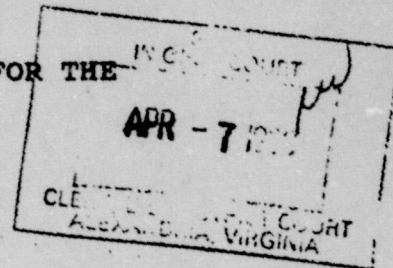
William E. Fredenberger



Mark E. Sharp
Counsel for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA)

v.)

WILLIAM E. FREDENBERGER)

Criminal No. 99-134-A

PLEA AGREEMENT

Helen F. Fahey, United States Attorney for the Eastern District of Virginia, and Jack Hanly, Assistant United States Attorney, and the defendant, WILLIAM E. FREDENBERGER, and the defendant's counsel, Mark E. Sharp, pursuant to Rule 11(e) of the Federal Rules of Criminal Procedure, have entered into an agreement, the terms and conditions of which are as follows:

1. The defendant, WILLIAM E. FREDENBERGER agrees to waive indictment and plead guilty to a one count criminal information filed with this agreement. The information charges the defendant with assisting in the preparation of a fraudulent personal income tax return, in violation of Title 26, United States Code, Section 7206(2). The maximum penalty for this offense is a maximum term of three years of imprisonment, a fine of \$250,000, full restitution, a special assessment, and one year of supervised release. The defendant is aware that this supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

3. The Court may, pursuant to Section 5E1.2(d)(7) of the Sentencing Guidelines and Policy Statements, order the defendant to pay a fine sufficient to reimburse the government for the costs of any imprisonment, term of supervised release and probation, if any is ordered. The defendant agrees: (a) that any monetary penalty that the Court imposes, including the special assessment, fine, costs or restitution, is due and payable immediately; (b) to submit a completed Financial Statement of Debtor form as requested by the United States Attorney's Office; (c) that the Financial Litigation Unit in the United States Attorney's Office may receive disclosure of all matters occurring before the grand jury in this and related cases; and (d) to make no attempt to avoid or delay paying any monetary penalty through any bankruptcy proceeding.

The defendant agrees, pursuant to 18 U.S.C. § 3663(a)(3), to make restitution to the United States Veteran's Administration in the amount of \$58,272. The defendant consents to the entry of a separate civil judgment in an amount equal to the amount of restitution that the Court imposes in this criminal action. Any amount due a victim under the Court's Order of Restitution shall be reduced by any amount that a victim recovers for the same losses in the separate civil judgment.

4. The defendant is aware that the defendant's sentence will be imposed in accordance with the Sentencing Guidelines and Policy Statements. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is also aware that any estimate of the probable sentencing range under the sentencing guidelines that the defendant may have received from the defendant's counsel, the United States, or the probation office, is a prediction, not a promise, and is not binding on the United States, the probation office, or the Court. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence. The defendant is aware that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed.

Acknowledging all this, the defendant knowingly waives the right to appeal any sentence within the maximum provided in the statute of conviction (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b).

5. The United States will not further criminally prosecute defendant in the Eastern District of Virginia for the specific conduct described in the information or statement of facts. Except where specifically noted, this plea agreement binds only the United States Attorney's Office for the Eastern District of Virginia and the defendant; it does not bind any other prosecutor in any other jurisdiction.

6. The defendant represents to the Court that defendant is satisfied that defendant's attorney has rendered effective assistance. Defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

a. If the defendant persisted in a plea of not guilty to the charges, defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the defendant, the United States and the judge all agree.

b. If a jury trial is conducted, the jury would be composed of twelve laypersons selected at random. The defendant and defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed

that the defendant is presumed innocent, that it could not convict the defendant unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.

c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established the defendant's guilt beyond a reasonable doubt.

d. At a trial, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence in defendant's own behalf. If the witnesses for the defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court.

e. At a trial, the defendant could rely on a privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from the refusal to testify. If the defendant desired to do so, the defendant could testify in the defendant's own behalf.

7. This plea agreement is conditioned upon the Court accepting the guilty plea of the defendant's wife, Shelby G. Fredenberger, to one count of fraudulently obtaining benefits from the United States Veteran's Administration, in violation of

Title 38, United States Code, Section 6102(b), on the same date that the Court accepts the defendant's guilty plea pursuant to this agreement.

8. The accompanying Statement of Facts signed by the defendant is hereby incorporated into this plea agreement. Defendant adopts the Statement of Facts and agrees that the facts therein are accurate in every respect and that had the matter proceeded to trial, the United States would have proved those facts beyond a reasonable doubt.

9. The defendant agrees to file true and correct tax returns for the years 1993 through 1996 within sixty days of the date of his guilty plea and to pay all taxes, interest and penalties for the years in accordance with a plan to be worked out with the Internal Revenue Service.

10. The defendant also agrees to make all books, records and documents available to the Internal Revenue Service for use in computing defendant's taxes, interest and penalties for the years 1993 through 1996.

11. If the defendant fails in any way to fulfill completely all of the obligations under this plea agreement, the United States may seek release from any or all its obligations under this plea agreement.

12. If the defendant fails to fulfill the obligations under this plea agreement, the defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of


Criminal Procedure, or any other federal rule, that defendant's statements pursuant to this agreement or any leads derived therefrom, should be suppressed or are inadmissible.

13. Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence. The proceeding established by this paragraph does not apply, however, to the United States' decision whether to file a motion based on "substantial assistance" as that phrase is used in Rule 35(b) of the Federal Rules of Criminal Procedure and Section 5K1.1 of the Sentencing Guidelines and Policy Statements. The defendant agrees that the decision whether to file such a motion rests in the United States' sole discretion.

14. This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The United States has made no promises or representations except as set forth in writing in this plea agreement. The defendant acknowledges that no threats have been made against the defendant and that the defendant is pleading guilty freely and voluntarily because the defendant is guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

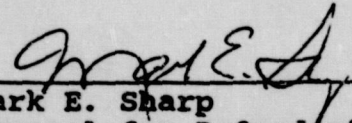
15. Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to the provisions of the Sentencing Guidelines and Policy Statements which may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and I voluntarily agree to it.

Date: 4/7/99


WILLIAM E. FREDENBERGER
Defendant

16. Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending information. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

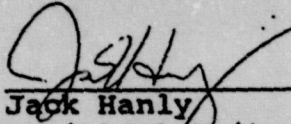
Date: 4-7-99


Mark E. Sharp
Counsel for Defendant

7
Respectfully submitted,

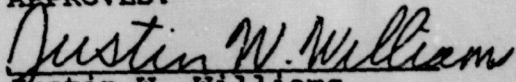
HELEN F. FAHEY
UNITED STATES ATTORNEY

By:



Jack Hanly
Assistant United States Attorney

APPROVED:


Justin W. Williams
Chief, Criminal Division
PREPLEA.54

Date:

3/17/99

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

Criminal No. 99-134

WILLIAM FREDENBERGER

DEFENDANT'S POSITION ON SENTENCING FACTORS

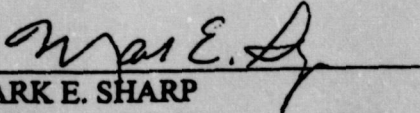
The Defendant does not object to the United States Probation Officer's determination that the Defendant's sentencing guideline range is 10 to 16 months imprisonment and a fine of \$3000 to \$30,000.

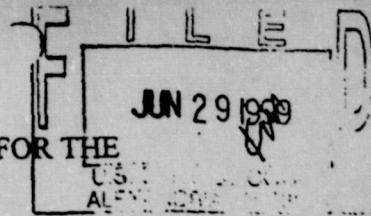
WILLIAM FREDENBERGER

BY COUNSEL

CULIN, SHARP & AUTRY

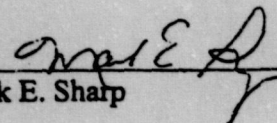
By:


MARK E. SHARP
4124 Leonard Drive
P. O. Box 3215
Fairfax, Virginia 22038-3215
Virginia Bar No. 18727
(703) 934-2940
COUNSEL FOR DEFENDANT



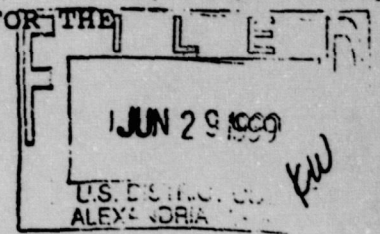
CERTIFICATE

I hereby certify that I mailed a copy of the foregoing to the Office of the United States Attorney 2100 Jamieson Avenue, Alexandria, VA 22314 by facsimile and by first class United States mail this 29th day of June, 1999.



Mark E. Sharp

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA

v.

WILLIAM FREDENBERGER

Criminal No. 99-134

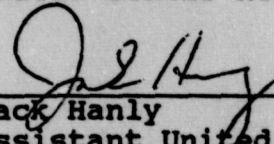
GOVERNMENT'S POSITION ON SENTENCING FACTORS

The United States does not object to the United States Probation Officer's determinations that the defendant's sentencing guideline range is 10 to 16 months imprisonment and a fine of \$3,000 to \$30,000.

Respectfully submitted,

HELEN F. FAHEY
UNITED STATES ATTORNEY

By:



Jack Hanly
Assistant United States Attorney
Virginia State Bar No. 23969

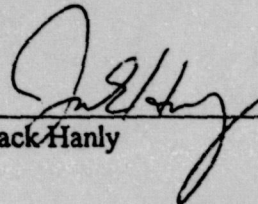
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing document was sent by First Class Mail

and Facsimile to counsel listed below:

Mark E. Sharp, Esquire
Culin & Sharp
4122 Leonard Drive
P. O. Box 3215
Fairfax, Virginia 22038-3215
Facsimile: 703-934-2943

This 29 day of June 1999.



Jack Hanly

Date: JUL 11, 1999 Judge: JACHERIS
Time: 9:00 to _____

Reporter: MR COY
Interpreter: _____
Language: _____

UNITED STATES of AMERICA
Vs.

Docket Book: _____
Prob. Copies: _____
PTS Copies: _____
AUSA Copies: _____

WILLIAM E. FREDENBERGER CR 99-134-A
Defendant's Name Case Number

MARK SHARP
Counsel for Defendant

JACK HANLY
Counsel for U.S.

Matter called for:

() Motions () Setting Trial Date () Change of Plea Hrg. () Plea
() Arraignment () Appeal from USMC (X) Sentencing () Rule 20 & Plea
() Probation/Supervised Release Hrg. () Pre-Indictment Plea () Other: _____

Defendant appeared: () in person () no
() with Counsel () without Counsel () through counsel

Filed in open court:

() Criminal Information () Plea Agreement () Statement of Facts () Waiver of Indictment

Arraignment & Plea:

() WFA () FA () PG () PNG Trial by Jury: () Demanded () Waived

_____ Days to file Motions with Argument on _____ at _____.

Defendant entered Plea of Guilty as to Count(s) _____

Motion for Dismissal of Count(s) _____ () by U.S. () by Deft.

() Order entered in open court () Order to follow

Defendant directed to USPO for PSI: () Yes () No

Case continued to _____ at _____ for: () Jury Trial

() Bench Trial () Pre-Guidelines Sentencing () Guidelines Sentencing

() Guidelines Policy Statement given

Fine Imposed: \$ _____ payable: _____.

Defendant is committed to the BOP for a period of: 5 Months; with the following

recommendations: 1 yr SR w/ SC spend 5 mos in home detention

w/ elec monitoring at his expense, Rest. in the amt of
P58, 272.00 due & payable in 12 mos. payments of \$400.00
per mo. Commencing 60 days from release, no new
credit charges, provide access to fin. inst. file
time & correct tax forms for 1993 thru 1996 & pay

All Exhibits must be filed with the Clerk _____ days prior to trial.

Bond Set at: \$ _____ () Unsecured () Surety () Personal Recognizance

() Release Order Entered () Deft. Remanded () Deft. Released on Bond () Deft. Detained

Defendant is: () In Custody () On bond () Summons Issued () Warrant Issued

all taxes, interest & penalties for these PSIR adepts
given in accordance with a plan to be 12-1
worked out with IRS. ment. Aug 10-16
testing / treat susp. pursuant to
18 USC
112 sentence

SENTENCING SHEET

US v. Frederick

Criminal No. 99-134

Charge: ASST Mgr of INCOME TAX

Offense Level: 12

Criminal History: 1

Guideline range: 10-16

Committed to BOP for
Supervised release
Special Conditions

5 months *months*
1 years *5 yr home confinement / 12 hr curfew*
_____ drug testing/treatment

_____ alcohol testing/treatment
_____ mental health counseling
_____ credit line/card restriction

Fine: *Provide Financial statement & pay 1965-1966 tax to IRS*
_____ Defendant **unable** to pay
_____ Defendant to Pay
Range: 3,500 - 34,000

Special Assessment:

Restitution: 18:3663t 58,272 *U.S. Dept of VET Affs due now*
450 @ no community 60 days upon return

Cost of Supervised release ☒ Defendant **unable** to pay
_____ Defendant to pay

Cost of incarceration ☒ Defendant **unable** to pay
_____ Defendant to Pay

Reasons: _____ Punishment/deterrence

Downward Departure:

Miscellaneous Remarks: V.S.

Date: 4/7/99 Judge: Cacheris
Time: 9:10 to 9:22

Report: unnell
Interpreter: _____
Language: _____

UNITED STATES of AMERICA
Vs.

Docket Book: _____
Prob. Copies: 2
PTS Copies: 1
AUSA Copies: _____

William E. Fredenberger
Defendant's Name

CR 99-134-A
Case Number

Mark Sharp
Counsel for Defendant

Jack Hanley
Counsel for U.S.

56 years old.

Matter called for:

() Motions () Setting Trial Date () Change of Plea Hrg. () Plea
() Arraignment () Appeal from USMC () Sentencing () Rule 20 & Plea
() Probation/Supervised Release Hrg. () Pre-Indictment Plea () Other: _____

Defendant appeared: () in person () no
() with Counsel () without Counsel () through counsel

Filed in open court:
() Criminal Information () Plea Agreement () Statement of Facts () Waiver of Indictment

Arraignment & Plea:
() WFA () VFA () PG () PNG Trial by Jury: () Demanded () Waived

_____ Days to file Motions with Argument on _____ at _____.

Defendant entered Plea of Guilty as to Count(s) The Criminal Information.
Motion for Dismissal of Count(s) _____ () by U.S. () by Deft.

() Order entered in open court () Order to follow

Defendant directed to USPO for PSI: () Yes () No

Case continued to 7/1/99 at 9:00 for: () Jury Trial

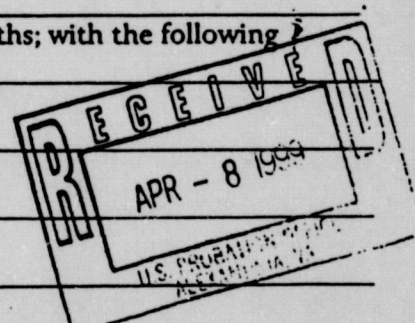
() Bench Trial () Pre-Guidelines Sentencing () Guidelines Sentencing

() Guidelines Policy Statement given

Fine Imposed: \$ _____ payable: _____

Defendant is committed to the BOP for a period of: _____ Months; with the following recommendations: _____

Plea Accepted.



All Exhibits must be filed with the Clerk _____ days prior to trial.

Bond Set at: \$ 10,000.00 () Unsecured () Surety () Personal Recognizance

() Release Order Entered () Deft. Remanded () Deft. Released on Bond () Deft. Detained

Defendant is: () In Custody () On bond () Summons Issued () Warrant Issued

Date: 4/7/99 Judge: Tacheris
Time: 9:10 to 9:22

Reporter: Tinnell
Interpreter: _____
Language: _____

UNITED STATES of AMERICA
Vs.

Docket Book: ☒
Prob. Copies: 2
PTS Copies: 2
AUSA Copies: _____

William E. Fredenberger
Defendant's Name

CR 99-134-A
Case Number

Mark Sharp
Counsel for Defendant

Jack Hanley
Counsel for U.S.

56 years old.
Matter called for:

() Motions () Setting Trial Date () Change of Plea Hrg. () Plea
() Arraignment () Appeal from USMC () Sentencing () Rule 20 & Plea
() Probation/Supervised Release Hrg. () Pre-Indictment Plea () Other: _____

Defendant appeared: () in person () no
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() Release Order Entered () Deft. Remanded () Deft. Released on Bond () Deft. Detained

Defendant is: () In Custody () On bond () Summons Issued () Warrant Issued

Criminal Case Cover Sheet

U.S. District Court

Place of Offense:City Stafford, VA**Related Case Information:**

County/Parish _____

Superseding Indictment _____

Docket Number _____

Same Defendant _____

New Defendant X

Magistrate Judge Case Number _____

Search Warrant Case Number _____

R 20/R 40 from District of _____

Defendant Information:Juvenile -- Yes _____ No X If Yes, Matter to be sealed: Yes _____ No _____Defendant Name William E. Fredenberger

Alias Name _____

Address 110 Greenfield Rd., Stafford, VA 22554Birthdate _____ SS# 408-64-2823 Sex M Race _____ Nationality _____Interpreter: X No ☐ Yes List language and/or dialect: _____**Defense Counsel:**Name: Mark E. Sharp, EsquireAddress: 4122 Leonard Dr., PO Box 3215, Fairfax, VA 22038-3215Telephone: 703-934-2940**Location Status:**

Arrest Date _____

☐ Already in Federal Custody as of _____ in _____Already in State Custody (Lorton Reformatory)**On Pretrial Release**

Not in Custody

☐ Arrest Warrant Requested☐ Summons Requested☐ Bond _____☐ Detention Sought**U.S. Attorney Information:**AUSA Jack Hanly Bar # 23969**Complainant Agency or Person (& Title, if any):**Albert McKay, VA OIG**U.S.C. Citations**Total # of Counts: 1 ☐ Petty ☐ Misdemeanor ☒ Felony

<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count(s)</u>
Set 1 <u>26 USC 7206(2)</u>	<u>Prepare fraudulent tax return</u>	<u>1</u>
Set 2 _____	_____	_____
Set 3 _____	_____	_____
Set 4 _____	_____	_____

(May be continued on reverse)

Date: 4-6-99 Signature of AUSA: [Signature]

UNITED STATES DISTRICT COURT

Eastern District of Virginia

UNITED STATES OF AMERICA

v.

WILLIAM E. FREDENBERGER

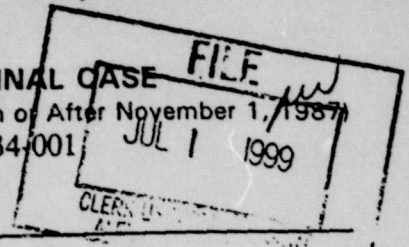
JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 1:99CR00134-001

Mark E. Sharp, Esquire

Defendant's Attorney



THE DEFENDANT:

- ☒ pleaded guilty to count(s) One Count Criminal Information
☐ pleaded nolo contendere to count(s) _____
 which (was) (were) accepted by the court.
☐ was found guilty on count(s) _____
 after a plea of not guilty.

Title & Section	Nature of Offense	Date Offense Concluded	Count Numbers
26 USC § 7206(a)	False statements in aid of preparation of income tax forms	4/15/96	

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) _____
☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

IT IS FURTHER 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.

Defendant's Soc. Sec. No.: 405-56-0836

Defendant's Date of Birth: 9-5-42

Defendant's USM No.: unknown

Defendant's Mailing Address:
110 Greenfield Road
Stafford, Virginia 22554

Defendant's Residence Address:
110 Greenfield Road
Stafford, Virginia 22554

July 1, 1999

Date of Imposition of Judgment

Signature of Judicial Officer

James C. Cacheris
 U.S. District Judge

Name & Title of Judicial Officer

July 1, 1999

Date

4/5

DEFENDANT: WILLIAM E. F. DENBERGER
CASE NUMBER: 1:99CR00134-001

Judgment - Page 2 of 7 Pages

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of five(5) months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The defendant be allowed to voluntary surrender.

☐ The defendant is remanded to the custody of the United States Marshal.

☒ The defendant shall surrender to the United States Marshal for this district.

☐ at _____ a.m./p.m. on _____.

☒ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy Marshal

DEFENDANT: WILLIAM E. F. DENBERGER
CASE NUMBER: 1:99CR00134-001

Judgment - Page 3 of 7 Pages

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of one(1) year with special condition deft. serve 5 months in home confinement with electronic monitoring and pay the expenses incurred for same.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

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

While on supervised release, the defendant shall not illegally possess a controlled substance.

While on supervised release, the defendant shall not possess a firearm or destructive device.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Financial Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the following additional conditions:

The defendant shall not incur new credit card charges or open additional lines of credit without the approval of the probation officer.

The defendant shall provide the probation officer with access to requested financial information.

The defendant shall file true and correct tax returns for the years 1993 through 1996 and pay all taxes, interest and penalties for these years in accordance with a plan to be worked out with Internal Revenue Service.

Mandatory drug testing/treatment is suspended unless so ordered by the Probation office.

DEFENDANT: WILLIAM E. FREDENBERGER
CASE NUMBER: 1:99CR00134-001

Judgment - Page 4 of 7 Pages**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 within 72 hours of 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 narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by 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 of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two 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.

DEFENDANT: WILLIAM E. 1 EDENBERGER
CASE NUMBER: 1:99CR00134-001

Judgment - Page 5 of 7 Pages

FINANCIAL PENALTIES

The defendant shall pay the following total financial penalties in accordance with the schedule of payments set out below.

<u>Count</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
	\$100.00	0	\$58,272.00
<u>Totals:</u>	\$100.00	0	\$58,272.00

FINE

No fines have been imposed in this case.

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>	<u>Priority Order of Payment</u>
U.S. Department of Veterans Affairs Washington, D.C.	\$58,272.00	1

Each restitution payment shall be divided proportionately among the payees named unless specified in the priority payment column above.

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

The total fine and other monetary penalties shall be due as follows:

- ☒ in full immediately. However, restitution may be paid in monthly increments of \$400.00 per month, commencing 60 days from his release from incarceration.
- ☐ in full not later than _____.
- ☐ in _____ installments of \$_____ over a period of _____ months to commence 30 days after the date of this judgment. If this judgment imposes a period of incarceration, payment shall be due during the period of incarceration.
- ☐ in installments to commence 30 days after the date of this judgment. If this judgment imposes a period of incarceration, payment shall be due during the period of incarceration. During a period of probation or supervised release supervision payment of any unpaid balance shall be a condition of supervision and the U.S. probation officer shall establish and may periodically modify the payment schedule provided that the entire financial penalty is paid no later than the termination of supervision but in no event no later than 5 years after release from incarceration.

☐ The defendant shall pay the costs of prosecution.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States.

All financial penalty payments are to be made to the Clerk of Court, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary).

Guideline Range Determined by the Court:

Total Offense Level: 12

Criminal History Category: I

Imprisonment Range: 10 to 16 months

Supervised Release Range: 1 year.

Fine Range: \$ 3,000.00 to \$ 30,000.00

☒ Fine waived or below the guideline range because of inability to pay.

Restitution: \$ 58,272.00

☐ Full restitution is not ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

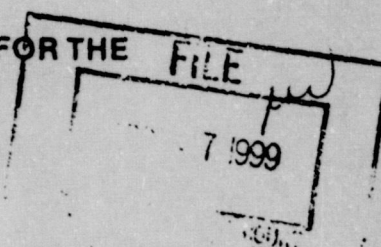
OR

☐ The sentence departs from the guideline range.

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



UNITED STATES OF AMERICA

-v-

WILLIAM E. FREDENBERGER
Defendant.

CRIMINAL NO. 99-134-A

RELEASE ORDER PURSUANT TO
18 U.S.C. § 3142 (b) or (c)

Upon the defendant's appearance and application for bond, it is ORDERED that:

1. The defendant shall be released upon the following conditions:

a. That he appear in this court for trial at 10:00 a.m., on _____, 19____,
for sentencing at 9:00 a.m., on July 1, 1999,
for the argument of any motions at 9:00 a.m., on _____, 19____,
and at such other times as the court may direct; and that he shall not depart without leave of court.

b. That he not commit any federal, state or local crime during the period of his release.

c. That he not leave this district except _____

d. That he enter into an unsecured personal recognizance bond in the amount of \$ 10,000.00.

And upon the following conditions, if checked:

☐ e. That he remain in the custody of _____, who by his endorsement of this order not only agrees to supervise him and to report any violation of a release condition to the court, but also assures the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community.

☐ f. That he maintain employment, or, if unemployed, actively seek employment.

☐ g. That he maintain or commence an educational program.

☐ h. That he abide by specified restrictions on his personal associations, place of abode, or travel.

☐ i. That he avoid all contact with _____, the alleged victim of the crime, and with any potential witnesses who may testify concerning the offense.

☐ j. That he report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency.

☐ k. That he comply with a specified curfew.

☐ l. That he refrain from possessing any firearm, destructive device, or other dangerous weapon.

☐ m. That he refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802), without a prescription by a licensed medical practitioner.

☐ n. That he undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose.

- ☐ o. That he post bond in the amount of \$ _____; however the defendant may meet the terms of this bond by posting 10% thereof with the clerk.
- ☐ p. That he execute a bail bond with cash or surety approved by the clerk in the amount of \$ _____
- ☐ q. That he return to custody for specified hours following release for employment, schooling, or other limited purposes.
- ☐ r. That he surrender his passport to the clerk.
- ☐ s. Other: _____
- _____
- _____

2. The defendant is hereby advised:

a. That the penalties for violating a condition of release are as follows:

(1) For knowingly failing to appear on the dates for trial and argument of motions, above set forth, or on any date to which these occurrences are continued, or for failing to surrender for service of any sentence imposed:

A. If the offense with which he is charged is punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, he shall be fined not more than \$25,000, or imprisoned for not more than 10 years, or both.

B. If the offense with which he is charged is punishable by imprisonment for a term of 5 or more years, but less than 15 years, he shall be fined not more than \$10,000, or imprisoned for not more than 5 years, or both.

C. If the offense with which he is charged is any felony other than described in A or B, he shall be fined not more than \$5,000, or imprisoned for not more than 2 years, or both.

D. If the offense with which he is charged is a misdemeanor he shall be fined not more than \$2,000 or imprisoned for not more than 1 year, or both.

E. That any sentence of imprisonment imposed under A through D shall be in addition to any term of imprisonment he may receive on the offenses with which he is now charged.

(2) For committing an offense while on release:

A. A term of imprisonment of not less than two years and not more than ten years if the offense is a felony.

B. A term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

C. That any sentence of imprisonment imposed under A and B shall be in addition to any term of imprisonment he may receive on the offenses with which he is now charged.

b. That if he violates a condition of release imposed by this order, the defendant is subject to (1) the immediate issuance of a warrant for his arrest, (2) a revocation of his release, (3) an order detaining him, i.e., incarcerating him, pending trial, and (4) a prosecution for contempt of court.

c. That under the provisions of 18 U.S.C. § 1503, it is a separate federal offense for any person to endeavor to influence, intimidate, impede, or injure any grand or petit juror or officer of a United States Court in the discharge of their duty, or in any way obstruct the due administration of justice. If found guilty of committing such an offense, the defendant could be imprisoned for as long as 5 years or pay a fine of up to \$5,000, or both.

d. That under the provisions of 18 U.S.C. § 1510, it is a separate federal offense for any person to endeavor by means of bribery to obstruct, delay, or prevent the communication of information relating to a federal offense by any person to a criminal investigator. If found guilty of committing such a separate offense, the defendant could be imprisoned for as long as 5 years, or pay a fine of up to \$5,000, or both.

e. That under the provisions of 18 U.S.C. § 1512, it is a separate federal offense for any person to intimidate, use physical force, threaten, or engage in misleading conduct toward another person, with intent to:

(1) Influence the testimony of any person in an official proceeding.

- (2) Cause or induce any person to
- A. Withhold testimony or any record, document, or other object from an official proceeding.
 - B. Alter, destroy, mutilate, or conceal an object with intent to impair that object's integrity or availability for use in an official proceeding;
 - C. Evade legal process summoning that person to appear as a witness or to produce a record, document, or other object in an official proceeding; or
 - D. Be absent from an official proceeding to which such person has been summoned by legal process.

(3) Hinder, delay or prevent the communication to a law enforcement officer or United States judge of information relating to the commission or possible commission of a federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings.

If found guilty of committing such an offense or of attempting to do so, the defendant could be imprisoned for as long as 10 years, or pay a fine of up to \$250,000, or both.

f. That also under the provisions of 18 U.S.C. § 1512, it is a separate federal offense to intentionally harass another person and thereby hinder, delay, prevent, or dissuade any person from:

- (1) Attending or testifying in any official proceeding.
- (2) Reporting to a law enforcement officer or United States judge the commission or possible commission of a federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

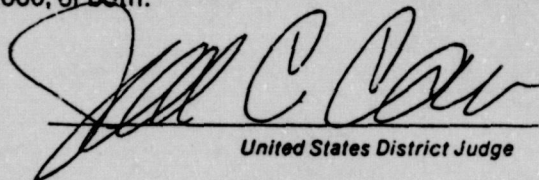
- (3) Arresting or seeking the arrest of another person in connection with a federal offense; or
- (4) Causing a criminal prosecution, or a parole or probation revocation proceeding to be sought or instituted, or assisting in such prosecution or proceeding.

For a violation of these provisions of 18 U.S.C. § 1512, or an attempt to do so, the defendant could be imprisoned for as long as 1 year, or pay a fine of up to \$25,000, or both.

g. That under the provisions of 18 U.S.C. § 1513, it is a separate federal offense knowingly to engage in any conduct and thereby cause bodily injury to another person or damage the tangible property of another person, or threaten to do so, with intent to retaliate against any person for:

- (1) The attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding, or
- (2) Any information relating to the commission or possible commission of a federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer.

If found guilty of committing such an offense, or an attempt to do so, the defendant could be imprisoned for as long as 10 years, or pay a fine of up to \$250,000, or both.

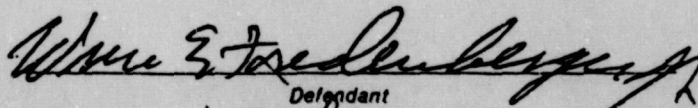

United States District Judge

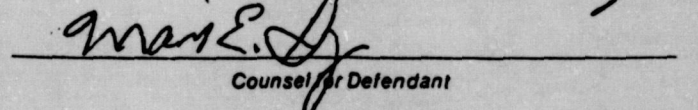
Alexandria, Virginia

Date:

April 7, 1999

I have read, or had read to me, the provisions of this order, and I understand them:


Defendant


Counsel for Defendant

Third Party Custodian

MYRON EXHIBIT 2

STB

FD-33388 (SUB92)

1-7-00

D

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OF

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O'Donnell, Schwartz & Anderson, P.C.

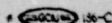
Counselors at Law

1900 L Street, N.W., Suite 707

Washington, D.C. 20036

(202) 898-1824

FAX (202) 429-8928



JOHN F. O'DONNELL
(1907-1993)

RICHARD S. EDELMAN*
OF COUNSEL

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*ALSO NY BAR
**ALSO PA AND MS BAR
***ALSO MD BAR
OALSO VA BAR
OOALSO PA BAR
OOOVA BAR ONLY

August 12, 1999

Mr. Stephen E. Crable
Chief of Staff
Ms. Judy A. Femi
FOIA Officer
National Mediation Board
1301 K Street, N.W., Suite 250E
Washington, DC 20572

Re: Freedom of Information Act Request

Dear Mr. Crable and/or Ms. Femi:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, I hereby request access to review certain agency records pertaining to William E. Fredenberger, Jr. that are described below.

I am requesting these records as counsel to a law firm which represents the Brotherhood of Maintenance of Way Employees, a union which has a substantial interest in obtaining information pertaining to Mr. Fredenberger.

Agency Records Requested

1. Any and all documents in the possession or control of the National Mediation Board (including any of its employees connected with the National Railroad Adjustment Board) dated, prepared or received since January 1, 1997

Aug 13 3 18 PM '99
NATIONAL MEDIATION BOARD

that were written by, or concern, or refer or relate to William E. Fredenberger, Jr.; but not including arbitration decisions, any NMB list of arbitrators or any panel of arbitrators.

2. Any and all documents in the possession or control of the National Mediation Board (including any of its employees connected with the National Railroad Adjustment Board) that were submitted to, or reviewed by the Federal Bureau of Investigation, the United States Department of Justice, the Internal Revenue Service, or any other law enforcement agency in connection with the criminal proceedings: *United States of America v. William E. Fredenberger*, E.D. VA, Criminal No. 99-134-A, or any investigation that related to those criminal proceedings, or any other criminal proceedings or criminal investigation concerning William E. Fredenberger, Jr.

3. Any and all documents in the possession or control of the National Mediation Board (including any of its employees connected with the National Railroad Adjustment Board) that constitute, reflect, or recount any internal communications among the members and/or employees of the NMB that relate in any way to the criminal proceedings: *United States of America v. William E. Fredenberger*, E.D. VA, Criminal No. 99-134-A, or any investigation that related to those criminal proceedings, or any other criminal proceedings or criminal investigation concerning William E. Fredenberger, Jr.

4. Any and all documents in the possession or control of the National Mediation Board (including any of its employees connected with the National Railroad Adjustment Board) that relate to William E. Fredenberger's use of an associate, colleague or assistant, or his invitation to any person to attend, the proceedings under Article I §4 of the *New York Dock* employee protective conditions held at the NMB's offices during the week of December 15, 1998: *Norfolk Southern Ry. Co., CSX Transportation, Inc.*

and Consolidated Rail Corp. and Brotherhood of Maintenance of Way Employees, Int'l B'hood of Boilermakers, B'hood Ry. Carmen/TCU, Int'l B'hood of Elect. Workers, Nat'l Conf. of Firemen & Oilers, Int'l Ass'n of Machinists, and Sheet Metal Workers Int'l Ass'n.

5. Any and all documents in the possession or control of the National Mediation Board that constitute, reflect, or recount any communications between members and/or employees of the NMB and members and/or employees of the Surface Transportation Board that relate in any way to William E. Friedenberger, Jr.

For purposes of this request, the term document expressly includes, but is not limited to the following: all writings of any kind, including the originals and all copies (including without limitation correspondence, memoranda, notes, diaries, letters, minutes, contracts, reports, checks, statements, receipts, summaries, inter-office and intra-office communications, notation of any sort of conversations, telephone calls, meetings or other communications, computer printouts, teletypes, telefaxes, invoices, worksheets, and electronic, mechanical or electrical records or representations of any kind (including without limitation tapes, cassettes, discs, recordings).

I assume that the NMB will furnish a response within 10 working days as provided by law. If this request is denied in whole or in part, please provide a detailed justification for withholding the requested records. In particular, to the extent that the Board believes that any document covered by this request is exempt from disclosure, I request that you specify the basis for the withholding of the document, and further that you identify the document withheld by date, author, addressee and general description of the subject matter. Additionally, to the extent that any exemption is claimed based upon portions of the document, I further request that you produce a redacted version of the document so that I may inspect the portions not alleged to be exempt from

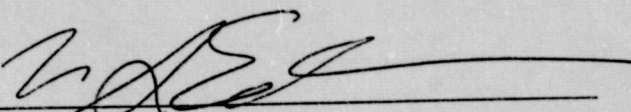
National Mediation Board
August 13, 1999
Page 4

disclosure; and that you provide a description of the allegedly exempt material and the basis for any claimed exemption.

Thank you in advance for your prompt attention to this matter.

Sincerely,

O'DONNELL, SCHWARTZ & ANDERSON, P.C.

By 
Richard S. Edelman

cc: Donald F. Griffin, BMW

The Honorable Linda Morgan, Chairman, STB
The Honorable William Clyburn, Vice Chairman, STB
The Honorable Wayne Burks, Member, STB



NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

September 10, 1999

(202) 692-5000

Richard S. Edelman, Esq.
O'Donnell, Schwartz & Anderson, P. C.
1900 L Street, N. W., Suite 707
Washington, DC 20036

Re: Freedom of Information Act Request;
FOIA File No. F-1141

Dear Mr. Edelman:

This is in response to your August 12, 1999, Freedom of Information Act (FOIA) request for copies of documents pertaining to William E. Fredenberger, Jr. Your request was received at the Board's offices on August 13, 1999.

We will address your request for the five (5) categories of information in the same order that they appeared in your letter of August 12, 1999.

Request Item 1: This request is granted except to the extent that the documents you are seeking disclose matters which are privileged from disclosure by Exemptions under the FOIA. Additional time is needed to locate or review all the responsive documents subject to this request to determine whether or not they are exempt from disclosure. The disclosable documents will be provided to you. We will withhold documents or portions of documents which fall within Exemption 5 (matters of attorney/client privilege and predecisional recommendations and analyses) and Exemption 6 (personnel, medical and similar files for which disclosure would constitute an unwarranted invasion of personal privacy. At this time we are sending the enclosed documents which were located during our preliminary search. These documents are being provided in their entirety.

Request Item 2: This request is granted except to the extent that the documents you are seeking disclose matters which are privileged from disclosure by Exemptions under the FOIA. We are unable to provide you with the documents you request this date because additional time is

required to process the documents for release. The disclosable documents or portions of documents will be provided to you. We will withhold documents or portions of documents which fall within Exemption 5 (matters of attorney/client privilege and predecisional recommendations and analyses) and Exemption 6 (personnel, medical and similar files for which disclosure would constitute an unwarranted invasion of personal privacy).

Request Item 3: The Board has no documents responsive to this request.

Request Item 4: The Board has no documents responsive to this request.

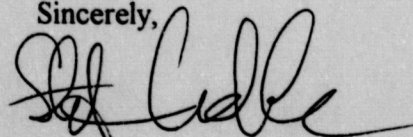
Request Item 5: The Board has no documents responsive to this request.

Any deletions of information will be indicated on the individual documents and the applicable exemptions and bases for withholding will be specified on the FOIA Deletion Record stapled to each document. As stated earlier, all reasonably segregable non-exempt portions will be disclosed.

The denial of access to any document or portion thereof in connection with your request may be appealed in writing to the Chairman, National Mediation Board, Washington, DC 20572 within 30 calendar days following your office's receipt or review of the documents provided by this Agency. If any denial is sustained upon appeal, judicial review would be available before a United States District Court having jurisdiction to conduct such review.

Should you have any questions regarding any further processing of your request, please contact this agency's FOIA Officer, Ms. Judy A. Femi at (202)692-5040.

Sincerely,



Stephen E. Crable
Chief of Staff



NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

(202) 692-5000

October 21, 1999

Richard S. Edelman, Esq.
O'Donnell, Schwartz & Anderson, P. C.
1900 L Street, N. W., Suite 707
Washington, DC 20036

Re: Freedom of Information Act Request;
FOIA File No. F-1141

Dear Mr. Edelman:

This is in further regard to your Freedom of Information Act request in the above-captioned matter.

Enclosed are additional documents applicable to your request. These documents are being provided to you without any deletions. We are continuing to process your request as promptly as practicable.

Sincerely,

Stephen E. Crable
Stephen E. Crable
Chief of Staff

-Enclosures-



NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

(202) 692-5000

November 17, 1999

Richard S. Edelman, Esq.
O'Donnell, Schwartz & Anderson, P.C.
1900 L Street, N.W., Suite 707
Washington, DC 20036

Re: Freedom of Information Act Request;
FOIA File No. F-1141

Dear Mr. Edelman:

I am enclosing additional documents responsive to your FOIA request. The basis for deletions or withholding of entire documents is specified on the FOIA Deletion Record.

The "substantial additional materials" mentioned in the General Counsel's Memorandum of September 25, 1997 to Andrea Maria Oliver cannot be identified. However, the source documents of this "substantial additional material" have been identified. For example, the source documents include various Pay Vouchers and Neutral's Report of Activity prior to 1997. These documents may be beyond the scope of your request. If you wish to examine these source documents, please contact Judy Femi at (202) 692-5040.

Sincerely,

Stephen E. Crable
Chief of Staff

-Enclosures-

SEC/jaf



(202) 523-5920

NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

- VIA FEDERAL EXPRESS -

- MEMORANDUM -

May 30, 1997

TO: Andrea Maria Oliver
Special Agent
Criminal Investigation Division
Internal Revenue Service

FROM: Ronald M. Etters
General Counsel

SUBJECT: Summons (Form 2039) Returnable May 30, 1997 (Re: William E. Fredenberger, Jr.)

In response to the subject summons, we have searched for applicable documents. At least initially we have identified and enclosed Forms 1099 covering the years 1991-1996. In addition, we have enclosed a number of NMB Forms 1002 (Neutral's Report of Activity) which identifies the days compensation was claimed for the particular arbitral tribunals. Other records relating to the taxpayer have been archived or otherwise require additional searching to locate and produce. We will do so and provide them to you promptly.

I appreciate your authorizing production by mail - it saved the government substantial expenses. feel free to contact me if you have any questions about the enclosed documents or other matters ((202) 523-5944).

-Enclosures-

[IRSI.597]



NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

- VIA FEDERAL EXPRESS -

- MEMORANDUM -

September 25, 1997

TO: Andrea Maria Oliver
Special Agent
Criminal Investigation Division
Internal Revenue Service

FROM: Ronald M. Etters
General Counsel

SUBJECT: Documents Requested by IRS-William E. Fredenberger, Jr.

Based on your earlier request for financial documents associated with this particular NMB contractor, I have enclosed substantial additional materials. Please contact me if there additional agency documents necessary for your official duties in this matter.

-Enclosures-

[IRSI.997]

O'Donnell, Schwartz & Anderson, P. C.

Counselors at Law

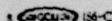
1300 L Street, N.W., Suite 707

Washington, D. C. 20036

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JOHN F. O'DONNELL
(1907-1993)

RICHARD S. EDELMAN*
OF COUNSEL

*1300 L Street, N.W.
Suite 1200
Washington, D. C. 20005*

(202) 898-1707

*ALSO NY BAR
**ALSO PA AND MS BAR
***ALSO MD BAR
OALSO VA BAR
OOALSO PA BAR
OOOVA BAR ONLY

August 12, 1999

Mr. John Atkisson
FOIA Officer
Surface Transportation Board
1925 K Street, N.W., Suite 700
Washington, DC 20423-0001

Re: Freedom of Information Act Request

Dear Mr. Atkisson:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, I hereby request access to review certain agency records pertaining to William E. Fredenberger, Jr. that are described below.

I am requesting these records as counsel to a law firm which represents the Brotherhood of Maintenance of Way Employees, a union which has a substantial interest in obtaining information pertaining to Mr. Fredenberger, Jr.

Agency Records Requested

1. Any and all documents in the possession or control of the Surface Transportation Board dated, prepared or received since January 1, 1997 that were written by, or concern, or refer or relate to William E. Fredenberger, Jr.; but not including arbitration decisions, or

petitions for review or replies to petitions for review of arbitration decisions.

2. Any and all documents in the possession or control of the Surface Transportation Board that were submitted to, or reviewed by the Federal Bureau of Investigation, the United States Department of Justice, the Internal Revenue Service, or any other law enforcement agency in connection with the criminal proceedings: *United States of America v. William E. Fredenberger*, E.D. VA, Criminal No. 99-134-A, or any investigation that related to those criminal proceedings, or any other criminal proceedings or criminal investigation concerning William E. Fredenberger, Jr.

3. Any and all documents in the possession or control of the Surface Transportation Board that constitute, reflect, or recount any internal communications among the members and/or employees of the STB that relate in any way to the criminal proceedings: *United States of America v. William E. Fredenberger*, E.D. VA, Criminal No. 99-134-A, or any investigation that related to those criminal proceedings, or any other criminal proceedings or criminal investigation concerning William E. Fredenberger, Jr.

4. Any and all documents in the possession or control of the Surface Transportation Board that constitute, reflect, or recount any communications between members and/or employees of the STB and members and/or employees of the National Mediation Board that relate in any way to William E. Fredenberger, Jr.

For purposes of this request, the term document expressly includes, but is not limited to the following: all writings of any kind, including the originals and all copies (including without

Surface Transportation Board

August 13, 1999

Page 3

limitation correspondence, memoranda, notes, diaries, letters, minutes, contracts, reports, checks, statements, receipts, summaries, inter-office and intra-office communications, notation of any sort of conversations, telephone calls, meetings or other communications, computer printouts, teletypes, telefaxes, invoices, worksheets, and electronic, mechanical or electrical records or representations of any kind (including without limitation tapes, cassettes, discs, recordings).

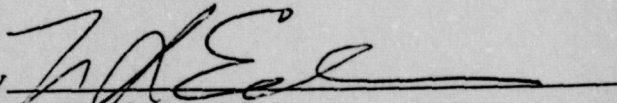
I assume that the STB will furnish a response within 10 working days as provided by law. If this request is denied in whole or in part, please provide a detailed justification for withholding the requested records. In particular, to the extent that the Board believes that any document covered by this request is exempt from disclosure, I request that you specify the basis for the withholding of the document, and further that you identify the document withheld by date, author, addressee and general description of the subject matter. Additionally, to the extent that any exemption is claimed based upon portions of the document, I further request that you produce a redacted version of the document so that I may inspect the portions not alleged to be exempt from disclosure; and that you provide a description of the allegedly exempt material and the basis for any claimed exemption.

Thank you in advance for your prompt attention to this matter.

Sincerely,

O'DONNELL, SCHWARTZ & ANDERSON, P.C.

By


Richard S. Edelman

cc: Donald F. Griffin, BMW

The Honorable Linda Morgan, Chairman, STB

The Honorable William Clyburn, Vice Chairman, STB

The Honorable Wayne Burks, Member, STB

Will c/o Vernon A. Williams - Secretary



Surface Transportation Board
Washington, D.C. 20423-0001

(202) 565-1710

August 26, 1999

Richard S. Edelman, Esq.
O'Donnell Schwartz & Anderson, P.C.
1900 L Street, NW
Washington, DC 20036

RE: FOIA REQUEST No. 99-014

Dear Mr. Edelman:

With reference to your Freedom of Information Act request, please be advised that after searching our records we are unable to locate any material on the subject matter in question.

Please advise if we may assist you further.

Sincerely,

JOHN M. ATKISSON
Freedom of Information/Privacy Officer

FOIA DELETION RECORD

Document: ☐ Attached

☒ Full withholding (Describe Document)

*Letter dated 8/31/99 to Wm. Friedenberger from
Chairwoman Jacobsen advising him of his
removal from the NMB's Roster of Arbitrators.*

Deletion(s): (All reasonably segregable non-exempt portions disclosed.)

Basis of Deletion(s):

Deletion No:

_____ Privileged or confidential commercial information -
Exemption 4.

_____ Matter of attorney/client privilege - Exemption 5.

_____ Intra-agency pre-decisional staff analysis and/or recommendation -
Exemption 5.

✓
_____ Personnel and medical files and similar files the disclosure
of which would constitute a clearly unwarranted invasion of
personal privacy - Exemption 6.

✓
_____ Records or information which could reasonably be expected to
constitute an unwarranted invasion of personal privacy -
Exemption 7(C).

_____ Other (Describe)

