

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : 05-CR-218 (LMM)

v. : Filed: 03/01/05

ANTHONY LAMPROPOULOS and
POLO LINEN SERVICE, INC.

Violation:
15 U.S.C. § 1

Defendants.

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PLEA AGREEMENT

The United States of America and the defendants Anthony Lampropoulos and Polo Linen Service, Inc. are hereby made defendants (“Defendants”), and hereby enter into the following Plea Agreement (“Agreement”) pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

**AGREEMENT TO PLEAD GUILTY
AND WAIVE CERTAIN RIGHTS**

1. Anthony Lampropoulos (“Lampropoulos”) and Polo Linen Service, Inc. (“Polo Linen”) will each waive indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure and will each plead guilty in the United States District Court in the Southern District of New York to a one-count Information, in the form attached, in which each is charged with violating 15 U.S.C. § 1 by participating in a combination and conspiracy to allocate customers in the linen supply market in New York City; Suffolk,

Nassau, and Westchester Counties, New York; portions of northern New Jersey; and portions of Fairfield County, Connecticut (“New York metropolitan area”) beginning in or around 1994 and continuing until at least September 2002.

DEFENDANTS’ COOPERATION

2. The Defendants will cooperate fully and truthfully with the United States in the prosecution of this case, the conduct of the current federal investigation of violations of federal antitrust and related criminal laws involving the linen supply market in the New York metropolitan area, any other federal investigation resulting therefrom, and any litigation or other proceedings arising or resulting from any such investigation to which the United States is a party (collectively referred to herein as “Federal Proceeding”). The ongoing, full, and truthful cooperation of the Defendants shall include, but not be limited to:

(a) producing to the United States all documents, information, and other materials, including claimed personal documents, in the possession, custody, or control of the Defendants, requested by the United States in connection with any Federal Proceeding;

(b) Lampropoulos making himself available for interviews, not at the expense of the United States, at the New York Office of the Antitrust Division, or at other mutually-agreed upon locations, upon the request of attorneys and agents of the United States;

(c) Lampropoulos responding fully and truthfully to all inquiries of the

United States in connection with any Federal Proceeding, without falsely implicating any person or intentionally withholding any information, subject to the penalties of making false statements (18 U.S.C § 1001) and obstruction of justice (18 U.S.C. § 1503);

(d) upon request of the United States, voluntarily providing the United States with any materials or information, not requested in (a)-(c) of this paragraph, that may relate to any such Federal Proceeding;

(e) Lampropoulos, when called upon to do so by the United States in connection with any Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or declarations in grand jury or court proceedings (18 U.S.C. § 1623), obstruction of justice (18 U.S.C. § 1503) and contempt (18 U.S.C. §§ 401-402); and

(f) using their best efforts to secure the ongoing, full and truthful cooperation of all current employees of Polo Linen, as well as former owner Peter Lampropoulos, as may be requested by the United States, including making these persons available, at the defendants' expense, for interviews and the provision of testimony in grand jury, trial, and other judicial proceedings in connection with any Federal Proceeding.

3. The ongoing, full and truthful cooperation of each person described in subparagraph 2(f) above will be subject to the procedures and protections of this

paragraph, and shall include, but not be limited to:

(a) producing all documents, including claimed personal documents, and other materials requested by attorneys and agents of the United States;

(b) making himself or herself available for interviews upon the request of the United States;

(c) responding fully and truthfully to all inquiries of the United States in connection with any Federal Proceeding, without falsely implicating any person or intentionally withholding any information, subject to the penalties for making false statements (18 U.S.C. § 1001) and obstruction of justice (18 U.S.C. § 1503);

(d) upon request of the United States, voluntarily providing the United States with any materials or information not requested in (a)-(c) of this paragraph that may relate to any such Federal Proceeding;

(e) when called upon to do so by the United States in connection with any Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or declarations in grand jury or court proceedings (18 U.S.C. § 1623), obstruction of justice (18 U.S.C. § 1503) and contempt (18 U.S.C. §§ 401-402); and

(f) agreeing that, if the agreement not to prosecute him or her in this Plea Agreement is rendered void under Paragraph 9, the statute of limitations period for crimes arising out of participation in a combination and conspiracy to allocate customers in the linen supply market in the New York metropolitan area beginning in or around 1994 until

at least September 2002, will be tolled as to him or her for the period between the date of the signing of this Agreement and six (6) months after the date that the United States gave notice of its intent to void its obligations to that person under the Agreement.

4. Defendants agree that any assistance Lampropoulos or Polo Linen may provide to federal criminal investigators in connection with any Federal Proceeding shall be pursuant to the specific instructions and control of the Antitrust Division and those federal criminal investigators.

5. Defendants understand that no provision of this Agreement precludes in any way the possible prosecution of them for perjury (18 U.S.C. § 1621), false statements or false declarations relating to any testimony or information provided by them pursuant to this Agreement (18 U.S.C. § 1623), or obstruction of justice (18 U.S.C. § 1503) in connection with any Federal Proceeding.

6. Lampropoulos agrees that prior to the date of sentencing, he shall file accurate amended tax returns for the tax years 1999, 2000, 2001, and 2002, and will pay, or will enter into an agreement to pay, past taxes due and owing by him to the Internal Revenue Service, including interest and applicable civil fraud penalties, on such terms and conditions as will be agreed on by the Internal Revenue Service and him.

7. Polo Linen agrees that prior to the date of sentencing, it shall file accurate amended tax returns and issue amended Forms W2 and 1099 and Schedules K-1 for the tax years 1999, 2000, 2001, and 2002, and will pay, or will enter into an agreement to pay, past taxes due and owing by it to the Internal Revenue Service, including interest and

applicable civil fraud penalties, on such terms and conditions as will be agreed on by the Internal Revenue Service and Polo Linen.

GOVERNMENT'S AGREEMENT

8. If Lampropoulos and Polo Linen fully comply with the understandings specified in this Agreement, the Antitrust Division of the Department of Justice agrees not to bring further criminal charges against them or, subject to the provisions of Paragraph 3 herein, against any other current employee of Polo Linen, or former owner Peter Lampropoulos, under 15 U.S.C. § 1, 18 U.S.C. §§ 371, 1341, 1343 (insofar as those statutes relate to mail or wire fraud or to a conspiracy to commit mail or wire fraud), for crimes committed prior to the date of this Agreement and while any such person was acting as an officer, employee or consultant of Polo Linen, arising out of their participation in a combination and conspiracy to allocate customers in the linen supply market in the New York metropolitan area from sometime beginning in and around 1994 until at least September 2002. The scope of the protection afforded in this paragraph is limited to the activities stated above that the Defendants have disclosed to the United States, as of the date of this Agreement. This paragraph does not apply to civil matters of any kind, violations of federal tax or securities laws, or crimes of violence.

9. If any person requested to provide cooperation under subparagraph 2(f), fails to comply with his or her obligations under Paragraph 3, then the terms of this Agreement as they pertain to that person, and the agreement not to prosecute that person granted in this Agreement, shall be rendered void.

10. It is understood that this Agreement does not bind any other federal agency or local prosecuting authority or administrative agency other than the Antitrust Division of the United States Department of Justice. However, if requested, the United States will bring the fact, manner and extent of the cooperation of Lampropoulos and Polo Linen to the attention of other prosecuting, administrative, and other agencies as a matter for such agencies to consider as appropriate.

POSSIBLE MAXIMUM PENALTIES

11. Lampropoulos understands and agrees that pursuant to 15 U.S.C. § 1 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for a violation of 15 U.S.C. § 1, a class E felony, is (a) a term of imprisonment of not more than three years; (b) a fine of not more than the greater of \$350,000, or the greater of twice the gross pecuniary gain from the offense or twice the victims' gross pecuniary loss from the offense unless the imposition of a fine under such calculations would unduly complicate or prolong the sentencing process; or (c) both such sentences. Lampropoulos also understands that pursuant to 18 U.S.C. §§ 3563(b)(2) or 3583(d) and U.S.S.G. § 5E1.1, the Court may impose an order of restitution as a condition of probation or supervised release. The Court may also impose a term of supervised release of no more than one year, pursuant to 18 U.S.C. § 3583(b)(3). In addition, Lampropoulos understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court must impose a special assessment of \$100.

12. Polo Linen understands and agrees that pursuant to 15 U.S.C. § 1 and 18 U.S.C. § 3571, the maximum sentence provided by law for a violation by an organization

of 15 U.S.C. § 1 is a fine of not more than the greater of (a) \$10 million, or (b) the greater of twice the gross pecuniary gain from the offense or twice the victims' gross pecuniary lose from the offense unless the imposition of a fine under such calculations would unduly complicate or prolong the sentencing process. Polo Linen understands that pursuant to 18 U.S.C. §§ 3551 and 3561 and U.S.S.G. § 8D1.2, the Court may sentence Polo Linen to a term of probation of between one and five years. Polo Linen also understands that pursuant to 18 U.S.C. § 3563(b)(2) and U.S.S.G. § 8B1.1, the Court may impose an order of restitution as a condition of probation. In addition, Polo Linen understands that, pursuant to 18 U.S.C. § 3013(a)(2)(B), the Court must impose a special assessment of \$400.

SENTENCING GUIDELINES

13. Lampropoulos and Polo Linen understand United States Sentencing Guidelines (“U.S.S.G.” or “Sentencing Guidelines”) are advisory, not mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing a reasonable sentence. Lampropoulos and Polo Linen understand that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard.

SENTENCING AGREEMENT

14. The United States and Lampropoulos and Polo Linen stipulate that the defendants' “volume of commerce,” as that term is used in U.S.S.G. § 2R1.1(b)(2), is in excess of \$37.5 million.

15. Lampropoulos and Polo Linen understand that the sentences to be imposed on them are within the sole discretion of the sentencing judge and that the Court has absolute discretion, pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure to accept or reject the sentencing stipulation in this Agreement. The United States cannot and does not make any promises or representations as to what sentences Lampropoulos and Polo Linen will receive. Lampropoulos and Polo Linen also understand that should the Court reject the sentencing stipulation in this Agreement, that pursuant to Rule 11(c)(3)(B) of the Federal Rules of Criminal Procedure they may not withdraw their guilty pleas. However, the United States will inform the Probation Office and the Court of (a) this Agreement; (b) the nature and extent of Lampropoulos's and Polo Linen's activities with respect to this case and all other activities of Lampropoulos and Polo Linen which the United States deems relevant to sentencing; and (c) the timeliness, nature, extent and significance of Lampropoulos's and Polo Linen's cooperation with the United States. In so doing, the United States may use any information it deems relevant, including information provided by Lampropoulos and Polo Linen both prior and subsequent to the signing of this Agreement. The United States reserves the right to make any statement to the Court or the Probation Office concerning the nature of the offense charged in the attached Information, the participation of Lampropoulos and Polo Linen therein, and any other facts or circumstances that it deems relevant. The United States also reserves the right to comment on or to correct any representation made by or on behalf of Lampropoulos or Polo Linen, and to supply any other information that the Court may require.

16. The parties agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the Sentencing Guidelines that should result in a departure under U.S.S.G. § 5K2.0 from the applicable Guidelines range. The parties agree not to seek or support any sentence outside of the applicable Guidelines range for any reason that is not set forth in this Plea Agreement.

17. If the United States determines that Lampropoulos has provided substantial assistance in any Federal Proceeding, and has otherwise fully complied with all of the terms of this Agreement, it will file a motion, pursuant to U.S.S.G. § 5K1.1, advising the sentencing judge of all relevant facts pertaining to that determination and requesting the Court to sentence Lampropoulos in light of the factors set forth in U.S.S.G. § 5K1.1(a)(1)-(5), and thus impose, in the Court's discretion, a sentence below the applicable Sentencing Guidelines ranges for incarceration and fine. The United States and Lampropoulos are free to recommend or argue for any specific sentence to the Court.

18. Lampropoulos acknowledges that the decision whether he has provided substantial assistance in any Federal Proceeding is within the sole discretion of the United States. It is understood that should the United States determine that Lampropoulos has not provided substantial assistance in any Federal Proceeding, such a determination will release the United States from any obligation to file a motion pursuant to U.S.S.G. § 5K1.1, but will not entitle Lampropoulos to withdraw his guilty plea once it has been entered. Lampropoulos further understands that whether or not the United States files a

motion pursuant to U.S.S.G. § 5K1.1, the sentence to be imposed on him remains within the sole discretion of the sentencing judge.

19. The United States and Polo Linen agree that the Sentencing Guidelines fine range exceeds its ability to pay. The United States agrees that, based on Polo Linen's ongoing cooperation, the United States would have moved the Court for a downward departure pursuant to U.S.S.G. § 8C4.1, but for the fact that the amount of the fine that the United States would have recommended as a downward departure for substantial assistance provided, still would have exceeded Polo Linen's ability to pay. The United States and Polo Linen further agree that the fine to be imposed is within the sole discretion of the sentencing judge, but that the Court must consider the factors set forth in U.S.S.G. § 8C3.3(b) in determining Polo Linen's ability to pay a fine. The United States and Polo Linens are free to recommend or argue for any specific sentence to the Court.

20. In light of the availability of civil causes of action and the fact that any calculation of restitution would involve determining complex issues of fact that would unduly complicate or prolong the sentencing process, the United States agrees that it will not seek a restitution order against Lampropoulos or Polo Linen for the offense described in Paragraph 1 of this Agreement and charged in the Information attached hereto.

REPRESENTATION BY COUNSEL

21. The Defendants have been represented by counsel and are fully satisfied that its attorneys have provided competent legal representation. The Defendants have thoroughly reviewed this Agreement and acknowledge that counsel has advised them of the nature of

the charges, any possible defenses to the charges, and the nature and range of possible sentences.

VOLUNTARY PLEA

22. The Defendants' decision to enter into this Agreement and to tender pleas of guilty are freely and voluntarily made and are not the result of force, threats, assurances, promises, or representations other than the representations contained in this Agreement. The United States has made no promises or representations to the defendants as to whether the Court will accept or reject the recommendations contained within this Agreement.

VIOLATION OF PLEA AGREEMENT

23. Lampropoulos and Polo Linen understand that should the United States determine in good faith that Lampropoulos or Polo Linen have given false, misleading, or incomplete information or testimony, or that Lampropoulos or Polo Linen have failed in any other way to fulfill any of the obligations set out in this Agreement, the United States shall notify counsel for Lampropoulos and Polo Linen in writing of the claimed breach and its intention to void any of its obligations under the Agreement (except its obligations under this paragraph), and Lampropoulos and Polo Linen will be subject to prosecution for any federal criminal violation of which the United States has knowledge, including perjury and obstruction of justice.

24. If Lampropoulos or Polo Linen violate any provision of this Agreement, they agree that any documents, statements, information, testimony or evidence provided by the Defendants, current employees of Polo Linen, and Peter Lampropoulos, whether before or after the execution of this Agreement, and any leads derived therefrom, shall be admissible in evidence in any and all criminal proceedings hereafter brought against the Defendants, and that neither will assert a claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that such evidence, or any leads therefrom, should be suppressed. In addition, Lampropoulos and Polo Linen agree, that, should the United States be released from its obligations under this Agreement, and should the United States prosecute either of them criminally, the statute of limitations period shall be tolled as to Lampropoulos and Polo Linen between the date of the signing of this Agreement and six

months after the date that the United States gives notice of its intent to void its obligations hereunder.

ENTIRETY OF AGREEMENT

25. This Agreement constitutes the entire agreement between and among the United States and Lampropoulos and Polo Linen concerning the disposition of the charges contained in the attached Information. The United States has made no other promises to or agreements with Lampropoulos or Polo Linen. This Agreement cannot be modified other than in a writing signed by the parties.

26. The undersigned is authorized to enter this Agreement on behalf of Polo Linen as evidenced by the Resolution of the Board of Directors of Polo Linen attached to, and incorporated by reference in, this Agreement.

Dated:

/s/ _____
ANTHONY LAMPROPOULOS

/s/ _____
JOHN W. McREYNOLDS

/s/ _____
ANTHONY LAMPROPOULOS
President, Polo Linen Service Inc.

/s/ _____
STEVEN TUGANDER

/s/ _____
STEVEN COHEN, ESQ.
Counsel for Anthony Lampropoulos
and Polo Linen Service Inc.

/s/ _____
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