

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA)	
)	Criminal No. 1:06-cr-111
v.)	
)	Filed : March 28, 2006
JOHN R. OLSEN,)	
)	Violations: 18 U.S.C. § 371
Defendant.)	26 U.S.C. § 7206(1)
_____)	

PLEA AGREEMENT

The United States of America and John R. Olsen (“defendant”) hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure (“Fed. R. Crim. P.”):

RIGHTS OF DEFENDANT

1. The defendant understands his rights:
 - (a) to be represented by an attorney;
 - (b) to be charged by Indictment;
 - (c) as a citizen of Canada and a resident of Panama, to decline to accept service of the Summons in this case, and to contest the jurisdiction of the United States to prosecute this case against him in the United States District Court for the Northern District of Georgia;

(d) to plead not guilty to any criminal charge brought against him;

(e) to have a trial by jury, at which he would be presumed not guilty of the charges and the United States would have to prove every essential element of the charged offenses beyond a reasonable doubt for him to be found guilty;

(f) to confront and cross-examine witnesses against him and to subpoena witnesses in his defense at trial;

(g) not to be compelled to incriminate himself;

(h) to appeal his conviction, if he is found guilty; and

(i) to appeal the imposition of sentence against him.

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

2. The defendant knowingly and voluntarily waives the rights set out in Paragraph 1(b)-(h) above, including all jurisdictional defenses to the prosecution of this case, and agrees voluntarily to consent to the jurisdiction of the United States to prosecute this case against him in the United States District Court for the Northern District of Georgia. The defendant also knowingly and voluntarily waives the right to file any appeal, any collateral

attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2241 or 2255, that challenges the sentence imposed by the Court if that sentence is consistent with or below the recommended sentence in Paragraph 9 of this Plea Agreement, regardless of how the sentence is determined by the Court. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty at arraignment to a four-count Information to be filed in the United States District Court for the Northern District of Georgia. The Information will charge the defendant with participating in two separate conspiracies in violation of 18 U.S.C. § 371 to (1) defraud Chemical Products Technologies, LLC (“CPT”) and (2) deprive CPT of its intangible right to the honest services of its employees, and two counts of violating 26 U.S.C. § 7206(1) in connection with his filing of false and fraudulent tax returns.

3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charges described in Paragraph 2 above and will make a factual admission of guilt to the Court in accordance with

Fed. R. Crim. P. 11, as set forth in Paragraph 4 below. The United States agrees that at the arraignment, it will stipulate to the release of the defendant on his personal recognizance, pursuant to 18 U.S.C. § 3142, pending the sentencing hearing in this case.

FACTUAL BASIS FOR OFFENSES CHARGED

4. Had this case gone to trial, the United States would have presented evidence sufficient to prove the following facts:

COUNT ONE

(a) For purposes of this Plea Agreement, the “relevant period” for the conspiracy charged in Count One of the Information is that period beginning at least as early as July 2000 and continuing through at least October 10, 2003. During the relevant period, the defendant was the general manager of CPT, an entity organized and existing under the laws of Georgia and with its principal place of business in Cartersville, Georgia. At that time, Co-Conspirator Patrick J. Crowe III was employed as a salesman by CPT, and Co-Conspirator Number One (“CC-1”) was the sole owner and operator of an independent trucking company hired to deliver anthraquinone for CPT.

(b) During the relevant period, in the Northern District of Georgia and elsewhere, the defendant did unlawfully, willfully, and knowingly participate in a conspiracy with Co-Conspirator Crowe and CC-1 to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, to wit, to violate Title 18, United States Code, Sections 1341 and 1346;

(c) It was a part and object of said conspiracy that the defendant and Co-Conspirator Crowe devised a scheme and artifice to defraud CPT and deprive CPT of its intangible right to the honest services of its employees, by demanding and receiving kickback payments from CC-1 in exchange for ensuring that CC-1 received business from CPT. As a result of the scheme and artifice to defraud, CC-1 overcharged CPT and paid Co-Conspirator Crowe kickback payments totaling \$69,428.27, a portion of which Co-Conspirator Crowe paid to the defendant. The kickback payments were concealed from CPT and CPT's majority owner, Chemical Products Corporation ("CPC");

(d) The defendant and Co-Conspirator Crowe had a fiduciary duty to transact business in the best interest of their employer, CPT,

and to act honestly and faithfully in all their dealings with CPT, including a duty to make full and fair disclosure to CPT of any kickbacks they received, or expected to receive, from CC-1 during the course of their employment. The defendant breached his fiduciary duty to CPT by receiving unauthorized kickback payments from CC-1 through Co-Conspirator Crowe;

(e) For the purpose of executing the kickback conspiracy, the defendant and his co-conspirators mailed and/or caused to be mailed kickback checks and other documents by means of the United States mail;

(f) Acts in furtherance of the conspiracy were carried out within the Northern District of Georgia within five years preceding this Plea Agreement, including, but not limited to:

(i) inflated invoices being sent, via United States mail, by CC-1 and delivered to CPT in Cartersville, Georgia;

(ii) checks being sent, via United States mail, from CPT to CC-1 in payment of the inflated invoices;

- (iii) kickback payments being hand-delivered to the defendant by Co-Conspirator Crowe in Cartersville, Georgia; and
- (iv) kickback payments being deposited by the defendant into Bartow County Bank in Cartersville, Georgia.

COUNT TWO

(g) For purposes of this Plea Agreement, the “relevant period” for the conspiracy charged in Count Two of the Information is that period beginning at least as early as April 2002 and continuing through at least December 3, 2002. During the relevant period, the defendant was employed as the general manager of CPT and Co-Conspirator Patrick J. Crowe III was employed as a salesman by CPT. At that time, Co-Conspirator Number Two (“CC-2”) was the owner of a Nevada corporation in the business of forming corporate entities and providing nominee services to such entities;

(h) During the relevant period, in the Northern District of Georgia and elsewhere, the defendant did unlawfully, willfully, and knowingly participate in a conspiracy with Co-Conspirator Crowe and CC-2 to commit offenses against the United States, in violation of Title

18, United States Code, Section 371, to wit, to violate Title 18, United States Code, Sections 1341 and 1346;

(i) It was a part and object of said conspiracy that the defendant and Co-Conspirator Crowe devised a scheme and artifice to defraud CPT and deprive CPT of its intangible right to the honest services of its employees. To execute the scheme and artifice to defraud, Co-Conspirator Crowe hired CC-2 to act as a nominee for CDFD, Inc. (“CDFD”), a Wyoming corporation owned by Co-Conspirator Crowe. CC-2 set up a bank account for CDFD. The defendant and Co-Conspirator Crowe actively concealed Crowe’s ownership of the company and his control over the CDFD account from CPT and CPC;

(j) In furtherance of the scheme and artifice to defraud, the defendant and Co-Conspirator Crowe misled their employer to believe that CDFD was a licensed and bonded escrow agent that would receive all of the funds generated by CPT’s glyphosate business, pay CPT’s glyphosate suppliers, and after the deduction of minimal fees, disburse the balance to CPT and Zetachem, U.S.A. (CPT’s former partner in the glyphosate business). Instead, Co-Conspirator Crowe ordered CC-2 to make payments to the defendant and himself from the CDFD account

for their own personal use. As a result of the scheme and artifice to defraud, the defendant unlawfully received approximately \$39,412.62 from the CDFD account, and Co-Conspirator Crowe received approximately \$17,416.59 from said account. These payments were concealed from CPT and CPC;

(k) The defendant and Co-Conspirator Crowe had a fiduciary duty to transact business in the best interest of their employer, CPT, and to act honestly and faithfully in all their dealings with CPT, including a duty to make full and fair disclosure to CPT of any personal interest they had in any transaction in which they participated with CC-2 involving CDFD during the course of their employment. The defendant and Co-Conspirator Crowe breached their fiduciary duty to CPT by diverting funds, which belonged to CPT's glyphosate business, from the CDFD account for their own personal use;

(l) For the purpose of executing the conspiracy, the defendant and his co-conspirators caused checks to be mailed by means of a commercial interstate carrier;

(m) Acts in furtherance of the conspiracy were carried out within the Northern District of Georgia within five years preceding this Plea Agreement, including, but not limited to:

(i) checks from the CDFD account payable to the defendant for his personal use being hand-delivered by Co-Conspirator Crowe to the defendant in Cartersville, Georgia;

(ii) funds received by the defendant from the conspiracy being deposited into the defendant's Bartow County bank account in Cartersville, Georgia.

COUNTS THREE AND FOUR

(n) As a result of the two separate conspiracies to defraud CPT and deprive CPT of its intangible right to the honest services of its employees, the defendant received payments totaling \$13,000.00 in 2001 and \$39,412.62 in 2002.

(o) Between February 2002 and May 2002, the defendant received additional payments from Co-Conspirator Crowe totaling \$74,319.25. These payments related to a scheme between the defendant, Co-Conspirator Crowe, and a Mississippi company involved

in the distribution of glyphosate. As a part of the scheme, the Mississippi company made payments to Co-Conspirator Crowe through Elcolipa, a company owned by Co-Conspirator Crowe, in the amount of 25 cents for every gallon of glyphosate the company purchased from CPT. Co-Conspirator Crowe then forwarded a portion of the payments to the defendant. These payments were deposited by the defendant into his Bartow County bank account in Cartersville, Georgia.

(p) Based on instructions he received from the defendant, Co-Conspirator Crowe paid \$4,069.37 to a freight company that transported furniture to Inside Out, a furniture store that was owned at the time by the defendant's wife. This money was derived from the payments made to Elcolipa by the Mississippi company.

(q) Defendant Olsen did not report any of the additional income that he received in 2001 or 2002 on the tax returns that he filed.

(r) Defendant Olsen willfully made and subscribed tax returns for tax years 2001 and 2002, in the Northern District of Georgia, which he did not believe to be true and correct as to every material matter.

POSSIBLE MAXIMUM SENTENCE

5. The defendant understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of 18 U.S.C. § 371 is:

- (a) a term of imprisonment for five years (18 U.S.C. § 371);
- (b) a fine in an amount equal to the greatest of:
 - (i) \$250,000 (18 U.S.C. § 3571(b)(3));
 - (ii) twice the gross pecuniary gain the conspirators derived from the offense (18 U.S.C. § 3571(d)); or
 - (iii) twice the gross pecuniary loss caused to the victims of the crime (18 U.S.C. § 3571(d)); and
- (c) a term of supervised release of three (3) years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be imprisoned for the entire term of supervised release (18 U.S.C. § 3559(a)(4); 18 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines (“U.S.S.G.”) § 5D1.2(a)(2)).

6. The defendant understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of

26 U.S.C. § 7206(1) is:

- (a) a term of imprisonment for three years (26 U.S.C. § 7206(1));
- (b) a fine in an amount equal to the greatest of:
 - (i) \$250,000 (18 U.S.C. § 3571(b)(3));
 - (ii) twice the gross pecuniary gain the conspirators derived from the offense (18 U.S.C. § 3571(d)); or
 - (iii) twice the gross pecuniary loss caused to the victims of the crime (18 U.S.C. § 3571(d)); and
- (c) a term of supervised release of no more than one (1) year following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be imprisoned for the entire term of supervised release (18 U.S.C. § 3559(a)(5); 18 U.S.C. § 3583(b)(3) and (e)(3); and U.S.S.G. § 5D1.2(a)(3)).

7. In addition, the defendant understands that:

- (a) pursuant to U.S.S.G. § 5E1.1, the Court may order him to pay restitution to the victims of the offense; and
- (b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required

to order the defendant to pay a \$100.00 special assessment upon conviction for each charged crime.

SENTENCING GUIDELINES

8. The defendant understands that the 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 sentence. If the Guidelines in effect on the day of sentencing would violate the ex post facto clause of the Constitution by resulting in greater punishment to the defendant, then the Guidelines in effect on the date the offense was committed will apply. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

SENTENCING AGREEMENT

9. Pursuant to Fed R. Crim. P. 11(c)(1)(B), the United States agrees that it will recommend, as the appropriate disposition of this case, that the

Court impose a sentence containing a period of incarceration of eighteen months, and a criminal fine within the advisory Guidelines range of \$4,000 to \$40,000 (“the recommended sentence”). The defendant may recommend the imposition of a sentence resulting in a period of incarceration of not less than twelve months and a day. If a period of incarceration is imposed, the United States will not object to the defendant’s request that he be allowed to self-surrender to the correctional facility designated by the Bureau of Prisons or the Court on a date specified by the Court. In light of the settlement agreement between the defendant and CPT, the United States agrees that it will not seek a restitution order for the offenses charged in the Information.

10. The United States and the defendant agree that the applicable advisory Guidelines fine and incarceration ranges may exceed the fine and term of imprisonment contained in the recommended sentence set out in Paragraph 9 above. Subject to the full and continuing cooperation of the defendant, as described in Paragraph 15 of this Plea Agreement, and prior to sentencing in the case, the United States agrees that it will make a motion, pursuant to U.S.S.G. § 5K1.1, for a downward departure from the Guidelines fine and incarceration ranges in this case and will request that the Court impose the fine and term of imprisonment contained in the recommended

sentence set out in Paragraph 9 of this Plea Agreement because of the defendant's substantial assistance in the government's investigation and prosecution of violations of federal criminal law in the anthraquinone and glyphosate industries.

11. Subject to the ongoing, full, and truthful cooperation of the defendant described in Paragraph 15 of this Plea Agreement, and before sentencing of the defendant in this case, the United States will fully advise the Court and the Probation Office of the fact, manner, and extent of the defendant's cooperation and his commitment to prospective cooperation with the United States' investigation and prosecution of violations of federal criminal laws in the anthraquinone and glyphosate industries, all material facts relating to the defendant's involvement in the offenses charged in the Information, and all other relevant conduct. To enable the Court to have the benefit of all relevant sentencing information, the United States may request, and the defendant will not oppose, that sentencing be postponed until his cooperation is complete.

12. The United States and the defendant understand that the Court retains complete discretion to accept or reject the recommended sentence provided for in Paragraph 9 of this Plea Agreement. The defendant

understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a sentence consistent with the recommendation contained in this Agreement, he nevertheless has no right to withdraw his plea of guilty.

TAXES - PAYMENT AND COOPERATION

13. The defendant agrees to pay or enter into an agreement to pay all taxes, interest, and penalties found to be lawfully owed and due to the Internal Revenue Service for the years 2001 and 2002, and to cooperate with and provide to the Internal Revenue Service any documentation necessary for a correct computation of all taxes due and owing for those years, and further agrees that the Court may make this term a condition of any sentence of probation or supervised release.

TAX LOSS

14. Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States and the defendant agree that the United States will recommend that the tax loss attributed to the tax evasion schemes, described above, and reflected in the Information, be computed as \$52,071. The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

DEFENDANT'S COOPERATION

15. The defendant 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, federal tax, and related criminal laws involving the anthraquinone and glyphosate industries, 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 ("Federal Proceeding"). The ongoing, full, and truthful cooperation of the defendant shall include, but not be limited to:

- (a) producing all documents, including claimed personal documents, and other materials, wherever located, in the possession, custody, or control of the defendant, requested by attorneys and agents of the United States;
- (b) making himself available for interviews, not at the expense of the United States, upon the request of attorneys and agents 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 corporation, 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) otherwise voluntarily providing the United States with any material or information, not requested in (a) - (c) of this paragraph, that he may have that is related to any Federal Proceeding; and

(e) when called upon to do so by the United States in connection with any Federal Proceeding, testifying before a grand jury, at trial, and at 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), contempt (18 U.S.C. §§ 401 - 402), and obstruction of justice (18 U.S.C. § 1503).

GOVERNMENT'S AGREEMENT

16. Subject to the full, truthful, and continuing cooperation of the defendant, as described in Paragraph 15 of this Plea Agreement, and upon acceptance of the guilty plea called for by this Plea Agreement and imposition of sentence by the Court, the Antitrust Division and the Tax Division of the United States Department of Justice agree not to bring further criminal charges against the defendant for any act or offense that was committed before the date of this Plea Agreement arising out of violations of federal antitrust, federal tax, and related criminal laws involving the anthraquinone and glyphosate industries ("Relevant Offense"). The nonprosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal securities laws, or to any crime of violence.

17. Pursuant to U.S.S.G. § 1B1.8(a), the United States agrees that no self-incriminating information which the defendant may provide during the course of his cooperation and pursuant to this agreement shall be used in determining the applicable sentencing guideline range, subject to the restrictions and limitations set forth in U.S.S.G. § 1B1.8(b).

18. The United States agrees that when the defendant travels to the United States for interviews, grand jury appearances, or court appearances pursuant to this Plea Agreement, or for meetings with counsel in preparation therefor, the United States will take no action, based upon any Relevant Offense, to subject the defendant to arrest, detention, or service of process, or to prevent the defendant from departing the United States. This paragraph does not apply to the defendant's commission of perjury (18 U.S.C. § 1621), making false statements (18 U.S.C. § 1001), making false statements or declarations in grand jury or court proceedings (18 U.S.C. § 1623), obstruction of justice (18 U.S.C. § 1503), or contempt (18 U.S.C. §§ 401 - 402) in connection with any testimony or information provided or requested in any Federal Proceeding.

19. The defendant understands that he may be subject to administrative action by federal or state agencies other than the United States Department of Justice, Antitrust Division, based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in no way controls whatever action, if any, other agencies may take. However, the United States agrees that, if requested, it will advise the appropriate officials of any governmental agency considering such administrative action of the

fact, manner, and extent of the cooperation of the defendant as a matter for that agency to consider before determining what administrative action, if any, to take. The United States further agrees that, if requested, it will advise the Department of Homeland Security of the fact, manner, and extent of the defendant's cooperation in its consideration of any application that the defendant may file for a section 212(d)(3) or other applicable waiver under the Immigration and Nationality Act permitting the defendant to return to the United States if excluded because of any conviction relating to this matter.

REPRESENTATION BY COUNSEL

20. The defendant has reviewed all legal and factual aspects of this case with his attorney and is fully satisfied with his attorney's legal representation. The defendant has thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory explanations from his attorney concerning each paragraph of this Plea Agreement and alternatives available to the defendant other than entering into this Plea Agreement. After conferring with his attorney and considering all available alternatives, the defendant has made a knowing and voluntary decision to enter into this Plea Agreement.

VOLUNTARY PLEA

21. The defendant's decision to enter into this Plea Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement. The United States has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

VIOLATION OF PLEA AGREEMENT

22. The defendant agrees that, should the United States determine in good faith, during the period that any Federal Proceeding is pending, that the defendant has failed to provide full and truthful cooperation, as described in Paragraph 15 of this Plea Agreement, or has otherwise violated any provision of this Plea Agreement, the United States will notify the defendant or his counsel in writing by personal or overnight delivery or facsimile transmission and may also notify his counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph), and the defendant shall be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to,

the substantive offenses relating to the investigation resulting in this Plea Agreement. The defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against the defendant for any Relevant Offense, the statute of limitations period for such offense will be tolled for the period between the date of the signing of this Plea Agreement and six (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

23. The defendant understands and agrees that in any further prosecution of him resulting from the release of the United States from its obligations under this Plea Agreement based on the defendant's violation of the Plea Agreement, any documents, statements, information, testimony, or evidence provided by him to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against him in any such further prosecution. In addition, the defendant unconditionally waives his right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

24. The defendant agrees to and adopts as his own the factual statement contained in Paragraph 4 above. In the event that the defendant breaches the Plea Agreement, the defendant agrees that the Plea Agreement, including the factual statement contained in Paragraph 4 above, provides a sufficient basis for any possible future extradition request that may be made for his return to the United States to face charges either in the Information referenced in Paragraph 2 of this Plea Agreement or in any related indictment. The defendant further agrees not to oppose or contest any request for extradition by the United States to face charges either in the Information referenced in Paragraph 2 of this Plea Agreement or in any related indictment.

ENTIRETY OF AGREEMENT

25. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charges in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.

26. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

27. A facsimile signature shall be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

DATED: 3/28/06

Respectfully submitted,

BY: /S/

BY: /S/

JOHN R. OLSEN
Defendant

HOLLY B. STEVENS
Georgia Bar No. 093550

/S/
NICHOLAS A. LOTITO
Counsel for John R. Olsen

/S/
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