



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

March 12, 2018

Gabrielle S. Friedman, Esq.
Lankler Siffert & Wohl, LLP
500 Fifth Avenue
New York, NY 10110

Re: *United States v. Eberhard Reichert*, 11 Cr. 1056 (DLC)

Dear Ms. Friedman:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York and the Fraud Section of the Criminal Division of the U.S. Department of Justice (collectively "the Offices") will accept a guilty plea from Eberhard Reichert ("Reichert" or the "Defendant") to Count One of the above-referenced Indictment, charging him with a violation of Title 18, United States Code, Section 371, in connection with a conspiracy to violate the Foreign Corrupt Practices Act, including conspiring to commit bribery, falsify corporate books and records, circumvent internal controls, and to commit wire fraud. This charge carries a maximum sentence of five years' imprisonment; a maximum term of three years' supervised release; a maximum fine, pursuant to Title 18, United States Code, Section 3571, of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the Defendant as a result of the offense; and a mandatory \$100 special assessment.

It is further understood that the Defendant shall make restitution in an amount to be specified by the Court in accordance with 18 U.S.C. §§ 3663, 3663A, and 3664. This amount shall be paid according to a plan established by the Court.

The Defendant furthermore admits the forfeiture allegations with respect to Count One of the Indictment and agrees to forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and Title 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense (the "Money Judgment"). It is further understood that any forfeiture of the Defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon him in addition to forfeiture.

In addition, at the time of sentencing, the Government will move to dismiss any open Count(s) against the Defendant. The Defendant agrees that with respect to any and all dismissed charges he is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

It is understood that Defendant (a) shall truthfully and completely disclose all information with respect to the activities of himself and others concerning all matters about which the Offices inquire of him, which information can be used for any purpose; (b) shall cooperate fully with the Offices, the Federal Bureau of Investigation and any other law enforcement agency designated by the Offices; (c) shall attend all meetings at which the Offices request his presence; (d) shall provide to the Offices, upon request, any document, record, or other tangible evidence relating to matters about which the Offices or any designated law enforcement agency inquires of him; (e) shall truthfully testify before the grand jury and at any trial and other court proceeding with respect to any matters about which the Offices may request his testimony; (f) shall bring to the Offices' attention all crimes which he has committed, and all administrative, civil, or criminal proceedings, investigations, or prosecutions in which he has been or is a subject, target, party, or witness; and, (g) shall commit no further crimes whatsoever. Moreover, any assistance Defendant may provide to federal criminal investigators shall be pursuant to the specific instructions and control of the Offices and designated investigators.

It is understood that, as part of his cooperation, Reichert agrees to appear voluntarily on any date, and at any location, as requested by the Offices to comply with any provision of this Agreement, including his obligations to attend meetings and court proceedings.

It is understood that the Offices cannot, and do not, agree not to prosecute Reichert for criminal tax violations, if any. However, if Reichert fully complies with the understandings specified in this Agreement, no testimony or other information given by him (or any other information directly or indirectly derived therefrom) will be used against him in any criminal tax prosecution. Moreover, if Reichert fully complies with the understandings specified in this Agreement, he will not be further prosecuted criminally by the Offices for any crimes, except for criminal tax violations, related to his participation in the conspiracy from in or about 1996 to on or about August 12, 2009 to violate the Foreign Corrupt Practices Act, including conspiring to commit bribery, falsify corporate books and records, circumvent internal controls and commit wire fraud, as charged in the Indictment, to the extent that he has disclosed such participation to the Offices as of the date of this Agreement. This Agreement does not provide any protection against prosecution for any crimes except as set forth above.

It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than the Offices. The Offices will, however, bring the cooperation of the Defendant to the attention of other prosecuting offices, if requested by him. Nor does this Agreement bind the Bureau of Immigration and Customs Enforcement (ICE), although the Offices will bring the cooperation of the Defendant to the attention of ICE, if requested by him.

It is understood that the sentence to be imposed upon Reichert is within the sole discretion of the Court. The Offices cannot, and do not, make any promise or representation as to what sentence Reichert will receive, and will not recommend any specific sentence to the Court. However, the Offices will inform the Probation Office and the Court of (a) this Agreement; (b) the nature and extent of Reichert's activities with respect to this case and all other activities of Reichert which the Offices deem relevant to sentencing; and (c) the nature and extent of Reichert's cooperation with the Offices. In so doing, the Offices may use any information it deems relevant, including information provided by Reichert both prior to and subsequent to the signing of this

Agreement. In addition, if the Offices determine that Reichert has provided substantial assistance in an investigation or prosecution, and if he has fully complied with the understandings specified in this Agreement, the Offices will file a motion, pursuant to Section 5K1.1 of the Sentencing Guidelines requesting the Court to sentence Reichert in light of the factors set forth in Section 5K1.1(a)(1)-(5). It is understood that, even if such a motion is filed, the sentence to be imposed on the Defendant remains within the sole discretion of the Court. Moreover, nothing in this Agreement limits the Offices' right to present any facts and make any arguments relevant to sentencing to the Probation Office and the Court, or to take any position on post-sentencing motions. Reichert hereby consents to such adjournments of his sentence as may be requested by the Offices.

It is understood that, should the Offices determine either that Reichert has not provided substantial assistance in an investigation or prosecution, or that Reichert has violated any provision of this Agreement, such a determination will release the Offices from any obligation to file a motion pursuant to Section 5K1.1 of the Sentencing Guidelines, but will not entitle Reichert to withdraw his guilty plea once it has been entered.

It is understood that, should the Offices determine, subsequent to the filing of a motion pursuant to Section 5K1.1 of the Sentencing Guidelines that Reichert has violated any provision of this Agreement, the Offices shall have the right to withdraw such motion.

It is understood that, should Reichert commit any further crimes or should it be determined that he has given false, incomplete, or misleading testimony or information, or should he otherwise violate any provision of this Agreement, Reichert shall thereafter be subject to prosecution for any federal criminal violation of which the Offices have knowledge, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against Reichert, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

It is understood that in the event that it is determined that Reichert has committed any further crimes, given false, incomplete, or misleading testimony or information, or otherwise violated any provision of this Agreement, (a) all statements made by Reichert to the Offices or other designated law enforcement agents, and any testimony given by Reichert before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony shall be admissible in evidence in any criminal proceeding brought against Reichert; and (b) Reichert shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed. It is the intent of this Agreement to waive all rights in the foregoing respects.

It is further understood that the Offices will not object to the Defendant's continued release and travel to Germany on bail conditions as set forth at a bail hearing. Those conditions shall include, but not be limited to, the requirement that the Defendant appear for all court appearances,

including sentencing. The Offices reserve the right to move without notice to the Defendant for a revocation or modification of the above bail conditions should it determine that the Defendant has violated any provision of this Agreement or condition of his release, or should it determine that such a revocation or modification is otherwise appropriate. The Defendant hereby consents to any such revocation or modification.

The Defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, *Jencks* Act material, exculpatory material pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), other than information establishing the factual innocence of the Defendant, or impeachment material pursuant to *Giglio v. United States*, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

The Defendant recognizes that, if he is not a citizen of the United States, his guilty plea and conviction make it very likely that his deportation from the United States is presumptively mandatory and that, at a minimum, he is at risk of being deported or suffering other adverse immigration consequences. The Defendant acknowledges that he has discussed the possible immigration consequences (including deportation) of his guilty plea and conviction with defense counsel. The Defendant affirms that he wants to plead guilty regardless of any immigration consequences that may result from the guilty plea and conviction, even if those consequences include deportation from the United States. It is agreed that the Defendant will have no right to withdraw his guilty plea based on any actual or perceived adverse immigration consequences (including deportation) resulting from the guilty plea and conviction. It is further agreed that the Defendant will not challenge his conviction or sentence on direct appeal, or through litigation under Title 28, United States Code, Section 2255 and/or Section 2241, on the basis of any actual or perceived adverse immigration consequences (including deportation) resulting from his guilty plea and conviction.

This Agreement supersedes any prior understandings, promises, or conditions between the Offices and the Defendant. No additional understandings, promises, or conditions have been

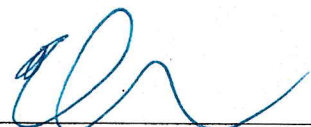
entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

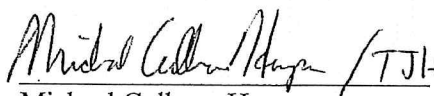
GEOFFREY BERMAN
United States Attorney

SANDRA MOSER
Acting Chief, Fraud Section,
Criminal Division

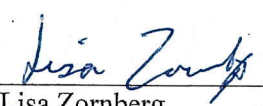
By:

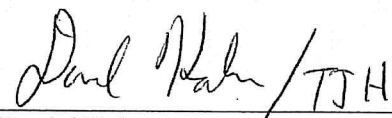

Niketh Velamoor
Assistant United States Attorney
(212) 637-1076

By:

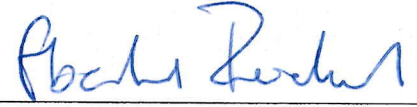
 / TJH
Michael Culhane Harper
Trial Attorney
(202) 616-5224

APPROVED:


Lisa Zornberg
Chief, Criminal Division

 / TJH
Daniel Kahn
Chief, FCPA Unit, Fraud Section

AGREED AND CONSENTED TO:


Eberhard Reichert

3/15/2018
DATE

APPROVED:


Gabrielle S. Friedman, Esq.
Attorney for Eberhard Reichert

15. March, 2018
DATE