

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

GORDON D. FOX

Defendant

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:

Cr. No.

CR 15

014

**PLEA AGREEMENT**

Pursuant to Rule 11(c)(1)(C), of the Federal Rules of Criminal Procedure, the United States and Defendant GORDON D. FOX, have reached the following agreement:

1. Defendant will waive presentation of this matter to a grand jury and consent to the filing of a three-count Information which charges defendant with bribery, 18 U.S.C.

§ 666(a)(1)(B), wire fraud, 18 U.S.C. § 1343, and filing a false tax return for the 2010 year, 26 U.S.C. § 7206(1). Defendant will plead guilty to said Information.

2. Defendant further agrees that the time between the filing of this plea agreement and the scheduled date for the change of plea is excludable under the Speedy Trial Act, 18 U.S.C. § 3161.

3. Defendant will waive the five-year statute of limitations applicable to Count One of the Information, bribery, in violation of 18 U.S.C. § 666(a)(1)(B), and will not assert the statute of limitations as an affirmative defense.

4. It is understood that, at least two weeks prior to the date of sentencing, the Defendant shall file accurate amended U.S. Individual Income Tax Returns, Forms 1040, for the tax years 2008 through 2012. In lieu of filing said income tax returns, the Defendant may, at least two weeks prior to the date of sentencing, enter into a closing agreement or other document with

the Internal Revenue Service ("IRS") to resolve the assessment of his tax liabilities for tax years 2008 through 2012. The defendant will pay any personal income taxes due and owing to the IRS for tax years 2008 through 2012, including any applicable penalties and interest on such terms and conditions as will be agreed upon between the Defendant and the IRS, or as otherwise imposed or assessed by the IRS.

5. The defendant agrees to cooperate fully with the IRS in the assessment and payment of any unpaid personal income taxes, penalties, and interest, including to produce voluntarily all documents or records relating to the assessment, payment, and/or collection of said taxes, penalties, and/or interest, as requested by the IRS.

6. Defendant will interpose no objection to the entry of an order under Rule 6(e) authorizing disclosure of those documents, testimony and related investigative materials which may constitute grand jury material but which relate to the computation of personal income taxes, penalties, and interest due and owing.

7. In exchange for Defendant's waiver of indictment and plea of guilty:

a. The United States and the Defendant will recommend to the Court, as a reasonable sentence, that the Defendant be sentenced to thirty-six months incarceration. The parties understand that if this plea agreement is accepted by the Court, the Court will impose a sentence of thirty-six months incarceration.

b. The Defendant is aware that his sentence is within the sound discretion of the Court. The Defendant further understands that under Rule 11(c)(1)(C), the Court may accept or reject the plea agreement, or may defer its decision as to its acceptance or rejection until it has considered the presentence report. If the Court rejects the plea agreement, the Court shall, on the record, inform the parties of this fact, and afford the Defendant an opportunity to withdraw the

guilty plea, and advise the Defendant that if the Defendant persists in a guilty plea, the disposition of the case may be less favorable to the Defendant than that contemplated in the plea agreement. In addition, as part of the terms and conditions of this plea agreement, the parties agree that should the Court reject the plea agreement, the United States reserves its right to withdraw from its obligations under the same.

8. The United States and the State of Rhode Island agree that, other than the charges in the Information in this case, they will not bring any other criminal charges against Gordon D. Fox which fall within the scope of the grand jury investigation in the District of Rhode Island relating to: (1) his receipt of payments in exchange for his official action in his capacity as a member of the Providence Board of Licenses; (2) the Defendant's theft of campaign funds and the filing of false and misleading campaign finance reports; (3) his filing of false tax returns with the IRS and the State of Rhode Island for the tax years 2008 through 2012; or (4) arise from conduct which was known to the United States Attorney's Office for the District of Rhode Island as of the date of the execution of this plea agreement and which concerned the same subjects.

9. In exchange for Defendant's plea of guilty, for purposes of determining the offense level, the United States agrees to recommend a two-level reduction in the offense level for acceptance of responsibility under § 3E1.1(a) of the guidelines if Defendant continues to demonstrate acceptance of responsibility through sentencing.

10. As of the date of this agreement, Defendant has timely notified authorities of an intention to enter a plea of guilty. If the offense level is 16 or greater and Defendant enters a plea of guilty pursuant to this agreement, the government will move the sentencing Court for an additional decrease of one level, pursuant to U.S.S.G. § 3E1.1(b)(2), unless Defendant indicates an intention not to enter a plea of guilty, thereby requiring the government to prepare for trial.



11. The United States is free to recommend any combination of supervised release, fines, and restitution which it deems appropriate.

12. The United States and Defendant stipulate and agree to the following facts under the guidelines:

a. Attached hereto as Attachment "A," and incorporated by reference herein are factual stipulations entered into between the parties, including factual stipulations of Defendant's offense conduct relating to each of the subject offenses. Defendant acknowledges that these statements are true. Defendant further agrees that these factual statements may be used by any party, including the United States, in any other proceeding. Defendant understands that, during the change of plea hearing, the judge may ask Defendant questions under oath about the offenses to which Defendant is pleading guilty, in the presence of Defendant's attorney.

Defendant understands that defendant must answer these questions truthfully, and that Defendant can be prosecuted for perjury if defendant gives any false answers.

b. The loss pursuant to U.S.S.G. §§ 2C1.1(b)(2) and § 2B1.1(b)(1)(D) related to Count One, bribery, is more than \$30,000.

c. The loss pursuant to U.S.S.G. § 2B1.1(b)(1) related to Count Two, wire fraud, is \$109,000.

d. The tax loss pursuant to U.S.S.G. § 2T4.1(F) for Count Three, the 2010 tax year, and including relevant conduct for tax years 2008, 2009, 2011 and 2012 is the following:

2008	\$9,602
2009	\$3,124
2010	\$8,245
2011	\$9,862
<u>2012</u>	<u>\$4,120</u>

For a total of \$34,953

13. Except as expressly provided in the preceding paragraphs, there is no agreement as to the Guidelines calculation in this case.

14. The maximum statutory penalties for the offenses to which Defendant is pleading are:

**Count One – Bribery**

A term of imprisonment of not more than ten years, a fine of up to \$250,000, a term of supervised release of three years, and a mandatory special assessment of \$100.

**Count Two – Wire Fraud**

A term of imprisonment of not more than twenty years, a fine of up to \$250,000, a term of supervised release of three years, and a mandatory special assessment of \$100.

**Count Three – Filing a False Tax Return**

A term of imprisonment of not more than three years, a fine of up to \$250,000, or twice the pecuniary gain or loss, a term of supervised release of one year, a mandatory special assessment of \$100, and the costs of prosecution.

Thus, if imposed consecutively, the maximum penalties for all offenses to which Defendant is pleading guilty are thirty-three years imprisonment; a fine of \$750,000; and a term of supervised release of three years. The mandatory special assessments total \$300.

15. Defendant agrees that, after Defendant and Defendant's counsel sign this agreement, counsel will return it to the United States Attorney's Office along with a money order or certified check, payable to the Clerk, United States District Court, in payment of the special assessments. Failure to do so, unless the Court has made a previous finding of indigence, will

relieve the government of its obligation to recommend a reduction in the offense level under the guidelines for acceptance of responsibility.

16. Defendant is advised and understands that:

- a. The United States has the right, in a prosecution for perjury or making a false statement, to use against Defendant any statement that Defendant gives under oath;
- b. Defendant has the right to plead not guilty, or having already so pleaded, to persist in that plea;
- c. Defendant has the right to a jury trial;
- d. Defendant has the right to be represented by counsel – and if necessary have the Court appoint counsel – at trial and every other stage of the proceeding;
- e. Defendant has the right at trial to confront and cross-examine adverse witnesses, to be protected from self-incrimination, to testify and present evidence, and to compel the attendance of witnesses; and
- f. Defendant waives these trial rights if the Court accepts a plea of guilty.
- g. Defendant waives his right to assert the five-year statute of limitations as an affirmative defense to Count One, bribery, in violation of 18 U.S.C. § 666(a)(1)(B).

17. The United States reserves its full right of allocution, including the right to present any information to the Court for its consideration in fashioning an appropriate sentence, the right to correct misstatements, misrepresentations, or omissions by Defendant, and to answer any questions asked by the Court.

18. Defendant hereby waives Defendant's right to appeal or seek any other post-conviction relief of the convictions and sentences imposed 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), and the United States retains its right to appeal any of the Court's sentencing determinations.

19. This agreement is binding on the United States only if Defendant pleads guilty, fulfills all Defendant's obligations under the agreement, does not engage in any conduct constituting obstruction of justice under § 3C1.1 of the guidelines, and does not commit any new offenses. Defendant understands that if Defendant violates this agreement in any way, the government shall be released from its obligations under the agreement and will be free to make any recommendations that it deems appropriate. If that occurs, Defendant shall not have the right to withdraw Defendant's guilty plea.

20. This agreement binds the District of Rhode Island and the State of Rhode Island and does not bind any other federal, state, or local prosecutive authorities.

21. This agreement constitutes the entire agreement between the parties. No other promises or inducements have been made concerning the plea in this case. Defendant acknowledges that no person has, directly or indirectly, threatened or coerced Defendant to enter this agreement. Any additions, deletions, or modifications to this agreement must be made in writing and signed by all the parties in order to be effective.

22. The Defendant represents to the Court that he is satisfied with counsel, William J. Murphy, and indicates that counsel has rendered effective legal assistance.

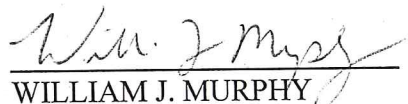
23. Counsel for Defendant states that Counsel has read this agreement, been given a copy of it for Counsel's file, explained it to Defendant, and states that to the best of Counsel's knowledge and belief, Defendant understands the agreement.

24. Defendant states that Defendant has read the agreement or has had it read to Defendant, has discussed it with Defendant's Counsel, understands it, and agrees to its provisions.

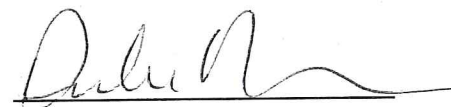


  
GORDON D. FOX  
Defendant

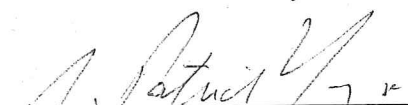
2/20/15  
Date

  
WILLIAM J. MURPHY  
Counsel for Defendant

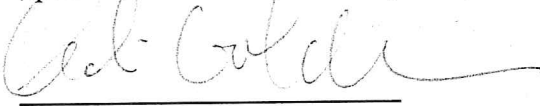
27 FEB 15  
Date

  
DULCE DONOVAN  
Assistant U.S. Attorney

3/2/15  
Date

  
J. PATRICK YOUNGS  
Special Assistant U.S. Attorney

3/2/15  
Date

  
ADI GOLDSTEIN  
Assistant U.S. Attorney  
Chief, Criminal Division

3/2/15  
Date