

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No.: **18-20877-CR-DPG**

**UNITED STATES OF AMERICA**

v.

**ROBERTO DIP**

**Defendant.**

---

**PLEA AGREEMENT**

The United States of America and Roberto Dip (“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) to plead not guilty to any criminal charge brought against him;
  - (d) to have a trial by jury, at which he would be presumed not guilty of the charge and the United States would have to prove every essential element of the charged offense beyond a reasonable doubt for him to be found guilty;
  - (e) to confront and cross-examine witnesses against him and to subpoena witnesses in his defense at trial;
  - (f) not to be compelled to incriminate himself;
  - (g) to appeal his conviction, if he is found guilty; and

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

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

2. The defendant knowingly and voluntarily waives:

(a) the rights set out in subparagraphs 1(b)-(f) above;

(b) the right to file any appeal or collateral attack, including but not limited to an application or motion under 28 U.S.C. § 2241 or 2255, that challenges his conviction, including but not limited to any appeal or collateral attack raising any argument that (1) the statute to which he is pleading guilty is unconstitutional, or (2) the admitted conduct does not fall within the scope of such statute; and

(c) the right to file any appeal or collateral attack, including but not limited to an appeal under 18 U.S.C. § 3742 or an application or 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 Guidelines calculations 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).

Nothing in this paragraph, however, will act as a bar to the defendant perfecting any legal remedies he may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct. The defendant agrees that there is currently no known evidence of ineffective assistance of counsel or prosecutorial misconduct. Consistent with Fed. R. Crim. P. 11(b)(1)(O), the defendant recognizes that if he is not a citizen of the United States pleading guilty may have consequences with respect to his immigration status, including removal from the United States, denial of citizenship, and denial of admission to the

United States in the future. Under federal law, a broad range of crimes are removable offenses, including the offense to which defendant is pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding. However, and defendant understands that no one, including his attorney or the district court, can predict to a certainty the effect of his conviction on his immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that his plea may entail, even if the consequence is his automatic removal from the United States. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty to a one-count Information to be filed in the United States District Court for the Eastern District of Louisiana. The Information will charge the defendant with participating in a conspiracy to suppress and eliminate competition by agreeing to increase, fix, stabilize, and maintain prices charged to customers for freight forwarding services provided in the United States and elsewhere from at least as early as September 2010 until at least March 2015 in violation of the Sherman Antitrust Act, 15 U.S.C. § 1.

3. The defendant will plead guilty to the criminal charge described in Paragraph 2 above pursuant to the terms of this Plea Agreement 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.

**FACTUAL BASIS FOR OFFENSE CHARGED**

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

(a) For purposes of this Plea Agreement, the “relevant period” is that period beginning at least as early as September 2010 and continuing until at least March 2015. During the relevant period, the defendant was the Chief Executive Officer of Company

A, an entity organized and existing under the laws of Louisiana, with its principal place of business in Kenner, Louisiana. During the relevant period, Company A provided freight forwarding services in the United States and elsewhere to customers seeking to ship cargo from the United States to Honduras and elsewhere. Freight forwarders arrange for and manage the shipment of goods from one location to another by receiving, packaging, and otherwise preparing cargo destined for ocean shipment to and from the United States; by arranging transportation in conjunction with an ocean freight shipment to and from the United States; and by preparing documents to accompany an ocean freight shipment to and from the United States. During the relevant period, Company A's sales of freight forwarding services to U.S. customers affected by the conspiracy totaled at least \$6,497,487.

(b) During the relevant period, the defendant participated in a conspiracy with other persons and entities engaged in the sale of freight forwarding services, the primary purpose of which was to suppress and eliminate competition by fixing prices for freight forwarding services provided in the United States and elsewhere. In furtherance of the conspiracy, the defendant attended meetings and communicated—by telephone, e-mail, encrypted messaging applications, and in-person—with representatives of other freight forwarding service providers. During these meetings and communications, agreements were reached to raise and fix the price of freight forwarding services provided in the United States and elsewhere. The defendant was an organizer or leader in the conspiracy, which involved at least five participants.

(c) During the relevant period, the business activities of the conspirators were within the continuous and uninterrupted flow of, and substantially affected, interstate

trade and commerce. For example, the conspirators solicited and sold freight forwarding services to customers located in various states in the United States. Cargo transported by the conspirators, as well as payments received for freight forwarding services by conspirators, traveled in interstate trade and commerce.

(d) Acts in furtherance of the conspiracy were carried out within the Eastern District of Louisiana and elsewhere, including the Southern District of Florida. At least one of the conspiratorial meetings and discussions described above occurred in the Eastern District of Louisiana.

#### **ELEMENTS OF THE OFFENSE**

5. The elements of the charged offense are that:

- (a) the conspiracy described in the Information existed at or about the time alleged;
- (b) the defendant knowingly became a member of the conspiracy; and
- (c) the conspiracy described in the Information either substantially affected interstate commerce in goods or services or occurred within the flow of interstate commerce in goods and services.

#### **POSSIBLE MAXIMUM SENTENCE**

6. The defendant understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of Section One of the Sherman Antitrust Act is:

- (a) a term of imprisonment for ten (10) years (15 U.S.C. § 1);
- (b) a fine in an amount equal to the greatest of (1) \$ 1 million, (2) twice the gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross

pecuniary loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18 U.S.C. § 3571(b) and (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 required to serve up to two (2) years in prison (18 U.S.C. § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) §5D1.2(a)(2)).

7. In addition, the defendant understands that:

(a) Pursuant to U.S.S.G. §5E1.1 or 18 U.S.C. § 3663(a)(3) or 3583(d), 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 the charged crime.

#### **SENTENCING GUIDELINES**

8. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider, in determining and imposing sentence, the Guidelines Manual in effect on the date of sentencing unless that Manual provides for greater punishment than the Manual in effect on the last date that the offense of conviction was committed, in which case the Court must consider the Guidelines Manual in effect on the last date that the offense of conviction was committed. The parties agree there is no *ex post facto* issue under the 2016 Guidelines Manual. The Court must also consider the other factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence. The defendant understands that the Court will make Guidelines determinations by applying a standard of preponderance of the evidence. 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). Pursuant to U.S.S.G. §1B1.8, the United States agrees that self-incriminating information that the defendant provides to the United States pursuant to this Plea Agreement will not be used to increase the volume of affected commerce attributable to the defendant or in determining the defendant’s applicable Guidelines range, except to the extent provided in U.S.S.G. §1B1.8(b).

**SENTENCING AGREEMENT**

9. Pursuant to Fed. R. Crim. P. 11(c)(1)(B) and subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph 16 of this Plea Agreement, the United States and the defendant agree that the following Sentencing Guidelines apply (“recommended Guidelines calculations”):

(a) Base Offense Level, U.S.S.G. §2R1.1(a):	12
(b) Volume of Commerce (stipulated to be \$6,497,487 for defendant), U.S.S.G. §2R1.1(b)(2)(A):	+2
(c) Aggravating Role, U.S.S.G. §3B1.1(A):	+4
(d) Offense Level Total:	18
(e) Fine range, calculated as one to five percent of the volume of commerce (stipulated to be \$6,497,487 for defendant), but not less than \$20,000, U.S.S.G. §2R1.1(c)(1):	\$64,974 - \$324,874
(f) The defendant understands that the Court will order him to pay a \$100 special assessment pursuant to 18 U.S.C. § 3013(a)(2)(A) in addition to any fine imposed.	\$100

10. The United States agrees that it will make a motion, pursuant to U.S.S.G. §3E1.1, for a two-level downward adjustment for acceptance of responsibility, and an additional one-level adjustment if the Court determines the offense level prior to the acceptance of

responsibility adjustment to be 16 or higher. U.S.S.G. §3E1.1(a)-(b). However, should the United States obtain or receive evidence or information prior to sentencing that, in its sole discretion, it determines to be credible and materially in conflict with this provision, then the United States will no longer be bound by this provision.

11. Subject to the foregoing provisions, the parties agree to recommend jointly to the Court that the defendant's adjusted offense level be 15. The applicable Guidelines imprisonment range for offense level 15 is 18-24 months. The applicable Guidelines fine range is \$64,974 to \$324,874.

12. The defendant understands that the United States will oppose any recommendation that does not include a sentence of imprisonment within the Guidelines range. 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 U.S. Sentencing Commission in formulating the Sentencing Guidelines justifying a departure pursuant to U.S.S.G. §5K2.0. The parties agree that the government may seek a sentence anywhere within the Guidelines range. The parties also agree that the defendant is free to recommend any sentence based on 18 U.S.C. § 3553(a), but may not challenge the recommended Guidelines calculations set forth in Paragraph 9, nor any factual support for those Guidelines calculations.

13. If the United States determines that the defendant has provided substantial assistance in any investigations or prosecutions, and has otherwise fully complied with all of the terms of this Plea Agreement, it will file a motion, pursuant to U.S.S.G. §5K1.1 or Fed. R. Crim. P. 35(b), advising the sentencing judge of all relevant facts pertaining to that determination and requesting that the Court sentence the defendant in light of the factors set forth in U.S.S.G. §5K1.1(a)(1)-(5). The defendant acknowledges that the decision whether he has provided



substantial assistance in any investigations or prosecutions and has otherwise complied with the terms of this Plea Agreement is within the sole discretion of the United States. It is understood that, should the United States determine that the defendant has not provided substantial assistance in any investigations or prosecutions, or should the United States determine that the defendant has violated any provision of this Plea Agreement, 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 the defendant to withdraw his guilty plea once it has been entered. The defendant 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. With respect to the fine portion of the sentence, the United States and defendant agree that they will jointly recommend a fine of \$20,000.

14. Subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph 16 of this Plea Agreement, and prior to sentencing 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 prosecutions, all material facts relating to the defendant's involvement in the charged offense, and all other relevant conduct. To enable the Court to have the full 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.

15. The United States and the defendant understand that the Court retains complete discretion to accept or reject either party's sentencing recommendation provided for in Paragraph 9 of this Plea Agreement, and to decide any motion submitted by the United States as provided for in Paragraph 13 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 either party's sentencing recommendation contained in this Agreement, he nevertheless has no right to withdraw his plea of guilty.

**DEFENDANT'S COOPERATION**

16. The defendant will cooperate fully and truthfully with the United States in the prosecution of this case, the current federal investigation of violations of federal antitrust and related criminal laws involving the sale of freight forwarding services in the United States and elsewhere, any 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 "Federal Proceeding"). Federal Proceeding includes, but is not limited to, an investigation, prosecution, litigation, or other proceeding regarding obstruction of, the making of a false statement or declaration in, the commission of perjury or subornation of perjury in, the commission of contempt in, or conspiracy to commit such offenses in, a Federal Proceeding. The full, truthful, and continuing cooperation of the defendant will include, but not be limited to:

- (a) producing in the United States and at other mutually agreed-upon locations all documents, including claimed personal documents, and other materials, wherever located, not protected under the attorney-client privilege or the work-product doctrine, in the possession, custody, or control of the defendant, that are requested by attorneys and agents of the United States in connection with any Federal Proceeding;
- (b) making himself available for interviews in the United States and at other mutually agreed-upon locations, not at the expense of the United States, upon the request of attorneys and agents of the United States in connection with any Federal Proceeding;
- (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 of making a false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), or conspiracy to commit such offenses;

(d) otherwise voluntarily providing the United States with any material or information not requested in (a)-(c) of this paragraph and not protected under the attorney-client privilege or work-product doctrine 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 in grand jury, trial, and other judicial proceedings in the United States fully, truthfully, and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making a false statement or declaration 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, *et seq.*).

#### **GOVERNMENT'S AGREEMENT**

17. Subject to the full, truthful, and continuing cooperation of the defendant, as defined in Paragraph 16 of this Plea Agreement, and upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of the recommended sentence, the United States agrees that it will not bring further criminal charges against the defendant for any act or offense committed before the date of signature of this Plea Agreement that was undertaken in furtherance of an antitrust conspiracy involving the sale of freight forwarding services in the United States and elsewhere (the "Relevant Offense"). The non-prosecution terms of this paragraph do not apply to (a) any acts of perjury or subornation of perjury (18 U.S.C. §§ 1621-22), making a false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice

(18 U.S.C. § 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses; (b) civil matters of any kind; (c) any violation of the federal tax or securities laws or conspiracy to commit such offenses; or (d) any crime of violence.

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 or subornation of perjury (18 U.S.C. §§ 1621-22), making a false statement or declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses.

#### **REPRESENTATION BY COUNSEL**

19. 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**

20. 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**

21. 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, truthful, and continuing cooperation, as defined in Paragraph 16 of this Plea Agreement, or has otherwise violated any provision of this Plea Agreement, the United States will notify counsel for the defendant in writing by personal or overnight delivery, email, or facsimile transmission and may also notify 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 will 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 signature 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.

22. 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 because of the defendant's violation of this 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

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.

**ENTIRETY OF AGREEMENT**

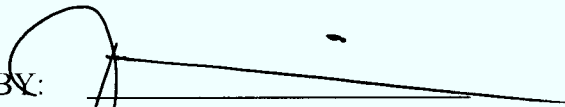
23. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charge in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.


24. 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.


25. A facsimile or PDF signature will 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: Oct. 2, 2018

Respectfully submitted,

BY:   
Roberto Dip  
Defendant

BY:   
Joseph C. Folio III  
Ryan D. Tansey  
Lauren M. Elfner  
Attorneys, Antitrust Division  
United States Department of Justice  
450 5th Street, N.W., Suite 11300  
Washington, D.C. 20530  
(202) 598-8362  
Joseph.Folio@usdoj.gov

BY:   
Joel Denaro  
Counsel for Roberto Dip