

FILE
5-5-2009
MAY 15 2009

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**MICHAEL W. MONTGOMERY
CLERK, U.S. DISTRICT COURT**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

PRONTO STAFFING INC.,)

Defendant.)

09 CR 278

1:09 CR _____

Violation: 18 U.S.C. § 371

JUDGE SHADUR

PLEA AGREEMENT MAGISTRATE JUDGE MASON

The United States of America, and Pronto Staffing, Inc. ("Defendant"), a corporation organized and existing under the laws of Illinois and Georgia, 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. Defendant understand its 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 it;
 - (d) to have a trial by jury, at which it 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 it to be found guilty;
 - (e) to confront and cross-examine witnesses against it and to

subpoena witnesses in its defense at trial;

- (f) to appeal its conviction if it is found guilty; and
- (g) to appeal the imposition of sentence against it.

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

2. Defendant knowingly and voluntarily waives the rights set out in Paragraph 1(b)-(f) above. Defendant further understands it is waiving all appellate issues that might have been available if it had exercised its right to trial. Defendant is aware that Title 18 U.S.C. § 3742 affords a defendant the right to appeal its conviction and sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal its conviction and any part of the sentence, including any fine within the maximum provided by law, and including any order of restitution or forfeiture (or the manner in which that sentence was determined), in exchange for the concessions made by the United States in this Plea Agreement. ~~In addition, Defendant also waives its right to challenge its conviction and sentence, or the manner in which the sentence was determined, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28 U.S.C. § 2255. [The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel.~~ The Defendant agrees that there is currently no known evidence of ineffective assistance of counsel or prosecutorial misconduct. 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), Defendant will waive Indictment and plead guilty at arraignment to Count 1 of an Information to be filed in the United States District Court for the Northern District of Illinois, Eastern Division.

JEB
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3. Count One of the Information will charge Defendant PRONTO with participating in a conspiracy to commit wire fraud as part of a scheme and artifice to defraud the the Department of Veterans Affairs ("VA") and the Small Business Administration ("SBA") in order to obtain money and property from the government by means of false and fraudulent pretenses, representations, and promises from in or about May 2000 through at least April 2007, in violation of 18 U.S.C. § 371.

4. Defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charge described in Paragraph 3 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 18 below.

POSSIBLE MAXIMUM SENTENCE

5. Defendant understands that the statutory maximum penalty which may be imposed against it upon conviction for conspiracy to commit a violation of 18 U.S.C. § 1343 is a fine in an amount equal to the greatest of:

- (a) \$500,000
pursuant to 18 U.S.C. § 3571(c)(3); or
- (b) the greater of twice the gross gain or twice the gross loss
18 U.S.C. § 3571(c)(2) & (d)

6. In addition, Defendant understands that:

- (a) pursuant to 18 U.S.C. § 3561(c)(1), the Court may impose a term of probation of at least one year, but not more than five years;
- (b) pursuant to U.S.S.G. § 8B1.1 or 18 U.S.C. § 3563(b)(2) or § 3663(a)(3),

- the Court may order it to pay restitution to the victims of the offense; and
- (c) pursuant to 18 U.S.C. § 3013(a)(2)(B), the Court is required to order Defendant to pay a \$400 special assessment upon conviction for the charged crime.

SENTENCING GUIDELINES

7. 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. Defendant understands that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard. 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 Defendant provides to the United States pursuant to this Plea Agreement will not be used in determining Defendant's applicable Guidelines range, except to the extent provided in U.S.S.G. § 1B1.8(b).

SENTENCING AGREEMENT

8. 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 consistent with an Offense Level of **24** requiring the Defendant PRONTO to pay restitution of \$400,000 on the day Defendant is sentenced by certified check payable in full to the Clerk of the District Court, pursuant to 18 U.S.C. § 3663(a)(3). The government also agrees to recommend that any restitution previously paid by co-defendant WILLIAM J. BRANDT should count toward

this total. Defendant understands that the government's recommendation is not binding on the Court, and the Court may additionally order Defendant to pay a fine, forfeiture, or additional restitution notwithstanding the government's recommendation. Should, however, the Court order Defendant to pay a fine, forfeiture, or additional restitution, it will not be permitted on that basis to withdraw its guilty plea.

9. The parties each reserve the right to argue for a fine amount that they believe is appropriate and consistent with the Sentencing Guidelines. Defendant understands and agrees that the government may argue for a fine up to the statutory maximum amount pursuant to 18 U.S.C. § 3571(c).

10. 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 not to seek or support any sentence outside of the Guidelines range nor any Guidelines adjustment for any reason that is not set forth in this Plea Agreement. The parties further agree that the recommended sentence set forth in this Plea Agreement is reasonable.

- (a) Defendant understands that the Court will order it to pay a \$400 special assessment, pursuant to 18 U.S.C. § 3013(a)(2)(B), in addition to any fine imposed.
- (b) The United States contends that had this case gone to trial, the United States would have presented evidence sufficient to prove that the gain derived, or the loss resulting from, the charged offense is sufficient to justify the recommended sentence set forth in Paragraph 8, pursuant to 18 U.S.C. § 3571(c). For purposes

of this plea and sentencing only, Defendant waives its right to contest the calculation.

11. Subject to the ongoing, full, and truthful cooperation of Defendant described in Paragraphs 13 and 14 of this Plea Agreement, and before sentencing in this case, the United States will fully advise the Court and the Probation Office of the fact, manner, and extent of Defendant's cooperation with the United States' investigation and prosecutions, all material facts relating to Defendant's involvement in the charged offense, and all other relevant conduct.

12. The United States and Defendant understand that the Court retains complete discretion to accept or reject the recommended sentence provided for in Paragraph 8 of this Plea Agreement. Defendant understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a sentence consistent with either party's sentencing recommendation, it nevertheless has no right to withdraw its plea of guilty.

DEFENDANT'S COOPERATION

13. 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 criminal laws involving the procurement of goods and services at the Department of Veterans Affairs' Hines, Illinois, CMOP and at other federal government facilities; 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 Defendant shall include, but not be limited to:

- (a) producing to the United States all non-privileged documents, information, and other materials, wherever located, in the possession, custody, or control of Defendant,

requested by attorneys and agents of the United States in connection with any Federal Proceeding;

(b) 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, *et seq.*); and

(c) otherwise voluntarily providing the United States with any non-privileged material or information, not requested in (a) - (b) of this paragraph, that it may have that is related to any Federal Proceeding.

14. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation and all relevant account statements) prior to sentencing, and to both provide and consent to the release of any tax returns filed on its behalf, for the current year as well as the prior six years, to be provided to, and shared among, the Court, Probation Office, and the Antitrust Division. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for enhancement of its sentence for obstruction of justice under U.S.S.G. § 3C1.1, and may be prosecuted as a violation of 18 U.S.C. § 1001 or as contempt of the Court.

SPECIAL ASSESSMENT

15. Defendant agrees to pay the special assessment of \$400 by check payable to the Clerk of the District Court at the time its plea is accepted by the Court. 18 U.S.C. § 3013(a)(2)(B); Sentencing Guidelines § 8E1.1.

GOVERNMENT'S AGREEMENT

16. Subject to the full, truthful, and continuing cooperation of Defendant, as described above in Paragraphs 13 and 14 of this Plea Agreement, and upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of sentence, the United States agrees that it will not bring further criminal charges against any current director, officer, or employee of Defendant for any act or offense committed before the date of this Plea Agreement and while that person was acting as a director, officer, or employee of Defendant that was undertaken in furtherance of the conspiracy relating to the provision of temporary staffing services at the Department of Veterans Affairs' Hines, Illinois, CMOP and at other federal government facilities ("Relevant Offenses").

17. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Plea Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against Defendant or any other person or entity. The obligations of this Plea Agreement are limited to the Antitrust Division and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Plea Agreement.

FACTUAL BASIS FOR OFFENSE CHARGED

18. Defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charge described in Paragraph 3 because it is in fact guilty of the charge set forth in the Information. In pleading guilty, Defendant admits the following facts relating to the charge, that those facts establish its guilt beyond a reasonable doubt to the charges, and that the additional

facts set forth herein constitute relevant conduct.

19. 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 in or about May 2000 and continuing through at least approximately April 2007. During the relevant period, Defendant PRONTO STAFFING, INC. (“PRONTO”) was a corporation organized and existing under the laws of Illinois, and then later Georgia. Defendant had its principal place of business in Evergreen Park, Illinois, and an operations and billing office in Monroe, Georgia. During the relevant period, Defendant was in the business of providing temporary employees, primarily to government facilities.
- (b) The Department of Veterans Affairs’ Consolidated Mail Outpatient Pharmacy located in Hines, Illinois (“Hines CMOP”), processed and sent out prescriptions for VA medical centers throughout the country. The Hines CMOP employed pharmacist staff members, many of whom were contracted from outside staffing agencies on a temporary or emergency basis.
- (c) WILLIAM J. BRANDT was the Associate Director of the Hines CMOP. Among his government duties and responsibilities as Associate Director, WILLIAM J. BRANDT supervised temporary pharmacists employed by outside vendors who worked at the Hines CMOP.
- (d) WILLIAM J. BRANDT was the principal manager, and exercised control over the day-to-day operations of Defendant PRONTO at the Hines CMOP. Among other actions taken by WILLIAM J. BRANDT on behalf of PRONTO, WILLIAM J. BRANDT both

hired and helped supervise PRONTO employees at the Hines CMOP.

(e) Although WILLIAM J. BRANDT actually controlled PRONTO, WILLIAM J. BRANDT's spouse, ESPERANZA A. BRANDT, was identified as the person who owned and controlled PRONTO in materials submitted to the VA and SBA. During the relevant period, ESPERANZA A. BRANDT exercised virtually no control over the operations of Defendant, other than signing certain documents and taking such other, limited actions, as directed by WILLIAM J. BRANDT and others, designed to give the false impression that ESPERANZA A. BRANDT was the individual actually controlling Defendant. ESPERANZA A. BRANDT falsely represented that she was the individual who controlled Defendant because WILLIAM J. BRANDT was concerned about the conflict of interest pertaining to his providing pharmacists to the place where he worked and, as a woman and a member of a minority group (Hispanic), a business controlled by ESPERANZA A. BRANDT would be eligible to participate in certain advantageous contracting programs administered by the SBA.

(f) During the relevant period, Defendant, through WILLIAM J. BRANDT and ESPERANZA A. BRANDT, participated in a scheme whereby a second temporary staffing company, Company A, was recommended by WILLIAM J. BRANDT to be chosen to supply temporary pharmacist services to the Hines CMOP starting in or about May 2000. At the time WILLIAM J. BRANDT made this recommendation, he and his spouse ESPERANZA A. BRANDT knew that Company A would subcontract the temporary pharmacist work to Defendant PRONTO STAFFING. Based in part on WILLIAM J. BRANDT's recommendation, Company A was awarded a purchase order to

supply temporary pharmacists to the Hines CMOP on or about June 9, 2000. Several successive purchase orders were placed in following years with Company A for temporary pharmacists. The gross dollar amount of purchase orders awarded to Company A to provide temporary pharmacists to the CMOP where WILLIAM J. BRANDT was employed as Associate Director was approximately \$8 million.

(g) A high-level executive at Company A suggested to WILLIAM J. BRANDT and ESPERANZA A. BRANDT that they obtain certain SBA certifications for Defendant. This individual explained that certain government agency contracts were designated as “set-aside” contracts where competition was limited or non-existent and, therefore, obtaining SBA certifications would be a great advantage in bidding on these government agency contracts outside of the Hines VA CMOP facility.

(h) On or about September 2000, WILLIAM J. BRANDT prepared a “Small Disadvantaged Business” (“SDB”) application, which ESPERANZA A. BRANDT certified, and which was submitted to the SBA and approved in December 20, 2000. The same individual from Company A, and his business partner, subsequently explained that obtaining SBA 8(a) Program certification would confer an even greater bidding advantage upon Defendant than simply having the SBA’s SDB certification. On or about October 10, 2002 the SBA approved Defendant PRONTO STAFFING’s 8(a) Program application. Certain statements and representations made in that 8(a) Program application were false; their purpose was to exaggerate ESPERANZA A. BRANDT’s involvement and unconditional control over the business so as to convince the SBA that 8(a) Program certification would be appropriate.

- (i) It was agreed upon and understood between WILLIAM J. BRANDT, ESPERANZA A. BRANDT, and the owners of Company A, that employees from Company A would search for set-aside contracts and, if the opportunity looked promising, they would submit a bid in the name of Defendant PRONTO. Neither WILLIAM J. BRANDT nor ESPERANZA A. BRANDT reviewed these bids prior to their submission. Likewise, Defendant's sole owner, ESPERANZA A. BRANDT, was not consulted about the pricing, margin, or the decision to bid or not bid upon these government contracts. The Brandts knew, however, that Company A was actively looking at set-aside bid opportunities even though Company A was itself neither minority-owned, nor woman-owned, nor a Small Disadvantaged Business.
- (j) In or about November 2001, high-level employees of Company A suggested that for any bid won in the name of Defendant PRONTO but which was bid on and performed by Company A, the profits should be split as follows: 40% to Company A; 40% to an individual who was hired by Company A to find lucrative set-aside bids; and 20% to Defendant PRONTO. Defendant, acting through WILLIAM J. BRANDT and ESPERANZA A. BRANDT, agreed with this profit split — just as Defendant had previously agreed that for the Hines CMOP business, profits would be split 50% — 50% with Company A. During the relevant period, Company A performed set-aside contracts held in the name Defendant PRONTO STAFFING, for which it was paid a total amount greater than \$2.5 million but less than \$7 million.
- (k) Starting in or about 2002, these profits were paid out to either Defendant PRONTO or ESPERANZA A. BRANDT in the form of bi-annual bonus amounts, salary,

or other payments. WILLIAM J. BRANDT reviewed these payments on an on-going basis and discussed them with key executives within Company A. Between 2002 and 2007, ESPERANZA A. BRANDT received remuneration in the hundreds of thousands of dollars based on the business relationship PRONTO had with Company A. Additional profits, from business obtained in the name of Defendant PRONTO by Company A outside of the Hines CMOP, were transferred into banking accounts held jointly by WILLIAM J. BRANDT and ESPERANZA A. BRANDT, or other accounts held in ESPERANZA A. BRANDT's or in Defendant PRONTO's name.

(l) During the relevant time, WILLIAM J. BRANDT was the person who interviewed and hired the pharmacists that were employed by PRONTO and who worked at the Hines CMOP. ESPERANZA A. BRANDT did not oversee these employees while they worked at the CMOP, nor did she deal with the majority of employment decisions that affected these workers on a day-to-day basis.

(m) Despite WILLIAM J. BRANDT's involvement with, and oversight of, these temporary pharmacists at Hines, WILLIAM J. BRANDT represented to the SBA on or about March 26, 2001, that he had no involvement with Defendant PRONTO.

(n) WILLIAM J. BRANDT and ESPERANZA A. BRANDT, knew that Company A was performing the contracts won outside of the Hines CMOP in the name of Defendant PRONTO, and that neither WILLIAM J. BRANDT nor ESPERANZA A. BRANDT participated in any meaningful way in running or controlling this outside business. At about this time, the owners of Company A encouraged Defendant, WILLIAM J. BRANDT, and ESPERANZA A. BRANDT to seek approval from the SBA to enter into

what was known as a "Mentor-Protege" agreement with Company A. Individuals at Company A explained that this step was necessary and would help Defendant's overall business opportunities. A high-level individual at Company A sent the prepared "Mentor-Protege" agreement to WILLIAM J. BRANDT, and ESPERANZA A. BRANDT signed and transmitted the paperwork to the SBA. This agreement represented that Company A would train ESPERANZA A. BRANDT in several aspects of running a successful business. However, Company A did not train ESPERANZA A. BRANDT, and Company A did not transfer to ESPERANZA A. BRANDT the skills listed in their Mentor-Protege agreement.

(o) During the relevant period, Defendant PRONTO, acting through WILLIAM J. BRANDT and ESPERANZA A. BRANDT, conspired with others to use and cause others to use interstate wire transmissions in furtherance of the arrangement to obtain lucrative contracts for temporary staffing at government facilities.

(p) Additionally, the proceeds from this business relationship would often be wired from either Company A's bank accounts, or another closely-related entity's bank accounts, in Georgia to various banking accounts in Illinois that were held by Defendant PRONTO, ESPERANZA A. BRANDT, or jointly held by WILLIAM J. BRANDT and ESPERANZA A. BRANDT.

(q) The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for Defendant PRONTO's guilty plea. It does not set forth all of the facts known to Defendant concerning the criminal activity in which it, WILLIAM J. BRANDT, ESPERANZA A. BRANDT, and certain former owners and employees of

Company A engaged. Defendant makes this statement knowingly and voluntarily because it is in fact guilty of the crime charged.

REPRESENTATION BY COUNSEL

20. Defendant has been represented by counsel and is fully satisfied that its attorney has provided competent legal representation. Defendant has thoroughly reviewed this Plea Agreement and acknowledges that counsel has advised it of the nature of the charge, any possible defenses to the charge, and the nature and range of possible sentences.

VOLUNTARY PLEA

21. 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 Defendant as to whether the Court will accept or reject either party's sentencing recommendations contained within this Plea Agreement.

22. Preliminary to or in connection with any judicial proceeding, as that term is used in Rule 6(e) of the Federal Rules of Criminal Procedure, 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 arguably constitute grand jury material. Defendant will not object to the government soliciting consent from third parties, who provided information to the grand jury pursuant to grand jury subpoena, to turn those materials over to the Department of Veterans Affairs, U.S. General Services Administration, the Internal Revenue Service, or other appropriate federal or state administrative agency for use in civil or administrative proceedings or investigations, rather than returning the documents to such third party for later summons or

subpoena in connection with any civil or administrative proceeding against Defendant.

VIOLATION OF PLEA AGREEMENT

23. Defendant agrees that, should the United States determine in good faith, during the period that any Federal Proceeding is pending, that Defendant has failed to provide full and truthful cooperation, as described in Paragraphs 13 and 14 of this Plea Agreement, or has otherwise violated any provision of this Plea Agreement, the United States will notify counsel for Defendant in writing by personal or overnight delivery 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 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 this Plea Agreement. Defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against 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 months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

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

evidence in any such further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

ENTIRETY OF AGREEMENT

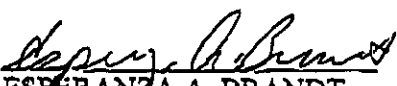
25. This Plea Agreement constitutes the entire agreement between the United States and Defendant concerning the disposition of the criminal charge in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and Defendant.

26. ESPERANZA A. BRANDT is the sole owner, as well as the president, treasurer, and secretary of Defendant PRONTO STAFFING. As such, ESPERANZA A. BRANDT warrants that there are no other officers or board members of PRONTO STAFFING, and that she is therefore authorized to enter this Plea Agreement on behalf of Defendant.

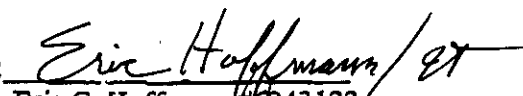
27. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.


AGREED THIS DATE: 3-2-09

Respectfully submitted,

BY: 
ESPERANZA A. BRANDT
President,
Pronto Staffing, Inc.

BY: 
TODD S. PUGH, Esq.
Counsel for Pronto Staffing, Inc.

BY: 
Eric C. Hoffmann #6243122


Jason C. Turner #6226269


Michael N. Loterstein #6297060

Attorneys
Antitrust Division,
U.S. Department of Justice
209 S. LaSalle Street, Suite 600
Chicago, Illinois 60604

Telephone: (312) 353-7530
Facsimile: (312) 353-1046