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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	Criminal No.:
	:	Filed:
v.		
	:	Violations:
EVAN ANDREW ZAREFSKY,		15 U.S.C. § 1
	:	18 U.S.C. § 371
Defendant.		18 U.S.C. § 1343
	:	18 U.S.C. § 1346

PLEA AGREEMENT

The United States Department of Justice, Antitrust Division ("Antitrust Division") and the defendant, EVAN ANDREW ZAREFSKY ("ZAREFSKY"), hereby enter into the following Plea Agreement ("Agreement") pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P.").

ZAREFSKY'S AGREEMENT TO PLEAD GUILTY

1. ZAREFSKY agrees to plead guilty to Counts One, Two and Five of the pending eight-count Superseding Indictment, *United States v. Rubin/Chambers, Dunhill Insurance Services Inc., et al.*, S1 09 Cr. 1058 (VM), in the United States District Court for the Southern District of New York. Count One charges ZAREFSKY with violating 15 U.S.C. § 1, in connection with a conspiracy to allocate and rig bids for investment agreements or other municipal finance contracts, from at least as early as 1998 until at least November 2006. Count Two charges ZAREFSKY with violating 18 U.S.C. § 371, in connection with a conspiracy to defraud municipal issuers, the United States and the Internal Revenue Service, from at least as early as August 2001 until at least November 2006. Count Five charges ZAREFSKY with

violating 18 U.S.C. §§ 1343 and 1346 in connection with the use of a wire transfer in furtherance of a scheme to defraud municipal issuers.

2. ZAREFSKY has informed the Antitrust Division that he wishes to provide the Antitrust Division with information of potential violations of law by ZAREFSKY and others so that the Antitrust Division can evaluate whether it would be willing to file a motion pursuant to § 5K1.1 of the United States Sentencing Guidelines ("U.S.S.G."). ZAREFSKY acknowledges that the decision whether the Antitrust Division will file a motion pursuant to U.S.S.G. § 5K1.1 is within the sole discretion of the Antitrust Division and, further, that the Antitrust Division has made no assurances, representations or commitments whatsoever that even after hearing and evaluating the information ZAREFSKY may provide, it will file a motion pursuant to U.S.S.G. § 5K1.1.

3. ZAREFSKY understands that if he chooses in the future to provide the Antitrust Division with information of potential violations of law and if the Antitrust Division determines that ZAREFSKY has not provided full and truthful information, such a determination will release the Antitrust Division from any obligation under this Agreement.

4. ZAREFSKY understands that if the Antitrust Division ultimately determines not to file a motion pursuant to U.S.S.G. § 5K1.1, he will not be able to withdraw his guilty pleas once they have been entered and the sentence to be imposed on him remains within the sole discretion of the sentencing Judge.

5. ZAREFSKY understands and agrees that should a conviction following his pleas of guilty pursuant to this Agreement be vacated for any reason, any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this

Agreement) may be commenced or reinstated against him, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement 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.

GOVERNMENT'S AGREEMENT

6. Subject to ZAREFSKY's full compliance with the understandings specified in this Agreement, and upon the Court's acceptance of the guilty pleas called for by this Agreement, the Antitrust Division agrees to move to dismiss Counts Three, Four, Six, Seven, and Eight of the pending Superseding Indictment upon imposition of sentence. In addition, the Antitrust Division will not bring further criminal charges against ZAREFSKY with respect to any crime charged in the Superseding Indictment. This Agreement does not provide any protection against prosecution for any crimes arising from the activity except as set forth above. The non-prosecution terms of this paragraph do not apply to civil or tax matters of any kind or crimes of violence.

7. It is understood that this Agreement does not bind any other federal agency or local prosecuting authority or administrative agency other than the Antitrust Division.

POSSIBLE MAXIMUM PENALTIES

8. ZAREFSKY understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of Title 15, United States Code, Section 1 charged in Count One is:

(a) a term of imprisonment of ten (10) years (15 U.S.C. § 1);

(b) a fine in an amount equal to the greatest of (1) $1,000,000, (2) twice the

gross pecuniary gain to any person derived from the offense, or (3) twice the gross pecuniary loss caused to a person other than ZAREFSKY from the offense (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 ZAREFSKY violates any condition of supervised release, ZAREFSKY could be imprisoned for up to two (2) years (18 U.S.C. § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); and U.S.S.G. § 5D1.2(a)(2)).

9. In addition, ZAREFSKY 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 impose an order of restitution to the victim(s) of the offense; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order ZAREFSKY to pay a $100 special assessment upon conviction for the charged crime.

10. In addition, ZAREFSKY understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of Title 18, United States Code, Section 371 charged in Count Two is:

(a) a term of imprisonment of five (5) years (18 U.S.C. § 371);

(b) a fine in an amount equal to the greatest of (1) $250,000, (2) twice the gross pecuniary gain to any person derived from the offense, or (3) twice the gross pecuniary loss caused to a person other than ZAREFSKY from the offense (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 ZAREFSKY violates any condition of supervised release, ZAREFSKY could

be imprisoned for up to two (2) years (18 U.S.C. § 3559(a)(4); 18 U.S.C. § 3583(b)(2) and (e)(3); and U.S.S.G. § 5D1.2(a)(2)).

11. In addition, ZAREFSKY understands that:

(a) pursuant to 18 U.S.C. §§ 3663, 3663A and 3664, the Court shall impose an order of restitution to the victim(s) of the offense; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order ZAREFSKY to pay a $100 special assessment upon conviction for the charged crime.

12. In addition, ZAREFSKY understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of Title 18, United States Code, Sections 1343 and 1346 charged in Count Five is:

(a) a term of imprisonment of twenty (20) years (18 U.S.C. §§ 1343, 1346);

(b) a fine in an amount equal to the greatest of (1) $250,000, (2) twice the gross pecuniary gain to any person derived from the offense, or (3) twice the gross pecuniary loss caused to a person other than ZAREFSKY from the offense (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 ZAREFSKY violates any condition of supervised release, ZAREFSKY could be imprisoned for up to two (2) years (18 U.S.C. § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); and U.S.S.G. § 5D1.2(a)(2)).

13. In addition, ZAREFSKY understands that:

(a) pursuant to 18 U.S.C. §§ 3663, 3663A and 3664, the Court shall impose an order of restitution to the victim(s) of the offense; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order ZAREFSKY to pay a $100 special assessment upon conviction for the charged crime.

SENTENCING GUIDELINES

14. ZAREFSKY understands that the United States Sentencing Guidelines ("Sentencing Guidelines") are advisory, not mandatory, but that the Court must consider the Sentencing 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 a sentence. ZAREFSKY understands that the Sentencing Guidelines determinations will be made by the Court by a preponderance of the evidence standard. ZAREFSKY understands that although the Court is not ultimately bound to impose a sentence within the applicable Sentencing 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

15. ZAREFSKY understands that the sentence to be imposed on him is within the sole discretion of the sentencing Judge. It is understood that the Sentencing Guidelines are not binding on the Court. ZAREFSKY acknowledges that his entry of guilty pleas to Counts One, Two and Five of the Superseding Indictment authorizes the sentencing Court to impose any sentence, up to and including the statutory maximum sentence. The Antitrust Division cannot and does not make any promises or representations as to what sentence ZAREFSKY will receive.

16. The Antitrust Division reserves the right to make any statement to the Court or the Probation Office concerning the nature of the offenses charged in the attached Superseding Indictment, the participation of ZAREFSKY therein, and any other facts or circumstances that it

deems relevant. The Antitrust Division also reserves the right to comment on or to correct any representation made by or on behalf of ZAREFSKY, and to supply any other information that the Court may require. In so doing, the Antitrust Division may use any information it deems relevant, including information provided by ZAREFSKY both prior and subsequent to the signing of this Agreement.

17. ZAREFSKY understands that this Agreement does not in any way affect or limit the right of the Antitrust Division to respond to and take positions on post-sentencing motions or requests for information that relate to reduction or modification of sentence.

REPRESENTATION BY COUNSEL

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

VOLUNTARY PLEA

19. ZAREFSKY 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, ZAREFSKY waives any and all right to withdraw his pleas or to attack his conviction, either on direct appeal or collaterally, on the ground that the Antitrust Division has not produced 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 ZAREFSKY, and

impeachment material pursuant to *Giglio v. United States*, 405 U.S. 150 (1972), that have not already been produced as of the date of the signing of this Agreement.

20. ZAREFSKY's decision to enter into this Agreement and to tender pleas 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 Agreement.

ENTIRETY OF AGREEMENT

21. This Agreement constitutes the entire agreement between the Antitrust Division and ZAREFSKY concerning the disposition of the charges contained in the attached Superseding Indictment. The Antitrust Division has made no other promises to or agreements with ZAREFSKY. This Agreement cannot be modified except in writing, signed by the Antitrust Division and ZAREFSKY.

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

Dated: 1/9/12

EVAN ANDREW ZAREFSKY

JEFFREY H. RUTHERFORD, ESQ.
Counsel for Evan Andrew Zarefsky

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