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DEC 30 2011
CHAMBERS OF
JUDGE MARRERO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

PLEA AGREEMENT

The United States Department of Justice, Antitrust Division ("Antitrust Division") and the defendant, DAVID RUBIN ("RUBIN"), 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.").

RUBIN'S AGREEMENT TO PLEAD GUILTY

1. RUBIN agrees to plead guilty to Counts One, Two and Six 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 RUBIN 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 RUBIN 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 Six charges RUBIN with violating 18 U.S.C. §§ 1343, 1346 in connection with effecting a wire transfer in furtherance of a scheme to defraud municipal issuers.

2. RUBIN has informed the Antitrust Division that he wishes to provide the Antitrust Division with information of potential violations of law by RUBIN and others so that the Antitrust Division can evaluate whether it would be willing to file a motion pursuant to U.S.S.G. § 5K1.1 of the Sentencing Guidelines. RUBIN acknowledges that the decision whether the Antitrust Division will file a motion pursuant to U.S.S.G. § 5K1.1 of the Sentencing Guidelines 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 RUBIN may provide, it will file a motion pursuant to U.S.S.G. § 5K1.1.

3. RUBIN 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 RUBIN has not provided full and truthful information, such a determination will release the Antitrust Division from any obligation under this Agreement.

4. RUBIN 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. RUBIN 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 it, 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 RUBIN'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, Five, and Eight of the pending Superseding Indictment upon imposition of sentence. In addition, the Antitrust Division will not bring further criminal charges against RUBIN 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. RUBIN 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 as 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 RUBIN 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 RUBIN violates any condition of supervised release, RUBIN could be imprisoned 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, RUBIN understands that:

(a) pursuant to U.S.S.G. § 5E1.1, and 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 RUBIN to pay a $100.00 special assessment upon conviction for the charged crime.

10. In addition, RUBIN 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 as 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 RUBIN 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 RUBIN violates any condition of supervised release, RUBIN could be imprisoned 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, RUBIN 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 RUBIN to pay a $100 special assessment upon conviction for the charged crime.

12. In addition, RUBIN 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 as charged in Count Six 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 RUBIN 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 RUBIN violates any condition of supervised release, RUBIN could be imprisoned 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, RUBIN 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 RUBIN to pay a $100 special assessment upon conviction for the charged crime.

SENTENCING GUIDELINES

14. RUBIN 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. RUBIN

understands that determinations about a Sentencing Guidelines calculations will be made by the Court by a preponderance of the evidence standard. RUBIN 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 considerations of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

SENTENCING AGREEMENT

15. RUBIN 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. RUBIN acknowledges that his entry of guilty pleas to Counts One, Two and Six 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 RUBIN 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 RUBIN 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 RUBIN, 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 RUBIN both prior and subsequent to the signing of this Agreement.

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

VOLUNTARY PLEA

19. RUBIN 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, RUBIN 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 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 RUBIN, 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. RUBIN'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 RUBIN concerning the disposition of the charges contained in the attached Superseding Indictment. The Antitrust Division has made no other promises to or agreements with RUBIN. This Agreement cannot be modified except in writing, signed by the Antitrust Division and RUBIN.

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: 12/30/11

DAVID RUBIN

REBECCA MEIKLEJOHN
STEVEN TUGANDER
KEVIN B. HART
MICHELLE O. RINDONE

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