FILED
IN OPEN COURT
MAY 10 2007
CLERK, U.S. DISTRICT COURT
NORFOLK, VA

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Norfolk Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL NO. 2:07cr 35
	)	
ROBERT B. TAYLOR,	)	
	)	
Defendant.	)	

PLEA AGREEMENT

The United States of America, by undersigned counsel, the defendant, ROBERT B. TAYLOR, and the defendant's counsel have entered into the following agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

1. Offenses and Maximum Penalties

The defendant agrees to waive indictment and plead guilty to a three count criminal information charging the defendant with: (1) participating in a conspiracy to suppress and eliminate competition by allocating customers and rigging bids for contracts of foam-filled marine fenders and buoys in the United States and elsewhere from at least as early as June 2000, continuing until as late as August 2005, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1; (2) participating in a conspiracy to suppress and eliminate competition by allocating customers and rigging bids for contracts of plastic marine pilings in the United States and elsewhere from at least as early as December 2000 until as late as May 2003, in violation of the Sherman Antitrust Act, 15 U.S.C. § 1; and (3) participating in a conspiracy to corruptly give, offer or agree to give money with the intent to influence an agent of the New York City government in connection with a series of transactions from at least as early as January 2000 until at least December 2002, in violation of 18 U.S.C. §§ 371 and

A TRUE COPY, TESTE:
CLERK, U.S. DISTRICT COURT
BY _____ DEPUTY CLERK

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666. The maximum penalties for these offenses are: a term of imprisonment of ten years for Count I, three years for Count II, and five years for Count III; a fine in an amount equal to the greatest of (1) $1,000,000 for Count I, $350,000 for Count II, and $250,000 for Count III, (2) twice the gross pecuniary gain derived from the crime, or (3) twice the gross pecuniary loss caused to the victims of the crime (15 U.S.C. § 1; 18 U.S.C. § 371; 18 U.S.C. § 3571(b) and (d)); full restitution; a special assessment; and a term of supervised release of three years for Counts I and III and one year for Count II. The defendant understands that this supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for up to ~~two~~ three years for Counts I and III and one year for Count II.

2. Factual Basis for the Plea

The defendant will plead guilty because the defendant is in fact guilty of the charged offenses. The defendant admits the facts set forth in the Statement of Facts filed with this plea agreement and agrees that those facts establish guilt of the offenses charged beyond a reasonable doubt. The Statement of Facts, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

3. Assistance and Advice of Counsel

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

a. the right to plead not guilty and to persist in that plea;

b. the right to a jury trial;

c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and

d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

4. Role of the Court and the Probation Office

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximums described above but that the Court will determine the defendant's actual sentence in accordance with 18 U.S.C. § 3553(a). The defendant understands that the Court has not yet determined a sentence and that any estimate of the advisory sentencing range under the U.S. Sentencing Commission's Sentencing Guidelines Manual ("U.S.S.G.") the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. Additionally, pursuant to the Supreme Court's decision in *United States v. Booker*, 125 S. Ct. 738, the Court, after considering the factors set forth in 18 U.S.C. § 3553(a), may impose a sentence above or below the advisory sentencing range, subject only to review by higher courts for reasonableness. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence. Pursuant to U.S.S.G. § 1B1.11(b), the United States and the defendant agree that the November 1, 2004 version of the U.S.S.G., which was in effect on the date that the last offense of conviction was committed, should be used since the November 1, 2006 version of the U.S.S.G. would result in a higher adjusted offense level for the offenses to which the defendant is pleading guilty. Pursuant to U.S.S.G. § 6B1.4, the United States and the defendant enter into the following stipulations. The United States and the

defendant understand and agree that these stipulations are not binding upon either the Probation Office or the Court. The Court may make factual determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed on the defendant.

(a) The parties agree that pursuant to U.S.S.G. § 3D1.2(d) and U.S.S.G. § 3D1.3, Counts I and II should be grouped together into a single group (hereinafter "Group 1") and the volume of commerce affected by the two conspiracies should be aggregated to determine the offense level. The parties further agree that Count III does not involve substantially the same harm as Counts I and II as that term is defined in U.S.S.G. § 3D1.2, and therefore, Count III constitutes a separate group (hereinafter "Group 2") from Counts I and II.

(b) Group 1

(I) The base offense level applicable to Group 1, as established by U.S.S.G. § 2R1.1(a), is 10.

(ii) The offenses to which the defendant is pleading guilty in Group 1 involved participation in agreements to submit non-competitive bids, within the meaning of U.S.S.G. § 2R1.1(b)(1), which increases the offense level by 1.

(iii) The volume of commerce attributable to the defendant within the meaning of U.S.S.G. § 2R1.1(b)(2) for the offenses in Group 1 is more than $37,500,000, but less than $100,000,000, which increases the offense level by 6.

(iv) Based on the defendant's role in the offenses charged in Group 1, a 3

level increase in the offense level is appropriate pursuant to U.S.S.G. § 3B1.1 (b).

(v) The adjusted offense level for Group 1 is 20.

(c) Group 2

(I) The base offense level applicable to Group 2, as established by U.S.S.G. §§ 2C1.1(a) and 2X1.1, is 12, plus an eight level increase since the value of the benefit received in exchange for the bribes, within the meaning of U.S.S.G. § 2C1.1(b)(2) and 2B1.1(b)(1), was more than $70,000, but less than $120,000.

(ii) Based on the defendant's role in the offense charged in Group 2, a 2 level increase in the offense level is appropriate pursuant to U.S.S.G. § 3B1.1 (c).

(iii) The adjusted offense level for Group 2 is 22.

(d) The combined offense level for Groups 1 and 2, pursuant to U.S.S.G. § 3D1.4, is 24.

(e) For purposes of U.S.S.G. § 3E1.1, a three-level reduction of the offense level for defendant's acceptance of responsibility is appropriate. However, should the United States obtain or receive additional evidence or information prior to sentencing that, in its sole discretion, it determines to be credible and materially in conflict with this stipulation, then the United States shall no longer be bound by this stipulation.

(f) Based on the foregoing, defendant's adjusted offense level for the offenses to which he is pleading guilty is 21. The guideline sentencing range for offense level 21 is 37

to 46 months imprisonment. The defendant's appropriate guideline fine range within the meaning of § 2R1.1(c)(1) is $500,000 to $2,500,000.

5. Waiver of Appeal, FOIA and Privacy Act Rights

The defendant also understands that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the statutory maximum described above (or the manner in which that sentence was determined) on the grounds set forth in Title 18, United States Code, Section 3742 or on any ground whatsoever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 552, or the Privacy Act, Title 5, United States Code, Section 552a.

6. Sentencing Agreement

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States and the defendant agree that the appropriate disposition of this case is, and agree to recommend jointly, that the Court impose a sentence requiring the defendant to pay to the United States a criminal fine of $100,000 and to serve a jail term of thirty (30) months of incarceration, pursuant to U.S.S.G. §§ 5C1.1(f) and 5K1.1 ("the Recommended Sentence").

a. The United States and the defendant agree that there exists no aggravating or

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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 United States and the defendant agree not to seek or support any sentence outside of the applicable Guidelines range nor any Guidelines adjustment for any reason that is not set forth in this Plea Agreement. The United States and the defendant further agree that the Recommended Sentence set forth in this Plea Agreement is reasonable. The United States agrees that it will not seek an order of restitution because of the availability of civil causes of action.

b. The United States and the defendant agree that the applicable Guidelines fine and incarceration ranges exceed the fine and term of imprisonment contained in the Recommended Sentence set out above. Subject to the full and continuing cooperation of the defendant, as described in Paragraph 10 of this Plea Agreement, and prior to sentencing in this case, the United States agrees that if, in its sole discretion, the United States determines that a departure or reduction of sentence is appropriate, it will make a motion, pursuant to U.S.S.G. § 5K1.1, for a downward departure from the Guidelines fine and incarceration ranges in this case and will request that the Court impose the fine and term of imprisonment contained in the Recommended Sentence set out above because of the defendant's substantial assistance in the Government's investigation and prosecutions of violations of federal criminal law in the marine fenders industries and the plastic marine pilings industry.

c. Subject to the ongoing, full, and truthful cooperation of the defendant described in

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Paragraph 10 of this Plea Agreement, and before sentencing in the 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 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.

d. The United States and the defendant understand that the Court retains complete discretion to accept or reject the Recommended Sentence set out above. The defendant understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a sentence consistent with the recommendation contained in this Agreement, he nevertheless has no right to withdraw his plea of guilty.

e. The defendant understands that he may be subject to administrative action by federal or state agencies other than the United States Department of Justice, Antitrust Division, based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in no way controls whatever action, if any, other agencies may take. However, the United States agrees that, if requested, it will advise the appropriate officials of any governmental agency considering such administrative action of the fact, manner, and extent of the cooperation of the defendant as a matter for that agency to consider before determining what administrative action, if any, to take.

f. The United States will not object to the defendant's request that the Court make a

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recommendation to the Bureau of Prisons that the Bureau of Prisons designate that the defendant be assigned to a Federal Minimum Security Camp to serve his sentence of imprisonment. In addition, the United States will not object to the defendant's participation in any treatment programs within the Bureau of Prisons for which the defendant qualifies.

7. Special Assessment

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars ($100.00) per count of conviction.

8. Payment of Monetary Penalties

The defendant understands and agrees that, pursuant to Title 18, United States Code, Section 3572(d), whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, the defendant agrees to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment if necessary.

9. Immunity from Further Prosecution

Subject to the full, truthful, and continuing cooperation of the defendant, as described in Paragraph 10 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 will not bring further criminal charges against the defendant for any act or offense committed before the date of this

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Plea Agreement that was undertaken in furtherance of: (1) antitrust offenses involving the manufacture or sale of marine fenders and buoys and/or plastic marine pilings; and (2) offenses involving a conspiracy to bribe an employee of the New York City Department of Citywide Administrative Services ("Relevant Offenses"). The nonprosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal tax or securities laws, or to any crime of violence.

10. Defendant's Cooperation

The defendant agrees to 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 antitrust and related criminal laws involving the marine fenders industries and the plastic marine pilings industry, 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 Proceedings"). In that regard:

a. The defendant agrees to testify truthfully and completely at any grand juries, trials or other proceedings.

b. The defendant agrees to be reasonably available for debriefing and pre-trial conferences as the United States may require.

c. The defendant agrees to provide all documents, records, writings, or materials of any kind in the defendant's possession or under the defendant's care, custody, or control relating directly or indirectly to all areas of inquiry and investigation.

d. The defendant agrees that, upon request by the United States, the defendant will voluntarily submit to polygraph examinations to be conducted by a polygraph examiner of the United States' choice.

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e. The defendant agrees that the Statement of Facts is limited to information to support the plea. The defendant will provide more detailed facts relating to this case during ensuing debriefings.

f. The defendant is hereby on notice that the defendant may not violate any federal, state, or local criminal law while cooperating with the government, and that the government will, in its discretion, consider any such violation in evaluating whether to file a motion for a downward departure or reduction of sentence.

g. Nothing in this agreement places any obligation on the government to seek the defendant's cooperation or assistance.

11. Use of Information Provided by the Defendant Under This Agreement

Pursuant to Section 1B1.8 of the Sentencing Guidelines, no truthful information that the defendant provides pursuant to this agreement will be used to enhance the defendant's guidelines range. The United States will bring this plea agreement and the full extent of the defendant's cooperation to the attention of other prosecuting offices if requested. Nothing in this plea agreement, however, restricts the Court's or Probation Office's access to information and records in the possession of the United States. Furthermore, nothing in this agreement prevents the Government in any way from prosecuting the defendant should the defendant provide false, untruthful, or perjurious information or testimony or from using information provided by the defendant in furtherance of any forfeiture action, whether criminal or civil, administrative or judicial.

12. Defendant Must Provide Full, Complete and Truthful Cooperation

This plea agreement is not conditioned upon charges being brought against any other

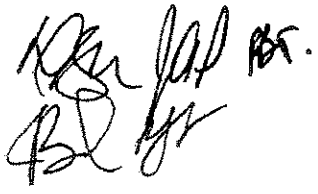
individual. This plea agreement is not conditioned upon any outcome in any pending investigation. This plea agreement is not conditioned upon any result in any future prosecution which may occur because of the defendant's cooperation. This plea agreement is not conditioned upon any result in any future grand jury presentation or trial involving charges resulting from this investigation. This plea agreement is conditioned upon the defendant providing full, complete and truthful cooperation.

13. Motion for a Downward Departure

The parties agree that the United States reserves the right to seek any departure from the applicable sentencing guidelines, pursuant to Section 5K1.1 of the Sentencing Guidelines and Policy Statements, or any reduction of sentence pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, if, in its sole discretion, the United States determines that such a departure or reduction of sentence is appropriate.

14. Breach of the Plea Agreement and Remedies

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 and truthful cooperation, as described in Paragraph 10 of this Plea Agreement, or has otherwise violated any provision of this Plea Agreement, the United States will notify the defendant or his counsel in writing by personal or overnight delivery or facsimile transmission and may also notify his 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 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 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 Offenses, 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 (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

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 based on the defendant's violation of the 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 any such further prosecution. 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.

15. Nature of the Agreement and Modifications

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement

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signed by all parties. 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.

By: _____
J. Brady Dugan
Kenneth W. Gaul
Craig Y. Lee
Patrick Egan
Jon B. Jacobs
Attorneys, Antitrust Division
U.S. Department of Justice

_____
Robert J. Seidel, Supervisory
Assistant United States Attorney

Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to 18 U.S.C. § 3553 and the provisions of the Sentencing Guidelines Manual that may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: 2/14/07 _____
ROBERT B. TAYLOR
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending information. Further, I have reviewed 18 U.S.C. § 3553 and the Sentencing Guidelines Manual, and I have fully explained to the defendant the provisions that may apply in this case. I have carefully reviewed every part of

this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: 2/9/07

Dimitri J. Nionakis
Jocelyn A. Steiner
Counsel for the Defendant