



U.S. Department of Justice

Antitrust Division

Liberty Square Building

*450 5th Street, N.W.
Washington, DC 20530*

March 14, 2024

Ty Kelly
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC 100
Light Street
19th Floor
Baltimore, MD 21202

Re: *United States v. Ashok Saxena*

✓ FILED _____ ENTERED
_____ LOGGED _____ RECEIVED
APR 25 2024
AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY *DDJ* DEPUTY

Dear Counsel:

This letter confirms the plea agreement (this “Agreement”) that has been offered to your client, Ashok Saxena (hereinafter “Defendant”) by the Antitrust Division of the United States Department of Justice (the “Government”). If the Defendant accepts this offer, please have him execute it in the spaces provided below. If this offer has not been accepted by Wednesday, March 20, it will be deemed withdrawn. The terms of the Agreement are as follows:

Offense of Conviction

1. Defendant agrees to waive indictment pursuant to Federal Rule of Criminal Procedure 7(b) and plead guilty to a Criminal Information charging him with Making a False Statement, in violation of 18 U.S.C. § 1001(a)(3) and § 2. The Defendant admits that he is, in fact, guilty of this offense and will so advise the Court.

Elements of the Offenses

2. The elements of the offense to which the Defendant has agreed to plead guilty, and which the Government would prove if the case went to trial, are as follows:

First, the Defendant made or used a false writing or document.

Second, the Defendant knew the writing or document contained a false, fictitious, or fraudulent statement or entry.

Third, the false, fictitious, or fraudulent statement or entry was material to a matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States.

And *fourth*, the Defendant acted knowingly and willfully.

Penalties

3. a. The maximum penalties provided by statute for the offense to which the Defendant is pleading guilty are as follows:

Statute	Maximum Prison	Supervised Release	Maximum Fine	Special Assessment
18 U.S.C. § 1001	5 years	3 years	\$250,000	\$100

b. Payment of fine: If a fine is imposed the Defendant may be required to pay interest if the fine is not paid when due.

Waiver of Rights

4. The Defendant understands that by entering into this Agreement, the Defendant surrenders certain rights as outlined below:

a. If the Defendant had pled not guilty and persisted in that plea, the Defendant would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the Defendant, the Government, and the Court all agreed.

b. If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the Defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified and would have the opportunity to strike a certain number of jurors peremptorily. All twelve jurors would have to agree unanimously before the Defendant could be found guilty of any count. The jury would be instructed that the Defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

c. If the Defendant went to trial, the Government would have the burden of proving the Defendant guilty beyond a reasonable doubt. The Defendant would have the right to

confront and cross-examine the Government's witnesses. The Defendant would not have to present any defense witnesses or evidence whatsoever. If the Defendant wanted to call witnesses in defense, however, the Defendant would have the subpoena power of the Court to compel the witnesses to attend.

d. The Defendant would have the right to testify in the Defendant's own defense if the Defendant so chose, and the Defendant would have the right to refuse to testify. If the Defendant chose not to testify, the Court could instruct the jury that they could not draw any adverse inference from the Defendant's decision not to testify.

e. If the Defendant were found guilty after a trial, the Defendant would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges. By pleading guilty, the Defendant knowingly gives up the right to appeal the verdict and the Court's decisions.

f. By pleading guilty, the Defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the Defendant understands that the Defendant may have to answer the Court's questions both about the rights being given up and about the facts of the case. Any statements that the Defendant makes during such a hearing would not be admissible against the Defendant during a trial except in a criminal proceeding for perjury or false statement.

g. If the Court accepts the Defendant's plea of guilty, the Defendant will be giving up the right to file and have the Court rule on pretrial motions, and there will be no further trial or proceeding of any kind in the above-referenced criminal case, and the Court will find the Defendant guilty.

h. By pleading guilty, the Defendant will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status, including possible denaturalization. The Defendant recognizes that if the Defendant is not a citizen of the United States, or is a naturalized citizen, pleading guilty may have consequences with respect to the Defendant's immigration status. Under federal law, conviction for a broad range of crimes can lead to adverse immigration consequences, including automatic removal from the United States. Removal and other immigration consequences are the subject of a separate proceeding, however, and the Defendant understands that no one, including the Defendant's attorney or the Court, can predict with certainty the effect of a conviction on immigration status. The Defendant is not relying on any promise or belief about the immigration consequences of pleading guilty. The Defendant nevertheless affirms that the Defendant wants to plead guilty regardless of any potential immigration consequences.

Advisory Sentencing Guidelines Apply

5. The Defendant understands that the Sentencing Guidelines are advisory, not mandatory and the Court will determine a sentencing guidelines range for this case (henceforth the

“advisory guidelines range”) pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991 through 998. The Defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take into account the advisory guidelines range in establishing a reasonable sentence.

Factual and Advisory Guidelines Stipulation

6. The Government and the Defendant understand, agree and stipulate to the Statement of Facts set forth in Attachment A hereto, which the Government would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors:

a. The parties agree and stipulate that pursuant to U.S.S.G. §2B1.1, the base offense level for a violation of 18 U.S.C. § 1001(a)(3) is 6.

b. The Government does not oppose a two-level (2) reduction in the Defendant’s adjusted offense level, based upon the Defendant’s apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. The Government may oppose any adjustment for acceptance of responsibility if the Defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about his involvement in the offense; (d) is untruthful with the Court, the Government, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw his plea of guilty.

c. The Government does not oppose an additional two-level (2) reduction in the Defendant’s adjusted offense level if the Court finds that Defendant qualifies for application of an adjustment for certain zero-point offenders pursuant to U.S.S.G. §4C1.1.

d. Accordingly, the parties anticipate a final offense level of two (2). The Government will recommend a sentence of probation for eighteen (18) months and a fine of \$5,000. If a period of probation is imposed, the Government does not oppose the Defendant being allowed travel to and from India during a period of probation, if approved by the United States Probation Office.

7. There is no agreement as to the Defendant’s criminal history and the Defendant understands that the Defendant’s criminal history could alter the Defendant’s offense level. Specifically, the Defendant understands that the Defendant’s criminal history could alter the final offense level if the Defendant is determined to be a career offender or if the instant offense was a part of a pattern of criminal conduct from which the Defendant derived a substantial portion of the Defendant’s income.

8. Other than as set forth above, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines are in dispute or will be raised in calculating the advisory guidelines range.

Obligations of the Parties

9. At the time of sentencing, the Government will recommend a sentence of eighteen (18) months' probation and a \$5,000 fine. The Government and the Defendant reserve the right to bring to the Court's attention all information with respect to the Defendant's background, character, and conduct that the Government or the Defendant deem relevant to sentencing.

Waiver of Appeal

10. In exchange for the concessions made by the Government and the Defendant in this Agreement, the Government and the Defendant waive their rights to appeal as follows:

a. The Defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or any other statute or constitutional provision, to appeal the Defendant's conviction on any ground whatsoever. This includes a waiver of all right to appeal the Defendant's conviction on the ground that the statute(s) to which the Defendant is pleading guilty is unconstitutional, or on the ground that the admitted conduct does not fall within the scope of the statute(s), to the extent that such challenges legally can be waived.

b. The Defendant and the Government knowingly and expressly waive all rights conferred by 18 U.S.C. § 3742 to appeal whatever sentence is imposed (including any term of imprisonment, fine, term of supervised release, or order of restitution) for any reason (including the establishment of the advisory sentencing guidelines range, the determination of the Defendant's criminal history, the weighing of the sentencing factors, and any constitutional challenges to the calculation and imposition of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised release), except that the Defendant reserves the right to appeal any sentence that exceeds the statutory maximum.

c. The Defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from the Government or any investigating agency.

Restitution

11. The Defendant and the Government agree that there is no restitution from the offense of conviction.

Defendant's Conduct Prior to Sentencing and Breach

12. Between now and the date of the sentencing, the Defendant will not engage in conduct that constitutes obstruction of justice under U.S.S.G. § 3C1.1; will not violate any federal, state, or local law; will acknowledge guilt to the probation officer and the Court; will be truthful in any statement to the Court, the Government, law enforcement agents, and probation officers; will cooperate in the preparation of the presentence report; and will not move to withdraw from the plea

of guilty or from this Agreement.

13. If the Defendant engages in conduct prior to sentencing that violates the above paragraph of this Agreement, and the Court finds a violation by a preponderance of the evidence, then: (i) the Government will be free from its obligations under this Agreement; (ii) the Government may make sentencing arguments and recommendations different from those set out in this Agreement; and (iii) in any criminal or civil proceeding, the Government will be free to use against the Defendant all statements made by the Defendant and any of the information or materials provided by the Defendant, including statements, information, and materials provided pursuant to this Agreement, and statements made during proceedings before the Court pursuant to Rule 11 of the Federal Rules of Criminal Procedure. A determination that the Government is released from its obligations under this Agreement will not permit the Defendant to withdraw the guilty plea. The Defendant acknowledges that the Defendant may not withdraw the Defendant's guilty plea if the Court finds that the Defendant breached the Agreement.

Court Not a Party

14. The Court is not a party to this Agreement. The sentence to be imposed is within the sole discretion of the Court. The Court is not bound by the Sentencing Guidelines stipulation in this Agreement. The Court will determine the facts relevant to sentencing. The Court is not required to accept any recommendation or stipulation of the parties. The Court has the power to impose a sentence up to the maximum penalty allowed by law. If the Court makes sentencing findings different from those stipulated in this Agreement, or if the Court imposes any sentence up to the maximum allowed by statute, the Defendant will remain bound to fulfill all of the obligations under this Agreement. Neither the prosecutor, defense counsel, nor the Court can make a binding prediction, promise, or representation as to what guidelines range or sentence the Defendant will receive. The Defendant agrees that no one has made such a binding prediction or promise.

Scope of Agreement

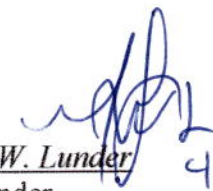
15. The Antitrust Division agrees not to prosecute the Defendant, the Defendant's spouse, or the company d3i, further for any other offense now known to the Antitrust Division related to the events that resulted in the charge contained in the Information and the Stipulation of Facts in Attachment A to this Agreement involving false statements made to the United States in connection with the Defendant's role as the Program Manager at Trident Vantage Systems, LLC, for the NASA Technology and Integrated Discipline Engineering Service, or TIDES, contract, and for any offense related to d3i. This paragraph 18 applies only to the Antitrust Division of the United States Department of Justice and does not preclude other components of the Department of Justice or the United States' Attorney from prosecuting any appropriate action against the Defendant or others.

Entire Agreement

16. This letter constitutes the complete plea agreement in this case. This letter supersedes any prior understandings, promises, or conditions between the Government and the Defendant. There are no other agreements, promises, undertakings, or understandings between the Defendant and the Government other than those set forth in this letter. No changes to this Agreement will be effective unless in writing, signed by all parties and approved by the Court.

If the Defendant fully accepts each and every term and condition of this Agreement, please sign and have the Defendant sign the original and return it to me promptly.

Sincerely,


/s/ Matthew W. Lunder

Matthew Lunder

Zac Trotter

Trial Attorneys, USDOJ

Antitrust Division

4/25/24

I have read this Agreement and carefully reviewed every part of it with my attorney. I understand it and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

Date: 4/25/24


Ashok Saxena

I am the Defendant's attorney. I have carefully reviewed every part of this Agreement with the Defendant. The Defendant advises me that the Defendant understands and accepts its terms. To my knowledge, the Defendant's decision to enter into this Agreement is an informed and voluntary one.

Date: 4/25/24


Ty Kelly, Esq.
Counsel for Ashok Saxena

Attachment A - Stipulation of Facts

The undersigned parties stipulate and agree that if this case had proceeded to trial, the Government would have proved the following facts beyond a reasonable doubt. The parties further stipulate and agree that the following facts are true. The parties also stipulate and agree that the following facts do not encompass all of the evidence that would have been presented had this matter proceeded to trial.

Saxena has been engaged in contracting with NASA for many years, through a variety of business entities.

Since 2011, Saxena was chairman and co-owner (with his spouse) of d3i Systems, Inc., a Maryland-based 8(a) small business that provides engineering services, including to NASA.

In 2019, Saxena became the Program Manager of a joint venture called Trident Vantage Systems, LLC ("TVS") that contracted with NASA (Goddard Space Flight Center, MD). Saxena held this position at TVS while he was a principal of d3i.

In 2015, NASA had awarded to TVS the Technology and Integrated Discipline Engineering Service ("TIDES") contract, a large contract for engineering services supporting NASA space flight programs.

Employee 1 was an employee of d3i who began working at TVS during the late summer and fall of 2019 as the Business Manager for TVS's performance of the TIDES contract.

In early 2020, TVS sponsored d3i for a Top Secret facility clearance through a Facility Clearance Request and an accompanying form DD254, which were submitted to the Department of Defense. The Department of Defense had rejected an earlier application because it did not list a TIDES subcontract number, which was required if d3i was working on a TIDES subcontract requiring Top Secret Clearance. Without the verification that d3i had been awarded a TIDES subcontract, the Department of Defense could not award d3i a security clearance. Saxena counseled Employee 1 to include the number of a consulting agreement in the DD254 where he knew d3i was required to provide the number of a subcontract d3i had on the TIDES contract, which Saxena knew was materially false because d3i did not have a subcontract on the TIDES contract.

Employee 1 included the consulting agreement number in the DD254 form in the box requiring a subcontract number, Saxena approved the form, and the form was then submitted by TVS's Facilities Security Officer to the Department of Defense.

☒ FILED ☐ ENTERED
☐ LOGGED ☐ RECEIVED

APR 25 2024

AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY  DEPUTY