

MHW

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	Criminal No. 10-cr-937
)	
v.)	
)	
RICHARD I. KEEFE,)	<u>Violation:</u> 18 U.S.C. § 1001(a)(2)
)	(False Statement)
Defendant.)	
_____)	

PLEA AGREEMENT

The United States of America and Richard I. Keefe (“defendant”) 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. The defendant understands his 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 him;
 - (d) to have a trial by jury, at which he 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 him to be found guilty;
 - (e) to confront and cross-examine witnesses against him and to subpoena witnesses in his defense at trial;
 - (f) not to be compelled to incriminate himself;
 - (g) to appeal his conviction, if he is found guilty; and
 - (h) to appeal the imposition of sentence against him.

FILED

1-12-2011
JAN 12 2011

**JUDGE JAMES B. ZAGEL
UNITED STATES DISTRICT COURT**

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

2. The defendant knowingly and voluntarily waives the rights set out in Paragraph 1(b)-(g) above and any objection or defense he might have based on the United States joining in a single count multiple false statements. The defendant also knowingly and voluntarily waives the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2241 or 2255, that challenges the sentence imposed by the Court if that sentence is consistent with or below the recommended sentence in Paragraph 9 of this Plea Agreement, regardless of how the sentence is determined by the Court. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). Nothing in this paragraph, however, shall act as a bar to the defendant perfecting any legal remedies he may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct. The defendant agrees that there is currently no known evidence of ineffective assistance of counsel or prosecutorial misconduct. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty at arraignment to a one-count Information to be filed in the United States District Court for the Northern District of Illinois. The Information will charge that in or about January 2008, the defendant did knowingly and willfully make and cause to be made materially false, fictitious, and fraudulent statements and representations in relation to an administrative matter concerning the procurement of printing services by the United States Government Printing Office ("GPO"), an agency of the legislative branch of the Government of the United States, by submitting a bid in response to a GPO print solicitation in the name of a company that had not authorized him to do so, in which the defendant certified that the bid was not being

submitted pursuant to an agreement or understanding for a brokerage fee, when in truth and fact it was, in violation of 18 U.S.C. § 1001(a)(2).

3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charge described in Paragraph 2 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 4 below. The United States agrees that at the arraignment, it will stipulate to the release of the defendant on his personal recognizance, pursuant to 18 U.S.C. § 3142, pending the sentencing hearing in this case.

FACTUAL BASIS FOR OFFENSE CHARGED

4. 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 in or about January 2008. During the relevant period, the defendant was an officer, director, and employee of Company A, an entity organized and existing under the laws of Illinois and with its principal place of business in Rock Falls, Illinois. During the relevant period, Company A was engaged in the business of providing print brokerage services to print vendors interested in submitting bids in response to GPO print solicitations. Company A and the defendant would notify print vendors of bid opportunities available through the GPO and would prepare and submit bids to the GPO on behalf of print vendors. When Company A and the defendant submitted bids to the GPO on behalf of print vendors, the bid prices typically included an undisclosed brokerage fee of 3% to 10% of the total bid price that would be paid to Company A in the

event that the GPO contract was awarded to the print vendor represented by Company A.

(b) In or about January 2008, the GPO issued a bid solicitation for printing, imaging, and binding of employer quarterly federal tax return packages, designated Jacket No. 341-031. The GPO issued the bid on behalf of the Internal Revenue Service of the Department of the Treasury, a department of the United States.

(c) The bid solicitation for Jacket No. 341-031 required the submission of a completed, signed GPO bid form and incorporated by reference certain GPO representations and certifications, including a "Covenant Against Contingent Fees." The Covenant Against Contingent Fees states that the submission of a bid without a statement of exception constitutes a certification that "no person or agency has been employed or retained to solicit or obtain a contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency." The Covenant Against Contingent Fees defines "contingent fee" as "any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract." The Covenant Against Contingent Fees materially influences the GPO in its contracting decisions because, in order to reduce printing costs, the GPO will only award contracts that include brokerage fees in limited circumstances, such as where the print broker has a contractual agency agreement with the bidding print vendor.

(d) On or about January 9, 2008, Company A and the defendant prepared and submitted a bid to the GPO in response to Jacket No. 341-031 in the name of Vendor A (the "Vendor A Bid") as the primary vendor. The defendant listed Executive 1 on the Vendor A Bid as the person authorized to bid and signed Executive 1's signature on the

bid. The Vendor A Bid contained a total bid price of \$783,699.35, which included an undisclosed brokerage fee of 4% that would be payable to Company A if the GPO bid was awarded to Vendor A. The Vendor A Bid stated that it was subject to the GPO's required representations and certifications, which included the Covenant Against Contingent Fees, thereby certifying that no person or agency had been retained to solicit or obtain the contract on Jacket No. 341-031 upon an agreement or understanding for a brokerage fee, except a bona fide employee or agency. The defendant and Company A were neither a bona fide employee or agency of Vendor A at the time he prepared and submitted the Vendor A Bid because they did not have a written agency contract with Vendor A as required by GPO regulations.

(e) Vendor A only understood that the defendant had solicited it as a subcontractor, not the primary vendor, on Jacket No. 341-031 and that it would pay a commission of 4% in the event the bid was successful. Vendor A and Executive 1 were not aware (a) that the Vendor A Bid had been submitted in its name, thereby making it the primary vendor, (b) that the defendant had signed Executive 1's name and signature on the Vendor A bid, (c) that the Vendor A Bid was subject to the certification required by the Covenant Against Contingent Fees, or (d) that the certification requirement was being violated by submission of the Vendor A Bid.

(f) At the time that the defendant prepared and submitted the Vendor A Bid, he knew that he was certifying that no person or agency was soliciting the bid contract upon an agreement or understanding for a brokerage fee, except a bona fide employee or agency. In fact and truth, at the time the defendant prepared and submitted the Vendor A

Bid in the name of Vendor A, he knew that (1) he had not been authorized to submit the bid in the name of Vendor A and Executive 1 as primary vendor; (2) it was being submitted pursuant to a verbal understanding that Company A would receive a brokerage fee of at least 4% of the total bid price in the event that the GPO awarded Jacket No. 341-031 to Vendor A as a subcontractor; and (3) the defendant and Company A were not bona fide employees or agencies of Vendor A.

(g) At the time that the defendant prepared and submitted the Vendor A Bid, the defendant did knowingly and willfully make and cause to be made materially false, fictitious and fraudulent statements and representations in relation to an administrative matter concerning the procurement of printing services by the GPO, an agency within the legislative branch of the Government of the United States.

(h) On or about January 9, 2008, the defendant faxed the Vendor A Bid from Company A's offices in Rock Falls, Illinois to the GPO office located in Washington, D.C.

(i) On or about January 10, 2008, officials of the GPO opened bids submitted on Jacket No. 341-031 and tabulated the results. The GPO initially awarded the contract to Vendor A. The award was subsequently withdrawn from Vendor A and awarded to another print vendor when the defendant's role in preparing and submitting the Vendor A Bid became known to the GPO and to Vendor A.

(j) The offense charged in the Information was carried out, in part, within the North District of Illinois with the five years preceding the filing of the Information.

POSSIBLE MAXIMUM SENTENCE

5. The defendant understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of Title 18, United States Code, Section 1001(a) is:

- (a) a term of imprisonment for five (5) years (18 U.S.C. § 1001);
- (b) a fine in an amount equal to the greatest of (1) \$250,000, (2) twice the gross pecuniary gain derived from the crime, or (3) twice the gross pecuniary loss caused to the victims of the crime (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 the defendant violates any condition of supervised release, the defendant 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)).

6. In addition, the defendant understands that:

- (a) pursuant to U.S.S.G. §5E1.1, the Court may order him to pay restitution to the victims of the offense; and
- (b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a \$100.00 special assessment for each count upon conviction for the charged crime.

SENTENCING GUIDELINES

7. The 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. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard. The 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).

SENTENCING AGREEMENT

8. The United States and the defendant understand, agree and stipulate to the following applicable Sentencing Guidelines considerations and factors:

- (a) The November 1, 2009 edition of the Guidelines applies;
- (b) The controlling Guideline is U.S.S.G. §2B1.1;
- (c) The “loss” for purposes of Guideline §2B1.1(b)(1) was intended to be greater than \$30,000 and less than \$70,000;
- (d) Pursuant to Guideline §2B1.1(a)(2), the base offense level is 6, which is increased by 6 as provided in Guideline §2B1.1(b)(1)(D);
- (e) The defendant qualifies for a two-level reduction under Guideline §3E1.1(a) because he accepted responsibility for his offense; and
- (f) The offense level that applies is 10.

9. The United States agrees that it will recommend, as the appropriate disposition of this case, that the Court impose a sentence requiring the defendant to pay to the United States a criminal fine of \$2,000, pursuant to 18 U.S.C. § 3571(b)(3) and Guideline §5E1.2(a)-(d), payable in full before the fifteenth (15th) day after the date of judgment; and serve a period of imprisonment of 6 to 12 months (“the recommended sentence”). 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 United States Sentencing Commission in formulating the Guidelines justifying a departure pursuant to U.S.S.G. §5K2.0. The defendant is free, however, to ask the Court to consider the factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence; the defendant understands that the United States may oppose the defendant's sentencing recommendation based on those factors. The defendant understands that the Court will order him to pay a \$100 special assessment pursuant to 18 U.S.C. § 3013(a)(2)(A) in addition to any fine imposed.

10. The United States and the defendant understand that the Court retains complete discretion to accept or reject either party's sentencing recommendation. 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 either party's sentencing recommendation, he nevertheless has no right to withdraw his plea of guilty.

GOVERNMENT'S AGREEMENT

11. 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 Plea Agreement that was undertaken in furtherance of crimes arising from the submission of bids to the GPO (the "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.

12. 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.

REPRESENTATION BY COUNSEL

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

VOLUNTARY PLEA

14. The 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 the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

VIOLATION OF PLEA AGREEMENT

15. 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 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 Offense, the statute of limitations period for such offense shall 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.

16. The defendant understands and agrees that in any further prosecution of his 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.

ENTIRETY OF AGREEMENT

17. This Plea Agreement constitutes the entire agreement between the United States and the 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 the

defendant.

18. 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.


19. A facsimile signature shall be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

DATED: 10.18.2010

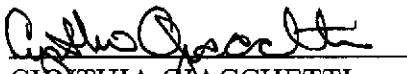
Respectfully submitted,

BY: 

RICHARD I. KEEFE
Defendant

BY: 

BRENT SNYDER
CRAIG Y. LEE
Trial Attorneys, Antitrust Division
U.S. Department of Justice
450 Fifth Street, N.W., Suite 11300
Washington, D.C. 20530



CYNTHIA GIACCHETTI
53 W. Jackson, Suite 1460
Chicago, IL 60604
Counsel for Richard Keefe