

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
UNITED STATES OF AMERICA,)	
)	
)	
v.)	
)	CRIM. NO. 1:11-cr-00037-RWR
TYSON FOODS, INC.,)	
)	
Defendant.)	
_____)	

UNITED STATES’ MOTION TO DISMISS CRIMINAL INFORMATION

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States of America, by and through undersigned counsel, hereby moves to dismiss the criminal Information filed in the above-captioned case against the defendant, Tyson Foods, Inc. (“Tyson”). As grounds therefore, the United States states as follows:

1. On or about February 10, 2011, the United States filed with this Court a criminal Information charging Tyson with violations of the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-1, and making false entries into its books and records, in violation of 15 U.S.C. § 78m(b)(2) and (5). Dkt. No. 1.

2. Pursuant to a Deferred Prosecution Agreement (“DPA”) between Tyson and the United States filed with this Court on or about February 10, 2011, the United States recommended that the prosecution of Tyson be deferred for a period of two years. Dkt. No. 1-1. The DPA required, among other things, that Tyson acknowledge responsibility for the actions of its subsidiary, Tyson de Mexico, whose employees and agents paid bribes to government-employed veterinarians. *Id.* at Appendix A. As part of the DPA, Tyson also agreed to pay a \$4

million penalty, continue to cooperate with the United States, and report periodically on its compliance program and procedures.

3. On February 22, 2011, the Court entered an Order approving the DPA and maintaining this matter on the Court's docket until the case is either dismissed or prosecuted, for the purpose of, among other things, allowing the defendant to demonstrate its good conduct. Dkt. No. 2.

4. Tyson paid the \$4 million dollar penalty on or around February 20, 2011. Tyson has fully met the other obligations under the DPA, including full cooperation with the United States.

5. With regard to Tyson's obligation to periodically report on its compliance program, Tyson provided four such reports at six-month intervals. Based on these reports, the United States has determined that, since the signing of the DPA, Tyson's compliance program and procedures have been revised, and presently are appropriately designed and implemented to ensure compliance with the FCPA and other applicable anticorruption laws. This conclusion is based upon both the present state of the program, and the steps that are being taken to continue to advance and refine the compliance program and procedures.

6. Pursuant to the DPA, if Tyson fully complied with all of its obligations, the United States would not continue the criminal prosecution against Tyson and would move to dismiss the criminal information. Dkt. No. 1-1 at paragraph 11.

7. Given that Tyson has paid a \$4 million penalty, fully cooperated with the United States, met its obligations regarding improving its compliance policies and procedures to ensure compliance with the FCPA and other applicable anti-corruption laws, and has not otherwise

breached the DPA, the United States believes that dismissal is appropriate under the circumstances and pursuant to the terms of the DPA.

WHEREFORE, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of Court endorsed hereon, the United States hereby moves to dismiss, with prejudice, the criminal Information filed in the instant case. A proposed Order is attached.

Respectfully submitted,

DENIS J. McINERNEY
CHIEF, FRAUD SECTION
Criminal Division
United States Department of Justice

DATED: February 21, 2013
Washington, D.C.

By: /s/ Kathleen M Hamann
Kathleen M Hamann
Trial Attorney, Fraud Section
Criminal Division
U.S. Department of Justice
1400 New York Avenue, N.W.
Washington, D.C. 20005
Tel: (202) 305-7413
Fax: (202) 514-0152
Email: kathleen.hamann@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION TO DISMISS CRIMINAL INFORMATION was served by the CM/ECF system, this 21st day of February upon each of the parties listed below:

Laurence A. Urgenson, Esq.
Kirkland & Ellis LLP
655 15th Street, NW
Washington, DC 20005
Counsel for Defendant TYSON FOODS, INC.

DATED: February 21, 2013
Washington, D.C.

By: /s/ Kathleen M Hamann
Kathleen M Hamann
Trial Attorney, Fraud Section
Criminal Division
U.S. Department of Justice
1400 New York Avenue, N.W.
Washington, D.C. 20005
Tel: (202) 305-7413
Fax: (202) 514-0152
Email: kathleen.hamann@usdoj.gov