

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

VICTOR BOSKI,

Defendant.

Criminal No. 14-180(SDW)

Filed:

Violation: 18 U.S.C. § 1001

**PLEA AGREEMENT**

The Antitrust Division of the United States Department of Justice and Victor Boski ("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."):

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

1. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive indictment and plead guilty to a one-count Information, in the form attached, to be filed in the United States District Court for the District of New Jersey in which the defendant is charged with knowingly and willfully making material false statements during a debarment proceeding before the United States Environmental Protection Agency in Washington, D.C. on November 30, 2011, in violation of 18 U.S.C. § 1001.

2. The defendant also knowingly and voluntarily waives any objection or defense he may have to the prosecution of the charged offense in the United States District Court for the District of New Jersey based on venue.

**GOVERNMENT'S AGREEMENT**

3. Subject to the defendant's full compliance with the understandings specified in this Agreement, and upon the Court's acceptance of the guilty plea called for by this Plea Agreement, the Antitrust Division of the United States Department of Justice agrees not to bring further criminal charges against the defendant for crimes committed prior to the date of this Agreement arising from the following activity, as specified in the attached Information, to wit: BOSKI's material false statements to the United States Environmental Protection Agency in Washington, D.C. on November 30, 2011. The nonprosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal securities laws, or to any crime of violence.

4. 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 of the United States Department of Justice.

**POSSIBLE MAXIMUM PENALTIES**

5. The defendant understands that the statutory maximum penalty that may be imposed against him upon conviction for a violation of 18 U.S.C. § 1001 is:

- (a) a term of imprisonment of not more than five (5) years;
- (b) a fine of not more than the greater of \$250,000, or the greater of twice the gross pecuniary gain the defendant derived from the crime, or twice the victim's gross pecuniary loss from the offense;
- (c) or both such sentences; and

- (d) a term of supervised release of no more than three (3) years following any term of imprisonment pursuant to 18 U.S.C. § 3583(b)(2) and U.S.S.G. § 5D1.2(a)(2). Pursuant to 18 U.S.C. § 3583(e)(3), if the defendant violates any condition of supervised release, he could be imprisoned up to two (2) years.

6. The defendant also understands that 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 upon conviction for the charged crime.

#### **SENTENCING GUIDELINES**

7. The defendant understands that the United States Sentencing Guidelines (“the Guidelines”) are advisory, not mandatory, but that the Court must consider, in determining and imposing a sentence, the Guidelines Manual in effect on the date of sentencing unless that Manual provides for greater punishment than the Manual in effect on the last date that the offense of conviction was committed, in which case the Court must consider the Guidelines Manual in effect on the last date that the offense of conviction was committed. The parties agree there is no *ex post facto* issue under the November 1, 2013 Guidelines Manual. The Court must also consider the other factors set forth in 18 U.S.C. § 3553(a) in determining and imposing a 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 agree and stipulate that the offense level applicable to the offense charged in the attached Information is level four (0-6 months) (“Stipulated Guidelines Range”), which is derived from the following calculations. The base

offense level for a violation of 18 U.S.C. § 1001 under § 2B1.1(a)(2) is six. After a two-level reduction for acceptance of responsibility under § 3E1.1, the defendant's offense level is four.

9. The United States and the defendant agree and stipulate that, with an offense level of four, the fine range for the offense charged in the Information is from \$250 to \$5,000. See U.S.S.G. § 5E1.2(c)(3).

10. Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States agrees that it will recommend, as the appropriate disposition of this case, that the Court impose a sentence within the applicable Guidelines range. The United States further agrees that it will not object to the defendant's request that he be allowed to serve the entirety of his sentence in home confinement. The United States also agrees that it will not object to the defendant's request that any sentence for the offense charged in the Information run concurrently with any sentence for a violation of probation resulting from the same underlying misconduct.

11. Nothing in this agreement limits the right of the parties to (i) present to the Probation Department or the Court any facts relevant to sentencing; (ii) make any arguments regarding where within the Stipulated Guidelines Range (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to 18 U.S.C. § 3553(a); and (iii) seek an appropriately adjusted Guidelines Range if it is determined based upon new information that the defendant's criminal history category is other than Category II. Nothing in this agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, pursuant to U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the Antitrust Division of the Department of Justice at the time of the signing of this Agreement, that constitutes obstruction of justice, or (ii) committed another crime after signing this agreement.

12. It is understood that pursuant to Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the Stipulated Guidelines Range, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

13. The defendant understands that the sentence to be imposed on him is determined solely by the Court. It is understood that the Guidelines are not binding on the Court. The defendant acknowledges that the entry of his guilty plea to the charged offense authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. The United States cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, the defendant understands he will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Stipulated Guidelines Range set forth above.

14. The United States and the defendant agree that (i) the defendant will not appeal or otherwise litigate under 28 U.S.C. §§ 2255 and/or 2241 any sentence within or below the Stipulated Guidelines Range as set forth in this Agreement, and (ii) that the United States will not appeal any sentence within or above the Stipulated Guidelines Range as set forth above. This provision is binding on the parties even if the Court employs a Guidelines analysis different from that set forth in this Agreement. Furthermore, it is agreed that any appeal regarding the sentence of the defendant that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) this Agreement. Nothing in this paragraph 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.

15. The defendant 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 the reduction or modification of his sentence.

16. The defendant understands and agrees that, should a conviction following his plea 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 him, 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.

#### **REPRESENTATION BY COUNSEL**

17. 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 Agreement with his attorney and has received satisfactory explanations from his attorney concerning each paragraph of this Agreement and alternatives available to the defendant other than entering into this Agreement. After conferring with his attorney and considering all available alternatives, the defendant has made a knowing and voluntary decision to enter into this Agreement.

#### **VOLUNTARY PLEA**

18. The defendant 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, the defendant

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 the defendant, 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.

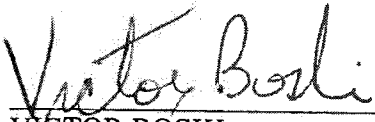
19. The defendant's decision to enter into this Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Agreement. The Antitrust Division has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Agreement.

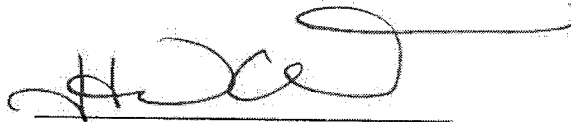
#### **ENTIRETY OF AGREEMENT**

20. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charge in this case. The United States has made no other promises to or agreements with the defendant. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.

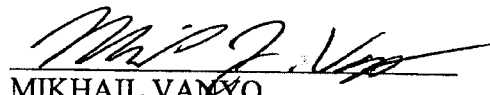
21. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

Dated: April 4, 2014

  
VICTOR BOSKI  
Defendant

  
HELEN CHRISTODOULOU

  
RAYMOND M. BROWN, ESQ.  
Counsel for Victor Boski

  
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