

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JUN 09 2005

**Judge Samuel Der-Yeghiayan
U.S. District Court**

UNITED STATES OF AMERICA)	
)	
v.)	No. 04 CR 921-5
)	
JOSEPH IGNOFFO)	Judge Samuel Der-Yeghiayan

PLEA AGREEMENT

This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and the defendant, JOSEPH IGNOFFO, and his attorney, GEORGE B. COLLINS, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is further governed in part by Rule 11(c)(1)(C), as more fully set forth in Paragraph 17, below.

This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 04 CR 921-5.

This Plea Agreement concerns criminal liability only, and nothing herein shall limit or in any way waive or release any administrative or judicial civil claim, demand or cause of action, whatsoever, of the United States or its agencies. Moreover, this Agreement is limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities except as expressly set forth in this Agreement.

By this Plea Agreement, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, and the defendant, JOSEPH IGNOFFO and his attorney, GEORGE COLLINS, have agreed upon the following:

1. Defendant acknowledges that he has been charged in Count Three of the superseding indictment (the "indictment") in this case with mail fraud in violation of Title 18, United States Code, Sections 1341, 1346 and 2.

2. Defendant has read the charge against him contained in the indictment, and that charge has been fully explained to him by his attorney.

3. Defendant fully understands the nature and elements of the crime with which he has been charged.

4. Defendant will enter a voluntary plea of guilty to Count Three of the indictment in this case.

5. Defendant will plead guilty because he is in fact guilty of the charge contained in Count Three of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt as to the charged offense, and as to relevant conduct:

Background

Beginning no later than September 1998, defendant Joseph Ignoffo became a principal operating agent of Ignoffo Trucking Co. ("Ignoffo Trucking"), a Hired Truck Program ("HTP") participating company previously run by other Ignoffo family members. The principal customer of Ignoffo Trucking was the City of Chicago, and the company was registered with the City as a Women Owned Business Enterprise ("WBE"). For each year from 1997 through 2003, Ignoffo Trucking averaged over \$430,000 in revenues from HTP work of the Water Department (the "Department"). In addition to the Department, Ignoffo Trucking received HTP work from the Department of Transportation, the Sewer Department and the Streets and Sanitation Department.

During its busiest period, Ignoffo Trucking employed 10-12 drivers for HTP work. Ignoffo Trucking was suspended from the Hired Truck Program in February 2004, and has since gone out of business.

The City's Hired Truck Program

The City's HTP provided the Department, along with other City operating departments, with a mechanism to use trucking services on an as-needed basis to complete construction and operating obligations. As to the Department's use of the HTP, individual requests for HTP services typically were made by Department supervisors in the field and directed to Tomczak's office for review. After the request was reviewed and individual selections were made by Tomczak, individuals designated by Tomczak would notify the particular HTP participant, such as Ignoffo Trucking, as to the assignment and type of truck(s) necessary, thereby "calling out" the trucks for the Department. Upon completion of the HTP assignment or based upon further review by Tomczak, individual HTP trucking company participants would be notified that the truck was being assigned to another Department project, terminated or otherwise designated. From at least 1989 to late 2003, Tomczak exercised sole and final authority as to selection, assignment, and hiring of trucks, as well as the order in which companies would be laid off at the end of a season or project (hereinafter the "lay off process") related to the HTP business of the Department.

While he was an employee of the City through June 1998, at Tomczak's direction, co-defendant Roger McMahon performed functions and tasks relating to HTP work of the Department, including "calling out" trucks identified by Tomczak. Shortly after McMahon's retirement, co-defendant Gerald Wesolowski, a Department official who reported to Tomczak and was also a close associate of Tomczak, "called out" trucks at Tomczak's direction and otherwise performed HTP functions on behalf of the Department at Tomczak's direction. From 1998 through late 2003,

defendant Ignoffo was the principal contact person with McMahon and Wesolowski on behalf of Ignoffo Trucking.

From 1998 to at least late 2003, during their respective employments with the City, and pursuant to the Chicago Governmental Ethics Ordinance, Tomczak and Wesolowski (collectively, the "City Employees") each owed a duty of honest services to the City and the people of the City in the performance of their respective public duties. Illinois law and City ordinances defined that duty, providing limitations on the acceptance of payments and the solicitation of political contributions from persons doing business with the City. Defendant acknowledges that the City employees could not accept gifts or solicit political contributions from persons in the HTP Program.

Count of Conviction

Beginning in or about the Fall of 1998 and continuing for certain periods until late 2003, defendant, along with McMahon, Tomczak, Wesolowski and others who worked at Tomczak's direction, devised and intended to devise, and participated in, a scheme and artifice to defraud the people of the City, and the City, of money, property and the intangible right to the honest services of Tomczak, Wesolowski and other officials, employees and agents of the City and the Department, by means of materially false and fraudulent pretenses, representations, promises and material omissions, and in furtherance thereof used the United States mails and other interstate carriers.

In particular, defendant provided cash payments to McMahon for the benefit of Tomczak on approximately two occasions each year from 1998 through 2003. In return, Tomczak, with McMahon and Wesolowski's assistance, performed and authorized official Department actions to benefit the financial interests of Ignoffo Trucking by awarding, and authorizing the award of, assignments to perform HTP work for the Department; and providing business opportunities in the

selection, hiring, assigning and lay off process for HTP Department projects. In addition to cash payments, defendant also provided gift certificates, campaign contributions and other things of value for the benefit of Tomczak, McMahon and third parties associated with Tomczak, with the defendant knowing that such benefits were provided with intent to influence and reward Tomczak in the performance of his official acts related to the HTP.

More specifically, beginning in or about late 1998, McMahon called defendant and said words to the effect of, "It's Christmas time - - you should give Tomczak something if you're happy with the business." In response, and thereafter, through in or about December 2003, defendant gave McMahon an envelope containing cash from the defendant for the benefit of Tomczak on approximately two occasions per year, typically in the Spring or Summer and then later near the Christmas holidays. Defendant usually delivered the envelope to McMahon at McMahon's home. When defendant gave envelopes of cash to McMahon for Tomczak, he typically wrote "Don" on the face of the envelope, or used a business envelope with Ignoffo Trucking's return address printed in the corner. Defendant typically gave McMahon approximately \$1,000 cash at Christmas and a lesser amount (in the range of \$500) in the summer. On some of these occasions when defendant provided an envelope of cash for Tomczak, defendant also provided McMahon a gift certificate or thing of value for McMahon. After Wesolowski took over "calling out" trucks for the Department, Ignoffo often included a gift certificate or cash for Wesolowski when he provided the envelope to McMahon for Tomczak.

On other occasions during the time period of the scheme, McMahon solicited a campaign contribution from defendant on behalf of Tomczak. On each occasion McMahon solicited a contribution, defendant responded affirmatively, including among others, the 11th Ward Democratic

Organization, Citizens for Emma Mitts, Committee to Elect John Daley, and Citizens for Jeff Tomczak.

Defendant acknowledges that the government would show that, upon receipt of the envelope of cash, McMahon later delivered it to Tomczak, typically at his office at the Jardine Filtration Plant in Chicago. The defendant further acknowledges that the government could prove that, during the time period of the scheme, defendant provided approximately \$15,000 in cash, campaign contributions and other financial benefits for the benefit of Tomczak and other Department officials and agents.

Defendant further acknowledges that, on or about January 23, 2003, an envelope containing a City warrant and addressed to Ignoffo Trucking at a Chicago, Illinois, address, was delivered by mail to that address, and that mailing was in furtherance of the scheme to defraud.

The above statement of facts is not an exhaustive account of the defendant's knowledge of the events described, nor does it describe all of the government's evidence regarding the count of conviction. Rather, it is a true and accurate summary of facts necessary to establish a factual predicate for the defendant's plea of guilty.

6. The defendant also stipulates, pursuant to Section 1B1.3, that for the purpose of computing his sentence under the U.S. Sentencing Guidelines, that he engaged in the following relevant conduct:

On an annual basis from the period 1998 through 2003, defendant provided cash, gift certificates and other things of value to several City officials (outside the Department) who had decision making authority or responsibility in the HTP, and did so with the intent to influence and reward the officials in the performance of their official acts related to the HTP and in violation of

their duties to the City. In particular, defendant provided cash and gift certificates to Angelo Torres; cash and gift certificates to Nick Lococo; cash, gift certificates and campaign contributions to at least three additional CDOT officials with HTP responsibility; cash and gift certificates to a Streets and Sanitation official with HTP responsibility; and gift certificates to a Sewer Department official with HTP responsibility. No individual payment, certificate or contribution to these City officials exceeded \$500. In total, defendant provided at least \$8,000 in cash, certificates, campaign contributions and other things of value to non-Department City officials with HTP responsibility.

7. For purposes of calculating the guidelines promulgated by the United States Sentencing Commission pursuant to Title 28, United States Code, Section 994, the parties agree on the following points:

(a) The Guidelines are calculated pursuant to the November 2002 edition of the Guidelines Manual.

(b) Pursuant to Guidelines Sections 2B1.1(c)(3)(C) and 2C1.1(a), the base offense level for the count of conviction is level 10.

(c) Pursuant to Guidelines Section 2C1.1(b)(1), the offense level is increased by 2 levels because the offense involved more than one bribe payment.

(d) Pursuant to Guidelines Section 2C1.1(b)(2)(B), the offense level is increased by 8 levels because the offense and relevant conduct involved a payment for the purpose of influencing an official holding a high-level decision making position, namely the position of First Deputy Commissioner.

(e) Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional

evidence in conflict with this provision, and if the defendant continues to accept responsibility for his actions, within the meaning of Guideline Section 3E1.1, a two-level reduction in the offense level is appropriate.

(f) Defendant has provided timely complete information concerning his own involvement in the offense, and notified the government timely of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently, within the meaning of Guideline Section 3E1.1(b); an additional one-point reduction in the offense level is therefore appropriate, provided the Court determines the offense level to be 16 or greater prior to the operation of Guideline Section 3E1.1(a).

(g) Based on the facts known to the government, the defendant's criminal history points equal 1 and the defendant's criminal history category is I; and

(h) The defendant and his attorney and the government acknowledge that the above calculations are preliminary in nature and based on facts known to the government as of the time of this Agreement. The defendant understands that the Probation Department will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Sentencing Guidelines calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations.

8. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, and that the Court must consult those Guidelines and take them into account when sentencing the defendant.

9. Errors in calculations or interpretation of any of the guidelines may be corrected by either party prior to sentencing. The parties may correct these errors or misinterpretations either by stipulation or by a statement to the probation office and/or Court setting forth the disagreement as to the correct guidelines and their application. The validity of this Agreement will not be affected by such corrections, and the defendant shall not have a right to withdraw his plea on the basis of such corrections.

10. Defendant understands the count to which he will plead guilty carries a maximum penalty of twenty years imprisonment, a maximum fine of \$250,000, or twice the gross gain to the defendant or loss to others, whichever is greatest; and a term of supervised release of not more than three years.

11. The defendant understands that in accord with federal law, Title 18, United States Code, Section 3013, upon entry of judgment of conviction, the defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty imposed. The defendant agrees to pay the special assessment of \$100 at the time of sentencing with a check or money order made payable to the Clerk of the U. S. District Court.

12. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

(a) If defendant persisted in a plea of not guilty to the charge against him, he would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by the judge sitting without a jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

(b) If the trial is a jury trial, the jury would be composed of twelve laypersons selected at random. Defendant and his attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising so-called peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent, and that it could not convict him unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt.

(c) If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded of defendant's guilt beyond a reasonable doubt.

(d) At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the court.

(e) At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

13. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraph. Defendant's attorney has explained those rights to him, and the consequences

of his waiver of those rights. Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial.

14. Defendant is also aware that Title 18, United States Code, Section 3742 affords a defendant the right to appeal the sentence imposed. Acknowledging this, the defendant knowingly waives the right to appeal any sentence within the maximum provided in the statute of conviction (or the manner in which that sentence was determined), in exchange for the concessions made by the United States in this Plea Agreement. The defendant also waives his right to challenge his sentence or the manner in which it was determined in any collateral attack, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel, which relates directly to this waiver or to its negotiation.

15. Defendant agrees he will fully and truthfully cooperate with the government in any matter in which he is called upon to cooperate that is related to or results from the charges in this case.

(a) Defendant agrees to provide complete and truthful information in any investigation and pre-trial preparation, and complete and truthful testimony, if called upon to testify, before any grand jury and judicial proceeding, and any related civil administrative or court proceeding.

(b) Defendant agrees to postpone his sentencing until after the conclusion of the prosecution of his co-defendants.

16. Nothing in this Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from the defendant and his wife.

17. Defendant understands that the indictment and this Plea Agreement are matters of public record and may be disclosed to any party.

18. Defendant understands that the United States Attorney's Office will fully apprise the District Court and the United States Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against him, and related matters, including all matters in aggravation and mitigation relevant to the issue of sentencing.

19. At the time of sentencing, the government shall make known to the sentencing judge the extent of defendant's cooperation, and, assuming the defendant's full and truthful cooperation, shall move the Court, pursuant to Sentencing Guideline 5K1.1, to depart from the applicable sentencing guidelines range and to impose the specific sentence agreed to by the parties as outlined below. Defendant understands that the decision to depart from the applicable guidelines range rests solely with the Court. However, this Plea Agreement is governed, in part, by Federal Rule of Criminal Procedure 11(c)(1)(C). That is, the parties have agreed that the sentence imposed by the Court shall include a term of imprisonment in the custody of the Bureau of Prisons of 60% of the low end of the applicable sentencing guidelines. Other than the agreed term of incarceration, the parties have agreed that the Court remains free to impose the sentence it deems appropriate. If the Court accepts and imposes the agreed term of incarceration set forth, the defendant may not withdraw this plea as a matter of right under Federal Rule of Criminal Procedure 11(d) and (e). If, however, the Court refuses to impose the agreed term of incarceration set forth herein, thereby rejecting the Plea Agreement, or otherwise refuses to accept the defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound thereto.

20. Regarding restitution, the parties further agree that the offense to which the defendant is pleading guilty is an offense against property which was committed by fraud or deceit, and thus an order of restitution is required pursuant to Title 18, United States Code, Section 3663(A). The defendant agrees to provide full and truthful information to the Court and United States Probation Officer regarding all details of his economic circumstances in order to determine the amount, the manner and the schedule by which restitution is to be paid. Furthermore, defendant understands that he is required to notify the Court and the Attorney General of any material change in his economic circumstances that might affect his ability to pay restitution. Defendant understands that providing false or incomplete information may be prosecuted as a violation of Title 18, United States Code, Section 1001, or as a contempt of the Court.

21. Defendant understands that his compliance with each part of this Plea Agreement extends throughout and beyond the period of his sentence, and failure to abide by any term of the Plea Agreement is a violation of the Agreement. He further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Plea Agreement, rendering it null and void, and thereafter prosecute the defendant not subject to any of the limits set forth in this Agreement, or to resentence the defendant. The defendant understands and agrees that in the event that this Plea Agreement is breached by the defendant, and the Government elects to void the Plea Agreement and prosecute the defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this agreement and the commencement of such prosecutions.

22. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

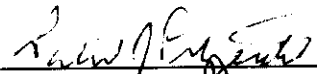
23. Defendant agrees this Plea Agreement shall be filed and become a part of the record in this case.

24. At the time of sentencing, the government will move to dismiss the count in the original indictment naming the defendant.

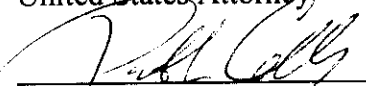
25. Should the judge refuse to accept the defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound thereto.

26. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

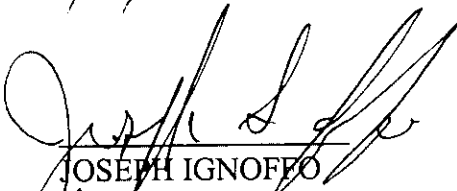
AGREED THIS DATE: 6/9/05



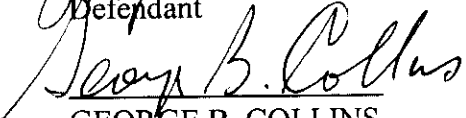
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JOSEPH IGNOFFO
Defendant



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