

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA        )  
                                          )  
                                          )        No. 08 CR 88  
                                          )        Judge Wayne R. Andersen  
                                          )  
                                          )  
THOMAS P. RANDELL                )

**PLEA AGREEMENT**

1.       This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant THOMAS P. RANDELL, and his attorneys, MICHAEL D. MONICO and JACQUELINE S. JACOBSON, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

**Charges in This Case**

2.       The indictment in this case charges defendant with: obstruction of justice, in violation of Title 18, United States Code, Sections 1519 and 2 (Count Two); mutilating and destroying a record, document, paper or other thing, filed or deposited in a public office, in violation of Title 18, United States Code, Sections 2071(b) (Count Three); producing a false identification document, in violation of Title 18, United States Code, Section 1028(a)(1) (Counts Four and Six); transferring a false identification document, in violation of Title 18, United States Code, Section 1028(a)(2) (Counts Five and Seven); exceeding authority in

accessing a computer to obtain information from a department or agency of the United States, in violation of Title 18, United States Code, Section 1030(a)(2)(B).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

### **Charges to Which Defendant is Pleading Guilty**

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following counts of the indictment: Count Two, which charges defendant with knowingly destroying and mutilating, and attempting to destroy and mutilate, the official INS/DHS “A Files” for Individual A and Individual B, with the intent to impede, obstruct and influence the proper administration of a matter within the jurisdiction of a department or agency of the United States, in violation of Title 18, United States Code, Sections 1519 and 2; and Count Six, which charges defendant with knowingly and without lawful authority producing a false identification document, namely, by affixing without lawful authority an ADIT temporary alien registration stamp to a Hungarian Passport in the name of Individual C, in violation of Title 18, United States Code, Section 1028(a)(1).

### **Factual Basis**

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts Two and Six of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant

conduct pursuant to Guideline §1B1.3:

Background

Defendant THOMAS P. RANDELL (“ RANDELL”) acknowledges that the United States Immigration and Naturalization Service (“INS”) (and, after on or about March 1, 2003, the Department of Homeland Security (“DHS”)), was an agency of the United States Department of Justice which enforced laws regulating the admission of foreign born persons to the United States and administered immigration benefits. INS and DHS issued legal permanent residency status to qualified petitioners and administered the citizenship application process.

Defendant RANDELL admits that in approximately September 2000, he became an Immigration and Naturalization Service (INS) and, subsequently, a Department of Homeland Security (DHS), Immigration and Customs Enforcement, Deportation Officer, within the Office of Detention and Removal Operations, Chicago, Illinois. In that capacity, he was responsible for the oversight and management of cases involving deportable aliens, from the point of initial apprehension through the completion of their deportation proceedings and the alien's physical removal from the United States, including making custody recommendations and supervising aliens released on bond, on their own recognizance, or on an Order of Supervision. RANDELL was also responsible for supervising "non-detained deportees." In his capacity as a Deportation Officer, RANDELL would meet periodically with those "non-detained deportees" assigned to him as a requirement of their supervised release.

Count of Conviction (Count Two). With respect to Count Two of the indictment, defendant RANDELL admits that in or about early 2003, but not before February 4, 2003, at Chicago, Illinois, in the Northern District of Illinois, Eastern Division, he, together with Individual

A and Individual B, knowingly altered, destroyed, and mutilated, and attempted to alter, destroy, and mutilate, a record, document and tangible object, namely the official INS/DHS “A Files” for Individual A and Individual B, with the intent to impede, obstruct and influence the proper administration of a matter within the jurisdiction of a department or agency of the United States, that is, the responsibility of the INS/DHS to administer and enforce the immigration laws of the United States, in violation of Title 18, United States Code, Sections 1519 and 2.

Specifically, defendant RANDELL admits that as a Deportation Officer he was required to document the progress and status of cases by completing appropriate paperwork, such as Warrants of Arrest, Warrants of Deportation, Breaches of Bond, Demands of Surrender, Notices of Excludable Alien, and other documentation for inclusion in the alien's master file, the so-called “A File.” The “A File” was the single, comprehensive repository within the INS/DHS for any and all original documents submitted by, or on behalf of, an alien as well as for all pertinent documents generated by the INS/DHS, the Executive Office for Immigration Review, and other law enforcement agencies.

Defendant further admits that he met Individual A in approximately 1998 after Individual A was taken into custody by the INS. Defendant interacted with Individual A during appearances before the Immigration Court and other INS processing appointments, and they became friends. RANDELL and Individual A had a mutual interest in bodybuilding, and, after Individual A's release from INS custody, they would at times work out together at the Powerhouse Gym in Chicago, Illinois.

Defendant RANDELL admits that in approximately late 2002, Individual A told him that Individual A and Individual B, both of whom were Iraqi citizens of Assyrian decent, had received letters from the INS that indicated that they were both subject to deportation in the near future.

After receiving these letters, Individual A contacted defendant RANDELL, who advised Individual A that he would see what he could do about preventing any adverse action by INS with regard to Individual A and Individual B and would arrange to have Individual A and Individual B report to him regarding any future immigration matters.

Defendant further admits that a short time later he told Individual A that he could make Individual A's immigration file disappear in a way that could not be traced back to RANDELL. Individual A asked RANDELL if he could do the same for Individual B's file and RANDELL said he could.

Defendant RANDELL admits that sometime during the winter months of early 2003, probably January or February, he arranged to obtain the "A Files" of Individual A and Individual B. Defendant subsequently aided and abetted Individual A and Individual B in the shredding of their respective "A Files," which shredded files are now in the possession of the government.

Defendant acknowledges that during this time period, information contained in "A Files" was entered into INS/DHS electronic databases on a very limited basis. Therefore, any alteration, destruction, or falsification of documents within these files would impede and obstruct the proper administration of the aliens' cases by the INS/DHS.

Count of Conviction (Count Six). With respect to Count Six of the indictment, defendant RANDELL admits that on or about June 8, 2005, at Chicago, Illinois, in the Northern District of Illinois, Eastern Division, he did knowingly and without lawful authority produce a false identification document, namely, by affixing without lawful authority an ADIT temporary alien registration stamp to a Hungarian Passport in the name of Individual C, in violation of Title 18, United States Code, Section 1028(a)(1).

Specifically, defendant RANDELL acknowledges that in order for an alien who was not a citizen of the United States to legally reside permanently in the United States, the alien needed to become a legal permanent resident. An alien who acquired legal permanent residency status was entitled to work in the United States, to leave from and return to the United States, and to apply to become a citizen through the naturalization process. Legal Permanent Residents are allowed to live permanently in the United States provided that they do not commit any actions, such as illicit trafficking in a controlled substances, that would make them deportable under the Immigration and Nationality Act (INA), Title 8, United States Code, Section 1227(a).

Defendant RANDELL further acknowledges that an Alien Registration Card, DHS Form I-551, commonly known as a “Green Card,” which is valid for 10 years, is issued to all aliens who are granted Lawful Permanent Resident status. If a Lawful Permanent Resident applied for, but had not received, a renewed card prior to the expiration date, the Lawful Permanent Resident could report to the Bureau of Citizenship and Immigration Services within DHS, and have an Alien Documentation Identification and Telecommunication (ADIT) stamp placed in his/her passport which indicated that the alien had been granted Legal Permanent Resident status and provided temporary evidence of the alien’s lawful admission to the United States. The stamp in the passport was valid for one year and functioned as a temporary “Green Card” until the actual card was received, which is valid for an additional ten-year period.

Defendant RANDELL admits that in early June 2005, he was contacted by Individual A, who asked his permission to give defendant’s telephone number to Individual C, so that Individual C could call defendant and discuss an immigration problem directly with defendant. RANDELL further admits that he was later contacted by Individual C, who disclosed that he was interested in

obtaining evidence of legal immigration status because he was scheduled to be incarcerated in the Illinois Department of Corrections and had no such documentation. Defendant subsequently arranged to meet Individual C at a street corner in downtown Chicago near defendant's office in the early afternoon on or about June 8, 2005. Defendant RANDELL further admits that during this meeting he took possession of Individual C's passport and told Individual C to expect a phone call regarding arrangements to return the passport.

RANDELL acknowledges that the approval and issuance of specific Immigration benefits, such as Alien Registration Receipt Cards or "Green Cards," naturalization and visas, were not within the scope of a Deportation Officer's authority. Defendant admits that because he had never been issued an ADIT stamp, he obtained one from a DHS source who worked in one of the immigration offices in his building. Defendant RANDELL admits that he used this stamp to place an ADIT stamp in a Hungarian passport in the name of Individual C and then wrote the Alien Registration ("A") number of Individual C, "A72-571-\*\*\*," and the stamp's expiration date of "June 8, 2006," in the appropriate blanks on the ADIT stamp in the passport.

RANDELL further admits that later that same day, he instructed Individual C, either directly or through Individual A, to meet him at a location on the near north side of Chicago known as the "River North" area. Defendant admits that during this meeting, which occurred after dark, he returned Individual C's passport, bearing the ADIT stamp with the expiration date of June 8, 2006

Defendant RANDELL further admits that two years earlier, on or about June 9, 2003, at the behest of Individual A, defendant had used such a stamp to place another ADIT stamp in the same Hungarian passport in the name of Individual C and at that time also wrote the A number of

Individual C, “A72-571-\*\*\*,” the stamp's expiration date of “6-9-2004,” and the initials “JLM” and “CHI” in the appropriate blanks on the ADIT stamp in the passport.

Defendant RANDELL acknowledges that to facilitate their duties, Deportation Officers were granted access to The Enforcement Communication System (TECS), the principal DHS law enforcement information system, which could be used to access the National Crime Information Center (NCIC) and the National Law Enforcement Telecommunications System (NLETS), and obtain sensitive law enforcement data such as criminal history and wanted person information. Accessing these databases was permitted only when necessary in the performance of official duties. Defendant admits that on the afternoon of June 8, 2005, he queried Individual C in NCIC via the DHS TECS computer system for criminal history and warrants.

**Maximum Statutory Penalties**

7. Defendant understands that the charges to which he is pleading guilty carry the following statutory penalties:

a. Count Two carries a maximum sentence of 20 years' imprisonment. Count Two also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count Two the judge also may impose a term of supervised release of not more than three years.

b. Count Six carries a maximum sentence of 15 years' imprisonment. Count Six also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count Six, the judge also may impose a term of supervised release of not more than three years.



c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each count to which he has pled guilty, in addition to any other penalty imposed.

d. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 35 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$500,000, a period of supervised release, and special assessments totaling \$200.

### **Sentencing Guidelines Calculations**

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specified below:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2009 Guidelines Manual.

b. **Offense Level Calculations.**

Count Two – Obstruction of Justice

i. The base offense level for the charge in Count Two of the indictment is 14, pursuant to Guideline §2J1.2(a);

ii. Defendant understands that it is the government's position that defendant's offense level should be increased by an additional three levels, pursuant to Guideline § 2J1.2(b)(2), since the offense resulted in a substantial interference with the administration of justice. It is the defendant's position, however, that the particular facts of this case do not legally support a finding of substantial interference with the administration of justice under Guideline § 2J1.2(b)(2).

iii. Pursuant to Guideline § 2J1.2(b)(3), the base offense level for Count Two is increased by an additional two levels, because the offense (A) involved the destruction of a substantial number of records; and/or (B) involved the selection of essential or especially probative records or documents to destroy.

iv. Pursuant to Guideline § 3B1.3 and Application Note 1, defendant's offense level should be increased by an additional two levels, since defendant by his actions abused a position of public trust, in a manner that significantly facilitated the commission or concealment of the offense.

Count Six – Trafficking in a Document Relating to Legal Residence Status

v. The base offense level for the charge in Count Six of the indictment is 11, pursuant to Guideline §2L2.1(a);

vi. Pursuant to Guideline §2L2.1(b)(1), the base offense level for Count Six is decreased by three levels, because the offense was committed other than for profit.

vii. Pursuant to Guideline § 3B1.3 and Application Note 1, defendant's offense level should be increased by an additional two levels, since defendant by his actions abused a position of public trust, in a manner that significantly facilitated the commission or concealment of the offense.

Grouping

viii. Pursuant to the application of Guideline §§ 3D1.1 through 3D1.2, Counts Two and Six constitute two separate groups.

ix. Based on the application of Guideline § 3D1.4(c) to the offense levels for the two respective groups, as calculated by the government, zero offense levels are added to the adjusted offense level of Group One (Count Two) of 21, since Group Two (Count Six) has an adjusted offense level of 10, which is 9 or more levels less serious than Group One, resulting in an overall offense level of 21. Under the defendant's calculations, Group One would have an adjusted offense level of 18 and Group Two would have an adjusted offense level of 10. Based on the application of Guideline § 3D1.4(b) to the offense levels for the two respective groups as calculated by the defendant, one offense level is added

to the adjusted offense level of Group One, since Group Two is 5 to 8 levels less serious than Group One, resulting in an overall offense level of 19.

x. 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 defendant continues to accept responsibility for his actions within the meaning of Guideline §3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine that may be imposed in this case, a two-level reduction in the offense level is appropriate.

xi. In accord with Guideline §3E1.1(b), defendant has timely notified the government 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. Therefore, as provided by Guideline §3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal 1 and defendant's criminal history category is I.

i. On or about March 8, 1994, defendant was found guilty in the Coles County, Illinois, Circuit Court, Case No. 94 CM 107, of Battery and Disorderly Conduct, in violation of 720 ILCS 5.0/12-3-A and 720 ILCS 5.0/26-1-A-1, respectively, and sentenced to one year conditional discharge and fined \$300 on each count. Accordingly, under Guideline § 4A1.1(c), defendant receives 1 criminal history point for this offense.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 18, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 27 to 33 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. It is the defendant's position that the anticipated total offense level is 16, which combined with an anticipated criminal history category of I, would result in an anticipated sentencing range of 21 to 27 months' imprisonment, respectively, in addition to any supervised release, fine, costs of prosecution, and restitution the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office 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 Guideline

calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this plea agreement is not governed by Fed.R.Crim.P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Plea Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Plea Agreement, on the basis of such corrections.

#### **Agreements Relating to Sentencing**

10. The government is free to recommend whatever sentence it deems appropriate within the applicable advisory Guidelines range.

11. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Plea Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

12. Defendant agrees to pay the special assessment of \$200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

13. After sentence has been imposed on the counts to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining counts of the indictment as to this defendant.

### **Acknowledgments and Waivers Regarding Plea of Guilty**

#### **Nature of Plea Agreement**

14. 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 08 CR 88.

15. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver or release by the United States or any of its agencies of any administrative or judicial civil claim, demand or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are 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.

#### **Waiver of Rights**

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

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count



separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. 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.

vi. At a trial, 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. A defendant is not required to present any evidence.

vii. 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.

b. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 28, United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of

restitution or forfeiture, in exchange for the concessions made by the United States in this Plea Agreement. Defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, and (in any case in which the term of imprisonment and fine are within the maximums provided by statute) his attorney's alleged failure or refusal to file a notice of appeal, in any collateral attack or future challenge, 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, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

c. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs. Defendant's attorneys have explained those rights to him, and the consequences of his waiver of those rights.

17. By entering this plea of guilty, defendant also waives any and all right the defendant may have, pursuant to 18 U.S.C. §3600, to require DNA testing of any physical evidence in the possession of the Government. Defendant fully understands that, as a result of this waiver, any physical evidence in this case will not be preserved by the Government and will therefore not be available for DNA testing in the future.

**Presentence Investigation Report/Post-Sentence Supervision**

18. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

19. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline §3E1.1 and enhancement of his sentence for obstruction of justice under Guideline §3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

20. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this

Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

### **Other Terms**

21. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

22. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed.R.Cr.P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency, for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or administrative proceeding involving, or investigation of, defendant.

23. Defendant understands that the government has the right to seek defendant's truthful testimony before a grand jury or a district court.

### **Conclusion**

24. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record and may be disclosed to any person.

25. Defendant understands that his compliance with each part of this Plea Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute 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 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.

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

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

28. Defendant acknowledges that he has read this Plea 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: \_\_\_\_\_

\_\_\_\_\_  
PATRICK J. FITZGERALD  
United States Attorney

\_\_\_\_\_  
THOMAS P. RANDELL  
Defendant

\_\_\_\_\_  
DAVID D. BUVINGER  
Assistant U.S. Attorney

\_\_\_\_\_  
MICHAEL D. MONICO  
Attorney for Defendant

\_\_\_\_\_  
JACQUELINE S. JACOBSON  
Attorney for Defendant