

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MICHAEL J. REINSTEIN

No. 15 CR 044

Judge Sharon Johnson Coleman

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, ZACHARY T. FARDON, and defendant MICHAEL J. REINSTEIN, and his attorneys, JAMES R. STREICKER and TERENCE H. CAMPBELL, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

Charge in This Case

2. The information in this case charges defendant with soliciting and receiving remuneration in return for the referral of patients for the furnishing of items and services for which payment may be made by Medicare and Medicaid, in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A).

3. Defendant has read the charge against him contained in the information, and the charge has been fully explained to him by his attorneys.

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

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the information, which charges defendant with soliciting and receiving remuneration in return for defendant's referrals of patients for the furnishing of items and services, namely, prescriptions of clozapine, for which payment may be made by Medicare and Medicaid, in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A). In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in the information. 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, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

Background

Defendant MICHAEL J. REINSTEIN was a physician licensed in Illinois who practiced psychiatry at a clinical office and various nursing homes and hospitals in and around Chicago. REINSTEIN provided psychiatric services and prescribed medications to thousands of indigent patients insured by Medicare and Medicaid. REINSTEIN regularly prescribed anti-psychotic drugs to these patients; as a result, Medicare and Medicaid paid for a portion of the cost of the medications REINSTEIN prescribed.

One of the drugs that REINSTEIN prescribed to thousands of his patients was clozapine, which, in its branded and generic forms, the FDA had approved for treatment-resistant forms of schizophrenia. The FDA required that clozapine carry certain “black box” warnings, and that white blood cell counts for patients receiving clozapine be monitored through regular blood draws and this information be entered into a national data registry.

Until 2003, REINSTEIN prescribed the branded version of the clozapine molecule called Clozaril almost exclusively, even though the patent on Clozaril had expired in 1997 and less expensive, generic versions of the drug were available. REINSTEIN continued to prescribe the more expensive branded version of the drug for years in part because the manufacturer of Clozaril paid REINSTEIN thousands of dollars per year for speaking engagements related to the drug. REINSTEIN knew that it was illegal to accept payments from Clozaril’s manufacturer for speaking engagements because REINSTEIN knew the payments were at least partly in return for his prescriptions of Clozaril to his patients. By 2003, REINSTEIN was among the largest prescribers of Clozaril in the United States, with more than one thousand patients in and around the Chicago area registered as active on the drug.

Payments and other remuneration for clozapine prescriptions

In about the middle of 2003, Clozaril’s manufacturer stopped paying REINSTEIN for speaking engagements. Shortly thereafter, REINSTEIN agreed to meet with representatives of IVAX Pharmaceuticals, including Employees A, B, and C, to discuss switching his Clozaril patients to IVAX’s generic clozapine.

REINSTEIN had previously refused to meet with these representatives due in part to the payments that REINSTEIN received from the manufacturer of Clozaril.

After several meetings and discussions, Employees A, B, and C offered a consulting agreement with IVAX that paid REINSTEIN a total of \$50,000 per year, and funding to Research Company A to conduct a study regarding the effects, if any, of switching some of REINSTEIN's patients from Clozaril to a generic version of clozapine. Shortly thereafter, and in part because of the compensation provided by IVAX, REINSTEIN agreed to switch substantially all of his patients from Clozaril to generic clozapine. In just a few months, by the end of 2003, REINSTEIN was among the largest prescribers of generic clozapine in the United States with more than one thousand patients registered as active on the IVAX drug. REINSTEIN knew the compensation provided by IVAX was illegal because the payments were at least partly in return for REINSTEIN's prescriptions of clozapine to his patients.

In about January 2006, Teva Pharmaceuticals acquired IVAX and became the largest manufacturer of generic clozapine in the United States. After the acquisition, Employees A, B, D, and E became employees of Teva and handled the company's relationship with REINSTEIN. Between 2004 and 2009, Employees A, B, D, and E caused IVAX and Teva to renew consulting and speaking agreements with REINSTEIN in the amounts of \$50,000 (for 2004-2007), \$40,000 (for 2008), and \$24,000 (for 2009). Between 2004 and 2009, Employees A, B, C, D, and E caused IVAX and Teva to pay REINSTEIN a total of approximately \$234,000 for consulting and speaking related to clozapine. REINSTEIN knew that it was illegal to accept

these payments from IVAX and Teva because he knew the payments were at least partly in return for REINSTEIN's prescriptions of clozapine to his patients.

In mid-2004, the manufacturer of an orally disintegrating form of the clozapine molecule also began paying REINSTEIN for speaking engagements. Between 2004 and 2009, the manufacturers of the orally disintegrating clozapine paid REINSTEIN a total of approximately \$135,000 for speaking engagements. In or about June 2005, the manufacturer of the orally disintegrating clozapine paid Research Company A at least approximately \$20,000 for a research study related to orally disintegrating clozapine, for which REINSTEIN acted as the principal investigator and REINSTEIN's patients were the subjects.

In part because of these payments from the manufacturer of the orally disintegrating clozapine, between approximately January 2005 and March 2006, REINSTEIN switched more than half of his patients from generic clozapine to the orally disintegrating clozapine. REINSTEIN knew the compensation provided by the manufacturer of the orally disintegrating clozapine was illegal because the payments were at least partly in return for REINSTEIN's prescriptions of the orally disintegrating clozapine to his patients.

In addition to consulting and speaker payments, Employees A, B, C, and D caused IVAX and Teva to pay entertainment expenses for REINSTEIN and his associates, including expensive meals, tickets to sporting events, and all-expense-paid trips to Miami, Florida, all as part of an effort to induce REINSTEIN to prescribe IVAX/Teva clozapine. Over the years, the entertainment expenses IVAX

and Teva paid for REINSTEIN and his associates totaled at least approximately \$30,000.

In about March 2006, during an all-expense-paid trip to Miami for REINSTEIN and his associates, Employees A, B, and D asked REINSTEIN what IVAX/Teva could do to get REINSTEIN to prescribe more clozapine and less of the orally disintegrating clozapine to his patients. REINSTEIN stated that Teva should hire Individual A, whom REINSTEIN described as an important source of patient referrals for him. In or about May 2006, Employees A, B, and D caused Teva to hire Individual A to a part-time position entering white blood cell count data for some of REINSTEIN's patients into the national clozapine registry at a rate of \$20 per hour for a maximum of 30 hours per week. Over the next several months, REINSTEIN switched hundreds of his patients from the orally disintegrating clozapine to generic clozapine. REINSTEIN knew Teva's hiring of and payments to Individual A were illegal because they were at least partly in return for REINSTEIN's prescriptions of clozapine and to induce REINSTEIN to prescribe clozapine rather than the orally disintegrating clozapine for his patients. Between July 2006 and July 2011, Teva paid Individual A at least approximately \$112,000.

In about July 2006, Employees A, B, C, and D caused Teva to pay Research Company A pursuant to a second consulting agreement with Research Company A for another research study related to clozapine for which REINSTEIN acted as the principal investigator and REINSTEIN's patients were the subjects. The payments to Research Company A by IVAX in 2004 and Teva in 2006 totaled approximately

\$61,000. During this time period, Research Company A made monthly payments to defendant for rent and medical-director fees. REINSTEIN knew the payments by IVAX and Teva to Research Company A were illegal because the payments were at least partly in return for REINSTEIN's prescriptions of clozapine to his patients.

REINSTEIN knew that it was illegal to solicit and to receive payments and other forms of remuneration, directly and indirectly, from drug manufacturers in return for prescribing their drugs to his patients, who were typically insured by Medicare and Medicaid.

Summary of payments and other remuneration

As described above, REINSTEIN solicited and received, directly and indirectly, the following payments and other remuneration in the following approximate amounts, which payments and remuneration were at least partly in return for REINSTEIN's prescriptions of clozapine to his patients insured by Medicare and Medicaid.

<u>Description</u>	<u>Amount</u>
Clozapine speaker payments	\$234,000
Orally disintegrating clozapine speaker payments	\$135,000
Payments to Individual A	\$112,000
Payments to Research Company A	\$81,000
Entertainment expenses	\$30,000
<u>Total</u>	<u>\$592,000</u>

Specifically, on or about November 3, 2009, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant MICHAEL J.

REINSTEIN knowingly and willfully solicited and received, directly and indirectly, remuneration in the amount of \$2,000 in the form of a Teva company check bearing check number 10146634, dated November 3, 2009, made payable to Michael Reinstein, MD, PC, in return for REINSTEIN's referrals of patients for the furnishing and arranging for the furnishing of services, namely, prescriptions of clozapine, for which payment may be made in whole and in part under a federal health care program, namely, Medicare and Medicaid.

7. The foregoing facts are set forth solely to assist the Court in determining whether a factual basis exists for defendant's plea of guilty and criminal forfeiture, and are not intended to be a complete or comprehensive statement of all the facts within defendant's personal knowledge regarding the charged crime and related conduct.

Maximum Statutory Penalties

8. Defendant understands that the charge to which he is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 5 years' imprisonment. This offense also carries a maximum fine of \$250,000. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. 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.

Sentencing Guidelines Calculations

9. 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.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

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 2014 Guidelines Manual.

b. **Offense Level Calculations.**

i. The base offense level is 8, pursuant to Guideline § 2B4.1(a).

ii. The offense level is increased by 14 levels pursuant to Guideline § 2B4.1(b)(1)(B) and Guideline § 2B1.1(b)(1)(H) because the value of the bribes paid was approximately \$592,000, which is more than \$400,000, but less than \$1,000,000.

iii. The offense level is increased by 2 levels pursuant to Guideline § 3B1.3 because defendant abused a position of public trust in a manner that significantly facilitated the commission or concealment of the offense.

iv. 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.

v. 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 zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 21, which, when combined with the anticipated criminal history category

of I, results in an anticipated advisory sentencing guidelines range of 37 to 46 months' imprisonment, in addition to any supervised release and fine the Court may impose.

e. Defendant and his attorneys and the government acknowledge that the above guidelines 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 guidelines 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 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 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 Agreement, on the basis of such corrections.

Cooperation

11. Defendant agrees he will fully and truthfully cooperate in any matter in which he is called upon to cooperate by a representative of the United States Attorney's Office for the Northern District of Illinois. This cooperation shall include providing complete and truthful information in any investigation and pre-trial preparation and complete and truthful testimony in any criminal, civil, or administrative proceeding. Defendant agrees to the postponement of his sentencing until after the conclusion of his cooperation.

Agreements Relating to Sentencing

12. At the time of sentencing, the government shall make known to the sentencing judge the extent of defendant's cooperation. If the government determines that defendant has continued to provide full and truthful cooperation as required by this Agreement, then the government shall move the Court, pursuant to Guideline § 5K1.1, to depart downward from the low end of the applicable guideline range, and shall recommend a sentence that includes a term of imprisonment in the custody of the Bureau of Prisons of 50 percent of the low end of the applicable guideline range. Defendant shall be free to recommend any sentence. Defendant understands that the decision to depart from the applicable guideline range rests solely with the Court.

13. If the government does not move the Court, pursuant to Guideline § 5K1.1, to depart from the applicable guideline range, as set forth above, the preceding paragraph of this Agreement will be inoperative, both parties shall be free to recommend any sentence, and the Court shall impose a sentence taking into consideration the factors set forth in 18 U.S.C. § 3553(a) as well as the Sentencing Guidelines without any downward departure for cooperation pursuant to § 5K1.1. Defendant may not withdraw his plea of guilty because the government has failed to make a motion pursuant to Guideline § 5K1.1.

14. It is understood by the parties that the sentencing judge is neither a party to nor bound by this 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.

15. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court. Defendant further agrees to pay the costs to the government of any imprisonment, supervised release, and probation component of the sentence imposed. The government will make no recommendation regarding any fine.

Forfeiture

16. Defendant understands that by pleading guilty, he will subject to forfeiture to the United States all right, title, and interest that he has in any

property constituting or derived from proceeds obtained, directly or indirectly, as a result of the offense.

17. Defendant agrees to the entry of a personal money judgment in the amount of \$592,000, which represents the total amount of remuneration solicited and received in exchange for defendant's prescriptions of clozapine to his patients. Defendant consents to the immediate entry of a preliminary order of forfeiture setting forth the amount of the personal money judgment he will be ordered to pay.

18. Defendant admits that because the directly forfeitable property is no longer available for forfeiture as described in Title 21, United States Code, Section 853(p)(1), the United States is entitled to seek forfeiture of any other property of defendant, up to the value of the personal money judgment, as substitute assets pursuant to Title 21, United States Code, Section 853(p)(2).

19. Defendant understands that forfeiture of this property shall not be treated as satisfaction of any fine, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment.

20. Defendant agrees to waive all constitutional, statutory, and equitable challenges in any manner, including but not limited to direct appeal or a motion brought under Title 28, United States Code, Section 2255, to any forfeiture carried out in accordance with this agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

21. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 15 CR 044.

22. This 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

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

a. **Right to be charged by indictment.** Defendant understands that he has a right to have the charge prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert

at trial or on appeal any defects or errors arising from the information, the information process, or the fact that he has been prosecuted by way of information.

b. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charge 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. 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. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

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, 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.

viii. With respect to forfeiture, defendant understands that if the case were tried before a jury, he would have a right to retain the jury to determine whether the government had established the requisite nexus between defendant's offense and any specific property alleged to be subject to forfeiture.

c. **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, if the government makes a motion at sentencing for a downward departure pursuant to Guideline § 5K1.1, 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 forfeiture, in exchange for the concessions made by the United States in this Agreement. In addition, if the government makes a motion at sentencing for a downward departure pursuant to Guideline § 5K1.1, defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, 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, 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.

24. 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.

Presentence Investigation Report/Post-Sentence Supervision

25. 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 charge against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing, including the nature and extent of defendant's cooperation.

26. 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.

27. 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 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

28. 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.

29. 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. Crim. 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 (including but not limited to the Internal Revenue Service), 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. Nothing in this paragraph or the preceding paragraph precludes defendant from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

30. Defendant understands that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

Conclusion

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

32. Defendant understands that his compliance with each part of this 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.

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

34. Defendant and his attorneys 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.

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

AGREED THIS DATE: _____

ZACHARY T. FARDON
United States Attorney

MICHAEL J. REINSTEIN
Defendant

RYAN S. HEDGES
Assistant U.S. Attorney

JAMES R. STREICKER
TERENCE H. CAMPBELL
Attorneys for Defendant