



IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 1:15-CR-214
)	
BRIAN P. HEARING,)	
)	
Defendant.)	

PLEA AGREEMENT

The United States Department of Justice, Criminal Division, Public Integrity Section; the United States Attorney’s Office for the Eastern District of Virginia (collectively, the “United States”); the defendant, Brian P. Hearing; and the defendant’s counsel have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of the agreement are as follows:

1. Offense and Maximum Penalties

The defendant agrees to waive indictment and plead guilty to a single count criminal information charging the defendant with making false statements to federal officers, in violation of Title 18, United States Code, Section 1001. The maximum penalties for this offense are: a term of 5 years of imprisonment, a fine of \$250,000, a special assessment, and 3 years of supervised release. The defendant understands that this supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.

2. Factual Basis for the Plea

The defendant will plead guilty because the defendant is in fact guilty of the charged offense. The defendant admits the facts set forth in the statement of facts filed with this plea agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of facts, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

3. Assistance and Advice of Counsel

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel – and if necessary have the court appoint counsel – at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

4. Role of the Court and the Probation Office

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above but that the Court will determine the defendant's actual sentence in accordance with 18 U.S.C. § 3553(a). The defendant understands that the Court has not yet determined a sentence and that any estimate of the advisory sentencing

range under the U.S. Sentencing Commission's Sentencing Guidelines Manual the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. Additionally, pursuant to the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), the Court, after considering the factors set forth in 18 U.S.C. § 3553(a), may impose a sentence above or below the advisory sentencing range, subject only to review by higher courts for reasonableness. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

5. Sentencing Recommendation

Further, in accordance with Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the United States and the defendant will recommend to the Court that the following provisions of the Sentencing Guidelines apply:

- a. The base offense level is 6 pursuant to U.S.S.G. § 2B1.1(a)(2).
- b. There is a 2-level reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a).

6. Waiver of Appeal, FOIA and Privacy Act Rights

The defendant also understands that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the statutory maximum described above (or the manner in which that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground whatsoever other than an ineffective assistance of counsel claim that is cognizable on direct appeal, in exchange for the concessions made by the United States in this plea agreement.

This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

7. Special Assessment

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of one hundred dollars (\$100.00) per count of conviction.

8. Payment of Monetary Penalties

The defendant understands and agrees that, pursuant to 18 U.S.C. § 3613, whatever monetary penalties are imposed by the Court will be due immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Furthermore, within 14 days of a request, the defendant agrees to provide all of the defendant's financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination and/or complete a financial statement under penalty of perjury. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to voluntarily participate in the Bureau of Prisons' Inmate Financial

Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.

9. Immunity from Further Prosecution in this District

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the conduct described in the information or statement of facts or for conduct now known to the Public Integrity Section and the law enforcement agents working with the Public Integrity Section on the investigation of the defendant during 2014 and 2015 related to his employment with the National Geospatial-Intelligence Agency.

10. Breach of the Plea Agreement and Remedies

This agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this plea agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement;
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of

the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense; and

- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the statement of facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines or any other provision of the Constitution or federal law.

Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of the plea agreement by a preponderance of the evidence.

11. Nature of the Agreement and Modifications

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and the defendant's attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this plea agreement, to cause the defendant to

plead guilty. Any modification of this plea agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

RAYMOND N. HULSER
CHIEF, PUBLIC INTEGRITY SECTION
Criminal Division
United States Department of Justice

DANA J. BOENTE
UNITED STATES ATTORNEY

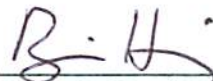


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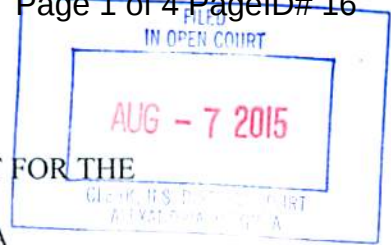
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Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal information. Further, I fully understand all rights with respect to Title 18, United States Code, Section 3553 and the provisions of the Sentencing Guidelines Manual that may apply in my case. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: 7/24/15 
Brian P. Hearing
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's rights with respect to the pending information. Further, I have reviewed Title 18, United States Code, Section 3553 and the Sentencing Guidelines Manual, and I have fully explained to the defendant the provisions that may apply in this case. I have carefully reviewed every part of this plea agreement with the defendant. To my knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: 7/27/15 
Leslie McAdoo Gordon
Counsel for the Defendant



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STATEMENT OF FACTS

The United States and Defendant, BRIAN P. HEARING, stipulate that the allegations in the Information and the following facts are true and correct, and that had the matter gone to trial, the United States would have proven beyond a reasonable doubt with admissible and credible evidence that:

1. Defendant was employed by the National Geospatial-Intelligence Agency (“NGA”) as a civilian from July 2011 to January 2015. During that time, he served as a Research and Development Technologist, a Scientific and Technical Program Manager, and a Supervisory Scientific and Technical Program Manager within the Innovision Directorate, an applied science and technology research group within NGA.

2. While employed at NGA, Defendant co-founded a company (“Company A”) for the purpose of developing and commercializing a type of automated detection system.

3. Defendant inappropriately used his position with NGA to promote Company A. For instance, between in or about April 2014 and in or about July 2014, Defendant falsely represented that NGA was sponsoring Company A’s detection system to participate in a Department of Defense event; sponsorship by a government agency was a prerequisite for

participation in that event. Defendant also misused his position at NGA to introduce Company A to the Department of Homeland Security and to attend an Army workshop relevant to Company A's detection technology.

4. On or about September 19, 2014, at NGA Headquarters in Springfield, Virginia, a special agent with the Defense Criminal Investigative Service and an investigator with NGA's Office of Inspector General interviewed Defendant concerning NGA's involvement with Company A and Defendant's personal involvement with Company A. During the interview, Defendant made several materially false statements to conceal his conflict of interest, including the following:

a. Defendant falsely claimed that another individual was the only founder of Company A, when in fact, Defendant co-founded the company together with that individual.

b. Defendant falsely claimed that he did not have any financial or legal connections to Company A, when in fact, Defendant and the co-founder of Company A had a written agreement that they shared equal ownership of the company.

c. Defendant falsely claimed that he had not invested any money in Company A (other than a negligible amount to help the company establish a web presence); in fact, Defendant spent a considerable amount of his own money on equipment and travel for Company A.

d. Defendant falsely claimed that he played only a mentorship role in the development of Company A and had no affiliation with the company, when in fact, he played a direct role in the development of Company A and has acted on Company A's behalf since its inception.


5. The false statements Defendant made during his interview, including the statements described above, were made knowingly and deliberately, not by mistake, accident, or for any other innocent reason.


6. This Statement of Facts includes those facts necessary to support the Plea Agreement between Defendant and the Government. It does not include each and every fact known to Defendant or to the Government, and it is not intended to be a full enumeration of all of the facts surrounding Defendant's case.

Respectfully submitted,

RAYMOND N. HULSER
CHIEF, PUBLIC INTEGRITY SECTION
Criminal Division
United States Department of Justice

DANA J. BOENTE
UNITED STATES ATTORNEY


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Defendant's Signature: After consulting with my attorney, and pursuant to the Plea Agreement entered into this day between myself and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: 7/24/15 By: B. P. Hearing
Brian P. Hearing
Defendant

Defense Counsel Signature: I am counsel for the defendant in this case. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: 7/27/15 By: Leslie McAdoo Gordon
Leslie McAdoo Gordon
Counsel for Defendant