



U.S. Department of Justice

*United States Attorney
District of New Jersey
Special Prosecutions Division*

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LMCJR/VK PL AGR
2014R00025

January 12, 2015

Alan L. Zegas, Esq.
552 Main Street
Chatham, NJ 07928

Re: Plea Agreement with David Wildstein

Dear Mr. Zegas:

This letter sets forth the plea agreement between your client, David Wildstein, and the United States Attorney for the District of New Jersey ("this Office").

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from David Wildstein to criminal violations arising from the reduction of the number of local access lanes from the Borough of Fort Lee, New Jersey to the upper level toll plaza of the George Washington Bridge in or about September 2013 and the concealment of the true purpose of those lane reductions (hereafter referred to as the "Bridge Scheme"). Specifically, this Office will accept a guilty plea from David Wildstein to a two-count Information charging in Count 1 that David Wildstein conspired to intentionally misapply property of the Port Authority of New York and New Jersey (the "Port Authority"), contrary to 18 U.S.C. § 666(a)(1)(A), in violation of 18 U.S.C. § 371, and in Count 2 that David Wildstein conspired to violate a right secured by the Constitution of the United States in violation of 18 U.S.C. § 241. If David Wildstein enters a guilty plea and is sentenced on these charges, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against him for violations related to the Bridge Scheme or arising out of other information that he has provided to this Office. However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, David Wildstein agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date he executes this agreement may be commenced against him, notwithstanding the expiration of the limitations period after he executes the agreement.

Sentencing

The violation of 18 U.S.C. § 371 to which David Wildstein agrees to plead guilty carries a statutory maximum prison sentence of 5 years and a statutory maximum fine equal to the greatest of: (1) \$250,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The violation of 18 U.S.C. § 241 to which David Wildstein agrees to plead guilty carries a statutory maximum prison sentence of 10 years and a statutory maximum fine equal to the greatest of: (1) \$250,000, or (2) twice the gross amount of any pecuniary gain that any persons derived from the offense, or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

The sentence on each count may run consecutively. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon David Wildstein is within the sole discretion of the sentencing judge, subject to the provisions of the Sentencing Reform Act, 18 U.S.C. §§ 3551-3742, and the sentencing judge's consideration of the United States Sentencing Guidelines. The United States Sentencing Guidelines are advisory, not mandatory. The sentencing judge may impose any reasonable sentence up to and including the statutory maximum term of imprisonment and the maximum statutory fine. This Office cannot and does not make any representation or promise as to what guideline range may be found applicable by the sentencing judge, or as to what sentence David Wildstein ultimately will receive.

In addition to imposing any other penalty on David Wildstein, the sentencing judge: (1) will order David Wildstein to pay an assessment of \$100 per count pursuant to 18 U.S.C. § 3013, which must be paid by the date of sentencing; (2) must order David Wildstein to pay restitution pursuant to 18 U.S.C. § 3663A with respect to Count 1 of the Information and may order David Wildstein to pay restitution pursuant to 18 U.S.C. § 3663 et seq. with respect to Count 2 of the Information; (3) may order David Wildstein, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offenses; and (4) pursuant to 18 U.S.C. § 3583, may require David Wildstein to serve a term of supervised release of not more than 3 years for each count, which will begin at the expiration of any term of imprisonment imposed. Should David Wildstein be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, David Wildstein may be sentenced to not more than 2 years' imprisonment for each count in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed on David Wildstein by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of David Wildstein's activities and relevant conduct with respect to this case.

Stipulations

This Office and David Wildstein agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which is part of this plea agreement. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate by this Office is based on the information and evidence that this Office possesses as of the date of this agreement. If this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or David Wildstein from any other portion of this agreement, including any other stipulation. If the sentencing court rejects a stipulation, both parties reserve the right to argue on appeal or at post-sentencing proceedings that the sentencing court was within its discretion and authority to do so. These stipulations do not restrict this Office's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

Waiver of Appeal and Post-Sentencing Rights

As set forth in Schedule A, this Office and David Wildstein waive certain rights to file an appeal, collateral attack, writ, or motion after sentencing, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested to do so.

This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against David Wildstein. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service) or any

third party from initiating or prosecuting any civil or administrative proceeding against David Wildstein.

No provision of this agreement shall preclude David Wildstein from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack, writ, or motion claiming that David Wildstein received constitutionally ineffective assistance of counsel.


No Other Promises

This agreement constitutes the plea agreement between David Wildstein and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.


Very truly yours,

PAUL J. FISHMAN
United States Attorney

By: 
Lee M. Cortes, Jr.
Assistant U.S. Attorney


Vikas Khanna
Assistant U.S. Attorney

APPROVED:


J Fortier Imbert
Senior Litigation Counsel


I have received this letter from my attorney, Alan L. Zegas, Esq. I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charges, sentencing, stipulations, and waiver of appeal and collateral attack. I understand this letter fully. I hereby accept its terms and conditions and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:


David Wildstein

Date: 1/21/15

I have discussed with my client this plea agreement and all of its provisions, including those addressing the charges, sentencing, stipulations, and waiver of appeal and collateral attack. My client understands this plea agreement fully and wants to plead guilty pursuant to it.


Alan L. Zegas, Esq.

Date: 1-21-15

Plea Agreement with David Wildstein

Schedule A

1. This Office and David Wildstein recognize that the United States Sentencing Guidelines are not binding upon the Court. This Office and David Wildstein nevertheless agree to these stipulations.

2. The version of the United States Sentencing Guidelines effective November 1, 2014 applies in this case.

Count 1 of the Information

Conspiracy to Intentionally Misapply Government Agency Property — 18 U.S.C. § 371

3. The applicable guideline is § 2X1.1.

4. The substantive offense is a violation of 18 U.S.C. § 666(a)(1)(A), and the applicable guideline for that offense is U.S.S.G. § 2B1.1.

5. The guideline for the substantive offense carries a Base Offense Level of 6.

6. The loss amount was more than \$10,000 but not more than \$30,000. The offense level is therefore increased by 4 levels. U.S.S.G. § 2B1.1(b)(1)(C).

7. David Wildstein abused a position of public trust in a manner that significantly facilitated the commission or concealment of the offense. This results in an increase of 2 levels. U.S.S.G. § 3B1.3.

Count 2 of the Information

Conspiracy Against Civil Rights — 18 U.S.C. § 241

8. The applicable guideline is § 2H1.1. The base offense level is 12 because the offense involved two or more participants.

9. David Wildstein was a public official at the time of the offense. This results in an increase of 6 levels. U.S.S.G. § 2H1.1(b)(1).

Multiple Counts Analysis

10. The parties agree that Count 1 and Count 2 of the Information do not group with each other as closely related counts under U.S.S.G. §§ 3D1.1 through 3D1.3.

11. Pursuant to U.S.S.G. § 3D1.4(a), Count 2 of the Information constitutes one unit because it has the highest offense level.

12. Pursuant to U.S.S.G. § 3D1.4(b), Count 1 of the Information constitutes one-half unit because it is 6 levels less serious than Count 2 of the Information.

13. Pursuant to U.S.S.G. § 3D1.4, the number of units is one and one-half, resulting in a one-level increase to the group with the highest offense level. Accordingly, the adjusted offense level is 19.

Additional Provisions

14. As of the date of this letter, David Wildstein has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offenses charged. Therefore, a downward adjustment of 2 levels for acceptance of responsibility is appropriate if David Wildstein's acceptance of responsibility continues through the date of sentencing. U.S.S.G. § 3E1.1(a).

15. As of the date of this letter, David Wildstein has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently. If David Wildstein enters a plea pursuant to this agreement and qualifies for a 2-point reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), and if in addition David Wildstein's offense level under the Guidelines prior to the operation of § 3E1.1(a) is 16 or greater, David Wildstein will be entitled to a further 1-point reduction in his offense level. U.S.S.G. § 3E1.1(b).

16. In accordance with the above, the parties agree that the total Guidelines offense level applicable to David Wildstein is 16 (the "agreed total Guidelines offense level").

17. The parties agree not to seek or argue for any upward or downward departure, adjustment or variance not set forth herein. The parties further agree that a sentence within the Guidelines range that results from the agreed total Guidelines offense level is reasonable.

18. David Wildstein knows that he has and, except as noted below in this paragraph, voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the sentence imposed by the sentencing court if that sentence falls within or below the Guidelines range that results from the agreed total Guidelines offense level of 16. This Office will not file any appeal, motion, or writ which challenges the sentence imposed by the sentencing court if that sentence falls within or above the Guidelines range that results from the agreed total Guidelines offense level of 16. The parties reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that to which the parties have stipulated. Furthermore, if the sentencing court accepts a stipulation, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so.

19. Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion barred by the preceding paragraph and to file or to oppose any appeal, collateral attack, writ or motion not barred by the preceding paragraph.