

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

FILED
OCT 15 2008
U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

CR 08

110 ML

v.

CR. No. 08-

VINCENT D'ELIA

PLEA AGREEMENT

Pursuant to Rule 11(c) (1) (A) of the Federal Rules of Criminal Procedure, the United States and Defendant, Vincent D'Elia have reached the following agreement:

1. Defendant's Obligations.

a. Defendant will plead guilty to a one count Information, which charges Defendant with engaging in a pattern and practice of hiring aliens for employment in the United States, knowing such aliens were unauthorized aliens with respect to such employment in violation of 8 U.S.C. § 1324a(a) (1) (A) and (f) (1).

b. Defendant further agrees as follows:

(i) Defendant admits that during the period January 1, 2004 through July 15, 2008, Defendant failed to truthfully and accurately withhold and pay over federal insurance contributions ("FICA taxes") from the pay of such aliens, and failed to pay over the employer's contribution of FICA taxes. Defendant agrees to cooperate with the Internal Revenue Service in the ascertainment and collection of his outstanding tax liability, including

penalties and interest, and including meeting with IRS representatives as often as necessary and providing complete and truthful information to them.

(ii) Defendant understands that nothing in this agreement shall limit the IRS in its lawful examination, determination, assessment, or collection of any taxes, penalties or interest due from the defendant. Defendant agrees that this agreement, or any judgment, order, release, or satisfaction issued in connection with this agreement, will not satisfy, settle, or compromise the defendant's obligation to pay the balance of any remaining civil liabilities, including tax, additional tax, additions to tax, interest, and penalties, owed to the IRS.

2. Government's Obligations. In exchange for Defendant's plea of guilty:

a. The Government will not commence a prosecution of defendant for willful evasion of FICA taxes related to Defendant's failure to accurately and truthfully withhold and pay over FICA taxes for the period January 1, 2004 through July 15, 2008 from the pay of illegal aliens he employed at Falcon Maintenance Co.

b. The Government makes no agreement as to what sentence it will recommend to the Court. The Government reserves the right to recommend any sentence, including a term of imprisonment up to the maximum sentence authorized by statute.

c. The Government is free to recommend any combination of supervised release, fines, and restitution which it deems appropriate.

3. The maximum statutory penalties for the offense to which defendant is pleading are six months imprisonment, a fine of \$3,000 for each unauthorized alien with respect to whom such a violation occurred; a term of supervised release of 1 year; and a mandatory special assessment of \$100.

4. Defendant agrees that, after Defendant and Defendant's counsel sign this agreement, counsel will return it to the United States Attorney's Office along with a money order or certified check in the amount of \$100, payable to the Clerk, United States District Court, in payment of the special assessment.

5. Defendant is advised and understands that:

- a. The Government has the right, in a prosecution for perjury or making a false statement, to use against Defendant any statement that Defendant gives under oath;
- b. Defendant has the right to plead not guilty, or having already so pleaded, to persist in that plea;
- c. Defendant has the right to a jury trial;
- d. Defendant has the right to be represented by counsel - and if necessary have the Court appoint

counsel - at trial and every other stage of the proceeding;

e. Defendant has the right at trial to confront and cross-examine adverse witnesses, to be protected from self-incrimination, to testify and present evidence, and to compel the attendance of witnesses; and

f. Defendant waives these trial rights if the Court accepts a plea of guilty.

6. The government reserves its full right of allocution, including the right to present any information to the Court for its consideration in fashioning an appropriate sentence, the right to correct misstatements, misrepresentations, or omissions by Defendant, and to answer any questions asked by the Court.

7. Defendant understands that the Court alone makes all sentencing decisions, including the sentence to be imposed. The Court is not bound by the parties' stipulations of fact or recommendations. The Court is free to impose any sentence it deems appropriate up to and including the statutory maximum. Defendant also understands that even if the Court's sentence is different than Defendant expects, Defendant will not be allowed to withdraw Defendant's plea of guilty.

8. This agreement is binding on the government only if Defendant pleads guilty, fulfills all Defendant's obligations

under the agreement, does not engage in any conduct constituting obstruction of justice, and does not commit any new offenses.

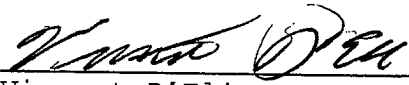
Defendant understands that if Defendant violates this agreement in any way, the government shall be released from its obligations under the agreement and will be free to make any recommendations that it deems appropriate. If that occurs, Defendant shall not have the right to withdraw Defendant's guilty plea.

9. This agreement is limited to the District of Rhode Island and does not bind any other federal, state, or local prosecutive authorities.

10. This agreement constitutes the entire agreement between the parties. No other promises or inducements have been made concerning the plea in this case. Defendant acknowledges that no person has, directly or indirectly, threatened or coerced Defendant to enter this agreement. Any additions, deletions, or modifications to this agreement must be made in writing and signed by all the parties in order to be effective.

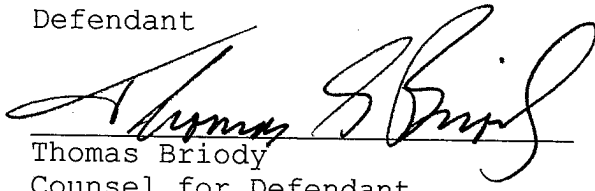
11. Counsel for Defendant states that Counsel has read this agreement, been given a copy of it for Counsel's file, explained it to Defendant, and states that to the best of Counsel's knowledge and belief, Defendant understands the agreement.

12. Defendant states that Defendant has read the agreement or has had it read to Defendant, has discussed it with Defendant's Counsel, understands it, and agrees to its provisions.



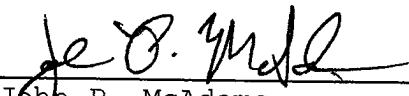
Vincent D'Elia
Defendant

10/17/08
Date




Thomas Briody
Counsel for Defendant

10/14/08
Date



John P. McAdams
Assistant U.S. Attorney

10/15/08
Date



Lee H. Vilker
Assistant U.S. Attorney
Deputy Chief, Criminal Division

10/15/08
Date