

(Rev. 4/08)

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FILED

2014 DEC 22 PM 1 59

UNITED STATES OF AMERICA :

v. :

CASE NO. 14CR245 (JBA)

ALSTOM NETWORK SCHWEIZ AG :**PETITION TO ENTER PLEA OF GUILTY
PURSUANT TO RULES 10 AND 11 OF
THE FEDERAL RULES OF CRIMINAL PROCEDURE**

The above-named defendant respectfully petitions this Court to
~~permit him/her to withdraw his/her previously entered plea of "Not~~
~~Guilty" to Count(s) _____ of the~~
~~Indictment/Information in Criminal No. _____ (JBA), and to~~
 plead "GUILTY" at this time to Count(s) one.

In support of this petition, Richard D. Austin, on behalf of
 petitioner, represents to the Court
 as follows:

(1) My full and legal name is: Richard D. Austin

~~I request that all proceedings against me be had in this name.~~

(2) I am 61 years of age.

(3) I was born in (City, State, etc.) Springfield, IL.

(4) [Place check in appropriate places.]

(a) I am able to read ✓ and write in the
 English language.

- (b) I am not able to read and write English, and I have had the benefit of the interpretation and translation services of _____ (name of interpreter), who is fluent in _____ (name of language). I continue to require such an interpreter.
- (5) (a) I have received the following education in the United States (check the highest level completed):
- Grade School 1__ 2__ 3__ 4__ 5__ 6__ 7__ 8__
- High School _____ (Years)
- College _____ (Years)
- Graduate School ✓ law (Years)
- (b) If education received in foreign country, give details _____
- _____
- (6) ^{ALSTON PRUM is} ~~I am~~ represented by counsel and the name of ^{its} ~~my~~ attorney is Robert D. Luskin, John S. Darden, Squire Patton Boggs (US) LLP
- (7) (a) I have received a copy of the Indictment/Information, I have read and discussed it with ^{ALSTON PRUM's} ~~my~~ attorney, and I understand every accusation made against ^{it} ~~me~~ in this case.

(b) As stated below ~~in my own words~~, ^{ALSTON PROM} ~~I~~ understand, that in the counts of the Indictment/Information to which ~~I~~ ^{it} ~~am~~ ^{ALSTON PROM is} now offering to plead guilty, ~~I am~~ charged with the following crime(s):

conspiracy to violate the FCPA

[Identify each count and the nature of the crime charged therein.]

- (8) (a) ^{ALSTON PROM was its} ~~I have given my~~ attorney a full statement of all the facts and surrounding circumstances as known to ~~me~~ ^{it} concerning the matters mentioned in the Indictment/Information, and I believe that ~~my~~ ^{ALSTON PROM's} attorney is fully informed as to all such matters.
- (b) ^{ALSTON PROM its} After ~~I gave my~~ attorney the statement just mentioned in 8(a), ^{ALSTON PROM's} ~~my~~ attorney informed, counseled, and advised ~~me~~ ^{it} as to the nature of every accusation against ~~me~~ ^{it}, and as to any possible defense ~~it~~ ^{it} might have with respect to these accusations.

ALSTON PROM'S
(9) *it* ~~My~~ attorney has advised ~~me~~ *it* that, with respect to the Count(s) to which ~~I~~ *it* intend, to plead "GUILTY," the punishment which the law provides is as follows:

[Add up the punishments on each count. For example, if a defendant is pleading guilty to counts one and two, and there is a two-year maximum sentence on count one, and a five-year maximum sentence on count two, write in seven years as the maximum amount of imprisonment, and \$100 as the mandatory special assessment.

Fill in only those blanks that are applicable.]

- (a) A maximum of _____ imprisonment.
- (b) A mandatory minimum of _____ imprisonment.
- (c) A maximum fine of \$ twice the gross pecuniary gain per count
- (d) A minimum fine of \$ _____.
- (e) A maximum term of supervised release of _____ years following imprisonment for the offense(s) charged in Count(s) _____ of the Indictment/Information.
- (f) A minimum term of supervised release of at least _____ years following imprisonment for the offense(s) charged in Count(s) _____ of the Indictment/Information.
I understand that if I violate any condition of the supervised release before the term expires, I may be required to serve a further term without any credit for the time already spent on supervised release of:

(a) years imprisonment

(b) the entire term of supervised release.

(g) A maximum order of restitution equal to the amount of loss resulting to any victims of the offense(s) charged in the Indictment/ Information to which I am offering to plead guilty.

(h) I understand that ~~I~~ ^{ALSTON PROM} must also pay a mandatory special assessment of \$ 400 per count

^{ALSTON PROM'S}
(10) ~~My~~ attorney has also advised me that:

[Check applicable line.]

n/a (a) Because the offense to which I am offering to plead "GUILTY" is a Class A/B felony, the Court is not authorized to sentence me to probation.

~~ALSTON PROM'S~~ (b) Probation is a possible sentence, but that it may or may not be granted.

(11) ^{ALSTON PROM'S} ~~My~~ attorney has also advised ~~me~~ ^{it} that in imposing a sentence on the offense(s) to which ~~I am~~ ^{it is} now offering to plead guilty, the Court must consider the Guidelines promulgated by the United States Sentencing Commission and the related policy statements. The Court, however, is not bound by the Guidelines but must consider them along with other factors set forth in 18 U.S.C. § 3553.

^{ALSTON PROM'S}
~~My~~ attorney has counseled ~~me~~ ^{it} with his/her opinion on what ~~my~~ ^{its} sentencing range might be. I fully understand that ~~my~~ ^{ALSTON PROM'S} attorney's opinion (or ~~my~~ ^{its} own) may be incorrect and that any disputed facts and objections to application of the Guidelines calculation will be made by a preponderance of the evidence.

^{ALSTON PROM'S}
I understand, ^{its} that ~~my~~ attorney's opinion or prediction concerning the Guidelines to be considered is not binding on the Court nor are the Guidelines themselves binding on the Court; and that ~~I have~~ ^{ALSTON PROM has} no right to withdraw ~~my~~ ^{its} plea on the ground that ~~my~~ ^{its} attorney's opinion or prediction (or ~~my~~ ^{its} own) concerning any sentence proved to be incorrect. ^{ALSTON PROM} I fully understand that the sentence could be up to the maximum provided by the statute.

^{ALSTON PROM'S}
~~My~~ attorney has advised ~~me~~ ^{it} that in certain instances, conduct which is found or stipulated to have occurred will be taken into consideration in computing the applicable Guidelines to be considered, even though that conduct does not form the basis of the specific count(s) to which ~~I am~~ ^{ALSTON PROM'S} pleading guilty.

My attorney has advised me, and I fully understand, that parole has been abolished for offenses committed on or after November 1, 1987, and that if I am sentenced to prison, I will not be released on parole.

____ (12) Consequences for parole and probation. [Check if defendant is on probation or parole in this or any other court.]

I understand that by pleading GUILTY here, my probation/parole may be revoked and I may be required to serve time in prison in the case in which I am on probation/parole, in addition to any sentence imposed upon me in this case. Moreover, my attorney has advised me that my status on probation/parole at the time of the offense charged in this case may result in an increase in the Guideline range or in the sentence imposed.

(13) ^{ALSTON PROM'S} ~~My~~ attorney has advised ^{it} ~~me~~ that if ^{it} ~~I~~ plead, "GUILTY" to more than one offense, the Court may order the sentence to be served consecutively -- that is, one after another.

(14) ^{ALSTON PROM} ~~I~~ understand, that ^{it} ~~I~~ may, if ^{it} ~~I~~ so choose, plead "NOT GUILTY" to any offense charged against ^{it} ~~me~~, and that ^{ALSTON PROM} ~~I~~ may continue to plead "NOT GUILTY," if ^{it} ~~I~~ have already so pleaded.

(15) ^{ALSTON PROM} ~~I~~ understand, that if ^{it} ~~I~~ choose, to plead "NOT GUILTY," ^{it} ~~I~~ may proceed to trial at the time set by the Court. ^{ALSTON PROM} ~~I~~ further understand that the United States Constitution guarantees ^{it} ~~me~~:

- (a) the right to a speedy and public trial by jury;
- (b) the right to see, hear, and question all witnesses called by the government against ~~me~~ ^{it};
- (c) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in ~~my~~ ^{its} favor;
- (d) the right to have the assistance of counsel in ~~my~~ ^{it} defense at all stages of these proceedings, as well as upon the trial; and
- (e) the right not to be compelled to incriminate ~~myself~~ ^{itself}; that is, ~~as ALSTON PRUM~~ understand that if ~~I~~ ^{it} go to trial, ~~I~~ ^{it} may remain silent and ~~I~~ ^{it} cannot be compelled to take the witness stand.
- (f) the right to be found "not guilty" on any charge for which the evidence lawfully admitted at trial does not sustain a finding of guilt beyond a reasonable doubt.

(16) ~~I~~ ^{ALSTON PRUM} understand, that, by pleading "GUILTY," ~~I~~ ^{it} waive, (that is, ~~I~~ ^{it} give up) ~~my~~ ^{its} right to a trial, and that there will be no further trial of any kind.

(17) ~~I~~ ^{ALSTON PRUM} understand, that, if ~~I~~ ^{it} plead "GUILTY," the Court may ask me questions about the offense to which ~~I~~ ^{ALSTON PRUM is} am pleading "GUILTY." ~~I~~ ^{ALSTON PRUM} also understand that if ~~I~~ ^{it} answer, these questions under oath, on the record, and in the presence of counsel,

^{its}
~~my~~ answers, if false, may later be used against ^{it} ~~me~~ in a prosecution for perjury or false statement.

^{ALSTON PROM}
I understand also that, by pleading "GUILTY," ^{it} ~~I~~ waive^s any right against self-incrimination concerning the facts constituting the offense to which ^{it is} ~~I am~~ pleading "GUILTY."

^{ALSTON PROM}
(18) I understand^s that, if ^{it} ~~I~~ plead "GUILTY," the Court may impose the same punishment as if ^{it} ~~I~~ had pleaded "NOT GUILTY," stood trial, and had been convicted by a jury.

^{ALSTON PROM}
(19) I further understand^s that if ^{it} ~~I~~ plead^s "GUILTY," ^{it} ~~I~~ waive^s (that is, ^{it} ~~I~~ give^s up) any defenses ^{it} ~~I~~ may have had and, in particular, that ^{it} ~~I~~ waive^s any claims which ^{it} ~~I~~ may have had based upon any previous violations of my statutory or constitutional rights. ^{ALSTON PROM}
I understand^s that if ^{it} ~~I~~ were to continue to plead "NOT GUILTY," ^{ALSTON PROM} ~~I~~ would be entitled to have ^{its} ~~my~~ attorney make appropriate application to the Court based upon any such violations -- for example, a motion to suppress evidence.

(20) I declare that no officer or agent of any branch of government (federal, state or local), nor any other person, has made any promise or suggestion of any kind to ^{ALSTON PROM} ~~me~~, or within my knowledge to anyone else, that ^{ALSTON PROM} ~~I~~ would receive a lighter sentence, or probation, or any other form of leniency,

^{it} if ~~I~~ would plead "GUILTY," except to the extent that ^{its} ~~my~~ plea of "GUILTY" may be a factor considered by the Court in determining whether ~~I have~~ ^{it has} accepted responsibility for ~~my~~ ^{its} criminal conduct within the meaning of the Guidelines or to the extent indicated in ~~my~~ ^{its} written plea agreement with the Government.

(21) I declare that ~~I have~~ ^{ALSTON PROM HAS} not been threatened or forced in any way to plead guilty at this time or any other times.

(22) ^{ALSTON PROM'S} ~~My~~ decision to plead "GUILTY" arises out of discussions between ~~me~~ ^{it} and ~~my~~ ^{its} attorney, who advised ~~me~~ ^{ALSTON PROM} that if ~~I~~ ^{it} pleads "GUILTY" to Count(s) one the government has agreed to the following: [Staple here a copy of any written agreement between the government and the defendant. If there is no written agreement, state the nature of the agreement in the space below.]

see plea agreement

ALSTON PROM

(23) ~~I~~ understand that the Court may accept or reject the terms of this agreement, or may defer its decision to accept or reject the agreement until it has had an opportunity to consider a presentence report prepared by the United States Probation Office.

ALSTON PROM has

(24) (a) ~~I have~~ made this decision to plead "GUILTY" freely and voluntarily and as a result of ~~my~~^{its} own reasoning processes.

ALSTON PROM

(b) ~~I~~ know^s that the Court will not accept a plea of "GUILTY" from any one who claims to be innocent and ~~I~~^{ALSTON PROM} ~~am~~^{is} not pleading "GUILTY" for any reason other than that ~~I am~~^{it is} indeed guilty.

(25) [Place check mark in appropriate place:]

~~ALSTON PROM~~ ~~I~~ have / ~~has~~ not ✓ made any statement to any law enforcement officer or anyone else in which ~~I~~^{ALSTON PROM} admitted the crime or any part of the crime to which ~~I~~^{it} now want^s to plead guilty.
[Check if defendant has made such a statement:]

 I would choose to plead "GUILTY" even if I knew that the statement could not be used against me.

(26) I understand that, in cases ~~prior~~ to November 1, 1987, a federal judge ~~has~~ no authority to order a federal sentence of imprisonment to run at the same time as a state sentence of imprisonment.

However, for an offense committed after November 1, 1987, I understand that under 18 U.S.C. § 3584(a), a federal judge may impose terms of imprisonment that run concurrently.

(27) ^{Custom from} I believe, and understand, that ^{its} ~~my~~ attorney ^{has} ~~has~~ done all that an attorney should have done to counsel and assist ^{it} ~~me~~ with respect to this case.

(28) I am not now under the influence of any drugs or alcohol.

(29) Within the last seven (7) days, I have taken the following drugs, medicines, pills or alcoholic beverages:

prescription blood pressure medication

CUSTOM PROMIS

(30) The following is ~~my~~ own statement as to what occurred, which shows that ~~I am~~^{it is}, in fact, guilty of each charge to which ~~I~~^{it} ~~is~~^{is} ~~am~~ now offering to plead "Guilty." [Defendant must set forth, in his/her own handwriting, or through an interpreter, his/her own statement as to each count with which he/she is charged. Use additional sheets if necessary and attach to this petition.]

see Statement of Facts attached to plea agreement

(31) I declare that ~~I~~^{ASTON PROM} offer^{its} my plea of "GUILTY" freely and voluntarily and of ~~my~~^{its} own accord. I also declare that ~~my~~^{ASTON PROM's} attorney has explained to ~~me~~^{it}, and ~~I~~^{it} understand^s the statements set forth in the Indictment/Information and in this petition and in the "Certificate of Counsel" attached to this petition.

(32) I have read and discussed with ~~my~~^{ASTON PROM's} attorney the Indictment/Information, and I further state that ~~I~~^{ASTON PROM} wish^{es} the Court to omit and consider as waived (that is, to consider as given up) by ~~me~~^{it} all reading of the Indictment/Information in open court, and all further proceedings upon ~~my~~^{its} arraignment, and to consider any undecided motions previously made by ~~me~~^{it} as withdrawn.

(33) I request that the Court enter now ~~my~~^{ASTON PROM's} plea of "GUILTY" as set forth above in reliance upon my statements ^{on behalf of ASTON PROM} in this petition.

Signed by me ^{on behalf of ASTON PROM} in open court in the presence of ~~my~~^{its} attorney at New Haven, Connecticut, this 22nd day of December, 2014.

Richard D. D'Amico
Defendant

CERTIFICATE OF COUNSEL

The undersigned, as attorney and counselor for the defendant,
Asst. U.S. Atty. General Susan, hereby certifies as follows:

(1) I have read and fully explained to the defendant all the accusations against the defendant which are set forth in the Indictment/Information in this case;

(2) To the best of my knowledge and belief each statement set forth in the foregoing petition is in all respects accurate and true;

(3) The plea of "GUILTY," as offered by the defendant in the foregoing petition, accords with my understanding of the facts as related to me by the defendant, and is consistent with my advice to the defendant;

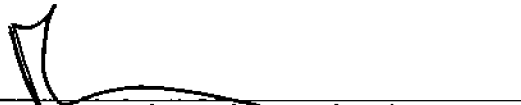
(4) In my opinion, the defendant's waiver of the reading of the Indictment/Information in open court, and of all further proceedings upon arraignment as provided in the Federal Rules of Criminal Procedure, is voluntarily made; the defendant understood what he/she was doing when he/she waived the reading; and I recommend to the Court that the waiver be accepted by the Court;

(5) In my opinion the plea of "GUILTY," as offered by the defendant in the foregoing petition, is voluntarily and understandingly made, and I recommend to the Court that the plea of "GUILTY" be now accepted and entered on behalf of the defendant as requested in the defendant's petition;

(6) I have read and understood and explained to the defendant all the provisions of Rules 10 and 11 of the Federal Rules of Criminal Procedure, and I believe the defendant understands the substance of both of those Rules;

(7) I have caused a copy of the foregoing petition, completed by the defendant, to be delivered to the Assistant United States Attorney in charge of this case prior to the parties' appearance in court at the plea proceeding.

Signed by me in open Court and in the presence of the defendant above named defendant at New Haven, Connecticut, this 22 day of December, 2014.

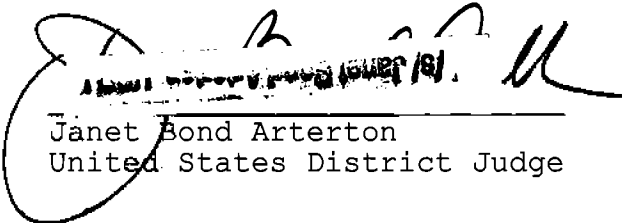


Attorney for the Defendant

O R D E R

Good cause appearing from the foregoing petition of the defendant above named and the certificate of his counsel, and from all proceedings heretofore had in this case, it is hereby ORDERED that the petition be granted and that the defendant's plea of "GUILTY" be accepted and entered as prayed in the defendant's petition and as recommended in the certificate of his counsel.

Done in open court in New Haven, Connecticut, this 22 day of December, 2014.



Janet Bond Arterton
United States District Judge