



U.S. Department of Justice

United States Attorney
District of New Jersey

970 Broad Street, 7th floor
Newark, New Jersey 07102

973-645-2700

March 14, 2016

Via Email and FEDEX

Michael G. Chalos, Esq.
K&L Gates LLP
599 Lexington Avenue
New York, NY 10022-6030

Crim. No. 16-363(SDW)

Re: Plea Agreement with Girolamo Curatolo

Dear Mr. Chalos:

This letter sets forth the plea agreement between your client, Girolamo Curatolo ("Girolamo Curatolo" or the "defendant"), and the United States Attorney for the District of New Jersey and the Environmental Crimes Section of the United States Department of Justice (collectively, "the United States"). This agreement will remain open until **March 28, 2016**.

Charge

Conditioned on the understandings specified below, the United States will accept a guilty plea from Girolamo Curatolo to a one-count Information, charging him with conspiring to violate the Act to Prevent Pollution from Ships (APPS) by failing to maintain an accurate Oil Record Book, contrary to Title 33, United States Code, Section 1908(a) and Title 33, Code of Federal Regulations, Section 151.25, in violation of Title 18, United States Code, Section 371. If Girolamo Curatolo enters a guilty plea and is sentenced on this charge, and otherwise fully complies with the terms of this agreement, the United States will not initiate any further criminal charges against Girolamo Curatolo for any related offenses, including but not limited to falsification of oil record books, additional violations of APPS, false statements, or obstruction of justice, occurring before the date of this plea agreement and which are known to the United States at the time of signing this agreement. However, in the event that the 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, the defendant agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by Girolamo Curatolo may be commenced against him, notwithstanding the expiration of the limitations period after Girolamo Curatolo signs the agreement.

Sentencing

The violation of Title 18, United States Code, Section 371, to which Girolamo Curatolo agrees to plead guilty in the Information carries a statutory maximum prison sentence of five years and a maximum fine equal to the greatest of: (1) \$250,000; (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. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon Girolamo Curatolo 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. The United States cannot and does not make any representation or promise as to what guideline range may be found by the sentencing judge, or as to what sentence Girolamo Curatolo ultimately will receive.

Further, in addition to imposing any other penalty on Girolamo Curatolo, the sentencing judge: (1) will order Girolamo Curatolo to pay an assessment of \$100 pursuant to 18 U.S.C. § 3013, which must be paid by the date of sentencing; (2) may order Girolamo Curatolo to pay restitution pursuant to 18 U.S.C. §§ 3663 *et seq.*; (3) may order Girolamo Curatolo to give notice to any victims of his offense pursuant to 18 U.S.C. § 3555; and (4) may require Girolamo Curatolo to serve a term of supervised release of not more than three (3) years, which will begin at the expiration of any term of imprisonment imposed. Should Girolamo Curatolo be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Girolamo Curatolo may be sentenced to not more than two (2) years' imprisonment 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 the United States Regarding Sentencing

Except as otherwise provided in this agreement, the United States reserves its right to take any position with respect to the appropriate sentence to be imposed on Girolamo Curatolo 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, the United States may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of Girolamo Curatolo's activities and relevant conduct with respect to this case.

Stipulations

The United States and Girolamo Curatolo agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a 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 entered into by the parties. 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 on the part of the United States is based on the information and evidence that the United States possesses as of the date of this agreement. Thus, if the United States obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any attached stipulation, the United States shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either the United States or Girolamo Curatolo 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 the Government'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, the United States and Girolamo Curatolo 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.

Immigration Consequences

Girolamo Curatolo understands that, because he is not a citizen of the United States, his guilty plea to the charged offense will likely result in him being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. Girolamo Curatolo understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. Girolamo Curatolo wants and agrees to plead guilty to the charged offense regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. Girolamo Curatolo understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, Girolamo Curatolo waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and the Environmental Crimes Section of the U.S. Department of Justice, and cannot bind other federal, state, or local authorities. However, both offices 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 Girolamo Curatolo. This agreement does not prohibit the United States or any agency thereof (including the Internal Revenue Service or Immigration and Customs Enforcement), or any third party from initiating or prosecuting any civil proceeding against Girolamo Curatolo.

The defendant agrees that he will neither contest nor otherwise speak against any reward the United States may propose to give to any

individual who provided information leading to the prosecution and conviction of the offenses that are the subject of this or any related agreement.

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

No Other Promises

This agreement constitutes the plea agreement between Girolamo Curatolo and the United States, 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.

PAUL J. FISHMAN
United States Attorney
District of New Jersey

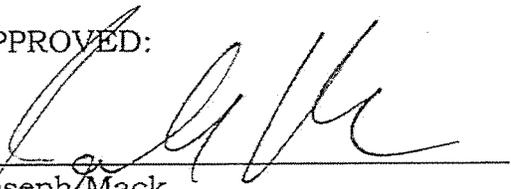
JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural
Resources Division
U.S. Department of Justice

By: 
Kathleen P. O'Leary
Assistant United States Attorney

By: 
Brandy Parker
Trial Attorney
Environmental Crimes Section


8/11/16


8/11/16

APPROVED:

Joseph Mack
Deputy Chief
Healthcare and Government Fraud Unit

I have received this letter from my attorney, Michael G. Chalos, Esq. It has been translated for me into Italian and I understand it. My attorney and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, and immigration consequences. 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:

Girolamo Curatolo
Girolamo Curatolo
Girolamo Curatolo

06/13/2016
Date
08/11/16

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

Michael G. Chalos
Michael G. Chalos, Esq.

06/13/2016
Date

Michael G. Chalos

FF
msc 08/11/16

Plea Agreement with Girolamo Curatolo

Schedule A

1. The United States and Girolamo Curatolo agree to the following stipulations:
2. The version of the United States Sentencing Guidelines effective November 1, 2015, applies in this case and the applicable guideline is U.S.S.G. § 2Q1.3.
3. Specific Offense Characteristic 2Q1.3(b)(1)(B) applies because the offense involved the discharge of a pollutant.
4. Girolamo Curatolo willfully obstructed and impeded, and attempted to obstruct and impede, the administration of justice during the course of the investigation.
5. As of the date of this letter, Girolamo Curatolo has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offense charged. If Girolamo Curatolo's acceptance of responsibility continues through the date of sentencing and he otherwise qualifies for a reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1, the Government will not oppose a reduction in his offense level pursuant to U.S.S.G. § 3E1.1(a).
6. In exchange for the undertakings made by the government in entering this plea agreement, if the sentencing judge accepts these stipulations, the defendant voluntarily and expressly waives all rights to appeal or collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law. Notwithstanding this waiver provision, the parties reserve any right they may have under 18 U.S.C. § 3742 to challenge any aspect of the sentence that falls outside of any applicable statutory minimum or maximum term of imprisonment, term of supervised release, or fine. The parties also reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category.