United States Department of Justice

United States Attorney
Southern District of West Virginia

Robert C. Byrd United States Courthouse
300 Virginia Street, East
Suite 4000
Charleston, WV 25301

1-800-659-8726
304-345-2200
FAX: 304-347-5104

FILED
NOV 22 2023
RORY L. PERRY II, CLERK
U.S. District Court
Southern District of West Virginia

November 16, 2023

Emily L. Szopinski
Assistant Federal Public Defender
Office of the Federal Public Defender
300 Virginia Street, East, Room 3400
Charleston, WV 25301

Re: United States v. Sean Patrick Boyd, Jr.
Criminal No. 2:23-cr-00123 (USDC SDWV)

Dear Ms. Szopinski:

This will confirm our conversations with regard to your client, Sean Patrick Boyd, Jr. (hereinafter "Mr. Boyd"). As a result of these conversations, it is agreed by and between the United States and Mr. Boyd as follows:

1. **PENDING CHARGES.** Mr. Boyd is charged in a single-count indictment that charges Mr. Boyd with a violation of 18 U.S.C. § 2315 (receipt of stolen money).

2. **RESOLUTION OF CHARGES.** Mr. Boyd will plead guilty to the single-count indictment, which charges him with a violation of 18 U.S.C. § 2315.

3. **MAXIMUM POTENTIAL PENALTY.** The maximum penalty to which Mr. Boyd will be exposed by virtue of this guilty plea is as follows:

(a) Imprisonment for a period of 10 years;

(b) A fine of $250,000, or twice the gross pecuniary gain or twice the gross pecuniary loss resulting from

SB
Defendant's Initials

defendant's conduct, whichever is greater;

(c) A term of supervised release of 3 years;

(d) A mandatory special assessment of $100 pursuant to 18 U.S.C. § 3013; and

(e) An order of restitution pursuant to 18 U.S.C. §§ 3663A and 3664, or as otherwise set forth in this plea agreement.

4. **SPECIAL ASSESSMENT.** Prior to the entry of a plea pursuant to this plea agreement, Mr. Boyd will tender a check or money order to the Clerk of the United States District Court for $100, which check or money order shall indicate on its face the name of defendant and the case number. The sum received by the Clerk will be applied toward the special assessment imposed by the Court at sentencing. Mr. Boyd will obtain a receipt of payment from the Clerk and will tender a copy of such receipt to the United States, to be filed with the Court as an attachment to this plea agreement. If Mr. Boyd fails to provide proof of payment of the special assessment prior to or at the plea proceeding, the United States will have the right to void this plea agreement. In the event this plea agreement becomes void after payment of the special assessment, such sum shall be promptly returned to Mr. Boyd.

5. **RESTITUTION.** Notwithstanding the offense of conviction, Mr. Boyd agrees that he owes restitution in the amount of $23,817.79 and agrees to pay such restitution, with interest as allowed by law, to the fullest extent financially feasible. In aid of restitution, Mr. Boyd further agrees as follows:

(a) Mr. Boyd agrees to fully assist the United States in identifying and locating any assets to be applied toward restitution and to give signed, sworn statements and testimony concerning assets upon request of the United States.

SB
Defendant's Initials

(b) Mr. Boyd will fully complete and execute, under oath, a Financial Statement and a Release of Financial Information on forms supplied by the United States and will return these completed forms to counsel for the United States within seven calendar days from the date of the signing of this plea agreement.

(c) Mr. Boyd agrees not to dispose of, transfer or otherwise encumber any real or personal property which he currently owns or in which he holds an interest.

6. **PAYMENT OF MONETARY PENALTIES.** Mr. Boyd authorizes the Financial Litigation Program in the United States Attorney's Office to obtain a credit report from any major credit reporting agency prior to sentencing in order to assess his financial condition for sentencing purposes. Mr. Boyd agrees not to object to the District Court ordering all monetary penalties (including the special assessment, fine, court costs, and any restitution that does not exceed the amount set forth in this plea agreement) to be due and payable in full immediately and subject to immediate enforcement by the United States. So long as the monetary penalties are ordered to be due and payable in full immediately, Mr. Boyd further agrees not to object to the District Court imposing any schedule of payments as 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.

Mr. Boyd authorizes the United States, through the Financial Litigation Program, to submit any unpaid criminal monetary penalty to the United States Treasury for offset in accordance with the Treasury Offset Program, regardless of the defendant's payment status or history at that time.

In addition to any payment ordered by the Court, Mr. Boyd shall pay all monies received from any source other than earned income, including but not limited to, lottery winnings, gambling proceeds, judgments, inheritances, and tax refunds, toward the court ordered restitution or fine.

SB
Defendant's
Initials

Mr. Boyd agrees that if he retains counsel or has appointed counsel in response to the United States' efforts to collect any monetary penalty, he shall immediately notify the United States Attorney's Office, Attention: Financial Litigation Program, 300 Virginia Street E., Suite 4000, Charleston, West Virginia 25301, in writing and shall instruct his attorney to notify FLP immediately of his representation.

7. **COOPERATION.** Mr. Boyd will be forthright and truthful with this office and other law enforcement agencies with regard to all inquiries made pursuant to this agreement, and will give signed, sworn statements and grand jury and trial testimony upon request of the United States. In complying with this provision, Mr. Boyd may have counsel present except when appearing before a grand jury.

8. **USE IMMUNITY.** Unless this agreement becomes void due to a violation of any of its terms by Mr. Boyd, and except as expressly provided for in paragraph 10 below, nothing contained in any statement or testimony provided by him pursuant to this agreement, or any evidence developed therefrom, will be used against him, directly or indirectly, in any further criminal prosecutions or in determining the applicable guideline range under the Federal Sentencing Guidelines.

9. **LIMITATIONS ON IMMUNITY.** Nothing contained in this agreement restricts the use of information obtained by the United States from an independent, legitimate source, separate and apart from any information and testimony provided pursuant to this agreement, in determining the applicable guideline range or in prosecuting Mr. Boyd for any violations of federal or state laws. The United States reserves the right to prosecute Mr. Boyd for perjury or false statement if such a situation should occur pursuant to this agreement.

10. **STIPULATION OF FACTS AND WAIVER OF FED. R. EVID. 410.** The United States and Mr. Boyd stipulate and agree that the facts comprising the offense of conviction and some, but not all, of the

SB
Defendant's
Initials

relevant conduct include the facts outlined in the "Stipulation of Facts," a copy of which is attached hereto as "Plea Agreement Exhibit A."

Mr. Boyd agrees that if he withdraws from this agreement, or this agreement is voided as a result of a breach of its terms by him, and he is subsequently tried for his conduct alleged in the indictment, as more specifically described in the Stipulation of Facts, the United States may use and introduce the Stipulation of Facts in the United States case-in-chief, in cross-examination of Mr. Boyd or of any of his witnesses, or in rebuttal of any testimony introduced by him or on his behalf. Mr. Boyd knowingly and voluntarily waives, see United States v. Mezzanatto, 513 U.S. 196 (1995), any right he has pursuant to Fed. R. Evid. 410 that would prohibit such use of the Stipulation of Facts. If the Court does not accept the plea agreement through no fault of the defendant, or the Court declares the agreement void due to a breach of its terms by the United States, the Stipulation of Facts cannot be used by the United States.

The United States and Mr. Boyd understand and acknowledge that the Court is not bound by the Stipulation of Facts and that if some or all of the Stipulation of Facts is not accepted by the Court, the parties will not have the right to withdraw from the plea agreement.

11. **WAIVER OF APPEAL AND COLLATERAL ATTACK.** Mr. Boyd knowingly and voluntarily waives his right to seek appellate review of his conviction and of any sentence of imprisonment, fine, or term of supervised release imposed by the District Court, or the manner in which the sentence was determined, on any ground whatsoever including any ground set forth in 18 U.S.C. § 3742(a), except that the defendant may appeal any sentence that exceeds the maximum penalty prescribed by statute. Mr. Boyd also knowingly and voluntarily waives any right to seek appellate review of any claim or argument that (1) the statute of conviction, 18 U.S.C. § 2315, is unconstitutional, and (2) Mr. Boyd conduct set forth in the Stipulation of Facts (Plea Agreement Exhibit A) does not fall

SB
Defendant's
Initials

within the scope of 18 U.S.C. § 2315.

The United States also agrees to waive its right to appeal any sentence of imprisonment, fine, or term of supervised release imposed by the District Court, or the manner in which the sentence was determined, on any ground whatsoever, including any ground set forth in 18 U.S.C. § 3742(b), except that the United States may appeal any sentence that is below the minimum penalty, if any, prescribed by statute.

Mr. Boyd also knowingly and voluntarily waives the right to challenge his guilty plea and conviction resulting from this plea agreement, and any sentence imposed for the conviction, in any collateral attack, including but not limited to a motion brought under 28 U.S.C. § 2255.

The waivers noted above shall not apply to a post-conviction collateral attack or direct appeal based on a claim of ineffective assistance of counsel.

12. **WAIVER OF FOIA AND PRIVACY RIGHT.** Mr. Boyd knowingly and voluntarily 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 any limitation any records that may be sought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a, following final disposition.

13. **FINAL DISPOSITION.** The matter of sentencing is within the sole discretion of the Court. The United States has made no representations or promises as to a specific sentence. The United States reserves the right to:

(a) Inform the Probation Office and the Court of all relevant facts and conduct;

(b) Present evidence and argument relevant to the factors enumerated in 18 U.S.C. § 3553(a);

SB

Defendant's
Initials

(c) Respond to questions raised by the Court;

(d) Correct inaccuracies or inadequacies in the presentence report;

(e) Respond to statements made to the Court by or on behalf of Mr. Boyd;

(f) Advise the Court concerning the nature and extent of Mr. Boyd's cooperation; and

(g) Address the Court regarding the issue of Mr. Boyd's acceptance of responsibility.

14. **VOIDING OF AGREEMENT.** If either the United States or Mr. Boyd violates the terms of this agreement, the other party will have the right to void this agreement. If the Court refuses to accept this agreement, it shall be void.

15. **ENTIRETY OF AGREEMENT.** This written agreement constitutes the entire agreement between the United States and Mr. Boyd in this matter. There are no agreements, understandings or recommendations as to any other pending or future charges against Mr. Boyd in any Court other than the United States District Court for the Southern District of West Virginia.

Acknowledged and agreed to on behalf of the United States:

WILLIAM S. THOMPSON
United States Attorney

By:

JONATHAN T. STORAGE
Assistant United States Attorney

SB
Defendant's
Initials

JTS/lab

I hereby acknowledge by my initials at the bottom of each of the foregoing pages and by my signature on the last page of this eight-page agreement that I have read and carefully discussed every part of it with my attorney, that I understand the terms of this agreement, and that I voluntarily agree to those terms and conditions set forth in the agreement. I further acknowledge that my attorney has advised me of my rights, possible defenses, the Sentencing Guideline provisions, and the consequences of entering into this agreement, that no promises or inducements have been made to me other than those in this agreement, and that no one has threatened me or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.

Sean Patrick Boyd, Jr.
Defendant

11-20-23
Date Signed

Emily L. Szopinski
Assistant Federal Public Defender
Counsel for Defendant

11-20-23
Date Signed

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA

v. **CRIMINAL NO. 2:23-cr-00123**

SEAN PATRICK BOYD, JR.

STIPULATION OF FACTS

The United States and Sean Patrick Boyd, Jr. (hereinafter "I" and "my") stipulate and agree that the facts comprising the offense of conviction and some, but not all, of the relevant conduct include the following:

Coronavirus Relief Background

I agree that the Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. The CARES Act authorized the Small Business Administration ("SBA") to provide forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program ("PPP").

I agree that the PPP allowed qualifying small businesses and other organizations to receive PPP loans. Businesses were required to use PPP loan proceeds to cover payroll costs, interest on mortgages, rent and utilities. The PPP allowed interest and principal on the PPP loans to be entirely forgiven if the businesses spent the loan proceeds to cover these expenses within a designated time and used a certain specified percentage of the PPP loan proceeds on payroll expenses.

I agree that to obtain a PPP loan, a qualifying business was required to submit a PPP loan application. The PPP loan application required the small business (through its authorized representative) to acknowledge the program rules and make affirmative certifications that the small business was eligible to obtain the PPP loan. In addition, businesses applying for a PPP loan were required to provide documentation showing their prior gross income from either 2019 or 2020. Applicants also had to

certify that the small business was in operation on February 15, 2020.

A PPP loan application was processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies, which were 100% guaranteed by the SBA.

Factual Basis for Plea

On or about April 18, 2021, I knowingly defrauded and obtained money from a lender in Nebraska and the SBA. I applied for a PPP loan on behalf of my purported business, "Sean Boyd." However, Sean Boyd was not a registered business entity in the State of West Virginia at the time I applied for the loan.

On or about April 18, 2021, I sent my personal and banking information to a third party, who submitted a PPP loan application on my behalf. I knew at that time that my personal and banking information would be used by the third party to submit the PPP loan application. I falsely represented that Sean Boyd—a fictitious business—received $99,996.00 in gross income during 2019 and sought a PPP loan amount of $20,832.00. I also falsely stated that Sean Boyd was established in 2017 and in operation on February 15, 2020. As part of my application, I submitted a false Schedule C, Profit or Loss from Business ("IRS Form 1040"), for the year 2019. The IRS Form 1040 falsely stated that Sean Boyd had earned $99,996.00 in gross income during 2019. A PPP lender approved Sean Boyd's fraudulent application, and I received $20,832.00 via ACH transfer from the lender in Nebraska on or about May 24, 2021. The $20,832.00 ACH transfer traveled through interstate commerce because the transfer originated in Nebraska and the funds were electronically deposited in my Huntington National bank account (Account No. XXXXXXX5017) held in Nitro, Kanawha County, West Virginia.

On or about May 24, 2021, I entered the Nitro, West Virginia, branch of Huntington National Bank, and I withdrew $10,000 from my account (Account No. XXXXXXX5017). At the time I withdrew the $10,000, I knew the money had been deposited into my account because the lender had relied on my fraudulent loan application documents. On May 21, 2021, which was 3 days before I received the PPP loan ACH transfer, my account balance at Huntington National Bank was $12.47.

This Stipulation of Facts does not contain each and every fact known to defendant and to the United States concerning his

involvement and the involvement of others in the charges set forth in the Indictment.

Stipulated and agreed to:

SEAN PATRICK BOYD, JR.
Defendant

11-20-23
Date

Emily L. Szopinski
Assistant Federal Public Defender
Counsel for Defendant

11-20-23
Date

JONATHAN T. STORAGE
Assistant United States Attorney

11-21-23
Date