

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

- C. Both (a and b);
- D. Supervised release of not more than one year; and
- E. Special Assessment Fee of \$100.

COUNT TWO  
Conflict of Interest (Felony)  
18 U.S.C. §§ 208 and 216(a)(2)

The defendant understands that the maximum statutory punishment that may be imposed for the crime of conflict of interest (felony) charged in COUNT TWO is:


- A. Imprisonment for not more than 5 years;
- B. A fine of not more than \$250,000.00, or;
- C. Both (a and b);
- D. Supervised release of not more than one year; and
- E. Special Assessment Fee of \$100.

**II. FACTUAL BASIS FOR PLEA**

The defendant stipulates that the following facts are true and may be used to establish a factual basis for the defendant's guilty plea and sentence:

BACKGROUND

A. From in or about January of 2010 through November of 2012, the defendant was a Colonel in the United States Army, serving as the Program Manager for a component of the United States Army called Non-Standard Rotary Wing Aircraft (NSRWA). In the course of Vergez's duties at NSRWA, he had program management oversight over cost, schedule and performance of the programs under his purview. Also in the course of his duties, he had frequent

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contact with representatives of a company called Avia Baltika Aviation, Ltd. (AVB), a Lithuanian firm in the business of overhauling Mi-17s and providing various other services associated with Mi-17s.

B. When Vergez started working at NSRWA in 2010, AVB was a subcontractor under a Government contract issued to Northrop Grumman Corporation (Northrop) to overhaul Mi-17s. Northrop subcontracted to a company called Flight Test Aerospace (FTA), and FTA subcontracted to AVB.

COUNT ONE – FALSE STATEMENTS TO THE DEPARTMENT OF  
DEFENSE OFFICE OF INSPECTOR GENERAL

C. In 2012, the Department of Defense Office of Inspector General (DODIG) was conducting an audit of various Mi-17 related contracts, including the Northrop/FTA/AVB Mi-17 overhaul contract described above.

D. One aspect of the audit focused on a series of contract disputes between AVB and Northrop/FTA in the summer of 2010. In the course of those disputes, Vergez and high-level subordinates at NSRWA (with Vergez's knowledge) had numerous and significant direct contacts with AVB related to the AVB subcontract under the Northrop contract.

E. In January of 2012, DODIG prepared a "discussion draft" of an audit report related to that contract. The discussion draft stated that: "NSRWA personnel were communicating directly with AVB/SPARC" and "NSRWA officials' actions caused AVB/SPARC to be under the impression that it could circumvent Northrop Grumman's authority by dealing directly with DoD officials."

F. On or about January 11, 2012, Vergez supervised and directly participated in the preparation of a written response to the discussion draft. That written response represented: "NSRWA PMO had no direct contact with AVB as related to the subcontract with Northrop Grumman." That statement was false because, as Vergez then knew, NSRWA in fact had numerous and significant direct contacts with AVB related to its subcontract with Northrop Grumman.

G. In about mid-March of 2012, DODIG prepared a "Draft Report," which it provided to Vergez and NSRWA for comment. That Draft Report repeated the same findings as set forth in the discussion draft, *i.e.*, that "NSRWA officials' actions caused AVB/SPARC to be under the impression that it could circumvent

Northrop Grumman's authority by dealing directly with DoD officials."

H. On or about April 30, 2012, the Program Executive Officer (PEO) Aviation, the component of the US Army of which NSRWA was a part, responded to the "Draft Report" by way of a Memorandum. That response "non-concurred" in the Draft Report's recommendations. Among the attachments to that Memorandum was a written response to the Draft Report prepared at Vergez's direction. That written response represented "NSRWA PMO had no direct contact with AVB as related to the subcontract with Northrop Grumman." That statement was false because, as Vergez then knew, NSRWA had, in fact, had significant direct contacts with AVB related to its subcontract with Northrop Grumman.

I. Another aspect of the DODIG audit was an inquiry into the facts and circumstances associated with the approximately \$3.67 million that AVB claimed it was owed under the Northrop contract because of costs AVB claimed to have incurred as a result of the conduct of Northrop and FTA.

J. On or about December 5, 2011, with Vergez's knowledge and approval, Northrop was given instructions by the contracting officer to make the \$3.67 million payment to AVB.

K. On or about December 6, 2011, a document was prepared at Vergez's direction for Vergez's signature that stated the costs claimed by AVB were reasonable. Vergez never signed that document. That document had a typed date of December 5, 2011.

L. In or about January 2012, DODIG auditors asked USG contracting personnel for documents that supported the December 5, 2011 direction to Northrop to pay AVB the \$3.67 million. On or about February 1, 2012, Vergez directed a subordinate civilian employee—Person 1—to finalize the document referenced in paragraph K and further directed that Person 1—not Vergez—be the signor of the document.

M. Person 1 did as directed but retained the typed date of December 5, 2011. On February 1, 2012, Person 1 signed the document and hand-wrote the date "February 1, 2012" next to his/her signature, the day he/she finalized it.

N. In the late afternoon or early evening of February 1, 2012, Vergez directed Person 1 to remove the hand-written date, so that the document would show only the December 5, 2011 (the typed date). Person 1 did as Vergez directed,

and forwarded it by email to Vergez on February 2, 2012. That document was subsequently provided by USG contracting personnel to DODIG auditors. As a result it appeared that Person 1 approved the \$3.67 million payment before directions were given to Northrop to make that payment.

#### COUNT TWO-FELONY CONFLICT OF INTEREST

O. Person 2 controlled Company A and Company B. Company A, generally, provided management services for Person 2's companies (including Company B). Company B was a helicopter manufacturing company.

P. On occasion, Company B sold helicopters to foreign governmental entities. Some of those sales were made through a process generally referred to as "foreign military sales," which, in simplified form, involved two contracts: 1) a contract between the foreign government and the USG for the USG to provide the helicopters to the foreign government, and, 2) a contract between the USG and a manufacturer—in this case Company B—for the company to provide the helicopters to the USG. Vergez, in his capacity as NSRWA Program Manager, had direct involvement with Person 2 in connection with Person 2's attempts to arrange foreign military sales for Company B.

Q. In or around March of 2012, Vergez commenced negotiating for possible future employment with Person 2, directly and through Person 2's representatives (collectively "Person 2"). In April 2012, Person 2 made an offer of employment to Vergez to work for Company B. In May of 2012, Vergez was told by the Army that he could not receive compensation from Company B for a year. Negotiations continued throughout the summer of 2012 as to the prospect that Vergez would work instead for Company A for a year, after which time he would work directly for Company B. In September 2012, Vergez signed an offer of employment at Company A at substantially the same terms as proposed in April of 2012, to commence upon his retirement from the United States Army in 2013. Vergez, in fact, began employment at Company A in or about March of 2013. Vergez commenced directly working at Company B in or about November of 2013.

R. In or about June and July of 2012, Vergez took official acts in matters in which Company B, an entity with which Vergez was negotiating for future employment, had a financial interest, namely:

1. In or about late June and early July of 2012, Company B and NSRWA were negotiating a contract. Vergez took acts to cause the payment terms

of the contract to be adjusted so that Company B would receive "progress payments" that would result in Company B being paid faster than it would have but for that contract change.

**COUNT THREE – FALSE STATEMENTS ON VERGEZ’S GOVERNMENT ETHICS FORM**

S. In or about the summer of 2012, the wife of a representative of AVB gave Vergez’s wife a Rolex wristwatch valued at approximately \$4000.

T. In or about fall of 2012, the defendant reached an agreement with Company A for future employment, to commence in or about March of 2013.

U. In or about November of 2012, Company A gave the defendant a check for \$30,000, the stated reason being that the check was for relocation expenses.


V. On or about January 2, 2013, in the Northern District of Alabama, Vergez, on a Confidential Financial Disclosure Report (Office of Government Ethics Form 450), certified that all statements he made on the form were "true, complete, and correct" to the best of his knowledge but he knowingly failed to disclose the following:

1. All gifts and travel reimbursements greater than \$350 for himself or his spouse, when, as Vergez then well knew, his wife had received a Rolex wristwatch from the wife of a representative of AVB in 2012;

2. All agreements and arrangements for future employment when, as the defendant then and there well knew, he had accepted an offer of employment during 2012 from Person 2 and Company A to work on matters associated with marketing helicopters; and

3. All sources of salary, fees, commissions and other earned income greater than \$200, when, as the defendant then and there well knew, he had received a \$30,000 check from Company A during 2012.

**The defendant stipulates that the above facts are true and may be used to establish a factual basis for defendant’s guilty plea and sentence.**

Defendant’s Initials 

**Defendant agrees that the stipulation is a summary of the facts against defendant and does not constitute all of the facts the government would be able to prove at trial and may be able to prove to the Court in accordance with this agreement.**

  
NORBERT VERGEZ


### **III. SENTENCE**

Subject to the limitations in paragraph VIII regarding subsequent conduct, the Government will recommend the following:

A. That the defendant be awarded a two-level reduction in his offense level for acceptance of responsibility, so long as the defendant makes full and complete disclosure to the U.S. Probation Office of the circumstances surrounding the defendant's commission of the offenses, and the defendant demonstrates an acceptance of responsibility for these offenses up to and including the time of sentencing.

B. That the defendant pay a special assessment fee of \$100 per information count, said amount due and owing as of the date sentence is pronounced; and

C. That the government will agree to recommend a sentence within the guidelines range as determined by the Court at sentencing.

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**IV. WAIVER OF RIGHT TO APPEAL AND POST-CONVICTION RELIEF**

In consideration of the recommended disposition of this case, I, NORBERT VERGEZ, hereby waive and give up my right to appeal my conviction and/or sentence in this case, as well as any fines, restitution, and forfeiture orders that the Court might impose. Further, I waive and give up the right to challenge my conviction and/or sentence, any fines, restitution, forfeiture orders imposed or the manner in which my conviction and/or sentence, any fines, restitution, and forfeiture orders were determined in any post-conviction proceeding, including, but not limited to, a motion brought under 28 U.S.C. § 2255.

The defendant reserves the right to contest in an appeal or post-conviction proceeding any or all of the following:

- A. Any sentence imposed in excess of the applicable statutory maximum sentence(s);
- B. Any sentence imposed in excess of the guideline sentencing range determined by the Court at the time sentence is imposed; and,
- C. Ineffective assistance of counsel.

The defendant acknowledges that before giving up these rights, the defendant discussed the Federal Sentencing Guidelines and their application to the defendant's case with the defendant's attorney, who explained them to

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the defendant's satisfaction. The defendant further acknowledges and understands that the government retains its right to appeal where authorized by statute.

I, NORBERT VERGEZ, hereby place my signature on the line directly below to signify that I fully understand the foregoing paragraphs, and that I am knowingly and voluntarily entering into this waiver.

  
\_\_\_\_\_  
NORBERT VERGEZ

**V. UNITED STATES SENTENCING GUIDELINES**

Defendant's counsel has explained to the defendant, that in light of the United States Supreme Court's decision in United States v. Booker, the federal sentencing guidelines are advisory in nature. Sentencing is in the Court's discretion and is no longer required to be within the guideline range. The defendant agrees that, pursuant to this agreement, the Court may use facts it finds by a preponderance of the evidence to reach an advisory guideline range, and defendant explicitly waives any right to have those facts found by a jury beyond a reasonable doubt.

**VI. AGREEMENT NOT BINDING ON COURT**

The defendant fully and completely understands and agrees that it is the Court's duty to impose sentence upon the defendant and any sentence

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recommended by the government is **NOT BINDING UPON THE COURT**. Further, the defendant understands that if the Court does not accept the government's recommendation, the defendant does not have the right to withdraw the guilty plea.

#### **VII. VOIDING OF AGREEMENT**

The defendant understands that should the defendant move the Court to accept the defendant's plea of guilty in accordance with, or pursuant to, the provisions of North Carolina v. Alford, 400 U.S. 25 (1970), or tender a plea of *nolo contendere* to the charges, this agreement will become NULL and VOID. In that event, the Government will not be bound by any of the terms, conditions, or recommendations, express or implied, which are contained herein.

#### **VIII. SUBSEQUENT CONDUCT**

The defendant understands that should the defendant violate any condition of pretrial release or violate any federal, state, or local law, or should the defendant say or do something that is inconsistent with acceptance of responsibility, the United States will no longer be bound by its obligation to make the recommendations set forth in paragraph III of the Agreement, but instead, may make any recommendation deemed appropriate by the United States Attorney in her sole discretion.

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**IX. OTHER DISTRICTS AND JURISDICTIONS**


The defendant understands and agrees that this agreement only binds the United States Attorney for the Northern District of Alabama and the Fraud Section of the U.S. Department of Justice.

**X. COLLECTION OF FINANCIAL OBLIGATION**

If a fine is ordered to be paid, and payment is not made within seven days, then in order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the defendant agrees to fully disclose all assets in which the defendant has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee or other third party. If a fine is imposed and payment is not made within seven days: (1) the defendant also will promptly submit a completed financial statement to the United States Attorney's Office, in a form that it provides and as it directs; (2) the defendant also agrees that the defendant's financial statement and disclosures will be complete, accurate, and truthful; (3) finally, the defendant expressly authorizes the United States Attorney's Office to obtain a credit report on the defendant in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

**XI. AGREEMENT REGARDING CONDUCT RELEVANT TO SENTENCING**


As part of the defendant's plea agreement, the defendant admits to the above

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facts associated with the charges. Neither party is restricted from bringing before the court matters the parties believe are relevant to sentencing. This agreement is not meant to prohibit the United States Probation Office or the Court from considering any other acts and factors which may constitute or relate to conduct relevant to sentencing.

**XII. FORFEITURE, TAX, AND OTHER CIVIL/ADMINISTRATIVE PROCEEDINGS**


Unless otherwise specified herein, the defendant understands and acknowledges that this agreement does not apply to or in any way limit any pending or prospective proceedings related to defendant's tax liabilities, if any, or to any other pending or prospective forfeiture or other civil or administrative proceedings, not otherwise addressed herein. Defendant recognizes that pleading guilty may have consequences with respect to his immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense(s) to which defendant is pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that no one, including any attorney or the district court, can predict to a certainty the effect of conviction on immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that plea may entail, even if the consequence is automatic removal from the United States.

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**XIII. DEFENDANT'S UNDERSTANDING**

I have read and understand the provisions of this agreement consisting of 16 pages. I have discussed the case and my constitutional and other rights with my lawyer. I am satisfied with my lawyer's representation in this case. I understand that by pleading guilty, I will be waiving and giving up my right to continue to plead not guilty, to a trial by jury, to the assistance of counsel at that trial, to confront, cross-examine, or compel the attendance of witnesses, to present evidence in my behalf, to maintain my privilege against self-incrimination, and to the presumption of innocence. I agree to enter my plea as indicated above on the terms and conditions set forth herein.

If the defendant violates any term or condition of this plea agreement, in any respect, the entire agreement will be deemed to have been breached and may be rendered null and void by the United States. The parties may ask the Court to determine if a breach has occurred. Defendant understands, however, the government may elect to proceed with the guilty plea and sentencing. These decisions shall be in the sole discretion of the United States. If defendant does breach this agreement, defendant faces the following consequences, such as, the United States will be released from any obligations, agreements, or restrictions imposed upon it under this plea agreement.

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**NO OTHER PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO ME BY THE PROSECUTOR, OR BY ANYONE ELSE, NOR HAVE ANY THREATS BEEN MADE OR FORCE USED TO INDUCE ME TO PLEAD GUILTY.**

I further state that I have not had any drugs, medication, or alcohol within the past 48 hours except as stated here:

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I understand that this Plea Agreement will take effect and will be binding as to the Parties after all necessary signatures have been affixed hereto.

I have personally and voluntarily placed my initials on every page of this Agreement and have signed the signature line below to indicate that I have read, understand, and approve all of the provisions of this Agreement, both individually and as a total binding agreement.

3/26/15  
DATE

  
NORBERT VERGEZ

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**XIII. COUNSEL'S ACKNOWLEDGMENT**

We have discussed this case with our client in detail and have advised him of all his rights and all possible defenses. He has conveyed to us that he understands this Agreement and consents to all its terms. We concur in the entry of the plea on the terms and conditions set forth herein.

3/30/15  
DATE

Lee Stein  
LEE STEIN  
Defense Counsel

3/30/15  
DATE

Stephanie Cherny  
STEPHANIE CHERNY  
Defense Counsel

Defendant's Initials AC



**XIV. GOVERNMENT'S ACKNOWLEDGMENT**

I have reviewed this matter and this Agreement and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

JOYCE WHITE VANCE  
United States Attorney

Andrew Weissmann  
Chief, Fraud Section  
Department of Justice

4/7/15  
DATE

Mark Dubester / by me  
MARK DUBESTER  
Special Trial Attorney  
Department of Justice

4/7/15  
DATE

Henry Cornelius  
HENRY CORNELIUS  
Assistant United States Attorney

4/7/15  
DATE

Ramona C. Albin  
RAMONA C. ALBIN  
Assistant United States Attorney

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