

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA**

UNITED STATES OF AMERICA)
)
)
v.) **1:20-cr-78**
)
JAMES CHRISTOPHER JENKINS) **Judge McDonough/Lee**

PLEA AGREEMENT

The United States of America, by the Acting United States Attorney for the Eastern District of Tennessee and Assistant United States Attorney Steven S. Neff, and the defendant, James Christopher Jenkins (“the defendant” or “Jenkins”), and the defendant’s attorney, Lee Davis, have agreed upon the following:

1. The defendant will plead guilty to the following count in the Indictment:

Count 1. False Official Statement, in violation of 18 U.S.C. § 1001. The punishment for this offense is as follows. A maximum possible term of imprisonment of up to 5 years, a possible fine of up to \$250,000, up to 3 years of supervised release, \$100 special assessment, forfeiture and restitution.

2. In consideration of the defendant’s guilty plea, the United States agrees not to further prosecute the defendant in the Eastern District of Tennessee for any other non-tax criminal offenses committed by the defendant that are related to the charges contained in the information in this case and that are known to the United States Attorney’s Office for the Eastern District of Tennessee at the time this plea agreement is signed by both parties.

3. The defendant has read the Indictment and discussed the charges and possible defenses with defense counsel, and the defendant understands the crimes charged. Specifically, the elements of the offense of conviction are as follows:

False Official Statement: Title 18, United States Code, Section 1001:

Title 18 U.S.C. § 1001 makes it a crime to make a material oral or written false statement to governmental agencies about matters within that agency's jurisdiction.

Elements:

1. That the defendant [falsified] [concealed] [covered up] a fact that he had a duty to disclose;
2. That the fact was material;
3. That the defendant [falsified] [concealed] [covered up] the fact by using a trick, scheme, or device;
4. That the defendant acted knowingly and willfully; and
5. That the fact pertained to a matter within the jurisdiction of the [executive] [legislative] [judicial] branch of the United States government.

4. In support of the defendant's guilty plea, the defendant agrees and stipulates to the following facts, which satisfy the offense elements. These are the facts submitted for purposes of the defendant's guilty plea. They do not necessarily constitute all of the facts in the case. Other facts may be relevant to sentencing. Both the defendant and the United States retain the right to present additional facts to the Court to ensure a fair and appropriate sentence in this case.

The Tennessee Valley Authority (TVA) is a federally owned corporation based in Knoxville, Tennessee, and it has offices within the Eastern District of Tennessee, including Chattanooga, Tennessee. TVA was created by Congressional charter to provide electricity generation, navigation, flood control, and economic development to the Tennessee Valley. TVA maintains power production facilities at various locations within the Tennessee Valley, including the Bull Run, Kingston, and Cumberland fossil plants. TVA utilizes various vendors and

contractors to provide construction, electrical installation, and other services at its corporate offices, power production facilities, and other facilities.

The United States Office of Government Ethics (OGE), an agency within the executive branch of the United States government, provides guidance, instructions, and training in the identification and reporting of potential conflicts of interest. TVA, as a federally-owned corporation, must abide by the OGE regulations. TVA employees who are in a position to negotiate with, and procure goods and services from, vendors and contractors on behalf of TVA are required to file an annual OGE-450 “Confidential Financial Disclosure Report” (hereinafter referred to as an “OGE-450 report”) which requires those employees to report certain assets, sources of income, and liabilities (debts) of themselves, their spouses, and their dependent children, and to report their other outside financial positions, agreements or arrangements.

Miller Electrical Contractors Inc. (MEC) was a full-service electrical contractor with an office located in Chattanooga, Tennessee, which provides installation and maintenance services for electrical power, communications, lighting, and controls systems. TVA utilized MEC to provide electrical contracting services at various TVA facilities. The defendant was an owner of MEC until on or about January 10, 2011, at which time the defendant entered into a purchase agreement whereby the defendant sold his interest in MEC to the other owners. In or about September 2011, the defendant, while employed at TVA, attempted to negotiate an addendum to the purchase agreement whereby the defendant attempted to obtain continuing payments from MEC. MEC maintained a line of credit at FSG Bank, a.k.a. Atlantic Capital Bank. While an owner of MEC, and continuing until in or about May, 2014 when the owners of D&N Electric Company

personally guaranteed the FSG Bank line of credit, the defendant personally guaranteed the FSG Bank line of credit, and the defendant's residence was offered as collateral for the line of credit.

Facilities Technologies Alliance (FTA) was created by the defendant in 2005 prior to his employment at TVA as an alliance of TVA's electrical contractors in order to act as a billing entity for the members of the alliance, to include MEC. The defendant was listed as a registered agent until on or about December 15, 2011, and an authorized signer on the FTA bank account until in or about July 2017.

D&N Electric Company (D&N) is an electrical contractor based in the Atlanta, Georgia, area. TVA utilized D&N to provide electrical contracting services at various TVA facilities. In or about 2012, the owners of D&N acquired 49 percent ownership of MEC; and in or about May 2014, the owners of D&N personally guaranteed MEC's line of credit at FSG Bank.

Enerfab Inc. is a Cincinnati, Ohio, based contractor specializing in fabrication, installation, and maintenance in the power, chemical, oil and gas, and utility markets. In July 2011, TVA contracted with Enerfab to replace and install components at TVA's Cumberland fossil plant. The defendant was assigned as TVA's Technical Contract Manager with the authority over all areas related to the administration of the contract, to include the approval of over \$11 million worth of Enerfab invoices. From in or about late 2011 until in or about early 2012, during his employment with TVA, the defendant participated in attempting to facilitate the sale of MEC to Enerfab. In or about December 2011, the defendant secured a sole source purchase order for MEC for approximately \$88,441 to provide electrical services at Cumberland Fossil Plant as part of the Enerfab contract.

Facilities Technology Solutions LLC (FTS) was formed in or about 2003 by the defendant, the defendant's spouse, J.P.G., and another individual. FTS provided technology solutions for

energy management, security, and data/networking systems. The defendant and his spouse originally had a one-third ownership interest in FTS. Later, the ownership interest was changed to 50 percent for the defendant and his spouse and 50 percent for J.P.G. Profits, losses, and debts were split evenly. FTS had a line of credit at SunTrust Bank, and the defendant, his spouse, and J.P.G. personally guaranteed the debt. In or about March 2008, the defendant and his spouse entered into an agreement whereby the defendant and his spouse assumed full responsibility for the repayment of the SunTrust Bank debt. In or about September 2008, the defendant signed a promissory note agreeing to pay \$14,194.43 to J.P.G. Because the defendant and his spouse failed to make required payments on the SunTrust Bank debt, J.P.G. made the payments, and J.P.G. eventually paid off the entire debt, resulting in the defendant and the defendant's spouse owing J.P.G. approximately \$750,000. In or about October 2016, during the course of negotiations to settle the debt which the defendant and his spouse owed personally to J.P.G., the defendant provided a personal financial statement to a third-party arbitrator, who then submitted the financial statement to J.P.G. On the financial statement, the defendant listed and identified a debt owed to J.P.G. in the amount of \$276,000.

SIGNiX Inc., based in Chattanooga, Tennessee, offered digital document signing software and services to its clients. The defendant's former business partner, J.P.G., was an owner and officer of SIGNiX. In or about April 2013, the defendant, acting in his official capacity at TVA, approved a purchase order of \$23,475 for a six-month pilot program with SIGNiX. On or about April 17, 2013, after receiving an internal TVA email requesting that the defendant approve the first SIGNiX invoice in the amount of \$18,475, the defendant forwarded the email to J.P.G. and added the comment, "Are you kidding!!!! No way I can approve this invoice!!!!" Shortly thereafter, on April 19, 2013, the defendant, acting in his official capacity at TVA, approved the

SIGNiX invoice; and in May 2013, the defendant, again acting in his official capacity at TVA, approved a second SIGNiX invoice, resulting in TVA making total payments to SIGNiX of \$23,475 in May and June 2013. In 2014, at the conclusion of the six-month pilot program, and continuing in 2015, the defendant assisted SIGNiX in its efforts to obtain a TVA contract.

In or about November 2016, while negotiating to settle the \$276,000 debt that the defendant and his spouse owed personally to J.P.G., the defendant attempted to persuade J.P.G. to attribute the \$23,475 TVA payments to SIGNiX as a reduction of the personal debt.

Bowen Engineering Corporation (“Bowen Engineering”), based in Indianapolis, Indiana, was a general contractor providing construction services to various markets, including the industrial and energy markets, and its services include site, civil, structural, boilermaker, and mechanical construction. From June 2009 to February 2011, prior to the defendant’s employment at TVA, the defendant was employed in business development by Bowen Engineering. As a result of the defendant’s efforts, Bowen Engineering was awarded two contracts for work on TVA’s Bull Run and Kingston facilities, and Bowen Engineering engaged MEC as a sub-contractor for the work. The defendant prepared the MEC bid estimates and cost schedules for the work.

As a result of cost overruns on the Bull Run project, MEC brought a lawsuit against Bowen Engineering to recover additional payments, and Bowen Engineering brought a lawsuit against TVA to recover additional payments. In or about September 2011, while the defendant was an employee of TVA, MEC paid the defendant \$5,000 to determine how the defendant’s original bid was calculated, and how much additional money was owed to MEC. The defendant’s calculations were submitted to TVA in or about October 2011, and TVA eventually agreed to settle the lawsuit in 2013. TVA agreed to pay Bowen Engineering approximately \$2.55 million, of which

approximately \$1.1 million was paid by Bowen Engineering to MEC for work on the Bull Run project utilizing the defendant's calculations.

It was part of the defendant's scheme to make materially false, fictitious, and fraudulent statements and representation in the OGE-450 reports which he submitted in 2012, 2013, 2014, 2015, and 2016 to TVA's Ethics Department, as follows:

- a. In each annual OGE-450 report from 2012 through January 14, 2016, the defendant knowingly and willfully failed to disclose the personal debt that the defendant and his spouse owed to J.P.G.;
- b. In 2012, the defendant knowingly and willfully failed to disclose on the annual OGE-450 report the \$5,000 payment that the defendant had received from MEC, a TVA contractor, in or about September 2011;
- c. In 2012, the defendant knowingly and willfully failed to disclose on the annual OGE-450 report his role in facilitating the sale of MEC to Enerfab in 2011, both of which were TVA contractors, which would result in the elimination and removal of the defendant's personal guarantee of MEC's line of credit at FSG Bank;
- d. In "Part I: Assets and Income" of the defendant's 2012 OGE-450 report, the defendant stated: "Miller Electrical Contractors, Inc. – Shareholder agreement – stock sale-back to company." When asked in May 2012 by a TVA Ethics Department official for further explanation, the defendant stated that he no longer held any stock in MEC, and that "the delay in this claim was due to two outstanding Accounts receivables that had affected the net value of my stock in Miller. Those claims were closed this spring without Miller receiving additional payments that would have affected my purchase price." The defendant knowingly and willfully failed to disclose his attempt to negotiate

- an addendum to the purchase agreement whereby the defendant would obtain continuing payments from MEC;
- e. In 2012, 2013, and 2014, the defendant knowingly and willfully failed on the annual OGE-450 report to disclose his personal guaranty of MEC's line of credit at FSG Bank; and failed to disclose that his house was collateral for the debt;
 - f. In 2014, the defendant knowingly and willfully failed to disclose on the annual OGE-450 report that he had signed a purchase order with, and approved payments to, SIGNiX, a company owned by J.P.G., to whom the defendant and his spouse owed a personal debt.
 - g. In 2015 and 2016, the defendant knowingly and willfully failed to disclose on the annual OGE-450 report that the defendant had assisted SIGNiX in its ongoing efforts to obtain a TVA contract in 2014 and 2015, which the defendant continued to attempt to credit as a reduction of his personal debt to J.P.G. until as late as in or about November 2016.

As part of this plea agreement, the defendant agrees that he engaged in a scheme to provide false official statements in the Eastern District of Tennessee by failing to disclose material facts about his finances on the annual OGE-450 report to TVA.

5. The defendant is pleading guilty because he—the defendant—is in fact guilty. The defendant understands that by pleading guilty the defendant is giving up several rights, including:

- a. the right to plead not guilty;
- b. the right to a speedy and public trial by jury;
- c. the right to assistance of counsel at trial;

- d. the right to be presumed innocent and to have the burden of proof placed on the United States to prove the defendant guilty beyond a reasonable doubt;
- e. the right to confront and cross-examine witnesses against the defendant;
- f. the right to testify on one's own behalf, to present evidence in opposition to the charges, and to compel the attendance of witnesses; and
- g. the right not to testify and to have that choice not used against the defendant.

6. The parties agree that the appropriate disposition of this case would be the following as to each count:

- a. The Court may impose any lawful term(s) of imprisonment, any lawful fine(s), and any lawful term(s) of supervised release up to the statutory maximum(s);
- b. The Court will impose special assessment fees as required by law; and
- c. The Court may order forfeiture as applicable and restitution as appropriate.

No promises have been made by any representative of the United States to the defendant as to what the sentence will be in this case. Any estimates or predictions made to the defendant by defense counsel or any other person regarding any potential sentence in this case are not binding on the Court, and may not be used as a basis to rescind this plea agreement or withdraw the defendant's guilty plea(s). The defendant understands that the sentence in this case will be determined by the Court after it receives the presentence investigation report from the United States Probation Office and any information presented by the parties. The defendant acknowledges that the sentencing determination will be based upon the entire scope of the defendant's criminal conduct, the defendant's criminal history, and pursuant to other factors and guidelines as set forth in the Sentencing Guidelines and the factors set forth in 18 U.S.C. § 3553.

7. Given the defendant's agreement to plead guilty, the United States will not oppose a two-level reduction for acceptance of responsibility under the provisions of Section 3E1.1(a) of the Sentencing Guidelines. Further, if the defendant's offense level is 16 or greater, and the Court awards the two-level reduction pursuant to Section 3E1.1(a), the United States agrees to move, at or before the time of sentencing, the Court to decrease the offense level by one additional level pursuant to Section 3E1.1(b) of the Sentencing Guidelines. Should the defendant engage in any conduct or make any statements that are inconsistent with accepting responsibility for the defendant's offenses, including violations of conditions of release or the commission of any additional offenses prior to sentencing, the United States will be free to decline to make such motion, to withdraw that motion if already made, and to recommend to the Court that the defendant not receive any reduction for acceptance of responsibility under Section 3E1.1 of the Sentencing Guidelines.

8. The defendant agrees to pay the special assessment in this case prior to sentencing.

9. The defendant agrees that the Court shall order restitution, pursuant to any applicable provision of law, for any loss caused to: (a) the victims of any offense charged in this case (including dismissed counts); and (b) the victims of any criminal activity that was part of the same course of conduct or common scheme or plan as the defendant's charged offenses.

10. Financial Obligations. The defendant agrees to pay all fines and restitution imposed by the Court to the Clerk of Court. The defendant also agrees that the full fine and/or restitution amount shall be considered due and payable immediately. If the defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the Probation Office at any time, the defendant agrees that the Bureau of Prisons and the Probation Office will have the authority to establish payment schedules to ensure payment of the fine

and/or restitution. The defendant further agrees to cooperate fully in efforts to collect any financial obligation imposed by the Court by set-off of federal payments, execution on non-exempt property, and any other means the United States deems appropriate. The defendant and counsel also agree that the defendant may be contacted post-judgment regarding the collection of any financial obligation imposed by the Court without notifying the defendant's counsel and outside the presence of the defendant's counsel. In order to facilitate the collection of financial obligations to be imposed with this prosecution, the defendant agrees to disclose fully 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. In furtherance of this plea agreement, the defendant additionally agrees to the following specific terms and conditions:

a. If so requested by the United States, the defendant will promptly submit a completed financial statement to the U.S. Attorney's Office, in a form it provides and as it directs. The defendant promises that such financial statement and disclosures will be complete, accurate, and truthful.

b. The defendant expressly authorizes the U.S. 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.

c. If so requested by the United States, the defendant will promptly execute authorizations on forms provided by the U.S. Attorney's office to permit the U.S. Attorney's Office to obtain financial and tax records of the defendant.

11. The defendant acknowledges that the principal benefits to the United States of a plea agreement include the conservation of limited government resources and bringing a certain end to the case. Accordingly, in consideration of the concessions made by the United States in

this plea agreement and as a further demonstration of the defendant's acceptance of responsibility for the offense(s) committed, the defendant voluntarily, knowingly, and intentionally agrees to the following: The defendant will not, whether directly or by a representative, 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 limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

12. This plea agreement becomes effective once it is signed by the parties and is not contingent on the defendant's entry of a guilty plea. If the United States violates the terms of this plea agreement, the defendant will have the right to withdraw from this plea agreement. If the defendant violates the terms of this plea agreement in any way (including but not limited to failing to enter guilty plea as agreed herein, moving to withdraw guilty plea after entry, or by violating any court order or any local, state or federal law pending the resolution of this case), then the United States will have the right to void any or all parts of the plea agreement and may also enforce whatever parts of the plea agreement it chooses. In addition, the United States may prosecute the defendant for any and all federal crimes that the defendant committed related to this case, including any charges that the United States dismissed and any other charges that the United States agreed not to pursue. The defendant expressly waives any statute of limitations defense and any constitutional or speedy trial or double jeopardy defense to such a prosecution. The defendant also understands that a violation of this plea agreement by the defendant does not entitle the defendant to withdraw the defendant's guilty plea in this case.

13. The United States will file a supplement in this case, as required in every case by the Local Rules of the United States District Court for the Eastern District of Tennessee, even

though there may or may not be any additional terms. If additional terms are included in the supplement, they are hereby fully incorporated herein.

14. This plea agreement and supplement constitute the full and complete agreement and understanding between the parties concerning the defendant's guilty plea to the above-referenced charges, and there are no other agreements, promises, undertakings, or understandings between the defendant and the United States. The parties understand and agree that the terms of this plea agreement can be modified only in writing signed by all of the parties and that any and all other promises, representations, and statements whether made before, contemporaneous with, or after this plea agreement, are null and void.

FRANCIS M. HAMILTON III
Acting United States Attorney

10-12-21
Date

By:

Steven S. Neff
Steven S. Neff
Assistant United States Attorney

10/7/2021
Date

J.C. Jenkins
James Christopher Jenkins
Defendant

10/1/2021
Date

Lee Davis
Lee Davis
Attorney for the Defendant