

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
SHAWN E. WHITECOTTON,)
)
Defendant.)

CRIMINAL NO. 20-CR-40108-SMY

STIPULATION OF FACTS

Comes now Steven D. Weinhoef, United States Attorney for the Southern District of Illinois, through Luke J. Weissler, Assistant U.S. Attorney for this District, and herewith enter into the following Stipulation of Facts with the Defendant, Shawn E. Whitecotton, represented by his attorney, Justin A. Kuehn, pertaining to the conduct of the Defendant charged in the Information in this case and the relevant conduct of the defendant within the scope of U.S.S.G. § 1B1.3.

1. The United States Penitentiary at Marion, Illinois (“USP-Marion”), located in Williamson County, was a federal correctional facility or prison operated by the Federal Bureau of Prisons (“BOP”) which was an agency of the United States Department of Justice and within the Executive Branch of the United States Government.

2. Federal Prison Industries, also known as UNICOR, was a wholly-owned government corporation administered by the BOP that operated manufacturing facilities in certain BOP facilities with the goal of preparing federal inmates for successful reentry into society by providing them with job training and work skills. UNICOR hired BOP inmates to work in its factories which manufactured a variety of goods at different locations.

3. In certain circumstances, UNICOR contracted with private entities to provide product manufacturing services.

4. UNICOR operated a manufacturing facility at USP-Marion.

5. In August 2014, UNICOR contracted with PGB Hangers, LLC ("PGB") to manufacture wire clothes hangers for PGB. The UNICOR factory at USP-Marion was selected as the site to manufacture the hangers under this contract.

6. Defendant was employed by the BOP as the factory manager of USP-Marion's UNICOR manufacturing facility. Defendant was a managerial or supervisory employee who was responsible for the planning, coordination, and direction of all activities at USP-Marion's UNICOR factory.

7. In early October 2014, defendant discussed defendant's formation of a limited liability company ("LLC"), both orally and via email, with the owner of PGB for the purpose of engaging in personal business with PGB.

8. On October 10, 2014, defendant filed Articles of Incorporation for a LLC referred to as "TRCB LLC" ("TRCB") with the Illinois Secretary of State which listed defendant and his wife as the sole managers/members of TRCB.

9. On February 18, 2015, PGB and defendant, on behalf of TRCB, signed a document entitled Independent Sales Representative Agreement ("Agreement"). In the Agreement, PGB appointed TRCB as its "non-exclusive sales representative" in the United States for PGB's products. PGB's products consisted solely of wire clothes hangers manufactured at USP-Marion's UNICOR facility. The Agreement provided for payments of \$1,500 monthly, reimbursement of expenses to include a \$100 monthly phone allowance, and a \$.001 per hanger commission for the first order from any new account.

10. Between March 2015, and December 31, 2015, defendant received compensation of at least \$21,875.25 from PGB or its owners either directly or through TRCB. That amount

consisted of \$3,600.00 in checks or automated clearing house (“ACH”) transfers paid directly to defendant and \$18,275.25 in checks or ACH transfers to defendant through TRCB. All of those funds were deposited into either defendant’s personal bank account or TRCB’s bank account which defendant opened on May 12, 2015, and thereafter controlled.

11. On January 5, 2016, defendant received \$1,600 in compensation from PGB, through TRCB, via an ACH transfer deposited into TRCB’s bank account.

12. As a supervisory employee in the Executive Branch of the United States Government, defendant was required under Title 5, Code of Federal Regulation, Section 2634, Subpart I, to annually report his financial interests, any outside employment activities, and/or any positions held in an outside business entity to his employing agency, the BOP. According to § 2634, the purpose of this requirement was to facilitate the agency’s review of any possible conflicts of interest a supervisory employee may have in the performance of his or her duties.

13. The required reporting under § 2634 for supervisory BOP employees was accomplished on a standardized form, entitled OGE Form 450, issued by the United States Office of Government Ethics.

14. The instruction page for OGE Form 450 provided the following notice to filers:

PENALTIES
Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.

15. The form also contained a certification appearing above the submitting employee’s signature block that stated:

I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.

16. The reporting period covered for each annual OGE Form 450 is for the preceding calendar year.

17. As charged in Count 1 of the Information, on February 11, 2016, defendant knowingly and willfully made a materially false statement on an OGE Form 450, which defendant submitted to the Federal Bureau of Prisons, in that defendant failed to identify either PGB or TRCB as a source of outside income of greater than \$200 during the reporting period of January 1, 2015, through December 31, 2015, when, in truth and in fact, and as defendant well knew, defendant had received outside income from PGB and its owners, paid to him either directly or through TRCB, totaling in excess of \$20,000 during that reporting period.

18. As charged in Count 2 of the Information, on February 11, 2016, defendant knowingly and willfully made a materially false statement on an OGE Form 450, which defendant submitted to the Federal Bureau of Prisons, in that defendant failed to identify TRCB as a business entity outside of the United States Government in which defendant held a position during the reporting period of January 1, 2015, through December 31, 2015, when, in truth and in fact, and as defendant well knew, defendant held a position in TRCB during that reporting period.

19. Defendant further admits that when it appeared his unlawful conduct would be discovered, defendant took steps intended to suppress or interfere with investigators' discovery of the truth, including by unlawfully influencing a witness by instructing the witness to lie about defendant's involvement with TRCB and receipt of payments from PGB.

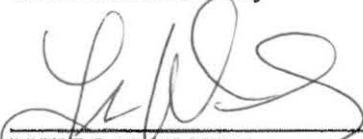
SO STIPULATED:

UNITED STATES OF AMERICA,


STEVEN D. WEINHOFET
United States Attorney



SHAWN E. WHITECOTTON
Defendant



LUKE J. WEISSLER
Assistant United States Attorney



JUSTIN A. KUEHN
Attorney for Defendant

Date: 11-9-20

Date: 11/10/20