



U.S. Department of Justice

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July 8, 2014

Thomas J. Murphy, Esq.
James T. Cowdery, Esq.
Cowdery & Murphy, L.L.C.
280 Trumbull Street
Hartford, CT 06103

**Re: United States v. Thomas H. Faria
Criminal No.**

Dear Attorneys Murphy and Cowdery:

This letter confirms the plea agreement between your client, Thomas H. Faria (the “defendant”), and the United States Attorney’s Office for the District of Connecticut (the “Government” or “this Office”) concerning the referenced criminal matter.

THE PLEA AND OFFENSE

The defendant agrees to waive his right to be indicted and to plead guilty to a one-count information charging him with knowingly violating the requirements imposed in a pretreatment program approved under the Clean Water Act. 33 U.S.C. § 1319(c)(2)(A). The defendant understands that to be guilty of this offense, the following essential elements of the offense must be satisfied:

1. From at least as early as April 2004 to May 2011, the defendant violated, or caused a violation of, a requirement imposed in a pretreatment program approved pursuant to 33 U.S.C. § 1342—that is, the discharge of industrial wastewater into the New London publicly owned treatment works without a permit; and
2. The defendant acted knowingly.

THE PENALTIES

This offense carries a maximum penalty of three years of imprisonment and a fine of not less than \$5,000 but not more than \$50,000 per day of the violation. In addition, under 18 U.S.C. § 3583, the Court may impose a term of supervised release of not more than one year to begin at

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the expiration of any term of imprisonment. The defendant understands that should he violate any condition of the supervised release, he may be required to serve a further term of imprisonment of up to one year per violation with no credit for time already spent on supervised release.

The defendant also is subject to the alternative fine provision of 18 U.S.C. § 3571. Under this section, the maximum fine that may be imposed on the defendant is the greatest of the following amounts: (1) twice the gross gain to the defendant resulting from the offense; (2) twice the gross loss resulting from the offense; or (3) \$250,000; or (4) the amount specified in the section defining the offense, which is a fine of not less than \$5,000 but not more than \$50,000 per day of the violation under 33 U.S.C. § 1319(c)(2).

In addition, the defendant is obligated by 18 U.S.C. § 3013 to pay a special assessment of \$100 on each count of conviction. The defendant agrees to pay the special assessment to the Clerk of the Court on the day the guilty plea is accepted.

Unless otherwise ordered, should the Court impose a fine of more than \$2,500 as part of the sentence, interest will be charged on the unpaid balance of the fine not paid within 15 days after the judgment date. 18 U.S.C. § 3612(f). Other penalties and fines may be assessed on the unpaid balance of a fine pursuant to 18 U.S.C. § 3572 (h), (i) and § 3612(g).

Agreement Regarding the Defendant's Involvement in Faria Limited, LLC,
d/b/a Sheffield Pharmaceuticals

On March 7, 2014, the defendant resigned from his position as president and chief executive officer of Faria Limited, LLC, d/b/a Sheffield Pharmaceuticals ("Faria Limited"), and also relinquished his seat on the board of directors. On May 13, 2014, by written amendment to Faria Limited's corporate Operating Agreement, the defendant's 38% equity interest in Faria Limited was converted to Class B – Non Voting shares (or "membership units"). Pursuant to this conversion, the defendant no longer possesses any voting rights to exercise with respect to Faria Limited's operations and management, except that he is entitled to vote if Faria Limited's other equity owners are considering a sale in the future of all, or substantially all, of Faria Limited's membership units, assets, or business. The defendant hereby stipulates that subject to this sole limited exception for the exercise of his voting rights, he shall have no involvement in directing, managing, controlling, or working for Faria Limited in any manner until the Court determines that his term of supervised release has fully expired.

THE SENTENCING GUIDELINES

Applicability

The defendant understands that the Court is required to consider any applicable Sentencing Guidelines as well as other factors enumerated in 18 U.S.C. § 3553(a) to tailor an appropriate sentence in this case and is not bound by this plea agreement. The defendant agrees

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that the Sentencing Guideline determinations will be made by the Court, by a preponderance of the evidence, based upon input from the defendant, the Government, and the United States Probation Office. The defendant further understands that he has no right to withdraw his guilty plea if his sentence or the Guideline application is other than he anticipated, including if the sentence is outside any of the ranges set forth in this agreement.

Acceptance of Responsibility

At this time, the Government agrees to recommend that the Court reduce by two levels the defendant's adjusted offense level under § 3E1.1(a) of the Sentencing Guidelines, based on the defendant's prompt recognition and affirmative acceptance of personal responsibility for the offense. Moreover, should the defendant qualify for a decrease under § 3E1.1(a) and his offense level determined prior to the operation of subsection (a) is level 16 or greater, the Government will file a motion with the Court pursuant to § 3E1.1(b) which recommends that the Court reduce the defendant's Adjusted Offense Level by one additional level based on his prompt notification of his intention to enter a plea of guilty. The defendant expressly understands that the Court is not obligated to accept the Government's recommendations on the reductions.

The above-listed recommendations are conditioned upon the defendant's affirmative demonstration of acceptance of responsibility, by (1) truthfully admitting the conduct comprising the offense(s) of conviction and truthfully admitting or not falsely denying any additional relevant conduct for which the defendant is accountable under Sentencing Guideline § 1B1.3, and (2) truthfully disclosing to the Probation Office personal information requested, including the submission of a complete and truthful financial statement detailing the defendant's financial condition.

In addition, the Government expressly reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant engages in any acts, unknown to the Government at the time of the signing of this agreement, which (1) indicate that the defendant has not terminated or withdrawn from criminal conduct or associations (Sentencing Guideline § 3E1.1); (2) could provide a basis for an adjustment for obstructing or impeding the administration of justice (Sentencing Guideline § 3C1.1); or (3) constitute a violation of any condition of release. Moreover, the Government reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant seeks to withdraw his plea of guilty or takes a position at sentencing, or otherwise, which, in the Government's assessment, is inconsistent with affirmative acceptance of personal responsibility. The defendant understands that he may not withdraw his plea of guilty if, for the reasons explained above, the Government does not make one or both of the recommendations or seeks denial of the adjustment for acceptance of responsibility.

Stipulation

Pursuant to § 6B1.4 of the Sentencing Guidelines, the defendant and the Government have entered into a stipulation, which is attached to and made a part of this plea agreement. The

defendant understands that this stipulation does not set forth all of the relevant conduct and characteristics that may be considered by the Court for purposes of sentencing. The defendant understands that this stipulation is not binding on the Court. The defendant also understands that the Government and the United States Probation Office are obligated to advise the Court of any additional relevant facts that subsequently come to their attention.

Guideline Stipulation

The parties agree that the Guidelines Manual in effect on the date of sentencing is used to determine the applicable Guidelines range.

The Government and the defendant disagree about the Guidelines calculation and the Guidelines range. Consequently, the parties stipulate that all Guidelines calculations, including the calculation of the defendant's total offense level and Guidelines range, shall be resolved at sentencing.

Based on the information currently available, the Government's position regarding the defendant's Guidelines calculation is as follows: The defendant's base offense level under U.S.S.G. § 2Q1.2(a) is 8. Six (6) levels are added because, under U.S.S.G. § 2Q1.2(b)(1)(A), the offense resulted in an ongoing, continuous, or repetitive discharge of a hazardous or toxic substance into the environment. Four (4) levels are added because, under U.S.S.G. § 2Q1.2(b)(4), the offense involved treatment, storage, or disposal without a permit. Two (2) more levels are added because, under U.S.S.G. § 3B1.1(c), the defendant was a leader of the offense. Assuming a three-level reduction under U.S.S.G. § 3E1.1 for acceptance of responsibility, the defendant's total offense level is 17. With a Criminal History Category I and a total offense level of 17, the defendant's Guidelines range would be 24 to 30 months of imprisonment (sentencing table). The fine range is governed by U.S.S.G. § 5E1.2(c)(4). The defendant is also subject to a supervised release term of one (1) year. U.S.S.G. § 5D1.2. The Government reserves its right to amend its position regarding the defendant's Guidelines calculation.

The defendant disagrees with the Government's Guidelines calculation and range, including the application of U.S.S.G. § 2Q1.2 (as opposed to U.S.S.G. § 2Q1.3) and of any aggravating role adjustment under U.S.S.G. § 3B1.1. The Government and the defendant reserve their rights to seek a departure or a non-Guidelines sentence, and both sides reserve their rights to object to a departure or a non-Guidelines sentence. Specifically, the defendant reserves his right to argue at sentencing pursuant to 18 U.S.C. § 3553(a) that the facts of this case provide significant mitigating grounds to support either a downward departure and/or the imposition of a non-Guidelines sentence.

The Government and the defendant reserve their respective rights to seek whatever sentence the parties deem appropriate.

The defendant expressly understands that the Court is not bound by this agreement on any of the Guidelines provisions specified above. The defendant further understands that he will

not be permitted to withdraw the plea of guilty in the event he disagrees with the Court's or the Probation Office's Guidelines calculations or Guidelines range.

In the event the Probation Office or the Court contemplates any sentencing calculations different from those argued for by the parties, the parties reserve the right to respond to any inquiries and make appropriate legal arguments regarding the proposed alternate calculations. Moreover, the parties expressly reserve the right to defend any sentencing determination, even if it differs from that argued for by the parties, in any post-sentencing proceeding.

Appeal Rights Regarding Sentencing

The parties reserve their respective rights to appeal and to oppose each other's appeal of the sentence imposed as permitted by 18 U.S.C. § 3742.

Information to the Court

The Government and the defendant reserve their rights to address the Court with respect to an appropriate sentence to be imposed in this case. Moreover, the Government and the defendant will discuss the facts of this case, including information regarding the defendant's background and character, 18 U.S.C. § 3661, with the United States Probation Office. The Government will provide the Probation Officer with access to material in its file, with the exception of grand jury material.

WAIVER OF RIGHTS

Waiver of Right to Indictment

The defendant understands that he has the right to have the facts of this case presented to a federal grand jury, consisting of between sixteen and twenty-three citizens, twelve of whom would have to find probable cause to believe that he committed the offense set forth in the information before an indictment could be returned. The defendant acknowledges that he is knowingly and intelligently waiving his right to be indicted.

Waiver of Trial Rights and Consequences of Guilty Plea

The defendant understands that he has the right to be represented by an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent him.

The defendant understands that he has the right to plead not guilty or to persist in that plea if it has already been made, the right to a public trial, the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against him, the right not to be compelled to incriminate himself, the right to testify and present evidence, and the right to compel the attendance of witnesses to testify in his defense. The defendant understands that

by pleading guilty he waives and gives up those rights and that, if the plea of guilty is accepted by the Court, there will not be a further trial of any kind.

The defendant understands that, if he pleads guilty, the Court may ask him questions about each offense to which he pleads guilty, and if he answers those questions falsely under oath, on the record, and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or making false statements.

Waiver of Statute of Limitations

The defendant agrees that, should the conviction following defendant's plea of guilty pursuant to this plea agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this plea agreement (including any indictment or counts the Government has agreed to dismiss at sentencing pursuant to this plea agreement) may be commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement or reinstatement of such prosecution. The defendant agrees to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date the plea agreement is signed.

ACKNOWLEDGMENT OF GUILT AND VOLUNTARINESS OF PLEA

The defendant acknowledges that he is entering into this agreement and is pleading guilty freely and voluntarily because he is guilty. The defendant further acknowledges that he is entering into this agreement without reliance upon any discussions between the Government and him (other than those described in the plea agreement letter), without promise of benefit of any kind (other than the concessions contained in the plea agreement letter), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges his understanding of the nature of the offense to which he is pleading guilty, including the penalties provided by law. The defendant also acknowledges his complete satisfaction with the representation and advice received from his undersigned attorney. The defendant and his undersigned counsel are unaware of any conflict of interest concerning counsel's representation of the defendant in the case.

SCOPE OF THE AGREEMENT

The defendant acknowledges that this agreement is limited to the undersigned parties and cannot bind any other federal authority, or any state or local authority. The defendant acknowledges that no representations have been made to him with respect to any civil or administrative consequences that may result from this plea of guilty because such matters are solely within the province and discretion of the specific administrative or governmental entity involved. Finally, the defendant acknowledges that this agreement has been reached without regard to any civil tax matters that may be pending or which may arise involving him.

COLLATERAL CONSEQUENCES

The defendant understands that he will be adjudicated guilty of each offense to which he has pleaded guilty and will be deprived of certain rights, such as the right to hold public office, to serve on a jury, to possess firearms, and in some states, the right to vote. Further, the defendant understands that if he is not a citizen of the United States, a plea of guilty may result in removal from the United States, denial of citizenship, and denial of admission to the United States in the future. The defendant understands that pursuant to section 203(b) of the Justice For All Act, the Bureau of Prisons or the Probation Office will collect a DNA sample from the defendant for analysis and indexing. Finally, the defendant understands that the Government reserves the right to notify any state or federal agency by which he is licensed, or with which he does business, as well as any current or future employer of the fact of his conviction.

SATISFACTION OF FEDERAL CRIMINAL LIABILITY; BREACH

The defendant's guilty plea, if accepted by the Court, will satisfy the federal criminal liability of the defendant in the District of Connecticut as a result of his participation in violating a requirement imposed in a pretreatment program approved pursuant to the Clean Water Act—that is, the discharge of industrial wastewater into the New London publicly owned treatment works without a permit, which forms the basis of the information in this case. The defendant understands that if, before sentencing, he violates any term or condition of this agreement, engages in any criminal activity, or fails to appear for sentencing, the Government may void all or part of this agreement. If the agreement is voided in whole or in part, the defendant will not be permitted to withdraw his plea of guilty.

NO OTHER PROMISES

The defendant acknowledges that no other promises, agreements, or conditions have been entered into other than those set forth in this plea agreement, and none will be entered into unless set forth in writing, signed by all the parties.

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This letter shall be presented to the Court, in open court, and filed in this case.

Very truly yours,

DEIRDRE M. DALY
UNITED STATES ATTORNEY

HAROLD H. CHEN
ASSISTANT UNITED STATES ATTORNEY

PETER W. KENYON
SPECIAL ASSISTANT U.S. ATTORNEY

The defendant certifies that he has read this plea agreement letter and its attachment(s) or has had it read or translated to him, that he has had ample time to discuss this agreement and its attachment(s) with counsel and that he fully understands and accepts its terms.

THOMAS H. FARIA
The Defendant

Date

I have thoroughly read, reviewed and explained this plea agreement and its attachment(s) to my client who advises me that he understands and accepts its terms.

THOMAS J. MURPHY, ESQ.
Attorney for the Defendant

Date

JAMES T. COWDERY, ESQ.
Attorney for the Defendant

Date

STIPULATION OF OFFENSE CONDUCT

The defendant, Thomas H. Faria (“Faria” or “the defendant”), and the Government stipulate to the following offense conduct that gives rise to the defendant’s agreement to plead guilty to the information:

Faria Limited, LLC, d/b/a Sheffield Pharmaceuticals (“Faria Limited”) was and is a company with a factory at 170 Broad Street in New London, Connecticut, that manufactures a wide range of over-the-counter pharmaceutical creams, ointments, and toothpastes. Faria Limited purchased Sheffield Laboratories in 1986 and changed its operating name to Sheffield Pharmaceuticals.

Faria, the company’s president and chief executive officer, assumed control over the company in April 2003 after his father’s death. As president and chief executive officer, Faria has been responsible for Faria Limited’s operations since April 2003. In addition, Faria held all of the company’s voting shares from April 30, 2008, until May 13, 2014.

The City of New London Water Pollution Control Facility, together with the New London public sewer system, constituted a publicly owned treatment works (“POTW”) within the meaning of the Clean Water Act and Connecticut’s pretreatment program as approved by the Environmental Protection Agency. Under the Clean Water Act, Connecticut’s pretreatment program prohibits the discharge of industrial wastewater to POTWs without a permit issued by the Connecticut Department of Energy and Environmental Protection (“CT DEEP”). The failure to obtain a CT DEEP permit prior to discharging industrial wastewater to a POTW constitutes a violation of a requirement of a pretreatment program approved under Title 33, United States Code, Section 1342(b)(8).

From at least as early as April 2003 to July 2011, Faria Limited discharged industrial wastewater from its manufacturing operations to the New London POTW without a permit and in violation of Connecticut’s approved pretreatment program. During this time period, Faria Limited lacked an approved wastewater treatment system and performed no regular monitoring of its discharges of industrial wastewater pursuant to a CT DEEP permit.

After becoming the company’s president and chief executive officer in April 2003, Faria learned through his own employees that Faria Limited was discharging industrial wastewater without the permit required by the Clean Water Act. Despite knowing that Faria Limited needed to apply for and obtain a wastewater permit from CT DEEP, Faria continued to operate the factory and to discharge industrial wastewater to the New London POTW without a permit.

The parties stipulate that from at least as early as April 2004 to May 2011, the defendant, as president and chief executive officer of Faria Limited, knowingly violated and caused to be violated a requirement imposed in a pretreatment program approved under section 1342(a)(3) and 1342(b)(8) of Title 33, United States Code—that is, the discharge of industrial wastewater into the New London POTW without a permit.

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The written stipulation above is incorporated into the preceding plea agreement. The defendant and the Government reserve their rights to present additional relevant offense conduct to the attention of the Court in connection with sentencing. Both parties agree that although this stipulation provides a sufficient factual basis for the guilty plea, both parties will provide the Court with additional relevant evidence for sentencing. Specifically, the defendant will submit materials that provide mitigating circumstances for the offense conduct, whereas the Government will submit materials that provide aggravating circumstances for the offense conduct.

THOMAS H. FARIA
The Defendant

HAROLD H. CHEN
ASSISTANT U.S. ATTORNEY

THOMAS J. MURPHY, ESQ.
Attorney for the Defendant

PETER W. KENYON
SPECIAL ASST. U.S. ATTORNEY

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