

P ORIGINAL

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

2012 OCT 29 AM 10:45

DEPUTY CLERK 

THE UNITED STATES OF AMERICA §
v. § No. 3:12-CR-159-D
BRUCE KYLE GRIFFITH (2) § ECF

PLEA AGREEMENT

Bruce Kyle Griffith (Griffith), Neil L. Durrance, the defendant's attorney, and the United States of America (the government), agree as follows:

1. **Rights of the defendant:** Griffith understands that he has the rights
 - a. to plead not guilty;
 - b. to have a trial by jury;
 - c. to have his guilt proven beyond a reasonable doubt;
 - d. to confront and cross-examine witnesses and to call witnesses in his defense; and
 - e. against compelled self-incrimination.

2. **Waiver of rights and plea of guilty:** Griffith waives these rights and pleads guilty to the following offenses: (1) Count One of the indictment, charging a violation of 18 U.S.C. §371, that is, conspiracy to commit an offense against the United States, and (2) Count Two of the indictment, charging a violation of 15 U.S.C. §§ 77q(a) and 77x and 18 U.S.C. § 2, that is securities fraud and aiding and abetting. Griffith understands the nature and elements of the crime to which he is pleading guilty, and agrees that the factual résumé he has signed is true and will be submitted as evidence.

3. **Sentence:** The maximum penalties the Court can impose include:
- a. imprisonment for a period not to exceed 10 years;
 - b. a fine not to exceed \$500,000.00, or twice any pecuniary gain to the defendant or loss to the victim(s);
 - c. a term of supervised release of not more than three years, which may be mandatory under the law and will follow any term of imprisonment. If Griffith violates the conditions of supervised release, he could be imprisoned for the entire term of supervised release;
 - d. a mandatory special assessment of \$200.00; and
 - e. restitution to victims or to the community, which may be mandatory under the law, and which Griffith agrees may include restitution arising from all relevant conduct, not limited to that arising from the offense(s) of conviction alone.

4. **Court's sentencing discretion and role of the Guidelines:** Griffith understands that the sentence in this case will be imposed by the Court after consideration of the United States Sentencing Guidelines. The guidelines are not binding on the Court, but are advisory only. Griffith has reviewed the guidelines with his attorney, but understands no one can predict with certainty the outcome of the Court's consideration of the guidelines in this case. Griffith will not be allowed to withdraw his plea if his sentence is higher than expected. Griffith fully understands that the actual sentence imposed (so long as it is within the statutory maximum) is solely in the discretion of the Court.

5. **Mandatory special assessment:** Griffith agrees to pay to the U.S. District Clerk the amount of \$200.00, in satisfaction of the mandatory special assessment in this case.

6. **Defendant's agreement:** Griffith shall give complete and truthful information and/or testimony concerning his participation in the offenses of conviction. Upon demand, Griffith shall submit a personal financial statement under oath and submit to interviews by the government and the U.S. Probation Office regarding his capacity to satisfy any fines or restitution. Griffith expressly authorizes the United States Attorney's Office to immediately obtain a credit report on him in order to evaluate the Defendant's ability to satisfy any financial obligation imposed by the Court. Griffith fully understands that any financial obligation imposed by the court, including a restitution order and/or the implementation of a fine, is due and payable immediately. In the event the Court imposes a schedule for payment of restitution, defendant agrees that such a schedule represents a minimum payment obligation and does not preclude the U.S. Attorney's Office from pursuing any other means by which to satisfy defendant's full and immediately enforceable financial obligation. Griffith understands that he has a continuing obligation to pay in full as soon as possible any financial obligation imposed by the court.

7. **Government's agreement:** The government will not bring any additional charges against Griffith based upon the conduct underlying and related to the defendant's plea of guilty. The government will file a Supplement in this case, as is routinely done in every case, even though there may or may not be any additional terms. The government will dismiss, after sentencing, any remaining charges in the pending indictment. This agreement is limited to the United States Attorney's Office for the Northern District of Texas and does not bind any other federal, state, or local prosecuting authorities, nor does it prohibit any civil or administrative proceeding against Griffith or any property.

8. **Violation of agreement:** Griffith understands that if he violates any provision of this agreement, or if his guilty plea is vacated or withdrawn, the government will be free from any obligations of the agreement and free to prosecute Griffith for all offenses of which it has knowledge. In such event, Griffith waives any objections based upon delay in prosecution. If the plea is vacated or withdrawn for any reason other than a finding that it was involuntary, Griffith also waives objection to the use against him of any information or statements he has provided to the government, and any resulting leads.

10. **Voluntary plea:** This plea of guilty is freely and voluntarily made and is not the result of force or threats, or of promises apart from those set forth in this plea agreement. There have been no guarantees or promises from anyone as to what sentence the Court will impose.

11. **Waiver of right to appeal or otherwise challenge sentence:** Griffith waives his rights, conferred by 28 U.S.C. § 1291 and 18 U.S.C. § 3742, to appeal from his conviction and sentence. He further waives his right to contest his conviction and sentence in any collateral proceeding, including proceedings under 28 U.S.C. § 2241 and 28 U.S.C. § 2255. Griffith, however, reserves the rights (a) to bring a direct appeal of (i) a sentence exceeding the statutory maximum punishment, or (ii) an arithmetic error, or (iii) error in calculating criminal history, (b) to challenge the voluntariness of his plea of guilty or this waiver, and (c) to bring a claim of ineffective assistance of counsel.

12. **Representation of counsel:** Griffith has thoroughly reviewed all legal and factual aspects of this case with his lawyer and is fully satisfied with that lawyer's legal representation. Griffith has received from his lawyer explanations satisfactory to him

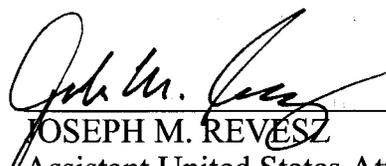
concerning each paragraph of this plea agreement, each of his rights affected by this agreement, and the alternatives available to him other than entering into this agreement. Because he concedes that he is guilty, and after conferring with his lawyer, Griffith has concluded that it is in his best interest to enter into this plea agreement and all its terms, rather than to proceed to trial in this case.

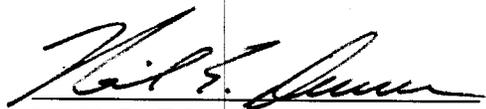
13. **Entirety of agreement:** This document is a complete statement of the parties' agreement and may not be modified unless the modification is in writing and signed by all parties.

AGREED TO AND SIGNED this 20 day of Oct, 2012.


BRUCE KYLE GRIFFITH
Defendant

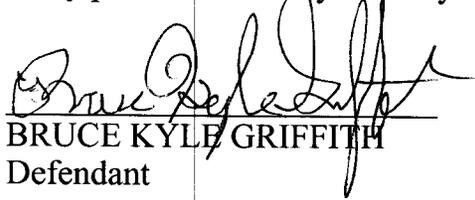
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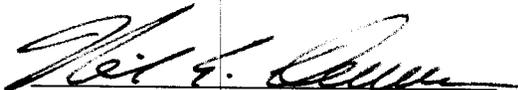
I have read (or had read to me) this Plea Agreement and have carefully reviewed every part of it with my attorney. I fully understand it and voluntarily agree to it.



BRUCE KYLE GRIFFITH
Defendant

10-20-2012
Date

I am defendant's counsel. I have carefully reviewed every part of this Plea Agreement with defendant. To my knowledge and belief, my client's decision to enter into this Plea Agreement is an informed and voluntary one.



NEIL L. DURRANCE
Attorney for Defendant

10-21-12
Date