

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:20-cr-97-GAP-LHP

JOEL MICAH GREENBERG

**MOTION BY THE UNITED STATES FOR
DOWNWARD DEPARTURE OF DEFENDANT'S SENTENCE
BASED UPON SUBSTANTIAL ASSISTANCE**

Pursuant to the provisions of Section 5K1.1 of the United States Sentencing Guidelines and 18 U.S.C. § 3553(e),¹ the United States moves this Court to grant a ten-level reduction in the defendant's offense level, and in support thereof states as follows:

MEMORANDUM OF LAW

The Court, on motion of the government, may reduce a defendant's sentence to reflect a defendant's substantial assistance. USSG §5K1.1. Here, defendant Joel Micah Greenberg, provided truthful and timely information to the United States which, in part, resulted in the charging of others and that has substantially assisted in the investigation and prosecution of other persons. These cases fall into four categories.

¹ The United States moves under 18 U.S.C. § 3553(e) as to Count One of the Third Superseding Indictment only. Greenberg shall be subject to the two-year mandatory term of imprisonment for Count Nine, and the United States does not file this motion with respect to Count Nine.

First, Greenberg provided assistance regarding \$6,000 in bribes and kickbacks that were allegedly paid to him by Michael Shirley,² using Joseph Ellicott as a conduit of the payment for the purpose of concealing the conspiracy and scheme. Greenberg's assistance included information provided in proffers and his willingness to testify as a witness. Greenberg's cooperation was instrumental to confirming the existence of this conspiracy and scheme, and he provided an important document to this investigation that the United States otherwise would not have had without his cooperation.³

Two defendants have been charged in connection with this conspiracy and scheme: *United States v. Joseph Ellicott*, 6:22-cr-9-GAP-DAB and *United States v. Michael Shirley*, 6:22-cr-123-GAP-DCI. Ellicott pleaded guilty and was sentenced on October 11, 2022, to 15 months in federal prison for conspiracy to commit honest services fraud and possession with intent to distribute a controlled substance. Shirley has been indicted and is pending trial.

²Shirley has pleaded not guilty and is presumed innocent unless, and until, proven guilty.

³Investigators had already determined that Greenberg's \$6,020 cash deposit on or about September 29, 2017 coincided with Shirley's \$6,000 cash withdrawal on or about September 25, 2017 and that it was a suspected bribe and kickback. In his proffer, Greenberg provided details about the payment, including the involvement of Ellicott and Shirley. Greenberg's information was corroborated by text messages from Ellicott's phone, bank records, and toll records of calls.

The document that Greenberg provided was a receipt dated September 25, 2017 that claimed to reflect the sale of two desks, a credenza, a conference room table with four chairs, an end table, an office cubicle, an office chair, a book case, two whiteboards, and a television for \$6,000. The United States contends that the document was fake and was intended by its creator, Shirley, to conceal the bribe and kickback he had paid Greenberg in September 2017.

Second, Greenberg provided assistance regarding his involvement in a conspiracy to submit false claims to the Small Business Administration and to bribe an employee of the Small Business Administration. Greenberg has pleaded guilty to this offense (Count Twenty-Six).

In connection with this offense, Greenberg provided information in proffers about other participants in the conspiracy. This conspiracy and scheme, including its participants, was already known to the United States, but Greenberg provided helpful information related to his participation and that of his conspirators. One of them has been charged and has pleaded guilty. *See United States v. Teresa McIntyre*, 6:22-cr-78-WWB-EJK. Further information about Greenberg's cooperation against others involved in this conspiracy is set out in the sealed Motion.

Third, Greenberg provided assistance regarding a conspiracy to defraud the Seminole County Tax Collector's Office. Greenberg's assistance included information provided in proffers and his willingness to testify as a witness. This conspiracy and scheme, including its participants, was already known to the United States, but Greenberg's cooperation including information that he provided that revealed an important detail otherwise unknown about the offense, which was the source of a payment of a cash kickback and the circumstances surrounding that payment.

Information provided by Greenberg, in part, led to charging one defendant in connection with this conspiracy and scheme: *United States v. Keith Ingersoll et al.*, 6:21-cr-123-GAP-EJK. Ingersoll has pleaded guilty and is pending sentencing.

Fourth, Greenberg has provided substantial assistance on other matters that are discussed in the sealed Supplemental Memorandum Regarding Defendant's Cooperation.

In sum, the United States believes that, because of his efforts on behalf of the United States, as documented here and in the United States' sealed Supplemental Memorandum, Joel Micah Greenberg should receive a ten-level reduction in his offense level for his assistance.

CONCLUSION

For the foregoing reasons, this Court should grant the government's motion for downward departure of defendant's sentence.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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