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IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) Case No. CR-19-056-F
)
JOHN KENNETH DAVIDSON,)
)
Defendant.)

* * * * *

TRANSCRIPT OF WAIVE AND FILE HEARING
BEFORE THE HONORABLE STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

MARCH 5, 2019

3:30 P.M.

* * * * *

Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

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A P P E A R A N C E S

For the United States:

Ms. K. McKenzie Anderson
Mr. Chris Stephens
Assistant United States Attorney
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For the Defendant:

Mr. John W. Coyle
Coyle Law Firm
125 Park Avenue, 1st Floor
Oklahoma City, Oklahoma 73102

1 (Proceedings begin at 3:30 p.m. on Tuesday, March 5, 2019.)

2 THE COURT: Good afternoon. We're here in Criminal
3 19-056, United States of America versus John Kenneth Davidson
4 for a waive and file proceeding.

5 Counsel, please give your appearances.

6 MS. ANDERSON: Yes, Your Honor, McKenzie Anderson and
7 Chris Stephens on behalf of the United States and we are joined
8 at counsel table with FBI Special Agent Clayton Johnson.

9 THE COURT: Thank you.

10 MR. COYLE: Judge, Donald L. Coyle, III and I'm here
11 on behalf of Mr. Davidson, who is seated here with me.

12 THE COURT: Okay, thank you.

13 Mr. Coyle, it appears that what is contemplated is a
14 plea to a one-count information charging a false statement
15 under Section 1001; is that correct?

16 MR. COYLE: Yes, sir.

17 THE COURT: Very well. The defendant and his counsel
18 will please come to the lectern. And I'll ask the two of you
19 to please trade places. And the clerk will please administer
20 the oath to the defendant.

21 (Defendant sworn.)

22 THE COURT: State your full name, please, sir.

23 THE DEFENDANT: John Kenneth Davidson.

24 THE COURT: Do you understand, Mr. Davidson, that
25 you're now under oath and if you answer any of my questions

1 falsely, your answers may later be used against you in another
2 prosecution for perjury or making a false statement; do you
3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And, also, in a few minutes, the Assistant
6 U.S. Attorney -- will that be Ms. Anderson who will be asking
7 the questions?

8 MS. ANDERSON: Yes, Your Honor.

9 THE COURT: The Assistant U.S. Attorney, Ms. Anderson,
10 will be asking you questions, which you will answer under oath
11 for the purpose of establishing a factual basis for your plea;
12 do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: That brings me to one very important
15 point, and that is this: If I or anyone else should say or do
16 anything here this afternoon that you do not fully understand
17 or if at any time you have any questions about what we're doing
18 here this afternoon, I want you to interrupt and ask me your
19 question and we will go no further until I have fully answered
20 your question; will you do that for me?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Now, I see you are, what is it, 61 or 67
23 years old?

24 THE DEFENDANT: 67, Your Honor.

25 THE COURT: Okay. And you have a year of college; is

1 that right?

2 THE DEFENDANT: That is correct.

3 THE COURT: I take it from that that you do know how
4 to read and write the English language, am I right about that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And did you carefully go over the plea
7 petition and the plea agreement with Mr. Coyle at or before the
8 time you signed them?

9 THE DEFENDANT: I have, yes, sir.

10 THE COURT: Okay. And on the subject of signatures,
11 I've also got a waiver of jury trial and a waiver of indictment
12 document, both apparently signed today. Did you, in fact, sign
13 these papers today?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Okay. Have you been treated recently for
16 any mental illness or addiction to narcotic drugs of any kind?

17 THE DEFENDANT: No, I have not.

18 THE COURT: Okay. I do have a "yes" answered to
19 Question Number 4, which is on a little different subject,
20 specifically treatment for drug addiction or alcohol abuse. I
21 believe I've got some information indicating that you had some
22 treatment in Cushing in 1988 and then again in 2004; is that
23 right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. And I take it those instances are

1 the most recent instances of that sort of treatment?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. The only reason for those two
4 questions, Question 4 and Question Number 5, are that I need to
5 make sure that you are mentally fit to knowingly and
6 voluntarily enter a plea today. How are you feeling?

7 THE DEFENDANT: I feel great.

8 THE COURT: Has Mr. Coyle explained to you the nature
9 of this proceeding and the fact that it will result, if it goes
10 as expected, in an adjudication of guilt?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Mr. Coyle, do you have any misgivings
13 about your client's ability to understand what we're doing here
14 this afternoon?

15 MR. COYLE: None whatsoever, Judge.

16 THE COURT: Very well. Mr. Davidson, as you're well
17 aware, you're being prosecuted in this matter by way of an
18 indictment -- I'm sorry, an information, I'm coming to the
19 difference -- by way of an information, signed only by an
20 Assistant U.S. Attorney, rather than by way of an indictment
21 returned by a grand jury.

22 You understand that this is an information signed by a
23 government attorney?

24 THE DEFENDANT: Yes, sir, I do.

25 THE COURT: Okay. Have you received a copy of these

1 written charges?

2 THE DEFENDANT: I have, Your Honor.

3 THE COURT: And have you fully discussed these charges
4 and the case in general with your counsel, Mr. Coyle?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you fully satisfied with the counsel,
7 representation and advice given to you in this case by
8 Mr. Coyle?

9 THE DEFENDANT: I am, sir.

10 THE COURT: As Mr. Coyle has undoubtedly explained to
11 you, we're actually here this afternoon to do two steps. The
12 first step is your waiver of your right to indictment, because,
13 as I have said, this charging document is not an indictment
14 returned by a grand jury. If we successfully complete that
15 first step, then the second step is your plea to the charge in
16 this information; do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: On that first step, let me inform you that
19 you do have a constitutional right to be charged by an
20 indictment of a grand jury, but that you can waive that right
21 and consent to be charged by way of an information signed only
22 by an Assistant U.S. Attorney; do you understand that?

23 THE DEFENDANT: I do, Your Honor.

24 THE COURT: And so that's why we're here on the basis
25 of an information and that is that it is contemplated that you

1 will waive your right to indictment; do you understand that?

2 THE DEFENDANT: I do.

3 THE COURT: Unless you waive indictment, you may not
4 be charged with a felony unless a grand jury finds by return of
5 an indictment that there was probable cause to believe that a
6 crime has been committed and that you committed it; do you
7 understand that?

8 THE DEFENDANT: I do, Your Honor.

9 THE COURT: If you do not waive indictment, the
10 government may present this case to the grand jury and ask the
11 grand jury to indict you on this charge; do you understand
12 that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: A grand jury is composed of least 16 and
15 not more than 23 persons and at least 12 grand jurors must find
16 that there is probable cause to believe that you committed the
17 crime with which you are charged before you may be indicted; do
18 you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And the grand jury might or might not
21 indict you; do you understand that?

22 THE DEFENDANT: I do, Your Honor.

23 THE COURT: If you do waive indictment, this case will
24 proceed to a conclusion on the basis of this information, just
25 as though you had been indicted; do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Have you discussed waiving your right to
3 indictment by the grand jury with Mr. Coyle?

4 THE DEFENDANT: I have.

5 THE COURT: And to the very best of your knowledge, do
6 you believe you understand your right to indictment?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: Have any threats or promises, other than
9 the promises made by the government in the plea agreement, been
10 made to you to get you to waive indictment?

11 THE DEFENDANT: No, sir.

12 THE COURT: Do you wish to waive your right to
13 indictment by the grand jury?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Coyle, are you aware of any reason
16 your client ought not to waive indictment?

17 MR. COYLE: No, Judge.

18 THE COURT: I have signed the waiver document in the
19 appropriate place and I hand it to the clerk for filing.

20 Now, that brings us to the second step, and that is
21 your plea to the charge in this information.

22 Mr. Davidson, has anyone attempted in any way to force
23 you to plead guilty in this case?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you pleading guilty of your own free

1 will to the offense charged in the information because you are,
2 in fact, guilty of that offense?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you a United States citizen?

5 THE DEFENDANT: I am, Your Honor.

6 THE COURT: I do understand, sir, that the offense to
7 which you're pleading guilty is a felony offense and if your
8 plea is accepted, you will be adjudged guilty of that offense
9 and that adjudication may deprive you of valuable civil rights,
10 such as the right to vote, the right to hold public office, the
11 right to serve on a jury and the right to possess any kind of a
12 firearm; do you understand that?

13 THE DEFENDANT: Yes, sir, I do.

14 THE COURT: The government will please state the
15 maximum penalty provided by law and any mandatory minimum that
16 may apply in this case.

17 MS. ANDERSON: Yes, Your Honor. The maximum penalty
18 for a violation of Title 18 United States Code, Section
19 1001(a)(2) is up to five years of imprisonment, a \$250,000
20 fine, or both, supervised release of up to three years and up
21 to two years in prison if a supervised release is revoked and a
22 special assessment of \$100.

23 THE COURT: Okay. If this is -- obviously I want to
24 establish this, because I invariably do. This is not a
25 mandatory minimum sort of a situation?

1 MS. ANDERSON: Correct, Your Honor.

2 THE COURT: Okay. Very well.

3 Mr. Davidson, do you understand all these possible
4 consequences of your plea?

5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: Under the Sentencing Reform Act of 1984,
7 the United States Sentencing Commission has issued guidelines
8 which judges consult on an advisory basis in determining the
9 sentence in a criminal case.

10 Have you and Mr. Coyle had an opportunity to discuss
11 what the advisory guideline range of punishment might be in
12 your case?

13 THE DEFENDANT: We have, Your Honor.

14 THE COURT: The Court will not be able to determine
15 the advisory guideline range for your case until after the
16 presentence report has been completed and you and the
17 government have had an opportunity to challenge the reported
18 facts and the application of the advisory guidelines as
19 recommended by the probation officer and the sentence
20 ultimately imposed by the Court in this case may be different
21 from any estimate that Mr. Coyle may have given to you; do you
22 understand that?

23 THE DEFENDANT: I do, Your Honor.

24 THE COURT: After your advisory guideline range has
25 been determined, the Court does have the authority to depart

1 either within or outside of the framework of the advisory
2 guidelines and to impose a sentence that is more severe or less
3 severe than the sentence called for by the advisory guidelines;
4 do you understand that?

5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: In determining the sentence in this case,
7 I will consider your entire background and criminal history,
8 including the conduct described in the charge you're pleading
9 to, as well as any other relevant or similar conduct, whether
10 or not that conduct is charged in this case; do you understand
11 that?

12 THE DEFENDANT: I do, Your Honor.

13 THE COURT: For these reasons, Mr. Davidson, I want
14 you to understand that, as a practical matter, as you stand
15 before the Court today, you have no way of knowing with any
16 certainty what the consequences of your plea will be, because I
17 don't have the presentence report, I don't have the other
18 information that I ultimately will have to consider in
19 determining the sentence in this case and I don't know what the
20 consequences of your plea will be; do you understand that?

21 THE DEFENDANT: Yes, sir, I do.

22 THE COURT: As a result of your guilty plea, the facts
23 that may have an effect on the severity of the sentence for
24 your crime will be determined by me and not by a jury; do you
25 understand that?

1 THE DEFENDANT: I do, Your Honor.

2 THE COURT: By pleading guilty, you are giving up the
3 right to have a jury determine one way or the other the facts,
4 which, if proven to a jury beyond a reasonable doubt, might
5 result in a more severe sentence; do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, at this point, apropos of what I told
8 you just a minute ago, I don't even know if the sentence in
9 this case will include a term of incarceration. But if it
10 does, I want you to understand, in the federal system, parole
11 has been abolished and if you are sentenced to a term of
12 incarceration, you will not be released on parole; do you
13 understand that?

14 THE DEFENDANT: I do, Your Honor.

15 THE COURT: Now, we've got a plea agreement in this
16 case and that plea agreement includes some waiver provisions.
17 You certainly do have capable counsel, so I'm not going to go
18 through this plea agreement with you word for word, but there
19 are some things in it that I do want to touch on.

20 First of all, did you have thorough opportunity to
21 review and discuss the plea agreement with Mr. Coyle at or
22 before the time you signed it?

23 THE DEFENDANT: I did, sir.

24 THE COURT: Does this plea agreement represent your
25 entire understanding with the government about the disposition

1 of this case?

2 THE DEFENDANT: It does.

3 THE COURT: To the very best of your knowledge, do you
4 believe you understand the essential terms of this plea
5 agreement?

6 THE DEFENDANT: I believe I do, yes, sir.

7 THE COURT: Has anyone made any sort of a promise or
8 assurance of any kind to you, other than what is in this plea
9 agreement, in an effort to get you to plead guilty in this
10 case?

11 THE DEFENDANT: No, they have not, Your Honor.

12 THE COURT: Now, the law gives you certain appeal
13 rights and you have those appeal rights, unless you waive them
14 or give them up; do you understand that?

15 THE DEFENDANT: I do.

16 THE COURT: And in this plea agreement, you're waiving
17 most of your appeal rights; do you understand that?

18 THE DEFENDANT: Yes, sir, I do.

19 THE COURT: This waiver includes a waiver of your
20 right to appeal the sentence that I impose in this case, as
21 long as that sentence is within or below the advisory guideline
22 range that I apply in this case; do you understand that?

23 THE DEFENDANT: Yes, sir, I do.

24 THE COURT: And in this agreement, you're waiving
25 those rights, even though you do not yet know what your

1 sentence in this case will be; do you understand that?

2 THE DEFENDANT: Yes, sir, I do.

3 THE COURT: I want to look just briefly at those
4 waiver provisions. As I've said, you certainly do have capable
5 counsel, so I'm not going to go through it word for word, but I
6 do want to cover the essentials of those waiver provisions.
7 They're in Paragraph 12. And Paragraph 12 starts off by saying
8 I will consider the factors provided by law in determining the
9 sentence in this case. Paragraph 12 goes on to say that I do
10 have the jurisdiction and authority to impose any sentence up
11 to the maximum that Ms. Anderson mentioned a few minutes ago.

12 Paragraph 12 goes on to say that although you
13 ordinarily do have the right to appeal the judgment and
14 sentence imposed by the Court, in exchange for the promises and
15 concessions made by the government in this agreement, you're
16 giving up most of those rights.

17 First of all, you're giving up the right to appeal
18 your guilty plea and your conviction and any rulings made by
19 the Court; do you understand that?

20 THE DEFENDANT: Yes, sir, I do.

21 THE COURT: Secondly, with one exception that I'll
22 come to in a minute, you're waiving the right to appeal the
23 sentence that I impose, including any restitution and the
24 manner in which the sentence is determined, but that if I
25 impose the sentence above the advisory guideline range that I

1 apply in this case, then you do have the right to appeal the
2 reasonableness of the sentence; do you understand that?

3 THE DEFENDANT: Yes, sir, I do.

4 THE COURT: And Paragraph 12 says that you're giving
5 up the right to raise these issues in any other way aside from
6 appeal; do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And Paragraph 12 says that these waivers
9 remain in effect, even if I reject one or more of the
10 suggestions, and to the Court, that's all they are, is
11 suggestions, about sentencing set forth in Paragraph 10 of the
12 agreement; do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Finally, on the subject of waivers,
15 Paragraph 13 says that the government is also giving up its
16 right to appeal the sentence that I impose in this case and the
17 manner in which the sentence is determined, except that if I
18 impose a sentence below the advisory guideline range that I
19 apply, then the government likewise has the right to appeal the
20 reasonableness of the sentence; do you understand that?

21 THE DEFENDANT: Yes, sir, I do.

22 THE COURT: And you're waiving all these rights,
23 Mr. Davidson, even though you do not yet know what your
24 sentence in this case will be; do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand that you don't have a
2 right to withdraw your plea if I do not go along with the
3 suggestions in the plea agreement about sentencing?

4 THE DEFENDANT: I understand that.

5 THE COURT: Do you have any questions about these
6 waivers?

7 THE DEFENDANT: No, sir, I don't.

8 THE COURT: Mr. Davidson, do you agree with these
9 waivers?

10 THE DEFENDANT: Yes, sir, I do.

11 THE COURT: I want to cover with you some rights that
12 go along with having a jury trial, because by pleading guilty,
13 you're giving up these rights.

14 First of all, do you understand, sir, that you do have
15 a right to plead not guilty to any offense charged against you
16 and to persist in that plea and that you then have a right to a
17 trial by jury; do you understand that?

18 THE DEFENDANT: I do, Your Honor.

19 THE COURT: At that trial, you would be presumed to be
20 innocent and the government would have to prove your guilt
21 beyond a reasonable doubt; do you understand that?

22 THE DEFENDANT: I do, Your Honor.

23 THE COURT: At that trial, you would have the right to
24 the assistance of counsel for your defense, the right to see
25 and hear all the witnesses and have them cross-examined in your

1 defense, the right on your own part to decline to testify,
2 unless you voluntarily elected to do so in your own defense,
3 and the right to the issuance of subpoenas or compulsory
4 process to compel the attendance of witnesses to testify in
5 your defense; do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And if you were to decide not to testify
8 or put on any evidence, those facts could not be used against
9 you; do you understand that?

10 THE DEFENDANT: Yes, sir, I do.

11 THE COURT: By entering a plea of guilty, if that plea
12 is accepted by the Court, there will be no trial and you will
13 have waived or given up your right to a trial, as well as all
14 those other rights associated with a trial as I have just
15 described them; do you understand that?

16 THE DEFENDANT: Yes, sir, I do.

17 THE COURT: The government will please state the
18 elements of the offense to which the defendant is pleading
19 guilty.

20 MS. ANDERSON: Yes, Your Honor. The elements are,
21 Number 1, defendant made a false, fictitious or fraudulent
22 statement or representation to the government, specifically
23 that he had never received nonpublic information from D.R.
24 regarding three companies.

25 Two, defendant made the statement knowing it was

1 false. Three, the defendant made the statement willfully, that
2 is deliberately, voluntarily and intentionally. Four, the
3 statement was made in a manner within the jurisdiction of the
4 executive branch of the United States. And five, the statement
5 was material to the FBI.

6 THE COURT: Thank you. The government will now please
7 examine Mr. Davidson to establish the factual basis for the
8 plea.

9 And Mr. Davidson, if you would, pull that microphone a
10 little closer to you so that it picks you up as you answer
11 Ms. Anderson's questions.

12 MS. ANDERSON: Mr. Davidson, you live here in Oklahoma
13 City, correct?

14 THE DEFENDANT: I do.

15 MS. ANDERSON: And you've lived here for quite a
16 while?

17 THE DEFENDANT: I have.

18 MS. ANDERSON: If I refer to someone as D.R., do you
19 know who I'm referring to?

20 THE DEFENDANT: Yes, ma'am.

21 MS. ANDERSON: That's someone you've known for a very
22 long time?

23 THE DEFENDANT: Yes, ma'am.

24 MS. ANDERSON: Since junior high?

25 THE DEFENDANT: That's correct.

1 MS. ANDERSON: And roughly ten years ago, you and D.R.
2 reconnected; is that right?

3 THE DEFENDANT: That is correct.

4 MS. ANDERSON: And you became very close friends,
5 correct?

6 THE DEFENDANT: Yes, ma'am.

7 MS. ANDERSON: You spent time together, traveled
8 together, shared personal information?

9 THE DEFENDANT: Yes, ma'am.

10 MS. ANDERSON: And as part of that relationship, he
11 also shared information with you?

12 THE DEFENDANT: That's correct.

13 MS. ANDERSON: And in addition to personal information
14 about families and friends, he also shared information about
15 his work, correct?

16 THE DEFENDANT: Yes, ma'am.

17 MS. ANDERSON: Specifically, he shared that
18 information between about 2012 and about 2018?

19 THE DEFENDANT: Yes, ma'am.

20 MS. ANDERSON: And during that time, he was a board
21 member of Marathon Oil?

22 THE DEFENDANT: Yes, ma'am.

23 MS. ANDERSON: And during that time, he was a board
24 member of Dow Chemical or DowDuPont?

25 THE DEFENDANT: Yes, ma'am.

1 MS. ANDERSON: And during that time, he was also a
2 board member of Covidien?

3 THE DEFENDANT: Yes, ma'am.

4 MS. ANDERSON: And he provided you with nonpublic
5 information he had received from all three of those boards,
6 correct?

7 THE DEFENDANT: Yes, ma'am.

8 MS. ANDERSON: And he forwarded emails he received as
9 a board member?

10 THE DEFENDANT: Yes, ma'am.

11 MS. ANDERSON: He also talked directly with you on the
12 phone and in person?

13 THE DEFENDANT: Yes, ma'am.

14 MS. ANDERSON: And sometime between March 2014 and
15 May 15th, 2014, you specifically learned from D.R. about
16 developing negotiations about Covidien's merger with or
17 acquisition by Medtronic, correct?

18 THE DEFENDANT: That is correct.

19 MS. ANDERSON: And you understood that information to
20 be nonpublic, correct?

21 THE DEFENDANT: Yes, ma'am.

22 MS. ANDERSON: And on or about October 25th, 2018, you
23 were interviewed by an FBI special agent and an investigator
24 from the Securities Exchange Commission, correct?

25 THE DEFENDANT: Yes, ma'am.

1 MS. ANDERSON: And that interview was in your home?

2 THE DEFENDANT: It was.

3 MS. ANDERSON: And you invited them in and it was
4 voluntary, correct?

5 THE DEFENDANT: I did, and yes, it was.

6 MS. ANDERSON: And as the interview was happening, you
7 understood that they were investigating insider trading related
8 to Covidien, correct?

9 THE DEFENDANT: I did.

10 MS. ANDERSON: And during the interview, agents asked
11 you whether you had received from D.R. any nonpublic
12 information from his board work, correct?

13 THE DEFENDANT: That's correct.

14 MS. ANDERSON: And in response, did you state that
15 D.R. had never shared any information with you from his board
16 work until after that information became public?

17 THE DEFENDANT: I did say that, yes.

18 MS. ANDERSON: But that statement to the agents was
19 false, because you had, in fact, received nonpublic information
20 from D.R. that he had acquired from his board work at Covidien,
21 Marathon and Dow, correct?

22 THE DEFENDANT: Yes, ma'am.

23 MS. ANDERSON: And you knew it was false when you made
24 that statement, correct?

25 THE DEFENDANT: I did.

1 MS. ANDERSON: And you made that statement
2 deliberately, voluntarily and intentionally, correct?

3 THE DEFENDANT: Yes, ma'am.

4 MS. ANDERSON: And that statement was material to the
5 FBI and SEC's investigations, correct?

6 THE DEFENDANT: Yes, ma'am.

7 MS. ANDERSON: And you don't have any reason to
8 dispute that the FBI and the SEC have jurisdiction to
9 investigate insider trading, correct?

10 THE DEFENDANT: I do not.

11 MS. ANDERSON: Okay. Thank you.

12 THE COURT: Thank you.

13 Mr. Davidson, how do you now plead to the charge set
14 forth in the information: Guilty or not guilty?

15 THE DEFENDANT: I plead guilty, Your Honor.

16 THE COURT: It is the finding of the Court in the case
17 of United States of America versus John Kenneth Davidson that
18 the defendant is fully competent and capable of entering an
19 informed plea, that he is aware of the nature of the charges
20 and the consequences of the plea so far as those consequences
21 can be known at this time, and that the plea of guilty to the
22 charge set forth in the information is a knowing and voluntary
23 plea supported by an independent basis in fact containing each
24 of the essential elements of the offense charged in the
25 information. The plea is therefore accepted and the defendant

1 is now adjudged guilty of that offense.

2 Now, as you're undoubtedly well aware, the next step
3 will be the preparation of a presentence report by the
4 probation office. Has that appointment been set yet?

5 PROBATION OFFICER: We've already completed the
6 interview, Your Honor.

7 THE COURT: Okay, good. The probation office may need
8 some -- or request follow-up information. I urge you to
9 cooperate in every way with the probation office in providing
10 information to support their efforts in preparing the
11 presentence report, because although that report probably won't
12 be my only source of information to refer to in determining a
13 fair, just and lawful sentence in this case, it will certainly
14 be a very important source of information for me to use for
15 that purpose.

16 You and Mr. Coyle will have the opportunity to read
17 that report and file any objections to it before the sentencing
18 hearing. And you and Mr. Coyle will have the opportunity to
19 speak on your behalf at the sentencing hearing.

20 So you're now referred to the probation office for a
21 presentence investigation and report. You and Mr. Coyle should
22 be sure to lodge any objections to that report within the time
23 allotted by the rules.

24 And we've got one or two more things to touch on, but
25 first of all, question for government counsel. I don't care at

1 this point who D.R. is, as long as it's not David Russell, but
2 what's the status of D.R., if you're free to say? I don't want
3 to put you in a bind. If we put you in a bind, just tell me
4 and I won't pursue it.

5 MS. ANDERSON: May we approach?

6 THE COURT: Don't worry about it. Don't worry about
7 it. I suspect I'll probably know at some stage and so that's
8 fine.

9 We do -- I have signed the waiver of jury trial
10 document in the appropriate place and I hand it to the clerk
11 for filing. I'm looking at a pretrial services report that
12 recommends that the defendant be released on conditions,
13 including surrendering passport, not obtaining a new passport,
14 a firearms restriction and quite a few other restrictions that
15 I intend to have the clerk go over with you.

16 And let me -- this is a \$1 million unsecured bond,
17 which means that you're not putting up anything at this point,
18 but if you run, you're out a million dollars to begin with.

19 Does the government have any objection to release on
20 that basis?

21 MS. ANDERSON: No, Your Honor.

22 THE COURT: Okay. Mr. Davidson, let me echo what I'm
23 sure Mr. Coyle has already said to you and that is that you
24 will be under conditions of release. They really don't do a
25 whole lot more than require you to obey the law anyway, but if

1 there should be any significant deviation from your conditions
2 of release, then you would be right back here and the results
3 of that could be serious. So I urge you to certainly observe
4 Mr. Coyle's advice, which I'm sure is to the effect you have to
5 very scrupulously comply with your conditions of release.

6 And it is necessary for you to do two things yet this
7 afternoon. Number one, remain while Lori finishes up the
8 paperwork to get you released on the basis we have discussed.
9 Secondly, it is necessary to meet with the marshal to get that
10 process started with the U.S. Marshal.

11 Lori, is there anything else we need to cover this
12 afternoon?

13 THE CLERK: No, sir.

14 THE COURT: Anything further in this matter this
15 afternoon from the government?

16 MS. ANDERSON: No, Your Honor.

17 THE COURT: From the defendant?

18 MR. COYLE: Yes, sir. I would like to look at the
19 conditions of release if I could, and there are some of them --
20 I don't believe the government has recommended any conditions
21 of release --

22 THE COURT: Well --

23 MR. COYLE: And certainly not any for travel.

24 THE COURT: Okay. I'm going to hand them to Lori.

25 THE CLERK: She just handed him a set, Judge.

1 THE COURT: Okay. Go ahead.

2 (Discussion off the record between counsel.)

3 MR. COYLE: No, I understand that -- she just advised
4 me there's no pretrial supervision, so with that, there's
5 nothing further.

6 THE COURT: Well, he's got -- he's -- trust me, he's
7 under conditions of release.

8 MR. COYLE: I understand.

9 THE COURT: Okay. Okay. Anything further in this
10 matter from the government?

11 MS. ANDERSON: No.

12 THE COURT: From the defendant?

13 MR. COYLE: No, sir.

14 THE COURT: Court will be in recess.

15 (Court adjourned.)
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CERTIFICATE OF OFFICIAL REPORTER

I, Susan J. Fenimore, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Oklahoma, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 27th day of March, 2019

/s/SUSAN J. FENIMORE

Susan J. Fenimore, CSR, RPR
Federal Official Court Reporter