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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	10-CR-459 (SJ)
	:	
v.	:	May 23, 2011
	:	Brooklyn, New York
EDUARD BODRUNOV,	:	
	:	
Defendant.	:	
	:	
-----X	:	

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING  
BEFORE THE HONORABLE ROBERT M. LEVY  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:	UNITED STATES ATTORNEY BY: DANIEL BROWNELL, ESQ. ASSISTANT U.S. ATTORNEY
For the Defendant:	KENNETH J. SCHREIBER, ESQ.
Russian Interpreter:	ISABELLE AVRUTIN
Court Transcriber:	MARY GRECO TypeWrite Word Processing Service 211 N. Milton Road Saratoga Springs, NY 12866

Proceedings recorded by electronic sound recording,  
transcript produced by transcription service



1 THE CLERK: Criminal Cause For Pleading, United  
2 States v. Eduard Bodrunov, docket number 11-CR-458 [sic].

3 Please state your appearances for the record.

4 MR. BROWNELL: Daniel Brownell for the Government.  
5 Good afternoon, Your Honor.

6 MR. SCHREIBER: Kenneth Schreiber for the defendant.  
7 Good afternoon, Your Honor.

8 THE CLERK: I just need to correct it. I just gave  
9 the wrong docket number. It's 10-CR-459. I'm going to start  
10 by swearing in the interpreter.

11 (AT THIS TIME THE INTERPRETER, ISABELLE AVRUTIN, WAS SWORN.)

12 THE CLERK: Okay. And now I'm going to swear in the  
13 defendant.

14 (AT THIS TIME THE DEFENDANT, EDUARD BODRUNOV, WAS SWORN.)

15 THE COURT: Mr. Schreiber, what is your client going  
16 to do today?

17 MR. SCHREIBER: The defendant would offer to plead  
18 guilty to Count 1 of the indictment before this Court in full  
19 satisfaction of the indictment 10-CR459.

20 THE COURT: Good afternoon, sir. I see there's a  
21 consent form here in which Mr. Bodrunov has agreed to have me  
22 hear his guilty plea and make a recommendation to Judge  
23 Johnson.

24 MR. SCHREIBER: That's correct, Your Honor.

25 THE COURT: Are you satisfied that his consent is

1 knowing and voluntary?

2 MR. SCHREIBER: It is, Your Honor.

3 THE COURT: Do you have any questions about this  
4 consent form that you signed?

5 THE DEFENDANT: [No audible response.]

6 THE COURT: Did you agree to it voluntarily?

7 THE DEFENDANT: [Inaudible].

8 THE COURT: I'm going to ask you a lot of questions.  
9 If there's anything that I say that you don't understand, just  
10 ask me or consult with your lawyer.

11 Your statements will be made under oath. They have  
12 to be honest and complete. If they're not, you could be  
13 prosecuted for perjury. Do you understand?

14 THE DEFENDANT: Yes.

15 THE COURT: What is your full name?

16 THE DEFENDANT: Eduard Bodrunov.

17 THE COURT: How old are you?

18 THE DEFENDANT: 49.

19 THE COURT: What is the last level of schooling that  
20 you finished?

21 THE DEFENDANT: 10th grade.

22 THE COURT: Do you speak any English?

23 THE DEFENDANT: A little bit.

24 THE COURT: When you communicated with your lawyer,  
25 did you speak English or Russian?

1 THE DEFENDANT: When I would come and meet with my  
2 attorneys there was an interpreter [unintelligible] and some of  
3 my family members were present as well.

4 THE COURT: Do you believe that your lawyer  
5 understood everything that you said to him?

6 THE DEFENDANT: [Inaudible].

7 THE COURT: And do you believe he understood  
8 everything that -- do you believe that you understood  
9 everything he said to you?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Schreiber, do you agree?

12 MR. SCHREIBER: Absolutely, Your Honor. We've met  
13 extensively with numerous interpreters and discussed all the  
14 proceedings as well as today's anticipated proceeding.

15 THE COURT: Are you now or have you recently been  
16 under the care of a doctor or a psychiatrist?

17 THE DEFENDANT: I'm under a doctor's supervision now.

18 THE COURT: Are you receiving any medical treatment?

19 THE DEFENDANT: I think it's called therapy. I go to  
20 see a psychologist.

21 THE COURT: I see. Do you take any medication?

22 THE DEFENDANT: Yes.

23 THE COURT: In the past 24 hours have you taken any  
24 medicine or pills?

25 THE DEFENDANT: No. Friday was the last time.

1 THE COURT: All right. Do you feel any side effects  
2 from the medication?

3 THE DEFENDANT: No, I don't think so.

4 THE COURT: Does the medication make you sleepy or  
5 make it difficult for you to understand?

6 THE DEFENDANT: No, I understand everything fine and  
7 usually I take that medication at night so I could sleep  
8 better.

9 THE COURT: And the therapy that you're receiving, is  
10 that related to anxiety or another condition?

11 THE DEFENDANT: My nerves are really in bad shape.

12 THE COURT: Has that condition affected your ability  
13 to understand or make decisions about this case?

14 THE DEFENDANT: No.

15 THE COURT: Have you taken any narcotic drugs or  
16 drunk alcoholic beverages in the last 24 hours?

17 THE DEFENDANT: No.

18 THE COURT: Other than the treatment with the  
19 psychologist, have you ever been hospitalized or treated for a  
20 mental or emotional condition?

21 THE DEFENDANT: No.

22 THE COURT: Have you ever been hospitalized or  
23 treated for alcoholism or a narcotic addiction?

24 THE DEFENDANT: I have a question for the attorney.

25 [Pause in proceedings.]

1 THE DEFENDANT: No. The answer is no.

2 THE COURT: Is your mind clear now?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand why you're here and  
5 what's happening here today?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. I'm going to ask your  
8 attorney some questions now.

9 Have you discussed this matter fully with your  
10 client?

11 MR. SCHREIBER: Yes, Your Honor.

12 THE COURT: Does he understand the rights that he  
13 would be waiving by pleading guilty?

14 MR. SCHREIBER: He does completely.

15 THE COURT: Is he capable of understanding the nature  
16 of these proceedings?

17 MR. SCHREIBER: Yes, Your Honor.

18 THE COURT: Do you have any doubts as to his  
19 competence to plead at this time?

20 MR. SCHREIBER: None at all.

21 THE COURT: Have you advised him of the possible  
22 sentence and other penalties that he would face if he pleads  
23 guilty?

24 MR. SCHREIBER: I have.

25 THE COURT: Have you explained to him the effect of

1 the sentencing guidelines?

2 MR. SCHREIBER: I have.

3 THE COURT: Have you explained to him that there's no  
4 guarantee at this time what his sentence will be?

5 MR. SCHREIBER: I have.

6 THE COURT: Do you think he understood all of your  
7 discussions?

8 MR. SCHREIBER: Completely.

9 THE COURT: Sir, did you hear what your lawyer said?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you agree with his statements?

12 THE DEFENDANT: Yes.

13 THE COURT: Have you discussed your case with him  
14 fully?

15 THE DEFENDANT: Of course.

16 THE COURT: Are you satisfied to have him represent  
17 you?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, I have a copy of the indictment  
20 which states the charges against you. Have you had the  
21 indictment translated into Russian for you?

22 THE DEFENDANT: Yes.

23 THE COURT: And did you discuss it with your lawyer?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you have any questions at all about

1 the charges?

2 THE DEFENDANT: No.

3 THE COURT: I'm going to ask the Government briefly  
4 to explain the charges against this defendant.

5 MR. BROWNELL: Judge, this defendant, along with  
6 numerous other defendants, are charged in a money laundering  
7 slash health care fraud conspiracy. All the defendants in this  
8 case operated retail durable medical equipment companies. Over  
9 the life of these companies, and some of these defendants  
10 operated more than one which includes this particular  
11 defendant, they defrauded no fault insurance companies by  
12 knowingly filing false claims. The claims were false in that  
13 they were supported by wholesale durable medical equipment  
14 invoices that inflated the actual price for the durable medical  
15 equipment anywhere from eight to 15 times so that when the  
16 insurance companies paid on those claims, obviously they were  
17 paying for amounts that were grossly inflated above the actual  
18 price of those particular items of equipment.

19 THE COURT: Any question about the Government's  
20 statements or about the charge?

21 THE DEFENDANT: No, I don't have.

22 THE COURT: All right. I'm going to go briefly  
23 through an explanation of your rights. These will be rights  
24 that you'll give up if you plead guilty.

25 Do you understand that it is your right to plead not

1 guilty if you wish?

2 THE DEFENDANT: Yes.

3 THE COURT: If you continue to plead not guilty, it  
4 is your right under the constitution and laws of this country  
5 to a speedy and public trial before a jury with the help of  
6 your lawyer on the charges contained in the indictment that was  
7 just explained to you. Do you understand?

8 THE DEFENDANT: Yes.

9 THE COURT: If you cannot afford to retain an  
10 attorney, the Court will ensure that you have counsel appointed  
11 to advise and represent you at all stages of the case all the  
12 way through trial and on appeal of any conviction if there is  
13 one at no cost to you.

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that at your trial you  
16 would be presumed innocent? You would not have to present any  
17 evidence or prove your innocence. The Government would have to  
18 prove that you're guilty by competent evidence admissible in  
19 Court and persuade a jury beyond a reasonable doubt of your  
20 guilt on each charge. Do you understand?

21 THE DEFENDANT: I understand.

22 THE COURT: Even if you did everything the Government  
23 has accused you of, if the Government cannot persuade a jury  
24 beyond a reasonable doubt the jurors would have a duty to find  
25 you not guilty. Understand?

1 THE DEFENDANT: I understood.

2 THE COURT: Now, if you go to trial the Government  
3 would have to bring its witnesses to Court. They would have to  
4 testify in your presence. Your lawyer would have the right to  
5 cross examine them, to object to the Government's evidence, and  
6 to present evidence in your defense.

7 THE DEFENDANT: I understand.

8 THE COURT: At your trial you would also have the  
9 right to compel the attendance of witnesses that you wish to  
10 testify at trial. At your trial, you would also have the right  
11 to testify but only if you chose to do so. No one can force  
12 you to testify. It's your Fifth Amendment right to remain  
13 silent and not to incriminate yourself.

14 THE DEFENDANT: Okay. I understand.

15 THE COURT: So if you decided to go to trial but  
16 choose not to testify, the trial judge would instruct the  
17 jurors that they could not hold that against you and assume  
18 that you're guilty because you did not testify in your  
19 defense.

20 THE DEFENDANT: I understand.

21 THE COURT: Now, do you understand that if you plead  
22 guilty and if the Court accepts your guilty plea, you will be  
23 giving up your right to a trial, the right to remain silent,  
24 and all the rights that I just explained. You will not have a  
25 trial. The Court will enter a judgment that you're guilty

1 based on what you say here today, and you will have no right to  
2 appeal from that judgment of guilt.

3 THE DEFENDANT: Yes.

4 THE COURT: If you do plead guilty, you'll have to  
5 explain to me what you did.

6 THE DEFENDANT: Yes.

7 THE COURT: When you do that, you give up your right  
8 to remain silent and not to incriminate yourself.

9 THE DEFENDANT: Yes.

10 THE COURT: Do you have any questions about anything  
11 that I've said?

12 THE DEFENDANT: No.

13 THE COURT: All right. Are you willing to give up  
14 your right to a trial, the right to remain silent, and the  
15 other rights I just explained?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, I understand you're pleading guilty  
18 pursuant to an agreement that has been marked as Exhibit 1.

19 (AT THIS TIME COURT EXHIBIT 1 MARKED)

20 THE DEFENDANT: Yes.

21 THE COURT: It's dated today, May 23rd, and there is  
22 what appears to be your signature above a signature line with  
23 your name on it.

24 THE DEFENDANT: Yes.

25 THE COURT: Did you sign that here today?

1 THE DEFENDANT: Yes, just now.

2 THE COURT: And was the agreement translated into  
3 Russian for you?

4 [Pause in proceedings.]

5 THE DEFENDANT: Yes.

6 THE COURT: Were you able to discuss it with your  
7 attorney?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand it?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you have any questions about the Plea  
12 Agreement?

13 THE DEFENDANT: No.

14 THE COURT: Mr. Schreiber, is this the only current  
15 agreement between you and the Government?

16 MR. SCHREIBER: It is, Your Honor.

17 THE COURT: Mr. Brownell?

18 MR. BROWNELL: Yes, Your Honor.

19 THE COURT: All right. According to Paragraph 1 you  
20 will plead guilty to Count 1 for which you would face a penalty  
21 from zero to ten years in prison. Do you understand?

22 THE DEFENDANT: Yes.

23 THE COURT: If you are sentenced to prison, there's a  
24 penalty of up to three years on supervised release. Do you  
25 understand what that means?

1 THE DEFENDANT: Well, go through it.

2 THE COURT: Okay. Supervised release means that you  
3 would be released under the supervision of the Probation  
4 Department. They would have conditions that you would have to  
5 follow. You could not change your address without letting them  
6 know. You would have to report regularly. You may have to  
7 have a job. There are a number of conditions. You can't  
8 commit any crimes.

9 THE DEFENDANT: I understand.

10 THE COURT: If you violate any of those conditions  
11 there's a separate penalty of up to two years in prison with no  
12 credit for the time you'd been in prison on this case or on  
13 supervised release. Do you understand? Yes?

14 THE DEFENDANT: Yes.

15 THE COURT: There's a possible fine of \$250,000.00 or  
16 twice the pecuniary gain, whichever is greater.

17 THE DEFENDANT: I didn't understand.

18 THE COURT: There is a fine, you may have to pay a  
19 fine as part of this case which could be up to \$250,000.00 or  
20 twice the financial gain from the crime, whichever is greater.

21 THE DEFENDANT: Now I understand.

22 THE COURT: Have you had a chance to discuss that  
23 with your lawyer?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you have any questions?

1 THE DEFENDANT: No.

2 THE COURT: There's also restitution which is  
3 mandatory and the Court would determine the amount. Do you  
4 understand?

5 THE DEFENDANT: Yes.

6 THE COURT: There's a fee called a special assessment  
7 of \$100.00 which you have to pay. And there is a penalty of  
8 criminal forfeiture which is explained in the agreement.

9 THE DEFENDANT: Yes, I know.

10 THE COURT: Let me just ask the Government what it  
11 thinks it would like to put on the record with respect to the  
12 forfeiture.

13 MR. BROWNELL: Judge, the forfeiture which is joint  
14 and several because this defendant participated with regard to  
15 the particular retail company with other people is the amount  
16 of money that via checks that these particular retail companies  
17 paid to fraudulent wholesale companies that ended up  
18 cooperating with the Government. So the total amount -- it's  
19 actually -- it's the health care fraud slash money laundering  
20 amount that the retails companies that this particular  
21 defendant participated in paid to as I said the fraudulent  
22 wholesale companies. That's how that figure was derived.

23 THE COURT: Has that been calculated?

24 MR. BROWNELL: It has, Your Honor.

25 THE COURT: And is that in the Plea Agreement?

1 MR. BROWNELL: It is. Your Honor, I think it's  
2 Paragraph 5. I apologize, Judge. It's different for every  
3 defendant.

4 MR. SCHREIBER: It's listed right here.

5 MR. BROWNELL: Yeah, but that's just the loss amount.  
6 \$407,292.00, Your Honor. It's Paragraph 5.

7 THE COURT: Do you understand, Mr. Bodrunov? Have  
8 you discussed that with your lawyer?

9 THE DEFENDANT: Yes.

10 THE COURT: Mr. Schreiber, are you satisfied that  
11 your client understands the forfeiture provision?

12 MR. SCHREIBER: I am, Your Honor.

13 THE COURT: All right. Now sentencing is based on a  
14 number of factors. One factor is the sentencing guidelines.  
15 Have you discussed with your lawyer what the guidelines are and  
16 how they work?

17 THE DEFENDANT: Yes.

18 THE COURT: So the guidelines are guides to help  
19 Judge Johnson decide how to sentence you. He will calculate  
20 the guideline range and then decide whether to sentence you  
21 within the guidelines or above or below the guideline range.  
22 No one knows for sure what the guideline range will be in this  
23 case. Do you understand?

24 THE DEFENDANT: [No audible response.]

25 THE COURT: Now there are estimates in the Plea

1 Agreement and your lawyer may have given you an estimate, but  
2 those are just estimates. Judge Johnson will have the final  
3 say. Do you understand?

4 THE DEFENDANT: [No audible response.]

5 THE COURT: So the Plea Agreement has the  
6 Government's estimate of the guideline range. What would that  
7 be?

8 MR. BROWNELL: Judge, 21 with acceptance of  
9 responsibility and then there's a possibility of another global  
10 point. This would make it 20.

11 THE INTERPRETER: I'm sorry, [inaudible]?

12 MR. BROWNELL: 21 points.

13 THE COURT: Anything the defense would add?

14 MR. SCHREIBER: No, Your Honor.

15 THE COURT: Any questions?

16 THE DEFENDANT: [No audible response.]

17 THE COURT: And in addition to the guideline range  
18 the Court will evaluate the circumstances of the offense, your  
19 background, your respect for the law, what would be just  
20 punishment, deterrence, protection of the public from further  
21 crimes, and your need for effective correctional treatment.  
22 These are the criteria under the statute. Do you understand?

23 THE DEFENDANT: Yes.

24 THE COURT: Any question about sentencing?

25 THE DEFENDANT: No.

1 THE COURT: All right. There's no guarantee at this  
2 time what your sentence will be. Do you understand that?

3 THE DEFENDANT: I understand.

4 THE COURT: Now if you are sentenced to prison there  
5 is no early release on parole in Federal Court.

6 THE DEFENDANT: Okay.

7 THE COURT: Do you understand what that means?

8 THE DEFENDANT: I understand.

9 THE COURT: Okay.

10 THE DEFENDANT: It means whatever sentence I'll get,  
11 I'll be spending it in jail.

12 THE COURT: Yes. There may be some provisions for  
13 good time but that's nothing that we can predict at this point.

14 THE DEFENDANT: I understand.

15 THE COURT: Do you have any questions that you'd like  
16 to ask me? Anything for your lawyer that you'd like to discuss  
17 confidentially at this time?

18 THE DEFENDANT: No.

19 THE COURT: Are you ready to plead?

20 THE DEFENDANT: Yes.

21 THE COURT: Mr. Schreiber, is there any reason why  
22 Mr. Bodrunov should not plead guilty to Count 1?

23 MR. SCHREIBER: No, Your Honor.

24 THE COURT: As to Count 1, how do you plead, Mr.  
25 Bodrunov; guilty or not guilty?

1 THE DEFENDANT: I plead guilty, yes.

2 THE COURT: Are you pleading guilty voluntarily?

3 THE DEFENDANT: Yes.

4 THE COURT: Has anyone forced you or threatened you  
5 to make you agree to plead guilty?

6 THE DEFENDANT: No.

7 THE COURT: Has anyone promised you anything that's  
8 not in the Plea Agreement that made you agree to plead guilty?

9 THE DEFENDANT: No, nobody promised me anything.

10 THE COURT: Did anyone promise you what your sentence  
11 will be?

12 THE DEFENDANT: Nobody promised me anything.

13 THE COURT: All right. So can you tell me what it is  
14 that makes you guilty of this charge?

15 THE DEFENDANT: From January 2004 to my arrest June  
16 2010 I worked for a number of companies including  
17 [unintelligible] the supply which location Brooklyn, New York.  
18 This company supplied durable medical goods to people injured  
19 in car accidents. During the course of my involvement with the  
20 company I agreed with others [unintelligible] the submission of  
21 fraudulent claims which contained fake information for  
22 reimbursable medical expenses for various insurance company in  
23 accordance which New York State no fault insurance  
24 [unintelligible].

25 THE COURT: Is that satisfactory for the Government?

1 MR. BROWNELL: It is, Your Honor.

2 THE COURT: And remind me which borough were you in  
3 when you did this? Were you in Brooklyn?

4 THE DEFENDANT: In Brooklyn in Sheepshead Bay.

5 THE COURT: And this took place between January of  
6 2004 and June of 2010?

7 THE DEFENDANT: Yes.

8 THE COURT: Anything else from the defense?

9 MR. SCHREIBER: I'm sorry, Your Honor?

10 THE COURT: Anything else from the defense?

11 MR. SCHREIBER: No, Your Honor.

12 THE COURT: Mr. Bodrunov, I find that you're acting  
13 voluntarily, you fully understand your rights and the charges  
14 against you, the rights you're giving up by pleading guilty,  
15 the consequences of your guilty plea including the possible  
16 sentence, fine, restitution, forfeiture and other penalties. I  
17 find that there is a factual basis for the plea, you did in  
18 fact do what's charged in Count 1 and that you understand that  
19 there's no guarantee what your sentence will be.

20 I therefore recommend that Judge Johnson accept your  
21 plea of guilty to Count 1.

22 THE DEFENDANT: Okay.

23 THE CLERK: Sentencing is set for September 22, 2011  
24 at 9:30 a.m. before Judge Johnson.

25 MR. SCHREIBER: Thank you very much.

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THE COURT: And bail is continued.

MR. SCHREIBER: Yes, Your Honor.

MR. BROWNELL: Yes.

MR. SCHREIBER: You said September?

THE CLERK: 22nd.

THE COURT: Good luck, Mr. Bodrunov.

\* \* \* \* \*

1 I certify that the foregoing is a court transcript from an  
2 electronic sound recording of the proceedings in the above-  
3 entitled matter.

*Mary Greco*

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Mary Greco

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Dated: June 19, 2011

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