

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

UNITED STATES OF AMERICA

v.

RICK WEAVER BUICK GMC INC.

Criminal No. 16-30 Erie

AGREEMENT FOR PRETRIAL DIVERSION

It appearing that you have committed an offense against the United States from in and around May 2015 to in and round March 2016, in violation of Title 18, United States Code, Sections 1343 and 1349, in that you are charged with wire fraud and conspiracy to commit wire fraud, as set forth in the Superseding Indictment attached hereto as Appendix "A".

Upon your accepting responsibility for your behavior and by your signature on this Agreement\*, it appearing, after an investigation of the offense, and of your background, that the interest of the United States and your own interest and the interest of justice will be served by the following procedure; therefore on the authority of the Attorney General of the United States, by Scott W. Brady, United States Attorney for the Western District of Pennsylvania, prosecution in this District for this offense shall be deferred for the period of thirty-six months (36) from this date, provided you abide by the following conditions and requirements of the Pretrial Diversion program set out below.

Should you violate the conditions of this supervision, the United States Attorney may revoke or modify any conditions of this pretrial diversion program or change the period of supervision which shall in no case exceed thirty-six months. The United States Attorney may release you from supervision at any time. The United States Attorney may, at any time within the period of your supervision, re-initiate prosecution for this offense should you violate the conditions of this supervision. The United States Attorney may re-initiate prosecution for this offense for a reasonable period of time after the period of your supervision has ended for violations that occurred during the period of supervision. If the prosecution is resumed, the United States Attorney will furnish you with notice specifying the conditions of your program which you have violated.

If, upon completion of your period of supervision, a pretrial diversion report is received to the effect that you have complied with all the rules, regulations and conditions mentioned herein, no further criminal prosecution for the offense set out on page 1 of this Agreement will be pursued in this District, and the Superseding Indictment at Criminal No. 16-30 Erie will be discharged.

Neither this agreement nor any other document filed with the United States Attorney as a result of your participation in the Pretrial Diversion Program will be used against

disclosures provided for in this Pretrial Diversion Agreement to the monitor, and Rick Weaver Buick GMC Inc.'s disclosure of otherwise privileged or confidential information to the monitor will not be deemed a waiver of such privilege or confidentiality as to any third party, except as specifically provided for in this Pretrial Diversion Agreement. The monitor shall provide detailed reports to the United States Attorney on March 1, 2019, July 1, 2019, February 1, 2020, July 1, 2020, February 1, 2021, and July 1, 2021, regarding the status of Rick Weaver Buick GMC' Inc.'s compliance with this Agreement.

**(4) Independent, Annual Audit** - Rick Weaver Buick GMC Inc. has selected **LBMC, PC** as the independent accounting professional or accounting entity acceptable to the United States Attorney, to conduct an annual audit of the business operation and the books and records of Rick Weaver Buick GMC Inc. An audit report shall be produced and provided to the U.S. Attorney on or before December 31, 2019, December 31, 2020, and December 31, 2021.

a. The annual audit of Rick Weaver Buick GMC Inc. will verify that all policies and procedures have been followed and whether Rick Weaver Buick GMC Inc. has properly addressed any policy violations discovered in Rick Weaver Buick GMC Inc.'s own internal audits. During the independent audit, the entity or firm may utilize a statistical acceptable sample rate as deemed appropriate according to established national audit and accounting standards. However, the sample rate may not be less than 150 sales and/or a 90 percent confidence rate, whatever is greater. The sample must include at least two-thirds of used vehicle sales regardless of the sample size chosen. The audit will examine all vehicle sales during that calendar year and since the date of the prior audit.

b. Rick Weaver Buick GMC Inc. will provide the United States Attorney's Office and the FBI full access to the finalized audit report, any notes, and files, along with any communication, regardless of the nature, between the auditing firm and Rick Weaver Buick GMC Inc. Furthermore, Rick Weaver Buick GMC Inc. will allow the United States Attorney's and the FBI direct access to the auditor for questioning and to obtain any answers sought by the United States.

**(5) Restitution** - Rick Weaver Buick GMC has paid full restitution to the following financial institutions in the total amount of \$143,794.24; \$29,541 to M&T Bank, \$63,735.49 to Erie Federal Credit Union, \$32,114.73 to First Commonwealth Bank, \$6,449.63 to Fifth Third Bank, \$13,797.14 to Huntington National Bank.

**(6) Monetary Penalty** - Rick Weaver Buick GMC Inc. has paid a monetary penalty of \$400,000.00 payable to the United States Treasury.

**(7) Certification of President, Secretary and Treasurer** - Annually on the anniversary of the Effective Date of this agreement, the President of Rick Weaver Buick GMC Inc. shall certify in writing to the United States Attorney: (1) that Rick Weaver Buick GMC Inc. is in compliance with this Pretrial Diversion Agreement; (2) that the semi-annual reports of the monitor and the annual audit fairly present the status of Rick Weaver Buick GMC Inc.'s compliance with this Pretrial Diversion Agreement; (3) that they have disclosed to the monitor and the United States Attorney any matters indicating any potential non-compliance with the terms of

you except for impeachment purposes, in connection with any criminal prosecution for the above-described offense.

Conditions of Pretrial Diversion

(1) **Violation of Law Prohibited** - Rick Weaver Buick GMC Inc. shall not violate any law (federal, state, or local). Rick Weaver Buick GMC Inc. shall immediately contact its pretrial diversion supervisor and the United States Attorney's Office if any owner, director, shareholder, or employee of Rick Weaver Buick GMC Inc. is questioned by any law enforcement officer relative to matters arising within the context of the business operation at Rick Weaver Buick GMC Inc.

(2) **Adoption of Remedial Policies and Procedures and Compliance and Ethics Program to Prevent and Detect Fraud.**

**a. Policy and Procedures Manual.** Rick Weaver Buick GMC Inc. agrees to amend its existing policies and procedures and to adopt and implement a new policies and procedures relating to the integrity of its company-wide compliance/ethics program set forth in Appendix B to this Pretrial Diversion Agreement on or before the Implementation Date set forth in Appendix B.

**b. Employee Training.** Rick Weaver Buick GMC Inc. agrees that its owner, officers and each of its employees who are involved in the sales, financing and insurance associated with Rick Weaver Buick GMC Inc.'s automotive sales will be trained on the details of the Rick Weaver Buick GMC Inc. policy and procedures manual (Appendix B). Rick Weaver Buick GMC Inc. also agrees that all supervisory level employees will regularly attend and participate in ethics seminars and presentations offered within the surrounding area and/or online training offered by the Monitor identified below or other reputable training providers. The employees intended to be covered under this paragraph b. are set forth on the organizational chart attached hereto in Appendix C, and are intended to include any employee who replaces any of the individuals identified on Appendix C.

**c. Annual Employee Certification.** Rick Weaver Buick GMC Inc. agrees that every employee required to be trained as discussed in paragraph 2a, shall sign an acknowledgement letter, witnessed by the employee's supervisor acknowledging their understanding of, and agreement to adhere to, the requirements of the policy manual. This certification shall be signed and re-certified annually.

(3) **Monitor** - The United States Attorney and Rick Weaver Buick GMC designate **KPA, LLC**, 1380 Forest Park Circle, Lafayette, Colorado. (or another independent person or entity designated by the U.S. Attorney and acceptable to Rick Weaver Buick GMC) to serve as a monitor of Rick Weaver Buick GMC's compliance with federal law, the terms of this Pretrial Diversion Agreement, and Rick Weaver Buick GMC's compliance with the Policy and Procedures manual attached as Appendix B. Rick Weaver Buick GMC shall not unreasonably withhold its consent to another monitor proposed by the United States Attorney if **KPA, LLC**, cannot or can no longer serve as the monitor. Rick Weaver Buick GMC shall pay all fees and costs of such a monitor for a period of three (3) years from the date this Pretrial Diversion Agreement is executed by Rick Weaver Buick GMC Inc. Rick Weaver Buick GMC Inc. shall provide all information and

the Pretrial Diversion Agreement; and (4) whether there have been any significant changes in policies, procedures, or internal controls that could affect compliance with this Pretrial Diversion Agreement in the future.

**(8) Obligation not to Employ Supervisory Personnel who Have Engaged in Fraudulent Activities or other Conduct Inconsistent with the Compliance and Ethics Program** - Rick Weaver Buick GMC Inc. shall use reasonable efforts not to include within its organization's supervisory personnel any individual whom Rick Weaver Buick GMC Inc. knows, or should have known through the exercise of due diligence, has engaged in illegal or fraudulent activities or other conduct inconsistent with the compliance and ethics program required by and set forth in this agreement. Rick Weaver Buick GMC, Inc. shall be permitted to employ Adam Weaver in the role of Fixed Operations Specialist, which employment shall be limited to the job description attached hereto as Appendix D.

**(9) Sale, Disposition, Merger of Rick Weaver Buick GMC Inc.** - Rick Weaver Buick GMC Inc. agrees that, if it alters, sells, disposes of, or merges its business operations as they exist as of the date of this Pretrial Diversion Agreement to or into a single purchaser or group of purchasers; or, if it combines or connects Rick Weaver Buick GMC Inc. with any other individuals or business entities, during the first 24 months from the Effective Date of this Agreement, or in any other way alters the corporate/business structure of its business operations, it shall include in any contract for sale, merger, disposition, combination or affiliation, a provision binding the purchaser/successor/partner or affiliate to the obligations described in this agreement.

**(10) Effective Date** - This agreement becomes effective on the date it is executed by Rick Weaver Buick GMC Inc. Upon execution of this agreement, Rick Weaver Buick GMC shall insert the date of execution here:

**EFFECTIVE DATE OF SETTLEMENT AGREEMENT:** January 15, 2019

This agreement must be executed by Rick Weaver Buick GMC on or before January 15, 2019, If this agreement is executed after January 15, 2019, it shall be void.

**(11) Term of Agreement** - The term of this agreement begins at 5:00 p.m. on the Effective Date and expires at 11:59 p.m. on the third anniversary of the Effective Date.

**(12) Representation of Authority** - Rick Weaver Buick GMC Inc. warrants and represents that it is authorized to enter into this agreement and that the persons signing this agreement have the authority to bind Rick Weaver Buick GMC Inc. It is further understood that this agreement is binding only upon the United States Attorney and Rick Weaver Buick GMC.

**(13) Modification** - This agreement may not be modified except in writing and signed by all the parties.

**(14) Public Disclosure of Settlement Agreement.** - Rick Weaver Buick GMC Inc. and the United States Attorney agree that this agreement may be publicly disclosed by the United States Attorney.

(14) **Public Disclosure of Settlement Agreement.** - Rick Weaver Buick GMC Inc. and the United States Attorney agree that this agreement may be publicly disclosed by the United States Attorney.

ACKNOWLEDGMENT, WAIVER AND ACCEPTANCE

I assert and certify that I am aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial.


I am also aware that the Speedy Trial Act, Title 18, United States Code, Section 3161(c)(1) (1975) provides that the trial of a criminal case shall take place within seventy (70) days of the arraignment, September 26, 2016, in my case, unless delayed as provided by law. I understand that the period of time required for the preparation of the Pretrial Services Report concerning my application for consideration for the Pretrial Diversion Program and the period of time during which I shall participate in the Pretrial Diversion Program are excludable for purposes of the seventy (70) day rule.

I also am aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an indictment or information or in bringing a defendant to trial.

I hereby request that the United States Attorney for the Western District of Pennsylvania defer any prosecution of me for violation of Title 18, United States Code, Sections 1349 and 1343, for the period of thirty-six (36) months, and to induce him to defer such prosecution, I agree and consent that any delay from the date of this Agreement to the date of any reinitiation of the criminal prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at my request, and I waive any defense to such prosecution on the ground that such delay operated to deny my rights under Section 3161(c)(1) of the Speedy Trial Act, Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial, or to bar the prosecution by reason of the running of the statute of limitations for a period of twelve months, which is the period of this Agreement.

I hereby state that the above has been read and explained to me. I understand the conditions of my pretrial diversion and agree that I will comply with them.

Rick Weaver Buick GMC, Inc.

By:   
Bethany Weaver, Vice President  
Defendant

Date 1/15/19

  
Michael A. Agresti  
Counsel for Defendant

Date 1/15/19

  
Christian A. Trabold  
Assistant U.S. Attorney

Date 1/15/19

  
Pretrial Diversion Coordinator or Program  
Supervisor

Date 1-15-19

\*Any statement made by you in this Agreement will not be admissible on the issue of guilt in any subsequent criminal proceeding.