

Examples of Plea Bargains ¹

An example of this third type of waiver is the following excerpt from an agreement under which the true-life organized crime figure portrayed in the movie *Goodfellas* agreed to testify against his associates:

In addition, in the event that you do not fully comply with all the other terms of this understanding (immediate full and truthful disclosure, testimony, etc.), this agreement will be nullified. Should this occur, the Government will be free to prosecute you with regard to any and all violations of the federal criminal law in which you may have participated, and to use against you any and all statements made by you and testimony you have given prior and subsequent to the date of this agreement.²

The standard agreement in use in the Eastern District of New York is quite similar to the one in *Stirling*:

If the Office determines that [the cooperator] has cooperated fully, provided substantial assistance to law enforcement authorities and otherwise complied with the terms of this agreement, the Office will file a motion with the sentencing court setting forth the nature and extent of [his] cooperation. . . . In this connection it is understood that the Office's determination of whether [the cooperator] has cooperated fully and provided substantial assistance, and the Office's assessment of the value, truthfulness, completeness and accuracy of the cooperation, shall be binding upon [him].... Should it be judged by the Office that [the cooperator] has failed to cooperate fully, or has intentionally given false, misleading or incomplete information or testimony . . . [he] shall thereafter be subject to prosecution for any federal criminal violation of which the Office has knowledge, including, but not limited to, perjury and obstruction of justice.³

Reason for the one-sidedness: The Prosecutor has a good reputation, but the defendant does not.

¹Excerpted from *Mezzanatto and the Economics of Self Incrimination* (*Cardozo Law Review*), Eric Rasmusen, Indiana University School of Business, Rm. 456, 1309 E 10th Street, Bloomington, Indiana, 47405-1701. Secretary: 812-855-9219. Direct: 812-855-3356. Fax: 812-855-3354. Erasmuse@indiana.edu. [Http://www.rasmusen.org](http://www.rasmusen.org).

²Nicholas Pileggi, *WISE GUY* 283 (1985).

³Graham Hughes, *Agreements for Cooperation in Criminal Cases*, 45 *Vand. L. Rev.* 1, 41 (1992). , at 38.