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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

USMAN HAYAT,

Defendant.

NO. CR04-342M

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Annette L. Hayes, Assistant United States Attorney for said District, and the defendant, USMAN HAYAT, and his attorney, Carol Koller, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charge. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to Transmitting Interstate/Foreign Communications with Intent to Extort, as charged in Count One of the Indictment, in violation of Title 18, United States Code, Section 875(d). By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document. Defendant further understands that before entering his plea of guilty, Defendant will be placed under oath. Any statement given by Defendant under oath may be used by the government in a prosecution for perjury or false statement.

2. Elements of the Offense. The elements of the offense of Transmitting

1 Interstate/Foreign Communications with Intent to Extort, as charged in Count One, in  
2 violation of Title 18, United States Code, Section 875(d), are as follows:

3 a. First, Defendant transmitted a communication containing a threat to  
4 injure the property or reputation of the addressee;

5 b. Second, Defendant transmitted the communication with the intent to  
6 extort from a person, firm, association or corporation any money or other thing of value;  
7 and,

8 c. Third, the communication was transmitted in interstate or foreign  
9 commerce.

10 3. The Penalties. Defendant understands that the statutory penalties for the  
11 offense of Transmitting Interstate/Foreign Communications with Intent to Extort, as  
12 charged in Count One are imprisonment for up to two (2) years, a fine of up to two  
13 hundred and fifty thousand dollars (\$250,000.00), a period of supervision following  
14 release from prison of up to one (1) year, and a one hundred dollar (\$100.00) penalty  
15 assessment. If defendant receives a sentence of probation, the probationary period could  
16 be up to five (5) years. Defendant agrees that the penalty assessment shall be paid at or  
17 before the time of sentencing.

18 Defendant understands that in addition to any term of imprisonment and/or  
19 fine that is imposed, the Court may order Defendant to pay restitution to any victim of the  
20 offense, as required by law. Defendant further understands that a consequence of pleading  
21 guilty may include the forfeiture of certain property either as a part of the sentence  
22 imposed by the Court, or as a result of civil judicial or administrative process.

23 Defendant agrees that any monetary penalty the Court imposes, including the special  
24 assessment, fine, costs or restitution, is due and payable immediately, and further agrees to  
25 submit a completed Financial Statement of Debtor form as requested by the United States  
26 Attorney's Office.

27 Defendant understands that supervised release is a period of time following  
28 imprisonment during which he will be subject to certain restrictions and requirements.

1 Defendant further understands that if supervised release is imposed and he violates one or  
2 more of its conditions, he could be returned to prison for all or part of the term of  
3 supervised release that was originally imposed. This could result in Defendant serving a  
4 total term of imprisonment greater than the statutory maximum stated above.

5 4. Rights Waived by Pleading Guilty. Defendant understands that, by pleading  
6 guilty, he knowingly and voluntarily waives the following rights:

7 a. The right to plead not guilty, and to persist in a plea of not guilty;

8 b. The right to a speedy and public trial before a jury of Defendant's  
9 peers;

10 c. The right to the effective assistance of counsel at trial, including, if  
11 Defendant could not afford an attorney, the right to have the Court appoint one for  
12 Defendant;

13 d. The right to be presumed innocent until guilt has been established at  
14 trial, beyond a reasonable doubt;

15 e. The right to confront and cross-examine witnesses against Defendant  
16 at trial;

17 f. The right to compel or subpoena witnesses to appear on Defendant's  
18 behalf at trial;

19 g. The right to testify or to remain silent at trial, at which trial such  
20 silence could not be used against Defendant;

21 h. The right to appeal a finding of guilt or any pretrial rulings;

22 i. The right, to the extent required by law, to have sentencing factors  
23 charged in the Indictment or determined by a jury beyond a reasonable doubt.

24 5. United States Sentencing Guidelines. Defendant understands and  
25 acknowledges that, absent applicable intervening law:

26 a. The United States Sentencing Guidelines, promulgated by the  
27 United States Sentencing Commission, are applicable to this case;

28 b. The Court will determine Defendant's applicable Sentencing

1 Guidelines range at the time of sentencing;

2 c. The Court may impose any sentence authorized by law, including a  
3 sentence that, under some circumstances, departs from any applicable Sentencing  
4 Guidelines range up to the maximum term authorized by law;

5 d. The Court is not bound by any recommendation regarding the  
6 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines  
7 range offered by the parties, or by the United States Probation Department; and

8 e. Defendant may not withdraw a guilty plea solely because of the  
9 sentence imposed by the Court.

10 6. Ultimate Sentence. Defendant acknowledges that no one has promised or  
11 guaranteed what sentence the Court will impose.

12 7. Restitution. Defendant shall make restitution to Eddie Bauer, Inc. in the  
13 amount of twenty-one thousand, five hundred and fifty-nine dollars (\$21,559.00), with  
14 credit for any amounts already paid. Said amount shall be due and payable immediately  
15 and shall be paid in accordance with a schedule of payments as set by the United States  
16 Probation Office and ordered by the Court. The United States Attorney's Office will  
17 recommend to the Court at the time of sentencing that the five thousand, four hundred and  
18 forty dollars (\$5,440) in United States currency forfeited pursuant to Paragraph 14(b) of  
19 this Agreement, and the value of the refundable airline ticket forfeited pursuant to  
20 Paragraph 14(c) of this Agreement be applied against Defendant's restitution obligations.

21 8. Statement of Facts. The parties agree on the following facts in support of  
22 Defendant's guilty plea and sentencing. Defendant admits he is guilty of the charged  
23 offense and expressly waives any right to have these facts determined by a jury beyond a  
24 reasonable doubt.

25 a. Beginning on or about February 28, 2004, and continuing until on or  
26 about June 27, 2004, USMAN HAYAT sent communications in the form of emails from  
27 his computer in Lahore, Pakistan, to Eddie Bauer, Inc. (hereinafter "Eddie Bauer") in  
28 Redmond, Washington. USMAN HAYAT sent the email communications from the

1 following email addresses: sameermy2k1@yahoo.com and uhayat@hotmail.com.

2 USMAN HAYAT initially sent the email communications to generic Eddie Bauer email  
3 addresses posted on the Eddie Bauer web site, www.eddiebauer.com. Thereafter,  
4 USMAN HAYAT sent the email communications to tom.wynston@eddiebauer.com -- an  
5 account that he had been led to believe belonged to a Vice President at Eddie Bauer, but in  
6 fact had been set up by Eddie Bauer at the request of law enforcement for purposes of the  
7 investigation.

8           b.       In his email communications, USMAN HAYAT threatened to destroy  
9 the reputation and value of Eddie Bauer. He did so by threatening to release photographs  
10 to the media and others that he claimed showed child labor being used in the manufacture  
11 of Eddie Bauer products.

12           c.       In the email communications USMAN HAYAT stated among other  
13 things that:

14                   (i)       “I can forward them [the photographs] to all the major News  
15 Papers and Clothing magazines in the U.S. and Europe since CHILD LABOUR is after all  
16 illegal, is it not? Just imagine for a moment the implications it would bring to your brand  
17 and business.”

18                   (ii)       “I will dedicate my life to defame your brand if I do not  
19 receive funds very very very soon and please don’t test my patience as I really do not want  
20 to do all this.”

21                   (iii)       “If we don’t come up with an agreement very soon then I will  
22 have no choice but to send the pics to all the emails attached plus to over 38 million people  
23 in the U.S. (by bulk mailing) asking them to boycott E.B. products and go for LL Bean or  
24 Levis instead since quite a few E.B. products involve child labor.”

25           d.       USMAN HAYAT sent the email communications with the intent to  
26 extort six hundred and eighty-five thousand dollars (\$685,000.00) from Eddie Bauer.

27 USMAN HAYAT specifically stated in the email communications that: “The minimum  
28 amount is USD: 685,000.00-/ I know the total sales of Spiegel Group in Jan. were over

1 200 million and in Feb 04 around 192 million. I did not ask for millions in the first place  
2 so consider this as the rock bottom amount. This is also the total and final amount I want to  
3 have without getting into negotiations.”

4 e. On or about June 29, 2004, USMAN HAYAT traveled from Lahore,  
5 Pakistan, to Redmond, Washington, for a meeting at Eddie Bauer headquarters. Based on  
6 the email communications, USMAN HAYAT expected to meet with Eddie Bauer officials  
7 to receive the six hundred and eighty-five thousand dollars (\$685,000.00) that he had  
8 demanded. In fact, he met with agents of the Federal Bureau of Investigation and the  
9 United States Secret Service who were posing as Eddie Bauer officials. During the  
10 meeting, among other things, USMAN HAYAT showed the agents negatives of the  
11 photographs that he claimed showed child labor being used in the manufacture of Eddie  
12 Bauer products. USMAN HAYAT had the negatives secreted in a compartment in his  
13 laptop computer. After the agents saw the photographs, they gave USMAN HAYAT a  
14 bag containing approximately five hundred thousand dollars (\$500,000.00) in United  
15 States currency. USMAN HAYAT reviewed the money and agreed to meet with the  
16 agents again the next day to open bank accounts into which he intended to deposit the  
17 money. Shortly thereafter, USMAN HAYAT was arrested.

18 f. Eddie Bauer is a corporation that was incorporated in the State of  
19 Delaware.

20 g. The email communications sent by USMAN HAYAT to Eddie Bauer  
21 (including the specific email communications referenced above) were transmitted in  
22 interstate and foreign commerce.

23 9. Sentencing Factors. The parties agree and stipulate that the facts admitted  
24 by Defendant in the Statement of Facts in this Plea Agreement support the application of  
25 the following Sentencing Guidelines. Defendant expressly waives his right to have any of  
26 these sentencing factors charged in the Indictment or determined by a jury beyond a  
27 reasonable doubt.

28 a. A base offense level of nine (9), pursuant to USSG § 2B3.3(a); and,

1           b.       A fourteen (14) point enhancement to Defendant's base offense level  
2 because he demanded six hundred and eighty-five thousand dollars (\$685,000) from  
3 Eddie Bauer in exchange for the photographs described in paragraph 8 above, pursuant to  
4 USSG § 2B3.3(b)(1) and 2B1.1(b)(1)(H).

5           10.    Non-Prosecution of Additional Offenses. As part of this Plea Agreement,  
6 the United States Attorney's Office for the Western District of Washington agrees not to  
7 prosecute Defendant for any additional offenses known to it as of the time of this  
8 Agreement that are based upon evidence in its possession at this time, or that arise out of  
9 the conduct giving rise to this investigation. In this regard, Defendant recognizes that the  
10 United States has agreed not to prosecute all of the criminal charges that the evidence  
11 establishes were committed by Defendant solely because of the promises made by  
12 Defendant in this Agreement. Defendant acknowledges and agrees, however, that for  
13 purposes of preparing the Presentence Report, the United States Attorney's Office will  
14 provide the United States Probation Office with evidence of all relevant conduct  
15 committed by Defendant.

16           11.    Voluntariness of Plea. Defendant acknowledges that he has entered into this  
17 Plea Agreement freely and voluntarily, and that no threats or promises, other than the  
18 promises contained in this Plea Agreement, were made to induce Defendant to enter this  
19 plea of guilty.

20           12.    Statute of Limitations. In the event that this Agreement is not accepted by  
21 the Court for any reason, or Defendant has breached any of the terms of this Plea  
22 Agreement, the statute of limitations shall be deemed to have been tolled from the date of  
23 the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea  
24 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea  
25 Agreement by Defendant is discovered by the United States Attorney's Office.

26           13.    Post-Plea Conduct. Defendant understands that the terms of this Plea  
27 Agreement apply only to conduct that occurred prior to the execution of this Agreement.  
28 If, after the date of this Agreement, Defendant should engage in illegal conduct, or

1 | conduct that is in violation of his/her conditions of release (examples of which include, but  
2 | are not limited to: obstruction of justice, failure to appear for a court proceeding, criminal  
3 | conduct while pending sentencing, and false statements to law enforcement agents, the  
4 | Pretrial Services Officer, Probation Officer or Court), the United States is free under this  
5 | Agreement to seek a sentence that takes such conduct into consideration. Such a sentence  
6 | could include, to the extent the United States Sentencing Guidelines are applicable, a  
7 | sentencing enhancement or upward departure.

8 |         14.    Forfeiture. Defendant agrees to forfeit to the United States immediately all  
9 | of his right, title, and interest in any and all property, real or personal, that was used, or  
10 | intended to be used, in any manner or part, to commit or to facilitate the commission of the  
11 | charged offense, and any property constituting, or derived from, any proceeds Defendant  
12 | obtained, directly or indirectly, as the result of such offenses, that are subject to forfeiture  
13 | pursuant to 21 U.S.C. § 853, including the following assets: (a) an Acer Ferrari 3000 LMi  
14 | laptop computer, Serial Number LXFR10501734500B36EF00; (b) five thousand, four  
15 | hundred and forty dollars (\$5,440) in United States currency; and, (c) an unused,  
16 | refundable airline ticket for travel between Seattle, Washington, and Lahore, Pakistan.

17 |         Defendant agrees that each of the listed assets is the proceeds of Transmitting  
18 | Interstate/Foreign Communications with Intent to Extort, or was used or intended to be  
19 | used to facilitate unlawful Transmitting Interstate/Foreign Communications with Intent to  
20 | Extort as set forth in Count One of the Indictment.

21 |         Defendant agrees to fully assist the United States in the forfeiture of the listed  
22 | assets and to take whatever steps are necessary to pass clear title to the United States,  
23 | including but not limited to: surrendering title and executing any documents necessary to  
24 | effectuate such forfeiture; assisting in bringing any assets located outside the United States  
25 | within the jurisdiction of the United States; and taking whatever steps are necessary to  
26 | ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden, or otherwise  
27 | made unavailable for forfeiture. Defendant agrees not to file a claim to any of the listed  
28 | property in any civil forfeiture proceeding, administrative or judicial, which may be

1 initiated.

2 Defendant further agrees to provide a truthful proffer or statement regarding all of  
3 his assets, and to make a full and complete disclosure of all assets in which Defendant has  
4 any interest or over which Defendant exercises control and those which are held or  
5 controlled by a nominee(s). Defendant further agrees to submit to a polygraph  
6 examination on the issue of assets if it is deemed necessary by the United States.

7 15. Acceptance of Responsibility. The United States acknowledges that  
8 Defendant has assisted the United States by timely notifying the authorities of his intention  
9 to plead guilty, thereby permitting the United States to avoid preparing for trial and  
10 permitting the Court to allocate its resources efficiently. If at the time of sentencing, the  
11 United States remains satisfied that Defendant has accepted responsibility, then it will  
12 recommend a sentence that takes this acceptance of responsibility into consideration.  
13 Defendant understands and agrees that the United States will base its recommendation on  
14 factors set forth in the United States Sentencing Guidelines, including Section 3E1.1.

15 16. Completeness of Agreement. The United States and Defendant  
16 acknowledge that these terms constitute the entire Plea Agreement between the parties.  
17 This Agreement only binds the United States Attorney's Office for the Western District of

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1 Washington. It does not bind any other United States Attorney's Office or any other office  
2 or agency of the United States, or any state or local prosecutor.

3 DATED this \_\_\_\_ day of August, 2004.

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6 USMAN HAYAT  
7 Defendant

8  
9 CAROL KOLLER  
10 Attorney for Defendant

11  
12 FLOYD G. SHORT  
13 Assistant United States Attorney

14  
15 ANNETTE L. HAYES  
16 Assistant United States Attorney