

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
 :
 v. : **CRIMINAL NO. 08-522-3**
 :
KIM ANH NGUYEN :

GUILTY PLEA AGREEMENT

Under Federal Rule of Criminal Procedure 11, the United States, the defendant, KIM ANH NGUYEN, and the defendant's counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania and the Fraud Section, Criminal Division, Department of Justice.

1. The defendant agrees to plead guilty to Counts One, Six, and Twenty-Four of the indictment, charging her with conspiracy to violate the Foreign Corrupt Practices Act ("FCPA"), the Travel Act, and money laundering, in violation of 18 U.S.C. § 371 (Count One); with violating the FCPA, 15 U.S.C. § 78dd-2 (Count Six); and with money laundering in violation of 18 U.S.C. § 1956(a)(2)(A) (Count Twenty-Four), all arising from her participation in a scheme to pay bribes to officials of the Government of Vietnam and employees of companies operating in Vietnam, and to launder the money used to pay such bribes, in order to secure contracts to provide technology and equipment to Vietnamese government agencies. The defendant further acknowledges the waiver of rights, as set forth in the attachment to this agreement.

2. The defendant agrees to pay the special victims/witness assessment in the amount of \$300 before the time of sentencing and shall provide a receipt from the Clerk to the government before sentencing as proof of this payment.

3. The defendant agrees that payment of a fine, an assessment, interest or other payments in this case do not constitute extraordinary acceptance of responsibility or provide any basis to seek a downward departure from the applicable Sentencing Guidelines range.

4. The defendant agrees to cooperate fully and truthfully with the government as follows:

- a. Defendant agrees to provide truthful, complete, and accurate information and testimony. The defendant understands that if she testifies untruthfully or provides untruthful information in any way she may be prosecuted for a false statement or for perjury.
- b. The defendant agrees to provide all information concerning her knowledge of, and participation in, violations of the FCPA, violations of the Travel Act, money laundering, and any other crimes (including all state, federal, and foreign law offenses) about which she has knowledge. The defendant further understands and agrees that: (i) all information and cooperation provided after signing this agreement may be used for any purpose, including sentencing, and is not governed by any prior proffer letter; and (ii) as of the date of the defendant's entry of a guilty plea, all information provided under any prior proffer letter may be used for

any purpose, including sentencing, and is not governed by any prior proffer letter.

- c. Defendant agrees that she will not falsely implicate any person or entity and she will not protect any person or entity through false information or omission.
- d. Defendant agrees to testify truthfully as a witness before any grand jury, hearing, or trial when called upon to do so by the government.
- e. Defendant agrees to hold herself reasonably available for any interviews as the government may require.
- f. Defendant agrees to provide all documents or other items under her control or which may come under her control which may pertain to any crime.
- g. Defendant understands that her cooperation shall be provided to any federal, foreign, or other law enforcement agency as requested by the government.
- h. Defendant agrees to make complete financial disclosure to the United States by truthfully executing a sworn financial statement, disclosing all assets over which the defendant exercises direct or indirect control, or in which the defendant has any financial interest. Such disclosure shall be made no later than March 22, 2010.

- i. Defendant further agrees to authorize the release to the United States of all financial information requested by the United States, including, but not limited to, executing authorization forms for the United States to obtain tax information, bank account records, credit history, and social security information. The defendant agrees to discuss or answer any questions by the United States relating to the defendant's complete financial disclosure.
- j. To enable the Court to have the benefit of all relevant sentencing information, the defendant waives any rights to a prompt sentencing, and will join any request by the government to postpone sentencing until after her cooperation is complete.
- k. Defendant understands that it is a condition and obligation of this cooperation agreement that the defendant not commit any additional crimes after the date of this agreement.
- l. Defendant agrees that if the government determines, in its sole discretion, that the defendant has not provided full and truthful cooperation, has not provided full and truthful information about the defendant's assets, income and financial status, or has committed any federal, state, local, or foreign crime between the date of this agreement and her sentencing, or has otherwise violated any other provision of this agreement, then the government may at its option: (a) prosecute the defendant for any federal crime

including, but not limited to, perjury, obstruction of justice, and the substantive offenses arising from this investigation, based on and using any information provided by the defendant during the course of cooperation; (b) upon government motion, reinstate and try the defendant on any counts which were to be, or which had been, dismissed, based on and using any information provided by the defendant during the course of cooperation; (c) decline to file any motion under U.S.S.G. § 5K1.1 and/or Rule 35; (d) be relieved of any obligations under this agreement regarding recommendations as to sentence; and (e) be relieved of any stipulations under the Sentencing Guidelines. Moreover, the defendant's previously entered guilty pleas will stand and cannot be withdrawn by her.

- m. Defendant agrees and understands that this agreement requires that her cooperation regarding any matter about which the defendant has knowledge as of the date of sentencing may continue even after the time that the defendant is sentenced. The defendant agrees that if the government determines that the defendant has failed to cooperate: the sentence may be set aside at the government's request; any charges that were dismissed under this agreement shall be reinstated upon motion of the government; any prosecution may be based on and use any information provided by the defendant during the course of cooperation; and the government may

withdraw any departure motion filed under U.S.S.G. § 5K1.1 and/or Rule 35.

- n. The decision both as to whether the defendant has violated the terms of this agreement and the election of a remedy or remedies will be in the sole discretion of the government. The defendant understands and agrees that the fact that the government has not asserted a breach of this agreement or enforced a remedy under this agreement will not bar the government from raising that breach or enforcing a remedy at a later time.

5. Defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A (Statutory Note), for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

6. Defendant agrees that this plea agreement binds only the U.S. Attorney's Office for the Eastern District of Pennsylvania and the Fraud Section of the Criminal Division of the Department of Justice; it does not bind any other federal, state, local, or foreign prosecuting authority.

7. If the government, in its sole discretion, determines that the defendant has fulfilled all of her obligations of cooperation as set forth above, at the time of sentencing, the government will:

- a. Make the nature and extent of the defendant's cooperation known to the Court.

- b. Move for departure from the Sentencing Guidelines pursuant to U.S.S.G. § 5K1.1 if the government, in its sole discretion, determines that the defendant has provided complete and substantial assistance in the investigation or prosecution of another person who has committed an offense, including testifying at any trial or proceeding as required. The defendant understands and agrees that: (1) the government will exercise its sole discretion regarding whether and how to investigate any information provided by the defendant; (2) as of the date of this agreement no determination has been made as to the defendant's eligibility for a § 5K1.1 motion; and (3) the government may refuse to file a § 5K1.1 motion if this plea agreement is breached in any way, including the commission of a crime after the date of this agreement.
- c. Make whatever sentencing recommendation as to imprisonment, fines, forfeiture, restitution and other matters which the government deems appropriate.
- d. Comment on the evidence and circumstances of the case; bring to the Court's attention all facts relevant to sentencing including evidence relating to dismissed counts, if any, and to the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond factually to questions raised by the Court; correct factual

inaccuracies in the presentence report or sentencing record; and
rebut any statement of facts made by or on behalf of the defendant
at sentencing.

- e. Nothing in this agreement shall limit the government in its
comments in, and responses to, any post-sentencing matters.

8. The defendant understands, agrees and has had explained to her by counsel that the Court may impose the following statutory maximum sentences: Count One (conspiracy), five years' imprisonment, a three-year period of supervised release, a fine of \$250,000 or twice the gross pecuniary gain to the defendant or loss to the victim(s), whichever is greater, and a \$100 special assessment; Count Six (FCPA), five years' imprisonment, a three-year period of supervised release, a fine of \$100,000 or twice the gross pecuniary gain to the defendant or loss to the victim(s), whichever is greater, and a \$100 special assessment; and Count Twenty-Four (money laundering), twenty years' imprisonment, a three-year period of supervised release, a fine of \$500,000 or twice the value of the funds involved in the transfer, whichever is greater, and a \$100 special assessment. Total Maximum Sentence: 30 years imprisonment, a five-year period of supervised release, a fine of \$1,165,375.22, and a \$300 special assessment.

9. The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to 2 years per count of conviction in the case of Class D felonies. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

10. The defendant may not withdraw her plea because the Court declines to follow any recommendation, motion, or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

11. Pursuant to U.S.S.G. § 6B1.4, the parties enter into the following stipulations under the Sentencing Guidelines Manual effective November 1, 2007. It is understood and agreed that: (1) the parties are free to argue the applicability of the Sentencing Guidelines provisions regarding criminal history; (2) these stipulations are not binding upon either the Probation Department or the Court; and (3) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed:

- a. The parties agree and stipulate that the defendant qualifies for a base offense level of 12, under U.S.S.G. § 2C1.1(a)(2);
- b. The parties agree and stipulate that the offense involved more than one bribe, increasing the offense level by 2, under U.S.S.G. § 2C1.1(b)(1);
- c. The parties agree and stipulate that total value of the bribes paid exceeded \$200,000 but were less than \$400,000, increasing the offense level by 12, under U.S.S.G. §§ 2C1.1(b)(2) and 2B1.1(b)(1)(G);
- d. The parties agree and stipulate that the base offense level for the offense underlying money laundering can be determined, as

described in paragraphs a-c above, and is 26, under U.S.S.G. § 2S1.1(a)(1);

- e. The parties agree and stipulate that the defendant is pleading guilty to an offense under 18 U.S.C. § 1956, increasing the offense level by 2, under U.S.S.G. § 2S1.1(b)(2)(B);
- f. The parties agree that the offense involved sophisticated laundering, increasing the offense level by 2, under U.S.S.G. § 2S1.1(b)(3);
- g. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for her offense, as described in U.S.S.G. § 3E1.1, decreasing her offense level by 2;
- h. The parties agree and stipulate that, as of the date of this agreement, the defendant has assisted authorities in the investigation or prosecution of her own misconduct by timely notifying the government of her intent to plead guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently, as described in U.S.S.G. § 3E1.1(b), decreasing her offense level by 1; and

- i. Therefore, subject to the provisions of paragraphs 7b and 12 of this agreement, the parties agree and stipulate that the defendant qualifies for an adjusted offense level of 27.

12. If, prior to the time of sentencing, the government discovers that the defendant has engaged in additional criminal conduct beyond the scope of the indictment in this case, this agreement does not preclude the government from requesting the Court to consider such additional criminal conduct as relevant conduct in sentencing the defendant under U.S.S.G. § 1B1.3, except where such information is governed by U.S.S.G. § 1B1.8.

13. Except as provided above in paragraph 7b, the parties agree not to seek any departure from the applicable Sentencing Guidelines range. Further, both parties agree that a sentence within the applicable guideline range is a reasonable sentence. However, the parties agree that either party may seek a sentence outside of the range established by the Sentencing Guidelines and may suggest that the Court consider a sentence outside of that range based upon the factors to be considered imposing sentence pursuant to 18 U.S.C. § 3553(a).

14. In exchange for the undertakings made by the government in entering this plea agreement, the defendant voluntarily and expressly waives all rights to appeal or collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law. This waiver is not intended to bar the assertion of constitutional claims that the relevant case law holds cannot be waived.

- a. Notwithstanding the waiver provision above, if the government appeals from the sentence, then the defendant may file a direct appeal of her sentence.
- b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal but may raise only claims that:
 - (1) the defendant's sentence on any count of conviction exceeds the statutory maximum for that count as set forth above; and/or
 - (2) the sentencing judge erroneously departed upward pursuant to the Sentencing Guidelines; and/or
 - (3) the sentencing judge, exercising the Court's discretion pursuant to United States v. Booker, 543 U.S. 220 (2005), imposed an unreasonable sentence above the final Sentencing Guideline range determined by the Court:

If the defendant does appeal pursuant to this paragraph, no issue may be presented by the defendant on appeal other than those described in this paragraph.

15. The defendant also waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation

any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

16. By entering this plea of guilty, the defendant also waives any and all rights the defendant may have, pursuant to 18 U.S.C. § 3600, to require DNA testing of any physical evidence in the possession of the government. The defendant fully understands that, as a result of this waiver, any physical evidence in this case will not be preserved by the government and will therefore not be available for DNA testing in the future.

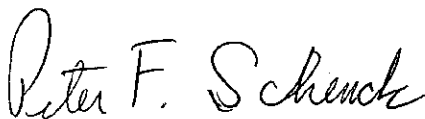
17. The defendant's rights under this agreement shall in no way be dependent upon or affected by the outcome of any case in which she may testify.

18. The defendant is satisfied with the legal representation provided by the defendant's lawyer; the defendant and her lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that she is guilty.


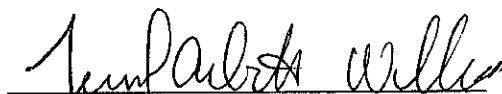

19. It is agreed that the parties' guilty plea agreement contains no additional promises, agreements or understandings other than those set forth in this written guilty plea agreement, and that no additional promises, agreements or understandings will be entered into unless in writing and signed by all parties.

MICHAEL L. LEVY
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DENIS J. MCINERNEY
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KIM ANH NGUYEN
Defendant
MICHAEL ENGLE
Counsel for Defendant
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Trial Attorney, Fraud Section
Criminal Division, Department of Justice

Date: 3/2/10

Attachment

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


UNITED STATES OF AMERICA :
v. : CRIMINAL NO. 08-522-3
KIM ANH NGUYEN :

ACKNOWLEDGMENT OF RIGHTS

I hereby acknowledge that I have certain rights that I will be giving up by pleading guilty.

1. I understand that I do not have to plead guilty.
2. I may plead not guilty and insist upon a trial.
3. At that trial, I understand
 - a. that I would have the right to be tried by a jury that would be selected from the Eastern District of Pennsylvania and that along with my attorney, I would have the right to participate in the selection of that jury;
 - b. that the jury could only convict me if all twelve jurors agreed that they were convinced of my guilt beyond a reasonable doubt;
 - c. that the government would have the burden of proving my guilt beyond a reasonable doubt and that I would not have to prove anything;
 - d. that I would be presumed innocent unless and until such time as the jury was convinced beyond a reasonable doubt that the government had proven that I was guilty;
 - e. that I would have the right to be represented by a lawyer at this trial and at any appeal following the trial, and that if I could not afford to hire a lawyer, the court would appoint one for me free of charge;

- f. that through my lawyer I would have the right to confront and cross examine the witnesses against me;
 - g. that I could testify in my own defense if I wanted to and I could subpoena witnesses to testify in my defense if I wanted to;
 - h. that I would not have to testify or otherwise present any defense if I did not want to and that if I did not present any evidence, the jury could not hold that against me.
- 4. I understand that if I plead guilty, there will be no trial and I would be giving up all of the rights listed above.
 - 5. I understand that if I decide to enter a plea of guilty, the judge will ask me questions under oath and that if I lie in answering those questions, I could be prosecuted for the crime of perjury, that is, for lying under oath.
 - 6. I understand that if I plead guilty, I have waived my right to appeal, except as set forth in appellate waiver provisions of my plea agreement.
 - 7. Understanding that I have all these rights and that by pleading guilty I am giving them up, I still wish to plead guilty.



KIM ANH NGUYEN
Defendant



MICHAEL ENGLE
Counsel for the Defendant