

UNITED STATES DISTRICT Court  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 06-20797-CR-SEITZ/MCALILEY

UNITED STATES OF AMERICA

vs.

CHRISTIAN SAPSIZIAN,

Defendant.

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**PLEA AGREEMENT**

The United States Department of Justice, Criminal Division, Fraud Section (the "Office") and CHRISTIAN SAPSIZIAN (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to Counts 1 and 2 of the Superseding Indictment, 06-CR-20797. Count 1 of the Superseding Indictment charges the defendant with, between February 2000 and September 2004, conspiring to make and making corrupt payments to foreign officials contrary to Title 15, United States Code, Section 78dd-1(a), in violation of Title 18, United States Code, Section 371. Count 2 of the Superseding Indictment charges the defendant with making a corrupt payment to a foreign official on or about December 10, 2001, in the amount of \$225,000, in violation of Title 15, United States Code, Section 78dd-1(a).

2. The defendant also agrees to immediately forfeit to the United States all of his right, title and interest in the sum of approximately \$261,500, within two business days of the date on which he enters his plea. The defendant agrees that the aforementioned property, \$261,500, constitutes property subject to forfeiture pursuant to Title 18, United States Code,

Section 982(a)(1). The defendant knowingly and voluntarily agrees to waive any claim or defense he may have under the Eighth Amendment to the United States Constitution, including any claim of excessive fine or penalty with respect to the forfeited assets.

3. The United States agrees to seek dismissal of Counts 3 through 10 of the Superseding Indictment, as to this defendant only, after sentencing, and to not further prosecute the defendant for the conduct described in Superseding Indictment, 06-CR-20797. The Office further agrees not to prosecute the defendant for conspiring to make or for making corrupt payments to foreign officials, in connection with telecommunications contracts obtained by Alcatel in all Latin American countries in which Alcatel conducted business, including, but not limited to: Costa Rica, Honduras, Chile, Mexico, Brazil, and Belize. The Office further agrees not to prosecute the defendant for creating or maintaining, or causing the creation or maintenance of false books and records associated with any of the foregoing contracts or payments.

4. The defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under

the Sentencing Guidelines, but is not bound to impose that sentence. The Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph one (1) and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

5. The defendant also understands and acknowledges that the Court may impose as to Count 1 a statutory maximum term of imprisonment of up to five (5) years' imprisonment, followed by a term of supervised release of up to three (3) years. The defendant further understands and acknowledges that the Court may impose as to Count 2 a statutory maximum term of imprisonment of up to five (5) years' imprisonment, followed by a term of supervised release of up to three (3) years. The defendant also understands and acknowledges that the Court may impose consecutive sentences with respect to Counts 1 and 2, for a combined total statutory maximum term of imprisonment of up to ten (10) years' imprisonment. In addition to a term of imprisonment and supervised release, the Court may also impose, with respect to each count of conviction, a fine equal to the greatest of: (i) \$250,000; (ii) twice the gross amount of any pecuniary gain that any person derived from the offense; or (iii) twice the gross amount of any pecuniary loss sustained by any victim of the offense. The Court may also order restitution.

6. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph five (5) of this agreement, a mandatory special assessment in

the amount of \$200 will be imposed on the defendant. The defendant agrees that the special assessment imposed shall be paid at the time of sentencing.

7. This Office reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

8. This Office and the defendant agree that, although not binding on the probation office or the Court, they will jointly recommend that the Court impose a sentence within the advisory sentencing guideline range produced by application of the Sentencing Guidelines. Although not binding on the probation office or the Court, this Office and the defendant further agree that, except as otherwise expressly contemplated in this Plea Agreement, they will jointly recommend that the Court neither depart upward nor depart downward under the Sentencing Guidelines when determining the advisory sentencing guideline range in this case.

9. This Office agrees that, although not binding on the probation office or the Court, it will recommend that the Court reduce by two levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. If at the time of sentencing the defendant's offense level is determined to be sixteen (16) or greater, the government will make a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely

notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently. However, this Office will not be required to make this sentencing recommendation if the defendant: (a) fails or refuses to make full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (b) is found to have misrepresented facts to the government prior to entering this plea agreement; or (c) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official.

10. The United States and the defendant agree further that, although not binding on the probation office or the Court, they will jointly recommend that the Court make the following findings and conclusions as to the sentence to be imposed:

- a. Applicable Guidelines Manual: Pursuant to Section 1B1.11(b)(1) of the Sentencing Guidelines, the applicable Guidelines Manual is the 2003 edition.
- b. Applicable Guideline Offense and Base Offense Level: Pursuant to Section 2C1.1 of the Sentencing Guidelines, the base offense level is ten (10). U.S.S.G. § 2C1.1(a).
- c. Specific Offense Characteristics: The parties agree and stipulate that the following offense characteristics apply under Section 2C1.1(b):
  - (i) The offense involved more than one bribe. Accordingly, the offense level is increased by two (2) levels. U.S.S.G. § 2C1.1(b)(1).

- (ii) The offense involved more than \$7,000,000 in bribe payments. Accordingly, the offense level is increased by twenty (20) levels.

U.S.S.G. §§ 2C1.1(b)(2); 2B1.1(b)(1)(K).

- d. Overall guideline range: The parties agree and stipulate that the adjusted offense level, assuming a 3-level reduction for acceptance of responsibility as contemplated in paragraph nine (9) above, is a level 29, and the applicable sentencing guideline range is 87-108 months' imprisonment.

11. This agreement is limited to the United States Department of Justice, Criminal Division, Fraud Section, and as such, does not and cannot bind other federal, state, regulatory, or local prosecuting authorities.

12. The defendant is aware that the sentence has not yet been determined by the Court. The defendant is also aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, this Office, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that this Office makes to the Court as to sentencing, whether pursuant to this Agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph four (4) above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

13. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in

exchange for the undertakings made by the Office in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, or to collaterally attack the conviction, any sentence imposed, or the manner in which sentence was imposed, including any restitution order, pursuant to Title 28, United States Code, Sections 2241, 2254, 2255 or any other applicable provision, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure from the Guideline range that the Court establishes at sentencing. The defendant further understands that nothing in this plea agreement shall affect the Office's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the Office appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this plea agreement, the defendant acknowledges that he has discussed the appeal and collateral attack waiver set forth in this plea agreement with defendant's attorney. The defendant further agrees, together with the Office, to request that the Court enter a specific finding that the defendant's waiver of the right to appeal the sentence to be imposed in this case was knowing and voluntary.

14. In the event the defendant withdraws from this agreement prior to or after pleading guilty to the charges identified in paragraph one (1) above, or otherwise fails to fully comply with any of the terms of this plea agreement, this Office will be released from its obligations under this agreement, and the defendant agrees and understands that: (a) he thereby waives any protection afforded by the proffer letter agreement between the parties, Section 1B1.8 of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence, and that any statements made by him as part of plea discussions, any debriefings or interviews, or in this agreement, whether made prior to or after

16. This Office agrees that it will not seek additional upward specific offense characteristics, enhancements, or upward departures to or from the defendant's offense level beyond those, if any, specifically referred to in this agreement, except that this Office shall have the right in its discretion to seek additional upward specific offense characteristics, enhancements, or upward departures to or from the defendant's offense level beyond those, if any, specifically referred to in this agreement where any such additional upward specific offense characteristics, enhancements, or upward departures to or from the defendant's offense level would be based on conduct occurring after the defendant enters into this agreement. The defendant agrees that he will not seek additional downward specific offense characteristics, reductions, or downward departures to or from the defendant's offense level beyond those, if any, specifically referred to in this agreement. However, in the event the probation office recommends any specific offense characteristics, enhancements, reductions, or departures to or from the defendant's offense level other than those, if any, specifically referred to in this agreement, either party shall have the right but not the obligation to oppose any such recommendation.

17. The defendant agrees that he shall cooperate fully with this Office by:

- a. providing truthful and complete information and testimony, and producing documents, records and other evidence, when called upon by this Office, whether in interviews, before a grand jury, at any trial, or other Court proceeding;
- b. appearing at such grand jury proceedings, hearings, trials, other judicial proceedings, and at meetings, as may be required by this Office;
- c. at the direction of this Office, cooperating with the Costa Rican Attorney General's Office or the Costa Rican Fiscalía de Delitos Economicos, Corrupcion y Tributarios, in connection with the Costa Rican investigation and prosecution related to the charges in the



Superseding Indictment and any other matters, such direction only to be given so long the Costa Rican authorities do not criminally charge the defendant;

d. at the direction of this Office, cooperating with other foreign authorities with regard to investigation and prosecution of matters related to the Superseding Indictment and any other matters;

e. if requested by this Office, working in an undercover role to contact and negotiate with others suspected and believed to be involved in criminal misconduct, under the supervision of, and in compliance with, law enforcement officers and agents; and

f. in providing information and testimony, he will not seek to protect any person or entity through false information or omission, and will not falsely implicate any person or entity.

18. The defendant also understands and agrees that he will not commit any further crimes. The defendant further understands that he may be prosecuted for, without limitation, any materially false statement made at any time during his cooperation with the United States, including under the federal perjury, obstruction of justice, and false statements statutes.

19. In addition, should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and reasonably disclose all information and provide full and complete cooperation, which determinations are within the sole discretion of the United States, this Agreement is voidable at the option of the United States, and the following conditions shall then also apply:

a. The defendant may be prosecuted for perjury or false statements, if any, committed while testifying pursuant to this Agreement or for obstruction of justice should he

commit these offenses during the time in which he is cooperating with law enforcement pursuant to this Agreement; and

b. The United States may use against the defendant his own admissions and statements and the information, books, papers, documents and objects that he himself has furnished in the course of his cooperation with the United States.

20 This Office reserves the right to evaluate the nature and extent of the defendant's cooperation and to make the defendant's cooperation, or lack thereof, known to the Court at the time of sentencing. If, in the sole and unreviewable judgment of this Office, the defendant's cooperation is of such quality and significance to the investigation or prosecution of other criminal matters as to warrant the Court's downward departure from the sentence required by the Sentencing Guidelines, this Office may at or before sentencing make a motion pursuant to Title 18, United States Code, Section 3553(e), Section 5K1.1 of the Sentencing Guidelines, and/or Rule 35 of the Federal Rules of Criminal Procedure subsequent to sentencing, reflecting that the defendant has provided substantial assistance in the investigation or prosecution of other criminal matters, the extent of any assistance provided, and a recommendation for sentence reduction. The defendant acknowledges and agrees, however, that nothing in this agreement may be construed to require this Office to file such a motion and that this Office's assessment of the nature, value, truthfulness, completeness, and accuracy of the defendant's cooperation shall be binding on the defendant.

21. The defendant understands and acknowledges that the Court is under no obligation to grant a government motion pursuant to Title 18, United States Code, Section 3553(e), 5K1.1 of the Sentencing Guidelines, and /or Rule 35 of the Federal Rules of Criminal

Procedure, as referred to in this agreement, should the government exercise its discretion to file such a motion.

22. This Office agrees that once it deems the defendant has completed his cooperation as outlined in paragraph 17, this Office will not object to a request by the defendant, pursuant to the International Prisoner Transfer Program, to serve the remainder of his sentence in France.

23. This is the entire agreement and understanding between this Office and the defendant. There are no other agreements, promises, representations, or understandings.

STEVEN A. TYRRELL  
CHIEF, FRAUD SECTION

MARK F. MENDELSON  
DEPUTY CHIEF, FRAUD SECTION

Date: 6/6/07

By: M. K. Dimke  
MARY K. DIMKE  
TRIAL ATTORNEY, FRAUD SECTION

Date: 6-6-07

By: Roy J. Kayin  
ROY J. KAYIN  
ATTORNEY FOR DEFENDANT

Date: 6/6/07

By: Christian Sapsizian  
CHRISTIAN SAPSIZIAN  
DEFENDANT