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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. PATRICIA JANE ALBRIGHT, Defendant.	CASE NO. 2:11-CR-226 TLN PLEA AGREEMENT

I. INTRODUCTION

A. **Scope of Agreement:** The Superseding Indictment in this case charges the defendant with the following: conspiring to manufacture at least 100 plants of marijuana, in violation of 21 U.S.C. §§ 846 and 841(a)(1); manufacturing marijuana, in violation of 21 U.S.C. § 841(a)(1); possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c); and structuring transactions to evade reporting requirements, in violation of 31 U.S.C. § 5324(a)(3) . This document contains the complete plea agreement between the United States Attorney's Office for the Eastern District of California (the "government") and the defendant regarding this case. This plea agreement is limited to the United States Attorney's Office for the Eastern District of California and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities.

B. **Agreement for a Specific Sentence:** The government and the defendant agree that a specific sentence, set forth below in Section VI.C, is appropriate in this case. Consequently, this plea

agreement is being offered to the Court pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure.

Under the provisions of Rule 11(c)(3), the Court may accept or reject the plea agreement, or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report. If the Court accepts the plea agreement, the Court will inform the defendant that it will embody in the judgment and sentence the disposition provided for in this plea agreement. If the Court rejects this plea agreement, the Court shall so advise the defendant, allow the defendant the opportunity to withdraw her plea, and advise her that if she persists in a guilty plea the disposition of the case may be less favorable to her than is contemplated by this plea agreement.

II. DEFENDANT'S OBLIGATIONS

A. Guilty Plea: The defendant will plead guilty to Counts One, Two and Four of the Superseding Indictment: conspiring to manufacture at least 100 plants of marijuana; manufacturing marijuana; and structuring transactions to evade reporting requirements. The defendant agrees that she is in fact guilty of these charges and that the facts set forth in the Factual Basis for the Plea (attached hereto as Exhibit A) are true and accurate.

The defendant agrees that this plea agreement will be filed with the Court and become a part of the record of the case.

The defendant agrees that the statements made by her in signing this plea agreement, including the factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a guilty plea pursuant to this Agreement. The defendant waives any rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410, to the extent that these rules are inconsistent with this paragraph or with this Agreement generally. However, this paragraph shall not operate if the Court rejects this Agreement and the defendant withdraws her plea on that basis, as allowed by Rule 11(c)(1)(C).

B. Restitution: The parties stipulate that restitution is not an issue in this case. As such, the government will not recommend a restitution amount.

C. Special Assessment: The defendant agrees to pay a special assessment of $300.00 at the time of sentencing by delivering a check or money order payable to the United States District Court to

the United States Probation Office immediately before the sentencing hearing. If the defendant is unable to pay the special assessment at the time of sentencing, she agrees to earn the money to pay the assessment, if necessary, by participating in the Inmate Financial Responsibility Program.

D. Consequences Related to Violation of Plea Agreement or Withdrawal of Guilty Plea: If the defendant violates this plea agreement in any way, withdraws her plea, or attempts to withdraw her plea, this plea agreement is voidable at the option of the government. The government will no longer be bound by its representations to the defendant concerning the limits on criminal prosecution and sentencing as set forth herein.

One way a defendant violates the plea agreement is to commit any crime or provide any statement or testimony which proves to be knowingly false, misleading, or materially incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a violation of the agreement. The determination whether the defendant has violated the plea agreement will be under a probable cause standard.

If the defendant violates the plea agreement, withdraws her plea, or tries to withdraw her plea, the government shall have the right (1) to prosecute the defendant on any of the counts to which she pleaded guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3) to file any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter be subject to prosecution for any federal criminal violation of which the government has knowledge, including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these options is solely in the discretion of the United States Attorney's Office.

By signing this plea agreement, the defendant agrees to waive any objections, motions, and defenses that the defendant might have to the government's decision. Any prosecutions that are not time-barred by the applicable statute of limitations as of the date of this plea agreement may be commenced in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement of any such prosecutions. The defendant agrees not to raise any objections based on the passage of time with respect to such counts including, but not limited to, any statutes of limitation or any objections based on the Speedy

Trial Act or the Speedy Trial Clause of the Sixth Amendment to any counts that were not time-barred as of the date of this plea agreement.

In addition, all statements made by the defendant to the government or other designated law enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal, whether before or after this plea agreement, shall not be admissible in the government's case in chief in any criminal, civil, or administrative proceedings hereafter brought against the defendant only if the defendant withdraws her guilty plea because the Court rejects the plea agreement. In that event, the Government may use such statements to cross-examine the defendant and to rebut any evidence or arguments offered by or on behalf of the defendant (including arguments made or issues raised sua sponte by the District Court) at any trial, bail hearing, motion hearing, or sentencing proceeding. In any case, the Government may use statements made by the defendant without limitation in a prosecution for false statements, obstruction of justice, or perjury with respect to any acts committed or statements made by the defendant.

E. <u>Forfeiture</u>

The defendant agrees to forfeit to the United States, voluntarily and immediately, all of her right title and interest to any and all assets subject to forfeiture, pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(1) and 28 U.S.C. § 2461(c), save her physical home located at 13730 Country Air Lane, Nevada City, California, Nevada County, APN: 34-170-35.

The defendant agrees to fully assist the government in the forfeiture of any assets subject to forfeiture and to take whatever steps are necessary to pass clear title or her full interest to the United States, including but not limited to executing any and all documents necessary to transfer such title or interest, assisting in bringing any assets located outside of the United States within the jurisdiction of the United States, and taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. The defendant agrees that she will take no actions that diminish the value, in any way, of any assets subject to forfeiture. In addition, the defendant shall not sell, transfer, convey, or otherwise dispose of any of her assets subject to forfeiture.

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The defendant also voluntarily stipulates and agrees that as part of her sentence the Court may, pursuant to Fed. R. Crim. P. 32.2(b), order a forfeiture money judgment in an amount to be determined by the U.S. Probation Office prior to sentencing, less any forfeited funds.

The defendant agrees not to file a claim to any of the listed property in any civil proceeding, administrative or judicial, which may be initiated. The defendant agrees to waive her right to notice of any forfeiture proceeding involving this property, and agrees to not file a claim or assist others in filing a claim in that forfeiture proceeding.

The defendant knowingly and voluntarily waives her right to a jury trial on the forfeiture of assets. The defendant knowingly and voluntarily waives all constitutional, legal and equitable defenses to the forfeiture of these assets in any proceeding. The defendant agrees to waive any jeopardy defense, and agrees to waive any claim or defense under the Eighth Amendment to the United States Constitution, including any claim of excessive fine, to the forfeiture of the assets by the United States, the State of California or its subdivisions.

The defendant waives oral pronouncement of forfeiture at the time of sentencing, and any defenses or defects that may pertain to the forfeiture.

III.

THE GOVERNMENT'S OBLIGATIONS

A. Dismissals: If the defendant pleads guilty in accordance with this agreement, and does not otherwise violate this agreement, at the time of sentencing, the government will move to dismiss all remaining counts against this defendant.

B. Recommendations:

1. Incarceration Range: The government will recommend, in accordance with paragraph I.B above, that the defendant be sentenced to 65 months of imprisonment.

2. Acceptance of Responsibility: The government will recommend, in accordance with paragraph I.B above, a two-level reduction, pursuant to U.S.S.G. § 3E1.1(a), in the computation of the offense level if the defendant clearly demonstrates a full and complete acceptance of responsibility for her conduct (as defined in U.S.S.G. § 3E1.1) through and including the time of sentencing. This includes the defendant meeting with and assisting the probation officer in the preparation of the pre-

sentence report, being truthful and candid with the probation officer, and not otherwise engaging in conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the preparation of the pre-sentence report or during the sentencing proceeding.

IV.

ELEMENTS OF THE OFFENSE

With respect to Count One, the government would have to prove the following elements beyond a reasonable doubt at trial: (1) between on or about May 6, 2008, and on or about September 28, 2010, there was an agreement between two or more persons to manufacture marijuana; and (2) the defendant joined in the agreement knowing of its purpose and intending to help accomplish that purpose. The term "manufacture" means the planting, cultivation, growing, and/or harvesting of marijuana.

With respect to Count Two, the government would have to prove the following elements beyond a reasonable doubt at trial: (1) the defendant knowingly manufactured marijuana; and (2) the defendant knew that it was marijuana.

With respect to Count Four, the government would have to prove the following elements beyond a reasonable doubt at trial: (1) the defendant, acting alone or with others, knowingly conducted one or more currency transactions in any amount; (2) the currency transactions took place at one or more domestic financial institutions, on one or more days; and (3) the defendant acted for the purpose of evading the reporting requirements.

V.

MAXIMUM SENTENCE

A. Maximum Penalty: The maximum sentence that the Court can impose with respect to Count One of the Superseding Indictment is 40 years of imprisonment, a fine of $2,000,000, a term of supervised release from four years to life, and a special assessment of $100. The defendant may be ineligible for certain federal and/or state assistance and/or benefits, pursuant to 21 U.S.C. § 862. Count One of the Superseding Indictment carries a five-year mandatory minimum sentence.

The maximum sentence that the Court can impose with respect to Count Two of the Superseding Indictment is 20 years of imprisonment, a fine of $1,000,000, a term of supervised release from three

years to life, and a special assessment of $100. The defendant may be ineligible for certain federal and/or state assistance and/or benefits, pursuant to 21 U.S.C. § 862.

The maximum sentence that the Court can impose with respect to Count Four of the Superseding Indictment is 10 years of imprisonment, a fine of $250,000, a three-year term of supervised release, and a special assessment of $100.

If the Court accepts the parties Plea Agreement under Rule 11(c)(1)(C), the maximum sentence will be 65 months of imprisonment.

B. Violations of Supervised Release: The defendant understands that if she violates a condition of supervised release at any time during the term of supervised release, the Court may revoke the term of supervised release and require the defendant to serve up to three (3) additional year of imprisonment per count of conviction. The defendant acknowledges that she has read and understands all of the supervised release conditions, both standard and special.

VI.

SENTENCING DETERMINATION

A. Statutory Authority: The defendant understands that the Court must consult the Federal Sentencing Guidelines and must take them into account when determining a final sentence. The defendant understands that the Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the Sentencing Guidelines. The defendant further understands that the Court will consider whether there is a basis for departure from the guideline sentencing range (either above or below the guideline sentencing range) because there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the Guidelines. The defendant further understands that the Court, after consultation and consideration of the Sentencing Guidelines, must impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

B. Guideline Calculations:

1. Drug Offenses (Counts One and Two Combined)

   a. Base Offense Level: 20

Pursuant to Guideline § 2D1.1(c)(10), the parties agree and stipulate that the defendant manufactured over 100 marijuana plants and produced over 60 kilograms of marijuana between May 6, 2008 and September 28, 2010.

b. Possession of a Firearm: +2

Pursuant to Guideline § 2D1.1(b)(1), the parties agree and stipulate that the defendant possessed a firearm in connection with the drug offenses.

c. Aggravating Role: +4

Pursuant to Guideline § 3B1.1(a), the parties agree and stipulate that the defendant played an aggravating role in the drug offenses by organizing and directing the activities of five or more criminal participants.

d. Adjusted Offense Level: 26

2. Structuring Offense

a. Base Offense Level: 12

Pursuant to U.S.S.G § 2S1.3(a)(2), the parties agree and stipulate that the base offense level for structuring 21 currency transactions with an aggregate value of $30,451.39 is 12.

b. Promotion of Unlawful Activity: +2

Pursuant to Guideline § 2S1.3(b)(1), the parties agree and stipulate that the defendant knew the funds were intended to promote unlawful activity.

c. Adjusted Offense Level: 14

3. Grouping of Related Counts

a. Group A (Drug Offenses)

The drug offenses have an adjusted offense level of 26. The adjusted offense level for Group A is therefore twenty-six (26).

b. Group B (Structuring Offense)

The structuring offense has an adjusted offense level of 14. The adjusted offense level for Group B is therefore fourteen (14).

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c. Combined Offense Level: 26

Under Guideline § 3D1.4, there is no grouping enhancement due to the difference the adjusted offense levels of Group A and Group B. The combined offense level for all counts of conviction is therefore twenty-six (26).

4. Acceptance of Responsibility: -2

If the requirements of Paragraph III.B.2 are satisfied, the government will not oppose a two-level reduction in the overall offense level for the defendant's full and complete acceptance of responsibility.

5. Overall Offense Level: 24

Pursuant to Guideline § 2G1.1(b), where "a statutorily required minimum sentence is greater than the maximum of the applicable guideline range, the statutorily required minimum sentence shall be the guideline sentence." In this case, Count One carries a 60-month mandatory minimum sentence, which becomes the guideline sentence under § 2G1.1(b).

C. Agreement for a Specific Sentence: Pursuant to Rule 11(c)(1)(C), the parties stipulate and agree that the defendant should be sentenced to 65 months of imprisonment and a four-year term of supervised release. Given the defendant's performance on pre-trial release, the parties have no objection to her continued release on existing conditions after the entry of her guilty plea. If the defendant continues to comply with the directives of the pre-trial service office and her current conditions of release, the parties will defer to the pre-trial services officer regarding the questions of self-surrender at the time of sentencing.

If the Court decides that a sentence of more than 65 months is appropriate in this case, it shall advise the defendant of that fact, allow the defendant the opportunity to withdraw her plea, and advise her that if she persists in a guilty plea the disposition of the case may be less favorable to her than is contemplated by this Plea Agreement.

D. Departures or Other Enhancements or Reductions: Other than the adjustments or considerations expressly detailed in this Plea Agreement, such as those in Sections VI.B above, the parties stipulate and agree that they will not seek, or argue in support of, any other specific offense characteristics, Chapter Three adjustments, Chapter Four adjustments, Chapter Five adjustments, or cross-references at the time of sentencing, except that the government may move for a departure or an

adjustment based on the defendant's post-plea obstruction of justice (U.S.S.G. § 3C1.1). The parties agree that they will not argue for a variance form the Rule 11(c)(1)(C) sentence of 65 months based on any of the 18 U.S.C. § 3553(a) factors.

The defendant also agrees that the Rule 11(c)(1)(C) sentence to which the parties have agreed, specifically, a sentence of 65 months of imprisonment, is a reasonable sentence.

VII.

WAIVERS

A. Waiver of Constitutional Rights: The defendant understands that by pleading guilty she is waiving the following constitutional rights: (a) to plead *not guilty* and to persist in that plea if already made; (b) to be tried by a jury; (c) to be assisted at trial by an attorney, who would be appointed if necessary; (d) to subpoena witnesses to testify on her behalf; (e) to confront and cross-examine witnesses against her; and (f) not to be compelled to incriminate herself.

B. Waiver of Appeal and Collateral Attack: The defendant understands that the law gives the defendant a right to appeal her guilty plea, conviction, and sentence. The defendant agrees as part of her plea, however, to give up the right to appeal any aspect of the guilty plea, conviction, and/or sentence imposed in this case.

In addition, regardless of the sentence the defendant receives, the defendant also gives up any right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any aspect of her guilty plea, conviction, or sentence.

If the United States Congress decriminalized the manufacture of marijuana during the time in which the defendant is serving her sentence, and the new laws are drafted to apply retroactively, the defendant may file a motion in the district court to modify her sentence in accordance with the new laws.

If the defendant ever attempts to vacate her guilty plea, vacate her conviction, dismiss the underlying charges, or modify or set aside her sentence on any of the counts to which the defendant is pleading guilty, the government shall have the rights set forth in Section II.G herein.

C. Waiver of Attorneys' Fees and Costs: The defendant agrees to waive all rights under the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to recover attorneys' fees or other

litigation expenses in connection with the investigation and prosecution of all charges in the above-captioned matter and of any related allegations (including without limitation any charges to be dismissed pursuant to this plea agreement and any charges previously dismissed).

VIII.

ENTIRE PLEA AGREEMENT

Other than this plea agreement, no agreement, understanding, promise, or condition between the government and the defendant exists, nor will such agreement, understanding, promise, or condition exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and counsel for the United States.

IX.

APPROVALS AND SIGNATURES

A. Defense Counsel: I have read this plea agreement and have discussed it fully with my client. The plea agreement accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to plead guilty as set forth in this plea agreement.

Dated: July 20, 2015

MICHAEL D. LONG
Counsel for Defendant

B. Defendant: I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my case. No other promises or inducements have been made to me, other than those contained in this

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plea agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement. Finally, I am satisfied with the representation of my attorney in this case.

Dated: July 20, 2015

PATRICIA JANE ALBRIGHT
DEFENDANT

C. Attorney for United States:

I accept and agree to this plea agreement between the government and Patricia Albright on behalf of the government.

Dated: 7/20/15

BENJAMIN B. WAGNER
United States Attorney

MICHAEL M. BECKWITH
Assistant United States Attorney

EXHIBIT "A"

Factual Basis for Plea

The parties agree that if this matter proceeded to trial, the United States would establish the following facts beyond a reasonable doubt:

Between May 6, 2008, and September 28, 2010, the defendant and others worked together to manufacture marijuana on two properties owned by the defendant. Both properties were located in the Eastern District of California. At the time of her arrest, investigators found numerous marijuana plants, processed marijuana, and two firearms on the defendant's properties. Between May 6, 2008, and September 28, 2010, the defendant knowingly and intentionally manufactured over 100 marijuana plants and over 60 kilograms of processed marijuana.

The defendant admits that between May 6, 2008, and September 28, 2010, there was an agreement between two or more persons to manufacture marijuana and that she joined in the agreement knowing of its purpose and intending to help accomplish that purpose. Specifically, the defendant and others conspired to plant, grow, and harvest marijuana. The defendant admits that she manufactured marijuana and that she knew that it was marijuana she was manufacturing.

The defendant also admits that between May 5 and May 7, 2008, she knowingly conducted 21 currency transactions at six different domestic financial institutions, over the course of three days, for the purpose of evading federal reporting requirements. The aggregate value of the structured transactions was $30,451.39. The defendant structured this money in order to purchase the property located at 4040 Tin Ranch in El Dorado County, California, where she, her son, and others were later found to be growing marijuana.

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Finally, the defendant admits that the real property located at 4040 Tin Ranch Road, El Dorado County, California, El Dorado County, APN: 062-030-31-100, as detailed in the forfeiture allegation in the Superseding Indictment, was used to facilitate the manufacture and processing of marijuana.

Dated: July 20, 2015

Patricia Jane Albright

PATRICIA JANE ALBRIGHT
Defendant