

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

UNITED STATES OF AMERICA)
)
 V.)
)
 CYNTHIA K. AYER)

Criminal No: 5:06-453 (MBS)

AMENDMENT TO
PLEA AGREEMENT

AGREEMENT made this 30th day of APRIL, 2008, between and among the United States of America, as represented by United States Attorney KEVIN F. McDONALD, Assistant United States Attorney Dean A. Eichelberger; Karen Sampson Jones and John R. Fitzpatrick, Trial Attorneys with the Antitrust Division of the United States Department of Justice; the Defendant, CYNTHIA K. AYER, and Defendant's Attorney, J. Edward Holler.

IN CONSIDERATION of the mutual promises made herein, the parties hereto agree as follows:

1. Pursuant to paragraph 22 of the Plea Agreement entered into by the Defendant and the United States as of April 22, 2008, and filed with the Court on April 29, 2008, the parties agree to modify the Plea Agreement by including the following provisions:
 - a. The Defendant has stated that she possesses information about other persons who may have committed violations of law similar to the violation to which she is pleading guilty. She has offered to speak with agents for the government about this information that she claims to possess. In connection with such interviews, the Defendant agrees to be fully truthful and forthright with federal, state and local law enforcement agencies by providing full, complete and truthful

information about all criminal activities about which she has knowledge. The Defendant must provide full, complete and truthful debriefings about these unlawful activities and must fully disclose and provide truthful information to the Government including any books, papers, or documents or any other items of evidentiary value to the investigation. The Defendant must also testify fully and truthfully before any grand juries and at any trials or other proceedings if called upon to do so by the Government, subject to prosecution for perjury for not testifying truthfully. The failure of the Defendant to be fully truthful and forthright at any stage will, at the sole election of the Government, cause the obligations of the Government within this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the Government within this Agreement become null and void due to the lack of truthfulness on the part of the Defendant, the Defendant understands that:

- (A) the Defendant will not be permitted to withdraw her plea of guilty to the offenses described above;
 - (B) all additional charges known to the Government may be filed in the appropriate district;
 - (C) the Government may in its discretion argue for a maximum sentence for the offense to which the Defendant has pleaded guilty; and
 - (D) the Government will use any and all information and testimony provided by the Defendant in the prosecution of the Defendant of all charges.
- b. The Government agrees that any self-incriminating information provided by the

Defendant as a result of the cooperation required by the terms of this Agreement, although available to the Court, will not be used against the Defendant in determining the Defendant's applicable guideline range for sentencing pursuant to the U.S. Sentencing Commission Guidelines. The provisions of this paragraph shall not be applied to restrict any such information:

- (A) known to the Government prior to the date of this Agreement;
- (B) concerning the existence of prior convictions and sentences;
- (C) in a prosecution for perjury or giving a false statement; or
- (D) in the event the Defendant breaches any of the terms of the Plea Agreement.

- c. Provided the Defendant cooperates pursuant to the provisions of this Plea Agreement, and that cooperation is deemed by the Government as providing substantial assistance in the investigation or prosecution of another person who has committed an offense, the Government agrees to move the Court for a downward departure or reduction of sentence pursuant to United States Sentencing Guidelines §5K1.1, Title 18, United States Code, § 3553(e) or Federal Rule of Criminal Procedure 35(b). The Defendant further understands that any such motion by the Government is not binding upon the Court, and should the Court sentence the Defendant within the Guidelines, to the maximum penalty prescribed by law or refuse to reduce the sentence imposed, the Defendant will have no right to withdraw his plea.

2. The parties hereby agree that the Plea Agreement, as modified by this Amendment to Plea Agreement, contains the entire agreement of the parties; that this Agreement supersedes all prior promises, representations and statements of the parties; that this Agreement shall not be binding on any party until the Defendant tenders a plea of guilty to the court having jurisdiction over this matter; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to, contemporaneous with or after this Agreement, are null and void.

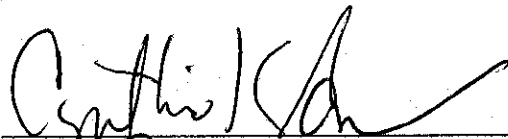
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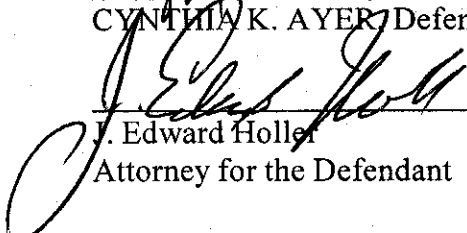
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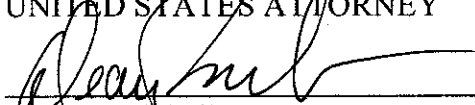


CYNTHIA K. AYER, Defendant



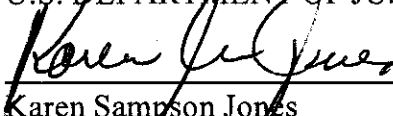
J. Edward Holler
Attorney for the Defendant

KEVIN F. MCDONALD
UNITED STATES ATTORNEY

BY: 

Dean A. Eichelberger
Assistant U. S. Attorney

THOMAS O. BARNETT
ASSISTANT ATTORNEY GENERAL
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U.S. DEPARTMENT OF JUSTICE

BY: 

Karen Sampson Jones
Trial Attorney

BY: _____
John F. Fitzpatrick
Trial Attorney