

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
NEWARK DIVISION

UNITED STATES OF AMERICA )

v. )

ANA C. CHAVEZ, )

Defendant. )

Case No. *CA. 09-783*

Count One: 18 U.S.C. § 201(b)(2)  
(Bribery)

Count Two: 18 U.S.C. § 1956(h)  
(Money Laundering Conspiracy)

**PLEA AGREEMENT**

The United States of America and ANA C. CHAVEZ (“defendant”) and defendant’s counsel hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure (“Fed. R. Crim. P.”):

**RIGHTS OF DEFENDANT**

1. Defendant understands her rights:
  - (a) to be represented by an attorney;
  - (b) to be charged by Indictment;
  - (c) to plead not guilty to any criminal charge brought against her;
  - (d) to have a trial by jury, at which she would be presumed not guilty of the charge and the United States would have to prove every essential element of the charged offense beyond a reasonable doubt for her to be found guilty;
  - (e) to confront and cross-examine witnesses against her and to subpoena witnesses in her defense at trial;
  - (f) not to be compelled to incriminate herself;

- (g) to appeal her conviction, if she is found guilty; and
- (h) to appeal the imposition of sentence against her.

**AGREEMENT TO PLEAD GUILTY  
AND WAIVE CERTAIN RIGHTS**

2. Defendant knowingly and voluntarily waives the rights set out in Paragraph 1(b)-(g) above, and all jurisdictional and venue defenses to the prosecution of this case, and agrees voluntarily to consent to the jurisdiction of the United States to prosecute this case against her in the United States District Court for the District of New Jersey. Defendant also knowingly and voluntarily waives the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. §§ 2241 or 2255, that challenges the sentence imposed by the Court unless the sentence imposed by the Court constitutes an upward departure from the Guideline range deemed applicable by the Court, as described in Paragraph 8, in which case defendant's appeal will be expressly limited to contesting the upward departure. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b), (c). Pursuant to Fed. R. Crim. P. 7(b), defendant will waive indictment and plead guilty at arraignment to a two-count Information to be filed in the United States District Court for the District of New Jersey. The Information will charge defendant with one count of accepting a bribe, in violation of 18 U.S.C. § 201(b)(2), and one count of money laundering conspiracy, in violation of 18 U.S.C. § 1956(h). Defendant admits that, as charged in Count One of the Information, she, being a public official, knowingly accepted approximately \$90,000 in bribes in return for being influenced in the performance of her official acts. Moreover, defendant admits that, as charged in Count Two of

the Information, she conspired with others to transmit the bribe proceeds she received from Afghanistan to the United States in such a manner that was designed to conceal the nature, source, ownership, and control of the bribe proceeds. Defendant is pleading guilty because she is guilty and understands that she will be adjudicated guilty of these offenses.

3. Defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charges described in Paragraph 2 above and will make a factual admission of guilt to the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph 4 below. Defendant agrees that the facts set forth in Paragraph 4 establish her guilt beyond a reasonable doubt.

**FACTUAL BASIS FOR OFFENSE CHARGED**

4. Had this case gone to trial, the United States would have presented evidence sufficient to prove the following facts:

(a) For purposes of this Plea Agreement, the relevant period is that period from in or about February 2005 until in or about September 2006. During the relevant period, the U.S. Department of Defense (“DOD”) operated a military base at Bagram Airfield (“BAF”), Afghanistan. From in or about 2004 until in or about April 2005, defendant was a Sergeant in the U.S. Army stationed at BAF. During the relevant period, as a member of the military, defendant was a public official as defined by 18 U.S.C. § 201(a)(1).

(b) During the relevant period, as part of her deployment to BAF, defendant was assigned to the Transportation Operations Support Office. Defendant was responsible for administering transportation services provided by DOD contractors, including linehaul trucks used to transport goods from BAF to destinations throughout

Afghanistan. Defendant could issue work orders for linehaul services and could, through her recommendation, influence which contractor received linehaul services contracts.

(c) During the relevant period, Person A operated a DOD contractor, Company A, that provided, among other things, linehaul trucking services at BAF. During the relevant period, Co-Conspirator One worked for another DOD contractor that provided, among other things, linehaul trucking services at BAF.

(d) During the relevant period, defendant, as a public official, directly and indirectly corruptly demanded, sought, received, accepted, and agreed to receive and accept things of value from Person A, in return for being influenced in the performance of official acts, in return for being influenced to commit, aid in committing, collude in, and allow fraud on the United States, and in return for being induced to do and omit to do acts in violation of official duty; that is, defendant corruptly demanded, sought, received, accepted, and agreed to receive and accept \$90,000 in cash and wire transfers from Person A, in return for exercising her influence at the Transportation Operations Support Office in the award of DOD contracts and work orders to Company A.

(e) In or about March 2005, defendant gave Co-Conspirator One approximately \$70,000 in cash, which defendant had received as a bribe from Person A.

(f) In or about April 2005, defendant provided Co-Conspirator One the names and bank account numbers of associates designated to receive money via international wire transfer on behalf of defendant.

(g) Between in or about April 2005 and in or about August 2005, Co-Conspirator One instructed his employees to wire money from bank accounts in

Afghanistan to defendant's designees in the United States. Co-Conspirator One's employees transferred a total of at least \$45,000 in a series of wire transfers from bank accounts in Afghanistan to defendant's designees in the United States.

(h) The wire transfers made by Co-Conspirator One's employees were in amounts less than \$10,000 each, in order to conceal and disguise the nature, location, source, ownership, and control of those funds.

(i) Defendant's designees transferred the funds they received to defendant through cash withdrawals and wire transfers, in order to conceal and disguise the nature, source, ownership, and control of the proceeds.

(j) In or about May 2006, Co-Conspirator One gave \$5,000 in cash to his associate, who hand-delivered those funds to defendant in the United States.

(k) The wire transfers and cash deliveries initiated by defendant were financial transactions as defined by 18 U.S.C. § 1956(c).

(l) The property involved in the financial transactions and the funds transported, transmitted, and transferred were proceeds of bribery in violation of 18 U.S.C. § 201, which is specified unlawful activity as defined by 18 U.S.C. § 1956(c).

(m) The financial transactions and transportation, transmittal, and transfer of funds that took place between and among defendant, defendant's designees, Co-Conspirator One's designees, and Co-Conspirator One were in and affected interstate and foreign commerce.

(n) During the relevant period, defendant demanded, sought, received, accepted, and agreed to receive and accept at least more than \$70,000 but not more than

\$120,000.

**POSSIBLE MAXIMUM SENTENCE**

5. Defendant understands that the statutory maximum penalty which may be imposed against her upon conviction for a violation of 18 U.S.C. § 201(b)(2) is:

(a) a term of imprisonment for fifteen (15) years (18 U.S.C. § 201(b));

(b) a fine in an amount equal to the greater of \$250,000 or three times the monetary equivalent of the thing of value (18 U.S.C. § 201(b)); and

(c) a term of supervised release of not more than three years following any term of imprisonment. If defendant violates any condition of supervised release, defendant could be required to serve the entire term of supervised release in prison. 18 U.S.C. §§ 3559(a)(3); 3583(b)(2) and (e)(3); and United States Sentencing Guidelines ("U.S.S.G.," "Sentencing Guidelines," or "Guidelines") §5D1.2(a)(2).

6. Defendant understands that the statutory maximum penalty which may be imposed against her upon conviction for a violation of 18 U.S.C. § 1956(h) is:

(a) a term of imprisonment for twenty (20) years (18 U.S.C. §§ 1956(h), 1956(a)(2));

(b) a fine in an amount equal to the greatest of: (1) \$500,000; or (2) twice the value of the monetary instrument or funds involved in the transportation, transmission or transfer, whichever is greater. (18 U.S.C. §§ 1956(h), 1956(a)(2)); and

(c) a term of supervised release of three (3) years following any term of imprisonment. If defendant violates any condition of supervised release, defendant could be required to serve up to two (2) years in prison (18 U.S.C. § 3559(a)(3); 18 U.S.C. §

3583(b)(2) and (e)(3); and United States Sentencing Guidelines (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) §5D1.2(a)(2)).

7. In addition, defendant understands that:

(a) pursuant to U.S.S.G. §5E1.1 or 18 U.S.C. §§ 3663(a)(3) or

3583(d), the Court shall order her to pay restitution to the victims of the offense; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order defendant to pay a \$200.00 special assessment upon conviction.

#### **SENTENCING GUIDELINES**

8. Defendant understands that the Guidelines are advisory, not mandatory, and that the Court must consider the Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing sentence. Defendant understands that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard. Defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant agrees that this Plea Agreement along with any sentencing memoranda and the record that will be created by the United States and defendant at the plea hearing will provide sufficient information concerning defendant, the crime charged, and defendant’s role in the crime to enable the meaningful exercise of the Court’s sentencing authority as required by 18 U.S.C. § 3553.

#### **SENTENCING AGREEMENT**

9. For purposes of calculating the sentence directed by the Sentencing Guidelines, the United States and defendant agree to recommend the following calculation, which the parties

agree provides a fair, just, and reasonable resolution of this matter:

- (a) The November 1, 2008, edition of the Guidelines applies;
- (b) Counts One and Two of the Information group pursuant to U.S.S.G. §3D1.2(d), and the controlling Guideline applicable to both Counts is U.S.S.G. §2S1.1;
- (c) Pursuant to U.S.S.G. §§2S1.1(a)(1), 2C1.1(a)(1), 2C1.1(b)(2), and 2B1.1(b)(E), the base offense level is 22;
- (d) Defendant will be convicted under 18 U.S.C. § 1956, and thus a two-level increase is appropriate pursuant to U.S.S.G. §2S1.1(b)(2)(B); and
- (e) The Combined Offense Level is 24.

10. The United States does not oppose a two-level reduction in defendant's combined offense level, based upon defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for her criminal conduct. If the Court determines defendant's offense level to be 16 or greater prior to the operation of U.S.S.G. §3E1.1(a), the United States agrees to make a motion under U.S.S.G. §3E1.1(b) for an additional one-level decrease in recognition of defendant's timely notification of her intention to plead guilty. The United States may oppose any adjustment for acceptance of responsibility if defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about her involvement in the offense; (d) is untruthful with the Court, the United States, or the Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw her plea of guilty.

11. Defendant understands that there is no agreement as to the sentencing provisions

set out in Chapter Four of the Guidelines, and that the foregoing sentencing guidelines calculations could change based upon her criminal history category, or if she is a career offender, or if the instant offense was part of a pattern of criminal conduct from which she derived a substantial portion of her income.

12. The United States and defendant agree that with respect to the calculation of the advisory Guidelines range, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments as set forth in Chapters 2, 3, 4, or 5 of the Sentencing Guidelines will be raised, argued, or are in dispute.

13. If the United States determines that defendant has provided substantial assistance in any investigation or prosecution, and has otherwise fully complied with all of the terms of this Plea Agreement, it will file a motion, pursuant to U.S.S.G. §5K1.1, advising the sentencing judge of all the relevant facts pertaining to that determination and requesting the Court to sentence defendant in light of the factors set forth in U.S.S.G. §5K1.1(a)(1)-(5). Defendant acknowledges that the decision with respect to whether she has provided substantial assistance in any investigation or prosecution, and has otherwise fully complied with all of the terms of this Plea Agreement, is within the sole discretion of the United States and further agrees that she will not contest the departure level recommended by the United States, if the United States makes a motion pursuant to U.S.S.G. §5K1.1. It is understood that should the United States determine that defendant has not provided substantial assistance in any investigations or prosecutions, or should the United States determine that defendant has violated any provision of this Plea Agreement, such a determination will release the United States from any obligation to file a motion pursuant to U.S.S.G. §5K1.1, but will not entitle defendant to withdraw her guilty plea

once it has been entered. Defendant further understands that whether or not the United States files a motion pursuant to U.S.S.G. §5K1.1, the sentence to be imposed on her remains within the sole discretion of the sentencing judge.

14. Subject to the ongoing, full, and truthful cooperation of defendant described in Paragraph 17 of this Plea Agreement, and before sentencing in the case, the United States will fully advise the Court and the Probation Office of the fact, manner, and extent of defendant's cooperation and her commitment to prospective cooperation with the United States's investigations and prosecutions, all material facts relating to defendant's involvement in the charged offense, and all other relevant conduct. To enable the Court to have the benefit of all relevant sentencing information, the United States may request, and defendant will not oppose, that sentencing be postponed until her cooperation is substantially completed.

15. Defendant, her attorney, and the United States acknowledge and agree that the above calculations are preliminary in nature and based on facts known to the United States as of the time of this Plea Agreement. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guidelines calculation. The validity of this Plea Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations and defendant has no right to withdraw her Plea Agreement if the probation officer or the Court do not agree or concur with the calculations, stipulations, or recommendations of the parties. Defendant further understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a sentence consistent with the calculations, stipulations, or recommendations contained in this Plea Agreement, she

nevertheless has no right to withdraw her plea of guilty.

**RESTITUTION**

16. Defendant agrees to the entry of a restitution order for the full amount of the victim's losses pursuant to 18 U.S.C. §§ 3556, 3663, and 3664(f)(1)(A). Defendant agrees that her restitution obligation shall be joint and several with any other defendants ultimately convicted in this matter, if any, and that the Court may apportion liability among defendants, pursuant to the procedures set forth in 18 U.S.C. § 3664, to reflect the level of contribution to the victims' losses and economic circumstances of each defendant. The United States agrees not to oppose the imposition of a reasonable payment schedule, as directed by the Court after its review of the factors enumerated in 18 U.S.C. § 3664. Defendant further agrees that the Court shall maintain continuing supervisory authority over the restitution owed to the victims in this matter and, pursuant to 18 U.S.C. § 3664(k), the Court may adjust the payment schedule or apportionment of that restitution obligation in order to account for a material change in defendant's economic circumstances or to ensure repayment of the victim's losses. The United States and defendant agree that, at this time, they are aware of restitution owed for the following actual losses:

- (a) \$90,000 to the United States Department of Defense.

**DEFENDANT'S COOPERATION**

17. Defendant will cooperate fully and truthfully with the United States in the prosecution of this case, the investigation of violations of federal criminal laws involving illegal activity at Bagram Airfield or elsewhere in Afghanistan, any other federal investigation resulting therefrom, and any litigation or other proceedings arising or resulting from any such investigation

to which the United States is a party ("Relevant Proceeding"). The ongoing, full, and truthful cooperation of defendant shall include, but not be limited to:

- (a) producing all non-privileged documents, including claimed personal documents, and other materials, wherever located, in the possession, custody, or control of defendant, requested by attorneys and agents of the United States;
- (b) making herself available for interviews, not at the expense of the United States, upon the request of attorneys and agents of the United States;
- (c) responding fully and truthfully to all inquiries of the United States in connection with any Relevant Proceeding, without falsely implicating any person or intentionally withholding any information, subject to the penalties of making false statements (18 U.S.C. § 1001) and obstruction of justice (18 U.S.C. § 1503 et seq.);
- (d) otherwise voluntarily providing the United States with any non-privileged material or information, not requested in (a) - (c) of this paragraph, that she may have that is related to any Relevant Proceeding; and
- (e) when called upon to do so by the United States in connection with any Relevant Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully, and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or declarations in grand jury or court proceedings (18 U.S.C. § 1623), contempt (18 U.S.C. §§ 401-02), and obstruction of justice (18 U.S.C. § 1503 et seq.).

**GOVERNMENT'S AGREEMENT**

18. Subject to the full, truthful, and continuing cooperation of defendant, as described in Paragraph 17 of this Plea Agreement, and upon the Court's acceptance of the guilty plea called

for by this Plea Agreement and the imposition of the sentence, the United States will not bring further criminal charges against defendant for any act or offense committed before the date of this Plea Agreement that was undertaken in furtherance of the crimes arising from the facts set forth in the Information and in this Plea Agreement (“Relevant Offense”). The nonprosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal tax or securities laws, or to any crime of violence.

19. Defendant understands that she may be subject to administrative action by federal or state agencies other than the Department of Justice, Antitrust Division, based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in no way controls whatever action, if any, other agencies may take.

**REPRESENTATION BY COUNSEL**

20. Defendant has reviewed all legal and factual aspects of this case with her attorney and is fully satisfied with her attorney’s legal representation. Defendant has thoroughly reviewed this Plea Agreement with her attorney and has received satisfactory explanations from her attorney concerning each paragraph of this Plea Agreement and alternatives available to defendant other than entering into this Plea Agreement. After conferring with her attorney and considering all available alternatives, defendant has made a knowing and voluntary decision to enter into this Plea Agreement.

**VOLUNTARY PLEA**

21. Defendant’s decision to enter into this Plea Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement. The United

States has made no promises or representations to defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

**VIOLATION OF PLEA AGREEMENT**

22. Defendant agrees that should the United States determine in good faith, during the period that any Relevant Proceeding is pending, that defendant has failed to provide full and truthful cooperation, as described in Paragraph 17 of this Plea Agreement, or has otherwise violated any provision of this Plea Agreement, the United States will notify defendant or her counsel in writing by personal or overnight delivery or facsimile or other electronic transmission and may also notify her counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph), and defendant shall be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement. Defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against defendant for any of the Relevant Offenses, the statute of limitations period for such offenses will be tolled for the period between the date of the signing of this Plea Agreement and six (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

23. Defendant understands and agrees that in any further prosecution of her resulting from the release of the United States from its obligations under this Plea Agreement based on defendant's violation of the Plea Agreement, any documents, statements, information, testimony, or evidence provided by her to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against her in any such further prosecution.

In addition, defendant unconditionally waives her right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Federal Rule of Evidence 410.

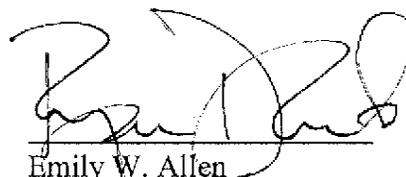
**ENTIRETY OF AGREEMENT**

24. This Plea Agreement constitutes the entire agreement between the United States and defendant concerning the disposition of the criminal charges in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and defendant.

25. The undersigned attorneys for the United States have been authorized by the Attorney General to enter this Plea Agreement on behalf of the United States.

26. A facsimile or other electronically transmitted signature shall be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.

Respectfully submitted,

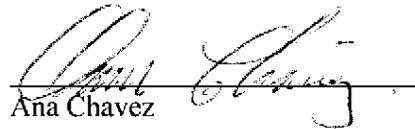


Emily W. Allen  
Ryan Danks  
Mark W. Pletcher  
Trial Attorneys  
National Criminal Enforcement Section  
Antitrust Division  
United States Department of Justice  
450 Fifth Street, N.W. Suite 11300  
Washington, D.C. 20530

Sept. 9, 2009  
Date

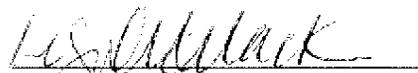
I have read this agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. I have reviewed the factual and advisory Guidelines stipulations with my attorney, and I do not wish to change any of them. I am completely satisfied with the representation of my attorney.

5/19/20  
Date

  
Ana Chavez

I am Ana Chavez's attorney. I have carefully reviewed every part of this agreement with her. To my knowledge, her decision to enter into this Plea Agreement is informed and voluntary.

5/19/20  
Date

  
Lisa Mack  
Counsel for Ana Chavez