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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALAIN RIEDO,

Defendant.

Case No. 13CR3789-JM

PLEA AGREEMENT

IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF AMERICA, through its counsel, Tara K. McGrath, United States Attorney, Janaki Gandhi Chopra, Assistant U.S. Attorney, Glenn S. Leon, Chief, Fraud Section and Ligia M. Markman, Trial Attorney, and Defendant ALAIN RIEDO ("Defendant"), with the advice and consent of David J. Schindler, counsel for Defendant, as follows:

I

THE PLEA

Defendant agrees to plead guilty to Count 8 of an Indictment charging Defendant with falsification of books and records, in violation of 15 U.S.C. §§ 78m(b)(2)(A), 78m(b)(5), 78ff(a).

In exchange for Defendant's plea to Count 8 of the Indictment, the United States agrees to (1) dismiss without prejudice the remaining counts in the Indictment against Defendant at sentencing, and (2) not

prosecute Defendant thereafter on such dismissed charges unless Defendant breaches the plea agreement or the guilty plea entered pursuant to this plea agreement is set aside for any reason. If Defendant breaches this agreement or the guilty plea is set aside, section XII below shall apply.

II

NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

The offense to which Defendant is pleading guilty, and as alleged in the Indictment, has the following elements:

1. Defendant was an officer of a company that was an issuer within the meaning of 15 U.S.C. § 78c(a)(8);

2. The company was required to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of the assets of the company;

3. Defendant, directly or indirectly, falsified or caused to be falsified any such book, record, or account of the company; and

4. Defendant acted knowingly and willfully.

B. ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS

Defendant has fully discussed the facts of this case with defense counsel. Defendant has committed each element of the crime and admits that there is a factual basis for this guilty plea. The following facts are true and undisputed:

Background

1. During the relevant time period, Maxwell Technologies ("Maxwell"), a manufacturer of energy storage and power-delivery products, was incorporated in Delaware, headquartered in San Diego,

California, and had manufacturing capabilities in the United States, Switzerland, and the People's Republic of China ("PRC"). Maxwell's shares were registered with the Securities and Exchange Commission ("SEC"), and the company was required to file periodic reports with the SEC.

2. Maxwell Technologies S.A. ("Maxwell S.A."), previously known as Montena Components Ltd., was a wholly owned subsidiary of Maxwell that manufactured and sold high-voltage/high-tension ("HV/HT") capacitors in several countries, including the PRC. Maxwell S.A. was incorporated and headquartered in Switzerland. Maxwell S.A.'s financial results were consolidated with Maxwell's throughout the relevant period. Maxwell S.A., although separately incorporated, shared employees, officers, and personnel with Maxwell, and undertook acts with Maxwell's authorization and knowledge, and subject to Maxwell's control.

3. Defendant ALAIN RIEDO, a citizen of Switzerland, was employed by Maxwell S.A. from in or around 2002 until July 2009. During that time, Defendant served as General Manager of Maxwell S.A. From in or around May 2006 until July 2009, Defendant also served as a Senior Vice President of Maxwell. In his roles, Defendant exercised supervisory authority at Maxwell and Maxwell S.A., and owned a significant number of Maxwell shares.

4. "Agent 1," a Chinese national, was Maxwell S.A.'s third-party agent from at least in or around 2002 until in or around May 2009, and was responsible for the sale of Maxwell HV/HT capacitors to customers in the PRC.

5. Pinggao Group Co. Ltd. (formerly Pingdingshan High Voltage Swtichgear Works) ("Pinggao Group") was a state-owned and state-controlled manufacturer of electric utility infrastructure in Henan Province, PRC.

6. As General Manager and Senior Vice President of Maxwell S.A., Defendant knew that invoices for sales to Chinese customers included a 20% markup for purported commissions or extra payments. Defendant knew these payments were being made to Agent 1 and that they were associated with the sales of Maxwell S.A. products to Chinese end users. Defendant also knew these payments were not actually intended as commissions. Thus, when Maxwell S.A. recorded a sales-related commission to Agent 1, Defendant knew the payment was not accurately reflected in the company's books and records because it did not reflect the true nature of the payment.

Count 8

7. On or about April 15, 2009, Defendant caused a Maxwell S.A. employee to send from Switzerland to San Diego, California, an email containing Maxwell S.A. financial data that falsely characterized extra payments made to Agent 1.

8. Specifically, Defendant, in his capacity as Senior Vice President and officer of Maxwell, and General Manager of Maxwell S.A., knowingly and willfully caused Maxwell SA's books to hide an extra payment totaling approximately $346,000 USD to Pinggao Group from Maxwell S.A., through Agent 1. These extra payments were falsely characterized as sales expenses or commissions.

9. As a result of Defendant's actions, Maxwell's books and records did not accurately and fairly reflect the transactions and dispositions of the assets of the company.

III

PENALTIES

The crime to which Defendant is pleading guilty carries the following penalties:

A. a maximum 20 years in prison;

B. a maximum $5,000,000 fine;

C. a mandatory special assessment of $100; and,

D. a term of supervised release of not more than 3 years. Defendant understands that failure to comply with any of the conditions of supervised release may result in revocation of supervised release, requiring defendant to serve in prison, upon any such revocation, all or part of the statutory maximum term of supervised release for the offense that resulted in such term of supervised release.

IV

DEFENDANT'S WAIVER OF TRIAL RIGHTS AND UNDERSTANDING OF CONSEQUENCES

This guilty plea waives Defendant's right at trial to:

A. Continue to plead not guilty and require the Government to prove the elements of the crime beyond a reasonable doubt;

B. A speedy and public trial by jury;

C. The assistance of counsel at all stages;

D. Confront and cross-examine adverse witnesses;

E. Testify and present evidence and to have witnesses testify on behalf of Defendant; and,

F. Not testify or have any adverse inferences drawn from the failure to testify.

Defendant has been advised by counsel and understands that because defendant is not a citizen of the United States, defendant's conviction in this case may have adverse immigration consequences, including defendant's removal or deportation from the United States. Defendant may also be denied United States citizenship and admission to the United States in the future.

Under federal law, a broad range of crimes are removable offenses, including crimes involving fraud. Removal and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that no one, including the defendant's attorney or the District Court, can predict with certainty the effect of defendant's conviction on defendant's immigration status. Defendant nevertheless affirms that defendant wants to plead guilty regardless of any immigration consequences that defendant's plea may entail, even if the consequence is defendant's automatic removal from the United States.

V

DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

Any information establishing the factual innocence of Defendant known to the undersigned prosecutor in this case has been turned over to Defendant. The Government will continue to provide such information establishing the factual innocence of Defendant.

If this case proceeded to trial, the Government would be required to provide impeachment information for its witnesses. In addition, if Defendant raised an affirmative defense, the Government would be required to provide information in its possession that supports such a

defense. By pleading guilty Defendant will not be provided this information, if any, and Defendant waives any right to this information. Defendant will not attempt to withdraw the guilty plea or to file a collateral attack based on the existence of this information.

VI

DEFENDANT'S REPRESENTATION THAT GUILTY PLEA IS KNOWING AND VOLUNTARY

Defendant represents that:

A. Defendant has had a full opportunity to discuss all the facts and circumstances of this case with defense counsel and has a clear understanding of the charges and the consequences of this plea. By pleading guilty, Defendant may be giving up, and rendered ineligible to receive, valuable government benefits and civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury. The conviction in this case may subject Defendant to various collateral consequences, including but not limited to revocation of probation, parole, or supervised release in another case; debarment from government contracting; and suspension or revocation of a professional license, none of which can serve as grounds to withdraw Defendant's guilty plea.

B. No one has made any promises or offered any rewards in return for this guilty plea, other than those contained in this agreement or otherwise disclosed to the Court.

C. No one has threatened Defendant or Defendant's family to induce this guilty plea.

D. Defendant is pleading guilty because Defendant is guilty and for no other reason.

VII

AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE SOUTHERN DISTRICT OF CALIFORNIA AND THE DEPARTMENT OF JUSTICE FRAUD SECTION

This plea agreement is limited to the United States Attorney's Office for the Southern District of California and the Department of Justice Fraud Section and cannot bind any other authorities in any type

of matter, although the Government will bring this plea agreement to the attention of other authorities if requested by Defendant.

VIII

APPLICABILITY OF SENTENCING GUIDELINES

The sentence imposed will be based on the factors set forth in 18 U.S.C. § 3553(a). In imposing the sentence, the sentencing judge must consult the United States Sentencing Guidelines (Guidelines) and take them into account. Defendant has discussed the Guidelines with defense counsel and understands that the Guidelines are only advisory, not mandatory. The Court may impose a sentence more severe or less severe than otherwise applicable under the Guidelines, up to the maximum in the statute of conviction. The sentence cannot be determined until a presentence report is prepared by the U.S. Probation Office and defense counsel and the Government have an opportunity to review and challenge the presentence report. Nothing in this plea agreement limits the Government's duty to provide complete and accurate facts to the district court and the U.S. Probation Office.

IX

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). The sentence is within the sole discretion of the sentencing judge who may impose the maximum sentence provided by statute. It is uncertain at this time what Defendant's sentence will be. The Government has not made and will not make any representation about what sentence Defendant will receive. Any estimate of the probable sentence by defense counsel is not a promise and is not binding on the Court. Any recommendation by the Government at sentencing also is not

binding on the Court. If the sentencing judge does not follow any of the parties' sentencing recommendations, Defendant will not withdraw the plea.

X

PARTIES' SENTENCING RECOMMENDATIONS

A. SENTENCING GUIDELINE CALCULATIONS

Although the Guidelines are only advisory and just one factor the Court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly recommend the following Base Offense Level, Specific Offense Characteristics, Adjustments, and Departures:

1.	Base Offense Level [§ 2B1.1(a)]	7
2.	Loss [§ 2B1.1(b)(1)(G)]	+12
3.	Officer of Public Company [§ 2B1.1(b)(19)]	+4
4.	Acceptance of Responsibility [§ 3E1.1]	-3
5.	Zero-point Offender [§ 4C1.1]	-2*
6.	Departure [§ 5K2.0]:	-6[1]

*If Defendant meets the requirements for the zero-point offender departure as provided under USSG § 4C1.1, the United States will recommend a two-level reduction of the guidelines at sentencing.

B. ACCEPTANCE OF RESPONSIBILITY

Despite paragraph A above, the Government need not recommend an adjustment for Acceptance of Responsibility if Defendant engages in conduct inconsistent with acceptance of responsibility including, but not limited to, the following:

[1] See Section X, paragraph C.

1. Fails to truthfully admit a complete factual basis as stated in the plea at the time the plea is entered, or falsely denies, or makes a statement inconsistent with, the factual basis set forth in this agreement;
2. Falsely denies prior criminal conduct or convictions;
3. Is untruthful with the Government, the Court or probation officer; or
4. Breaches this plea agreement in any way.

C. FURTHER ADJUSTMENTS AND SENTENCE REDUCTIONS INCLUDING THOSE UNDER 18 U.S.C. § 3553

The parties agree that the joint recommendation for a six-level departure for a combination of circumstances takes into consideration the fact that Defendant is submitting himself to the jurisdiction of the United States by traveling to the United States to address the charges in this indictment.

Defendant may request or recommend additional downward adjustments, departures, or variances from the Sentencing Guidelines under 18 U.S.C. § 3553. The Government may oppose any downward adjustments, departures, or variances not set forth in Section X, paragraph A above.

D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

The parties have **no** agreement as to Defendant's Criminal History Category.

E. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

The facts in the "factual basis" paragraph of this agreement are true and may be considered as "relevant conduct" under USSG § 1B1.3 and as the nature and circumstances of the offense under 18 U.S.C. § 3553(a)(1).

F. PARTIES' RECOMMENDATIONS REGARDING CUSTODY

The Government will recommend that Defendant be sentenced to the low end of the advisory guideline range recommended by the Government at sentencing. Defendant reserves the right to seek a sentence of probation.

G. SPECIAL ASSESSMENT/FINE/RESTITUTION

1. Special Assessment

The parties will jointly recommend that Defendant pay a special assessment in the amount of $100.00 per count of conviction to be paid forthwith at time of sentencing. Special assessments shall be paid through the office of the Clerk of the District Court by bank or cashier's check or money order made payable to the "Clerk, United States District Court."

2. Fine

The parties will jointly recommend that Defendant pay a fine in the amount of $55,000 USD to be paid forthwith in one lump sum at or before the time of sentencing. The attached fine addendum shall govern payment of the fine in this case.

H. SUPERVISED RELEASE

If the Court imposes a term of supervised release, Defendant will not seek to reduce or terminate early the term of supervised release until Defendant has served at least 2/3 of the term of supervised release and has fully paid and satisfied any special assessments, fine, criminal forfeiture judgment, and restitution judgment.

XI

DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

Defendant waives (gives up) all rights to appeal and to collaterally attack every aspect of the conviction and sentence, including any fine or restitution order. This waiver includes, but is not limited to, any argument that the statute of conviction or Defendant's prosecution is unconstitutional and any argument that the facts of this case do not constitute the crime charged. The only exception is Defendant may collaterally attack the conviction or sentence on the basis that Defendant received ineffective assistance of counsel. If Defendant appeals, the Government may support on appeal the sentence or fine or restitution order actually imposed.

XII

BREACH OF THE PLEA AGREEMENT

Defendant and Defendant's attorney know the terms of this agreement and shall raise, before the sentencing hearing is complete, any claim that the Government has not complied with this agreement. Otherwise, such claims shall be deemed waived (that is, deliberately not raised despite awareness that the claim could be raised), cannot later be made to any court, and if later made to a court, shall constitute a breach of this agreement.

Defendant breaches this agreement if Defendant violates or fails to perform any obligation under this agreement. The following are non-exhaustive examples of acts constituting a breach:

1. Failing to plead guilty pursuant to this agreement;
2. Failing to fully accept responsibility as established in Section X, paragraph B, above;

3. Failing to appear in court;

4. Attempting to withdraw the plea;

5. Failing to abide by any court order related to this case;

6. Appealing (which occurs if a notice of appeal is filed) or collaterally attacking the conviction or sentence in violation of Section XI of this plea agreement; or

7. Engaging in additional criminal conduct from the time of arrest until the time of sentencing.

If Defendant breaches this plea agreement, Defendant will not be able to enforce any provisions, and the Government will be relieved of all its obligations under this plea agreement. For example, the Government may proceed to sentencing but recommend a different sentence than what it agreed to recommend above. Or the Government may pursue any charges including those that were dismissed, promised to be dismissed, or not filed as a result of this agreement (Defendant agrees that any statute of limitations relating to such charges is tolled indefinitely as of the date all parties have signed this agreement; Defendant also waives any double jeopardy defense to such charges). In addition, the Government may move to set aside Defendant's guilty plea. Defendant may not withdraw the guilty plea based on the Government's pursuit of remedies for Defendant's breach.

Additionally, if Defendant breaches this plea agreement: (i) any statements made by Defendant, under oath, at the guilty plea hearing (before either a Magistrate Judge or a District Judge); (ii) the factual basis statement in Section II.B in this agreement; and (iii) any evidence derived from such statements, are admissible against Defendant in any prosecution of, or any action against, Defendant. This includes

the prosecution of the charge(s) that is the subject of this plea agreement or any charge(s) that the prosecution agreed to dismiss or not file as part of this agreement, but later pursues because of a breach by the Defendant. Additionally, Defendant knowingly, voluntarily, and intelligently waives any argument that the statements and any evidence derived from the statements should be suppressed, cannot be used by the Government, or are inadmissible under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, and any other federal rule.

XIII

CONTENTS AND MODIFICATION OF AGREEMENT

This plea agreement embodies the entire agreement between the parties and supersedes any other agreement, written or oral. No modification of this plea agreement shall be effective unless in writing signed by all parties.

XIV

DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

By signing this agreement, Defendant certifies that Defendant has read it (or that it has been read to Defendant in Defendant's native language). Defendant has discussed the terms of this agreement with defense counsel and fully understands its meaning and effect.

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XV

DEFENDANT SATISFIED WITH COUNSEL

Defendant has consulted with counsel and is satisfied with counsel's representation. This is Defendant's independent opinion, and Defendant's counsel did not advise Defendant about what to say in this regard.

TARA K. MCGRATH
United States Attorney

11/14/2023
DATED

JANAKI GANDHI CHOPRA
Assistant U.S. Attorney

GLENN S. LEON
Chief, Fraud Section

01/17/2024
DATED

LIGIA MARKMAN
Trial Attorney

11/13/2023
DATED

DAVID J. SCHINDLER
Defense Counsel

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" SECTION ABOVE ARE TRUE.

10 November 2023
DATED

ALAIN RIEDO
Defendant

FINE ADDENDUM

13CR3789-JM, United States v. Alain Riedo

This Fine Addendum is incorporated into and is part of Defendant's plea agreement.

1. Defendant agrees to make one lump sum payment of the agreed upon fine of $55,000 on or before the date of sentencing in this case.

2. If Defendant breaches the plea agreement and this addendum by failing to pay the fine in one lump sum payment on or before the date of sentencing, Defendant will not be able to enforce any provisions, and the Government will be relieved of all its obligations under the plea agreement as set forth in Section XII of the plea agreement. Additionally, Defendant agrees that any payment scheduled imposed by the Court establishes only a minimum obligation and does not foreclose the United States from collecting the fine amount from Defendant through all available legal actions, collection remedies, and process.

3. The fine shall be paid through the Office of the Clerk of the District Court by bank or cashier's check or money order referencing the criminal case number and made payable to the "Clerk, United States District Court."

4. The United States may run credit and other financial reports on Defendant using public and non-public databases and share such information with the Court and the U.S. Probation Office. Defendant also authorizes the Internal Revenue Service to transmit to the United States Attorney's Office copies of his tax returns, if any, until the fine is paid in full and will promptly execute any documents necessary to carry out this authorization.

5. If Defendant breaches the plea agreement and this addendum by failing to pay the fine in one lump sum payment on or before the date of sentencing, Defendant shall complete and provide to the United States, prior to sentencing, under penalty of perjury, a financial disclosure form listing all of Defendant's current and projected assets and financial interests valued at more than $1,000. These include all assets and financial interests in which Defendant has an interest (or had an interest prior to October 15, 2013), direct or indirect, whether held in Defendant's name or in the name of another, in any property, real or personal, including marital and community property. Defendant shall also identify all assets valued at more than $5,000 which have been transferred to any third party since October 15, 2013, including the location of the assets, the identity of the third party or parties, and the amount of consideration received by the Defendant for the transferred assets.

6. From the date this plea agreement is executed until the fine is paid in full, Defendant shall immediately notify the Asset Recovery Section of the United States Attorney's Office of any interest in property worth more than $1,000 that Defendant obtains, directly or indirectly, including any interest obtained under any other name or entity, including a trust, partnership or corporation. The parties will jointly recommend that this requirement also be imposed as a condition of supervised release.

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7. Defendant shall immediately notify the Asset Recovery Section of the United States Attorney's Office of any material change in Defendant's financial condition.

TARA K. MCGRATH
United States Attorney

DATED: 11/14/2023

JANAKI GANDHI CHOPRA
Assistant U.S. Attorney

GLENN S. LEON
Chief, Fraud Section

DATED: 01/17/2024

LIGIA MARKMAN
Trial Attorney

DATED: 11/13/2023

DAVID J. SCHINDLER
Defense Counsel

DATED: 6 Nov. 2023

ALAIN RIEDO
Defendant