

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

OBAIDULLAH SYED

No. 20 CR 629-1

Judge Mary M. Rowland

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, JOHN R. LAUSCH, JR., and defendant OBAIDULLAH SYED, and his attorney, RYAN S. HEDGES, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The indictment in this case charges defendant with conspiracy to export goods and services from the United States without a license from the Department of Commerce, in violation of Title 50, United States Code, Section 1705(a), and to submit false export information, in violation of Title 13, United States Code, Section 305, all in violation of Title 18, United States Code, Section 371 (Count One); and the exportation of goods and services from the United States without a license from the Department of Commerce, in violation of Title 50, United States Code, Section 1705(a) (Count Two).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charge to Which Defendant Is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the following count of the indictment: Count One, which charges defendant with conspiracy to export goods and services from the United States without a license from the Department of Commerce, in violation of Title 50, United States Code, Section 1705(a), and to submit false export information, in violation of Title 13, United States Code, Section 305, all in violation of Title 18, United States Code, Section 371. In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline § 1B1.3, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

As charged in Count One, beginning no later than in or around May 2006, and continuing until at least in or around October 2015, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant OBAIDULLAH SYED did conspire with Business Systems International Pvt. Ltd., Co-Conspirator A, Co-

Conspirator B, Co-Conspirator C, Co-Conspirator D, Co-Conspirator E, and with others known and unknown:

(a) to commit an offense against the United States, namely, to willfully and knowingly violate, attempt to violate, and attempt to cause a violation of, licenses, orders, regulations, and prohibitions issued under the International Emergency Economic Powers Act, Title 50, United States Code, Sections 1701 to 1707, namely, defendant and his co-conspirators exported, sold, and supplied, attempted to export, sell, and supply, and attempted to cause to be exported, sold, and supplied, directly and indirectly, from the United States, goods, including a Computer Company A 3000 C-Brick with L1 Controller and Fans, bearing serial number MHT802; two Computer Company A PCA 2 x 500 MHz IP35 PIMMs (R14K 8MB), bearing serial numbers MFS551 and MHJ941; a Computer Company A AC/DC 3100WDC Power Supply for Onyx2 Rack, bearing serial number NM13940; a Seagate 146Gb 15K FC disk drive, bearing serial number 3KN2LCMA; and six Finisar TXRX OPT 1G/10G 850nm transceivers, to the Pakistan Atomic Energy Commission (“PAEC”), and in transactions to which the PAEC was a party, without first obtaining the required authorization from the U.S. Department of Commerce, Bureau of Industry and Security, in violation of Title 50 United States Code, Section 1705(a), and Title 15, Code of Federal Regulations, Parts 730.7, 734.3, 734.13, 736.2, 744, Supplement No. 4, and 764.2; and

(b) to knowingly submit and cause the submission of false and misleading export information through the Shippers Export Declaration and Automated Export System, in that the defendant and his co-conspirators stated and represented, and caused to be stated and represented, in a Shippers Export Declaration information regarding the end users, ultimate consignees, and parties to export shipments that defendant knew to be false, in violation of Title 13, United States Code, Section 305(a)(1).

Specifically, between no later than May 2006, and continuing until at least October 2015, SYED and several employees of his Pakistan-based company, Business Systems International, agreed to export U.S.-origin computers, computer systems, and associated equipment from the United States to the PAEC, and in transactions to which the PAEC was a party, without a license issued by the U.S. Department of Commerce. At the time of each such export and attempted export, SYED knew that the subject transaction required a license issued by the U.S. Department of Commerce, Bureau of Industry and Security, but failed to obtain the required license. Instead, SYED and his co-conspirators intentionally evaded U.S. export laws and regulations by failing to identify the PAEC as a party to the subject transaction and identifying either SYED, Business Systems International Pvt. Ltd., or Pakistan-based universities (including Taxila University, Taxila Engineering University, and the National University of Science & Technology), as the purchaser, recipient, or intended end-user of the goods that SYED and his company exported.

Business Systems International and Customers Subject to U.S. Export Laws and Regulations

Between no later than 2001 and continuing until at least October 2015, SYED was the owner and Chief Executive Officer of Business Systems International and BSI-USA, Incorporated. Business Systems International was a Pakistan-based provider of computing platforms, servers, and software application solutions. BSI-USA, Incorporated was incorporated in Illinois and located in Chicago. SYED's employees at Business Systems International included Co-Conspirator A, who was the Director of Marketing and Sales; Co-Conspirator B, who was the Corporate Secretary and Coordinator; Co-Conspirators C and D, who were both Senior Support Engineers; and Co-Conspirator E, who was a Software Engineer.

Business Systems International's customers included the PAEC and the Pakistan Institute of Engineering and Applied Sciences ("PIEAS"). SYED acknowledges that the PAEC was a Pakistani government agency, located in Pakistan, concerned with research and development of nuclear power. SYED further acknowledges that PIEAS was a nuclear research facility, located in Islamabad, Pakistan, that focused on training current and prospective engineers and scientists of the PAEC and other technical organizations.

SYED acknowledges that U.S. export laws and regulations included the PAEC in a list of entities ("Entity List") who may pose unusual or extraordinary threats to the national security, foreign policy, or economy of the United States and who are therefore subject to specific licensing requirements for the export, reexport, and in-

country transfer of specified items, some of which relate to the proliferation of nuclear weapons and materials. By no later than November 2004, SYED understood that that exports of U.S.-origin goods to the PAEC, and in transactions to which the PAEC was a party, required a license from the U.S. Department of Commerce.

SYED acknowledges that U.S. laws and regulations required exporters of certain U.S.-origin goods, including the goods described in the transactions detailed below, to file a Shippers Export Declaration through the Automated Export System, and that this declaration was required to contain, among other things, the names and addresses of all the parties to the transaction, country of ultimate destination, and a description, quantity, and value of the items exported.

Exports of ONYX 3400 Visualization Computer System and Associated Parts (May 2002 and July 2008)

On or about December 3, 2001, SYED and Business Systems International submitted an order to purchase an Onyx 3400 visualization computer system from a computer manufacturer located in California (“Computer Company A”). In this purchase order, SYED and Co-Conspirator A directed Computer Company A to ship the computer system and associated equipment to Business Systems International in Pakistan and identified “Taxila University” as the end-user of the Onyx 3400 although SYED knew at the time that the purchaser of the Onyx 3400 was the PAEC.

On or about May 15, 2002, Computer Company A shipped the requested Onyx 3400 visualization computer system and associated equipment from Bensenville, Illinois, to Business Systems International in Pakistan, through Chicago, Illinois.

Between on or about May 15, 2002, and June 2002, SYED and Business Systems International delivered the Onyx 3400 system and associated equipment to a location in Pakistan specified by the PAEC, in exchange for over \$250,000.

Between no later than May 11, 2006 and continuing to in or about April 2008, SYED and Co-Conspirators A, B, C, and D negotiated with representatives of the PAEC regarding the sale of replacement parts for the Onyx 3400 that the PAEC had purchased in 2002. On or about April 29, 2008, Co-Conspirator B sent SYED and Co-Conspirators A, C, and D an email attaching a PAEC purchase order, in which the PAEC (a) agreed to purchase from Business Systems International Pvt. Ltd. a C-Brick for an Onyx 3000 series super computer, a power supply for the C-Brick, and a hard disk for approximately \$16,000; and (b) directed Business Systems International Pvt. Ltd. to identify itself as the consignee of the computer equipment, without any reference to the PAEC on the markings of the packages.

In response to the PAEC's purchase order, between on or about July 21, 2008 and on or about July 25, 2008, SYED exchanged emails with an employee of a computer periphery and server hardware company located in Georgia ("Computer Company B"), arranging to purchase one Computer Company A 3000 C-Brick with L1 Controller and Fans, bearing serial number MHT802; two Computer Company A PCA 2 x 500 MHz IP35 PIMMs (R14K 8MB), bearing serial numbers MFS551 and MHJ941; one Computer Company A AC/DC 3100WDC Power Supply for Onyx2 Rack, bearing serial number NM13940; and one Seagate 146Gb 15K FC disk drive, bearing

serial number 3KN2LCMA (the “Onyx 3400 replacement parts”). SYED identified himself as the customer purchasing the Onyx 3400 replacement parts and directed Computer Company B to deliver the equipment to him at Business Systems International Pvt. Ltd.’s office in Pakistan, by way of a freight forwarder.

On or about July 25, 2008, SYED knowingly caused Computer Company B to ship the Onyx 3400 replacement parts from Atlanta, Georgia, to Business Systems International Pvt. Ltd. in Pakistan, through New York, New York. By no later than September 3, 2008, BSI employees successfully installed the computer equipment obtained from Computer Company B on the Onyx 3400 system that the PAEC had previously purchased, as SYED intended. The PAEC paid BSI approximately \$16,000 for the Onyx 3400 replacement parts.

In connection with this July 2008 shipment, SYED knowingly caused to be submitted false export information through a Shippers Export Declaration that falsely identified Business Systems International Pvt. Ltd. as the Ultimate Consignee of the items inside this Computer Company B shipment and that failed to identify the PAEC as a party to the transaction. SYED knew at the time he submitted this order to Computer Company B that the PAEC was the true purchaser of these U.S.-origin goods and that the export of these goods required a license from the U.S. Department of Commerce. However, SYED falsely identified himself as the customer of the Onyx 3400 replacement parts to evade U.S. export laws and licensing requirements. Neither SYED nor any other employee of Business Systems

International or BSI USA, Incorporated, applied for or obtained a license for this export.

Export of Altix 450 Computer Server (June 2009)

On or about September 30, 2008, Co-Conspirator B sent SYED and Co-Conspirators A, C, and D an email attaching an order from PIEAS to purchase an Altix 450 Computer Server. On December 6, 2008, SYED, on behalf of Business Systems International Pvt. Ltd., submitted a purchase order to Computer Company A, ordering an “Altix 450 System” and associated equipment, identifying “PIEAS” as the “Customer,” and directing Computer Company A to ship the computer system to Business Systems International Pvt. Ltd. in Pakistan.

On or about January 12, 2009, SYED forwarded to Co-Conspirators A, B, C, and D an email regarding the PIEAS order that SYED had received earlier that day from an employee of Computer Company A, in which the employee stated that Computer Company A’s research showed a “very close relationship” between PIEAS and the PAEC. The employee further stated:

Pakistan Atomic Energy Commission (PAEC) is currently a prohibited end-user. This means that [Computer Company A] may not export to, or for the benefit of, PAEC. Exports to PIEAS which would benefit PAEC are prohibited without an export license issued by the United States Government. As a matter of policy, [Computer Company A] will not pursue an export license for any prohibited entity. Hence, in order for us to process the order, we need written certification from PIEAS, as provided in the attached certification document.

In the certification document attached to that email, Computer Company A asked for PIEAS to certify that it was not a part of or controlled by PAEC, and that the Altix 450 would not be used for the benefit of the PAEC.

About three weeks later, on or about February 7, 2009, SYED, on behalf of Business Systems International Pvt. Ltd., submitted another purchase order to Computer Company A, ordering an Altix 450 System and associated equipment, identifying “Taxila Engineering University” as the “Customer,” and directing Computer Company A to ship the computer system to Business Systems International Pvt. Ltd. in Pakistan. SYED knew at the time he submitted this order that the true end-user of the computer system was PIEAS and falsely identified Taxila Engineering University as the end-user of the requested system because Computer Company A had advised that it would not export the Altix 450 System to PIEAS without a certification that the system would not be used for the benefit of the PAEC.

On or about February 17, 2009, SYED sent an email to Co-Conspirators A, B, and C, forwarding a blank “Corporate Export Compliance” form that SYED had received from Computer Company A earlier that day, and instructed Co-Conspirator B as follows: “Complete this export compliance form and send it to me ASAP. This export compliance for Texila [sic] University, complete exactly including all the data what provided previously also mention [Computer Company A] ONYX 3400.”

Soon after, Co-Conspirator B sent SYED and Co-Conspirators A and C a completed Computer Company A “Corporate Export Compliance” form, in which Co-Conspirator A (i) identified an “Altix 450 System” as the “New System” to be exported by Computer Company A and the “Existing System” as an “Onyx 3400 Graphics System” with the same serial number as the Onyx 3400 system that the PAEC had purchased from Business Systems International Pvt. Ltd. in 2002; (ii) falsely identified “Taxila Engineering University” as the “CUSTOMER/END-USER”; and (iii) falsely certified that the customer/end-user was not engaged in any nuclear-related activities. SYED knowingly caused Co-Conspirator A to submit this completed export compliance form to Computer Company A, despite knowing that the true end-user of the Altix 450 System was PIEAS.

On or about June 22, 2009, SYED and Co-Conspirators A, B, and C knowingly caused Computer Company A to ship an Altix 450 System and associated equipment from Chippewa Falls, Wisconsin to Business Systems International Pvt. Ltd. in Pakistan as “consignee” for “Taxila Engineering University.” SYED and Co-Conspirators A, B, and C knowingly caused Computer Company A and its freight forwarder to submit false export information through a Shippers Export Declaration that falsely identified “Taxila Engineering University” as the Ultimate Consignee of the items inside the Computer Company A shipment.

After the Altix 450 System arrived at Business Systems International Pvt. Ltd. in Pakistan, BSI employees delivered the system to a location in Pakistan specified

by PIEAS, as SYED intended. On or about July 10, 2009, Business Systems International Pvt. Ltd. issued an invoice to PIEAS, documenting the sale of the Altix 450 System under the same purchase order number that PIEAS had originally submitted with its order on or about September 30, 2008. PIEAS paid BSI approximately \$231,000 for the Altix 450 System.

Exports of SuperServers and Associated Transceivers (June and September 2015)

On April 25, 2015, SYED and Business Systems International received an order from the PAEC to purchase Computer Company C SuperServers and associated equipment, including two SuperServer 4048B-TR4FT units, two SuperServer 1028U-TR4+ units, and four Super Workstation 7038A-I units (together, the “Computer Company C SuperServers”). Computer Company C was a computer manufacturer located in California. On or about June 2, 2015, SYED and Co-Conspirator B submitted to Computer Company C orders to purchase the Computer Company C SuperServers, listing “Business Systems International” as the “Customer.” SYED knew at the time he submitted this order that the true end-user of the computer system was the PAEC, and not Business Systems International. On or about June 26, 2015, SYED knowingly caused Computer Company C to ship the Computer Company C SuperServers from Computer Company C’s Taiwan office to Business Systems International.

Following the delivery of the Computer Company C SuperServers, a PAEC employee advised Co-Conspirator E and Business Systems International that the

SuperServers were missing eight transceivers needed to operate the computer systems. In response, on or about July 16, 2015, SYED and Co-Conspirators B, C, D, and E submitted a purchase order to Computer Company C, ordering eight “AOC-TSR-FS” transceivers. On or about August 26, 2015, SYED and Co-Conspirators B, C, and D submitted to Computer Company C completed BIS-711 and End-Use/User Certification forms related to the transceiver purchase order that (i) identified the “National University of Science & Technology” in Islamabad as the “Ultimate Consignee” of the eight transceivers; (ii) certified that Business Systems International “will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement . . . to any person if we know that it will result directly or indirectly, in disposition of the items contrary to the representations made in this statement or contrary to Export Administration Regulations”; and (iii) attached a certification signed by a “National University of Science & Technology” representative, certifying that neither the university nor any of its customers or consignees would “provide, export or re-export [Computer Company C] goods or technical data to . . . to any person, entity, organization or other party identified on the U.S. Department of Commerce’s Denied Persons or Entity List.”

SYED knew at the time that these submissions to Computer Company C were false because the true end-user of the transceivers was the PAEC and that the delivery of those transceivers to the PAEC would be contrary to the representations made to Computer Company C and contrary to U.S. Export Administration

Regulations. SYED knowingly caused these submissions to falsely identify the National University of Science and Technology as the end user of these transceivers in order to evade U.S. export laws and licensing requirements.

On or about August 27, 2015, SYED and Co-Conspirators B, C, D, and E submitted similar end-user certification forms to Computer Company C related to the June 2015 shipment of SuperServers on behalf of the PAEC, which forms falsely identified the National University of Science & Technology in Islamabad as the “Ultimate Consignee” of the SuperServers. Also on or about August 27, 2015, SYED sent a separate email to Computer Company C, confirming that Business Systems International had submitted these end user certification forms and that the eight transceivers that he had ordered in July 2015 were “also for the same customer,” whom SYED identified as “NUST (National University of Science & Technology).”

On September 3, 2015, Computer Company C advised SYED that the transceiver order was “[s]till on hold due to audit process” and recommended that SYED purchase the transceivers from another vendor. On or about September 17, 2015, SYED submitted an online order for six Finisar TXRX OPT 1G/10G 850nm transceivers to a distributor of electronic components located in Minnesota (“Computer Company D”). The total purchase price for the six transceivers was approximately \$533.28. SYED identified himself as the buyer and directed Computer Company D to mail the transceivers to “BSI” at SYED’s residential address in

Chicago. At the time he placed this order, SYED knew that the PAEC was the true end-user of these six transceivers.

On or about September 17, 2015, SYED knowingly caused Computer Company D to ship six Finisar TXRX OPT 1G/10G 850nm transceivers from Thief River Falls, Minnesota, to SYED and “BSI” at SYED’s residence in Chicago. SYED received the transceivers in Chicago on or about September 18, 2015. The invoice from Computer Company D accompanying the sale stated:

NOTE: ONE OR MORE ITEMS ON THIS ORDER ARE CONTROLLED FOR EXPORT. These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law prohibited.

Between September 19 and 21, 2015, SYED arranged for Individual A to hand carry these six Finisar TXRX OPT 1G/10G 850nm transceivers from Chicago to Co-Conspirator A and Co-Conspirator B in Karachi, Pakistan, by way of a commercial airline flight. On or about September 20, 2015, at the request of SYED, Individual A hand carried the six Finisar TXRX OPT 1G/10G 850nm transceivers on a flight from Chicago to Karachi, Pakistan. On or about September 21, 2015, Individual A delivered the transceivers to Co-Conspirator A or Co-Conspirator B in Pakistan. SYED intended for BSI employees to deliver those transceivers to the PAEC to be installed in the Computer Company C SuperServers. SYED acknowledges that those transceivers were so delivered and installed.

SYED knew at the time that Individual A hand carried these transceivers from the United States to Pakistan that the PAEC was the end-user of those U.S.-origin goods and that the export of those goods required a license from the U.S. Department of Commerce. At no time did SYED, Business Systems International, BSI USA, Incorporated, any of SYED's employees, Computer Company C, or Computer Company D apply for or obtain a license from the U.S. Department of Commerce, Bureau of Industry and Security, to export the six Finisar TXRX OPT 1G/10G 850nm transceivers from the United States to the PAEC.

Maximum Statutory Penalties

7. Defendant understands that the charges to which he is pleading guilty carry the following statutory penalties:

a. Count One carries a maximum sentence of 5 years' imprisonment. Count One also carries a maximum fine of \$250,000. Defendant further understands that with respect to Count One the judge also may impose a term of supervised release of not more than three years.

b. Pursuant to Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the count to which he has pled guilty, in addition to any other penalty imposed.

Sentencing Guidelines Calculations

8. Defendant understands that in determining a sentence, the Court is obligated to calculate the applicable Sentencing Guidelines range, and to consider

that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a), which include: (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from further crimes of the defendant, and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (iii) the kinds of sentences available; (iv) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (v) the need to provide restitution to any victim of the offense.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specified below:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2018 Guidelines Manual.

b. **Offense Level Calculations.**

i. The base offense level is 26, pursuant to Guideline § 2M5.1(a)(1), because national security controls or controls relating to the proliferation of nuclear, biological, or chemical weapons or materials were evaded.

ii. It is the government's position that the offense level is increased by 4 levels, pursuant to Guideline § 3B1.1(a), because the defendant was an organizer and leader of a criminal activity that involved five or more participants. The defendant's position is that this enhancement does not apply. Each party is free to present evidence and argument to the Court on this issue.

iii. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine that may be imposed in this case, a two-level reduction in the offense level is appropriate.

iv. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant

is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

v. It is the defendant's position that a downward departure from the guidelines is warranted under Guideline § 2M5.1, cmt. app. n. 2, considering the degree to which the violation threatened a security interest of the United States and the volume of commerce involved. It is the government's position that a departure from the guidelines is not warranted under Guideline § 2M5.1, cmt. app. n. 2, because neither the degree to which the violation threatened a security interest of the United States nor the volume of commerce involved is present in an extreme form. Each party is free to present evidence and argument to the Court on this issue.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

i. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, it is the government's position that the anticipated offense level is 27, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory sentencing guidelines range of 70 to 87 months' imprisonment, in addition to any supervised release and fine the Court may impose. Pursuant to Guideline § 5G1.1(a), because the statutory maximum sentence of 60 months' imprisonment is less than

the minimum of the applicable guideline range, the defendant's anticipated advisory Sentencing Guidelines range, as calculated under the government's position, is adjusted to 60 months' imprisonment.

d. Defendant and his attorney and the government acknowledge that the above guidelines calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional guideline provisions apply in this case. 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 guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

10. Both parties expressly acknowledge that this Agreement is not governed by Federal Rule of Criminal Procedure 11(c)(1)(B), and that errors in applying or interpreting any of the sentencing guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the guidelines. The validity of this Agreement

will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

11. Each party is free to recommend whatever sentence it deems appropriate, but the government agrees not to seek the imposition of a fine at sentencing.

12. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

13. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

14. After sentence has been imposed on the count to which defendant pleads guilty as agreed herein, the government will move to dismiss the remaining count of the indictment as to defendant.

Forfeiture

15. Defendant understands that by pleading guilty, he will subject to forfeiture to the United States all right, title, and interest that he has in any property

constituting or derived from proceeds obtained, directly or indirectly, as a result of the offense.

16. Defendant agrees to the entry of a personal money judgment in the amount of \$247,000, which represents an amount of funds involved in the offense. Defendant consents to the immediate entry of a preliminary order of forfeiture setting forth the amount of the personal money judgment he will be ordered to pay.

17. Defendant admits that because the directly forfeitable property is no longer available for forfeiture as described in Title 21, United States Code, Section 853(p)(1), the United States is entitled to seek forfeiture of any other property of defendant, up to the value of the personal money judgment, as substitute assets pursuant to Title 21, United States Code, Section 853(p)(2).

18. Defendant understands that forfeiture shall not be treated as satisfaction of any fine, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment.

19. Defendant agrees to waive all constitutional, statutory, and equitable challenges in any manner, including but not limited to direct appeal or a motion brought under Title 28, United States Code, Section 2255, to any forfeiture carried out in accordance with this agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The waiver in this paragraph does not apply to a claim of involuntariness or ineffective assistance of counsel.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Agreement

20. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 20 CR 629-1.

21. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

Waiver of Rights

22. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge

sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the indictment separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant.

Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

23. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

24. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope, and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

25. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001, or as a contempt of the Court.

26. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual

income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

27. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

28. Defendant recognizes that pleading guilty may have consequences with respect to his immigration status if he is not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including one or more offenses to which defendant is pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that no one, including his attorney or the Court, can predict to a certainty the effect of his conviction on his immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that his guilty plea may entail, even if the consequence is his automatic removal from the United States.

Conclusion

29. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

30. Defendant understands that his compliance with each part of this Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

31. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

32. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

33. Defendant acknowledges that he has read this Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

JOHN R. LAUSCH, JR.
United States Attorney

OBAIDULLAH SYED
Defendant

PETER M. FLANAGAN
Assistant U.S. Attorney

RYAN S. HEDGES
Attorney for Defendant