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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12
13 v.
14 DANNIEL A. HOOSE,
15 Defendant.

CASE NO. 15-CR-00112-TLN
PLEA AGREEMENT
DATE: July 9, 2015
TIME: 9:30am
COURT: Hon. Troy L. Nunley

16
17 **I. INTRODUCTION**

18 **A. Scope of Agreement**

19 The Information in this case charges the defendant with a violation of 18 U.S.C. § 38 – Fraud
20 Involving Aircraft Parts in Interstate and Foreign Commerce. This document contains the complete plea
21 agreement between the United States Attorney’s Office for the Eastern District of California (the
22 “government”) and the defendant regarding this case. This Plea Agreement is limited to the United
23 States Attorney’s Office for the Eastern District of California and cannot bind any other federal, state, or
24 local prosecuting, administrative, or regulatory authorities.

25 **B. Court Not a Party**

26 The Court is not a party to this Plea Agreement. Sentencing is a matter solely within the
27 discretion of the Court, and the Court may take into consideration any and all facts and circumstances
28 concerning the criminal activities of defendant, including activities that may not have been charged in

1 the Information. The Court is under no obligation to accept any recommendations made by the
2 government, and the Court may in its discretion impose any sentence it deems appropriate up to and
3 including the statutory maximum stated in this Plea Agreement.

4 If the Court should impose any sentence up to the maximum established by the statute, the
5 defendant cannot, for that reason alone, withdraw his guilty plea, and he will remain bound to fulfill all
6 of the obligations under this Plea Agreement. The defendant understands that neither the prosecutor,
7 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will
8 receive.

9 **II. DEFENDANT'S OBLIGATIONS**

10 **A. Guilty Plea**

11 The defendant agrees to waive indictment and plead guilty to Count One of a single-count
12 Information, charging him with a violation of 18 U.S.C. § 38 – Fraud Involving Aircraft Parts in
13 Interstate and Foreign Commerce. The defendant agrees that he is in fact guilty of this charge and that
14 the facts set forth in the Factual Basis for Plea attached hereto as Exhibit A are accurate.

15 The defendant agrees that this Plea Agreement will be filed with the Court and become a part of
16 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
17 plea should the Court not follow the government's sentencing recommendations.

18 The defendant agrees that the statements made by him in signing this Agreement, including the
19 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
20 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a
21 guilty plea pursuant to this Agreement. The defendant waives any rights under Rule 11(f) of the Federal
22 Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, to the extent that these
23 rules are inconsistent with this paragraph or with this Agreement generally.

24 **B. Restitution.**

25 The government has reviewed documents and other evidence that demonstrates that the
26 defendant has already made payment of restitution for the full losses suffered by the victims of the
27 offense to which he is pleading guilty.

1 **C. Fine.**

2 Defendant agrees to pay a fine as imposed by the Court.

3 **D. Special Assessment**

4 The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering
5 a check or money order payable to the United States District Court to the United States Probation Office
6 immediately before the sentencing hearing. The defendant understands that this Plea Agreement is
7 voidable at the option of the government if he fails to pay the assessment prior to that hearing. If the
8 defendant is unable to pay the special assessment at the time of sentencing, he agrees to earn the money
9 to pay the assessment, if necessary by participating in the Inmate Financial Responsibility Program.

10 **E. Defendant's Violation of Plea Agreement or Withdrawal of Plea**

11 If the defendant, violates this Plea Agreement in any way, withdraws his plea, or tries to
12 withdraw his plea, this Plea Agreement is voidable at the option of the government. The government
13 will no longer be bound by its representations to the defendant concerning the limits on criminal
14 prosecution and sentencing as set forth herein. One way a defendant violates the Plea Agreement is to
15 commit any crime or provide any statement or testimony which proves to be knowingly false,
16 misleading, or materially incomplete. Any post-plea conduct by a defendant constituting obstruction of
17 justice will also be a violation of the Agreement. The determination whether the defendant has violated
18 the Plea Agreement shall be decided under a probable cause standard.

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

26 By signing this Plea Agreement, the defendant agrees to waive any objections, motions, and
27 defenses that the defendant might have to the government's decision to exercise the options stated in the
28 previous paragraph. Any prosecutions that are not time-barred by the applicable statute of limitations as

1 of the date of this Plea Agreement may be commenced in accordance with this paragraph,
2 notwithstanding the expiration of the statute of limitations between the signing of this Plea Agreement
3 and the commencement of any such prosecutions. The defendant agrees not to raise any objections
4 based on the passage of time with respect to such counts including, but not limited to, any statutes of
5 limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
6 Amendment to any counts that were not time-barred as of the date of this Plea Agreement.

7 In addition: (1) all statements made by the defendant to the government or other designated law
8 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,
9 whether before or after this Plea Agreement, shall be admissible in evidence in any criminal, civil, or
10 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no
11 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal
12 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by
13 the defendant before or after this Plea Agreement, or any leads derived therefrom, should be suppressed.
14 By signing this Plea Agreement, the defendant waives any and all rights in the foregoing respects.

15 **III. THE GOVERNMENT'S OBLIGATIONS**

16 **A. Recommendations**

17 1. Incarceration Range

18 The government will recommend that the defendant be sentenced to three years of probation.

19 2. Acceptance of Responsibility

20 The government will recommend a two-level reduction (if the offense level is less than 16) or a
21 three-level reduction (if the offense level reaches 16) in the computation of defendant's offense level if
22 he clearly demonstrates acceptance of responsibility for his conduct as defined in U.S.S.G. § 3E1.1.
23 This includes the defendant meeting with and assisting the probation officer in the preparation of the
24 pre-sentence report, being truthful and candid with the probation officer, and not otherwise engaging in
25 conduct that constitutes obstruction of justice within the meaning of U.S.S.G § 3C1.1, either in the
26 preparation of the pre-sentence report or during the sentencing proceeding.

27 **B. Use of Information for Sentencing**

28 The government is free to provide full and accurate information to the Court and the United

1 States Probation Office (“Probation”), including answering any inquiries made by the Court and/or
2 Probation, and rebutting any inaccurate statements or arguments by the defendant, his attorney,
3 Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement
4 bars the government from defending on appeal or collateral review any sentence that the Court may
5 impose.

6 **IV. ELEMENTS OF THE OFFENSE**

7 At a trial, the government would have to prove beyond a reasonable doubt the following
8 elements of the offense to which the defendant is pleading guilty. As to Count One, 18 U.S.C. § 38 –
9 Fraud Involving Aircraft Parts in Interstate and Foreign Commerce, the elements are:

- 10 1. First, the defendant made a false writing, entry, certification, document, record, data
11 plate, label, or electronic communication concerning any aircraft or space vehicle part;
- 12 2. Second, the false writing, entry, certification, document, record, data plate, label, or
13 electronic communication concerning any aircraft or space vehicle part was material;
 - 14 a. And, in this case, the offense related to the aviation quality of a part and the part
15 was installed in an aircraft or space vehicle;
- 16 3. Third, the defendant acted knowingly and with the intent to defraud; and
- 17 4. Fourth, the defendant’s act was in or affecting interstate commerce.

18 The defendant fully understands the nature and elements of the crime charged in the Information
19 to which he is pleading guilty, together with the possible defenses thereto, and has discussed them with
20 his attorney.

21 **V. MAXIMUM SENTENCE**

22 **A. Maximum Penalty**

23 Because the offense involved the aviation quality of a part and the part was installed in an
24 aircraft, the maximum sentence that the Court can imposed for the defendant’s violation of 18 U.S.C. §
25 38 – Fraud Involving Aircraft Parts in Interstate and Foreign Commerce, is not more than 15 years’
26 incarceration, a fine of \$ 500,000, a three-year period of supervised release, and a special assessment of
27 \$100. By signing this Plea Agreement, the defendant agrees that the appropriate measure of restitution
28 in this case includes the full loss caused by his wrongful conduct, which the defendant has already

1 repaid, and not merely the amounts alleged in the specific counts to which the defendant is pleading
2 guilty.

3 **B. Violations of Supervised Release**

4 The defendant understands that if he violates a condition of supervised release at any time during
5 the term of supervised release, the Court may revoke the term of supervised release and require the
6 defendant to serve up to two years of additional imprisonment.

7 **VI. SENTENCING DETERMINATION**

8 **A. Statutory Authority**

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

19 **B. Guideline Calculations**

20 The government and the defendant agree that there is no material dispute as to the following
21 sentencing guidelines variables and therefore stipulate to the following:

22 **1. Base Offense Level:** The base offense level for the charge to which the defendant is
23 pleading guilty is **6**. See U.S.S.G. § 2B1.1(a)(1).

24 **2. Specific Offense Characteristics:**

25 a. Two levels are added (+2) because the loss in this case was more than \$5,000. Id. at
26 (b)(1)(B).

27 **3. Specific Offense Level:** The parties anticipate that the specific offense level will be **8**.

28 **4. Chapter Three Adjustments: Acceptance of Responsibility:** See Part III.B.2 above.

1 **5. Adjusted Offense Level:** Given the stipulations above, the parties anticipate that the
2 adjusted offense level will be 6.

3 **6. Criminal History:** The parties agree and stipulate that the applicable criminal history
4 will be determined by the Court’s probation officers. The parties anticipate, however, that the
5 defendant’s criminal history category will be I, and that the Sentencing Guideline range will be **0 to 6**
6 months.

7 **7. Departures:** None.

8 **8. Departures or Other Enhancements or Reductions:** The parties agree that they will
9 not seek or argue in support of any other specific offense characteristics, Chapter Three adjustments
10 (other than the decrease for “Acceptance of Responsibility”), or cross-references, except that the
11 government may move for a departure or adjustment based on defendant’s post-plea obstruction of
12 justice (§3C1.1). Both parties agree not to move for, or argue in support of, any departures or
13 adjustments from the Sentencing Guidelines.

14 The parties agree to jointly recommend that the Court sentence the defendant to a period of three
15 years of probation and that such a sentence is reasonable in light of the fact of this case.

16 **C. Waiver of Constitutional Rights**

17 The defendant understands that by pleading guilty he is waiving the following constitutional
18 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to
19 be assisted at trial by an attorney, who would be appointed if necessary; (d) to subpoena witnesses to
20 testify on his behalf; (e) to confront and cross-examine witnesses against him; and (f) not to be
21 compelled to incriminate himself.

22 **D. Waiver of Appeal and Collateral Attack**

23 The defendant understands that the law gives the defendant a right to appeal his guilty plea,
24 conviction, and sentence. The defendant agrees as part of his plea/pleas, however, to give up the right to
25 appeal the guilty plea, conviction, and the sentence imposed in this case as long as the sentence does not
26 exceed the top of the Sentencing Guideline range, as stipulated to by the parties (6 months). The
27 defendant specifically gives up the right to appeal any order of restitution the Court may impose.

28 Notwithstanding the defendant’s waiver of appeal, the defendant will retain the right to appeal if

1 one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the
2 statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant
3 understands that these circumstances occur infrequently and that in almost all cases this Agreement
4 constitutes a complete waiver of all appellate rights.

5 In addition, regardless of the sentence the defendant receives, the defendant also gives up any
6 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any
7 aspect of the guilty plea, conviction, or sentence, except for non-waivable claims.

8 I the defendant ever attempts to vacate his plea, dismiss the underlying charges, or modify or set
9 aside his sentence on any of the counts to which he is pleading guilty, the government shall have the
10 rights set forth in paragraph II.D (Defendant’s Violation of Plea Agreement) herein.

11 **E. Waiver of Attorneys’ Fees and Costs**

12 The defendant agrees to waive all rights under the “Hyde Amendment,” Section 617, P.L. 105-
13 119 (Nov. 26, 1997), to recover attorneys’ fees or other litigation expenses in connection with the
14 investigation and prosecution of all charges in the above-captioned matter and of any related allegations
15 (including without limitation any charges to be dismissed pursuant to this Plea Agreement and any
16 charges previously dismissed).

17 **VII. ENTIRE PLEA AGREEMENT**

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

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1 **VIII. APPROVALS AND SIGNATURES**

2 **A. Defense Counsel**

3 I have read this Plea Agreement and have discussed it fully with my client. The Plea Agreement
4 accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to
5 plead guilty as set forth in this Plea Agreement.

6 Dated: _____

7 _____
8 MARK REICHEL, ESQ.
Counsel for Defendant

9 **B. Defendant**

10 I have read this Plea Agreement and carefully reviewed every part of it with my attorney. I
11 understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully
12 understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my
13 case. No other promises or inducements have been made to me, other than those contained in this Plea
14 Agreement. In addition, no one has threatened or forced me in any way to enter into this Plea
15 Agreement. Finally, I am satisfied with the representation of my attorney in this case.

16 Dated: _____

17 _____
18 DANNIEL A. HOOSE
Defendant

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20 **C. Attorney for the United States**

21 I accept and agree to this Plea Agreement on behalf of the government.

22 Dated: _____

23 BENJAMIN B. WAGNER
United States Attorney

24 _____
25 ANDRÉ M. ESPINOSA
Assistant United States Attorney

EXHIBIT "A"
Factual Basis for Plea

At trial, the United States would establish the following facts beyond a reasonable doubt:

On or about July 19, 2013, the U.S. Department of Transportation ("DOT"), Office of Inspector General, received a referral from Pipeline Hazardous Materials Safety Administration ("PHMSA"), Office of Hazardous Materials Enforcement, regarding Shasta Fire Equipment, Inc. ("Shasta"), located in Redding, in the State and Eastern District of California. Shasta is owned by Danniell A. Hoose ("Hoose") and held an approval from PHMSA to perform hydrostatic testing on gas cylinders and to certify cylinders as re-qualified to be returned to service, in accordance with the requirements of the Hazardous Materials Regulations ("HMR"), Title 49, Code of Federal Regulations ("C.F.R."), Parts 171-180. Shasta's customers were engaged in the aviation, medical, and fire prevention industries.

In general, the HMR requires that DOT specification 3HT, 3AA, 3AL and special permit cylinders be re-qualified every 3 or 5 years depending on the type of cylinder, by visually inspecting them and pressure testing them. Pressure testing most often consists of water jacket hydrostatic testing, in which a cylinder is placed into a large receptacle filled with water, the lid is sealed, and the cylinder is pressurized, to determine the extent to which the cylinder expands and retracts. The water jacket equipment must be verified as accurate using a calibrated cylinder, each day before testing. If these tests are successful, a cylinder may be certified as re-qualified and returned to service.

On or about March 21, 2013, PHMSA received an anonymous complaint that Shasta was not complying with its obligation to accurately and completely perform hydrostatic testing before certifying cylinders as re-qualified. The anonymous complaint also alleged that that the hydrostatic testing equipment maintained by Shasta Inc. was not working properly and any hydrostatic tests results were not being recorded as required under the HMR.

On or about May 8 and 9, 2013, PHMSA conducted an unannounced compliance inspection at Shasta. The investigation revealed that from approximately March 6, 2013, to May 8, 2013, Hoose personally performed all of the hydrostatic testing on cylinders at Shasta. However, Hoose's individual DOT cylinder requalification certification had expired nearly a year earlier, on or about May 18, 2012. On or about May 30, 2013, PHMSA issued a notice suspending and proposing termination of Shasta's

1 cylinder re-qualification approval. PHMSA also issued a Safety Advisory Notice to the cylinder
2 industry and attempted to contact Shasta's customers to advise them of the Safety Advisory Notice.

3 On or about June 4, 2013, PHMSA conducted a follow-up inspection at Shasta Inc. and found
4 more deficiencies and violations of the HMR. Specifically, PHMSA found significant issues with
5 Shasta's re-qualification equipment, procedures, test accuracy, and records, all of which indicated that
6 Shasta did not properly test special permit cylinders in accordance with the HMR. On or about January
7 21, 2014, PHMSA terminated Shasta's approval to conduct hydrostatic testing.

8 In an undated letter delivered to PHMSA, Hoose stated that he took over the full-time hydrostatic
9 testing at Shasta on or about March 15, 2013, after an employee previously responsible for that work left
10 the company. Hoose admitted he failed to keep accurate documentation of the tests he performed and
11 confirmed that Shasta's re-qualification equipment was in disrepair. Hoose stated that Shasta would
12 contact all its customers that had hydrostatic testing done during this period and ask them to bring back
13 their cylinders for retesting.

14 On October 15, 2014, Hoose met voluntarily with law enforcement agents and confirmed that he
15 wrote and delivered the above-discussed undated letter to PHMSA. During the interview, Hoose
16 confirmed that the contents of the letter were true. Hoose also reiterated that he personally performed all
17 hydrostatic testing at Shasta between March 2013 and June 2013, that he was overwhelmed at work and
18 took shortcuts by not documenting test results as required under the HMR, and that Shasta's hydrostatic
19 testing equipment malfunctioned monthly. Hoose also admitted that he failed to perform complete
20 hydrostatic tests on an unknown number of cylinders but, nevertheless, certified those improperly-tested
21 cylinders as having been properly tested. Hoose admitted that he knew he was making false
22 representations on the hydrostatic test reports he completed when he did not actually complete the
23 testing. Hoose also admitted that he was not truthful with a PHMSA investigator during the May 2013
24 compliance inspection at Shasta.

25 Hoose confirmed that customer invoices dated March 7, 2013, April 11, 2013, and April 19,
26 2013, were produced by Shasta and related to hydrostatic testing of cylinders delivered by Shasta
27 customer, C&L Aero ("CLA"). Hoose also confirmed that he signed CLA hydrostatic test reports dated
28 March 7, 2013, April 11, 2013, and April 16, 2013, for CLA oxygen cylinders bearing serial numbers

1 417696, ST18870, and 713520 (the “CLA Cylinders”), and, by signing those test reports, certified that
2 he performed hydrostatic testing on those cylinders. Hoose confirmed that CLA paid Shasta for testing
3 the CLA Cylinders but that he later refunded CLA for its costs because he could not confirm that the
4 CLA Cylinders were properly tested. On various dates within the certification period following Hoose’s
5 certification of the CLA Cylinders, each of the CLA Cylinders was removed from a separate aircraft in
6 which it had been installed and each failed subsequent hydrostatic re-testing.

7 Specifically, on April 16, 2013, Hoose signed a CLA hydrostatic test report indicating that the
8 3HT/1850 oxygen cylinder, serial number 713520, was hydrostatic tested. In fact, Hoose did not
9 properly test that oxygen cylinder. By signing the CLA hydrostatic test report Hoose intended to create
10 the impression that he had properly tested the cylinder. Thereafter, the 3HT/1850 oxygen cylinder,
11 serial number 713520, was installed in an aircraft, to wit: a 2002 Socata, registration number N290DY,
12 owned and operated by a resident of Illinois. On or about July 15, 2013, the 3HT/1850 oxygen cylinder,
13 serial number 713520, failed a hydrostatic test and CLA condemned the oxygen cylinder.

14 Between on or about March 6, 2013 and May 24, 2013, Hoose improperly tested or did not test
15 approximately 573 cylinders, yet authorized their return to service. Among those improperly tested or
16 untested cylinders were approximately 58 additional CLA oxygen cylinders that Hoose improperly
17 tested or did not test, and which were returned to service and installed in aircraft. All of the improperly
18 tested or untested cylinders, including those installed in aircraft, were recovered and retested. Cylinders
19 from 12 other companies were also identified as subjected to improper, incomplete, or no hydrostatic
20 testing by Hoose. Shasta typically charged \$9.00 to \$10.00 to test each cylinder, depending on its size.
21 The total loss resulting from Hoose’s fraudulent conduct is approximately \$5,390.

22 I have read and carefully reviewed the Factual Basis for Plea with my attorney. I agree that, as it
23 concerns my conduct, it is correct. I also agree that if this matter proceeded to trial, the United States
24 could establish each of the facts contained within the Factual Basis for Plea beyond a reasonable doubt,
25 and that those facts satisfy the elements of the offense to which I am pleading guilty.

26 Dated:

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DANNIEL A. HOOSE
28 Defendant

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