

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

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CRIMINAL NO. 17-189

v.

*

SECTION: "A"

MICHAEL KWAN

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* * *

FACTUAL BASIS

Should this matter proceed to trial, the United States will prove the defendant, Michael KWAN ("KWAN"), guilty beyond a reasonable doubt of knowingly and intentionally conspiring to distribute, or to possess with the intent to distribute, one thousand (1,000) kilograms or more of marijuana, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A), all in violation of Title 21, United States Code, Section 846; and conspiring to commit money laundering, with the intent to promote, and knowing that the transaction was designed to conceal the proceeds of, the conspiracy to distribute marijuana, in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i), (a)(1)(B)(i), all in violation of Title 18, United States Code, Section 1956(h). The government would establish the following through credible testimony and the production of reliable evidence:

KWAN and other co-conspirators, both known and unknown to the United States Attorney, conspired to ship large amounts of marijuana from California to Louisiana for further distribution. On August 23, 2016, Louisiana State Police ("LSP") intercepted from freight company SAIA a shipment destined for 1500 4th St. Westwego, Louisiana 70094—a warehouse in the Eastern District of Louisiana

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Defendant MLC
Def. Atty. RF
AUSA APN

in which KWAN lived and from which he facilitated parts of his marijuana trafficking operation (“KWAN’s Warehouse”). That seized shipment comprised three shipping pallets, each with four large cylindrical drums, for a total of twelve drums. An LSP canine unit conducted a free air sniff of the three pallets, and each one yielded a positive alert for the presence of narcotics. LSP obtained a valid warrant to search the twelve drums and executed the warrant. All twelve drums contained multiple vacuum-sealed bags containing between 30 and 40 pounds of marijuana. In total, the twelve drums contained approximately 420 pounds of marijuana. SAIA shipping records show numerous prior shipments matching the same pattern as the seized shipment, with pallets sent from the same sender and address in California to the same recipient at the address of KWAN’s Warehouse.

On August 23, 2016, LSP obtained and executed a valid warrant to search KWAN’s warehouse. Inside KWAN’s Warehouse were 16 additional pounds of marijuana, 161 additional 55-gallon drums (containing salt but no marijuana), digital scales, money counters, materials for the repackaging of marijuana into smaller bags, and bills of lading similar to the one for the twelve seized drums. LSP also discovered a residential area of the warehouse containing the personal effects of KWAN and Tram NGUYEN.

KWAN arrived at KWAN’s Warehouse while LSP was still present. LSP troopers advised KWAN of his *Miranda* rights, which he knowingly waived before providing a statement. KWAN admitted that he was paid to accept the packages of marijuana using a fictitious name, and that the marijuana would be resold for profit in smaller quantities.

KWAN admitted laundering his marijuana proceeds by using the cash from the marijuana sales to buy shrimp from commercial shrimp fishermen, reselling it to restaurants and seafood retailers, and directing those restaurants and retailers to issue checks payable to NGUYEN, KWAN’s girlfriend and co-

conspirator in the money laundering conspiracy. KWAN provided LSP with consent to search KWAN's truck, where LSP located and seized eight such business checks from seafood companies made payable to Tram NGUEYN. The pattern of money laundering continued after KWAN's arrest: Two days later, on August 25, 2016, NGUYEN made a \$35,000 money transfer to conceal or disguise the proceeds of the marijuana conspiracy. NGUYEN also created a new limited liability corporation, opened a new bank account in the name of that LLC, and transferred additional moneys into that account to further conceal or disguise the proceeds of the marijuana conspiracy.

* * * * *


The government and KWAN agree and stipulate that, for sentencing purposes, KWAN is responsible for at least 1,000 kilograms, but less than 3,000 kilograms, of marijuana. Over the course of the conspiracy, that drug quantity was distributed, or possessed with the intent that it be distributed, as a result of KWAN's own direct conduct or the conduct of his co-conspirators in furtherance of the conspiracy that was reasonably foreseeable to KWAN.

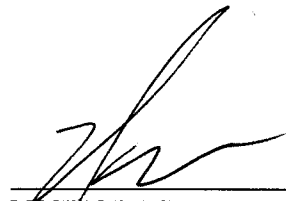
At trial, the government would introduce, among other evidence, the marijuana seized by Louisiana State Police on August 23, 2016; the empty 55-gallon drums and other evidence seized at KWAN's Warehouse; KWAN's statements to law enforcement after arrest; records regarding the shipments of marijuana; financial instruments and records seized from KWAN's Warehouse; records from financial institutions reflecting the transfer of funds in furtherance of the money laundering conspiracy; laboratory reports confirming that the seized substance was in fact marijuana; testimony of the investigating agents and forensic chemist; and the statements of other witnesses.

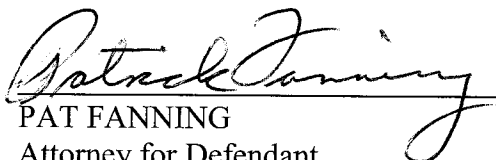
Limited Nature of Factual Basis

This proffer of evidence is not intended to constitute a complete statement of all facts known by KWAN or the government, but rather is a minimum statement of facts intended to prove the necessary factual predicate for the guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for KWAN's plea of guilty to the charged offenses in Counts 1 and 2 of the Bill of Information, and to stipulate that all acts took place within the Eastern District of Louisiana.

READ AND APPROVED:


3/20/18
MICHAEL KWAN
Defendant


NICHOLAS D. MOSES
JEFFREY SANDMAN
Assistant United States Attorneys


3-20-18
PAT FANNING
Attorney for Defendant