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United States of America
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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11 Plaintiff,

12 v.

13 MANJOT NANNER,
14 Defendant.
15

CASE NO. 1:13-CR- 340 AWI BAM

MEMORANDUM OF PLEA AGREEMENT
PURSUANT TO RULE 11 (e) OF THE FEDERAL
RULES OF CRIMINAL PROCEDURE

Date: *NOV 12, 2013*
Time: *10:00 AM*
Hon. Anthony W. Ishii

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17 Pursuant to Rule 11(e) of the Federal Rules of Criminal Procedure, the United States of America,
18 by and through Benjamin B. Wagner, the United States Attorney for the Eastern District of California,
19 and Assistant United States Attorney Kevin P. Rooney, and defendant Manjot Nanner and his attorney,
20 Steve Crawford, agree as follows:

21 1. Charges.

22 (a) The defendant acknowledges that he has been charged by Indictment as follows:

23 Count One: Conspiracy to distribute and possess with the intent to distribute cocaine.

24 The indictment also alleges that the conspiracy involved five or more kilograms of cocaine.

25 The indictment includes a forfeiture allegation.
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1 2. Nature, Elements, and Possible Defenses.

2 The defendant has read the charges against him contained in the Indictment in this case and the
3 charges have been fully explained to him by his attorney. Further, the defendant fully understands the
4 nature and elements of the crimes with which he has been charged, together with the possible defenses
5 thereto, and has discussed them with his attorney. The defendant understands that in order to prove him
6 guilty of conspiring to distribute, and possess with the intent to distribute, cocaine, the government must
7 prove each of the following elements beyond a reasonable doubt:

8 First, beginning on or about on or about July 1, 2012, and continuing to on or about September
9 21, 2012 there was an agreement between two or more persons, to commit at least one crime as charged
10 in the Indictment; and

11 Second, the defendant became a member of the conspiracy knowing of at least one its objects
12 and intending to help accomplish it.

13 The elements of the crime of possession of cocaine with the intent to distribute are:

14 First, the defendant knowingly possessed cocaine; and

15 Second, the defendant possessed the cocaine with the intent to deliver it to another person; and

16 Third, the defendant knew it was ~~methamphetamine~~ ^{COCAINE 1KG APC} or some other prohibited drug.

17 The defendant understands that before a term of imprisonment of more than twenty years could
18 be imposed for the offense of possession of cocaine with the intent to distribute, the government must
19 prove each of the following facts beyond a reasonable doubt:

20 That the offense involved five kilograms or more of cocaine.

21 3. Agreements by the Defendant.

22 (a) The defendant agrees that this plea agreement shall be filed with the court and become a part
23 of the record of the case.

24 (b) The defendant agrees to enter a plea of guilty to Count One of the Indictment, conspiring to
25 conspiring to distribute, and possess with the intent to distribute, cocaine, . The defendant will also
26 admit that the offense involved five or more kilograms of cocaine.

1 (c) Defendant agrees to forfeit to the United States voluntarily and immediately all of his
2 right, title, and interest to any and all assets subject to forfeiture pursuant to 21 U.S.C. ' 853(a),
3 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c) .

4 Defendant agrees that these assets constitute property involved in or used in a knowing
5 violation of 18 U.S.C. § 924. or are derived from, proceeds obtained, directly or indirectly, or
6 were used, or intended to be used, in any manner or part, to commit, or to facilitate the
7 commission of a violation of 21 U.S.C. ' 841.

8 Defendant agrees to fully assist the government in the forfeiture of these assets and to take
9 whatever steps are necessary to pass clear title to the United States.

10 Defendant agrees not to file a claim to any assets subject to forfeiture in any civil
11 proceeding, administrative or judicial, which may be initiated. Defendant agrees to waive his
12 right to notice of any forfeiture proceeding involving this property, and agrees to not file a claim or
13 assist others in filing a claim in that forfeiture proceeding.

14 The defendant waives oral pronouncement of forfeiture at the time of sentencing and any
15 defects in such pronouncement that pertain to forfeiture, and waives any defenses to forfeiture,
16 including any defense predicated on the Ex Post Facto, Double Jeopardy, and Excessive Fines
17 Clauses of the United States Constitution. The defendant knowingly and voluntarily waives any
18 right to a jury trial in any criminal or civil forfeiture proceeding.

19 (d) The defendant acknowledges that as a consequence of his guilty plea in this case he will
20 become ineligible for (1) assistance under any State program funded under part A of title IV of the
21 Social Security Act [42 U.S.C. § 601 et seq.], (2) ineligible for benefits under the food stamp program
22 (as defined in section 3h of the Food Stamp Act) [7 U.S.C. § 2012(h)] and (3) ineligible for any State
23 program carried out under the Food Stamp Act of 1977 [7 U.S.C. § 2011 et seq.]; all pursuant to 21
24 U.S.C. 862a. The defendant further acknowledges that as a consequence of his guilty plea in this case he
25 may become permanently ineligible for any or all Federal benefits.

26 (e) The defendant hereby acknowledges that adverse immigration consequences, including but
27 not limited to removal from the United States, exclusion from admission into the United States, and/or
28 denial of naturalization in the United States, may result from this plea.

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2 (f) The defendant acknowledges the benefits he has received pursuant to the plea disposition set
3 forth in this memorandum and his guilt of the offenses to which he is pleading guilty. The defendant
4 hereby waives all rights to contest the means by which his plea of guilty will be entered before the
5 District Court. This waiver includes, but is not limited to, any claim, whether in District Court or in
6 appellate proceedings and on direct appeal or in any form of collateral attack, including but not limited
7 to any proceedings pursuant to 28 U.S.C. §§ 2255 or 2241 or any writ, that the dictates of Federal Rule
8 of Criminal Procedure 11, or any successor Rules, legislation or case authority, were not followed in the
9 entry of the defendant's guilty plea. The defendant also hereby waives any right to appeal his sentence,
10 directly or in any form of collateral attack, including but not limited to any proceedings pursuant to 28
11 U.S.C. §§ 2255 or 2241 or any writ, provided that the sentencing court accepts the stipulations between
12 the parties and follows the recommendations of the government as set forth below.

13 (g) The defendant hereby acknowledges and agrees that any offense level determination,
14 specific offense characteristic and criminal history category as determined pursuant to the Guidelines
15 could change based upon investigation by the United States Probation Office. It is possible that factors
16 unknown or unforeseen by the defendant or the government may be considered in determining the
17 offense level, specific offense characteristics and Guideline range. The defendant also acknowledges
18 that the United States Probation Office may also interpret facts or legal matters differently than the
19 defendant or the government resulting in differences in the offense level, specific offense characteristics
20 and Guideline range. Neither the use of unknown or unforeseen factors, nor the interpretation of known
21 facts or law in a different manner than anticipated, will provide the defendant with the right to withdraw
22 his guilty plea.

23 The defendant acknowledges and agrees that the court is not bound by any of the agreements of
24 the parties nor by the government's sentencing recommendations, and that it may elect
25 not to follow some or all of them. In no event, will the defendant be allowed to withdraw his plea.
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1 4. Agreements by the Government.

2 (a) The government agrees to recommend a three level decrease in the defendant's offense level
3 for acceptance of responsibility pursuant to Guideline Section 3E1.1(a).

4 (b) The government agrees to recommend a reduction in the defendant's offense level for a
5 minor role in the offense pursuant to Guideline Section 3B1.2(b).

6 (c) The government agrees to recommend a sentence at the bottom of the applicable sentencing
7 guideline range.

8 5. Joint Agreements.

9 (a) The government and the defendant agree that the drug quantity attributable to defendant
10 Nanner is approximately eight kilograms of cocaine.

11 6. Factual Basis.

12 The defendant will plead guilty because he is in fact guilty of the crime set forth in the
13 Indictment. The defendant also agrees that his guilty plea will be based upon the following facts,
14 although he acknowledges that, as to other facts, the parties may disagree:

15 From July 1, 2012 through and including September 21, 2012, defendant Manjot Nanner
16 conspired with codefendant Armitdeep Mann and others in the County of Fresno, State and
17 Eastern District of California and elsewhere, to obtain cocaine and then smuggle that cocaine
18 into Canada where it would be sold. During and in furtherance of the conspiracy, defendant
19 Nanner and Mann arranged to have a commercial trucking facility established to enable the
20 transport of cocaine concealed within legitimate cargo. A person was sent to the Los Angeles
21 area where he obtained eight kilograms of cocaine which defendants Nanner and Mann intended
22 to have transported to Canada for sale there.

23 At all relevant times, defendant Nanner, codefendant Mann, and other members of the
24 conspiracy all knew that they were dealing in cocaine and that cocaine is a prohibited
25 drug.

26 7. Potential Sentence.

27 The defendant understands that the Court must consult the Federal Sentencing Guidelines and
28 must take them into account when determining his sentence. Defendant understands that the Court will
29 determine a non-binding, advisory guideline sentencing range for this case pursuant to the Sentencing
30 Guidelines. Defendant further understands that the Court will consider whether there is a basis for
31 departure from the guideline sentencing range (either above or below the guideline sentencing range)
32 because there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately

1 taken into consideration by the Sentencing Commission in formulating the Guidelines. Defendant
2 further understands that the Court, after consideration of the Sentencing Guidelines, must impose a
3 sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

4 The following is the maximum potential sentence which the defendant faces:

5 Count One: Possession of cocaine with the intent to distribute involving five kilograms or more.

6 (a) Imprisonment.

7 Mandatory Minimum: Ten (10) years.

8 Maximum: Life.

9 (b) Fine.

10 Mandatory Minimum: None.

11 Maximum: Ten Million Dollars

12 (\$10,000,000).

13 (c) Both such fine and imprisonment.

14 (d) Term of Supervised Release.

15 Mandatory Minimum: Five years.

16 Maximum: Life.

17 (Should the defendant violate any of the terms of his supervised release, he can be returned to
18 prison for the lesser of the period of supervised release actually imposed by the Court).

19
20 (e) Penalty Assessment.

21 Mandatory: One Hundred Dollars (\$100).

22 8. Waiver of Rights.

23 The defendant understands that by pleading guilty he surrenders certain rights, including the
24 following:

25 (a) If the defendant persisted in a plea of not guilty to the charges against him, he would have
26 the right to a public and speedy trial. The trial could be either a jury trial or a trial by a judge sitting
27 without a jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by
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1 the judge sitting without a jury, the defendant, the government and the judge all must agree that the trial
2 be conducted by the judge without a jury.

3 (b) If the trial were a jury trial, the jury would be composed of twelve lay persons selected at
4 random. The defendant and his attorney would have a say in who the jurors would be by removing
5 prospective jurors for cause where actual bias or other disqualification is shown, or without cause by
6 exercising peremptory challenges. The jury would have to agree unanimously before it could return a
7 verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed
8 innocent and that it could not convict him unless, after hearing all the evidence, it was persuaded of his
9 guilt beyond a reasonable doubt.
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11 (c) If the trial were held before a judge without a jury, the judge would find the facts and
12 determine, after hearing all the evidence, whether or not he was persuaded of the defendant's guilt
13 beyond a reasonable doubt.
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15 (d) At a trial, whether by a jury or a judge, the government would be required to present its
16 witnesses and other evidence against the defendant. The defendant would be able to confront those
17 government witnesses and his attorney would be able to cross-examine them. In turn, the defendant
18 could present witnesses and other evidence on his own behalf. If the witnesses for the defendant would
19 not appear voluntarily, he could require their attendance through the subpoena power of the Court.

20 (e) At a trial, the defendant would have a privilege against self-incrimination so that he could
21 decline to testify,
22 and no inference of guilt could be drawn from this refusal to testify. However, if he chose to do so, the
23 defendant could testify in his own defense.

24 (f) The defendant understands that by pleading guilty he is waiving all of the rights set forth
25 above and the defendant's attorney has explained those rights to him and the consequences of his waiver
26 of those rights.

27 (g) The defendant understands that he has a right to counsel throughout this case from his
28 initial appearance through his trial or guilty plea or dismissal of the case against him and through and

1 including any sentencing. Unless waived in this agreement, the defendant has a right to counsel for a
2 direct appeal in this case. The defendant understands that the right to counsel includes the provision of
3 defense counsel through the court if the defendant cannot afford to hire counsel.

4 9. Questions by Court.

5 The defendant understands that if the court questions him under oath, on the record and in the
6 presence of counsel, about the offense to which he has pleaded guilty, his answers, if false, may later be
7 used against him in a prosecution for perjury or false statement.

8 10. Entire Agreement.

9 The defendant and his attorney acknowledge that no threats, promises or representations have
10 been made, nor agreement reached, other than those set forth in this Agreement and the accompanying
11 memorandum, to induce defendant to plead guilty.

12 11. Court not a Party.

13 It is understood by the parties that the sentencing Court is neither a party to nor bound by this
14 agreement and the sentencing judge is free to impose the maximum penalties as set forth above.

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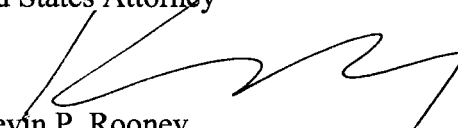
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12. Presentence Report.

The defendant understands that the United States Probation Office is not a party to this agreement and will conduct an independent investigation of the defendant's activities and his background and prepare a presentence report which it will submit to the court as its own sentencing recommendation. In addition, the government will fully apprise the Probation Office, as well as the court, of the full and true nature, scope and extent of the defendant's criminal activities concerning the charge to which the defendant is entering a guilty plea.

9 Dated: Nov 1, 2013


BENJAMIN B. WAGNER
United States Attorney

11 
12 /s/ Kevin P. Rooney
13 KEVIN P. ROONEY
Assistant United States Attorney

14 Dated: Nov 1
15 Dated: October, 2013

16 
17 MANJOT NANER
18 Defendant

19 Dated: Nov 1
20 Dated: October, 2013

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22 ANTHONY CAPOZZI
23 Attorney for Defendant
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