



06-CR-00127-CERT

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AT SEATTLE DISTRICT COURT
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WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSHUA SEAN MACKE,

Defendant.

NO. CR06-127RSM

PLEA AGREEMENT

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, and Ronald J. Friedman and Susan M. Roe, Assistant United States Attorneys for said District, and the defendant, Joshua Sean Macke, and his attorneys, Amanda Lee and Jeffrey Robinson, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charge. The defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to that portion of Count 2 charging a Conspiracy to Distribute Marijuana, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), and 846, and Count 3 charging a Conspiracy to Engage in Money Laundering, in violation of Title 18, United States Code, Section 1956(h) of the Superseding Indictment. By entering these pleas of guilty, the defendant hereby waives all objections to the form of the charging document. He further understands that before pleading guilty, he will be placed under oath. Any statement given

1 by the defendant under oath may be used by the government in a prosecution for perjury or
2 false statement.

3 2. The Penalties. The defendant understands that the statutory penalties for
4 Count 2 are imprisonment for up to twenty (20) years, a fine of up to one million dollars,
5 a mandatory period of supervised release of not less than three (3) years, and a \$100
6 mandatory assessment. The statutory penalties for Count 3 are imprisonment for up to up
7 to twenty (20) years, a fine of up to \$500,000.00 or twice the value of the property
8 involved in the transaction(s), whichever is higher, a period of supervised release of up to
9 three (3) years, and a \$100 assessment.

10 (a) The defendant further understands that the Title 21 conviction may
11 render him ineligible for certain welfare programs, such as food stamps and social security
12 in the United States, and certain federal benefits such as educational financial assistance
13 programs in the United States as set forth in Title 21, United States Code, Sections, 862
14 and 862a.

15 (b) The defendant understands that a consequence of pleading guilty
16 may include the federal forfeiture of certain property, either as a part of the sentence
17 imposed by the Court, or as a result of civil judicial or administrative process.

18 (c) The defendant agrees that any monetary penalty the Court imposes,
19 including the special assessment, fine, costs or restitution, is due and payable immediately,
20 and further agrees to submit a completed Financial Statement of Debtor form as requested
21 by the United States Attorney's Office.

22 (d) The defendant understands that supervised release is a period of
23 time following imprisonment during which he will be subject to certain restrictions and
24 requirements. The defendant understands that if supervised release is imposed and he
25 violates one or more of its conditions, he could be returned to prison for all or part of the
26 term of supervised release that was originally imposed.

27 3. Rights Waived by Pleading Guilty. The defendant understands that, by
28 pleading guilty, he knowingly and voluntarily waives the following rights:

- 1 a. The right to plead not guilty and to persist in a plea of not guilty;
2 b. The right to a speedy and public trial before a jury of his peers;
3 c. The right to the effective assistance of counsel at trial and the right to have
4 the Court appoint an attorney for him if he could not afford one;
5 d. The right to be presumed innocent until guilt has been established beyond a
6 reasonable doubt at trial;
7 e. The right to confront and cross-examine witnesses against him at trial;
8 f. The right to compel or subpoena witnesses to appear on his behalf at trial;
9 g. The right to testify or to remain silent at trial, and his silence could not be
10 used against him; and
11 h. The right to appeal a finding of guilt or any pretrial rulings.

12 In addition, the defendant expressly waives any objections or challenges to the form and
13 nature of the charge and to the sufficiency of the factual basis for his plea.

14 4. FACTORS CONSIDERED AT SENTENCING: The defendant understands
15 that at the time of sentencing in deciding what sentence to impose, the Court will consider
16 various factors, including: (a) the sentencing range for the offense calculated under the
17 Federal Sentencing Guidelines, which are advisory to the Court; (b) the nature and
18 circumstances of the offense(s); (c) the history and characteristics of the defendant; (d) the
19 need for the sentence to reflect the seriousness of the offense, promote respect for the law,
20 and provide just punishment; (e) the need for the sentence to provide adequate deterrence;
21 (f) the need for the sentence to protect the public from further crimes of the defendant; (g)
22 the need to provide the defendant with educational and vocational training, medical care,
23 or other correctional treatment in the most effective manner; (h) the kinds of sentences
24 available; (i) the need to provide restitution to victims; and (j) the need to avoid
25 unwarranted disparity among defendants involved in similar conduct who have similar
26 records; all as more fully set forth in Title 18, United States Code, Section 3553(a) - (e).

27 5. SENTENCING GUIDELINES: As to the federal sentencing guidelines, the
28 defendant understands and acknowledges the following:

1 a. The Court will determine the defendant's applicable Sentencing
2 Guideline range at the time of sentencing;

3 b. After consideration of the Sentencing Guidelines, and the other
4 factors set forth in Title 18, United States Code, Section 3553(a), summarized above, the
5 Court may impose any sentence authorized by law, up to the maximum term authorized by
6 law;

7 c. The Court is not bound by any recommendations of the parties
8 regarding the sentence to be imposed, or by any calculation or estimation of the
9 Sentencing Guideline range offered by the parties or by the United States Probation
10 Department, or by any factual stipulations of the parties as set forth herein, and failure of
11 the Court to follow any such recommendations, calculations, estimations, or stipulations
12 shall not provide the defendant with a basis to withdraw his guilty plea.

13 d. Defendant may not withdraw a guilty plea solely because of the
14 sentence imposed by the Court.

15 6. SENTENCING: The defendant understands that sentencing in this matter is
16 committed to the discretion of the sentencing Court and that no representations or
17 agreements regarding sentence have been made by the parties other than as expressly
18 stated herein.

19 7. VOLUNTARINESS OF PLEA: The defendant is satisfied with the
20 performance of his counsel in his case, and pleads guilty freely, voluntarily, with full
21 knowledge of the facts of his case, and without any threats, force, or coercion, upon him
22 by others. Defendant pleads guilty because he is, in fact, guilty of the offenses to which he
23 is pleading guilty. Defendant enters this plea with the advice and concurrence of counsel
24 and expressly acknowledges that no inducements or promises were made to him to enter
25 the guilty plea other than as expressly set forth in this Agreement.

26 8. ELEMENTS: The parties agree that in order for the defendant to be found
27 guilty as charged, the Government would be required to prove the following elements
28 beyond a reasonable doubt as to each offense:

1 As to Count 2, that during the time frame alleged, within the Western District of
2 Washington, the defendant entered into an unlawful agreement with at least one other
3 person to distribute marijuana, a Schedule I controlled substance, to others, and the
4 defendant joined the conspiracy knowing its object, and intending to accomplish it; and the
5 conspiracy involved in excess of fifty (50) kilograms of marijuana.

6 As to Count 3, that during the time frame alleged, within the Western District of
7 Washington, the defendant entered into an unlawful agreement with at least one other
8 person to engage in money laundering. Money Laundering consists of

9 (1) conducting a financial transaction affecting interstate commerce using
10 and involving the proceeds of specified unlawful activity, such as a conspiracy to
11 distribute marijuana, in violation of Title 21, United States Code, Section 846;

12 (2) knowing that the property involved in the transaction represented the
13 proceeds of some form of unlawful activity constituting a felony under Federal or State
14 law;

15 (3) with the intent to promote the carrying on of the specified unlawful
16 activity, and/or knowing that the transaction was designed in whole or in part to conceal or
17 disguise the nature, location, source, ownership, or control of the proceeds of such
18 unlawful activity, or to avoid a transaction reporting requirement under Federal law; AND

19 The defendant entered into the conspiracy knowing of its object and
20 intending to help accomplish it.

21 9. FACTUAL BASIS: The defendant agrees that the following facts are true
22 and sufficient to support his guilty plea:

23 Beginning at a time unknown, but during the summer of 2003, through
24 approximately May 2006, the defendant entered into an unlawful agreement with others to
25 distribute marijuana within the Western District of Washington. The marijuana was
26 manufactured in British Columbia, Canada, and smuggled into the State of Washington
27 where it was received by the defendant and thereafter distributed by him to others in multi-
28 pound quantities. During the above time frame of the conspiracy, the defendant received

1 and sold to others between 100 and 400 kilograms of British Columbia marijuana.
2 Distributors who conspired with the defendant included Bernard Casey and Victor
3 Carlblon.

4 During this same period of time, the defendant engaged, and conspired with others
5 to engage, in multiple money laundering transactions using funds which he derived from
6 his marijuana distribution activities. In particular, during this period of time, the
7 defendant conspired with others to conduct and did conduct multiple financial
8 transactions in the Western District of Washington affecting interstate commerce
9 involving the proceeds of the conspiracy to distribute marijuana in which he was
10 engaged in violation of Title 21, United States Code, Sections 841(a)(1) and 846,
11 knowing that the property involved in the transactions represented the proceeds of
12 unlawful activity constituting a felony under state and federal law, and did so with the
13 intent to promote the carrying on of the conspiracy to distribute marijuana, knowing that
14 the transactions were designed in whole or in part to conceal the nature, source, or
15 control of the proceeds, or to avoid a transaction reporting requirement under federal
16 law.

17 Among those transaction, were the following:

18 (a) Between approximately June 2003 and February 2005, the defendant
19 delivered in excess of \$100,000 cash to James Baxter to be invested in Flat TV USA, a flat
20 screen TV company, as a means of laundering said drug proceeds, knowing the transaction
21 was designed in whole or in part to conceal and disguise the nature, location, source,
22 ownership, and control of the proceeds. No written records or documented receipts of the
23 Flat TV USA investment were created, and the defendant was to be a silent investor in the
24 company in anticipation of a return on his investment. Some of the money was deposited
25 by Baxter directly into the bank account of FLAT TV USA at U.S. Bank.

26 (b) During the Summer of 2005, the defendant delivered in excess of \$500,000
27 cash to Todd Love, a mortgage broker, to be invested in undetermined real estate, as a
28 means of laundering said drug proceeds, knowing the transaction was designed in whole or

1 in part to conceal and disguise the nature, location, source, ownership, and control of the
2 proceeds. The money was delivered by the defendant to Love in duffle bags and no
3 written records or documented receipts of the currency transfer were created. Love
4 thereafter transferred the money to Joel Manalang, a real estate attorney in Seattle.
5 Manalang kept the money hidden in a closet in his home before returning it to Love.
6 Ultimately, law enforcement recovered approximately \$149,540 of the remaining funds.

7 (c) On October 29, 2005, the defendant delivered in excess of \$50,000 drug
8 proceeds to Duke Johnson in Seattle, Washington, with the intent to promote the carrying
9 on of the conspiracy to distribute marijuana. Following that delivery, law enforcement
10 recovered approximately \$699,800 cash from Johnson's vehicle.

11 (d) Between May 2003 and September 2004, the defendant willfully caused
12 approximately \$127,000 of drug proceeds to be utilized to refinance a residence, owned in
13 the name of a third person, located at 26820 Arden Court, Kent, Washington, knowing the
14 transactions were designed in whole or in part to conceal and disguise the nature, location,
15 source, ownership, and control of the proceeds. The proceeds were tendered in the form
16 of numerous cashier's checks and money orders in the names of third parties.

17 (e) On February 25, 2006, in Renton, Washington, the defendant willfully caused
18 approximately \$36,000 in drug proceeds to be used to purchase a 2006 Green Ford F-150
19 pick-up truck, VIN 1FTPW14586FA48926, purchased through a nominee.

20 (f) On November 17, 2005, in Fife, Washington, the defendant willfully caused
21 approximately \$57,000 in drug proceeds to be used to purchase a 2005 Silver Lexus, VIN
22 JTJBT20X650093474, purchased through a nominee.

23 10. GUIDELINE ESTIMATIONS: The parties estimate and agree to the
24 following guideline calculations for purposes of this case:

25 (a) That Counts 2 and Count 3 are to be grouped pursuant to Section 3D1.2 of the
26 Guidelines, and that the base offense level in this case pursuant to Section 2S1.1(a)(1)
27 and (b)(2)(B) of the Guidelines is Level 28.

1 (b) That the defendant shall receive a 2-level upward adjustment for role in the
2 offense pursuant to Section 3B1.1 of the Guidelines.

3 (c) That assuming the defendant cooperates with U.S. Probation, he is entitled to
4 a 3-point reduction in offense level under Section 3E1.1 of the Guidelines, resulting in a
5 net offense level of 27.

6 11. RECOMMENDATION: In consideration of all of those factors set forth
7 in Title 18, United States Code, Section 3553(a) - (e), both parties agree to jointly
8 recommend a sentence of 72 months imprisonment in this matter. The United States
9 will not be recommending the imposition of a fine.

10 12. NO ADDITIONAL CHARGES: The United States agrees to move to
11 dismiss the remaining charges in the Superseding Indictment at the time of sentencing,
12 and not to charge the defendant with any additional criminal offenses, for which there is
13 venue in the Western District of Washington, based upon evidence currently in its
14 possession, arising from the distribution of drugs as described above. In this regard, the
15 defendant acknowledges that the Government may have sought to charge him with
16 additional crimes, but gives up that right as part of this Agreement.

17 13. PLACEMENT: The United States agrees not to oppose any reasonable
18 request by the defendant for prison placement within the Bureau of Prisons or
19 participation in vocational and rehabilitative programs offered by the Bureau of Prisons,
20 including drug treatment programs.

21 14. FORFEITURE: Pursuant to Title 21, United States Code, Section 853,
22 and Title 18, United States Code, Section 982(a)(1) the defendant agrees to forfeit,
23 relinquish and abandon to governmental authorities his interest in any assets belonging
24 to him, under his control, or in which he may have an interest, which were acquired
25 through proceeds obtained from the conspiracy to distribute marijuana described herein,
26 constitute proceeds or substitute proceeds from such activity, or were used or intended
27 to be used to commit or to facilitate such activity, and all right, title, and interest in any
28 and all property, real and personal, involved in the conspiracy to commit money

1 | laundering and all property traceable to such property, including his interest in the
2 | following items:

- 3 | a. \$17,041 drug proceeds recovered from the defendant on the
4 | day of his arrest;
- 5 | b. 2006 Green Ford F-150 pick-up truck, VIN 1FTPW14586FA48926;
- 6 | c. 2005 Silver Lexus GX470, VIN JTJBT20X650093474;
- 7 | d. 2003 White Dodge Ram Van, VIN 2D7HB11X23K503505;
- 8 | e. \$699,800 in United States currency recovered from Duke Johnson;
- 9 | f. \$149,540 in United States currency recovered from Todd Love; and
- 10 | g. \$127,000 invested in the real property located at 26820 Arden Court,
11 | Kent, Washington, and any equity traceable to such investment.

12 | The United States agrees to seek no further forfeiture from the defendant in this
13 | matter. The Government further acknowledges that the defendant maintains that a third
14 | party may have a legitimate claim to approximately \$2,000 of the \$17,041 cash
15 | recovered from the defendant at the time of arrest, as to which the defendant agrees to
16 | forfeit his interest in the entire amount.

17 | The defendant agrees to fully assist the United States in the forfeiture of the
18 | above listed assets and to take whatever steps are necessary to pass clear title to the
19 | United States, including but not limited to: surrendering title and executing any
20 | documents necessary to effectuate such forfeiture; and taking whatever steps are
21 | necessary to ensure that the asset subject to forfeiture is not sold, disbursed, wasted,
22 | hidden, or otherwise made unavailable for forfeiture. Defendant agrees not to file a
23 | claim to the listed property in any civil forfeiture proceeding, administrative or judicial,
24 | which may be initiated.

25 | 15. POST-PLEA CONDUCT: The defendant understands that the terms of this
26 | plea agreement apply only to conduct that occurred prior to the execution of this
27 | agreement. If, pending sentencing, the defendant engages in conduct that is in violation
28 | of law, the United States shall be free to modify its sentencing recommendation and

1 | agreements set forth herein. Further, if the defendant engages in conduct that may
2 | warrant an increase in sentencing exposure under the guidelines, by, for example,
3 | attempting to obstruct justice, or committing additional crimes, the United States is free
4 | to seek a sentencing enhancement or upward adjustment based on that conduct, make a
5 | different sentencing recommendation, or withdraw from this plea agreement and charge
6 | the defendant with any additional crimes.

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