

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
v.	:	CRIMINAL NO. 08-522-4
AN QUOC NGUYEN,	:	
a/k/a "Andrew Nguyen"	:	
a/k/a "Ethan Roberts"	:	

GUILTY PLEA AGREEMENT

Under Federal Rule of Criminal Procedure 11, the government, the defendant, and the defendant's counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania and the Fraud Section of the Criminal Division of the U.S. Department of Justice.

1. The defendant agrees to plead guilty to Count One of the Superseding Indictment, charging him with conspiracy to violate the laws of the United States, 18 U.S.C. § 371, in particular, violation of the Foreign Corrupt Practices Act ("FCPA"), 15 U.S.C. § 78dd-2, violation of the Travel Act, 18 U.S.C. § 1952(a)(3), and money laundering, 18 U.S.C. § 1956(a)(2)(A); Count Eight of the Superseding Indictment, charging him with violation of the FCPA, 15 U.S.C. § 78dd-2 and 18 U.S.C. § 2; Count Seventeen of the Superseding Indictment, charging him with violation of the Travel Act, 18 U.S.C. § 1952(a)(3) and 18 U.S.C. § 2; and Count Twenty-Six of the Superseding Indictment, charging him with money laundering, 18 U.S.C. § 1956(a)(2)(A) and 18 U.S.C. § 2; all arising from his participation in a scheme to pay

bribes to foreign officials of Vietnam in order to secure contracts to provide technology and equipment to Vietnamese government agencies. The defendant further acknowledges the waiver of rights, as set forth in the attachment to this agreement.

2. The defendant agrees to pay the special victims/witness assessment in the amount of \$400 at such time as directed by the Court.

3. The defendant agrees that fine, assessment, tax, interest or other payments in this case do not constitute extraordinary acceptance of responsibility or provide any basis to seek a downward departure or variance from the applicable Sentencing Guidelines range.

4. At the time of sentencing, the government will:

- a. Make whatever sentencing recommendation as to imprisonment, fines, forfeiture, restitution and other matters which the government deems appropriate.
- b. Comment on the evidence and circumstances of the case; bring to the Court's attention all facts relevant to sentencing including evidence relating to dismissed counts, if any, and to the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond factually to questions raised by the Court; correct any factual inaccuracies in the presentence report or sentencing record; and rebut any statement of facts made by or on behalf of the defendant at sentencing.
- c. Nothing in this agreement shall limit the government in its comments in, and responses to, any post-sentencing matters.

5. The defendant understands, agrees and has had explained to him by his counsel that the Court may impose the following statutory maximum sentences: Count One (conspiracy), five years' imprisonment, a three-year period of supervised release, a fine of \$250,000 or twice the gross pecuniary gain to the defendant or loss to the victim(s), whichever is greater, and a \$100 special assessment; Count Eight (FCPA), five years' imprisonment, a three-year period of supervised release, a fine of \$100,000 or twice the gross pecuniary gain to the defendant or loss to the victim(s), whichever is greater, and a \$100 special assessment; Count Seventeen (Travel Act), five years' imprisonment, a three-year period of supervised release, a fine of \$250,000 or twice the gross pecuniary gain to the defendant or loss to the victim(s), whichever is greater, and a \$100 special assessment; and Count Twenty-Six (money laundering), twenty years' imprisonment, a three-year period of supervised release, a fine of \$500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, and a \$100 special assessment. Total Maximum Sentence: 35 years' imprisonment; a five-year period of supervised release; a fine of \$850,000 plus twice the value of the gross pecuniary gain to the defendant or loss to the victims from the conspiracy, and a \$400 special assessment. The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to two years per count of conviction. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

6. The defendant may not withdraw his plea because the Court declines to follow any recommendation, motion or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

7. In exchange for the undertakings made by the government in entering this plea agreement, the defendant voluntarily and expressly waives all rights to appeal or collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law. This waiver is not intended to bar the assertion of constitutional claims that the relevant case law holds cannot be waived.

- a. Notwithstanding the waiver provision above, if the government appeals from the sentence, then the defendant may file a direct appeal of his sentence.
- b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal but may raise only claims that:
 - (1) the defendant's sentence on any count of conviction exceeds the statutory maximum for that count as set forth above;
 - (2) the sentencing judge erroneously departed upward pursuant to the Sentencing Guidelines; and
 - (3) the sentencing judge, exercising the Court's discretion pursuant to United States v. Booker, 543 U.S. 220 (2005),

imposed an unreasonable sentence above the final

Sentencing Guideline range determined by the Court.

If the defendant does appeal pursuant to this paragraph, no issue may be presented by the defendant on appeal other than those described in this paragraph.

8. The defendant also waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

9. By entering this plea of guilty, the defendant also waives any and all rights the defendant may have, pursuant to 18 U.S.C. § 3600, to require DNA testing of any physical evidence in the possession of the government. The defendant fully understands that, as a result of this waiver, any physical evidence in this case will not be preserved by the government and will therefore not be available for DNA testing in the future.

10. The defendant is satisfied with the legal representation provided by the defendant's lawyer; the defendant and his lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that he is guilty.

11. It is agreed that the parties' guilty plea agreement contains no additional promises, agreements or understandings other than those set forth in this written guilty plea agreement, and that no additional promises, agreements or understandings will be entered into unless in writing and signed by all parties.

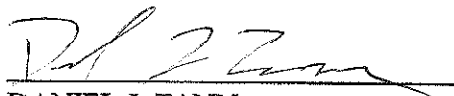
MICHAEL L. LEVY
United States Attorney

DENIS J. MCINERNEY
Chief, Fraud Section,
Criminal Division,
Department of Justice

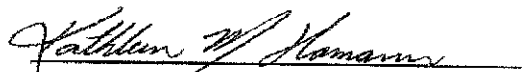


AN QUOC NGUYEN
Defendant

PETER F. SCHENCK
Chief, Criminal Division
Assistant United States Attorney



DANIEL J. TANN
Counsel for Defendant



KATHLEEN M HAMANN
Trial Attorney, Fraud Section
Criminal Division, Department of Justice

JENNIFER ARBITTIER WILLIAMS
Assistant United States Attorney

Date:

Attachment

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UNITED STATES OF AMERICA :
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 AN QUOC NGUYEN, :
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ACKNOWLEDGMENT OF RIGHTS

I hereby acknowledge that I have certain rights that I will be giving up by pleading guilty.

1. I understand that I do not have to plead guilty.
2. I may plead not guilty and insist upon a trial.
3. At that trial, I understand
 - a. that I would have the right to be tried by a jury that would be selected from the Eastern District of Pennsylvania and that along with my attorney, I would have the right to participate in the selection of that jury;
 - b. that the jury could only convict me if all twelve jurors agreed that they were convinced of my guilt beyond a reasonable doubt;
 - c. that the government would have the burden of proving my guilt beyond a reasonable doubt and that I would not have to prove anything;
 - d. that I would be presumed innocent unless and until such time as the jury was convinced beyond a reasonable doubt that the government had proven that I was guilty;
 - e. that I would have the right to be represented by a lawyer at this trial and at any appeal following the trial, and that if I could not afford to hire a lawyer, the court would appoint one for me free of charge;

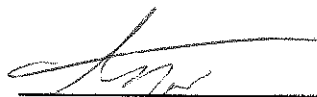
- f. that through my lawyer I would have the right to confront and cross examine the witnesses against me;
- g. that I could testify in my own defense if I wanted to and I could subpoena witnesses to testify in my defense if I wanted to;
- h. that I would not have to testify or otherwise present any defense if I did not want to and that if I did not present any evidence, the jury could not hold that against me.

4. I understand that if I plead guilty, there will be no trial and I would be giving up all of the rights listed above.

5. I understand that if I decide to enter a plea of guilty, the judge will ask me questions under oath and that if I lie in answering those questions, I could be prosecuted for the crime of perjury, that is, for lying under oath.


6. I understand that if I plead guilty, I have waived my right to appeal, except as set forth in appellate waiver provisions of my plea agreement.

7. Understanding that I have all these rights and that by pleading guilty I am giving them up, I still wish to plead guilty.



AN QUOC NGUYEN

Defendant



DANIEL J. TANN

Counsel for the Defendant