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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 SURJIT TOOR,
16 Defendant.

CASE NO. 1:14-CR-00163-LJO
MEMORANDUM OF PLEA
AGREEMENT PURSUANT TO RULE
11(c) OF THE FEDERAL RULES
OF CRIMINAL PROCEDURE

Hon. Lawrence J. O'Neill
Courtroom No. 4

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18
19 Pursuant to Rule 11(c) of the Federal Rules of Criminal
20 Procedure, the United States of America, by and through Benjamin
21 B. Wagner, the United States Attorney for the Eastern District
22 of California, and Assistant United States Attorney Grant. B.
23 Rabenn, and Defendant, SURJIT TOOR, and his attorney, Preciliano
24 Martinez, have agreed as follows.

25 This document contains the complete Memorandum of Plea
26 Agreement ("Plea Agreement") between the United States
27 Attorney's Office for the Eastern District of California
28 ("Government") and defendant SURJIT TOOR, regarding this case.

1 This Plea Agreement is limited to the United States Attorney's
2 Office for the Eastern District of California and cannot bind
3 any other federal, state, or local prosecuting, administrative,
4 or regulatory authorities.

5 The defendant acknowledges that he has been charged in a
6 two (2) count indictment as follows:

7 Conspiracy to Commit Mail Fraud, in violation of Title 18,
8 United States Code, Section 1349; and

9 Mail Fraud, in violation of Title 18, United States Code,
10 Section 1341.

11 1. Nature, Elements and Possible Defenses.

12 The defendant has read the charges against him contained in
13 the indictment, and those charges have been fully explained to
14 him by his attorney. Further, the defendant fully understands
15 the nature and elements of the crimes in Count One of the
16 indictment to which he is pleading guilty, together with the
17 possible defenses thereto, and has discussed them with his
18 attorney.

19 COUNT ONE:

20 The elements of the crime of Conspiracy to Commit Mail
21 Fraud are:

22 First, beginning no later than in or around February 2012,
23 and ending in or around April 2012, there was an agreement
24 between two or more persons to commit at least one crime as
25 charged in the indictment, to wit: Mail Fraud (the elements of
26 which are set forth below); and
27
28

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

4 The elements of Mail Fraud are:

5 First, the defendant knowingly devised a scheme to defraud,
6 or a scheme for obtaining money or property by means of false or
7 fraudulent pretenses, representations, or promises;
8

9 Second, the statements made or facts omitted as part of the
10 scheme were material, that is, they had a natural tendency to
11 influence, or were capable of influencing, a person to part with
12 money or property;

13 Third, the defendant acted with the intent to defraud, that
14 is, the intent to deceive or cheat; and

15 Fourth, the defendant used, or caused to be used, the mails
16 to carry out or attempt to carry out an essential part of the
17 scheme.
18

19 2. Agreements by the Defendant.

20 (a) Defendant agrees that this plea agreement shall be
21 filed with the court and become a part of the record of the
22 case.

23 (b) Defendant agrees to enter a plea of guilty to Count
24 One of the indictment which charges him with Conspiracy to
25 Commit Mail Fraud, in violation of Title 18, United States Code,
26 Section 1349.

27 (c) Defendant understands and agrees that he will not be
28

1 allowed to withdraw his plea should the Court fail to follow the
2 government's sentencing recommendations.

3 (d) Defendant knowingly and voluntarily waives his
4 Constitutional and statutory rights to appeal his plea,
5 conviction, restitution imposed, forfeiture order and sentence.
6 This waiver of appeal includes, but is not limited to, an
7 express waiver of defendant's right to appeal his plea,
8 conviction, restitution imposed, forfeiture order and sentence
9 on any ground, including any appeal right conferred by 18 U.S.C.
10 § 3742, and defendant further agrees not to contest his plea,
11 conviction, restitution imposed, forfeiture order and sentence
12 in any post-conviction proceeding, including but not limited to
13 a proceeding under 28 U.S.C. § 2255, not including any non-
14 waivable rights.

15 (e) Defendant further acknowledges that his plea of guilty
16 is voluntary and that no force, threats, promises or
17 representations have been made to anybody, nor agreement
18 reached, other than those set forth expressly in this agreement,
19 to induce the defendant to plead guilty.

20 (f) Defendant agrees that his base offense level for
21 Conspiracy to Commit Mail Fraud is seven (7) pursuant to Section
22 2B1.1(a)(1) of the United States Sentencing Commission
23 Guidelines Manual ("USSG"); plus six (6) levels for loss more
24 than \$40,000 pursuant to USSG § 2B1.1(b)(1)(D), for a total
25 adjusted offense level of thirteen (13).

26 (g) Defendant understands that the Court must consult the
27 Federal Sentencing Guidelines (as promulgated by the Sentencing
28 Commission pursuant to the Sentencing Reform Act of 1984, 18

1 U.S.C. §§ 3551-3742 and 28 U.S.C. §§ 991-998, and as modified by
2 United States v. Booker and United States v. Fanfan, 543 U.S.
3 220 (2005)), and must take them into account when determining a
4 final sentence. Defendant understands that the Court will
5 determine a non-binding and advisory guideline sentencing range
6 for this case pursuant to the Sentencing Guidelines. Defendant
7 further understands that the Court will consider whether there
8 is a basis for departure from the guideline sentencing range
9 (either above or below the guideline sentencing range) because
10 there exists an aggravating or mitigating circumstance of a
11 kind, or to a degree, not adequately taken into consideration by
12 the Sentencing Commission in formulating the Guidelines.
13 Defendant further understands that the Court, after consultation
14 and consideration of the Sentencing Guidelines, must impose a
15 sentence that is reasonable in light of the factors set forth in
16 18 U.S.C. § 3553(a).

17 (h) Defendant agrees to waive all rights under the "Hyde
18 Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to
19 recover attorneys' fees or other litigation expenses in
20 connection with the investigation and prosecution of all charges
21 in the above-captioned matter and of any related allegations
22 (including without limitation any charges to be dismissed
23 pursuant to this Agreement and any charges previously
24 dismissed).

25 (i) Restitution

26 Defendant agrees that his conduct is governed by the
27 Mandatory Restitution Act pursuant to 18 U.S.C. § 3663A and
28 agrees to pay the full amount of restitution as ordered by the

1 court to the victim affected by this offense, as set forth in
2 the factual basis, pursuant to 18 U.S.C. § 3663A(a)(3) as a
3 result of the defendant's conduct for the offense to which the
4 defendant is pleading guilty, to wit: Conspiracy to Commit Mail
5 Fraud. The defendant agrees to pay restitution in an amount of
6 \$46,979.08 joint and several with co-defendant Raju Toor as a
7 lump sum payment no later than before the time of his sentencing
8 hearing by delivering a check or money order payable to the
9 United States District Court. The defendant agrees that this
10 plea agreement is voidable if the defendant does not make his
11 restitution payment by the time of sentencing as set forth in
12 this section.
13

14 (j) Defendant agrees to make a full and complete
15 disclosure of defendant's assets and financial condition, and
16 will complete the United States Attorney's Office's
17 "Authorization to Release Information" and "Financial Affidavit"
18 within five (5) weeks from the entry of the defendant's change
19 of plea. The defendant also agrees to have the court to enter
20 an order to that effect. The defendant understands that this
21 plea agreement is voidable by the government if the defendant
22 fails to complete and provide the described documentation to the
23 United States Attorney's office within the allotted time. If the
24 defendant makes full restitution payment of \$46,979.08 at the
25 time of sentencing, as set forth above in Paragraph (i), the
26 defendant will not be required to provide the above-described
27 documents to the U.S. Attorney's Office.
28

1 (k) Defendant agrees to forfeit to the United States
2 voluntarily and immediately all right, title, and interest to
3 any and all assets seized pursuant to 18 U.S.C. § 981(a)(1)(C)
4 and 28 U.S.C. § 2461, and Fed. R. Crim. P. 32.2(b)(1). The
5 defendant agrees to a personal forfeiture money judgment in an
6 amount of \$46,979.08, which may be satisfied by a payment of
7 \$46,979.08 at the time of sentencing, as set forth above in
8 Paragraph (i). Further, the defendant agrees that the amount of
9 \$46,979.08 is a reasonable reflection of the amount that the
10 defendant obtained directly or indirectly, as the result of the
11 underlying criminal scheme and the violations of 18 U.S.C. §
12 981(a)(1)(C) and 28 U.S.C. § 2461. The defendant agrees to
13 provide the U.S. Attorney's Office with signed waivers related
14 to federal and state income tax returns, and a waiver of the
15 Right to Financial Privacy Act, which includes, but is not
16 limited to, any credit records, communication records, DMV
17 records, educational records, employment records, military
18 records, business records, and credit reports maintained by any
19 consumer credit reporting entity, until such time as the money
20 judgment is satisfied. In this regard, the Defendant agrees to
21 complete and sign a copy of IRS Form 8821 (relating to the
22 voluntary disclosure of federal tax return information),
23 whatever financial information disclosure form which may be
24 required by an agency, as well as this Office's Right to
25 Financial Privacy Act Waiver & Authorization to Release
26 Information form. If the defendant makes full restitution
27 payment of \$46,979.08 at the time of sentencing, as set forth
28 above in Paragraph (i), the defendant will not be required to

1 provide the above-described documents to the U.S. Attorney's
2 Office.

3 Defendant agrees to fully assist the government in the
4 forfeiture of any seized assets or assets later determined to be
5 forfeitable and to take whatever steps are necessary to pass
6 clear title to the United States. Defendant shall not sell,
7 transfer, convey, or otherwise dispose of any assets found to be
8 connected to the criminal events charged in the Indictment.

9 The defendant waives the notice provisions of Fed. R. Crim.
10 P. 7(c) and 32.2(a), waives oral pronouncement of forfeiture at
11 the time of sentencing and any defects in such pronouncement
12 that pertain to forfeiture, and waives any defenses to
13 forfeiture, including any defense predicated on the Ex Post
14 Facto, Double Jeopardy, and Excessive Fines Clauses of the
15 United States Constitution. The defendant knowingly and
16 voluntarily waives any right to jury trial in any criminal or
17 civil forfeiture proceeding.

18 (1) If the defendant's conviction on the count to which he
19 is pleading is ever vacated at the defendant's request, or his
20 sentence is ever reduced at his request, the government shall
21 have the right to: (1) prosecute the defendant on any of the
22 counts to which he pleaded guilty; (2) reinstate any counts that
23 may be dismissed under this agreement; and (3) file any new
24 charges that would otherwise be barred by this agreement. The
25 decision to pursue any or all of these options is solely in the
26 discretion of the United States Attorney's Office. By signing
27 this agreement, the defendant agrees to waive any objections,
28

1 motions, and defenses he might have to the government's
2 decision, including Double Jeopardy. In particular, he agrees
3 not to raise any objections based on the passage of time with
4 respect to such counts including, without limitation, any
5 statutes of limitation or any objections based on the Speedy
6 Trial Act or the Speedy Trial Clause of the Sixth Amendment.
7

8 If it is determined that the defendant has violated any
9 provision of this Agreement or if the defendant successfully
10 moves to withdraw his plea: (1) all statements made by the
11 defendant to the government or other designated law enforcement
12 agents, or any testimony given by the defendant before a grand
13 jury or other tribunal, whether before or after his Agreement,
14 shall be admissible in evidence in any criminal, civil, or
15 administrative proceedings hereafter brought against the
16 defendant; and (2) the defendant shall assert no claim under the
17 United States Constitution, any statute, the Federal Rules of
18 Criminal Procedure, Rule 410 of the Federal Rules of Evidence,
19 or any other federal rule, that statements made by the defendant
20 before or after this Agreement, or any leads derived therefrom,
21 should be suppressed. By signing this Agreement, the defendant
22 waives any and all rights in the foregoing respects.

23 (m) Defendant acknowledges and understands that the plea
24 offer made to him here by the government is a "package offer";
25 that is:

26 A. The defendant understands that the offer made to
27 him is conditioned on co-defendant Raju Toor pleading
28

1 guilty according to the terms of his respective offer for a
2 deferred prosecution agreement. The defendant understands
3 that if this co-defendant declines, refuses or fails to
4 enter into his proposed deferred prosecution agreement,
5 then, at the option of the government, the defendant will
6 not be allowed to enter a plea of guilty to the offer made
7 to him by the government. However, if co-defendant Raju
8 Toor fails or refuses to enter into his respective
9 agreement with the government and the defendant has already
10 entered his plea, then the government, in its sole
11 discretion, has the ability to withdraw from the plea
12 agreement with the defendant and pursue the original
13 charges as to this defendant; and

14 B. Recognizing that this is a package offer, the
15 defendant also confirms that he has not been threatened or
16 coerced by any other person, including the co-defendant,
17 and enters this agreement of his own volition.

18 3. Agreements by the Government.

19 (a) The government will recommend a two-level reduction
20 (if the offense level is less than 16) or a three-level
21 reduction (if the offense level reaches 16) in the computation
22 of his offense level if the defendant clearly demonstrates
23 acceptance of responsibility for his conduct as defined in
24 Section 3E1.1 of the United States Sentencing Commission
25 Guidelines Manual.

26 (b) The government agrees that his base offense level for
27 Conspiracy to Commit Mail Fraud is seven (7) pursuant to Section
28

1 2B1.1(a)(1) of the United States Sentencing Commission
2 Guidelines Manual ("USSG"); plus six (6) levels for loss more
3 than \$40,000 pursuant to USSG § 2B1.1(b)(1)(D), for a total
4 adjusted offense level of thirteen (13).

5 (c) The government agrees to recommend that if the
6 defendant's guideline range, after all adjustments, falls
7 within:

8 i. Zone A of the Sentencing Table, the government
9 will recommend that the defendant be sentenced to three (3)
10 years of probation;

11 ii. Zone B of the Sentencing Table, then the
12 government will recommend that the defendant be sentenced to
13 three (3) years of probation with a condition of probation that
14 the defendant serve the minimum term of the guideline range home
15 detention, paid for by the defendant;

16 iii. Zone C of the Sentencing Table, then the
17 government will recommend that the defendant be sentenced to
18 imprisonment for half of defendant's minimum term with a term of
19 supervised release which includes the remainder of the minimum
20 term served in home detention, to be paid by the defendant; or

21 iv. Zone D of the Sentencing Table, the government
22 will recommend that the defendant be sentenced to imprisonment
23 at the low end of the applicable guideline range.

24 (d) The defendant understands that if the defendant
25 violates any of his conditions of pre-trial release the
26 government may, in addition to the agreements set forth above
27 and irrespective of its agreement in paragraph 4(c), request
28 imprisonment for his violation of any pre-trial conditions.

1 (e) The defendant acknowledges and understands that the
2 government makes no other representations to him regarding
3 fines, whether any other specific offense characteristics apply
4 to his conduct, the restitution owed, his criminal history or
5 criminal history points under Chapter Four or whether additional
6 enhancements or reductions under Chapter Three or Five of the
7 United States Sentencing Guidelines apply and defendant
8 understands that the government is free to comment and to make
9 recommendations to the court and the probation office regarding
10 those matters.
11

12 (f) The government agrees to dismiss Count Two of the
13 indictment at the time of sentencing.

14 4. Factual Basis.

15 Defendant will plead guilty because he is in fact guilty of
16 the crimes set forth in Count One of the indictment. Defendant
17 also agrees that the following are the facts of this case,
18 although he acknowledges that, as to other facts, the parties
19 may disagree:

20 Beginning no later than February 2012, and
21 continuing through in or around April 2012, the
22 defendant, SURJIT TOOR, knowingly conspired with
23 co-defendant Raju Toor to execute a scheme to
24 defraud Foster Farms by obtaining payment on
25 fraudulent purchase orders and fraudulent
26 invoices for two construction projects that were
27 never performed, and to obtain money and property
28 from Foster Farms, a business located in
29 Livingston, California, by means of materially
30 false and fraudulent pretenses, and to cause the
United States mail and private and commercial
carriers to be used in the execution of the
scheme to defraud.

The defendant was a maintenance manager at Foster
Farms and was responsible for selecting third-

1 party vendors to perform such work at Foster
2 Farms' Plant in Livingston, California. After
3 selecting the vendor, the defendant would cause
4 Foster Farms to send the vendor a purchase order,
5 which included a brief description of the work to
6 be performed by the vendor and the estimated cost
of the project. Under Foster Farms' procedures
and policies, if the work were then performed by
the vendor, the vendor would send Foster Farms an
invoice, which would include the total cost of
the work performed and a request for payment.

7 The defendant was then supposed to verify if (1)
8 the work was completed within the parameters of
the purchase order and (2) the requested
9 reimbursement was accurate. The defendant was
10 supposed to approve payment only if he could
11 verify these two items. Upon such verification,
12 the invoice would be sent to Foster Farms'
accounts payable department, which would then
13 process the invoice and issue a check payable to
14 the vendor in the amount set forth in the
15 invoice. Checks issued by Foster Farms would be
16 sent via United States mail to the vendor.

17 Co-defendant Raju Toor, the defendant's son,
18 owned and controlled Mid State Mechanical ("Mid
19 State"). The defendant conspired with Raju toor
20 to assign two constructions projects, one for a
21 catwalk project and one for an ammonia vessel, to
22 Mid State for work that Mid State did not
23 perform, and to cause Foster Farms to pay Mid
24 State for purported work on those two projects.

25 The Catwalk Project

26 The catwalk project involved construction of a
27 110-foot bridge above a section of the Livingston
28 Plant's poultry processing area. The catwalk was
29 built by Foster Farms' in-house maintenance team
30 and was completed in or around January 2012.
Neither co-defendant Raju Toor nor Mid State
performed any work on this project. As of in or
around February 2012, the defendant and Raju Toor
were aware that the project had been built by the
in-house maintenance team.

31 On or about February 22, 2012, after the catwalk
32 project had been completed, the defendant caused
33 Foster Farms to send Purchase Order 5400855130 to
34 Mid State, which requested that Mid State
35 construct the catwalk. On or about February 22,
36 2012, co-defendant Raju Toor, doing business as
37 Mid State, caused Invoice Number 1142 to be sent
38 to Foster Farms, requesting payment of \$20,394.08
39 for work purportedly performed by Mid State on

1 the catwalk project. On or about February 27,
2 2012, Foster Farms received Invoice Number 1142
3 from Raju Toor, doing business as Mid State.

4 In or around February and March 2012, Foster
5 Farms' accounts payable personnel processed
6 Invoice Number 1142 and the defendant approved
7 payment of \$20,394.08 to Mid State. As a result
8 of the defendant approving this payment, Foster
9 Farms' accounts payable department issued, via
10 U.S. Mail, Check Number 712903 to co-defendant
11 Raju Toor, doing business as Mid State, in an
12 amount of \$78,566.57 in or around March 2012. The
13 check was dated March 22, 2012, and included
14 payments for other Mid State invoices, included
15 the invoice for an ammonia vessel project.

16 Co-defendant Raju Toor received Check Number
17 712903 on or about March 30, 2012. He deposited
18 it into a Mid State bank account and then caused
19 most of the proceeds of the check to be
20 transferred to an account held by the defendant.

21 The Ammonia Vessel Project

22 The ammonia vessel project involved the
23 modification of a large metal tank that was
24 designed to hold ammonia, which was part of the
25 Livingston Plant's refrigeration system. Co-
26 defendant Raju Toor and Mid State did not perform
27 any work on the ammonia vessel, and the defendant
28 was aware that they had not performed such work.

29 On or about February 22, 2012, the defendant
30 caused Foster Farms to send Purchase Order Number
31 4500855129 to Mid State for work involving
32 modification of the ammonia vessel. In or around
33 February 2012, co-defendant Raju Toor, doing
34 business as Mid State, caused Invoice Number 1143
35 to be sent to Foster Farms, requesting payment of
36 \$26,585.00 for work purportedly performed on the
37 ammonia vessel. Co-defendant Raju Toor knew when
38 he sent the invoice that he and Mid State had not
39 done any work on the ammonia vessel project.

40 On or about February 27, 2012, Foster Farms
41 received Invoice Number 1143. In or around
42 February or March 2012, Foster Farms' accounts
43 payable personnel processed Invoice Number 1143
44 in Foster Farms' automated accounts payable
45 system. In or around February or March 2012, the
46 defendant approved a payment of \$26,585.00 to Mid
47 State pursuant to Invoice Number 1143, knowing
48 that co-defendant Raju Toor and Mid State had not
49 carried out the work billed to Invoice Number
50 1143.

1 In or around March 2012, the defendant caused
2 Foster Farms' accounts payable department to
3 issue and send Check Number 712903, payable to
4 co-defendant Raju Toor, doing business as Mid
5 State, in the amount of \$78,566.57, via United
6 States mail. Check Number 712903 also included
7 payment for the work purportedly performed by co-
8 defendant Raju Toor and Mid State on the catwalk
9 project.

10 After receiving Check Number 712903 from Foster
11 Farms, co-defendant Raju Toor, on or about March
12 30, 2012, deposited the check into a Mid State
13 bank account. Co-defendant Raju Toor, on or
14 about April 9, 2012, then wrote a check for
15 \$78,000 to the defendant. The check was funded
16 by the proceeds of Check Number 712903. On or
17 about April 9, 2012, the defendant negotiated a
18 check for \$78,000 and had the funds deposited
19 into one of his bank accounts.

20 As a result of the fraud committed by the
21 defendant and co-defendant Raju Toor, Foster
22 Farms incurred a loss of at least \$46,979.08.

23 5. Potential Sentence.

24 The following is the maximum potential sentence which
25 defendant faces as to Count One:

26 (a) Imprisonment.

27 Maximum: 20 years.

28 (b) Fine.

29 Maximum: \$250,000.00.

30 (c) Both such fine and imprisonment.

31 (d) Restitution: Mandatory

32 (e) Term of Supervised Release:

33 Maximum: 3 years.

34 (Should the defendant violate any of the terms of his
35 supervised release, he can be returned to prison for
36 the period of supervised release actually imposed by
37 the Court or 2 years, whichever is less.)

38 (f) Penalty Assessment.

1 Mandatory: One Hundred dollars (\$100.00).

2 6. Waiver of Rights.

3 Defendant understands that by pleading guilty he surrenders
4 certain rights, including the following:

5 (a) If defendant persisted in a plea of not guilty to the
6 charges against him, he would have the right to be represented
7 by an attorney at all stages of the proceedings, and would have
8 a right to a public and speedy trial. The trial could be either
9 a jury trial or a trial by a judge sitting without a jury.

10 Defendant has a right to a jury trial. However, in order that
11 the trial be conducted by the judge sitting without a jury,
12 defendant, the government and the judge all must agree that the
13 trial be conducted by the judge without a jury.

14 (b) If the trial were a jury trial, the jury would be
15 composed of twelve lay persons selected at random. Defendant
16 and his attorney would have a say in who the jurors would be by
17 removing prospective jurors for cause where actual bias or other
18 disqualification is shown, or without cause by exercising
19 peremptory challenges. The jury would have to agree unanimously
20 before it could return a verdict of either guilty or not guilty.
21 The jury would be instructed that defendant is presumed innocent
22 and that it could not convict him unless, after hearing all the
23 evidence, it was persuaded of his guilt beyond a reasonable
24 doubt.

25 (c) If the trial were held before a judge without a jury,
26 the judge would find the facts and determine, after hearing all
27 the evidence, whether or not he was persuaded of the defendant's
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1 guilt beyond a reasonable doubt.

2 (d) At a trial, whether by a jury or a judge, the
3 government would be required to present its witnesses and other
4 evidence against defendant. Defendant would be able to confront
5 those government witnesses and his attorney would be able to
6 cross-examine them. In turn, defendant could present witnesses
7 and other evidence on his own behalf. If the witnesses for
8 defendant would not appear voluntarily, he could require their
9 attendance through the subpoena power of the Court. At trial,
10 the defendant would also have the right to assistance of legal
11 counsel. If he could not afford legal counsel, one would be
12 appointed for him by the court at no expense to him.

13 (e) At a trial, defendant would have a privilege against
14 self-incrimination so that he could decline to testify, and no
15 inference of guilt could be drawn from this refusal to testify.

16 Defendant understands that by pleading guilty he is waiving
17 all of the rights set forth above and defendant's attorney has
18 explained those rights to him and the consequences of his waiver
19 of those rights.

20 7. Questions by Court.

21 Defendant understands that if the court questions him under
22 oath, on the record and in the presence of counsel, about the
23 offense to which he has pleaded guilty, his answers, if false,
24 may later be used against him in a prosecution for perjury.

25 8. Entire Agreement.

26 This plea of guilty is freely and voluntarily made and not
27 the result of force or threats or of promises apart from those
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1 set forth in this plea agreement. There have been no
2 representations or promises from anyone as to what sentence this
3 Court will impose.

4 9. Court not a Party.

5 It is understood by the parties that the sentencing court
6 is neither a party to nor bound by this agreement and the
7 sentencing judge is free to impose the maximum penalties as set
8 forth in paragraph 6. Further, in making its sentencing
9 decision, the Court may take into consideration any and all
10 facts and circumstances concerning the criminal activities of
11 defendant, including activities which may not have been charged
12 in the indictment.

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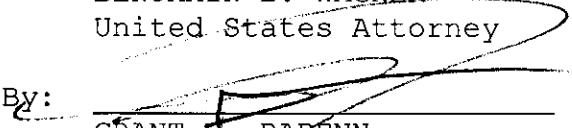
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1 10. Presentence Report.

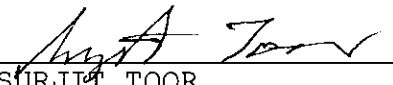
2 Defendant understands that the United States Probation
3 Office is not a party to this agreement and will conduct an
4 independent investigation of defendant's activities and his
5 background. It will then prepare a presentence report which it
6 will submit to the Court as its independent sentencing
7 recommendation. In addition, the government will fully apprise
8 the Probation Office, as well as the Court, of the full and true
9 nature, scope and extent of the defendant's criminal activities,
10 including information on his background and criminal history.

11 Dated: 1/12/16

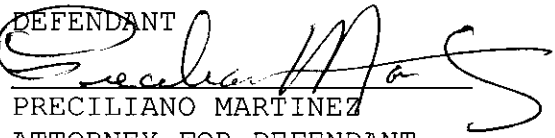
BENJAMIN B. WAGNER
United States Attorney

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13 By: 
14 GRANT B. RABENN
Assistant U.S. Attorney

15 Dated: 1-6-16


SURJIT TOOR
DEFENDANT

17 Dated: 1-6-16


PRECILIANO MARTINEZ
ATTORNEY FOR DEFENDANT

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