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April 29, 2009 12:24:33 PM CDT

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Chief Judge Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLAY FRANKLIN ROUECHE,

Defendant.

NO. CR07-344 RSL

PLEA AGREEMENT

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, and Susan M. Roe and Roger Rogoff, Assistant United States Attorneys for said District, the defendant, Clay Franklin Roueche, and his attorney, Todd Maybrown, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charges. The defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter pleas of guilty to Counts 1, 3 and 5 of the Superseding Information. Count 1 is Conspiracy to Export Cocaine, in violation of Title 21, United States Code, Sections 953, 960(a)(1)(b)(1)(B) and 846. Count 3 is Conspiracy to Import Marijuana, in violation of Title 21, United States Code, Sections 953, 960(a)(1)(b)(1)(G) and 963. Count 5 is Conspiracy to Engage in Money Laundering, in violation of Title 18, United States Code, Section 1956(h). By entering these pleas of guilty, the defendant hereby waives all objections to the form of the charging document. The defendant further understands that before entering his plea of

1 guilty, he will be placed under oath. Any statement he gives under oath may be used by
2 the United States in a prosecution for perjury or false statement.

3 2. Elements of the Offenses. The elements of the Conspiracy offenses are:

4 (1) That there was an agreement between two or more people to commit the acts
5 which constituted a crime, that is, to export cocaine from the United States into Canada,
6 to import marijuana from Canada into the United States, and to engage in money
7 laundering;

8 (2) That the defendant became a member of each conspiracy knowing of its object
9 and intending to help accomplish at least one of its objects.

10 In Count 1, the government also would have to prove beyond a reasonable doubt
11 that the conspiracy involved more than five kilograms of cocaine.

12 In Count 3, the government also would have to prove beyond a reasonable doubt
13 that the conspiracy involved more than 1,000 kilograms of marijuana.

14 The defendant waives his right to require the United States to make the proofs
15 regarding the weights of the controlled substances, and stipulates that these pleas of guilty
16 include his acknowledgment that Count 1 involved more than five kilograms of cocaine
17 and that Count 3 involved more than 1,000 kilograms of marijuana.

18 In relation to Count 5, money laundering occurs when (1) a defendant conducts
19 financial transactions involving property that represented the proceeds of drug trafficking,
20 an unlawful activity; and (2) the defendant knew that the property represented the
21 proceeds of drug trafficking, an unlawful activity; and (3) the defendant knew that the
22 transactions were designed in whole or in part to conceal or disguise the nature, location,
23 source or ownership of the proceeds of drug trafficking or designed in whole or in part to
24 avoid a transaction reporting requirement under state or federal law or to facilitate the
25 drug trafficking crimes.

26 3. The Penalties. The defendant understands that the statutory penalties for
27 the offenses are as follows:
28

1 Counts 1 and 3 - Imprisonment for a term up to life with a mandatory minimum
2 sentence of ten years of imprisonment, a fine of up to four million dollars, a period of
3 supervision following release from prison of at least five years, and a \$100 penalty
4 assessment

5 Count 5 - Imprisonment for up to twenty (20) years in prison, a fine of up to two
6 hundred fifty thousand dollars or twice the sum of the laundered funds whichever is
7 greater, up to three years of supervised release and the \$100 dollar assessment. The
8 defendant agrees that the special assessment shall be paid at or before the time of
9 sentencing.

10 The defendant understands that supervised release is a period of time following
11 imprisonment during which he will be subject to certain restrictions and requirements.
12 The defendant further understands that if supervised release is imposed and he violates
13 one or more of its conditions, he could be returned to prison for all or part of the term of
14 supervised release that was originally imposed. This could result in the defendant serving
15 a total term of imprisonment greater than the statutory maximum stated above.

16 The defendant understands that a consequence of this guilty plea may include the
17 forfeiture of certain property, either as a part of the sentence imposed by the Court or as a
18 result of civil judicial or administrative process.

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

23 The defendant further understands that by pleading guilty to felony drug offenses,
24 he will become ineligible for certain food stamp and social security benefits under 21
25 U.S.C. § 862a.

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

28 a. The right to plead not guilty and to persist in a plea of not guilty;

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

11 5. United States Sentencing Guidelines. The defendant understands and
12 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
13 under the United States Sentencing Guidelines, together with the other factors set forth in
14 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
15 ~~and~~ of the offense; (2) the history and characteristics of the defendant; (3) the need for the
16 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
17 provide just punishment for the offense; (4) the need for the sentence to afford adequate
18 deterrence to criminal conduct; (5) the need for the sentence to protect the public from
19 further crimes of the defendant; (6) the need to provide the defendant with educational
20 and vocational training, medical care, or other correctional treatment in the most effective
21 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
22 and (9) the need to avoid unwarranted sentence disparity among defendants involved in
23 similar conduct who have similar records. Accordingly, the defendant understands and
24 acknowledges that:

- 25 a. The Court will determine the defendant 's applicable Sentencing Guidelines
26 range at the time of sentencing;

1 b. After consideration of the Sentencing Guidelines and the factors in Title 18,
2 United States Code, Section 3553(a), the Court may impose any sentence authorized by
3 law up to the maximum term authorized by law;

4 c. The Court is not bound by any recommendation regarding the sentence to
5 be imposed, or by any calculation or estimation of the Sentencing Guidelines range
6 offered by the parties or the United States Probation Department, or by any stipulations or
7 agreements between the parties in this Plea Agreement; and

8 d. The defendant may not withdraw this guilty plea solely because of the
9 sentence imposed by the Court.

10 6. Sentencing. No agreement has been made with regard to the imposition of
11 the sentence in this matter, and the parties understand that the Court retains full discretion
12 proscribed only by statute. The defendant acknowledges that no one has promised or
13 guaranteed what sentence the Court will impose.

14 7. Statement of Facts. The parties agree that the government would prove the
15 following facts at trial. The defendant admits that he is guilty of the offenses charged in
16 Counts 1, 3 and 5.

17 Clay Franklin Roueche, the defendant, is a Canadian citizen.

18 ***Count 1: Conspiracy to Export Cocaine***

19 During 2005 and continuing thereafter, Mr. Roueche entered into an agreement
20 with others to arrange for cocaine to be exported from the United States to Canada. The
21 cocaine was to be transported, and was transported, north from the United States to
22 Canada, with some of the cocaine traveling through the Western District of Washington.
23 Mr. Roueche acknowledges that this conspiracy involved more than five kilograms of
24 cocaine.

25 ***Count 3: Conspiracy to Import Marijuana***

26 During 2005 and continuing thereafter, Mr. Roueche entered into an agreement
27 with others to arrange for marijuana to be imported from Canada to the United States.
28 The marijuana was to be transported, and was transported, south from Canada to the

1 United States, with some of the marijuana traveling through the Western District of
2 Washington. Mr. Roueche acknowledges that this conspiracy involved more than 1,000
3 kilograms of marijuana.

4 ***Count 5: Conspiracy to Engage in Money Laundering***

5 During 2005 and continuing thereafter, Mr. Roueche entered into an agreement
6 with others to arrange for the collection and transportation of proceeds generated from
7 marijuana sales within the United States. Some of this money was to be collected, and
8 was collected, within the Western District of Washington and transported to other
9 locations within the United States where it was delivered to others. Mr. Roueche
10 acknowledges that he knew that this money was proceeds from a prior, separate criminal
11 activity. Mr. Roueche also acknowledges that he knew the transportation of this money
12 was designed, in part, to conceal or disguise the source and ownership of the proceeds
13 from a prior, separate criminal activity.

14 8. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
15 the United States Attorney's Offices for the Western District of Washington, the Eastern
16 District of Washington, the Eastern, Central and Northern Districts of California, the
17 District of Idaho and the District of Oregon agree not to prosecute the defendant for any
18 additional offenses known to the offices that are based upon evidence that arise out of the
19 conduct giving rise to this investigation. In this regard, the defendant recognizes the
20 United States has agreed not to prosecute all of the criminal charges the evidence
21 establishes were committed by the defendant solely because of the promises made by the
22 defendant in this Agreement. The defendant agrees that for purposes of preparing the
23 Presentence Report, the United States Attorney's Office will provide the United States
24 Probation Office with evidence of all conduct committed by the defendant.

25 9. Acceptance of Responsibility. The United States acknowledges that if the
26 defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG
27 § 3E1.1(a), and if the offense level is sixteen or greater, the defendant's total offense level
28 should be decreased by either two or three levels pursuant to USSG §§ 3E1.1(a) and (b),

1 because the defendant has assisted the United States by timely notifying the authorities of
2 his intention to plead guilty, thereby permitting the United States to avoid preparing for
3 trial and permitting the Court to allocate its resources efficiently.

4 10. Breach, Waiver, and Post-Plea Conduct. The defendant agrees that if he
5 breaches this Plea Agreement, the United States may withdraw from this Plea Agreement
6 and the defendant may be prosecuted for all offenses for which the United States has
7 evidence. The defendant agrees not to oppose any steps taken by the United States to
8 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
9 Agreement. The defendant also agrees that if he is in breach of this Plea Agreement, he
10 has waived any objection to the re-institution of any charges in the Indictment that were
11 previously dismissed or any additional charges that had not been prosecuted.

12 The defendant further understands that if, after the date of this Agreement, the
13 defendant should engage in illegal conduct, or conduct that is in violation of his
14 conditions of release or confinement (examples of which include, but are not limited to:
15 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
16 pending sentencing, and false statements to law enforcement agents, the Pretrial Services
17 Officer, Probation Officer or Court), the United States is free under this Agreement to file
18 additional charges against the defendant or to seek a sentence that takes such conduct
19 into consideration. Such a sentence could include a sentencing enhancement under the
20 United States Sentencing Guidelines or an upward departure from the applicable
21 sentencing guidelines range.

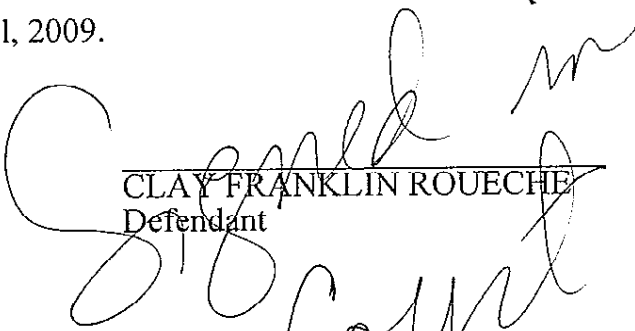
22 11. Voluntariness of Plea. The defendant agrees that he has entered into this
23 Plea Agreement freely and voluntarily, and that no threats or promises, other than the
24 promises contained in this Plea Agreement, were made to induce the defendant to enter
25 this plea of guilty.

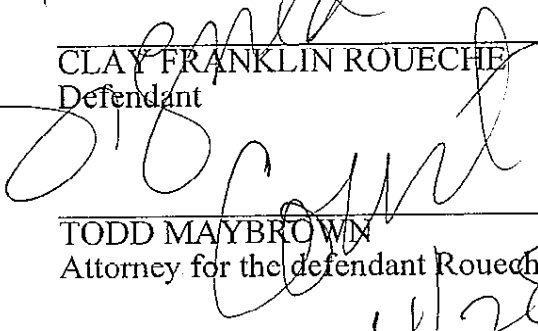
26 12. Statute of Limitations. In the event this Agreement is not accepted by the
27 Court for any reason, or the defendant has breached any of the terms of this Plea
28 Agreement, the statute of limitations shall be deemed to have been tolled from the date of

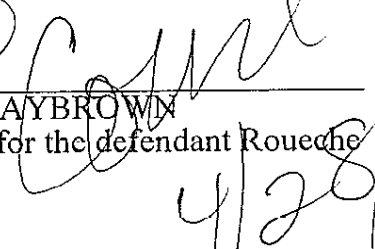
1 the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea
2 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea
3 Agreement by the defendant is discovered by the United States Attorney's Office.

4 13. Completeness of Agreement. The United States and the defendant
5 acknowledge that these terms constitute the entire Plea Agreement between the parties.
6 This Agreement binds the United States Attorney's Office for the Western District of
7 Washington, the Eastern District of Washington, the Eastern, Central and Northern
8 Districts of California, the District of Idaho and the District of Oregon. It does not bind
9 any state or local prosecutor.

10 Dated this 28th day of April, 2009.

11
12 
13 CLAY FRANKLIN ROUECHE
14 Defendant

15 
16 TODD MAYBROWN
17 Attorney for the defendant Roueche

18 
19 DOUGLAS B. WHALLEY
20 Assistant United States Attorney

21 
22 SUSAN M. ROE
23 Assistant United States Attorney

24 
25 ROGER S. ROGOFF
26 Assistant United States Attorney