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APR 27 2006  
CLERK U S DISTRICT COURT  
DISTRICT OF ARIZONA  
BY \_\_\_\_\_ DEPUTY

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AUG 30 2006  
CLERK U S DISTRICT COURT  
DISTRICT OF ARIZONA  
BY \_\_\_\_\_ DEPUTY

6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF ARIZONA

8 United States of America,  
9 Plaintiff,

10 v.

11 Javier Ruelas-Vea,  
12 Defendant.

CR-05-1296-PHX-JAT  
PLEA AGREEMENT

13  
14 Plaintiff, United States of America, and defendant, JAVIER RUELAS-VEA, hereby  
15 agree to the following disposition of this matter:

16 **PLEA**

17 Defendant agrees to plead guilty to Count 4 of the Indictment charging defendant with  
18 Possess with the intent to Distribute 100 kilograms or more of marijuana, a violation of Title  
19 21, United States Code, Sections 841(a)(1) and (b)(1)(B), a Class B felony offense.

20 **TERMS**

21 Defendant understands that the Court is required to consider the United States Sentencing  
22 Guidelines ("U.S.S.G." or "Sentencing Guidelines") among other factors in determining  
23 defendant's sentence. Defendant understands, however, that the Sentencing Guidelines are only  
24 advisory, and that after considering the Sentencing Guidelines, the Court may be free to exercise  
25 its discretion to impose any reasonable sentence up to the maximum set by statute for the crimes  
26 of conviction.

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SCANNED

1 **1. MAXIMUM PENALTIES**

2 a. A violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(B),  
3 is punishable by a maximum fine of \$2,000,000.00, a maximum term of imprisonment for forty  
4 years, or both, and a minimum term of imprisonment of 5 years, along with a term of supervised  
5 release of at least 4 years.

6 b. According to the Sentencing Guidelines issued pursuant to the Sentencing Reform  
7 Act of 1984, the court shall:

8 (1) Order the defendant to make restitution to any victim of the offense unless,  
9 pursuant to Title 18, United States Code, Section 3663, the court determines that restitution  
10 would not be appropriate in this case;

11 (2) Order the defendant to pay a fine, which may include the costs of probation,  
12 supervised release or incarceration, unless, pursuant to Title 18, United States Code, Section  
13 3611, the defendant establishes the applicability of the exceptions found therein;

14 (3) Order the defendant, pursuant to Title 18, United States Code, Section 3583  
15 to serve a term of supervised release when required by statute or when a sentence of  
16 imprisonment of more than one year is imposed, and the court may impose a term of supervised  
17 release in all other cases.

18 c. Pursuant to Title 18, United States Code, Section 3013, the court is required to  
19 impose a special assessment on the defendant of \$100.00 per count. The special assessment is  
20 due at the time the defendant enters the plea of guilty, but in no event shall it be paid later than  
21 the time of sentencing.

22 **2. AGREEMENTS REGARDING SENTENCING**

23 a. In determining sentence in this case, the parties stipulate, pursuant to Fed. R.  
24 Crim. P. 11(c)(1)(C) and U.S.S.G. § 6B1.4, that the quantity of marijuana the defendant  
25 possessed, with the intent to distribute, is at least 700 kilograms but less than 1000 kilograms.  
26 Therefore, the parties agree that the offense level under the guidelines should be determined  
27 only as to this agreed upon amount. Defendant understands that if the court rejects this  
28 stipulation, then the parties will have the opportunity to withdraw from the plea agreement.

1 Should this case, for any reason, proceed to trial, the government is not bound by this agreement  
2 of the parties with regard to the amount drugs attributable to the defendant.

3 b. Assuming that the defendant makes a full and complete disclosure to the Probation  
4 Office of the circumstances surrounding the commission of the offense, and, if the defendant  
5 demonstrates an acceptance of responsibility for this offense by virtue of the defendant's conduct  
6 up to and including the time of sentencing, the parties, pursuant to Fed. R. Crim. P. 11(c)(1)(C)  
7 and U.S.S.G. §3E1.1, stipulate that the Adjusted Offense Level applicable to this offense be  
8 reduced by two levels.

9 c. Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the  
10 government recommends, if applicable, the following: subject to verification that the defendant  
11 does not have more than one (1) criminal history point, as determined under the sentencing  
12 guidelines, and prior to sentencing, the defendant truthfully provides to the government all  
13 information and evidence the defendant has concerning the offense or offenses that were part  
14 of the same course of conduct or of a common scheme or plan, the United States recommends  
15 that the defendant receive "Safety Valve" consideration, pursuant to Title 21, United States  
16 Code, Section 3553(f), and Section 5C1.2 of the Sentencing Guidelines because:

17 (1) the defendant did not use violence or credible threats of violence or possess  
18 a firearm or other dangerous weapon (or induce another participant to do so) in connection with  
19 the offense;

20 (2) the offense did not result in death or serious bodily injury to any person; and,

21 (3) the defendant was not an organizer, leader, manager, or supervisor of others  
22 in the offense.

23 d. The United States retains the unrestricted right to make any and all statements it  
24 deems appropriate to the United States Probation Office and to make factual responses to any  
25 statements or objections made by the defendant or defense counsel to the presentence report or  
26 to questions posed by the Court.

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1 e. If the Court, after reviewing this plea agreement, concludes that any provision is  
2 inappropriate, it may reject the plea agreement, giving the defendant an opportunity to withdraw  
3 the guilty plea in accordance with Fed. R. Crim. P. 11(d).

4 f. If the Court does not follow the government's recommendation(s), the defendant  
5 will not be allowed to withdraw his guilty plea.

6 **3. AGREEMENT TO DISMISS OR NOT TO PROSECUTE**

7 a. Pursuant to this agreement, the United States will, at the time of sentencing,  
8 dismiss Counts 1-3 of the indictment.

9 b. Pursuant to Fed. R. Crim. P. 11(c)(1)(A), the United States agrees to bring no  
10 further charges against the defendant arising from information learned during the investigation  
11 which brought about this plea, except for crimes of violence as defined in 18 U.S.C. §16, if any.

12 c. This agreement does not in any manner restrict the actions of the United States in  
13 any other District nor bind any other United States Attorney's Office.

14 **4. WAIVER OF DEFENSES AND APPEAL RIGHTS**

15 The defendant waives any and all motions, defenses, probable cause determinations, and  
16 objections which the defendant could assert to the indictment or information or to the Court's  
17 entry of judgment against the defendant and imposition of sentence upon the defendant,  
18 providing the sentence is consistent with this agreement. The defendant further waives: (1) any  
19 right to appeal the Court's entry of judgment against defendant; (2) any right to appeal the  
20 imposition of sentence upon defendant under Title 18, United States Code, Section 3742  
21 (sentence appeals); and (3) any right to collaterally attack defendant's conviction and sentence  
22 under Title 28, United States Code, Section 2255, or any other collateral attack. The defendant  
23 acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the  
24 defendant might file challenging his conviction or sentence in this case.

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1 **5. PERJURY AND OTHER FALSE STATEMENT OFFENSES OR OTHER**  
2 **OFFENSES**

3 Nothing in this agreement shall be construed to protect the defendant in any way from  
4 prosecution for perjury, false declaration or false statement, or any other offense committed by  
5 defendant after the date of this agreement. Any information, statements, documents, and  
6 evidence which defendant provides to the United States pursuant to this agreement may be used  
7 against the defendant in all such prosecutions.

8 **6. REINSTITUTION OF PROSECUTION**

9 If defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the  
10 United States will be free to prosecute the defendant for all charges of which it has knowledge,  
11 and any charges that have been dismissed because of this plea agreement will be automatically  
12 reinstated. In such event, defendant waives any objections, motions, or defenses based upon the  
13 Statute of Limitations, the Speedy Trial Act or constitutional restrictions in bringing of the later  
14 charges or proceedings. The defendant understands that any statements made at the time of the  
15 defendant's change of plea or sentencing may be used against the defendant in any subsequent  
16 hearing, trial or proceeding as permitted by Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410.

17 **7. DISCLOSURE OF INFORMATION TO U.S. PROBATION OFFICE**

18 a. The defendant will cooperate fully with the United States Probation Office. Such  
19 cooperation will include truthful statements in response to any questions posed by the Probation  
20 Department including, but not limited to:

21 (1) **All criminal history information, i.e., all criminal convictions as defined**  
22 **under the Sentencing Guidelines.**

23 (2) **All financial information, e.g., present financial assets or liabilities that**  
24 **relate to the ability of the defendant to pay a fine or restitution.**

25 (3) **All history of drug abuse which would warrant a treatment condition**  
26 **as part of sentencing.**

27 (4) **All history of mental illness or conditions which would warrant a**  
28 **treatment condition as a part of sentencing.**

1 **8. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

2 a. Nothing in this agreement shall be construed to protect the defendant from civil  
3 forfeiture proceedings or prohibit the United States from proceeding with and/or initiating an  
4 action for civil forfeiture.

5 b. Defendant will identify all assets and identify the source of income used to obtain  
6 the assets. Defendant will identify all assets used to facilitate the commission of any crime  
7 charged in this indictment. Defendant will testify truthfully in any civil forfeiture proceeding.

8 c. Further, this agreement does not preclude the United States from instituting any  
9 civil or administrative proceedings as may be appropriate now or in the future.

10 d. Pursuant to 21 U.S.C. Section 853 and as a result of the offense(s) charged, the  
11 defendant further agrees to forfeit to the United States of America all right, title, and interest in  
12 (1) any property constituting, or derived from, any proceeds the person obtained, directly or  
13 indirectly, as the result of said offense and (2) any of the defendant's property used, or intended  
14 to be used, in any manner or part, to commit, to facilitate the commission of said offense, as to  
15 which property the defendants are jointly and severally liable.

16  
17 **9. LOSS OF CERTAIN FEDERAL BENEFITS**

18 The defendant understands and acknowledges that a conviction may result in the  
19 defendant and his immediate family members losing eligibility for certain Welfare, Food Stamp  
20 and Social Security benefits.

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22 **ELEMENTS OF THE OFFENSE AND FACTUAL BASIS**

23 I further admit that if this matter were to proceed to trial the United States could prove  
24 the following facts beyond a reasonable doubt:

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26 **ELEMENTS OF THE OFFENSE** (Count 4)

27 The crime of Possession with the Intent to Distribute 100 kilograms or more of marijuana  
28 requires proof of the following:

1 1. On or about November, 12, 2005, in the District of Arizona, the defendant knowingly  
2 possessed approximately 837 kilograms of marijuana; and

3 2. The defendant possessed the marijuana with the intent to deliver it to another person.

4 **FACTUAL BASIS**

5 I further admit that if this matter were to proceed to trial the United States could prove  
6 the following facts beyond a reasonable doubt:

7 **On November 12, 2005, near Wellton, Arizona, in the District of Arizona, I, Javier**  
8 **Ruelas-Vea, was riding in a pickup truck loaded with approximately 837 kilograms of**  
9 **marijuana. I had two other companions with me, Mr. Victor Nogales-Reyna and Mr.**  
10 **David Marquez-Cruz, in the pickup truck. I knew I had marijuana with me in the truck,**  
11 **and I knew that we were transporting the marijuana to Phoenix, Arizona. I was hired by**  
12 **someone in Mexico to transport the marijuana to Phoenix. Mr. Nogales, Marquez and I**  
13 **were on our way to deliver the marijuana to Phoenix when we were apprehended by**  
14 **federal authorities.**

15 Defendant understands that defendant will have to swear under oath to the accuracy of  
16 this statement, and if called upon to testify about this matter in the future, any intentional  
17 material inconsistencies in my testimony may subject defendant to additional penalties of perjury  
18 or false swearing which may be enforced by the United States under this agreement.

19 **DEFENDANT'S APPROVAL AND ACCEPTANCE**

20 I have read each of the provisions of the entire plea agreement with the assistance of  
21 counsel and understand its provisions.

22 I have discussed the case and my constitutional and other rights with my attorney. I  
23 understand that by entering my plea of guilty I will be giving up my rights to plead not guilty,  
24 to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to present  
25 evidence in my defense, to remain silent and refuse to be a witness against myself by asserting  
26 my privilege against self-incrimination -- all with the assistance of counsel -- and to be presumed  
27 innocent until proven guilty beyond a reasonable doubt.

28

1 I agree to enter my guilty plea as indicated above on the terms and conditions set forth  
2 in this agreement.

3 I have been advised by my attorney of the nature of the charges to which I am entering  
4 my guilty plea. I have further been advised by my attorney of the nature and range of the  
5 possible sentence and that my ultimate sentence will be determined after consideration of the  
6 advisory Sentencing Guidelines.

7 My guilty plea is not the result of force, threats, assurances or promises other than the  
8 promises contained in this agreement. I agree to the provisions of this agreement as a voluntary  
9 act on my part and I agree to be bound according to its provisions.

10 I fully understand that, if I am granted probation or placed on supervised release by the  
11 court, the terms and conditions of such probation/supervised release are subject to modification  
12 at any time. I further understand that, if I violate any of the conditions of my  
13 probation/supervised release, my probation/supervised release may be revoked and upon such  
14 revocation, notwithstanding any other provision of this agreement, I may be required to serve  
15 a term of imprisonment or my sentence may otherwise be altered.

16 I agree that this written plea agreement contains all the terms and conditions of my plea  
17 and that promises made by anyone (including my attorney), and specifically any predictions as  
18 to the guideline range applicable, that are not contained within this written plea agreement are  
19 without force and effect and are null and void.

20 I am satisfied that my defense attorney has represented me in a competent manner.

21 I am fully capable of understanding the terms and conditions of this plea agreement. I am  
22 not now on or under the influence of any drug, medication, liquor, or other intoxicant or  
23 depressant, which would impair my ability to fully understand the terms and conditions of this  
24 plea agreement.

25 I have carefully reviewed every part of it with my attorney. I understand it, and I  
26 voluntarily agree to it.

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April 27 2006  
Date

JAVIER RUELAS VEA  
JAVIER RUELAS-VEA  
Defendant

**DEFENSE ATTORNEY'S APPROVAL**

I have discussed this case and the plea agreement with my client, in detail and have advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea including the maximum statutory sentence possible. I have further discussed the concept of the advisory sentencing guideline with the defendant. No assurances, promises, or representations have been given to me or to the defendant by the United States or by any of its representatives which are not contained in this written agreement. I concur in the entry of the plea as indicated above and on the terms and conditions set forth in this agreement as in the best interests of my client. I agree to make a bona fide effort to ensure that the guilty plea is entered in accordance with all

the requirements of Fed. R. Crim. P. 11. *ADDITIONALLY, THE PLEA AGREEMENT WAS TRANSLATED TO THE DEFENDANT IN SPANISH BY MR. RALLS WHO IS A NATIVE SPANISH SPEAKER.*

JRV

April 27 2006  
Date

STEPHEN G. RALLS  
STEPHEN G. RALLS  
Attorney for Defendant

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**UNITED STATES' APPROVAL**

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth are appropriate and are in the best interests of justice.

PAUL K. CHARLTON  
United States Attorney  
District of Arizona

27 Apr. 2006  
Date

  
\_\_\_\_\_  
STEVEN P. LOGAN  
Assistant U.S. Attorney

**COURT'S ACCEPTANCE**

30 APR 06  
Date

  
\_\_\_\_\_  
JAMES A. TEILBORG  
United States District Judge