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8

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

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ROSELLE CIPRIANO,

16 Defendant.
17

CASE NO. 2:19-CR-00035-DAD

PLEA AGREEMENT

DATE:

TIME:

COURT: Hon. Dale A. Drozd

18
19 **I. INTRODUCTION**

20 **A. Scope of Agreement**

21 The indictment in this case charges the defendant with one count of conspiracy to distribute,
22 manufacture, and possess with intent to distribute at least 500 grams of a mixture and substance
23 containing a detectable amount of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846
24 (Count One), one count of distribution of at least 50 grams of a mixture and substance containing a
25 detectable amount of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) (Count Two), two counts
26 of distribution of at least 500 grams of a mixture and substance containing a detectable amount of
27 methamphetamine, in violation of 21 U.S.C. § 841(a)(1) (Counts Three and Four), one count of
28 possession with intent to distribute at least 500 grams of a mixture and substance containing a detectable

1 amount of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) (Count Five), and one count of
2 possession of a firearm in furtherance of a drug trafficking offense, in violation of 18 U.S.C. § 924(c)
3 (Count Six). This document contains the complete plea agreement between the United States Attorney's
4 Office for the Eastern District of California (the "government") and the defendant regarding this case.
5 This plea agreement is limited to the United States Attorney's Office for the Eastern District of
6 California and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory
7 authorities.

8 **B. Court Not a Party**

9 The Court is not a party to this plea agreement. Sentencing is a matter solely within the
10 discretion of the Court, and the Court may take into consideration any and all facts and circumstances
11 concerning the criminal activities of defendant, including activities that may not have been charged in
12 the indictment. The Court is under no obligation to accept any recommendations made by the
13 government, and the Court may in its discretion impose any sentence it deems appropriate up to and
14 including the statutory maximum stated in this plea agreement.

15 If the Court should impose any sentence up to the maximum established by the statute, the
16 defendant cannot, for that reason alone, withdraw her guilty plea, and she will remain bound to fulfill all
17 of the obligations under this plea agreement. The defendant understands that neither the prosecutor,
18 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence she will
19 receive.

20 **II. DEFENDANT'S OBLIGATIONS**

21 **A. Guilty Plea**

22 The defendant will plead guilty to Count One of the indictment. Count One charges conspiracy
23 to distribute, manufacture, and possess with intent to distribute at least 500 grams of a mixture and
24 substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1)
25 and 846. The defendant agrees that she is in fact guilty of these charges and that the facts set forth in the
26 Factual Basis For Plea, attached hereto as Exhibit A, are accurate.

27 The defendant agrees that this plea agreement will be filed with the Court and become a part of
28 the record of the case. The defendant understands and agrees that she will not be allowed to withdraw

1 her plea should the Court not follow the government's sentencing recommendations.

2 The defendant agrees that the statements made by her in signing this Agreement, including the
3 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
4 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a
5 guilty plea pursuant to this Agreement. The defendant waives any rights under Rule 11(f) of the Federal
6 Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, to the extent that these
7 rules are inconsistent with this paragraph or with this Agreement generally.

8 **B. Sentencing Recommendation**

9 The defendant and her counsel may recommend whatever sentence they deem appropriate.

10 **C. Special Assessment**

11 The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering
12 a check or money order payable to the United States District Court to the United States Probation Office
13 immediately before the sentencing hearing.

14 **D. Defendant's Violation of Plea Agreement or Withdrawal of Plea**

15 If the defendant violates this plea agreement in any way, withdraws her plea, or tries to withdraw
16 her plea, this plea agreement is voidable at the option of the government. The government will no
17 longer be bound by its representations to the defendant concerning the limits on criminal prosecution
18 and sentencing as set forth herein. One way a defendant violates the plea agreement is to commit any
19 crime or provide any statement or testimony which proves to be knowingly false, misleading, or
20 materially incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will
21 also be a violation of the agreement. The determination whether the defendant has violated the plea
22 agreement shall be decided under a probable cause standard.

23 If the defendant violates the plea agreement, withdraws her plea, or tries to withdraw her plea,
24 the government shall have the right: (1) to prosecute the defendant on any of the counts to which she
25 pleaded guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3)
26 to file any new charges that would otherwise be barred by this plea agreement. The defendant shall
27 thereafter be subject to prosecution for any federal criminal violation of which the government has
28 knowledge, including perjury, false statements, and obstruction of justice. The decision to pursue any or

1 all of these options is solely in the discretion of the United States Attorney's Office.

2 By signing this plea agreement, the defendant agrees to waive any objections, motions, and
3 defenses that the defendant might have to the government's decision to exercise the options stated in the
4 previous paragraph. Any prosecutions that are not time-barred by the applicable statute of limitations as
5 of the date of this plea agreement may be commenced in accordance with this paragraph,
6 notwithstanding the expiration of the statute of limitations between the signing of this plea agreement
7 and the commencement of any such prosecutions. The defendant agrees not to raise any objections
8 based on the passage of time with respect to such counts including, but not limited to, any statutes of
9 limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
10 Amendment to any counts that were not time-barred as of the date of this plea agreement.

11 In addition: (1) all statements made by the defendant to the government or other designated law
12 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,
13 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or
14 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no
15 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal
16 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by
17 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed.
18 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

19 **III. THE GOVERNMENT'S OBLIGATIONS**

20 **A. Dismissals**

21 The government agrees to move, at the time of sentencing, to dismiss without prejudice the
22 remaining counts in the pending indictment. The government also agrees not to reinstate any dismissed
23 count except if this agreement is voided as set forth herein, or as provided in II.D (Defendant's Violation
24 of Plea Agreement) and VII.B (Waiver of Appeal) herein.

25 **B. Recommendations**

26 **1. Incarceration Range**

27 The government will recommend that the defendant be sentenced to the low end of the
28 applicable guideline range for her offense, including the application of the mandatory statutory

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2 minimum term, as determined by the Court. The government may recommend whatever it deems
3 appropriate as to all other aspects of sentencing.

4 2. Acceptance of responsibility

5 The government will recommend a two-level reduction (if the offense level is less than 16) in the
6 computation of the defendant's offense level if she clearly demonstrates acceptance of responsibility for
7 her conduct as defined in U.S.S.G. § 3E1.1. This includes the defendant meeting with and assisting the
8 probation officer in the preparation of the pre-sentence report, being truthful and candid with the
9 probation officer, and not otherwise engaging in conduct that constitutes obstruction of justice within the
10 meaning of U.S.S.G § 3C1.1, either in the preparation of the pre-sentence report or during the
11 sentencing proceeding.

12 **C. Use of Information for Sentencing**

13 The government is free to provide full and accurate information to the Court and the United
14 States Probation Office ("Probation"), including answering any inquiries made by the Court and/or
15 Probation, and rebutting any inaccurate statements or arguments by the defendant, her attorney,
16 Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement
17 bars the government from defending on appeal or collateral review any sentence that the Court may
18 impose.

19 **IV. ELEMENTS OF THE OFFENSE**

20 At a trial, the government would have to prove beyond a reasonable doubt the following
21 elements of the offenses to which the defendant is pleading guilty:

22 As to Count One, conspiracy to distribute, manufacture, and possess with intent to distribute at
23 least 500 grams of a mixture and substance containing methamphetamine, in violation of 21 U.S.C. §§
24 846 and 841(a)(1):

- 25 1. Beginning on or about no later than June 14, 2018, and continuing until on or about
26 February 7, 2019, there was an agreement between two or more persons to distribute,
27 manufacture, and possess with intent to distribute methamphetamine; and
- 28 2. the defendant joined in the agreement knowing of its purpose and intending to help

1 accomplish that purpose.

2 The defendant fully understands the nature and elements of the crime charged in the indictment
3 to which she is pleading guilty, together with the possible defenses thereto, and has discussed them with
4 her attorney.

5 **V. MAXIMUM SENTENCE**

6 **A. Maximum penalties**

7 The maximum sentence the Court can impose on Count One, conspiracy to distribute,
8 manufacture, and possess with intent to distribute at least 500 grams of a mixture and substance
9 containing methamphetamine, in violation of 21 U.S.C. §§ 846 and 841(a)(1), is at least ten years and up
10 to life in prison, a fine of \$10 million dollars, a term of supervised release of at least five years up to life,
11 and a special assessment of \$100. Count One carries a ten-year mandatory minimum sentence, absent a
12 motion by the government for reduction pursuant to 18 U.S.C. § 3553(e).

13 In addition, the defendant may be ineligible for certain federal and/or state assistance and/or
14 benefits, pursuant to 21 U.S.C. § 862.

15 **B. Violations of Supervised Release**

16 The defendant understands that if she violates a condition of supervised release at any time
17 during the term of supervised release, the Court may revoke the term of supervised release and require
18 the defendant to serve up to five years of additional imprisonment.

19 **VI. SENTENCING DETERMINATION**

20 **A. Statutory Authority**

21 The defendant understands that the Court must consult the Federal Sentencing Guidelines and
22 must take them into account when determining a final sentence. The defendant understands that the
23 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the
24 Sentencing Guidelines and must take them into account when determining a final sentence. The
25 defendant further understands that the Court will consider whether there is a basis for departure from the
26 guideline sentencing range (either above or below the guideline sentencing range) because there exists
27 an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into
28 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further

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2 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must
3 impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

4 **VII. WAIVERS**

5 **A. Waiver of Constitutional Rights**

6 The defendant understands that by pleading guilty, she is waiving the following constitutional
7 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to
8 be assisted at trial by an attorney, who would be appointed if necessary; (d) to pursue any affirmative
9 defenses, Fourth Amendment or Fifth Amendment claims, constitutional challenges to the statutes of
10 conviction, and other pretrial motions that have been filed or could be filed; (e) to subpoena witnesses to
11 testify on her behalf; (f) to confront and cross-examine witnesses against her; and (g) not to be
12 compelled to incriminate herself.

13 **B. Waiver of Appeal and Collateral Attack**

14 The defendant understands that the law gives the defendant a right to appeal her guilty plea,
15 conviction, and sentence. The defendant agrees as part of her plea, however, to give up the right to
16 appeal any aspect of the guilty plea, conviction, and the sentence imposed in this case. The defendant
17 understands that this waiver includes, but is not limited to, any and all constitutional and/or legal
18 challenges to the defendant's conviction and guilty plea, including arguments that the statutes to which
19 defendant is pleading guilty are unconstitutional, and any and all claims that the statement of facts
20 attached to this agreement is insufficient to support the defendant's plea of guilty.

21 Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if
22 one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the
23 statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant
24 understands that these two circumstances occur infrequently and that in all other cases, this Agreement
25 constitutes a complete waiver of all appellate rights.

26 In addition, regardless of the sentence the defendant receives, the defendant also gives up any
27 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any
28 aspect of the guilty plea, conviction, or sentence imposed in this case.

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2 Notwithstanding the agreement in paragraph III.A (Dismissals) above, that the government will
3 move to dismiss counts against the defendant, if the defendant ever attempts to vacate her plea, dismiss
4 the underlying charges, or modify or set aside her sentence on any of the counts to which she is pleading
5 guilty, the government shall have the rights set forth in paragraph II.DD (Defendant's Violation of Plea
6 Agreement) herein.

7 **C. Impact of Plea on Defendant's Immigration Status**

8 The defendant recognizes that pleading guilty may have consequences with respect to her
9 immigration status if she is not a citizen of the United States. Under federal law, a broad range of
10 crimes are removable offenses, including offenses to which the defendant is pleading guilty. The
11 defendant and her counsel have discussed the fact that the charges to which the defendant is pleading
12 guilty is an aggravated felony, or a crime that is likely to be determined to be an aggravated felony under
13 8 USC § 1101(a)(43), and that while there may be arguments that defendant can raise in immigration
14 proceedings to avoid or delay removal, it is virtually certain that defendant will be removed. Indeed,
15 because the defendant is pleading guilty to conspiracy to distribute and manufacture methamphetamine
16 under 21 U.S.C. §841(a)(1), removal is presumptively mandatory. Removal and other immigration
17 consequences are the subject of a separate proceeding, however, and the defendant understands that no
18 one, including her attorney or the district court, can predict to a certainty the effect of her conviction on
19 her immigration status. The defendant nevertheless affirms that she wants to plead guilty regardless of
20 any immigration consequences that her plea may entail, even if the consequence is her automatic
21 removal from the United States.

22 **VIII. ENTIRE PLEA AGREEMENT**

23 Other than this plea agreement, no agreement, understanding, promise, or condition between the
24 government and the defendant exists, nor will such agreement, understanding, promise, or condition
25 exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and
26 counsel for the United States.

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2 IX. APPROVALS AND SIGNATURES

3 A. Defense Counsel

4 I have read this plea agreement and have discussed it fully with my client. The plea agreement
5 accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to
6 plead guilty as set forth in this plea agreement.


7 Dated: 10-5-23

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9 STEVE WHITWORTH
Counsel for Defendant

10 B. Defendant

11 I have read this plea agreement and carefully reviewed every part of it with my attorney. I
12 understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully
13 understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my
14 case. No other promises or inducements have been made to me, other than those contained in this plea
15 agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement.
16 Finally, I am satisfied with the representation of my attorney in this case.

17 Dated: 10-5-2023

18 
19 ROSELLE CIPRIANO, Defendant

20 C. Attorney for the United States

21 I accept and agree to this plea agreement on behalf of the government.

22 Dated: 10/5/2023

23 PHILLIP A. TALBERT
United States Attorney

24 By: 
25 ROSS PEARSON
26 Assistant United States Attorney
27
28

EXHIBIT "A"
Factual Basis for Plea

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3 If this matter proceeded to trial, the United States would establish the following facts beyond a
4 reasonable doubt:

5 On June 14, 2018, in Vallejo California, Rafael RUIZ, sold an undercover agent with the Drug
6 Enforcement Administration (DEA) approximately 1,000 pills in the shape of the Kool-Aid Smiling
7 Pitcher and between 50 and 100 pills in the shape of Donald Trump's Face. RUIZ told the undercover
8 agent that all of the pills were the same substance, but with different "stamps." RUIZ also told the
9 undercover agent that he could obtain Xanax and Oxycodone from the same source who provided him
10 the methamphetamine pills. RUIZ's source was the defendant, Roselle CIPRIANO, and her husband
11 and co-defendant, Henry BENSON.

12 RUIZ and the undercover agent agreed to conduct another drug deal on July 3, 2018 in Vallejo.
13 During recorded calls setting up the deal, RUIZ told the undercover agent that he had counterfeit Xanax
14 available in 1,000-count quantities. At 11:00 a.m. on the July 3, 2018, RUIZ told the undercover agent
15 during a recorded call that he would contact his source to get the pills and meet the undercover agent at
16 1:00 p.m. to sell the pills. RUIZ then called BENSON's phone number.

17 At 1:00 p.m. on July 3, 2018, RUIZ sold the undercover agent approximately 2,000 pills (915
18 gross grams) for \$3,000 in the following colors and shapes: yellow Tesla emblem, yellow Donald
19 Trump's face, and blue Minions. These pills contained methamphetamine.

20 During this recorded meeting, RUIZ told the undercover agent that his source manufactured the
21 methamphetamine pills and that his source could provide RUIZ with 20,000 pills on a "front" without
22 initial payment. Also during this meeting, RUIZ called his source, BENSON, in the presence of the
23 undercover agent. BENSON could be heard on the line stating that the counterfeit Xanax pills could be
24 ready in a few days.

25 On July 27, 2018, RUIZ and the undercover agent engaged in recorded calls and text messages,
26 during which RUIZ agreed to sell the undercover agent 2,000 counterfeit Xanax pills. RUIZ told the
27 undercover agent that the pills were being supplied by the same source.

28 On July 27, 2018, agents established surveillance at RUIZ's residence and the defendant and

1 BENSON's residence. The undercover agent called RUIZ to inform him he was on his way to meet
2 him, and RUIZ responded that he was calling his source to obtain the pills. RUIZ immediately called
3 BENSON's phone number. Shortly thereafter, BENSON left his residence and drove to RUIZ's
4 residence to deliver RUIZ the drugs. RUIZ then called the undercover agent and said he was ready to
5 meet. RUIZ then sold the undercover agent 2,000 fake Xanax pills. The pills contained
6 methamphetamine. The defendant, CIPRIANO's, fingerprint was on the bag containing the
7 methamphetamine pills.

8 During this recorded meeting, the undercover agent said that he had additional money to
9 purchase 800-900 pills. RUIZ said he would call his source to see if they were available. RUIZ again
10 called BENSON. RUIZ then left and met BENSON, who handed RUIZ additional pills to sell the
11 undercover agent. When RUIZ returned to meet with the undercover agent, he said that he had just
12 obtained the pills from his source of supply. These additional pills contained methamphetamine.

13 On September 4, 2018, law enforcement searched RUIZ's residence and found approximately
14 3,000 pills (695 gg) bearing the Snapchat and minion emblem. These pills contained methamphetamine.

15 On February 7, 2019, agents executed a search warrant at the defendant and BENSON's
16 residence inside an elder care facility in Vallejo. In the defendant's bedroom, under the defendant's bed,
17 they found approximately 31 pounds of pills in shapes consistent with the pills sold by RUIZ to the
18 undercover agent. Most of these pills were found by the DEA lab to contain methamphetamine. They
19 also found approximately 17 pounds of powders used in the manufacture of the methamphetamine pills
20 and pill dies (stamps) used for pressing the pills. The defendant was in the bedroom on the bed when
21 the search warrant was executed.

22 In a room a few feet from the defendant's bedroom, agents found a pill press used for
23 manufacturing the pills.

24 During the search of the residence, agents found paperwork showing that the defendant had
25 leased a public storage rental unit in Vacaville, California. Inside the storage unit leased by the
26 defendant were five additional pill presses, hazmat clothing, and a bucket of powder used for
27 manufacturing pills.

28 The Customs and Border Patrol Tactical Analytical Unit identified a P.O. box registered to the

1 defendant. The defendant's P.O. box received the following international imports in 2018 indicative of
2 pill manufacturing:

3 1. One shipment from a Canadian Company, Test Kits Plus. Test Kits Plus is a distributor
4 of narcotics test kits, to include kits for MDMA, Opiates, and Fentanyl.

5 2. Four shipments, totaling over 25 kilograms of "Sports Supplement," from the British
6 company "Blackburn Distributions." Blackburn Distributions is a distributor of sports supplements and
7 pill production ingredients, including microcrystalline cellulose, caffeine powder, and magnesium
8 stearate, which are binding agents for pill manufacturing.

9 I, Roselle Cipriano, being fully informed of my rights, adopt this factual basis as my own true
10 statement. Specifically, I admit that I agreed and conspired with Henry BENSON and others to
11 manufacture and distribute methamphetamine, and that I and my co-conspirators engaged in the conduct
12 described above in furtherance of that conspiracy.

13 Dated: 10.5.2023


14 _____
ROSELLE CIPRIANO, Defendant