

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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U.S. DISTRICT COURT
SAN JUAN, P.R.



Date: 4/8/2022
By: Reina Alvarez
Courtroom Deputy

UNITED STATES OF AMERICA,
Plaintiff,

v.

EDUARDO CINTRON SUAREZ,
Defendant.

Crim No.: 22-151 (SCC)

PLEA AGREEMENT

TO THE HONORABLE COURT:

The United States of America, Defendant, Eduardo Cintron Suarez, and Defendant's counsel, Maria Dominguez, Esq., pursuant to Federal Rule of Criminal Procedure 11, state that they have reached a Plea Agreement, the terms and conditions of which are as follows:

1. **Charges to which Defendant will Plead Guilty**


Defendant agrees to waive his right to be indicted by a Grand Jury and plead guilty to a one count Information charging the following:

Count One: Conspiracy; Federal Funds Bribery and Kickbacks. Defendant combined, conspired, and agreed to accept and accepted, things of value from Individual A, intending to be influenced and rewarded in connection with a business, transaction, and series of transactions involving \$5,000.00 or more, that is, the execution of contracts and the approval of invoice payments by the Municipality of Guayama to Company A, in violation of 18 U.S.C. §§ 371 and 666(a)(1)(B).

2. Maximum Penalties

The maximum statutory penalty for the offense charged in Count One of the Information is a term of imprisonment of five years, pursuant to 18 U.S.C. § 371; a fine not to exceed two hundred and fifty thousand dollars, pursuant to 18 U.S.C. § 3571(b)(3); and a supervised release term of not more than three years, pursuant to 18 U.S.C. § 3583(b)(2).

3. Sentencing Guidelines Applicability



Defendant understands that the sentence will be imposed by the Court in accordance with 18 U.S.C. §§ 3551-86, and the United States Sentencing Guidelines (hereinafter “Guidelines”), which are advisory pursuant to the United States Supreme Court decision in *United States v. Booker*, 543 U.S. 220 (2005). Further, Defendant acknowledges that parole has been abolished, and that the imposition of Defendant’s sentence may not be suspended.

4. Special Monetary Assessment

Defendant agrees to pay a special monetary assessment (“SMA”) of one hundred dollars (\$100.00). The SMA will be deposited in the Crime Victim Fund, pursuant to 18 U.S.C. § 3013 (a)(2)(A).

5. Fines and Restitution

The Court may, pursuant to Section 5E1.2 of the Guidelines order Defendant to pay a fine. The Court may also impose restitution. Defendant agrees to execute and make available, prior to sentencing, a standardized financial statement (OBD Form 500). The United States will advocate on behalf of any identified victim and comply with its obligations under the Mandatory Victim Restitution Act of 1996.

6. Sentence to be Determined by the Court

Defendant understands that the sentence to be imposed will be determined solely by the United States District Judge. The United States cannot make and has not made any promise or representation as to what sentence Defendant will receive. Any discussions that the parties might have had about possible sentences are not binding in any way on the Court, and do not constitute representations about what the parties will seek, or what the actual sentence will be.

7. Recommended Sentencing Guidelines Calculations

After due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), as well as the Defendant's early acceptance of responsibility and his age and health, the United States and Defendant recommend the following advisory Guidelines calculations, including the listed increase for the value of the bribes. However, Defendant acknowledges that the Court is not required to accept those recommended Guidelines calculations.

Sentencing Guidelines Calculations Conspiracy - Bribery by Government Official (18 U.S.C. § 371)	
Base Offense Level: U.S.S.G. § 2C1.1(a)(1): Defendant was a public official	14
Involving One or More Bribe: U.S.S.G. § 2C1.1(b)(1)	2
Value of the Bribe exceeded \$40,000.00: U.S.S.G. § 2C1.1(b)(2) cross reference to § 2B1.1(b)(1)(D) ¹	6
Involved Elected Public Official: U.S.S.G. § 2C1.1(b)(3)	4
Acceptance of Responsibility: U.S.S.G. § 3E1.1	-3
TOTAL ADJUSTED OFFENSE LEVEL	23
TOL 23: CHC I (46-57 months)	

Sentence Recommendation

As to Count One, and after due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the parties agree that the defendant may request any lawful sentence while the government reserves its right to recommend a sentence of up to forty-six (46) months imprisonment.

8. No Stipulation as to Criminal History Category

The parties do not stipulate as to any Criminal History Category for Defendant.

¹ For purposes of the Plea Agreement, the parties are stipulating to a loss amount that exceeds \$40,000 but does not exceed \$95,000.

9. Waiver of Appeal

Defendant knowingly and voluntarily agrees that, if the sentence imposed by the Court is within or below the Guidelines range for the total offense level calculated in this Plea Agreement when combined with Defendant's criminal history category as determined by the Court, Defendant waives the right to appeal any aspect of this case's judgment and sentence, including, but not limited to the term of imprisonment or probation, restitution, fines, forfeiture, and the term and conditions of supervised release.

10. No Further Adjustments or Departures


The United States and Defendant agree that no further adjustments or departures to Defendant's total adjusted base offense level and no variant sentence under 18 U.S.C. § 3553—other than any explicitly provided for in this Plea Agreement or accompanying Supplement—shall be sought by Defendant. The parties agree that any request by Defendant for an adjustment or departure that is not explicitly provided for in this Plea Agreement will be considered a material breach of this Plea Agreement, and the United States will be free to ask for any sentence, either guideline or statutory.

11. Satisfaction with Counsel

Defendant is satisfied with counsel, Maria Dominguez, Esq., and asserts that counsel has rendered effective legal assistance.

12. Rights Surrendered by Defendant Through Guilty Plea

Defendant understands that by entering into this Plea Agreement, Defendant surrenders and waives certain rights as detailed in this agreement. Defendant understands that the rights of criminal defendants include the following:


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- a. If Defendant had persisted in a plea of not guilty to the charges, Defendant would have had the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if Defendant, the United States and the judge agree.
 - b. If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. Defendant and Defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be instructed that Defendant is presumed innocent, that it could not convict Defendant unless, after hearing all the evidence, it was persuaded of Defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.
 - c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established Defendant's guilt beyond a reasonable doubt.
 - d. At a trial, the United States would be required to present its witnesses and other evidence against Defendant. Defendant would be able to confront those witnesses and Defendant's attorney would be able to cross-examine them. In turn, Defendant could present witnesses and other evidence on Defendant's own behalf. If the witnesses for Defendant would not appear voluntarily, Defendant could require their attendance through the subpoena power of the Court.
 - e. At a trial, Defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from Defendant's refusal to testify. If Defendant desired to do so, Defendant could testify on Defendant's own behalf.

13. Stipulation of Facts

The accompanying Stipulation of Facts signed by Defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Stipulation of Facts and agrees that the facts therein are accurate in every respect. Defendant agrees and accepts that had the matter proceeded to trial, the United States would have proven those facts beyond a reasonable doubt.

14. Limitations of Plea Agreement

This Plea Agreement binds only the United States Attorney's Office for the District of Puerto Rico, the Public Integrity Section of the Department of Justice, and Defendant. It does not bind any other federal district, state, or local authorities.

15. Entirety of Plea Agreement


This written agreement constitutes the complete Plea Agreement between the United States, Defendant, and Defendant's counsel. The United States has made no promises or representations except as set forth in writing in this Plea Agreement and accompanying Supplement

16. Amendments to Plea Agreement

No other promises, terms or conditions will be entered into between the parties unless they are in writing and signed by all parties.

17. Voluntariness of Plea Agreement

Defendant acknowledges that no threats have been made against Defendant and that Defendant is pleading guilty freely and voluntarily because Defendant is guilty.

18. Breach and Waiver

Defendant agrees that defendant will have breached this Plea Agreement if, after entering into this Plea Agreement, Defendant: (a) fails to perform or to fulfill completely each and every one of Defendant's obligations under this Plea Agreement; (b) engages in any criminal activity prior to sentencing; or (c) attempts to withdraw Defendant's guilty plea. In the event of such a breach, the United States will be free from its obligation under this Plea Agreement and Defendant will not have the right to withdraw the guilty plea. Moreover, Defendant agrees that if Defendant is in breach of the Plea Agreement, Defendant is deemed to have waived any objection to the reinstatement of any charges under the Indictment, Information, or complaint which may have previously been dismissed or which may have not been previously prosecuted. Additionally, in the event of such a breach, the United States will be free to use against the defendant, directly and indirectly, in any criminal or civil proceeding, all statements made by the defendant and any of the information or materials provided by the defendant at any time, including such statements, information, and materials provided pursuant to this Plea Agreement or during the course of any interviews, conversations, or debriefings conducted in anticipation of, or after entry of this Plea Agreement, including the defendant's statements made during proceedings before the Court pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The defendant understands that Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions

or plea proceedings if a guilty plea is later withdrawn. The defendant knowingly and voluntarily waives the rights arising under these rules.

19. Felony Conviction

Defendant hereby agrees and recognizes that the plea of guilty in this case will be recognized as a felony conviction, which will result in the loss of certain rights, including, but not limited to, the right to vote in a federal election, to serve as a juror, to hold public office, and to lawfully possess a firearm.

W. STEPHEN MULDROW

United States Attorney

SETH

ERBE

Digitally signed by SETH ERBE
Date: 2022.03.31 09:01:08
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Seth Erbe

Assistant U.S. Attorney
Chief, Financial Crimes and
Public Corruption Section

Dated: _____

COREY R. AMUNDSON

Chief, Public Integrity Section

Department of Justice

Nicholas W.

Cannon

Digitally signed by
Nicholas W. Cannon
Date: 2022.04.01
11:44:25 -04'00'

Nicholas W. Cannon

Trial Attorney

Dated: _____

FOR DEFENDANT:

Maria Dominguez, Esq.

Counsel for Defendant

Dated: 3-30-22

Eduardo Cintron Suarez

Defendant

Dated: 3-30-22

UNDERSTANDING OF RIGHTS

I have consulted with counsel and fully understand all of my rights as to the charges pending against me. Further, I have consulted with my attorney and fully understand my rights as to the provisions of the Guidelines that may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with my attorney. My counsel has translated the Plea Agreement to me in the Spanish language and I have no doubts as to the contents of the agreement. I fully understand this agreement and voluntarily agree to it.

Date: 3-30-22
Eduardo Cintron Suarez
Defendant

PCN

I am the attorney for Defendant. I have fully explained Defendant's rights to Defendant with respect to the pending charges. Further, I have reviewed the applicable provisions of the Guidelines and I have fully explained to Defendant the provisions of those Guidelines that may apply in this case. I have carefully reviewed every part of this Plea Agreement with Defendant. I have translated the Plea Agreement and explained it in the Spanish language to the Defendant who has expressed having no doubts as to the contents of the agreement. To my knowledge, Defendant is entering into this Plea Agreement voluntarily, intelligently, and with full knowledge of all consequences of Defendant's plea of guilty.

Date: 3-30-22
Maria Dominguez
Counsel for Defendant

STIPULATION OF FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, the Defendant Eduardo Cintron Suarez, admits that Defendant is guilty as charged in the Information and admits the following:

Defendant the Mayor of the Municipality of Guayama from 2013 through 2021 and into April of 2022. In each of the years 2013-2021, the Municipality of Guayama received federal benefits in excess of \$10,000.00.

In 2013, EDUARDO CINTRON SUAREZ negotiated with Individual A to receive a kickback payment from Individual A corresponding to \$1.00 per square meter of new asphalt laid by Company A in the municipality of Guayama in exchange for awarding the municipal contract with Individual A's asphalt and paving company, Company A.

From 2013 through 2020, EDUARDO CINTRON SUAREZ awarded multiple municipal contracts with Company A in exchange for the receipt of kickback payments from Individual A.

From 2013 through approximately February 2021, EDUARDO CINTRON SUAREZ approved invoice payments to be made by the municipality of Guayama to Company A in exchange for the receipt of kickback payments from Individual A.

From 2013 through approximately February 2021, EDUARDO CINTRON SUAREZ agreed to receive and did receive kickback payments from Individual A equaling approximately \$1.00 for each square meter of new asphalt laid by Company

A in the municipality of Guayama. The total value of the kickback payments received by EDUARDO CINTRON SUAREZ from Individual A exceeded \$40,000.

Had this matter proceeded to trial, the United States would have presented evidence through the testimony of witnesses as well as physical and documentary evidence which would have proven beyond a reasonable doubt that Defendant did knowingly and willfully conspire and agree with Individual A to corruptly solicit, demand, accept, and agree to accept for his own benefit, things of value from Individual A, intending to be influenced and rewarded in connection with a transaction valued at \$5,000.00 or more.

NWC

Nicholas W. Cannon
Trial Attorney
Dated: 4/4/2022

Maria G. Dominguez

Maria Dominguez, Esq.
Counsel for Defendant
Dated: 3-30-22

Eduardo Cintron Suarez

Eduardo Cintron Suarez
Defendant
Dated: 3-30-22