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MAY 30 2006

U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	NO. Cr. S-06-0035 MCE
Plaintiff,	)	
	)	<u>PLEA AGREEMENT</u>
v.	)	
	)	
LAUREN WEINER,	)	DATE: May 30, 2006
	)	TIME: 8:30 a.m.
Defendant.	)	COURT: Courtroom 9

Pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure, the United States and the defendant, Lauren Weiner, through her counsel, agree as follows:

I.

INTRODUCTION

A. Scope of Agreement: This document contains the complete Plea Agreement between the United States Attorney's Office for the Eastern District of California (the "government") and the defendant regarding this case. This Plea Agreement is limited to the United States Attorney's Office for the Eastern District of California and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities.

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B. **Court Not a Party:** The Court is not a party to this Plea Agreement. Sentencing is a matter solely within the discretion of the Court, the Court is under no obligation to accept any recommendations made by the government, and the Court may in its discretion impose any sentence it deems appropriate up to and including the statutory maximum stated in this Plea Agreement. If the Court should impose any sentence up to the maximum established by the statute, the defendant cannot, for that reason alone, withdraw her guilty plea, and she will remain bound to fulfill all of the obligations under this Agreement. The defendant understands that neither the prosecutor, defense counsel, nor the Court can make a binding prediction or promise regarding the sentence she will receive.

II.

NATURE AND ELEMENTS OF CHARGES.

A. **Acknowledgment of Charges:** The defendant acknowledges that she has been charged by Superseding Information with conspiracy in violation of 18 U.S.C. § 371.

B. **Explanation and Understanding of Charge:** Defendant has read the charges against her and those charges have been explained to her by her attorney. Defendant fully understands the nature and elements of the crimes charged and what the government would be required to show in order to obtain a conviction.

C. Waiver of Indictment: Defendant understands that the offense with which she is charged is a felony and that she may insist that the government proceed by Indictment. Notwithstanding this fact, the defendant waives prosecution by Indictment and consents to proceeding by Information. The defendant will execute a

1 written waiver of indictment in open court at the time she enters
2 her guilty plea.

3 **III.**

4 **DEFENDANT'S OBLIGATIONS**

5 **A. Guilty Pleas:** The defendant will plead guilty to the
6 single count contained in the Superseding Information, agrees that
7 she is in fact guilty of that charge, and that the facts set forth
8 in the Factual Basis attached hereto as Exhibit A are accurate.

9 **B. Elements of the Offense:** The defendant understands that to
10 be convicted of the crime to which she is pleading guilty the
11 government would have to show beyond a reasonable doubt each of the
12 following elements:

13 (1) That beginning in or about June 2005, and ending on or
14 about January 13, 2006, there was an agreement between two or
15 more persons to commit at least one of the crimes as charged in
16 the information - namely, arson in violation of 18 U.S.C.
17 § 844(f) and (i);

18 (2) The defendant became a member of the conspiracy knowing of
19 at least one of its objects and intending to help accomplish
20 it; and

21 (3) One of the members of the conspiracy performed at least one
22 overt act for the purpose of carrying out the conspiracy.

23 **C. Restitution:** By signing this Agreement, the defendant also
24 agrees that the Court must order the payment of restitution for the
25 full loss, if any, caused by the defendant's wrongful conduct.

26 **D. Special Assessment:** The defendant agrees to pay a special
27 assessment of \$100 at the time of sentencing by delivering a check
28 or money order payable to the United States District Court to the

1 United States Probation Office immediately before the sentencing
2 hearing.

3 **E. Agreement to Cooperate:** The defendant agrees to cooperate
4 fully with the government and any other federal state, or local law
5 enforcement agency as the government directs.

6 **1. Meaning of Cooperation:** As used in this plea
7 agreement, "cooperation" means that the defendant must: (1) respond
8 truthfully and completely to all questions posed to her by law
9 enforcement personnel; (2) testify truthfully before any grand jury,
10 at trial, or any other court proceeding which she is requested or
11 required to attend; (3) never falsely inculcate or exculpate anyone;
12 (4) attend all meetings, grand jury sessions, trials, and other
13 court proceedings at which her presence is requested by the
14 government or compelled by subpoena or court order; (5) produce
15 voluntarily any and all documents, records or other tangible
16 evidence the government requests; and (6) not participate in any
17 criminal activity during the time period in which she is cooperating
18 with the government.

19 After the defendant pleads guilty, the defendant and her
20 attorney agree that the government and any law enforcement personnel
21 may interview the defendant at any time, provided defense counsel is
22 afforded prior notification and the opportunity to be present at the
23 interview.

24 **2. Consequences of Failure to Cooperate:** If the defendant
25 commits any crime, or if she fails to cooperate as defined in this
26 agreement, the government will be no longer bound by its
27 representations concerning the limits of criminal prosecution and
28 sentencing set forth herein. Whether the defendant has violated the

1 terms of the plea agreement will be determined according to a
2 probable cause standard.

3 If the defendant violates the terms of the plea agreement she
4 will then be subject to prosecution for any federal crime that the
5 government knows about, including, but not limited to, perjury,
6 obstruction of justice or making a false statement, and
7 reinstatement of any charges dismissed as a consequence of this plea
8 agreement. Furthermore, because disclosures under this plea
9 agreement constitute a waiver of the Fifth Amendment privilege
10 against compulsory self-incrimination, any such prosecution may be
11 premised on statements and information the defendant has provided.
12 Moreover, prosecutions known at this time, not time barred by any
13 statute of limitations as of the date of this plea agreement, may be
14 commenced in accordance with this paragraph, notwithstanding that
15 the statute of limitations may expire between the signing of this
16 plea agreement and the commencement of any such prosecutions, and
17 the defendant agrees to waive all defenses based on the statute of
18 limitation or delay of prosecution with respect to any known
19 prosecutions that are not time barred as of the date of this plea
20 agreement.

21 If the defendant is determined to have violated any provision
22 of this plea agreement: (1) all statements she made to law
23 enforcement pursuant to his cooperation agreement, and any testimony
24 she may give, shall be admissible in any criminal, civil or
25 administrative proceeding hereafter brought against her; and (2) she
26 shall assert no claim under the U.S. Constitution, any statute, Rule
27 11(e)(6), Rule 410 of the Federal Rules of Evidence, or any other
28 federal rule, that such statements made by the defendant, before or

1 after executing this plea agreement, or any leads derived therefrom,
2 should be suppressed. By signing this plea agreement, the defendant
3 waives any and all rights in the foregoing respects.

4 In the absence of a violation of the plea agreement by the
5 defendant, the parties agree that, under Rule 11(e)(6) of the
6 Federal Rules of Criminal Procedure and Section 1B1.8 of the United
7 States Sentencing Guidelines, the information provided by the
8 defendant pursuant to his cooperation agreement which may tend to
9 incriminate her with respect to the conduct for which she is
10 pleading guilty, will not be used against her either as the basis
11 for additional charges or as justification for a higher sentence
12 than the government has agreed to recommend.

13 **IV.**

14 **THE GOVERNMENT'S OBLIGATIONS**

15 **A. No Further Charges:** The government agrees to move at the
16 time of judgment and sentencing to dismiss the Indictment No. Cr. S-
17 06-0035 MCE as to this defendant and to bring no further charges
18 arising out of the facts set forth in Exhibit A.

19 **B. Recommendations:** The government is free to recommend any
20 sentence up to and including the statutory maximum sentence.

21 **V.**

22 **MAXIMUM SENTENCE**

23 **A. Maximum Penalty:** The maximum sentence that the Court can
24 impose on the charge to which the defendant is pleading guilty is 5
25 years incarceration, a 2 year period of supervised release, a fine
26 of \$250,000, and a special assessment of \$100. By signing this
27 Agreement, the defendant acknowledges that the Court can order the
28 payment of restitution for the full loss caused by the defendant's

1 wrongful conduct. The defendant further agrees that she will not
2 attempt to discharge in any present or future bankruptcy proceeding
3 any restitution imposed by the Court.

4 **B. Violations of Supervised Release:** The defendant understands
5 and agrees that if she violates a condition of supervised release at
6 any time during the term of supervised release, the Court may revoke
7 the term of supervised release and require the defendant to serve up
8 to two additional years imprisonment.

9 **VI.**

10 **SENTENCING DETERMINATION**

11 **A. Statutory Authority:** The defendant understands that the
12 Court must consult the Federal Sentencing Guidelines (as promulgated
13 by the Sentencing Commission pursuant to the Sentencing Reform Act
14 of 1984, 18 U.S.C. §§ 3551-3742 and 28 U.S.C. §§ 991-998, and as
15 modified by United States v. Booker and United States v. Fanfan,
16 543 U.S. 220 (2005)) and must take them into account when
17 determining a final sentence. Defendant understands that the Court
18 will determine a non-binding and advisory Guideline sentencing range
19 for this case pursuant to the Sentencing Guidelines. Defendant
20 further understands that the Court will consider whether there is a
21 basis for departure from the Guideline sentencing range (either
22 above or below the Guideline sentencing range) because there exists
23 an aggravating or mitigating circumstance of a kind, or to a degree,
24 not adequately taken into consideration by the Sentencing Commission
25 in formulating the Guidelines. Defendant further understands that
26 the Court, after consultation and consideration of the Sentencing
27 Guidelines, must impose a sentence that is reasonable in light of
28 the factors set forth in 18 U.S.C. § 3553(a).

1 **B. Stipulations Affecting Guidelines Calculation:** The
2 government and the defendant agree that there is no material dispute
3 as to the following sentencing guideline variables and therefore
4 stipulate to the following:

5 **1. Base Offense Level:** Pursuant to U.S.S.G. § 2X1.1(a)
6 and §2K1.4(a)(1), the base offense level is 24.

7 **2. Specific Offense Characteristics:** Pursuant to
8 U.S.S.G. § 2X1.1(b)(2), the base offense level should be
9 decreased by 3 levels.

10 **3. Victim-related Adjustments:** Pursuant to U.S.S.G.
11 § 3A1.4, the offense was a felony that involved, or was
12 intended to promote a federal crime of terrorism, thus
13 increasing the base offense level to 32.

14 **4. Role in the Offense Adjustment:** None.

15 **5. Obstruction Adjustment:** None.

16 **6. Decrease for Acceptance of Responsibility:** Pursuant to
17 U.S.S.G. § 3E1.1, the defendant is entitled to a 3 level
18 decrease in the base offense level due to her assistance to
19 authorities and timely notification of her intention to plead
20 guilty.

21 **7. Criminal History:** Pursuant to § 3A1.4, the
22 defendant's Criminal History Category is VI.

23 **VII.**

24 **WAIVERS**

25 **A. Waiver of Constitutional Rights:** The defendant understands
26 that by pleading guilty she is waiving the following constitutional
27 rights:

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1 **1. Public and Speedy Trial:** If defendant were to plead
2 not guilty to the charges in the indictment, she would be entitled
3 to a public and speedy trial.

4 **2. Jury Trial, Presumption of Innocence, Unanimous**
5 **Verdict:** The defendant has an absolute right to a jury trial. At
6 that trial, the jury would be instructed that the defendant is
7 presumed innocent and that she carries that presumption throughout
8 the trial until such time as the government overcomes the
9 presumption by evidence adduced at the trial. The jury would be
10 further instructed that it could not convict the defendant unless
11 all twelve jurors agreed that the government had proved guilt beyond
12 a reasonable doubt.

13 **3. Confrontation of Witnesses:** At the trial, the
14 defendant would be entitled to see, hear and confront the witnesses
15 and the evidence against her. These witnesses would be testifying
16 under the penalty of perjury and would be subject to cross-
17 examination by the defendant's attorney.

18 **4. Compulsory Process:** At the trial, the defendant would
19 be entitled to present witnesses and other evidence in her own
20 behalf and, if the witnesses refused to appear voluntarily, the
21 defendant would be entitled to use the court's process to compel
22 their attendance.

23 **5. Privilege Against Self Incrimination:** At a trial, the
24 defendant would have a privilege against self-incrimination so that
25 she could not be compelled to testify and the jury could be
26 instructed that no inference of guilt could be drawn from the
27 defendant's failure to testify.

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1 **6. Right to Appeal:** If, after a trial, the defendant
2 were convicted, she would have a right to appeal the conviction.

3 **7. Representation of Counsel:** The defendant is entitled
4 to be represented by competent counsel through all stages of the
5 case, including appeal, and if the defendant could not afford an
6 attorney one would be appointed for her by the court.

7 Defendant understands that by pleading guilty she is
8 waiving all of the rights set forth above. Defendant's attorney has
9 explained those rights to her and the consequences of her waiver of
10 those rights and the defendant freely and voluntarily consents to
11 said waiver.

12 **B. Waiver of Appeal Rights and Collateral Attack:** The
13 defendant agrees to waive all rights to appeal this plea and
14 sentence and to attack collaterally this plea and sentence whether
15 by way of a motion pursuant to 28 U.S.C. § 2255 or otherwise,
16 provided she is sentenced in accordance with the parties'
17 stipulations.

18 If the defendant's conviction on any of the counts to which she
19 is pleading is ever vacated at the defendant's request, or her
20 sentence is ever reduced at her request, the government shall have
21 the right (1) to prosecute the defendant on any of the counts to
22 which she pleaded guilty; (2) to reinstate any counts that may be
23 dismissed pursuant to this agreement; and (3) to 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 this
27 agreement, the defendant agrees to waive any objections, motions,
28 and defenses she might have to the government's decision. In

1 particular, she agrees not to raise any objections based on the
2 passage of time with respect to such counts including, but not
3 limited to, any statutes of limitation or any objections based on
4 the Speedy Trial Act or the Speedy Trial Clause of the Sixth
5 Amendment.

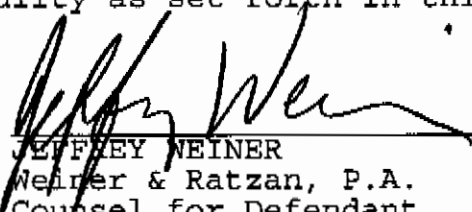
6 **C. Waiver of Attorneys' Fees and Costs:** The defendant
7 agrees to waive rights under the "Hyde Amendment," Section 617, P.L.
8 105-119 (Nov. 26, 1997), to recover attorneys fees or other
9 litigation expenses in connection with the investigation and
10 prosecution of all charges in the above-captioned matter and of any
11 related allegations (including without limitation any charges to be
12 dismissed pursuant to this Agreement and any charges previously
13 dismissed).

14 **VIII.**

15 **APPROVALS AND SIGNATURES**

16 **A. Defense Counsel:** I have read this Plea Agreement and have
17 discussed it fully with my client. The Plea Agreement accurately
18 and completely sets forth the entirety of the agreement. I concur
19 in my client's decision to plead guilty as set forth in this
20 Agreement.

21 DATED: MAY 30/2006


JEFFREY WEINER
Weiner & Ratzan, P.A.
Counsel for Defendant

22
23
24
25 **B. Defendant:** I have read this Plea Agreement and carefully
26 reviewed every part of it with my attorney. I understand it, and I
27 voluntarily agree to it. Further, I have consulted with my attorney
28 and fully understand my rights with respect to the provisions of the

1 Sentencing Guidelines which may apply to my case. No other promises
2 or inducements have been made to me, other than those contained in
3 this Agreement. In addition, no one has threatened or forced me in
4 any way to enter into this Plea Agreement. Finally, I am satisfied
5 with the representation of my attorney in this case.

6
7 DATED: MAY 30/2006

Lauren Weiner
LAUREN WEINER
Defendant

8
9
10 **C. Attorney for United States:**

11 I accept and agree to this Plea Agreement on behalf of the
12 government.

13 DATED: 30 MAY 2006

14 MCGREGOR W. SCOTT
United States Attorney

15
16
17 By: Ellen V. Endrizzi

R. STEVEN LAPHAM
ELLEN V. ENDRIZZI
Assistant U.S. Attorneys

EXHIBIT "A"

Factual Basis for Plea

In August 2005, Lauren Weiner met with Eric McDavid and Zachary Jenson in a Philadelphia, PA coffee shop. At this meeting they discussed different ideas for protest and activism. Among these was the idea of using explosives to destroy commercial and/or government property. McDavid was the first to raise the idea, explaining that he knew a recipe for making homemade explosives. Each person agreed to research possible targets and to include a confidential source in future discussions. Shortly after this meeting, Weiner told a confidential source about the discussion, including the idea of using explosives.

On the weekend of November 18-20, 2005, Lauren Weiner met with Eric McDavid, Zachary Jenson, and a confidential source at McDavid's parents' residence in Foresthill, CA. There she participated in further discussions during which plans were formulated to commit acts of eco-terrorism. At the outset of this meeting, Eric McDavid advised the others that their discussion itself constituted a criminal act. The group agreed to reassemble in early January 2006 at a remotely situated residence in Northern California to manufacture homemade explosives and detonate these explosives at various commercial and government targets. Weiner voiced her approval for targeting cellular phone towers and other corporate facilities. She agreed to support these plans by obtaining literature to assist in the manufacture of explosives and later purchased two books, The Poor Man's James Bond and The Survival Chemist with her credit card.

From January 8-13, 2006, Lauren Weiner maintained temporary residence at a cabin in Dutch Flat, CA. In this span of time, she discussed with McDavid, Jenson, and the confidential source, plans to construct homemade explosive and incendiary devices, target commercial and government facilities with these destructive devices, and claim credit for these acts in a public communication that justifies the group's actions.

On January 10, 2006, Weiner traveled with McDavid, Jenson, and a confidential source to the United States Forest Service (USFS) Institute of Forest Genetics (IFG) in Placerville, CA. There she participated in a reconnaissance operation, the purpose of which was to determine the site's potential as a target. To hide her identity, she provided a fake name to an IFG employee the group made contact with. On January 11, 2006, Weiner assisted in purchasing several items to be used in making destructive devices, including: canning jars, coffee filters, mixing bowl, hot plate, petroleum jelly, a gasoline can, bleach, extension cord, and battery testers. On January 12, 2006, Weiner assisted in the initial stages of manufacturing homemade explosives. Using a battery hydrometer, she took readings of a liquid mixture, which was to become a precursor chemical for making explosive material. On January 13, 2006, Weiner was arrested after purchasing additional items to be used in making destructive devices, including respiratory masks and a mixing bowl to replace the one that was damaged the previous day.