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SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. MICHAEL KIM, Defendant.	NO. 3:18-CR-0124-JCS-1 PLEA AGREEMENT

I, Michael Kim, and the United States Attorney's Office for the Northern District of California (hereafter "the government") enter into this written Plea Agreement (the "Agreement") pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure:

The Defendant's Promises

1. I agree to plead guilty to Count One of the captioned Information charging me with Contempt of Court in violation of 18 U.S.C. § 401(1). I agree that the elements of the offense are as follows:

First, I knowingly and willfully committed misbehavior in the presence of the Court; and

Second, my misbehavior obstructed justice.

I agree that the maximum penalties are as follows:

a.	Maximum prison term	1 year
b.	Maximum fine	$100,000
c.	Maximum supervised release term	1 year
d.	Restitution	N/A
e.	Mandatory special assessment	$100
f.	Potential Deportation	
g.	Forfeiture	Ballistic vest

I acknowledge that pleading guilty may have consequences with respect to my immigration status if I am not a citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense to which I am pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and I understand that no one, including my attorney or the district court, can predict to a certainty the effect of this conviction on my immigration status. I nevertheless affirm that I want to plead guilty regardless of any immigration consequences that may result from my guilty plea, even if the consequence is my automatic removal from the United States.

2. I agree that I am guilty of the offense to which I am pleading guilty, and I agree that the following facts are true:

In 2014, I was employed as a Deputy Sheriff with the San Francisco City and County Sheriff's Department. Andy Li was a childhood friend of mine. Our families knew each other and were friends. I became aware that Andy Li was arrested on March 26, 2014, in conjunction with many other defendants in the case of *United States v. Kwok Cheung Chow, et. al.*, CR 14-196 CRB.

I became aware that Andy Li was ordered detained by a Judge in the Northern District of California. I now know that the Judge who ordered Andy Li detained was the Honorable Chief Magistrate Judge Joseph C. Spero. I wanted to assist Andy Li in gaining release from the detention order imposed by the Court.

On August 6, 2014, I signed a Declaration. I knew and intended that the Declaration would be

provided to the Court for the purpose of Andy Li's attorneys to seek the release of Andy Li. In connection with that Declaration, I falsely declared that my wife had taken a ballistic vest with her to see the wife of Andy Li. I falsely declared that my wife had forgotten the vest at the workplace of the wife of Andy Li. I falsely declared that the wife of Andy Li had placed the vest in the trunk of her car. I falsely declared that I had not retrieved the vest from the wife of Andy Li. In truth and in fact, I had loaned my ballistic vest – issued to me by the San Francisco Sheriff's Department – to Andy Li for his use. I knew that my declaration was false. I knew and intended that the attorneys for Andy Li would provide the false declaration to the Court. I knew and intended that the Court would rely on my false declaration in considering the detention of Andy Li.

3. I agree to give up all rights that I would have if I chose to proceed to trial, including the rights to a jury trial with the assistance of an attorney; to confront and cross-examine government witnesses; to remain silent or testify; to move to suppress evidence or raise any other Fourth or Fifth Amendment claims; to any further discovery from the government; and to pursue any affirmative defenses and present evidence.

4. I agree to give up my right to appeal my conviction, the judgment, and orders of the Court, as well as any aspect of my sentence, including any orders relating to forfeiture and/or restitution, except that I reserve my right to claim that my counsel was ineffective.

5. I agree not to file any collateral attack on my conviction or sentence, including a petition under 28 U.S.C. § 2255 or 28 U.S.C. § 2241, except that I reserve my right to claim that my counsel was ineffective. I also agree not to seek relief under 18 U.S.C. § 3582.

6. I agree not to ask the Court to withdraw my guilty plea(s) at any time after it is entered. I understand that by entering into this Agreement: (a) I agree that the facts set forth in Paragraph 2 of this Agreement shall be admissible against me under Fed. R. Evid. 801(d)(2)(A) in any subsequent proceeding, including at trial, in the event I violate any of the terms of this Agreement, and (b) I expressly waive any and all rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410 with regard to the facts set forth in Paragraph 2 of this Agreement in such subsequent proceeding. I understand that the government will not preserve any physical evidence obtained in this case.

7. I understand that the Court must consult the United States Sentencing Guidelines and

take them into account when sentencing, together with the factors set forth in 18 U.S.C. § 3553(a). I also understand that the Court is not bound by the Guidelines calculations below; the Court may conclude that a higher Guidelines range applies to me, and, if it does, I will not be entitled, nor will I ask to withdraw my guilty plea. I further agree that regardless of the sentence that the Court imposes on me, I will not be entitled, nor will I ask, to withdraw my guilty plea. I agree that the Sentencing Guidelines offense level should be calculated as set forth below, and that I will not request a downward departure under the Sentencing Guidelines from that offense level although I reserve the right to seek a downward variance based on the factors set forth in 18 U.S.C. § 3553(a). I understand that the government is free to oppose any such request. The parties have reached no agreement regarding my Criminal History Category.

a.	Base Offense Level, U.S.S.G. §2J1.2:	14
b.	Specific offense characteristics under U.S.S.G. Ch. 2 (e.g. amount of loss, use of firearm)	N/A
c.	Adjustments under U.S.S.G. Ch. 3 (e.g. role in the offense)	
d.	Acceptance of Responsibility: If I meet the requirements of U.S.S.G. § 3E1.1, I may be entitled to a three-level reduction for acceptance of responsibility, provided that I forthrightly admit my guilt, cooperate with the Court and the Probation Office in any presentence investigation ordered by the Court, and continue to manifest an acceptance of responsibility through and including the time of sentencing.	- 3
e.	Adjusted Offense Level:	11

8. I agree that regardless of any other provision of this Agreement, the government may and will provide the Court and the Probation Office with all information relevant to the charged offense and the sentencing decision.

9. I agree that I will make a good-faith effort to pay any fine, forfeiture, or restitution I am ordered to pay. I agree to pay the special assessment at the time of sentencing.

10. I agree not to commit or attempt to commit any crimes before sentence is imposed or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial release; not to intentionally provide false information to the Court, the Probation Office, Pretrial Services, or the government; and not to fail to comply with any of the other promises I have made in this Agreement. I

agree that if I fail to comply with any promises I have made in this Agreement, then the government will be released from all of its promises in this Agreement, including those set forth in the Government's Promises Section below, but I will not be released from my guilty plea.

11. I agree to forfeit my interest in the following property (hereinafter "subject property"): Ballistic vest issued by the San Francisco County Sheriff's Department.

I admit that the subject property was involved in the offense, and thus is forfeitable to the United States pursuant to the provisions of 18 U.S.C. § 982 and the procedures outlined in Rule 32.2 of the Federal Rules of Criminal Procedure. I relinquish any and all right, title, and interest I may have in the subject property and agree that such right, title, and interest can be forfeited to the United States without further notice to me. I also agree I will not contest any administrative or judicial forfeiture proceeding (whether criminal, civil, state or federal) which may be brought against said property. I further agree to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment or that the forfeiture proceeding was brought in violation of the statute of limitations.

12. I agree that this Agreement contains all of the promises and agreements between the government and me, and I will not claim otherwise in the future. No modification of this Agreement shall be effective unless it is in writing and signed by all parties.

13. I agree that the Agreement binds the U.S. Attorney's Office for the Northern District of California only, and does not bind any other federal, state, or local agency.

The Government's Promises

14. The government agrees not to file any additional charges against the defendant that could be filed as a result of the investigation that led to the captioned Information.

15. The government agrees to recommend a sentence within the range associated with the Guideline calculations set out in paragraph 7 above, unless the defendant violates the terms of the Agreement above or fails to accept responsibility.

The Defendant's Affirmations

16. I agree that my participation in the District Court's Conviction Alternative Program is not

appropriate and that I will not request to be considered for and will not participate in that program as a result of my convictions for these offenses.

17. I confirm that I have had adequate time to discuss this case, the evidence, and the Agreement with my attorney and that my attorney has provided me with all the legal advice that I requested.

18. I confirm that while I considered signing this Agreement, and at the time I signed it, I was not under the influence of any alcohol, drug, or medicine that would impair my ability to understand the Agreement.

19. I confirm that my decision to enter a guilty plea is made knowing the charges that have been brought against me, any possible defense, and the benefits and possible detriments of proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no one coerced or threatened me to enter into this Agreement.

Dated: 5/25/18

MICHAEL KIM
Defendant

ALEX G. TSE
Acting United States Attorney

Dated: 5/25/18

WILLIAM FRENTZEN
Assistant United States Attorney

20. I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights my client is giving up by pleading guilty, and, based on the information now known to me, my client's decision to plead guilty is knowing and voluntary.

Dated: 5/25/18

JONATHAN MCDOUGALL, ESQ.
Attorney for Defendant