

ORIGINAL

FILED  
DISTRICT COURT OF GUAM

MAR 30 2005

MARY L.M. MORAN  
CLERK OF COURT

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Wong,ple

LEONARDO M. RAPADAS  
United States Attorney  
KARON V. JOHNSON  
Assistant U.S. Attorney  
Suite 500, Sirena Plaza  
108 Hernan Cortez Avenue  
Agana, Guam 96910  
Telephone: (671) 472-7332/7283  
Telecopier: (671) 472-7334

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF GUAM

05-00028

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MAILY WONG, )  
 )  
Defendant. )  
\_\_\_\_\_ )

CRIMINAL CASE NO. \_\_\_\_\_

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, MAILY WONG, enter into the following plea agreement:

1. The defendant agrees to waive Indictment, and enter a guilty plea to an Information charging her with Causing the Filing of a False Cash Transaction Report, in violation of Title 31, 5324(d), United States Code, §§ 5324(a)(2) & ~~5322(a)~~. The United States will move to dismiss Cr. No. 05-00013 at the time of sentencing.

2(a) The defendant, MAILY WONG, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of currency transaction violations and related unlawful activities. Cooperation shall include providing all information known to defendant regarding any criminal activity, including but not limited to the offense to which she is pleading guilty.

1           2(b) The United States will make this cooperation known to the Court prior to the  
2 defendant's sentencing. The defendant further understands that she remains liable and subject to  
3 prosecution for any criminal schemes of which she does not fully advise the United States, or for  
4 any material omissions in this regard.

5           2(c) This agreement is not contingent in any way upon the outcome of any investigation,  
6 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in  
7 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the  
8 success of any prosecution.

9           2(d) Except as otherwise herein provided, the United States agrees not to prosecute  
10 defendant for any other non-violent offenses which were committed in the District of Guam or  
11 the Northern Mariana Islands (CNMI) which defendant reveals to Federal authorities during her  
12 cooperation with the United States. This agreement is limited to crimes committed by defendant  
13 in the districts of Guam or the CNMI.

14           3. The defendant, MAILY WONG, understands that the maximum sentence for Failure  
15 to File a Currency Transaction Report is a term of five (5) years imprisonment, a \$250,000 fine,  
16 and a \$100 special assessment fee, which must be paid at the time of sentencing. Any sentence  
17 imposed may include a term of supervised release of not more than three (3) years in addition to  
18 such terms of imprisonment. Defendant understands that if she violates a condition of supervised  
19 release at any time prior to the expiration of such term, the court may revoke the term of  
20 supervised release and sentence her up to an additional two (2) years of incarceration pursuant to  
21 18 U.S.C. § 3583(e)(3).

22           3(b) If defendant cooperates as set forth in Paragraph 2, the government will recommend  
23 that defendant receive the minimum term of incarceration recommended by the Sentencing  
24 Guidelines.

25           3(c) The government will recommend a fine within the Sentencing Guidelines range. If  
26 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
27 full disclosure of her financial status to the United States Attorney's Office by completing a  
28

1 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.

2 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

3 4. The defendant understands that to establish a violation of Causing the Filing of a False  
4 Cash Transaction Report as charged pursuant to 31 U.S.C. § 5324(a)(1), the government must  
5 prove each of the following elements beyond a reasonable doubt:

6 First: the defendant <sup>knowingly</sup> involved a domestic financial institution in a transaction  
7 for the transfer of United States currency;

8 Second; a report was required to be filed concerning said transaction  
9 because it involved more than \$10,000 in United States currency, as  
10 required by Title 31, U.S.C. § 5313 and regulations prescribed and  
11 promulgated by the Secretary of the Treasury pursuant to 31 C.F.R.  
12 §§ 103.11 and 103.22;

13 Third: the defendant <sup>willfully</sup> ~~knowingly~~ caused the domestic financial institution  
14 to file a report which contained an omission or a misstatement of fact;

15 Fourth; defendant caused this report to be filed for the purpose of  
16 evading the reporting requirements of Title 31, United States Code,  
17 §§ 5313(a) or 5325

18 Fifth: this omission or misstatement of fact was material.

19 5. The defendant also understands that the facts she stipulates to herein will be used,  
20 pursuant to 1B1.2, in calculating the applicable Sentencing Guidelines level. The Government  
21 and the defendant stipulate to the following facts for purposes of the Sentencing Guidelines:

22 (a) The defendant is a citizen of the United States.

23 (b) If the defendant cooperates with the United States by providing information  
24 concerning the unlawful activities of others, the government agrees that any self-incriminating  
25 information so provided will not be used against defendant in assessing her punishment, and  
26 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be used  
27 in determining the applicable Guidelines range.

28 (c) Defendant was contacted by an individual living in California, Hieu Hua, who asked  
her to purchase seven cashiers checks for him, in the names of seven other people, with cash  
which he would provide to her. The defendant agreed, and received \$70,000 in United States  
currency. The defendant asked Marva J. Guerrero if she wanted to make some money, and

1 Guerrero agreed. The defendant gave Guerrero the \$70,000, and a list of names which should  
2 appear on the seven cashier's checks. Guerrero went to a domestic financial institution, First  
3 Hawaiian Bank, and deposited the \$70,000 into a new account. To open this account, Guerrero  
4 had to complete a Form 104 Currency Transaction Report, which report is required by Title 31,  
5 U.S.C. § 5313 and the regulations promulgated by the Secretary of the Treasury pursuant to 31  
6 C.F.R. §§ 103.11 and 103.22. She intentionally indicated that she was conducting the transaction  
7 on her own behalf and omitted to indicate on the Report that in fact she was conducting this  
8 transaction for the benefit of Mai Ly Wong. Guerrero withdrew \$69,300 and purchased seven  
9 cashier's checks, each in the amount of \$9,880 and each made out to an individual on the list.  
10 The Bank charged a \$20 fee per check, leaving Guerrero with \$700, which was her payment for  
11 performing this service for the defendant. The defendant caused Guerrero to make this transfer  
12 with the intent and purpose of evading the reporting requirements as set forth above. The failure  
13 to list the true person on whose behalf the deposit was made was material to the lawful execution  
14 of the Report.

15 (d) The defendant understands that notwithstanding any agreement of the parties, the  
16 United States Probation Office will make an independent application of the Sentencing  
17 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
18 sentencing guidelines range projected by her counsel or any other person, such discrepancies are  
19 not a basis to withdraw her guilty plea.

20 6. The defendant understands that her sentencing may be continued, at the sole  
21 discretion of the United States, until after the indictment and trial of any associates involved.  
22 This will also enable the Court to see the full degree of the defendant's cooperation. The  
23 defendant therefore waives any right she may have to any speedy sentencing and hereby agrees to  
24 any continuance of her sentencing date as it may become necessary.

25 7. In exchange for the government's concessions in this plea agreement, the defendant  
26 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
27 the sentence imposed in this case. The defendant agrees that the government has bargained for a  
28

1 criminal conviction arising from her conduct. If at any time defendant's guilty plea or conviction  
2 is rejected, withdrawn, vacated or reversed, for whatever reason, or if any change of law renders  
3 the conduct for which she was convicted to be non-criminal, defendant agrees that she will enter  
4 a guilty plea to another charge encompassing the same or similar conduct. In such event,  
5 defendant waives any objections, motions or defenses based upon the Statute of Limitations,  
6 Speedy Trial Act, or constitutional restrictions as to the time of bringing such charges.

7 8. The defendant acknowledges that she has been advised of her rights as set forth below  
8 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
9 had sufficient opportunity to reflect upon, and understands the following:

10 (a) The nature and elements of the charge and the maximum possible penalty provided  
11 by law;

12 (b) Her right to be represented by an attorney;

13 (c) Her right to plead not guilty and the right to be tried by a jury and at that trial, the  
14 right to be represented by counsel, the right to confront and cross-examine witnesses against her,  
15 and the right not to be compelled to incriminate herself, that is, the right not to testify;

16 (d) That if she pleads guilty, there will not be a further trial of any kind on the charges to  
17 which such plea is entered so that by entering into this plea agreement, she waives, that is, gives  
18 up, the right to a trial;


19 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure  
20 11(c)(1)(B), the defendant understands that she may not withdraw her guilty plea even if the  
21 court does not accept the sentencing recommendations of the government or her counsel;

22 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask her questions  
23 about the offenses to which she has pled, under oath, and that if she answers these questions  
24 under oath, on the record, her answers may later be used against her in prosecution for perjury or  
25 false statement if an answer is untrue;

26 (g) That she agrees that the plea agreement is voluntary and not a result of any force,  
27 threats or promises apart from this plea agreement;

1 (h) The defendant is satisfied with the representation of her lawyer and feels that her  
2 lawyer has done everything possible for her defense.

3  
4 DATED: 3-23-05


  
MAI LY WONG  
Defendant

6  
7 DATED: 3/23/05

  
DAVID J. HIGHSMITH  
Attorney for Defendant

9  
10 LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and CNMI

11  
12 DATED: 3/24/05

13 By:   
KARON V. JOHNSON  
Assistant U.S. Attorney

14  
15 DATED: 3-24-05

  
RUSSELL C. STODDARD  
First Assistant U.S. Attorney