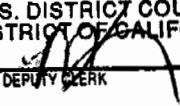


**FILED**

JUL 18 2006

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BY  DEPUTY CLERK

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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF CALIFORNIA  
9

10 UNITED STATES OF AMERICA, )  
11 Plaintiff, )  
12 v. )  
13 ZACHARY JENSON, )  
14 Defendant. )

No. CR. S 06-0035 MCE

PLEA AGREEMENT

DATE: July 18, 2006  
TIME: 3:00 p.m.  
COURT: Hon. M.C. England, Jr.

15  
16 Pursuant to Rule 11(c) of the Federal Rules of Criminal  
17 Procedure, the United States and the defendant, Zachary Jenson,  
18 through his counsel, agree as follows:

19 I.

20 INTRODUCTION

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

28 ////



1 waiver of indictment in open court at the time he enters his guilty  
2 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 he is in fact guilty of that charge, and that the facts set forth in  
8 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 he 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 Plea Agreement, the defendant  
24 also agrees that the Court must order the payment of restitution for  
25 the 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 him by law  
9 enforcement personnel; (2) testify truthfully before any grand jury,  
10 at trial, or any other court proceeding which he 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 his 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 he is cooperating  
18 with the government.

19 After the defendant pleads guilty, the defendant and his  
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  
25 defendant commits any crime, or if he fails to cooperate as defined  
26 in this Plea Agreement, the government will be no longer bound by  
27 its representations concerning the limits of criminal prosecution  
28 and sentencing set forth herein. Whether the defendant has violated

1 the 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 he  
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 he made to law  
23 enforcement pursuant to his cooperation agreement, and any testimony  
24 he may give, shall be admissible in any criminal, civil or  
25 administrative proceeding hereafter brought against him; and (2) he  
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 that may tend to  
9 incriminate him with respect to the conduct for which he is pleading  
10 guilty, will not be used against him either as the basis for  
11 additional charges or as justification for a higher sentence than  
12 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.  
17 S-06-035 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 Plea  
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 he 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 he 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 a public and speedy trial.

2           **2. Jury Trial, Presumption of Innocence, Unanimous**

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

11           **3. Confrontation of Witnesses:** At the trial, the

12 defendant would be entitled to see, hear and confront the witnesses  
13 and the evidence against him. These witnesses would be testifying  
14 under the penalty of perjury and would be subject to cross-  
15 examination by the defendant's attorney.

16           **4. Compulsory Process:** At the trial, the defendant would

17 be entitled to present witnesses and other evidence in his own  
18 behalf and, if the witnesses refused to appear voluntarily, the  
19 defendant would be entitled to use the court's process to compel  
20 their attendance.

21           **5. Privilege Against Self Incrimination:** At a trial, the

22 defendant would have a privilege against self-incrimination so that  
23 he could not be compelled to testify and the jury could be  
24 instructed that no inference of guilt could be drawn from the  
25 defendant's failure to testify.

26           **6. Right to Appeal:** If, after a trial, the defendant

27 were convicted, he would have a right to appeal the conviction.

28           **7. Representation of Counsel:** The defendant is entitled

1 to be represented by competent counsel through all stages of the  
2 case, including appeal, and if the defendant could not afford an  
3 attorney one would be appointed for him by the court.

4 Defendant understands that by pleading guilty he is waiving  
5 all of the rights set forth above. Defendant's attorney has  
6 explained those rights to him and the consequences of his waiver of  
7 those rights and the defendant freely and voluntarily consents to  
8 said waiver.

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

15 If the defendant's conviction on any of the counts to which he  
16 is pleading is ever vacated at the defendant's request, or his  
17 sentence is ever reduced at his request, the government shall have  
18 the right (1) to prosecute the defendant on any of the counts to  
19 which he pleaded guilty; (2) to reinstate any counts that may be  
20 dismissed pursuant to this agreement; and (3) to file any new  
21 charges that would otherwise be barred by this agreement. The  
22 decision to pursue any or all of these options is solely in the  
23 discretion of the United States Attorney's Office. By signing this  
24 Plea Agreement, the defendant agrees to waive any objections,  
25 motions, and defenses he might have to the government's decision.  
26 In particular, he agrees not to raise any objections based on the  
27 passage of time with respect to such counts including, but not  
28 limited to, any statutes of limitation or any objections based on

1 the Speedy Trial Act or the Speedy Trial Clause of the Sixth  
2 Amendment.

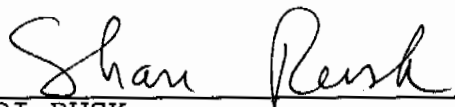
3 **C. Waiver of Attorneys' Fees and Costs:** The defendant  
4 agrees to waive rights under the "Hyde Amendment," Section 617, P.L.  
5 105-119 (Nov. 26, 1997), to recover attorneys fees or other  
6 litigation expenses in connection with the investigation and  
7 prosecution of all charges in the above-captioned matter and of any  
8 related allegations (including without limitation any charges to be  
9 dismissed pursuant to this Plea Agreement and any charges previously  
10 dismissed).

11 **VIII.**

12 **APPROVALS AND SIGNATURES**

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

18 DATED: 7/18/06

  
19 SHARI RUSK  
Counsel for Defendant

20  
21 **B. Defendant:** I have read this Plea Agreement and carefully  
22 reviewed every part of it with my attorney. I understand it, and I  
23 voluntarily agree to it. Further, I have consulted with my attorney  
24 and fully understand my rights with respect to the provisions of the  
25 Sentencing Guidelines which may apply to my case. No other promises  
26 or inducements have been made to me, other than those contained in  
27 this Agreement. In addition, no one has threatened or forced me in  
28 any way to enter into this Plea Agreement. Finally, I am satisfied

1 with the representation of my attorney in this case.

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DATED: July 15 2006

Zachary Jensen  
ZACHARY JENSON  
Defendant

**C. Attorney for United States:**

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

DATED: 18 July 2006

McGREGOR W. SCOTT  
United States Attorney

By: Ellen V. Endrizzi  
R. STEVEN LAPHAM  
ELLEN V. ENDRIZZI  
Assistant U.S. Attorneys

**EXHIBIT "A"****Factual Basis for Plea**

1  
2  
3 In August 2005, the defendant met with Eric McDavid and Lauren  
4 Weiner in a Philadelphia, PA coffee shop. At this meeting they  
5 discussed different ideas for protest and activism and agreed that  
6 they wanted to do "something big". Among the things that they  
7 discussed was the idea of using explosives to destroy commercial  
8 and/or government property. McDavid was the first to raise the  
9 idea, explaining that he knew a recipe for making homemade  
10 explosives. McDavid also suggested cell phone towers and United  
11 States Forest Service (USFS) Institute of Forest Genetics (IFG) as  
12 potential targets.

13  
14 During the weekend of November 18-20, 2005, the defendant met  
15 with Eric McDavid, Lauren Weiner, and a confidential source at  
16 McDavid's parents' residence in Foresthill, CA. There they  
17 participated in further discussions during which plans were  
18 formulated to commit acts of sabotage. At the outset of this  
19 meeting, Eric McDavid advised the others that their discussion  
20 itself constituted a criminal act. The defendant knew that the  
21 purpose of their meeting was to plan criminal acts and knew that  
22 McDavid was correct when he said that their discussion itself  
23 constituted a criminal act, but chose to continue anyway. As the  
24 meeting progressed, there was further discussion about potential  
25 targets. McDavid reiterated that he wanted to attack cell towers  
26 and the IFG, and Weiner favored attacking corporate structures. The  
27 group agreed to reassemble in early January 2006 at a  
28 remotely-situated residence in Northern California to manufacture  
homemade explosives and detonate these explosives at various  
commercial and government targets. Weiner 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.

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

26 On January 10, 2006, the defendant traveled with McDavid,  
27 Weiner, and a confidential source to the USFS IFG in Placerville,  
28 CA. There he participated in a reconnaissance operation, the  
purpose of which was to determine the site's potential as a target.  
To hide his identity, he provided a fake name to an IFG employee  
with whom the group had made contact. On January 11, 2006, the  
defendant was present and aware that his co-defendants were  
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 and McDavid began  
manufacturing a homemade explosive for use against one of the

1 targets they had discussed. On January 13, 2006, the defendant was  
2 arrested after purchasing additional items to be used in making  
3 destructive devices, including respiratory masks and a mixing bowl  
4 to replace the one that was damaged the previous day.  
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