



**U.S. Department of Justice**

*United States Attorney  
District of Connecticut*

*Brien McMahon Federal Building  
915 Lafayette Boulevard, Room 309  
Bridgeport, Connecticut 06604*

*(203) 696-3000  
Fax (203) 579-5550*

February 19, 2008

Lawrence S. Hopkins, Esquire  
383 Orange Street  
New Haven, CT 06511

**Re: United States v. Kertez & Ortiz  
3:06CR330 (EBB)**

Dear Mr. Hopkins:

This letter confirms the plea agreement entered into between your client, Charles Kertesz (the "defendant"), and the United States Attorney's Office for the District of Connecticut (the "Government") concerning the referenced criminal matter.

**THE PLEA AND OFFENSE**

The defendant agrees to plead guilty to Counts Two, Four, Six, and Seven of the Second Superseding Indictment charging him, in each of these counts, with Hobbs Act Robbery in violation of 18 U.S.C. §§ 1951.

The defendant understands that to be guilty of these offenses the following essential elements must be satisfied for each offense:

1. That the defendant knowingly obtained or took the personal property of another, or from the presence of another;
2. That the defendant took this property against the victim's will, by means of actual or threatened force, violence, or fear of injury, whether immediately or in the future; and
3. That, as a result of the defendant's actions, interstate commerce, or an item moving in interstate commerce, was delayed, obstructed, or affected in any way or degree.

**THE PENALTIES**

Each of the Hobbs Act Robbery charges in Counts Two, Four, Six, and Seven of the Second Superseding Indictment carries a maximum penalty of 20 years imprisonment. In addition, under 18 U.S.C. § 3583, the Court may impose a term of supervised release on each count of not more than three years, to begin at the expiration of any term of imprisonment imposed. The defendant understands that should he violate any condition of the supervised release during its term, he may be required to serve a further term of imprisonment of up to two years with no credit for the time already spent on supervised release.

The defendant also is subject to the alternative fine provision of 18 U.S.C. § 3571. Under this section, the maximum fine that may be imposed on the defendant is the greatest of the following amounts: (1) twice the gross gain to the defendant resulting from the offense; (2) twice the gross loss resulting from the offense; or (3) \$250,000.

In addition, the defendant is obligated by 18 U.S.C. § 3013 to pay a special assessment of \$100.00 on each count of conviction. The defendant agrees to pay the special assessment to the Clerk of the Court on the day of sentencing.

Finally, unless otherwise ordered, should the Court impose a fine of more than \$2,500 as part of the sentence, interest will be charged on the unpaid balance of a fine amount not paid within 15 days after the judgment date. 18 U.S.C. § 3612(f). Other penalties and fines may be assessed on the unpaid balance of a fine pursuant to 18 U.S.C. §§3572 (h), (i) and § 3612(g).

### Restitution

In addition to the other penalties provided by law, the Court must also order that the defendant make restitution under 18 U.S.C. §3663A. The scope and effect of the order of restitution are set forth in the attached Rider Concerning Restitution. Restitution is payable immediately unless ordered otherwise by the Court.

## **THE SENTENCING GUIDELINES**

### 1. Applicability

The defendant understands that although application of the United States Sentencing Guidelines is not mandatory, they are advisory and the Court is required to consider any applicable Sentencing Guidelines as well as other factors enumerated in 18 U.S.C. § 3553(a) to tailor an appropriate sentence in this case. *See United States v. Booker*, 543 U.S. 220 (2005). The defendant expressly understands and agrees that the Sentencing Guideline determinations will be made by the Court, by a preponderance of the evidence, based upon input from the

defendant, the Government, and the United States Probation Officer who prepares the presentence investigation report. The defendant further understands that he has no right to withdraw his guilty plea if his sentence or the Guideline application is other than he anticipated.

2. Acceptance of Responsibility

At this time, the Government agrees to recommend that the Court reduce by two levels the defendant's Adjusted Offense Level under § 3E1.1(a) of the Sentencing Guidelines, based on the defendant's prompt recognition and affirmative acceptance of personal responsibility for the offense. Moreover, the Government intends to file a motion with the Court pursuant to § 3E1.1(b) recommending that the Court reduce defendant's Adjusted Offense Level by one additional level based on the defendant's prompt notification of his intention to enter a plea of guilty. This recommendation is conditioned upon the defendant's full, complete, and truthful disclosure to the Probation Office of information requested, of the circumstances surrounding his commission of the offense, of his criminal history, and of his financial condition by submitting a complete and truthful financial statement. In addition, this recommendation is conditioned upon the defendant timely providing complete information to the Government concerning his involvement in the offense to which he is pleading guilty. The defendant expressly understands that the Court is not obligated to accept the Government's recommendation on the reduction.

The Government will not make this recommendation if the defendant engages in any acts which (1) indicate that the defendant has not terminated or withdrawn from criminal conduct or associations (Sentencing Guideline § 3E1.1); (2) could provide a basis for an adjustment for obstructing or impeding the administration of justice (Sentencing Guideline § 3C1.1); or (3) constitute a violation of any condition of release. Moreover, the Government will not make this recommendation if the defendant seeks to withdraw his plea of guilty. The defendant expressly understands that he may not withdraw his plea of guilty if, for the reasons explained above, the Government does not make this recommendation.

3. Stipulation

Pursuant to § 6B1.4 of the Sentencing Guidelines, the defendant and the Government have entered into a stipulation which is attached to and made a part of this plea agreement. The defendant understands that this stipulation does not purport to set forth all of the relevant conduct and characteristics that may be considered by the Court for purposes of sentencing. The defendant expressly understands that this stipulation is not binding on the Court. The defendant also understands that the Government and the United States Probation Office are obligated to advise the Court of any additional relevant facts that subsequently come to their attention.

4. Waiver of Right to Challenge Prior Convictions Used To Enhance Sentence

The defendant understands and agrees that the offense of conviction carries enhanced penalties because of his prior criminal record. The defendant further understands and agrees that under *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), the fact of defendant's prior convictions need not be approved by a grand jury or submitted to a trial jury and proved beyond a reasonable doubt. Defendant expressly understands and agrees that such facts will be determined either: by stipulation between the parties; in accordance with the procedures specified by the United States Sentencing Guidelines; or by the Court upon a finding that the relevant facts have been established by reliable evidence (which may include hearsay evidence) and proven by a preponderance of the evidence.

5. Guideline Stipulation

The Government and the defendant stipulate the defendant's applicable Sentencing Guidelines to be at a range of 235 to 293 months' imprisonment. The offense level for the defendant's conviction on Count Six is 31. This is calculated as follows: The base offense level under U.S.S.G. § 2B3.1 is twenty (20). Five (5) levels are added pursuant to U.S.S.G. § 2B3.1(b)(2)(C), since a firearm was brandished or possessed during the commission of the offense. Six (6) levels are added pursuant to U.S.S.G. § 2B3.1(b)(7)(G), since the loss as a result of the offense was over \$2,500,000 but less than \$5,000,000. Two (2) levels are added under U.S.S.G. § 3C1.1 for obstruction of justice. The resulting offense level applicable to Count Six is therefore 33. Each count of conviction is grouped separately, pursuant to U.S.S.G. § 3D1.2. Because the four counts of conviction result in three units under U.S.S.G. § 3D1.4, three (3) levels are added to the offense level. Accordingly, the offense level applicable to all four counts of conviction is 36. Three (3) levels are subtracted under U.S.S.G. § 3E1.1 for acceptance of responsibility, as noted above, resulting in a total offense level of 33. A total offense level 33 with a criminal history category VI, which the parties calculate the defendant to be, results in a range of 235 to 293 months' imprisonment (sentencing table).

The parties agree that neither a downward nor an upward departure from the sentencing range set forth above is warranted and that a sentence within the agreed range is reasonable. Accordingly, neither party will seek such a departure or seek any adjustment not set forth herein. Nor will either party suggest that the Probation Department consider such a departure or adjustment, or suggest that the Court *sua sponte* consider such a departure or adjustment. The Government agrees to recommend that the Court sentence the defendant within the agreed guideline range.

The defendant expressly understands that the Court is not bound by this agreement on the Guideline and fine ranges specified above. The defendant further expressly understands that he will not be permitted to withdraw the plea of guilty if the Court imposes a sentence outside the

Guideline range or fine range set forth in this agreement.

In the event the Probation Office or the Court contemplates any sentencing calculations different from those stipulated by the parties, the parties reserve the right to respond to any inquiries and make appropriate legal arguments regarding the proposed alternate calculations. Moreover, the Government expressly reserves the right to challenge or defend any sentencing determination, other than that stipulated by the parties, in any post-sentencing proceeding.

6. Supervised Release Violation

The defendant understands that as a result of his plea of guilty to the charges herein, he is admitting that he violated the terms of his supervised release in docket number 3:99CR278 (JCH), as charged in the petition on violation of supervised release signed on December 14, 2006. The defendant understands and agrees that the violation is a Grade A violation, under U.S.S.G. § 7B1.4, resulting in a guideline range of 33-41 months' imprisonment. The defendant further understands that under 18 U.S.C. § 3583, he can be sentenced to no more than 24 months for this violation of supervised release. The Government agrees to recommend to the Court that any sentence imposed for the defendant's violation of his supervised release be ordered to run concurrently with his sentence in this case.

7. Waiver of Right to Appeal or Collaterally Attack Sentence

The defendant acknowledges that under certain circumstances he is entitled to appeal his conviction and sentence. It is specifically agreed that the defendant will not appeal or collaterally attack in any proceeding, including but not limited to a motion under 28 U.S.C. § 2255 and/or § 2241, the conviction or sentence of imprisonment imposed by the Court if that sentence does not exceed 240 months' imprisonment, even if the Court imposes such a sentence based on an analysis different from that specified above. Similarly, the Government will not appeal a sentence imposed if the term of imprisonment is within or above the stipulated guideline range. The defendant expressly acknowledges that he is knowingly and intelligently waiving his appellate rights.

8. Information to the Court

The Government expressly reserves its right to address the Court with respect to an appropriate sentence to be imposed in this case. Moreover, it is expressly understood that the Government will discuss the facts of this case, including information regarding the defendant's background and character, 18 U.S.C. § 3661, with the United States Probation Office and will provide the Probation Officer with access to its file, with the exception of grand jury material.

## **WAIVER OF RIGHTS**

### Waiver of Trial Rights and Consequences of Plea

The defendant understands that he has the right to be represented by an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent him.

The defendant understands that he has the right to plead not guilty or to persist in that plea if it has already been made, the right to a public trial, the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against him, the right not to be compelled to incriminate himself, and the right to compulsory process for the attendance of witnesses to testify in his defense. The defendant understands that by pleading guilty he waives and gives up those rights and that, if the plea of guilty is accepted by the Court, there will not be a further trial of any kind.

The defendant understands that if he pleads guilty, the Court may ask him questions about each offense to which he pleads guilty, and if he answers those questions falsely under oath, on the record, and in the presence of counsel, his answers may later be used against him in a prosecution for perjury or making false statements.

### Waiver of Statute of Limitations

The defendant understands and agrees that should the conviction following defendant's plea of guilty pursuant to this plea agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this plea agreement (including any indictment or counts the Government has agreed to dismiss at sentencing pursuant to this plea agreement) may be commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement or reinstatement of such prosecution. The defendant agrees to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date the plea agreement is signed.

Waiver of Right To Post-Conviction DNA Testing of Physical Evidence

The defendant understands that the Government has various items of physical evidence in its possession in connection with this case that could be subjected to DNA testing. The defendant further understands that following conviction in this case, he could file a motion with the Court to require DNA testing of physical evidence pursuant to 18 U.S.C. § 3600 and § 3600A in an attempt to prove his innocence. The defendant fully understands his right to have all the physical evidence in this case tested for DNA, has discussed this right with his counsel, and knowingly and voluntarily waives his right to have such DNA testing performed on the physical evidence in this case. Defendant fully understands that because he is waiving this right, the physical evidence in this case will likely be destroyed or will otherwise be unavailable for DNA testing in the future.

**ACKNOWLEDGEMENT OF GUILT; VOLUNTARINESS OF PLEA**

The defendant acknowledges that he is entering into this agreement and is pleading guilty freely and voluntarily because he is guilty. The defendant further acknowledges that he is entering into this agreement without reliance upon any discussions between the Government and him (other than those described in the plea agreement letter), without promise of benefit of any kind (other than the concessions contained in the plea agreement letter), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges his understanding of the nature of the offense to which he is pleading guilty, including the penalties provided by law. The defendant also acknowledges his complete satisfaction with the representation and advice received from his undersigned attorney. The defendant and his undersigned counsel are unaware of any conflict of interest concerning counsel's representation of the defendant in the case.

The defendant expressly acknowledges that he is not a "prevailing party" within the meaning of Public Law 105-119, section 617 ("the Hyde Amendment") with respect to the count of conviction or any other count or charge that may be dismissed pursuant to this agreement. The defendant voluntarily, knowingly, and intelligently waives any rights he may have to seek reasonable attorney's fees and other litigation expenses under the Hyde Amendment.

**SCOPE OF THE AGREEMENT**

The defendant acknowledges and understands that this agreement is limited to the undersigned parties and cannot bind any other federal authority, or any state or local authority. The defendant acknowledges that no representations have been made to him with respect to any civil or administrative consequences that may result from this plea of guilty because such matters are solely within the province and discretion of the specific administrative or governmental

entity involved. Finally, the defendant understands and acknowledges that this agreement has been reached without regard to any civil tax matters that may be pending or which may arise involving him.

### **COLLATERAL CONSEQUENCES**

The defendant further understands that he will be adjudicated guilty of each offense to which he has pleaded guilty and will be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to possess firearms. The defendant understands that pursuant to section 203(b) of the Justice For All Act, the Bureau of Prisons or the Probation Office will collect a DNA sample from the defendant for analysis and indexing. Finally, the defendant understands that the Government reserves the right to notify any state or federal agency by which he is licensed, or with which he does business, as well as any current or future employer of the fact of his conviction.

### **SATISFACTION OF FEDERAL CRIMINAL LIABILITY; BREACH**

The defendant's guilty plea, if accepted by the Court, will satisfy the federal criminal liability of the defendant in the District of Connecticut as a result of his participation in the robberies of the Hannoush Jewelry store in Natick, Massachusetts, the Lux Bond and Green Jewelry stores in South Windsor, Connecticut, and in Glastonbury, Connecticut, and the Betteridge Jewelry store in Greenwich, Connecticut, which forms the basis of the indictment in this case. After sentencing, the Government will move to dismiss Counts One, Three and Five of the second superseding indictment, as well as the other indictments in case number 3:06CR330 (EBB).

The defendant understands that if, before sentencing, he violates any term or condition of this agreement, engages in any criminal activity, or fails to appear for sentencing, the Government may void all or part of this agreement. If the agreement is voided in whole or in part, defendant will not be permitted to withdraw his plea of guilty.

### **NO OTHER PROMISES**

The defendant acknowledges that no other promises, agreements, or conditions have been entered into other than those set forth in this plea agreement, and none will be entered into unless set forth in writing, signed by all the parties.



Lawrence S. Hopkins, Esquire  
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This letter shall be presented to the Court, in open court, and filed in this case.

Very truly yours,

KEVIN J. O'CONNOR  
UNITED STATES ATTORNEY

/S/

PAUL A. MURPHY  
ASSISTANT UNITED STATES ATTORNEY

/S/

ANTHONY E. KAPLAN  
ASSISTANT UNITED STATES ATTORNEY

The defendant certifies that he has read this plea agreement letter and its attachment(s) or has had it read or translated to him, that he has had ample time to discuss this agreement and its attachment(s) with counsel and that he fully understands and accepts its terms.

/S/  
\_\_\_\_\_  
CHARLES KERTESZ  
The Defendant

\_\_\_\_\_  
Date

I have thoroughly read, reviewed and explained this plea agreement and its attachment(s) to my client who advises me that he understands and accepts its terms.

/S/  
\_\_\_\_\_  
LAWRENCE S. HOPKINS, ESQ.  
Attorney for the Defendant

\_\_\_\_\_  
Date

## STIPULATION OF OFFENSE CONDUCT

The defendant Charles Kertesz and the Government stipulate and agree to the following offense conduct that gives rise to the defendant's agreement to plead guilty to the information:

On or about July 20, 2005, the defendant drove from Connecticut to Natick, Massachusetts, with another individual named Anthony Curral. Once there, the defendant entered the Hannoush jewelry store during business hours disguised in women's clothing and wearing a wig. The defendant proceeded to brandish a firearm and forcibly steal at gunpoint assorted jewelry, including diamond rings, with a retail value of approximately \$388,000. The defendant then fled the store, further brandishing his weapon when confronted by a mall security guard. The defendant and Anthony Curral then fled the scene and returned to Connecticut.

On or about February 1, 2006, in Connecticut, the defendant and Anthony Curral executed a plan to forcibly rob the Lux Bond and Green jewelry store in South Windsor, Connecticut. During this robbery, the defendant entered the store during business hours disguised in women's clothing and wearing a wig. The defendant brandished a firearm and robbed the store at gunpoint, taking assorted jewelry, including diamond rings, valued at around \$259,000, and then fled the scene.

On or about September 1, 2006, the defendant, with the assistance of co-defendant Eric Ortiz and another individual, forcibly robbed the Betteridge jewelry store in Greenwich, Connecticut. On this occasion, the plan involved creating a diversion of Greenwich Avenue, where the store was located, so that the defendant could rob the store and escape without being apprehended by the law enforcement officers on patrol on Greenwich Avenue. Pursuant to the plan, co-defendant Eric Ortiz and another individual created the desired diversion by lighting fire to a sport utility vehicle (SUV) they had driven to a location on Greenwich Avenue just south of the Betteridge jewelry store. After lighting fire to the SUV, Eric Ortiz and the other individual fled the scene in yet another vehicle.

Meanwhile, at or about the same time as the SUV was set on fire, the defendant, Charles Kertesz, entered the Betteridge jewelry store wearing a motorcycle helmet and carrying a backpack. The defendant then brandished a firearm and proceeded to rob the jewelry store at gunpoint, forcibly taking approximately \$4.7 million worth of jewelry and stashing it in the backpack. The defendant then fled the store with the jewelry in his backpack and mounted a stolen motorcycle he had parked outside the store. At that moment, a Greenwich police officer confronted the defendant and ordered him to stop, but the defendant refused to obey the lawful command, mounted the running motorcycle and fled. In the course of fleeing the scene, Kertesz dropped the backpack containing the stolen jewelry. As he was driving away from the scene, recklessly driving against traffic on Greenwich Avenue, the defendant was confronted by a citizen who attempted to stop him. The defendant struck the citizen and continued driving away.

On or around September 21, 2006, the defendant forcibly robbed the Lux Bond and Green jewelry store in Glastonbury, Connecticut. In this instance, the defendant entered the store during business hours wearing a motorcycle helmet, and proceeded to brandish a weapon and steal assorted jewelry, including diamond rings. The defendant then fled the scene on a

motorcycle.

The written stipulation above is incorporated into the preceding plea agreement. It is understood, however, that the defendant and the Government reserve their right to present additional relevant offense conduct to the attention of the Court in connection with sentencing.

\_\_\_\_\_/S/\_\_\_\_\_  
CHARLES KERTESZ  
The Defendant

\_\_\_\_\_/S/\_\_\_\_\_  
PAUL A. MURPHY  
ASSISTANT UNITED STATES ATTORNEY

\_\_\_\_\_/S/\_\_\_\_\_  
LAWRENCE S. HOPKINS, ESQ.  
Attorney for the Defendant

\_\_\_\_\_/S/\_\_\_\_\_  
ANTHONY E. KAPLAN  
ASSISTANT UNITED STATES ATTORNEY

### RIDER CONCERNING RESTITUTION

The Court shall order that the defendant make restitution under 18 U.S.C. § 3663A. The order of restitution may include:

1. If the offense resulted in damage to or loss or destruction of property of a victim of the offense, the order of restitution shall require the defendant to:

A. Return the property to the owner of the property or someone designated by the owner; or

B. If return of the property is impossible, impracticable, or inadequate, pay an amount equal to:

The greater of -

(I) the value of the property on the date of the damage, loss, or destruction; or

(II) the value of the property on the date of sentencing, less the value as of the date the property is returned.

2. In the case of an offense resulting in bodily injury to a victim –

A. pay an amount equal to the costs of necessary medical and related professional services and devices related to physical, psychiatric, and psychological care; including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

B. pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

C. reimburse the victim for income lost by such victim as a result of such offense;

3. In the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

4. In any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

The order of restitution has the effect of a civil judgment against the defendant. In addition to the court ordered restitution, the court may order that the conditions of its order of restitution be made a condition of probation or supervised release. Failure to make restitution as ordered may result in a revocation of probation, or a modification of the conditions of supervised release, or in the defendant being held in contempt under 18 U.S.C. § 3583(e). Failure to pay restitution may also result in the defendant's re-sentencing to any sentence which might originally have been imposed by the Court. See 18 U.S.C. § 3614. The Court may also order that the defendant give notice to any victim(s) of his offense under 18 U.S.C. § 3555.