

ORIGINAL

Case No: CR 96-977(A)-RAP

Date and Filed: March 19, 1998

PRESENT: HONORABLE RICHARD A. PAEZ, JUDGE

Nate Scott for
Carolyn Trump
Deputy Clerk

Sandra Becerra
Court Reporter

Stephen Larson
Asst. U. S. Attorney

INTERPRETER: _____

U.S.A. vs (Dfts listed below)

Attorneys for Defendants

1) Serguei Adoniev
x pres x custody bond

1) Stephen London
x pres apptd x retnd

PROCEEDINGS: CHANGE OF PLEA

x Defendant moves to change plea to the Indictment.
ORDER Motion granted.

x Defendant sworn.

x Defendant enters new and different plea of GUILTY to
Count(s) 1 through 8 of the First Superseding Indictment.

x The Court questions the defendant regarding plea of GUILTY
and FINDS that a factual basis has been laid and Further
FINDS the plea is knowledgeable and voluntarily made. The
Court ORDERS the pleas accepted and entered.

x The Court refers the defendant to the Probation Office for
investigation and report and the matter is continued to
June 18, 1998, at 1:30 p.m. for sentencing.

 The Court Further ORDERS _____

 Other _____

x Plea agreement marked as exhibit 1. (attached hereto)



Initials of Deputy Clerk KB

PLEA AGREEMENT

United States v. Serguei Adoniev

INTRODUCTORY PARAGRAPH

1. This constitutes the plea agreement between you, SERGUEI ADONIEV, and the United States Attorney's Office for the Central District of California ("this Office") in United States v. Serguei Adoniev CR 96-977(A)-RAP. The terms of the agreement are as follows:

PLEA

2. You agree to plead guilty to counts one through eight of the first superseding indictment in the above-referenced case. Count one charges you with knowingly participating in a conspiracy to commit wire fraud in violation of 18 U.S.C. § 371, and counts two through eight charge you with wire fraud in violation of 18 U.S.C. § 1343.

NATURE OF THE OFFENSE

3. In order to be guilty of violating 18 U.S.C. § 371, you must have knowingly participated in a conspiracy, that is, an agreement between two or more persons to commit at least one crime as charged in the indictment, and one of the members of the conspiracy must have performed at least one overt act for the purpose of carrying out the conspiracy. In order to be guilty of violating 18 U.S.C. § 1341, you must have knowingly participated in a scheme to defraud, acted with the intent to defraud, and used or caused to be used interstate or foreign wire communications in furtherance of the scheme to defraud. By signing this agreement, you admit that you are, in fact, guilty of these offenses.

PENALTIES

4. The statutory maximum sentences that the court can impose for each count of conviction is five years incarceration; a three year period of supervised release; a fine of \$250,000.00; and a special assessment of \$100.00.

5. If you are placed on supervised release following imprisonment and you violate one or more of the conditions of supervised release, you may be returned to prison for all or part of the term of supervised release, which could result in your serving a total term of imprisonment greater than the statutory maximum stated above. The Court can also order you to pay the costs of your imprisonment.

6. You agree to pay a fine of \$60,000 to the United States and restitution in the amount of \$1,000,000 to the government of Kazakhstan (payable to the United States). You further agree to provide cashier's checks for your fine, restitution, and special assessments (which

total \$800) to this Office no later than three weeks before the time of your sentencing. Your failure to pay your fine, restitution, and special assessment three weeks before the time of sentencing shall constitute a material breach of this plea agreement, and shall release the government of all its obligations and representations under this agreement.

FACTUAL BASIS

7. You and this Office agree and stipulate to the statement of facts attached hereto and incorporated herein.

SENTENCING FACTORS

8. You and this Office agree and stipulate to the following applicable sentencing guideline factors:

Base Offense Level	:	6	[U.S.S.G. § 2F1.1(a)]
Loss	:	14	[U.S.S.G. § 2F1.1(b)(1)(O)]
More than minimal planning	:	2	[U.S.S.G. § 2F1.1(b)(2)]
Judicial Deportation	:	-2	
Acceptance of Responsibility	:	-3	[U.S.S.G. § 3E1.1]
Total Offense Level	:	17	

The government stipulates to a downward adjustment for voluntary deportation and acceptance of responsibility only if the conditions set forth in paragraph 11(c) are met. If defendant's criminal history category is Level I, the parties agree that the applicable sentencing range is 24 to 30 months, and that defendant should be sentenced to the high end of that range, namely, 30 months incarceration. The parties agree that no additional specific offense characteristics, departures or adjustments apply.

9. You understand that there is no agreement as to your criminal history or criminal history category.

10. You understand and agree that neither the United States Probation Office nor the Court is bound by the stipulations referenced in this agreement and that the Court will, with the aid of the presentence report, determine the facts and calculations relevant to sentencing. You further understand that both you and this Office are free to supplement these stipulated facts by

supplying relevant information to the United States Probation Office, and this Office specifically reserves its right to correct any and all factual misstatements relating to the calculation of your sentence. You understand that the Court cannot rely exclusively upon the parties' stipulation in ascertaining the factors relevant to the determination of your sentence. Rather, in determining the factual basis for the sentence, the Court will consider the stipulation, together with the results of the presentence investigation, and any other relevant information. You understand that if the Court ascertains factors different from those contained in the stipulation, you cannot, for that reason alone, withdraw your guilty plea. You further agree that in the event the court's sentencing calculations are different than those set forth in paragraph eight above, the parties retain the right to defend the district court's decision on appeal and collateral review.

CONSIDERATION BY OFFICE

11. In exchange for your guilty plea and your complete fulfillment of all of your obligations under this agreement, this Office agrees:

(a) At the time of sentencing this Office will move to dismiss the remaining counts of the indictment as against you.

(b) To stipulate that you be released on bail pending imposition of sentence provided that you pay the resitution, fine and special assessments set forth above (totalling \$1,060,800) and you post a \$50,000 appearance bond.

(c) To recommend a three-level reduction in the applicable sentencing guideline offense level, pursuant to sentencing guideline 3E1.1, if you demonstrate an acceptance of responsibility for this offense by virtue of your conduct up to and including the time of sentencing. Notwithstanding the above, this Office will not recommend any adjustment for acceptance of responsibility if you: (1) Fail to admit a complete factual basis for the plea at the time it is entered; (2) deny involvement in the offense, give conflicting statements about that involvement, or are untruthful with the Court or probation officer; (3) fail to appear in court; (4) engage in additional criminal conduct; or (5) attempt to withdraw your guilty plea.

WAIVER OF CONSTITUTIONAL RIGHTS

12. You understand that by pleading guilty, you will be giving up the following Constitutional rights: You have the right to plead not guilty and the right to be tried by a jury or a court if you waive your right to a jury trial. At a trial, you would have the right to the assistance of counsel and if you could not afford an attorney, the Court would appoint one to represent you. During the trial, you would be presumed innocent and a jury would be instructed that the burden of proof is on the government to prove you guilty beyond a reasonable doubt. You would have the right to confront and cross-examine witnesses against you. If you wish, you could testify on your own behalf and present evidence in your defense. On the other hand, if you did not wish to testify or present evidence, that fact could not be used against you and a jury would be so

instructed. You would also have the right to call witnesses on your behalf. By pleading guilty, you will be giving up all of these rights. By pleading guilty, you further understand that you will be waiving any and all rights to pursue any applicable affirmative defenses, any Fourth Amendment or Fifth Amendment claims, and any other actual or potential pretrial motions previously filed or to be filed. Finally, by pleading guilty, you understand that you may have to answer questions posed to you by the Court both about the rights that you will be giving up and about the facts of this case. Any statements made by you during such a hearing could be used against you in a criminal prosecution for perjury or false statements.

WAIVER OF APPEAL

13. You understand that Title 18, United States Code, Section 3742 gives you the right to appeal the sentence imposed by the Court. Acknowledging this, you knowingly and voluntarily waive your right to appeal any sentence imposed by the Court and the manner in which the sentence is determined so long as your sentence is within the sentencing range stipulated to by the parties in paragraph eight.

14. This agreement does not affect in any way the right of this Office, under Section 3742, to appeal the sentence imposed by the Court.

PARTIES TO AGREEMENT

15. You understand that the Court is not a party to this agreement and the Court is under no obligation to accept this Office's recommendation regarding the sentence to be imposed. Further, even if the Court disregards this Office's recommendation and/or imposes any sentence up to the maximum established by statute, you cannot, for that reason, withdraw your guilty plea, and will remain bound to fulfill all of your obligations under this agreement. You understand that neither the prosecutor, your attorney, nor the Court can make a binding prediction or promise regarding the sentence you will receive.

16. This agreement is limited to this Office and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities. This agreement applies only to criminal violations relating to you. This agreement does not apply to any forfeiture proceedings, judicial, administrative, or otherwise, and shall not preclude any past, present, or future forfeiture actions.

NO ADDITIONAL AGREEMENTS

17. Except as expressly set forth herein, there are no additional promises, understandings or agreements between the government and you or your counsel concerning any other criminal prosecution, civil litigation or administrative proceeding relating to any other federal, state or local charges that may now be pending or hereafter be brought against you, or the sentence that might be imposed as a result of your guilty plea pursuant to this Agreement. Nor may any

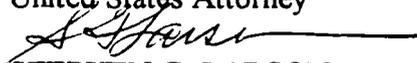
additional agreement, understanding or condition be entered into unless in writing and signed by all parties.

18. This agreement is not contingent in any way upon the outcome of any investigation, proceeding, motions hearing or subsequent trial.

If a fully executed copy of this agreement is not returned to me by March 12, 1998, it will be automatically withdrawn and thereafter of no legal effect or force.

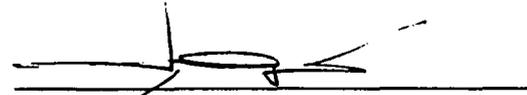
This agreement shall be effective upon execution by you and this Office.

AGREED AND ACCEPTED
UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

NORA M. MANELLA
United States Attorney

STEPHEN G. LARSON
Assistant United States Attorney

I have read this agreement and have carefully reviewed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to each of the terms. Before signing this agreement, I consulted with my attorney. My attorney fully advised me of my rights, of possible defenses, of the Sentencing Guideline provisions, and of the consequences of entering into this agreement. No other promises or inducements have been made to me, other than those contained in this agreement. Furthermore, no one has threatened or forced me in any way to enter into this agreement. Finally, I am satisfied with the representation of my attorney in this matter.

03/10/98
Date


SERGUEI ADONIEV
Defendant

I am SERGUEI ADONIEV's attorney. I have carefully reviewed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible defenses, of the Sentencing Guideline provisions, and of the consequences of entering into this agreement. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

3-10-98
Date


STEPHEN LONDON, Esq.
Counsel for Defendant

FACTUAL STIPULATION

On or before July 13, 1993, and continuing to on or after October 26, 1993, in Los Angeles County, within the Central District of California, and elsewhere, defendant SERGUEI ADONIEV and others willfully and knowingly combined, conspired, confederated and agreed to commit wire fraud by knowingly devising and participating in a scheme to defraud and to obtain money by means of false and fraudulent pretenses and representations and causing wire communications in interstate and foreign commerce to be used in execution of this scheme, all in violation of Title 18, United States Code, Section 1343.

In order to achieve the objects of the conspiracy, between about July 13, 1993, and about October 26, 1993, defendant ADONIEV and unindicted co-conspirator Popov, and others, travelled to Kazakhstan on several occasions to negotiate a contract to deliver sugar with the government of Kazakhstan and the International Center. Under the terms of the contract finalized in August, 1993, MCW agreed to sell 25,000 tons of Cuban sugar to Kazakhstan for approximately \$6.7 million in United States currency. Under the agreement, the government of Kazakhstan would loan the money to purchase the 25,000 tons of Cuban sugar to the International Center, which would in turn send the money in installments by way of bank wire transfers from Kazakhstan to the MCW bank account at Wells Fargo Bank, 9600 Santa Monica Boulevard, Beverly Hills, California (account 0645-022278) ("MCW Wells Fargo Bank account"). However, as defendant ADONIEV and his co-conspirators well knew when they contemplated, negotiated and entered the contract, MCW was not in the business of selling sugar, and, furthermore, did not have the legal, financial, or practical ability to obtain 25,000 tons of Cuban sugar under the terms of the agreement, which at prevailing market rates would have been well in excess of \$9,500,000.00, and which they never intended to deliver.

Having negotiated the fraudulent contract, defendant ADONIEV and his co-conspirators, between September 8, 1993, and October, 30, 1993, caused wire transfers totalling approximately \$4,040,780.00 in United States currency to be transferred in interstate and foreign commerce from Kazakhstan to Wells Fargo Bank, Beverly Hills, California, which money was not used to buy and deliver 25,000 tons of Cuban sugar as required by the contract.