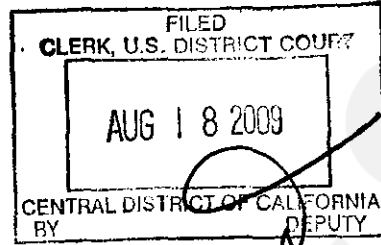


ORIGINAL

1 THOMAS P O'BRIEN
 United States Attorney
 2 SANDRA R. BROWN (SBN 157446)
 Assistant United States Attorney
 3 Chief, Tax Division
 ROBERT CONTE
 4 Assistant United States Attorney
 Deputy Chief, Tax Division
 5 300 North Los Angeles Street
 Federal Building, Room 7211
 6 Los Angeles, California 90012
 Telephone: (213) 894-5810/6607
 7 Facsimile: (213) 894-0015
 Email: sandra.brown@usdoj.gov
 8



9 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

LODGED

2009 AUG 14 AM 10:16
 CLERK, U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIFORNIA
 LOS ANGELES

~~XXXX~~

10 UNITED STATES DISTRICT COURT
 11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,)
 14 Plaintiff,)
 15 v.)
 16 JOHN MCCARTHY,)
 17 Defendant.)

No. CR **CR09-00784**
ADDENDUM TO PLEA AGREEMENT FOR
DEFENDANT JOHN MCCARTHY
 [FILED CONCURRENTLY WITH THE
 PLEA AGREEMENT]
 [UNDER SEAL]

ADDENDUM

1
2 1. Defendant understands and agrees that this addendum to
3 the plea agreement will be filed under seal with the Court at the
4 same time as the filing of the main plea agreement. The Court at
5 the time of the Fed. R. Crim. P. Rule 11 plea colloquy will have
6 both the main plea agreement and this addendum before the Court,
7 and any reference during the hearing to the "plea agreement" will
8 be understood to be a reference to the main plea agreement
9 **together with** this addendum. Both parties will ensure that the
10 Court is aware of and is considering both the plea agreement and
11 this addendum at the Rule 11 hearing. If an issue relating to
12 the inclusion of this addendum with the main plea agreement is
13 not raised by either party at the Rule 11 hearing, any objection
14 relating to that issue will be considered waived.

15 2. Defendant further agrees to cooperate fully with the
16 USAO, the Internal Revenue Service, and, as directed by the USAO,
17 with any other federal, state, or local law enforcement agency.
18 This cooperation requires defendant to:

19 a. Respond truthfully and completely to all questions
20 that may be put to defendant, whether in interviews, before a
21 grand jury, or at any trial or other court proceeding.

22 b. Attend all meetings, grand jury sessions, trials
23 or other proceedings at which defendant's presence is requested
24 by the USAO or compelled by subpoena or court order.

25 c. Produce voluntarily all documents, records, or
26 other tangible evidence relating to matters about which the USAO,
27

1 or its designee, inquires.

2 DEFENDANT'S UNDERSTANDINGS REGARDING SUBSTANTIAL ASSISTANCE

3 d. Defendant understands the following:

4 i. Any knowingly false or misleading statement
5 by defendant will subject defendant to
6 prosecution for false statement, obstruction
7 of justice, and perjury and will constitute a
8 breach by defendant of this agreement.

9 ii. Nothing in this agreement requires the USAO
10 or any other prosecuting or law enforcement
11 agency to accept any cooperation or
12 assistance that defendant may offer, or to
13 use it in any particular way.

14 iii. Defendant cannot withdraw defendant's guilty
15 plea if the USAO determines that defendant
16 did not satisfy the requirements of this
17 addendum and the main plea agreement, and
18 therefore, does not make a motion pursuant to
19 U.S.S.G. § 5K1.1 for a reduced sentence or if
20 the USAO makes such a motion and the Court
21 does not grant it.

22 e. At this time the USAO makes no agreement or
23 representation as to whether any cooperation that defendant has
24 provided or intends to provide constitutes substantial
25 assistance. The decision whether defendant has provided
26 substantial assistance rests solely within the discretion of the
27

1 USAO.

2 f. The USAO's determination of whether defendant has
3 provided substantial assistance will not depend in any way on
4 whether the government prevails at any trial or court hearing in
5 which defendant testifies.

6 g. In connection with defendant's sentencing, the USAO
7 will bring to the Court's attention the nature and extent of
8 defendant's cooperation.

9 h. If the USAO determines, in its exclusive judgment,
10 that defendant has fully complied with this addendum and the main
11 plea agreement, and has thus provided substantial assistance to
12 law enforcement in the prosecution or investigation of another
13 ("substantial assistance"), the USAO will move the Court pursuant
14 to U.S.S.G. § 5K1.1 to impose a sentence of below the sentencing
15 range otherwise dictated by the sentencing guideline, provided
16 that defendant complies with all defendant's obligations under
17 this agreement.

18 AGREED AND ACCEPTED:

19 UNITED STATES ATTORNEY'S OFFICE
20 FOR THE CENTRAL DISTRICT OF CALIFORNIA

21 THOMAS P. O'BRIEN
22 United States Attorney


23 SANDRA R. BROWN
24 Assistant United States Attorney
25 Chief, Tax Division
26 ROBERT CONTE
27 Assistant United States Attorney
28 Deputy Chief, Tax Division

8/12/09

Date

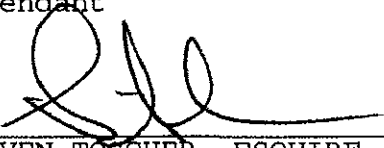
1 I, the defendant, certify that I have read the preceding
2 paragraphs, and that I have discussed it with my counsel and
3 fully understand its meaning and effect. I also understand that
4 the main plea agreement and this addendum embody the entire plea
5 agreement between the parties and supersedes any other plea
6 agreement, written or oral.

7 AGREED AND ACCEPTED:

8 
9 _____
10 JOHN MCCARTHY
11 Defendant



Date

11 
12 _____
13 STEVEN TOSCHER, ESQUIRE
14 Hochman, Salkin, Rettig, Toscher & Perez, P.C.
15 Counsel for Defendant
16 JOHN MCCARTHY



Date

1 PROOF OF SERVICE BY MAILING

2 I am over the age of 18 and not a party to the within action. I
3 am employed by the Office of the United States Attorney, Central
4 District of California. My business address is 300 North Los Angeles
5 Street, Suite 7211, Los Angeles, California 90012.

6 On August 14, 2009, I served

7 ADDENDUM TO PLEA AGREEMENT FOR DEFENDANT JOHN MCCARTHY

8 on each person or entity name below by enclosing a copy in an envelope
9 addressed as shown below and placing the envelope for collection and
10 mailing on the date and at the place shown below following our
11 ordinary office practices. I am readily familiar with the practice of
12 this office for collection and processing correspondence for mailing.
13 On the same day that correspondence is placed for collection and
14 mailing, it is deposited in the ordinary course of business with the
15 United States Postal Service in a sealed envelope with postage fully
16 prepaid. Date of mailing: August 14, 2009

17 Place of mailing: Los Angeles, California

18 See attached list

19 I declare under penalty of perjury under the laws of the United States
20 of America that the foregoing is true and correct.

21 I declare that I am employed in the office of a member of the bar
22 of this court at whose direction the service was made.

23 Executed on: August 14, 2009, Los Angeles, California.

24 
25 Barbara Le
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RE: UNITED STATES OF AMERICA v. JOHN McCARTHY

Service List

Steven Toscher, Esq.
Hochman, Salkin, Rettig, Toscher & Perez, P.C.
9150 Wilshire Blvd., Ste 300
Beverly Hills, CA 90212-3414

