

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 04-21002-CR-DIMITROULEAS/TORRES

UNITED STATES OF AMERICA

vs.

**ZE'EV ROSENSTEIN,
a/k/a "Zevik,"
a/k/a "The Fat Man,"**

Defendant.

PLEA AGREEMENT

The United States of America and Ze'ev Rosenstein (hereinafter referred to as the "defendant") enter into the following agreement:

1. The United States and the defendant agree that this plea agreement is made pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, under which this agreement is not binding on the parties unless accepted by the Court.
2. The defendant agrees to plead guilty to the indictment in this case charging him with conspiracy to distribute 3, 4 Methylenedioxymethamphetamine ("MDMA"), also known as "Ecstasy," in violation of Title 21, United States Code, Section 841(a)(1); all in violation of Title 21, United States Code, Section 846 (Count 1) and conspiracy to import MDMA in violation of Title 21, United States Code, Section 952(a); all in violation of Title 21, United States Code, Section 963 (Count 2).

3. The United States and the defendant agree that the defendant's sentence pursuant to the United States Sentencing Guidelines is as follows:

- a. Section 2D1.1 of the Sentencing Guidelines is the offense guideline applicable to the offense of conviction in this case.
- b. Under Section 2D1.1(c), the defendant's base offense level is a level 38.
- c. The defendant qualifies for a three-level downward adjustment for acceptance of responsibility, pursuant to Section 3E1.1(a) of the Sentencing Guidelines.
- d. The defendant meets the criteria of Section 5C1.2 of the Sentencing Guidelines. Pursuant to section 2D1.1(b)(7), the defendant qualifies for an additional two-level decrease in his base offense level because:
 - (i) defendant does not have more than one criminal history point, as determined under the Sentencing Guidelines;
 - (ii) the defendant has provided to the United States a written statement truthfully setting forth all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan as charged in the indictment; and
 - (iii) the defendant did not use violence or threats of violence, or possess a firearm or other dangerous weapon in connection with the offense; the offense did not result in death or serious bodily injury to any person; and the defendant is not an organizer, leader, manager or supervisor of others in the offense.

Assistant United States Attorney _____
Attorney for Defendant _____
Defendant _____

- e. No additional upward or downward adjustments pursuant to Chapter 3 of the Sentencing Guidelines are applicable.
- f. No upward or downward departures pursuant to Chapters 4 and 5 of the Sentencing Guidelines are applicable.
- g. The defendant's total offense level is a level 33.
- h. The defendant has no criminal history category points, and accordingly is a criminal history category I.
- i. The defendant's sentencing range is 135-168 months imprisonment.
- j. The parties agree to a sentence of 144 months imprisonment which shall run concurrently with any sentence imposed by any other court in the United States or Israel.

4. Pursuant to Section 5D1.2(a)(2) of the Sentencing Guidelines, the term of supervised release shall be at least three years. The parties agree to a term of supervised release of three years. The United States and the defendant agree that this term of supervised release shall be non-reporting if the defendant is not in the United States.

5. Pursuant to Section 5E1.2(c) of the Sentencing Guidelines, the fine range is \$17,500 to \$1,000,000. The parties agree that the fine shall be \$17,500. The parties also agree that the Court shall impose on the defendant a special assessment in the amount of \$200. The defendant agrees that any special assessment imposed shall be paid no later than three business days after sentencing. The government agrees that no criminal or civil forfeitures affecting the defendant will be imposed by the United States.

Assistant United States Attorney _____
 Attorney for Defendant _____
 Defendant _____

6. The parties agree to imposition of sentence immediately following the defendant's entry of his guilty plea under the terms of this plea agreement. Pursuant to Rule 32(b)(1)(A)-(B), the parties waive the preparation of a presentence investigation prior to the imposition of sentence.

7. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, unless the sentence differs from the sentence stipulated to in this agreement. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney. The defendant further agrees, together with the United States, to request that the district court enter a specific finding that the defendant's waiver of his right to appeal the sentence to be imposed in this case was knowing and voluntary.

8. The defendant confirms that he is guilty of the offenses to which he is pleading guilty; that his decision to plead guilty is the decision that he has made; and that nobody has forced, threatened, or coerced him into pleading guilty. The defendant affirms that he has discussed this matter thoroughly with his attorneys. The defendant further affirms that his discussions with his attorneys have included discussion of possible defenses that he may raise if the case were to go to trial, as well as possible issues and arguments that he may raise at sentencing. The defendant

Assistant United States Attorney _____
Attorney for Defendant _____
Defendant _____

additionally affirms that he is satisfied with the representation provided by his attorneys. The defendant accordingly affirms that he is entering into this agreement knowingly, voluntarily, and intelligently, and with the benefit of full, complete, and effective assistance by his attorneys. The defendant accordingly agrees that by entering into this agreement he waives any right to file any motion or make any claim, whether under 28 U.S.C. §2255 or any other provision of law, that contests the effectiveness of counsel's representation up to the time of the entry of his guilty plea.

9. Other than a separate bilateral agreement between the State of Israel and the defendant (hereinafter "the Israeli Agreement") attached hereto as Exhibit A, this plea agreement is the entire agreement and understanding between the United States and the defendant.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Date: _____

By: _____
BENJAMIN G. GREENBERG
ASSISTANT UNITED STATES ATTORNEY

Date: _____

By: _____
MICHAEL P. SULLIVAN
ASSISTANT UNITED STATES ATTORNEY

Date: _____

By: _____
ROY E. BLACK, ESQ.
ATTORNEY FOR DEFENDANT

Date: _____

By: _____
HOWARD M. SREBNICK
ATTORNEY FOR THE DEFENDANT

Date: _____

By: _____
ZE'EV ROSENSTEIN
DEFENDANT