

WAP

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**FILED**  
5-3-2013  
MAY 03 2013

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

UNITED STATES OF AMERICA )  
 )  
 vs. )  
 )  
 HUNG YI LIN, A/K/A KATY LIN )

No. 13 CR 125  
Judge Milton I. Shadur

**PLEA AGREEMENT**

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, GARY S. SHAPIRO, and defendant HUNG YI LIN, a/k/a KATY LIN, and her attorneys, JOHN T. THEIS and KENNETH M. MILLER, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

**Charges in This Case**

2. The superseding information in this case charges defendant with three counts of Entry of Goods into the United States by Means of False Statements, each in violation of Title 18, United States Code, Sections 542 and 2.

3. Defendant has read the charges against her contained in the superseding information, and the charges have been fully explained to her by her attorneys.

4. Defendant fully understands the nature and elements of the crimes with which she has been charged.

**Charges to Which Defendant Is Pleading Guilty**

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to Counts One, Two, and Three of the superseding information, which charges defendant with the Entry of Goods into the United States by Means of False Statements, each in violation of Title 18, United States Code, Sections 542 and 2.

**Factual Basis**

6. Defendant will plead guilty because she is in fact guilty of the charges contained in the superseding information. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline § 1B1.3:

***Fraudulent Practice to Import Chinese Honey into the United States and Transport the Honey in Interstate Commerce***

KBB Express Inc. was a freight forwarding company located in South El Monte, California that provided nationwide transportation, delivery, and other logistical services for imported and entered merchandise, including Chinese-origin honey. LIN owned and operated KBB Express Inc., and also served as the U.S. agent for at least twelve importers of record that were controlled by Chinese honey producers and manufacturers. These importers of record included Bright Step (United States) Limited; Sweet Campo Co., Ltd.; Migrow Trading Inc.; Chix Trading Inc.; Rouka International Inc.; Oliv Amber Trading Co., Ltd.; Titto International

Inc.; Stariver Trading Inc.; Tobest Trading Co., Ltd.; Russa International Inc.; Sunny (USA) Trading Inc.; and Silver Spoon International Inc. As the U.S. agent for these companies, LIN handled the process of importing, and coordinated with customhouse brokers to enter and bring in, Chinese-origin honey into the United States without paying antidumping duties and honey assessment fees.

Between about 2009 and 2012, LIN, while acting as the U.S. representative agent for the twelve importers of record and as part of a fraudulent practice to enter and introduce and cause others to enter and introduce Chinese-origin honey into the commerce of the United States in avoidance of U.S.-imposed antidumping duties and honey assessment fees, LIN caused to be filed CBP entry forms 3461 and 7501 that falsely and fraudulently declared up to 764 shipping containers of Chinese-origin honey valued at approximately \$11,489,306 to be sugars, syrups and apple juice concentrate (“sugars and syrups”), which fraudulent practice caused losses to the United States of as much as \$39,203,144.

As part of the fraudulent practice, LIN obtained, circulated, and maintained, and caused others to obtain and circulate, false and fraudulent bills of lading, invoices, packing lists, and other papers, including CBP entry forms 3461 and 7501, which LIN knew<sup>1</sup> to be materially false and fraudulent and which records were used to falsely and fraudulently declare Chinese-origin honey as sugars and syrups.

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<sup>1</sup> The defendant agrees that deliberate avoidance of the truth amounts to knowledge under the law and this plea agreement.

As part of the same fraudulent practice and after causing up to 764 shipping containers of Chinese-origin honey to fraudulently enter the United States as sugars and syrups, LIN caused KBB Express Inc. to deliver the Chinese honey to warehouses in California and Texas, where at the request of LIN's customers, including shell and front importers of record, overseas suppliers of Chinese honey, and others, LIN caused sugar and syrup labels and Chinese country of origin indicia to be removed from the drums of honey and at times replaced with labels that identified the product as honey of varying origins, and at other times with no labels at all, before the drums continued into the commerce of the United States, including to U.S. honey packers, as honey from countries other than China.

Between about December 2009 and about January 2010, LIN arranged and caused for ten container loads of mislabeled Chinese-origin honey to be transported by rail from California to the Northern District of Illinois. These ten container loads were identified by the following ten container numbers: TRIU0511370, TRIU0526364, TRIU0515307, TRIU0526030, DNAU2625313, DNAU2623563, TRIU0511620, TRIU0488876, TRIU0462948, and TRIU0517681.

In or about January 2010, upon their arrival in the Northern District of Illinois, LIN arranged and caused for these same ten containers to be loaded on individual semi-trucks and transported from the Northern District of Illinois to Indiana.

***Counts of Conviction***

**Count One:** On or about December 13, 2009, in the Northern District of Illinois, Eastern Division and elsewhere, LIN, entered and introduced and caused Sweet Campo Co., Ltd. to enter and introduce into the commerce of the United States, imported merchandise, namely, Chinese-origin honey, by means of a false and fraudulent practice, false statement, and fraudulent and false papers, including CBP entry forms 3461 and 7501, bearing entry number CDA-10115648, that falsely declared that approximately four container loads of Chinese-origin honey with a declared value upon entry of approximately \$92,822 was Chinese honey syrup, thereby causing losses to the United States of approximately \$205,141 in uncollected antidumping duties and honey assessment fees, when in fact LIN knew the product was Chinese honey, which honey LIN caused to be transported through the Northern District of Illinois.

**Count Two:** On or about December 13, 2009, in the Northern District of Illinois, Eastern Division and elsewhere, LIN, entered and introduced and caused Sweet Campo Co., Ltd. to enter and introduce into the commerce of the United States, imported merchandise, namely, Chinese-origin honey, by means of a false and fraudulent practice, false statement, and fraudulent and false papers, including CBP entry forms 3461 and 7501 bearing entry number CDA-10115655, that falsely declared that approximately three container loads of Chinese-origin honey with a declared value upon entry of approximately \$69,617 was Chinese honey syrup,

thereby causing losses to the United States of approximately \$153,855 in uncollected antidumping duties and honey assessment fees, when in fact LIN knew the product was Chinese honey, which honey LIN caused to be transported through the Northern District of Illinois.

**Count Three:** On or about December 13, 2009, in the Northern District of Illinois, Eastern Division and elsewhere, LIN, entered and introduced and caused Sweet Campo Co., Ltd. to enter and introduce into the commerce of the United States, imported merchandise, namely, Chinese-origin honey, by means of a false and fraudulent practice, false statement, and fraudulent and false papers, including CBP entry forms 3461 and 7501 bearing entry number CDA-10115739, that falsely declared that approximately three container loads of Chinese-origin honey with a declared value upon entry of approximately \$69,617 was Chinese honey syrup, thereby causing losses to the United States of approximately \$153,855 in uncollected antidumping duties and honey assessment fees, when in fact LIN knew the product was Chinese honey, which honey LIN caused to be transported through the Northern District of Illinois, Illinois.

LIN admits that between about 2009 and 2012 and through her fraudulent practices, LIN caused up to 764 shipping containers of Chinese-origin honey valued at approximately \$11,489,306 to be fraudulently imported and entered into the United States, thereby causing losses to the United States of as much as \$39,203,144.

The foregoing facts are set forth solely to assist the Court in determining whether a factual basis exists for defendant's plea of guilty and are not intended to be a complete or comprehensive statement of all the facts within defendant's personal knowledge regarding the charged crimes and related conduct.

**Maximum Statutory Penalties**

7. Defendant understands that the charges to which she is pleading guilty carries the following statutory penalties:

a. Counts One, Two, and Three, each carry a maximum sentence of 2 years' imprisonment and a maximum fine of \$250,000 or twice the gross gain or gross loss resulting from each offense, whichever is greater. Defendant further understands that for each of Counts One, Two, and Three, the judge also may impose a term of supervised release of not more than one year.

b. Defendant further understands that the Court must order restitution to the victim of the offenses in an amount determined by the Court.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on each charge to which she has pled guilty, in addition to any other penalty or restitution imposed.

d. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 6 years' imprisonment. In addition, defendant is subject to a total maximum fine of \$750,000 or twice the gross gain or

gross loss resulting from each offense, whichever is greater, a period of supervised release, and special assessments totaling \$300.

**Sentencing Guidelines Calculations**

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree, and agree to disagree, on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2012 Guidelines Manual.

b. **Offense Level Calculations.**

i. The offenses of conviction (Counts One, Two, and Three) and relevant conduct are grouped into a single group pursuant to Guideline § 3D1.2(d).

ii. Pursuant to Guideline § 3D1.3(b) the offense level applicable to the Group is the offense level corresponding to the aggregated loss.



iii. It is the government's position that the base offense level applicable to the Group is 28 pursuant to Guidelines §§ 2T3.1(a)(1) and 2T4.1(L) because the loss in antidumping duties and honey assessment fees, that is, as much as \$39,203,144, exceeded \$20 million but was less than \$50 million. Although the defendant does not disagree that the losses are as much as \$39,203,144, defendant reserves the right to advocate for a lesser amount of loss.

iv. The parties agree that pursuant to Guideline §2T1.1(b)(2), defendant's offense level is increased by 2 levels because defendant's offense conduct and relevant conduct involved sophisticated means.

v. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for her actions within the meaning of Guideline §3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to her ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

vi. In accord with Guideline §3E1.1(b), defendant has timely notified the government of her intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline §3E1.1(b), if

the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, it is the government's position that the anticipated offense is 27, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 70 to 87 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose. However, under the counts to which defendant is pleading guilty, the total maximum sentence is 6 years' imprisonment. Defendant reserves the right to advocate for a different sentencing range based on loss amount.

e. Defendant and her attorneys and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply

in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw her plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this Agreement is not governed by Fed.R.Crim.P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw her plea, nor the government the right to vacate this Agreement, on the basis of such corrections.

#### **Agreements Relating to Sentencing**

10. Each party is free to recommend whatever sentence it deems appropriate.

11. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Agreement and may impose a sentence up to the

maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw her guilty plea.

12. Regarding restitution, the parties acknowledge that pursuant to Title 18, United States Code, Section 3663A, the Court must order defendant to make full restitution to the United States for the losses stemming from the offenses of conviction (Counts One, Two, and Three), which the parties agree is approximately \$512,852, and which amount shall reflect credit for any funds repaid prior to sentencing.

13. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), she is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect her ability to pay restitution.

14. Defendant agrees to pay the special assessment of \$300 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

15. Defendant agrees that the United States may enforce collection of any fine or restitution imposed in this case pursuant to Title 18, United States Code, Sections 3572, 3613, and 3664(m), notwithstanding any payment schedule set by the Court.

## Acknowledgments and Waivers Regarding Plea of Guilty

### **Nature of Agreement**

16. This Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 13 CR 125.

17. This Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver, or release by the United States or any of its agencies of any administrative or judicial civil claim, demand, or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state, or local prosecuting, administrative, or regulatory authorities, except as expressly set forth in this Agreement.

### **Waiver of Rights**

18. Defendant understands that by pleading guilty she surrenders certain rights, including the following:

a. **Right to be charged by indictment.** Defendant understands that she has a right to have the charges prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives her right to be prosecuted by indictment and to assert

at trial or on appeal any defects or errors arising from the information, the information process, or the fact that she has been prosecuted by way of information.

b. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against her, and if she does, she would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and her attorneys would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict her unless, after hearing all the evidence, and considering each count separately, it was persuaded of her guilt beyond a reasonable doubt. The jury would have to agree

unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence and considering each count separately, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and her attorneys would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in her own behalf. If the witnesses for defendant would not appear voluntarily, she could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that she could decline to testify, and no inference of guilt could be drawn from her refusal to testify. If defendant desired to do so, she could testify in her own behalf.

c. **Waiver of appellate ~~and collateral~~ rights.** Defendant further understands she is waiving all appellate issues that might have been available if she had exercised her right to trial. Defendant is aware that Title 28,

United States Code, Section 1291, and Title 18, United States Code, Section 3742, afford a defendant the right to appeal her conviction and the sentence imposed. Acknowledging this, defendant knowingly waives the right to appeal her conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and fine within the maximums provided by law, and including any order of restitution, in exchange for the concessions made by the United States in this Plea Agreement.

~~Defendant also waives her right to challenge her conviction and sentence, and the manner in which the sentence was determined, and (in any case in which the term of imprisonment and fine are within the maximums provided by statute) her attorneys' alleged failure or refusal to file a notice of appeal, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255.~~

The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel, which relates directly to this waiver or to its negotiation, nor does it prohibit defendant from seeking a reduction of sentence based directly on a change in the law that is applicable to defendant and that, prior to the filing of defendant's request for relief, has been expressly made retroactive by an Act of Congress, the Supreme Court, or the United States Sentencing Commission.

*Kmm*  
*A.S.B.*  
*ve*  
*JJA*



d. Defendant understands that by pleading guilty she is waiving all the rights set forth in the prior paragraphs. Defendant's attorneys have explained those rights to her, and the consequences of her waiver of those rights.

19. Defendant understands that she has the right to be prosecuted for any criminal offense in the district or districts where the offense was committed. By signing this Plea Agreement, defendant knowingly consents to prosecution of the charges against her in the Northern District of Illinois and waives any objection to the venue of this prosecution.

**Presentence Investigation Report/Post-Sentence Supervision**

20. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against her, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

21. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of her financial circumstances, including her recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this

information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline §3E1.1 and enhancement of her sentence for obstruction of justice under Guideline §3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

22. For the purpose of monitoring defendant's compliance with her obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

#### **Other Terms**

23. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

24. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the Civil Division of the United States Attorney's Office, or an appropriate federal or state agency, for use in civil or administrative proceedings or investigations, rather than returning them to the third parties for later summons or subpoena in connection with a civil or administrative proceeding involving, or investigation of, defendant.

### Conclusion

25. Defendant understands that this Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

26. Defendant understands that her compliance with each part of this Agreement extends throughout the period of her sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event she violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this

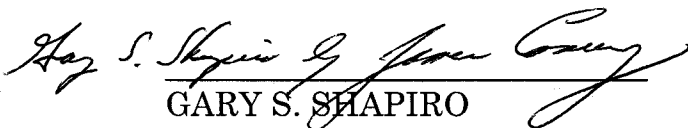
Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

27. Should the judge refuse to accept defendant's plea of guilty, this Agreement shall become null and void and neither party will be bound to it.

28. Defendant and her attorneys acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Agreement, to cause defendant to plead guilty.

29. Defendant acknowledges that she has read this Agreement and carefully reviewed each provision with her attorneys. Defendant further acknowledges that she understands and voluntarily accepts each and every term and condition of this Agreement.

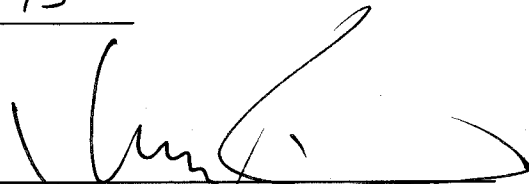
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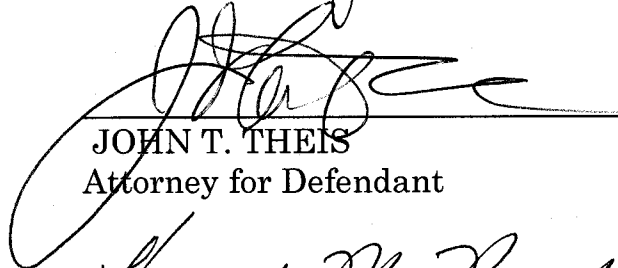
GARY S. SHAPIRO  
United States Attorney



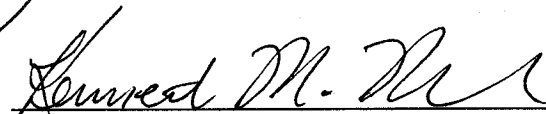
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