

Judge Ricardo S. Martinez

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JAN 16 2015

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPT.

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUNNY AHUJA, and  
BEEZ INDIA NATURAL PRODUCTS,

Defendants.

NO. CR11-0304RSM

**PLEA AGREEMENT**

The United States of America, by and through Annette L. Hayes, Acting United States Attorney for the Western District of Washington, Norman M. Barbosa, Assistant United States Attorney for said District, and Defendants, SUNNY AHUJA and BEEZ INDIA NATURAL PRODUCTS, by and through their attorney, Richard Hansen, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure Rule 11(c):

1. **The Charge.** Defendants, having been advised of the right to have this matter tried before a jury, agree to waive that right and enter a plea of guilty to the following charge contained in the Indictment: Conspiracy to Introduce Misbranded Food into Interstate Commerce in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2) and Smuggle Goods into the United States in violation of Title 18, United States Code, Section 545.

1 By entering this plea of guilty, Defendants hereby waive all objections to the form  
2 of the charging document. Defendants further understand that before entering their guilty  
3 plea, they will be placed under oath. Any statement given by Defendants under oath may  
4 be used by the United States in a prosecution for perjury or false statement.

5 2. **Elements of the Offense.** The elements of the offense of Conspiracy, as  
6 charged in Count 1, are as follows:

7 First, there was an agreement between two or more persons to commit at  
8 least one crime as charged in the indictment;

9 Second, the defendant became a member of the conspiracy knowing of at  
10 least one of its objects and intending to help accomplish it; and

11 Third, one of the members of the conspiracy performed at least one overt  
12 act for the purpose of carrying out the conspiracy.

13 The elements of the offense of Introduction of Misbranded Food into Interstate  
14 Commerce in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2) are  
15 as follows:

16 First, the defendants introduced or delivered for introduction, a food, into  
17 interstate commerce;

18 Second, the food was materially misbranded, in that the labeling falsely  
19 represented the nature of the product, and;

20 Third, the defendants misbranded the food or caused the food to be misbranded  
21 with the intent to defraud and mislead.

22 A statement is "material" if it has a natural tendency to influence, or be cable of  
23 influencing a decision.

24 The elements of the offense of Smuggling Goods into the United States in  
25 violation of Title 18, United States Code, Section 545 are as follows:

26 First, the defendants fraudulently and knowingly imported merchandise into the  
27 United States, and;

28

1 Second, the defendants did so contrary to Title 21, United States Code, Sections  
2 331(a) and 333(a)(2) as Charged in Count 1 of the Indictment.

3 3. **The Penalties.** Defendants understand that the statutory penalties  
4 applicable to the offense of Conspiracy are as follows:

5 a. As to defendant SUNNY AHUJA in his individual capacity:  
6 imprisonment for up to five (5) years, a fine of up to two hundred fifty thousand dollars  
7 (\$250,000.00), a period of supervision following release of up to three (3) years, and a  
8 one hundred dollar (\$100.00) special assessment;

9 b. As to defendant BEEZ INDIA NATURAL PRODUCTS, a fine of  
10 up to two hundred fifty thousand dollars (\$250,000.00) and up to five years of probation.

11 Defendant, SUNNY AHUJA, understands that supervised release is a period of  
12 time following imprisonment during which he will be subject to certain restrictive  
13 conditions and requirements. Defendant further understands that if supervised release is  
14 imposed and he violates one or more of the conditions or requirements, Defendant could  
15 be returned to prison for all or part of the term of supervised release that was originally  
16 imposed. This could result in Defendant serving a total term of imprisonment greater  
17 than the statutory maximum stated above.

18 Defendants understand that as a part of any sentence, in addition to any term of  
19 imprisonment and/or fine that is imposed, the Court may order Defendants to pay  
20 restitution to any victim of the offense, as required by law.

21 Defendants further understand that a consequence of pleading guilty may include  
22 the forfeiture of certain property either as a part of the sentence imposed by the Court, or  
23 as a result of civil judicial or administrative process.

24 Defendants agree that any monetary penalty the Court imposes, including the  
25 special assessment, fine, costs, or restitution, is due and payable immediately and further  
26 agrees to submit a completed Financial Statement of Debtor form as requested by the  
27 United States Attorney's Office.

1           4.     **Rights Waived by Pleading Guilty.** Defendants understand that by  
2 pleading guilty, they knowingly and voluntarily waive the following rights:

- 3           a.     The right to plead not guilty and to persist in a plea of not guilty;  
4           b.     The right to a speedy and public trial before a jury of his peers;  
5           c.     The right to the effective assistance of counsel at trial, including, if  
6                 Defendants could not afford an attorney, the right to have the Court  
7                 appoint one;  
8           d.     The right to be presumed innocent until guilt has been established  
9                 beyond a reasonable doubt at trial;  
10          e.     The right to confront and cross-examine witnesses against them at  
11                 trial;  
12          f.     The right to compel or subpoena witnesses to appear on their behalf  
13                 at trial;  
14          g.     The right to testify or to remain silent at trial, at which trial such  
15                 silence could not be used against them; and  
16          h.     The right to appeal a finding of guilt or any pretrial rulings.

17           5.     **Ultimate Sentence.** Defendants acknowledge that no one has promised or  
18 guaranteed what sentence the Court will impose.

19           6.     **Restitution.** Defendants shall make restitution in the amount of \$  
20 \$109,928.60 with credit for any amounts already paid. Restitution shall be joint and  
21 several. Said amount shall be due and payable immediately and shall be paid in  
22 accordance with a schedule of payments as proposed by the United States Probation  
23 Office and ordered by the Court.

24           7.     **Statement of Facts.** The parties agree on the following facts. Defendants  
25 admits they are guilty of the charged offense:

26                 The United States Food and Drug Administration (“FDA”) is an agency of the  
27 United States charged with the responsibility of protecting the health and safety of the  
28 American public by enforcing the Federal Food, Drug, and Cosmetic Act (hereinafter the

1 “FDCA”) and by ensuring, among other things, that foods bore labeling containing true  
2 and accurate information. Articles referred to as honey were food within the meaning of  
3 the FDCA, Title 21, United States Code, Section 321(f) because they were used for food  
4 or drink for man and for components of articles used for food or drink for man.

5 Under the FDCA, Title 21, United States Code, Section 331(a), the introduction or  
6 delivery for introduction into interstate commerce of a misbranded food, or the causing  
7 thereof, is prohibited. Under the FDCA, Title 21, United States Code, Section 343(a)(1),  
8 a food is misbranded if its labeling is false or misleading in any particular.

9 The United States Customs and Border Protection is an agency of the United  
10 States responsible for, among other things, the examination of merchandise brought into  
11 the United States to ensure that it is admissible and in compliance with United States  
12 laws and the assessment and collection of duties, taxes, and fees on imported  
13 merchandise. Customs laws and regulations required that importers provide various  
14 information, including, but not limited to, a description of the goods.

15 BEEZ INDIA NATURAL PRODUCTS is a company based in New Delhi, India  
16 that engages in the exportation of honey and other products to other countries throughout  
17 the world including the United States of America. SUNNY AHUJA is the General  
18 Manager and owner of BEEZ INDIA NATURAL PRODUCTS. Until approximately  
19 2012, MANOJ KUMAR was the Head of International Marketing for BEEZ INDIA  
20 NATURAL PRODUCTS.

21 Beginning in or about 2005, continuing until in or about June 2010, at Seattle,  
22 within the Western District of Washington and elsewhere, SUNNY AHUJA, MANOJ  
23 KUMAR, BEEZ INDIA NATURAL PRODUCTS, and others known and unknown to  
24 the grand jury, did knowingly and willfully combine, conspire, and agree to commit the  
25 following offenses against the United States, to wit:

26 a. Introduction of Misbranded Food into Interstate Commerce, in  
27 violation of Title 21, United States Code, Sections 331(a) and 333(a)(2); and  
28

1           b.     Smuggling Goods into the United States, in violation of Title 18,  
2 United States Code, Section 545.

3           It was a part of the conspiracy that SUNNY AHUJA, MANOJ KUMAR, BEEZ  
4 INDIA NATURAL PRODUCTS, and others known and unknown to the Grand Jury  
5 offered for sale a product described as “honey” to customers within the Western District  
6 of Washington and elsewhere. It was further part of the conspiracy that SUNNY  
7 AHUJA, MANOJ KUMAR, BEEZ INDIA NATURAL PRODUCTS, and others known  
8 and unknown to the Grand Jury would offer to import the product they marketed as  
9 “honey” to the United States through ports in Seattle, within the Western District of  
10 Washington, and elsewhere. It was further part of the conspiracy that SUNNY AHUJA  
11 and others known and unknown to the Grand Jury would attend trade shows in the United  
12 States and other countries where they would provide marketing materials to potential  
13 customers of BEEZ INDIA NATURAL PRODUCTS, including customers in the  
14 Western District of Washington. These marketing materials stated that BEEZ INDIA  
15 NATURAL PRODUCTS was an international supplier of “honey” and that it sold “pure  
16 and natural honey.”

17           It was further part of the conspiracy that SUNNY AHUJA, MANOJ KUMAR,  
18 BEEZ INDIA NATURAL PRODUCTS, and others known and unknown to the Grand  
19 Jury would import products falsely labeled as “100% Pure US Grade A Honey” to  
20 Seattle, within the Western District of Washington, and elsewhere. In truth and in fact, as  
21 the defendants then well knew, the product they imported also contained corn syrup.

22           In furtherance of the conspiracy and to accomplish one or more of its objects, on  
23 or about March 12, 2008, at Seattle within the Western District of Washington, SUNNY  
24 AHUJA, MANOJ KUMAR, and BEEZ INDIA NATURAL PRODUCTS, did, with  
25 intent to defraud and mislead, introduce and deliver for introduction, and cause to be  
26 introduced and delivered for introduction, into interstate commerce from India to Seattle,  
27 a food, namely, a product labeled as “honey,” which, when introduced and delivered into  
28 interstate commerce, was misbranded, in that the labeling falsely and misleadingly

1 represented the product to be 100% pure natural honey, when in truth and in fact, as  
2 defendants then well knew, the product consisted of more than fifty percent corn syrup.  
3 As part of the conspiracy, defendants also imported products falsely labeled as "honey"  
4 to companies in Virginia, Rhode Island, and Texas between March 2007, and May 2008,  
5 all of which were in fact made up of a combination of honey and large percentages of  
6 corn syrup. The total value of the misbranded honey sold to all of the victim companies  
7 was \$268,800.00.

8       **8. United States Sentencing Guidelines.** Defendants understand and  
9 acknowledge that the Court must consider the sentencing range calculated under the  
10 United States Sentencing Guidelines and possible departures under the Sentencing  
11 Guidelines together with the other factors set forth in Title 18, United States Code,  
12 Section 3553(a), including: (1) the nature and circumstances of the offense; (2) the  
13 history and characteristics of the defendant; (3) the need for the sentence to reflect the  
14 seriousness of the offense, to promote respect for the law, and to provide just punishment  
15 for the offense; (4) the need for the sentence to afford adequate deterrence to criminal  
16 conduct; (5) the need for the sentence to protect the public from further crimes of the  
17 defendant; (6) the need to provide the defendant with educational and vocational training,  
18 medical care, or other correctional treatment in the most effective manner; (7) the kinds  
19 of sentences available; (8) the need to provide restitution to victims; and (9) the need to  
20 avoid unwarranted sentence disparity among defendants involved in similar conduct who  
21 have similar records. Accordingly, Defendants understand and acknowledge that:

22           a. The Court will determine Defendants' Sentencing Guidelines range  
23 at the time of sentencing;

24           b. After consideration of the Sentencing Guidelines and the factors in  
25 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the  
26 maximum term authorized by law;

27           c. The Court is not bound by any recommendation regarding the  
28 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines

1 range offered by the parties or the United States Probation Department, or by any  
2 stipulations or agreements between the parties in this Plea Agreement; and

3 d. Defendants may not withdraw their guilty pleas solely because of the  
4 sentence imposed by the Court.

5 9. **Sentencing Factors.** The parties agree that the following Sentencing  
6 Guidelines provisions apply to this case:

7 a. The appropriate section of the United States Sentencing Guidelines  
8 is Section 2B1.1, which specifies a base offense level of 6;

9 b. The base offense level should be increased by 12 levels because the  
10 loss amount was more than \$200,000.00, but less than \$400,000.00 pursuant to Section  
11 2B1.1(b)(1);

12 c. The base offense level should be increased by 2 levels as to  
13 defendant SUNNY AHUJA because the defendant was an organizer, leader, manager or  
14 supervisor of criminal activity pursuant to Section 3B1.1(c);

15 d. The defendants' offense level should be reduced by 3 levels pursuant  
16 to USSG § 3E1.1(a) and (b).

17 The parties agree that no other provisions of the United States Sentencing  
18 Guidelines are applicable. Defendants understand, however, that at the time of  
19 sentencing, the Court is free to reject these stipulated adjustments, and is further free to  
20 apply additional downward or upward adjustments in determining Defendants'  
21 Sentencing Guidelines range.

22 10. **Sentencing Recommendation.** As to defendant SUNNY AHUJA, the  
23 United States agrees to recommend a sentence no higher than three months in custody at  
24 the time of sentencing. The parties are free to recommend any conditions of supervised  
25 release and or probation that the parties deem appropriate. Defendants understand that  
26 the Court is free to reject these recommendations, and is free to apply any conditions of  
27 supervised release and/or probation that it deems appropriate.



1           11.    **Pre-Sentence Appearance Bond.** In the event that SUNNY AHUJA posts  
2 a cash bond in the total amount of \$100,000.00 (with credit for cash amounts already  
3 posted), the United States agrees to not object to defendant's request for permission to  
4 travel to India pending sentencing. Should defendant violate any condition of the bond  
5 including by failing to appear for sentencing or any other pre-sentence hearings, the  
6 Court may order forfeited all cash that was posted as security. At the time of sentencing,  
7 if the bond has not been revoked, the Court shall apply the cash bond towards his  
8 restitution obligation and SUNNY AHUJA waives all right to request the return of the  
9 bond.

10           12.    **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,  
11 the United States Attorney's Office for the Western District of Washington agrees not to  
12 prosecute Defendants for any additional offenses known to it as of the time of this  
13 Agreement that are based upon evidence in its possession at this time, and that arise out  
14 of the conduct giving rise to this investigation. In this regard, Defendants recognize the  
15 United States has agreed not to prosecute all of the criminal charges the evidence  
16 establishes were committed by Defendants solely because of the promises made by  
17 Defendants in this Agreement. Defendants agree, however, that for purposes of  
18 preparing the Presentence Report, the United States Attorney's Office will provide the  
19 United States Probation Office with evidence of all conduct committed by Defendants.

20           Defendants agree that any charges to be dismissed before or at the time of  
21 sentencing were substantially justified in light of the evidence available to the United  
22 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant  
23 with a basis for any future claims under the "Hyde Amendment," Pub.L. No. 105-119  
24 (1997).

25           13.    **Breach, Waiver, and Post-Plea Conduct.** Defendants agree that if  
26 Defendants breach this Plea Agreement, the United States may withdraw from this Plea  
27 Agreement and Defendants may be prosecuted for all offenses for which the United  
28 States has evidence. Defendants agree not to oppose any steps taken by the United States

1 to nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea  
2 Agreement. Defendants also agree that if Defendants are in breach of this Plea  
3 Agreement, Defendants have waived any objection to the re-institution of any charges in  
4 the Indictment that were previously dismissed or any additional charges that had not been  
5 prosecuted.

6 Defendants further understand that if, after the date of this Agreement, Defendants  
7 should engage in illegal conduct, or conduct that violates any conditions of release or the  
8 conditions of confinement, (examples of which include, but are not limited to, obstruction  
9 of justice, failure to appear for a court proceeding, criminal conduct while pending  
10 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,  
11 Probation Officer, or Court), the United States is free under this Agreement to file  
12 additional charges against Defendants or to seek a sentence that takes such conduct into  
13 consideration by requesting the Court to apply additional adjustments or enhancements in  
14 its Sentencing Guidelines calculations in order to increase the applicable advisory  
15 Guidelines range, and/or by seeking an upward departure or variance from the calculated  
16 advisory Guidelines range. Under these circumstances, the United States is free to seek  
17 such adjustments, enhancements, departures, and/or variances even if otherwise  
18 precluded by the terms of the plea agreement.

19 14. **Waiver of Appeal.** In addition to the right to appeal any pretrial rulings  
20 which are waived by a plea of guilty, as part of this Plea Agreement and on the condition  
21 that the Court imposes a sentence that is within or below the Sentencing Guidelines range  
22 (or the statutory mandatory minimum, if greater than the Guidelines range) that is  
23 determined by the Court at the time of sentencing, Defendants waive to the full extent of  
24 the law:

25 a. any right conferred by Title 18, United States Code, Section 3742 to appeal  
26 the sentence, including any restitution order imposed; and  
27  
28

1           b.       any right to bring a collateral attack against the conviction and sentence,  
2 including any restitution order imposed, except as it may relate to the effectiveness of  
3 legal representation.

4           This waiver, however, does not preclude Defendants from bringing an appropriate  
5 motion pursuant to 28 U.S.C. 2241, to address the conditions of confinement or the  
6 decisions of the Bureau of Prisons regarding the execution of the sentence.

7           If Defendants breach this Plea Agreement at any time by appealing or collaterally  
8 attacking (except as to effectiveness of legal representation) the conviction or sentence in  
9 any way, the United States may prosecute Defendants for any counts, including those  
10 with mandatory minimum sentences, that were dismissed or not charged pursuant to this  
11 Plea Agreement.

12           15.    **Voluntariness of Plea.** Defendants agree that they have entered into this  
13 Plea Agreement freely and voluntarily and that no threats or promises, other than the  
14 promises contained in this Plea Agreement, were made to induce Defendants to enter the  
15 pleas of guilty.

16           16.    **Statute of Limitations.** In the event this Agreement is not accepted by the  
17 Court for any reason, or Defendants have breached any of the terms of this Plea  
18 Agreement, the statute of limitations shall be deemed to have been tolled from the date of  
19 the Plea Agreement to: (1) thirty (30) days following the date of non-acceptance of the  
20 Plea Agreement by the Court; or (2) thirty (30) days following the date on which a breach  
21 of the Plea Agreement by Defendants is discovered by the United States Attorney's  
22 Office.

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1           17.   **Completeness of Agreement.** The United States and Defendants  
2 acknowledge that these terms constitute the entire Plea Agreement between the parties.  
3 This Agreement binds only the United States Attorney's Office for the Western District  
4 of Washington. It does not bind any other United States Attorney's Office or any other  
5 office or agency of the United States, or any state or local prosecutor.

6           Dated this \_\_\_ day of January, 2015.

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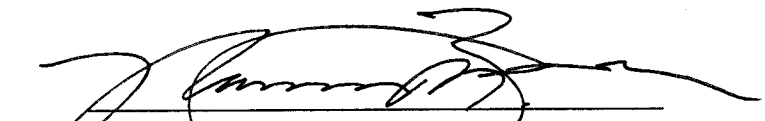
8 \_\_\_\_\_  
9 SUNNY AHUJA  
10 Defendant

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12 \_\_\_\_\_  
13 SUNNY AHUJA on behalf of  
14 BEEZ INDIA NATURAL PRODUCTS  
15 Defendant

16 

17 \_\_\_\_\_  
18 RICHARD HANSEN  
19 Attorney for Defendants

20   
21 \_\_\_\_\_  
22 NORMAN M. BARBOSA  
23 Assistant United States Attorney