

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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U.S. DISTRICT COURT  
SAN JUAN, PR

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UNITED STATES OF AMERICA,

Plaintiff,  
v.

EDWIN COLON RODRIGUEZ,

Defendant.

Criminal Nos. 08-036 (PJB)  
07-414 (PJB)

Plea Agreement  
Pursuant to Rule 11(c)(1)(A) and (C) FRCP

TO THE HONORABLE Court:

COMES NOW the United States of America, by and through its attorneys, Rosa Emilia Rodríguez-Vélez, United States Attorney for the District of Puerto Rico, María A. Domínguez, First Assistant United States Attorney, and Ernesto López Soltero, Assistant United States Attorney for said District, together with William Welch, Chief of the Public Integrity Section of the Department of Justice, Peter Koski and Ethan Levisohn, Trial Attorneys for said Section, and the defendant, **EDWIN COLON RODRIGUEZ**, and the defendant's counsel, Héctor Guzman, Assistant Federal Public Defender, pursuant to Rule 11(c)(1)(A) and (C) of the Federal Rules of Criminal Procedure, and state to this Honorable Court, that they have reached an agreement, the terms and conditions of which are as follows:

**1. COUNTS TO WHICH DEFENDANT PLEADS GUILTY**

The defendant, **EDWIN COLON RODRIGUEZ**, agrees to plead guilty to COUNT ONE of the Indictment in case number 07-414 (PJB), charging the defendant with embezzling approximately \$50,000, from a federal campaign, in violation of Title 2, United States Code, Section 439a. The United States agrees to move to dismiss counts 17

through 25 of the Indictment in case number 07-414 (PJB) after the defendant has been sentenced. The defendant, **EDWIN COLON RODRIGUEZ**, also agrees to plead guilty to COUNT EIGHT of the Superseding Indictment in case number 08-036 (PJB), charging the defendant with making a false statement to the Federal Election Commission, in violation of Title 18, United States Code, Section 1001(a)(1). The United States agrees to move to dismiss Count One the Superseding Indictment in case number 08-036 (PJB) after the defendant has been sentenced.

## **2. PENALTIES**

The maximum penalty for the offense charged in Count One of the Indictment in case number 07-414 (PJB) and Count Eight of the Superseding Indictment in case number 08-036 (PJB) is a term of imprisonment of not more than five (5) years and/or a fine of not more than Two Hundred and Fifty Thousand Dollars (\$250,000.00), and a term of supervised release of not more than three (3) years, in addition to any term of incarceration, for each of the counts.

## **3. SPECIAL MONETARY ASSESSMENT**

At the time of the signing of this Plea Agreement the defendant will pay a special assessment of one hundred dollars (\$100.00) per count, as required by Title 18, *United States Code*, Section 3013(a), for a total of \$200.00.

## **4. FINES AND/OR RESTITUTION**

The Court may, pursuant to Section 5E1.2 of the *Sentencing Guidelines, Policy Statements, Application, and Background Notes*, order the defendant to pay a fine sufficient to reimburse the government for the costs of any imprisonment and/or supervised

release ordered and also the Court may impose restitution. As part of this Plea Agreement, the defendant agrees to execute a financial statement to the United States (OBD Form 500). The United States will make no recommendations as to the imposition of fines.

**5. RULE 11(c)(1)(C) WARNINGS**

The defendant is aware that under Rule 11(c)(1)(C), the Court may accept or reject the plea agreement, or may defer its decision as to its acceptance or rejection until it has considered the presentence report. If the Court rejects the plea agreement, the Court shall, on the record, inform the parties of this fact, and afford the defendant an opportunity to withdraw the guilty plea, and advise the defendant that if he persists in a guilty plea, the disposition of the case may be less favorable to him than that contemplated in the plea agreement. In addition, as part of the terms and conditions of this plea agreement, the parties agree that should the Court reject the plea agreement, the United States reserves its right to withdraw from its obligations under the same.

**6. ADVISORY NATURE OF THE SENTENCING GUIDELINES**

The defendant is aware that pursuant to the decisions issued on January 12, 2005, by the Supreme Court of the United States in the cases of *United States v. Booker* and *United States v. Fanfan*, 543 U.S. 220 (2005), the Sentencing Guidelines are no longer mandatory and must be considered effectively advisory. However, the parties also agree that the District Court should use the 2003 Sentencing Guidelines if they are more favorable to the defendant.

## 7. SENTENCING GUIDELINE CALCULATIONS

The United States and the defendant agree that the following Sentencing Guidelines calculations apply (based on the 2007 edition of the Sentencing Guidelines) to the defendant's conduct with regard to the counts the defendant is pleading guilty to:

<b>SENTENCING GUIDELINES CALCULATION TABLE (Embezzlement Offense)</b>	
<b>BASE OFFENSE LEVEL [U.S.S.G. §2C1.8] For the Embezzlement Offense</b>	<b>8</b>
<b>SPECIFIC OFFENSE CHARACTERISTICS [§ 2B1.1 Loss Calculation (Between \$30,000 and \$70,000)</b>	<b>6</b>
<b>Abuse of Position of Trust [§ 3B1.3]</b>	<b>2</b>
<b>ACCEPTANCE OF RESPONSIBILITY [§ 3E1.1(b)]</b>	<b>- 3</b>
<b>TOTAL OFFENSE LEVEL (Imprisonment range)</b>	<b>13 (12-18)</b>

## 8. SENTENCE RECOMMENDATION

The United States agrees to recommend that the defendant be sentenced to the low end of the applicable guideline range, specifically twelve months and one day.

## 9. NO FURTHER ADJUSTMENTS OR DEPARTURES

The United States and the defendant agree that no further adjustments or departures to the defendant's total offense level shall be sought by the parties, other than as contemplated in this paragraph.

## 10. NO STIPULATION AS TO CRIMINAL HISTORY CATEGORY

The parties do not stipulate any assessment as to the defendant's Criminal History Category.

#### **11. THE PARTIES' RESERVATION OF RIGHTS**

The United States and the defendant reserve the right to carry out their responsibilities under guidelines sentencing. Specifically, the United States and the defendant reserve their rights: (a) to bring their versions of the facts of this case including their files and any investigative files to the attention of the probation office in connection with that office's preparation of a pre-sentence report; (b) to dispute sentencing factors or facts material to sentencing; and, (c) to seek resolution of such factors or facts in conference with opposing counsel and the United States Probation Office.

#### **12. SATISFACTION WITH COUNSEL**

The defendant represents to the Court to be satisfied with counsel, Héctor Guzmán, Assistant Federal Public Defender, and indicates that counsel has rendered effective legal assistance.

#### **13. RIGHTS SURRENDERED BY DEFENDANT THROUGH GUILTY PLEA**

Defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. Defendant understands that the right of criminal defendants include the following:

- (a) If the defendant had persisted in a plea of not guilty to the charges, defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the defendant, the United States and the judge agree;
- (b) If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. The defendant and defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be

instructed that the defendant is presumed innocent, that it could not convict the defendant unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately;

- (c) If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established the defendant's guilt beyond a reasonable doubt;
- (d) At a trial, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence in defendant's own behalf. If the witnesses for the defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court;
- (e) At a trial, the defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilty could be drawn from his refusal to testify. If the defendant desired to do so, the defendant could testify in his own behalf.

#### **14. STATEMENT OF FACTS**

The accompanying Statement of Facts signed by the defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Statement of Facts and agrees that the facts therein are accurate and, had the matter proceeded to trial, that the United States would have proven those facts beyond a reasonable doubt.

#### **15. LIMITATIONS OF PLEA AGREEMENT**

This Plea Agreement binds only the United States Attorney's Office for the District of Puerto Rico, the Public Integrity Section of the Department of Justice, and the defendant; it does not bind any other federal district, state or local authorities.

**16. ENTIRETY OF PLEA AGREEMENT**

This written agreement constitutes the complete Plea Agreement between the United States, the defendant, and the defendant's counsel. The United States has made no promises or representations except as set forth in writing in this Plea Agreement and deny the existence of any other term and conditions not stated herein.

**17. AMENDMENTS TO PLEA AGREEMENT**

No other promises, terms or conditions will be entered unless in writing and signed by all parties.

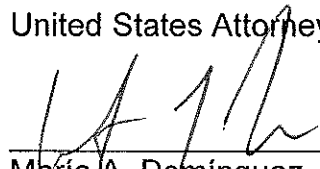
**18. WAIVER OF APPEAL**

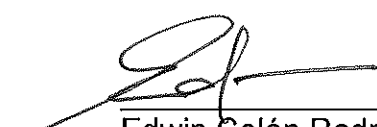
The defendant hereby agrees that if this Honorable Court accepts this Plea Agreement and sentences him according to its terms, conditions, and recommendations, the defendant waives and surrenders his right to appeal the judgment and sentence in this case.

**19. VOLUNTARINESS OF GUILTY PLEA**

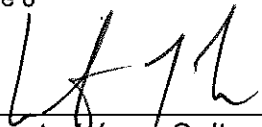
The defendant acknowledges that no threats have been made against the defendant and that the defendant is pleading guilty freely and voluntarily because the defendant is guilty.


ROSA EMILIA RODRIGUEZ-VELEZ  
United States Attorney

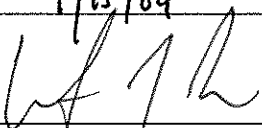
  
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María A. Domínguez  
First Assistant U.S. Attorney  
Chief, Criminal Division  
Date: 1/15/09

  
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Edwin Colón Rodríguez  
Defendant  
Date: 1/15/09

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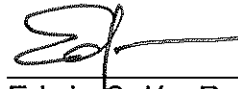
  
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Ernesto López Soltero  
Assistant U.S. Attorney  
Date: 1/15/09

  
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Héctor Guzmán, AFPD  
Counsel for Defendant  
Date: 1/16/09

  
\_\_\_\_\_  
Peter Koski  
Ethan Levisohn  
Trial Attorneys  
Public Integrity Section  
U.S. Department of Justice  
Date: 1/22/09

I have consulted with my counsel and fully understand all my rights with respect to the Indictment pending against me. Further, I have consulted with my attorney and fully understand my rights with respect to the provision of the *Sentencing Guidelines, Policy Statements, Application, and Background Notes* which may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with my attorneys. I fully understand this agreement and I voluntarily agree to it.

Date: 11/15/09



Edwin Colón-Rodríguez  
Defendant

I am the attorney for the defendant. I have fully explained to the defendant his rights with respect to the pending Indictment. Further, I have reviewed the provisions of the *Sentencing Guidelines, Policy Statements, Application, and Background Notes*, and have fully explained to the defendant the provisions of those guidelines which may apply in this case. I have also explained to the defendant the advisory nature of the *Sentencing Guidelines*. I have carefully reviewed every part this Plea Agreement with the defendant. To my knowledge, the defendant is entering into this agreement is voluntarily, intelligently and with full knowledge of all the consequences of his plea of guilty.

Date: 11/16/09



Héctor Guzmán, AFPD  
Counsel for Defendant  
Dated: