

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA, :

- v - :

(S) 83 Cr. 821 (RJW)

EDUARDO AROCENA, a/k/a "Omar," :  
"Napoleon," "Andres," "Alejandro :  
Medina," "Victor," :

Defendant. :

- - - - -x

GOVERNMENT'S MEMORANDUM OF LAW  
IN SUPPORT OF MOTION TO INTRODUCE  
AN UNAVAILABLE WITNESS'S STATEMENTS  
AGAINST PENAL INTEREST

RUDOLPH W. GIULIANI  
United States Attorney for the  
Southern District of New York  
Attorney for the United States  
of America

BRUCE A. GREEN  
Assistant United States Attorney

- Of Counsel -

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :  
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 - v - : (S) 83 Cr. 821 (RJW)  
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 EDUARDO AROCENA, a/k/a "Omar," :  
 "Napoleon," "Andres," "Alejandro :  
 Medina," "Victor," :  
 :  
 Defendant. :

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GOVERNMENT'S MEMORANDUM OF LAW  
IN SUPPORT OF MOTION TO INTRODUCE  
AN UNAVAILABLE WITNESS'S STATEMENTS  
AGAINST PENAL INTEREST

This memorandum is respectfully submitted in support of a motion which the Government will make prior to trial to permit it to introduce admissions of an unindicted co-conspirator, Jose Ignacio Gonzalez. Prior to becoming a fugitive, Gonzalez testified in a Federal Grand Jury concerning his membership in "Omega 7" and his participation in crimes in Miami, Florida, which are included in the above-captioned Indictment. The Government will offer into evidence a copy of the transcript of Gonzalez's testimony from which references to defendant Eduardo Arocena have been redacted.

STATEMENTS OF FACTS

On February 10, 1984, Jose Ignacio Gonzalez entered into a cooperation agreement with the Government. Under that agreement, a copy of which is attached as Exhibit A, Gonzalez would plead guilty to a two-count Information and would testify truthfully before the Grand Jury and at any other proceedings at which the Government requested his testimony. In turn, the Government agreed not to prosecute Gonzalez further for his activity as a member of "Omega 7."

Pursuant to the cooperation agreement, Gonzalez testified before a Federal Grand Jury on February 14, 1984. A copy of the transcript of his testimony is attached as Exhibit B. Before the Grand Jury, Gonzalez admitted his involvement in "Omega 7." He described his participation in various bombings and attempted bombings, including the bombing of the Mexican Consulate in Miami, Florida, on September 11, 1981, and the attempt to bomb the Nicaraguan Consulate on September 2, 1982.\* He also described his participation in efforts to raise money for "Omega 7" by agreeing to extort drug dealers, as well as his role in arranging for a French journalist named Hubert Lassier to interview defendant Arocena as the head of "Omega 7."

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\* The bombing of the Mexican Consulate in Miami, Florida is predicate act "E" of Count Twenty-One of the Arocena Indictment. The attempted bombing of the Nicaraguan Consulate in Miami, Florida is included in the first overt act of Count Twenty-Six.

On February 21, 1984, Gonzalez pleaded guilty to Information 84 Cr. 151 (RLC) before Judge Robert L. Carter of this Court. That Information charged him in two counts with illegal possession of a destructive device in violation of Title 26, United States Code, Section 5861(d), and with conspiracy in violation of Title 18, United States Code, Section 371.

On June 5, 1984, Gonzalez failed to appear as required before Judge Carter, who thereupon issued a warrant for Gonzalez's arrest. On June 5, 1984, Gonzalez was indicted for failure to appear, in violation of Title 18, United States Code, Section 3150. Indictment 84 Cr. 343. On August 2, 1984, the Government also moved for judgment on forfeiture of bail posted toward Gonzalez's release on the original charges. A copy of the affidavit in support of that motion is attached as Exhibit C. As set forth in that affidavit, the Government has been advised that Gonzalez fled to Guatemala on April 12, 1984. The Federal Bureau of Investigation and others have made a diligent, but as yet unavailing, effort to secure Gonzalez's return.

Pursuant to Fed. R. Evid. 804(b)(3), the Government will offer into evidence at trial a transcript of Gonzalez's Grand Jury testimony, from which references to defendant Arocena have been redacted. The portion of the transcript which are to be redacted have been underlined in Exhibit B.

DISCUSSION

The redacted transcript of Gonzalez's Grand Jury testimony is admissible under Fed. R. Evid. 804(b)(3).<sup>\*</sup> Rule 804(b)(3) permits the admission of an unavailable witness's statement against penal interest. It is beyond question that Gonzalez's fugitivity makes him "unavailable" for purposes of the Rule. It is equally clear that Gonzalez's statements before the Grand Jury were contrary to his penal interest. The charges which could be brought against Gonzalez, based upon his admitted participation in bombings and racketeering conduct, far exceed in

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\* Rule 804 provides:

(b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(b) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far intended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

number and in seriousness the charges to which he agreed to plead guilty, and eventually did plead guilty, pursuant to the cooperation agreement with the Government. Indeed, by his failure to comply with that agreement, Gonzalez may now be charged by Federal and State authorities with those additional crimes.

The Second Circuit's decision in United States v. Winley, 638 F.2d 560 (2d Cir. 1981), cert. denied, 455 U.S. 959 (1982), which affirmed the admission of redacted guilty plea allocutions, is precisely on point. Winley involved a bank robbery trial before Judge Weinfeld, in which two unindicted co-conspirators refused to testify, although they had been ordered to do so. Accordingly, the co-conspirators were held to be "unavailable" witnesses under Rule 804. The Government offered in evidence the co-conspirators' guilty plea allocutions, each of which was redacted to exclude any reference to the defendant. The district judge received the witnesses' redacted admissions as declarations against penal interest. Because the declarations were considered admissible to corroborate other testimony and to prove the existence of a conspiracy, but not to prove the defendant's membership in the conspiracy, the district court gave the jury cautionary instructions concerning the declarations of the two unavailable witnesses. 638 F.2d at 561.

The Court of Appeals in Winley upheld the admission of the unavailable witnesses' redacted declarations. The Court observed that "evidence of a plea that does not implicate the defendant, i.e., name or in some manner refer to him, would seem to fall squarely within the ambit of Rule 804(b)(3)." 638 F.2d at 562. The Court noted further that "[i]t is hard to conceive of any admission more incriminating to the maker or surrounded by more safeguards of trustworthiness than a plea of guilty in federal court... ." Ibid. Cf. United States v. Katsougrakis, 715 F.2d 769 (2d Cir. 1983).

Like the guilty plea allocutions in Winley, Gonzalez's inculpatory admissions were extremely incriminating and were surrounded by safeguards of trustworthiness inasmuch as they were made under oath in Federal Grand Jury proceedings. False statements by Gonzalez not only would have been punishable under Title 18, United States Code, Section 1623, but would also have constituted a violation of his cooperation agreement. Accordingly, Gonzalez's inculpatory declarations, redacted to exclude any reference to defendant Arocena, are admissible with a cautionary instruction for the purpose of corroborating other testimony at trial and to prove the existence of the "Omega 7" conspiracy.

CONCLUSION

A redacted transcript of co-conspirator Jose Ignacio Gonzalez's inculpatory declarations before the Federal Grand Jury is admissible under Fed. R. Evid. 804(b)(3).

Dated: New York, New York

August 7, 1984

Respectfully submitted,

RUDOLPH W. GIULIANI  
United States Attorney for the  
Southern District of New York  
Attorney for the United States  
of America

By:   
\_\_\_\_\_  
BRUCE A. GREEN  
Assistant United States Attorney





United States Attorney  
Southern District of New York

One Saint Andrew's Plaza  
New York, New York 10007  
February 10, 1984

Stephen A. Glass, Esquire  
1250 N.W. 7th Street  
Miami, Florida 33125

Re: United States v. Jose Ignacio Gonzalez, 83 Cr. 828 (RLC)

Dear Mr. Glass:

On the understandings specified below, the United States will accept guilty pleas from your client, Jose Ignacio Gonzalez, in the United States District Court for the Southern District of New York, to both counts of a felony Information to be filed by the United States Attorney's Office for the Southern District of New York and as to which Mr. Gonzalez will waive venue and indictment, charging violations in the Southern District of Florida and the Southern District of New York of 26 U.S.C. § 5861(d) (illegal possession of a destructive device, as defined in 26 U.S.C. § 5845(f)) and of 18 U.S.C. § 371 (conspiracy), carrying a maximum sentence of ten (10) years' imprisonment and a \$10,000 fine for violation of 26 U.S.C. § 5861(d) (as set forth in 26 U.S.C. § 5871) and a maximum sentence of five (5) years' imprisonment and a \$10,000 fine for violation of 18 U.S.C. § 371, for a combined total possible maximum sentence of fifteen (15) years' imprisonment and \$20,000 in fines. If he fully complies with these understandings, Mr. Gonzalez will not, except possibly for criminal tax violations, be prosecuted by this Office or by the United States Attorney's Office for the Southern District of Florida for (a) any other "Omega 7" bombings that he participated in planning or executing; (b) any conspiracy or substantive crime related to raising money for "Omega 7;" (c) prior obstruction of justice and prior perjury before the Federal Grand Jury investigating "Omega 7" crimes in the Southern District of New York; (d) harboring fugitive Eduardo Arocena; and (e) possession or creation of illegal firearms other than what is referred to in the Information. Further, if he fully complies with these understandings, this Office will not oppose dismissal, at the time of sentencing on the aforementioned Information, of the two-count Indictment, 83 Cr. 828 (RLC) which is currently pending against Mr. Gonzalez and which charges him with making false declarations before the Grand Jury, in violation of 18 U.S.C. § 1623. In addition, if he fully complies with these understandings, no testimony or other information given by Mr. Gonzalez (and no information directly or indirectly derived from such testimony or other information) will be used against him in any criminal tax prosecution.

The understandings are that Mr. Gonzalez shall truthfully disclose all information with respect to the activities of himself and others concerning all matters about which this Office or the United States Attorney's Office for the Southern District of Florida inquires of him, and, further, shall truthfully testify before the Grand Jury and at any trials and other court proceedings with respect to any matters about which this Office or the United States Attorney's Office for the Southern District of Florida may request his testimony.

*[Handwritten initials and marks]*  
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M  
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Stephen A. Glass, Esquire  
Re: Jose Ignacio Gonzalez  
February 10, 1984  
Page Two

It is further understood that the sentence to be imposed upon Mr. Gonzalez is within the sole discretion of the sentencing Judge. This Office and the United States Attorney's Office for the Southern District of Florida cannot and do not make any promise or representation as to what sentence Mr. Gonzalez will receive, nor will this Office recommend any specific sentence to the sentencing Judge. This Office will inform the sentencing Judge and the Probation Department of (1) this Agreement; (2) the nature and extent of Mr. Gonzalez's activities with respect to this case; and (3) the full nature and extent of Mr. Gonzalez's cooperation with this Office and the date when such cooperation commenced. In addition, this Office retains the right to present to the sentencing Judge and Probation Department, orally and/or in writing, any and all facts and arguments relevant to sentencing. It is further understood that this Agreement in no way affects or limits this Office's right to respond to and take positions on post-sentencing motions or requests for information which relate to parole or reduction or modification of sentence.

It is further understood that, except as specifically stated in the final sentence of the first paragraph above, this Agreement is limited to the United States Attorney's Office for the Southern District of New York and the United States Attorney's Office for the Southern District of Florida, and cannot bind other federal, state, or local prosecuting authorities, although this Office will bring the cooperation of Mr. Gonzalez to the attention of other prosecuting offices, if requested.

It is further understood that Mr. Gonzalez must at all times give complete, truthful, and accurate information and testimony, and must not commit any further crimes whatsoever. Should Mr. Gonzalez commit any further crimes or should it be determined that Mr. Gonzalez has given false, incomplete, or misleading testimony or information, or have otherwise violated any provision of this Agreement, Mr. Gonzalez shall thereafter be subject to prosecution for any federal criminal violation of which this Office or the United States Attorney's Office for the Southern District of Florida has or have knowledge, including, but not limited to, perjury and obstruction of justice. Any such prosecutions may be premised upon any information provided by Mr. Gonzalez, and such information may be used against him.

Furthermore it is agreed that in the event that it is determined that Mr. Gonzalez has violated any provision of this Agreement, (i) all statements made by Mr. Gonzalez to this Office or other law enforcement agents, and any testimony given by Mr. Gonzalez before a grand jury or other tribunal, whether prior to or subsequent to this Agreement, and any leads from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings currently pending or hereafter brought against Mr. Gonzalez; and (ii) Mr. Gonzalez shall assert no claim under the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by Mr. Gonzalez prior to or subsequent to this Agreement, or any leads therefrom, should be suppressed. It is the intent of this Agreement to waive any and all rights in the foregoing respects.

*Jm*

*lg*  
*R*  
*W*

Stephen A. Glass, Esquire  
Re: Jose Ignacio Gonzalez  
February 10, 1984  
Page Three

It is further agreed that Mr. Gonzalez will waive any rights he may have to be sentenced, on the guilty plea to be entered pursuant to this agreement, prior to the Government's determination that Mr. Gonzalez's cooperation pursuant to this agreement has been completed. No additional promises, agreements, or conditions have been entered into other than those set forth in this letter, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

RUDOLPH W. GIULIANI  
United States Attorney

By: Michael L. Tabak  
Michael L. Tabak  
Assistant United States Attorney  
Room 932; Tel.: (212) 791-9232

APPROVED:

Lawrence B. Pedowitz  
LAWRENCE B. PEDOWITZ  
Chief, Criminal Division

AGREED AND CONSENTED TO:

Jose Ignacio Gonzalez  
JOSE IGNACIO GONZALEZ

APPROVED:

Stephen A. Glass  
STEPHEN A. GLASS, ESQ.  
Attorney for Jose Ignacio Gonzalez

The foregoing is also approved by the United States Attorney's Office for the Southern District of Florida.

STANLEY MARCUS  
United States Attorney

By: Frederick R. Mann, Jr.  
Frederick R. Mann, Jr.  
Assistant United States Attorney  
for the Southern District of Florida  
Tel.: (305) 350-5454

Frederick R. Mann, Jr.  
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**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*One St. Andrew's Plaza  
New York, New York 10007  
January 19, 1984*

Joseph Ryan, Jr., Esquire  
1250 N.W. 7th Street  
Miami, Florida 33125

Re: Gerardo Necuze

Dear Mr. Ryan:

On the understandings specified below, the United States will accept guilty pleas from your client, Gerardo Necuze, in United States District Court for the Southern District of Florida, to both counts of a two count felony Information to be filed by the United States Attorney's Office for the Southern District of Florida and as to which Mr. Necuze will waive indictment, charging violations in the Southern District of Florida and the Southern District of New York of 18 U.S.C. §§ 970(a) and 2 (destruction of property in the United States used by a foreign government; aiding and abetting) and § 371 (conspiracy), carrying maximum sentences of five (5) years' imprisonment and a \$10,000 fine per count, for a combined possible maximum sentence of ten (10) years' imprisonment and a \$20,000 fine. If he fully complies with these understandings, Gerardo Necuze will not, except possibly for criminal tax violations, be prosecuted by this Office or by the United States Attorney's Office for the Southern District of Florida for (a) any other "Omega 7" bombings that he participated in planning or executing; (b) any conspiracy or substantive crime related to raising money for "Omega 7;" (c) prior obstruction of justice and prior perjury before the Federal Grand Jury investigating "Omega 7" crimes in the Southern District of New York; (d) harboring fugitive Eduardo Arocena; and (e) possession or creation of illegal firearms. In addition, if he fully complies with these understandings, no testimony or other information given by Mr. Necuze (and no information directly or indirectly derived from such testimony or other information) will be used against him in any criminal tax prosecution.

The understandings are that Mr. Necuze shall truthfully disclose all information with respect to the activities of himself and others concerning all matters about which this Office or the United States Attorney's Office for the Southern District of Florida inquires of him, and, further, shall truthfully testify before the Grand Jury and at any trials and other court proceedings with respect to any matters about which this Office or the United States Attorney's Office for the Southern District of Florida may request his testimony.

Joseph Ryan, Jr., Esquire  
Re: Gerardo Necuze  
January 19, 1984  
Page Two

It is further understood that the sentence to be imposed upon Mr. Necuze is within the sole discretion of the sentencing Judge. This Office and the United States Attorney's Office for the Southern District of Florida cannot and do not make any promise or representation as to what sentence Mr. Necuze will receive, nor will this Office recommend any specific sentence to the sentencing Judge. This Office will inform the sentencing Judge and the Probation Department of (1) this Agreement; (2) the nature and extent of Mr. Necuze's activities with respect to this case; and (3) the full nature and extent of Mr. Necuze's cooperation with this Office and the date when such cooperation commenced. In addition, this Office retains the right to present to the sentencing Judge and Probation Department, orally and/or in writing, any and all facts and arguments relevant to sentencing. It is further understood that this Agreement in no way affects or limits this Office's right to respond to and take positions on post-sentencing motions or requests for information which relate to parole or reduction or modification of sentence.

It is further understood that, except as specifically stated in the final sentence of the first paragraph above, this Agreement is limited to the United States Attorney's Office for the Southern District of New York and the United States Attorney's Office for the Southern District of Florida, and cannot bind other federal, state, or local prosecuting authorities, although this Office will bring the cooperation of Mr. Necuze to the attention of other prosecuting offices, if requested.

It is further understood that Mr. Necuze must at all times give complete, truthful, and accurate information and testimony, and must not commit any further crimes whatsoever. Should Mr. Necuze commit any further crimes or should it be determined that Mr. Necuze has given false, incomplete, or misleading testimony or information, or has otherwise violated any provision of this Agreement, Mr. Necuze shall thereafter be subject to prosecution for any federal criminal violation of which this Office or the United States Attorney's Office for the Southern District of Florida has or have knowledge, including, but not limited to, perjury and obstruction of justice. Any such prosecutions may be premised upon any information provided by Mr. Necuze, and such information may be used against him.

Furthermore it is agreed that in the event that it is determined that Mr. Necuze has violated any provision of this Agreement, (i) all statements made by Mr. Necuze to this Office or other law enforcement agents, and any testimony given by Mr. Necuze before a grand jury or other tribunal, whether prior to or subsequent to this Agreement, and any leads from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings hereafter brought against Mr. Necuze; and (ii) Mr. Necuze shall assert no claim under the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by him prior to or subsequent to this Agreement, or any leads therefrom, should be suppressed. It is the intent of this Agreement to waive any and all rights in the foregoing respects.

Joseph Ryan, Jr., Esquire  
Re: Gerardo Necuze  
January 19, 1984  
Page Three

It is further agreed that Mr. Necuze will waive any rights he may have to be sentenced, on the guilty pleas to be entered pursuant to this agreement, prior to the Government's determination that Mr. Necuze's cooperation pursuant to this agreement has been completed. The Government agrees that it will permit Mr. Necuze to surrender, rather than be arrested, on the Information to be filed, and that the Government will not oppose any reasonable bail request that Mr. Necuze may make, with regard to that Information. It is further agreed that Assistant United States Attorney Michael L. Tabak, or another representative of this Office if Mr. Tabak is unavailable, will attend the guilty plea and the sentencing of Mr. Necuze in the Southern District of Florida and will be available at that time to inform the sentencing judge orally about Mr. Necuze's cooperation and other relevant facts, as indicated above. No additional promises, agreements, or conditions have been entered into other than those set forth in this letter, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

RUDOLPH W. GIULIANI  
United States Attorney

By: Michael L. Tabak  
Michael L. Tabak  
Assistant United States Attorney  
Room 725; Tel.: (212) 791-0005

APPROVED:

Denise L. Cote  
DENISE L. COTE  
Deputy Chief, Criminal Division

AGREED AND CONSENTED TO:

Gerardo Necuze  
GERARDO NECUZE

APPROVED:

Joseph Ryan, Jr.  
JOSEPH RYAN, JR.  
Attorney for Gerardo Necuze

The foregoing is also approved by the United States Attorney's Office for the Southern District of Florida.

STANLEY MARCUS  
United States Attorney

By: Frederick R. Mann, Jr.  
Frederick R. Mann, Jr.  
Assistant United States Attorney  
for the Southern District of Florida



U.S. Department of Justice

*United States Attorney  
Southern District of New York*

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*One Saint Andrew's Plaza  
New York, New York 10007  
January 25, 1984*

Mr. Justo Rodriguez

Dear Mr. Rodriguez:

On the understandings specified below, the United States will accept a guilty plea from you, in United States District Court for the Southern District of Florida, to one count of a felony Information to be filed by the United States Attorney's Office for the Southern District of Florida and as to which you will waive indictment, charging violation in the Southern District of Florida and the Southern District of New York of 18 U.S.C. § 371 (conspiracy), carrying a maximum sentence of five (5) years' imprisonment and a \$10,000 fine. If you fully comply with these understandings, you will not, except possibly for criminal tax violations, be prosecuted by this Office or by the United States Attorney's Office for the Southern District of Florida for (a) any other "Omega 7" bombings that you participated in planning or executing; (b) any conspiracy or substantive crime related to raising money for "Omega 7;" (c) prior obstruction of justice and prior perjury before the Federal Grand Jury investigating "Omega 7" crimes in the Southern District of New York; and (d) harboring fugitive Eduardo Arocena. In addition, if you fully comply with these understandings, no testimony or other information given by you (and no information directly or indirectly derived from such testimony or other information) will be used against you in any criminal tax prosecution.

The understandings are that you shall truthfully disclose all information with respect to the activities of yourself and others concerning all matters about which this Office or the United States Attorney's Office for the Southern District of Florida inquires of you, and, further, shall truthfully testify before the Grand Jury and at any trials and other court proceedings with respect to any matters about which this Office or the United States Attorney's Office for the Southern District of Florida may request your testimony.

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*Jm*

Justo Rodriguez  
January 25, 1984  
Page Two

It is further understood that the sentence to be imposed upon you is within the sole discretion of the sentencing Judge. This Office and the United States Attorney's Office for the Southern District of Florida cannot and do not make any promise or representation as to what sentence you will receive, nor will this Office recommend any specific sentence to the sentencing Judge. This Office will inform the sentencing Judge and the Probation Department of (1) this Agreement; (2) the nature and extent of your activities with respect to this case; and (3) the full nature and extent of your cooperation with this Office and the date when such cooperation commenced. In addition, this Office retains the right to present to the sentencing Judge and Probation Department, orally and/or in writing, any and all facts and arguments relevant to sentencing. It is further understood that this Agreement in no way affects or limits this Office's right to respond to and take positions on post-sentencing motions or requests for information which relate to parole or reduction or modification of sentence.

It is further understood that, except as specifically stated in the final sentence of the first paragraph above, this Agreement is limited to the United States Attorney's Office for the Southern District of New York and the United States Attorney's Office for the Southern District of Florida, and cannot bind other federal, state, or local prosecuting authorities, although this Office will bring your cooperation to the attention of other prosecuting offices, if requested.

It is further understood that you must at all times give complete, truthful, and accurate information and testimony, and must not commit any further crimes whatsoever. Should you commit any further crimes or should it be determined that you have given false, incomplete, or misleading testimony or information, or have otherwise violated any provision of this Agreement, you shall thereafter be subject to prosecution for any federal criminal violation of which this Office or the United States Attorney's Office for the Southern District of Florida has or have knowledge, including, but not limited to, perjury and obstruction of justice. Any such prosecutions may be premised upon any information provided by you, and such information may be used against you.

Furthermore it is agreed that in the event that it is determined that you have violated any provision of this Agreement, (i) all statements made by you to this Office or other law enforcement agents, and any testimony given by you before a grand jury or other tribunal, whether prior to or subsequent to this Agreement, and any leads from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings hereafter brought against you; and (ii) you shall assert no claim under the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by you prior to or subsequent to this Agreement, or any leads therefrom, should be suppressed. It is the intent of this Agreement to waive any and all rights in the foregoing respects.

*Fry*

*JS*

*MB*



Justo Rodriguez  
January 25, 1984  
Page Three

It is further agreed that you will waive any rights you may have to be sentenced, on the guilty plea to be entered pursuant to this agreement, prior to the Government's determination that your cooperation pursuant to this agreement has been completed. The Government agrees that it will permit you to surrender, rather than be arrested, on the information to be filed, and that the Government will not oppose any reasonable bail request that you may make, with regard to that information. It is further agreed that Assistant United States Attorney Michael L. Tabak, or another representative of this Office if Mr. Tabak is unavailable, will attend your guilty plea and sentencing in the Southern District of Florida and will be available at that time to inform the sentencing judge orally about your cooperation and other relevant facts, as indicated above. No additional promises, agreements, or conditions have been entered into other than those set forth in this letter, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

RUDOLPH W. GIULIANI  
United States Attorney

By: Michael L. Tabak  
Michael L. Tabak  
Assistant United States Attorney  
Room 932; Tel.: (212) 791-9232

APPROVED:

Lawrence B. Pedowitz  
LAWRENCE B. PEDOWITZ  
Chief, Criminal Division

AGREED AND CONSENTED TO:

Justo Rodriguez  
JUSTO RODRIGUEZ

The foregoing is also approved by the United States Attorney's Office for the Southern District of Florida.

STANLEY MARCUS  
United States Attorney

By: Frederick R. Mann, Jr.  
Frederick R. Mann, Jr.  
Assistant United States Attorney  
for the Southern District of Florida  
Tel.: (305) 350-5454

On January 25, 1984, I orally translated the entire foregoing three-page letter, verbatim, from English into Spanish for Mr. Rodriguez.

Isolina Bernhardt  
Isolina Bernhardt  
Certified Interpreter

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MR. TABAK: I'm going to ask that the witness  
be sworn.

J O S E I G N A C I O G O N Z A L E Z,  
called as a witness, having been first duly  
sworn by the Foreman of the Grand Jury,  
testified as follows:

(Time noted: 2:15 o'clock p.m.)

BY MR. TABAK:

Q Would you please state your complete name?

A Jose Ignacio Gonzalez.

Q And your second name is Ignacio, I-g-n-a-c-i-o?

A -- c-i-o, yes.

Q And it's Gonzalez, G-o-n-z-a-l-e-z?

A Yes.

Q Mr. Gonzalez, is it fair to say that you have  
not been subpoenaed but that you are appearing voluntarily  
today before the Grand Jury?

A Yes, I do.

Q Is that correct?

A Yes, it is correct.

Q And you have asked that the questions be in  
English and you've indicated that you prefer to answer in  
English?

A Yes.

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2 Q As I've previously explained to you, if at any  
3 point you feel that it would be helpful to have an  
4 Interpreter here, we have one available and we can have  
5 an interpreter here. Okay?

6 A Yes, I know.

7 Q Now, Mr. Gonzalez, is it fair to say that you  
8 are aware that you are currently under Indictment, indeed,  
9 an indictment returned by this Grand Jury for committing  
10 perjury before this Grand Jury?

11 A Yes.

12 Q You are aware of that?

13 A Yes, I am aware of that.

14 Q And you are currently jailed at the Metropolitan  
15 Correctional Center in Manhattan, is that correct?

16 A Yes.

17 Q And are you further aware that the Government  
18 has told Judge Carter that barring other developments,  
19 the Government intends to ask this Grand Jury to supersede  
20 the Indictment with other charges?

21 A Yes, I know.

22 Q Now, have you discussed your coming here today  
23 with your attorney, Stephen Glass?

24 A Yes, I did.

25 Q And did he agree that you should come voluntarily

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to the Grand Jury today?

A He did agree.

Q And did you participate in lengthy discussions with Mr. Glass about whether you ought to come in today, and so forth?

A Yes, I did.

Q And what your rights were?

A My rights now?

Q Well, did you discuss with your attorney what your rights were and whether you ought to come here?

A Yes, all the implications. We discussed it and he agreed with me that I should come and volunteer.

Q Now, I want to remind you of certain important matters before we begin.

You are appearing before the March 1982 Additional Grand Jury No. 2. The Grand Jury is investigating murders, bombings and conspiracy to commit those and other crimes which have occurred in the Southern District of New York and elsewhere mostly since 1977, many of which Omega 7 has taken credit for.

Various possible violations of the criminal laws of the United States being investigated by this Grand Jury include, among others, violations of Title 18, United States Code, Sections 112, 371, 842, 844, 970, 1116, 1117,

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2 1623, 1962, and Title 26, United States Code, Section 5861,  
3 and these sections that I have mention relate to assaults  
4 on foreign officials within the United States, conspiracy  
5 to violate Federal laws, illegal transportation of  
6 explosives, destruction of foreign Government property  
7 located in the United States, murder, attempted murder and  
8 conspiracy to murder foreign officials in the United  
9 States, perjury or false statements before the Grand Jury,  
10 violations of the RICO statute, which relates to inter-  
11 state racketeering activites, and illegal possession of  
12 bombs or other destructive devices, among other possible  
13 violations of the Federal Criminal Law.

14 You are a target of this investigation, and not  
15 only have you already been indicted for perjury before  
16 the Grand Jury, but it is possible that you could be named  
17 as a defendant in a superseding Indictment or an  
18 additional indictment on other charges arising out of this  
19 investigation.

20 Do you understand that?

21 A Yes, I do.

22 Q Do you also understand that you are a target  
23 of an investigation being conducted by the United States  
24 Attorney's Office for the Southern District of Florida  
25 and  
at a Grand Jury down there?

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A Yes.

Q You have the right to consult with an attorney of your choice before answering any questions here today.

Further, although an attorney cannot accompany you into the Grand Jury room because the Grand Jury's proceedings are secret, your attorney can be present outside the Grand Jury room and you may leave the Grand Jury room at any time to confer with your attorney before answering any questions.

Do you understand that?

A Yes.

Q Now, you are currently represented by a lawyer that you have privately retained named Stephen A. Glass, is that correct?

A It is. Yes.

Q He is from Miami, Florida, right?

A Yes.

Q Is it fair to say that there has been a series of lengthy discussions between you and your attorney and me and Mr. Mann, of the U.S. Attorney's Office for the Southern District of <sup>Florida</sup> New York about whether you ought to appear here today and whether any agreement could be reached between you and the Government?

A Yes.

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A Yes.

Q Before you are asked any questions, I'm going to remind you of your Constitutional rights.

Under the Fifth Amendment to the United States Constitution, you have the right to refuse to answer any question if you believe that your truthful answer to that question would tend to incriminate you.

Do you understand that?

A Ah huh. Yes, I do.

Q You may answer some questions and you may refuse to answer any other questions which you believe may incriminate you.

Do you understand that?

A Yes.

Q If you do answer any questions, the answers which you give may be used against you by the Grand Jury or in a court of law or other proceedings.

Do you understand that?

A Yes.

Q If you decide to answer questions which are asked of you, you may also thereafter stop answering at any time and invoke your privilege against self-incrimination, as I have explained to you.

Do you understand that?

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Q And is it fair to say that you have thought about this very carefully and you've discussed it at length with your attorney?

A Yes, I have.

Q And you've discussed it with your attorney at times when no one from the Government was present, is that correct?

A Yes.

Q Now, I will remind you that although your attorney is not physically present outside the Grand Jury room today, that if at any time you want to telephone him or you want the proceedings postponed or adjourned so that you can consult with him again, just tell us and we'll comply with your request. Okay?

A Okay. Yes.

Q Now, you are under oath, which means you have sworn to tell the truth. If you lie to the Grand Jury, that is, if you make a knowing misstatement of a material fact to the Grand Jury, you can be charged with a crime, and in particular, with additional counts of perjury.

You understand that?

A Yes.

Q Do you understand all of your rights as I've explained them to you?



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A Yes, I do.

Q Now, is it fair to say that last Friday, after a series of lengthy meetings and discussions between you and your attorney and me and Mr. Mann, and so forth, that you made an agreement with the Government which was reduced to writing?

A Yes.

Q And did you read the agreement carefully before you signed it?

A I did.

Q Did you discuss it with your attorney before you signed it?

A I did.

Q Was he present at the time that you signed it?

A Yes.

Q And did he also sign it?

A Yes.

Q And did you and your attorney initial every page of the agreement?

A Yes, we did.

MR. TABAK: I'm now going to ask that this document, which is a three-page letter addressed to Stephen Glass, dated February 10th, 1984 -- this is a copy -- be marked as Exhibit 3 of today's date.

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(So marked.)

Q Mr. Gonzalez, I want you to look this over and tell the Grand Jury if this is a copy of the agreement that you made and that you signed and initialed.

A Yes, it is.

Q Now, you have your glasses on, and I will ask you to look at the third page. Is that your signature?

A Yes.

Q All right. And is it your initials on pages 1, 2 and 3?

A Yes.

Q Now, I want to go over, not the entire letter, but certain provisions of it before I ask you any questions here today, just to make sure that in addition to all the discussions that you've previously had with your attorney about it, that it's on the record here today that you understand what this agreement says.

The agreement says that on the understandings specified below, the United States will accept guilty pleas from you -- now, I'm -- since it's addressed to Mr. Glass, I'm going to paraphrase it as it relates to you.

On the understandings specified below, the United States will accept guilty pleas from you in the

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United States District Court for the Southern District of New York to both counts of a felony Information to be filed by the United States Attorney's Office for the Southern District of New York and as to which you will waive venue and indictment -- and I'll go into what that means again in a minute -- charging violations in the Southern District of Florida and the Southern District of New York of 26 United States Code, Section 5861D, illegal possession of a destructive device, as defined in 26 United States Code, Section 5845F, and of 18 U.S. Code, Section 371, conspiracy.

Now, let me interrupt just to go over a couple of these areas. Is it correct that you have agreed that you are going to enter guilty pleas to this two-count Information that we've discussed?

A Yes.

Q And you understand that both of the charges are felony charges?

A Yes.

Q All right. And do you understand that the charge of illegal possession of a destructive device carries a maximum sentence of ten years imprisonment and a \$10,000 fine?

A Yes, I do.

1  
2 Q And do you also understand that violation of  
3 the conspiracy statute carries a maximum penalty of five  
4 years imprisonment and a \$10,000 fine?

5 A Yes.

6 Q So you're aware that you will be pleading  
7 guilty, if you carry through on this agreement, to charges  
8 which could result in as much as fifteen years imprison-  
9 ment and a \$20,000 in fines?

10 A Yes, I do.

11 Q And you have agreed that you're going to waive  
12 Indictment, which means that you're not going to ask a  
13 Grand Jury to vote on whether you should be charged with  
14 this, you're just going to allow the Government to file  
15 the charges, is that correct?

16 A Yes, I do agree.

17 Q And you have also agreed that you are going to  
18 waive venue, which means that you are not going to insist  
19 that the charges be filed in Florida, but instead you're  
20 prepared to have them filed in New York and that you will  
21 plead guilty to them in New York, is that correct?

22 A Yes, I do.

23 Q You understand that you have the right or you  
24 would have the right, if you weren't voluntarily giving  
25 it up pursuant to this agreement, to be charged in Florida

1  
2 rather than in New York and to face trial in Florida, do  
3 you understand that?

4 A Yes, I do.

5 Q But you've decided to waive that right and  
6 be charged in New York?

7 A Yes.

8 Q You also understand that you would have the  
9 right to have the charges brought before a Grand Jury  
10 before you could be formally charged and the Grand Jury  
11 might vote not to charge you and in which case you  
12 wouldn't be charged and you're giving up the right to have  
13 a Grand Jury pass on that question, you're just allowing  
14 the United States Attorney's Office to file the charges,  
15 is that correct?

16 A Yes, it is.

17 Q And you've discussed this with your attorney?

18 A I did.

19 Q All right. And I also want to make sure that  
20 you understand by agreeing to plead guilty to those  
21 charges there are certain rights that you have that you're  
22 giving up voluntarily if you decide to go through with  
23 this. In particular, you would have the right to plead not  
24 guilty, as, indeed, you've previously done on the perjury  
25 charges in New York, and you would have the right to

1  
2 continue to plead not guilty.

3 Do you understand that?

4 A Yes, I do.

5 Q And if you did plead not guilty, the Government  
6 would be required to have a trial at which the Government  
7 would have to prove beyond a reasonable doubt each and  
8 every element of the charges against you to the satisfaction  
9 of all twelve of the jurors; do you understand that?

10 A Yes, I do.

11 Q And if any one of the twelve jurors was not  
12 convinced beyond a reasonable doubt that you were guilty,  
13 then you could not be convicted; do you understand that?

14 A Yes.

15 Q In other words, the Government cannot convict  
16 you unless all twelve jurors unanimously agree that the  
17 Government has proved beyond a reasonable doubt that you  
18 are guilty; do you understand that?

19 A I do.

20 Q Do you also understand that you would have the  
21 presumption of innocence at the trial and the judge would  
22 instruct the jury that you are to be considered innocent  
23 and that the Indictment itself doesn't mean that you're  
24 guilty, it's just a charge that you're facing and they are  
25 to consider you innocent unless and until the Government

1  
2 has proved beyond a reasonable doubt that you were guilty  
3 of the charges; do you understand that?

4 A Yes, I do.

5 Q Do you also understand that you would not have  
6 to call any witnesses or put any evidence on at the  
7 trial; you would have the right to call witnesses and have  
8 your lawyer call witnesses and require witnesses to  
9 testify in your defense, but you would not have to do that?

10 A Yes, I do.

11 Q And you understand that when the Government  
12 would call witnesses to testify against you at a trial,  
13 that your attorney and you would have the opportunity to  
14 confront them, which is to say, to sit there and be  
15 present while these people testify against you and you  
16 would also have the right to cross-examine these witnesses;  
17 do you understand that?

18 A I do.

19 Q Do you also understand that you would have  
20 the right to an attorney at the trial, and if you couldn't  
21 afford to pay the fee for an attorney to do the trial,  
22 that the Court would appoint a qualified attorney free of  
23 charge for you?

24 A Yes, I do.

25 Q And that that attorney would represent you at

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all stages of the proceedings?

A Yes.

Q Do you also understand that at the trial you would be allowed to testify in your own behalf if you wanted to, but that you could not be forced to testify if you didn't want to, and that the Judge would instruct the Jury that they should not consider against you the fact that you chose not to testify, if you decided not to testify?

A Yes, I understand.

Q All right. And do you also understand that by pleading guilty to the charges, that there will not be any further trial and you will be considered just as convicted and just as guilty, and you can be sentenced the same way as if you had gone to trial and been found guilty?

A Yes, I do.

Q All right. And you've discussed all of these matters with your attorney, is that correct?

A I did.

Q Now, in addition, is it fair to say that there have been no threats made to you --

A No.

Q -- to get you to make the plea?



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A No.

Q And it's a voluntary decision on your part?

A Yes.

Q And your lawyer concurs in this decision?

A Yes.

Q All right. And is it fair to say that no promises or predictions have been made to you about what the sentence is actually going to be that the Judge will impose?

A You're right.

Q And is it fair to say that the only agreements that have been reached are contained in this letter of February 10th, 1984, which is Exhibit 3 of today's date?

A Yes.

Q All right. Now I want to begin going through the letter here.

It says that if you fully comply with the understandings in the agreement, you will not, except possibly for criminal tax violations, be prosecuted by the United States Attorney's Office for the Southern District of New York or the United States Attorney's Office for the Southern District of Florida for any other Omega 7 bombings that you participated in planning or executing, any conspiracy or substantive crime related to raising

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2 money for Omega 7, any prior obstruction of justice or  
3 prior perjury before the Grand Jury investigating Omega 7  
4 crimes in the Southern District of New York or for  
5 harboring fugitive Eduardo Arocena or for possession or  
6 creation of illegal firearms other than what is referred to  
7 in the Information that you're going to be pleading to.

8 So, you understand, the Government has agreed  
9 in return for your pleading guilty and the other things  
10 you're agreeing to in this letter, that it will not  
11 charge you with any of those other crimes.

12 You understand that?

13 A Yes, I do.

14 Q Further, it is provided in the agreement that  
15 if you fully comply with these understandings, the United  
16 States Attorney's Office for the Southern District of  
17 New York will not oppose the dismissal at the time you  
18 are sentenced on the charges that you are pleading guilty  
19 to of the Indictment which is currently pending against  
20 you and which charges you with making false declarations  
21 before the Grand Jury. So, you understand that the  
22 Government has agreed that not only will it not charge  
23 you with the other things that I've mentioned, but the  
24 Government will not oppose having the current perjury  
25 charges dismissed at the time that you are sentenced for

1  
2 the two charges that you have agreed to plead guilty to,  
3 which are illegal possession of a destructive device and  
4 conspiracy?

5 A Yes, I understand.

6 Q All right. Now, I'm skipping certain other  
7 matters here.

8 The letter also says, and again I'm paraphrasing,  
9 that the understandings are that you shall truthfully  
10 disclose all information with respect to the activities  
11 of yourself and others concerning all matters about  
12 which the United States Attorney's Office for the  
13 Southern District of New York or for the United States  
14 Attorney's Office for the Southern District of Florida  
15 inquires of you.

16 So, you understand that you have agreed that  
17 you will provide complete and truthful information not  
18 only about your own activities, but the activities of  
19 anybody else that we ask you about.

20 A Yes.

21 Q And you have also agreed that you will truth-  
22 fully testify before the Grand Jury and at any trials and  
23 other court proceedings with respect to any matters about  
24 which the United States Attorney's Office for the Southern  
25 District of New York or the United States Attorney's

1  
2 Office for the Southern District of Florida may request  
3 your testimony?

4 A Yes.

5 Q And you have agreed to that?

6 A Yes.

7 Q And you understand that although I have  
8 indicated to you that the Government is doing everything  
9 that it can to try to get various people involved in this  
10 case to plead guilty, as you're doing, so that it won't  
11 be necessary for you to testify, that I can't guarantee  
12 you that everybody will plead guilty and it may be that  
13 you will be called upon to testify?

14 A Yes.

15 Q You understand that?

16 A Yes.

17 Q And you also understand that you have agreed  
18 to testify if you're called?

19 A Yes.

20 Q Including at a public trial?

21 A Yes.

22 Q Now, the agreement goes on to say, it is further  
23 understood that the sentence to be imposed upon you is  
24 within the sole discretion of the sentencing judge,  
25 who you know is Judge Carter, and you recall you have been

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before him in this case?

A Yes.

Q And this office and the United States Attorney's Office for the Southern District of Florida cannot and do not make any promise or representation as to what sentence you will receive nor will the United States Attorney's Office for the Southern District of New York recommend any specific sentence to the sentencing judge; you understand that?

A Yes.

Q And then it says that this office will inform the sentencing judge and Probation Department of this agreement and the nature and extent of your activities with respect to this case, in other words, what you've done wrong, and the full nature and extent of your cooperation with this office and the date when that commenced.

You understand that?

A Yes.

Q In addition, the United States Attorney's Office retains the right to present to the sentencing judge and the Probation Department orally and/or in writing any and all facts and arguments relevant to sentencing.

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2 It is further understood that this agreement  
3 in no way affects or limits the United States Attorneys'  
4 Offices right to respond to and take positions on post-  
5 sentencing motions or requests for information which relate  
6 to parole or reduction or modification of sentence.

7 You understand that?

8 A Yes.

9 Q It is further understood that the agreement  
10 is limited to the U.S. Attorneys' Offices for New York and  
11 Miami and cannot bind other prosecuting authorities.

12 Do you understand that?

13 A Yes.

14 Q Now, it also says that it is further understood  
15 that you must at all times give complete, truthful and  
16 accurate information and testimony and must not commit  
17 any further crimes whatsoever.

18 Now, I've discussed that at length with you  
19 and your attorney, correct?

20 A Yes.

21 Q And you understand that if you break the  
22 agreement by not telling the whole truth to the Grand Jury  
23 or at a trial, that the Government can charge you with  
24 everything else that you've done, including all the things  
25 that we've agreed we won't charge you with if you testify

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truthfully?

A Yes.

Q And the agreement says, should you commit any further crimes, or should it be determined that you have given false, incomplete or misleading testimony or information, or have otherwise violated any provision of this agreement, you shall thereafter be subject to prosecution for any Federal criminal violation of which the U.S. Attorney's Office for the Southern District of New York or the U.S. Attorney's Office for the Southern District of Florida has or have knowledge, including but not limited to perjury and obstruction of justice.

Any such prosecutions may be premised upon any information provided by Mr. Gonzalez, and such information may be used against him.

Do you understand that?

A Yes.

Q So, in other words, you understand that from here on out, anything that you say today in the Grand Jury or to us in interviews, and so on, can be used against you if you later violate the agreement and we decide to charge you with all sorts of other things?

A Yes, I do understand that.

Q So you understand that this is a very serious

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step you're taking today and it's critically important that you tell the whole truth, you understand that?

A Yes.

Q All right. And in particular, it says that it is agreed that in the event that it is determined that you have violated any provision of the agreement, all statements that you have made to this office or other law enforcement agents, and any testimony that you've given before a Grand Jury or other tribunal, whether prior to or subsequent to this agreement, and any leads from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings currently pending or hereafter brought against Mr. Gonzalez, and that you won't make any attempt to have any such statements kept out of evidence or suppressed, and you've agreed to that, correct?

A Yes.

Q And it further says that you have finally agreed that you will waive any rights that you may have to be sentenced on the guilty plea that you're going to enter before the Government's determination that your cooperation pursuant to this agreement has been completed; you agree to that, correct?

A Yes.



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2 Q And then it says, no additional promises, agree-  
3 ments, or conditions have been entered into other than  
4 those set forth in this letter, and none will be entered  
5 into unless in writing and signed by all the parties; is  
6 that correct?

7 A Yes.

8 Q And the only other discussion that we have had  
9 that relates to all of these matters is that I have told  
10 you that the Government will not oppose any reasonable  
11 bail request that your attorney may make with regard to  
12 your situation at this time; is that correct?

13 A Yes.

14 Q And you understand that your attorney is trying  
15 to come up with sufficient collateral so that we can reach  
16 an agreement on an appropriate amount of bail which the  
17 Judge would accept so that you could be released after  
18 the guilty plea is taken; is that correct?

19 A Yes.

20 Q Now, Mr. Gonzalez, is it fair to say that when  
21 you previously appeared before this Grand Jury that you  
22 deliberately lied as to certain matters?

23 A Yes, I did.

24 Q And in particular, you said that you didn't  
25 know who the Frenchman is, but you really know who the

1  
2 Frenchman was, correct?

3 A Yes.

4 Q Who is the Frenchman?

5 A Lassier, a journalist from France.

6 Q Hubert Lassier, L-a-s-s-i-e-r, and he's a  
7 journalist from France?

8 A Yes.

9 Q Where did you first come to meet him?

10 A In Argentina.

11 Q How did you come to meet him?

12 A I was introduced to him, but we didn't discuss  
13 much about -- about anything of Omega 7, more or less,  
14 but he said that he was going to go to Miami and he wanted  
15 to see me, and then lately I met him in Miami.

16 Q You say lately. You mean later you met him?

17 A Yes, later, yes. I don't recall the date. The  
18 court have the information through my visa. I met him  
19 and I arrange an interview.

20 Q Through your visa?

21 A Yes, my Passport, the stamps, and I arrange for  
22 an interview, you know, for Omega 7.

23 Q Now, who was it that introduced you to  
24 Mr. Lassier in Argentina?

25 A Freddie Zaratini.

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Q Z-a-r-a-t-i-n-i, correct?

A I think so, yes.

Q Can you describe just briefly the meeting that happened in the warehouse in Hialeah with Mr. Lassier?

A Well, I pick him up in the hotel, which I don't remember the name, Miami Beach. I took him to a parking lot where him and another person and I went into a van covered up --

Q The other person, was that somebody that Mr. Lassier had brought with him?

A Yes.

Q And you went into a van?

A We went on the back of the van, which it was covered, all covered, and you couldn't see outside.

Q When you say covered, you mean the windows were covered or painted over?

A The windows, yes.

Q And then what happened?

A We drove all over, you know, I don't know how long, maybe an hour, whatever, until we went inside what is supposed to be a warehouse, and we stand there for -- stand inside about five, ten minutes without -- not getting out until they took us out, and then they brought us in --

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Q Who is they that brought you in?-

A They have hoods.

Q You mean other people from Omega 7?

A Yes.

Q And they were wearing hoods over their heads?

A Yes.

Q What happened inside the warehouse?

A He make an interview of, you know, of why we were trying to overthrow Castro, and so forth, you know.

Q Who did most of the talking for Omega 7?

A Only one person.

Q Who is that?

A Well, supposed to be the head of the organization, he was -- didn't sound -- he sounds with a voice different.

Q He was trying to disguise his voice?

A Yes.

Q But you knew who that was, correct?

A Yes, I figure --

Q Who was that?

A I figure it was Arocena.

Q You knew very well it was Arocena?

A Yes. He have hood. Everything was covered with material, so you couldn't see anything in the place.

Q What was the other man who came with Mr. Lassier

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doing?

A I don't know the name.

Q What was he doing there?

A He was filming it.

Q He was filming it?

A Taping it.

Q Do you happen to recall whether Mr. Lassier understood Spanish?

A Not much.

Q So how was this interview being done?

A In English.

Q In English?

A Yes.

Q Was Arocena talking in English or was it being translated by somebody?

A In English.

Q He was talking in English?

A Yes.

Q And you don't have anydoubt that it was Arocena who was talking there, correct?

A No, I don't think so.

Q You know it was Arocena?

A I didn't see him.

Q You'd known him for a long time and you knew it

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was Arocena, correct?

A Yes.

Q Is it fair to say that you were ever a member of Omega 7?

A Yes.

Q All right. And did you participate in any bombings or attempted bombings by Omega 7?

A Yes, I did.

Q Would you tell the Grand Jury about some of those?

A Okay. I participated in the one on the Mexican Consulate in Miami in protest for the relation that Mexico has with Cuba and the economic help that Mexico is giving Cuba with the United States money.

Q And, briefly, what did you do with regard to the Mexican Consulate bombing?

A Another person, you know, Gerry and I --

Q That's Gerardo Necuze?

A Gerardo Necuze, yes -- we went there. We were given a cigar box with an explosive device.

Q Who gave that to you?

A Arocena.

Q Where did he give it to you?

A In one apartment in LaHacienda Apartments.

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Q Did he give any instructions about connecting it or anything?

A Yes, to plug in the wire to a battery.

Q The battery snap connector?

A Snap connector, and to be sure that the time was set for midnight when nobody was in the building.

Q Then what did you do, briefly, with the bomb?

A We walk into the Consulate.

Q That's you and Necuze?

A Yes, we walk into the Consulate, and I sat on a sofa while he talks to an employee. There was an employee there at the time. And I took off a paper that will stick under the sofa, but it fell down.

Q In other words, you were going to try to stick the bomb underneath the sofa with tape?

A So it wouldn't be on the floor, yes.

Q And you took the paper off the tape?

A Yes.

Q But the bomb fell down to the floor?

A Yeah, and from that time on I was scared, because I'm not an expert on explosives.

Q And you were afraid it might go off?

A Yeah, and when that thing fell down, I know I tried to put it back, I push it back, whatever, I don't

1  
2 recall exactly, and I stand up and told Necuze to go, and  
3 we left. That was only about two minutes inside that  
4 place.

5 Q So while Necuze was distracting somebody, you  
6 put the bomb under the sofa and it didn't stick, it fell  
7 down, and then you pushed it back underneath the sofa?

8 A Yes. I think I tried to put it back. I know  
9 that I push it back. I know that I push it back and I just  
10 got up.

11 Q And then you left?

12 A Yes.

13 Q Do you know whether that bomb ever went off?

14 A It did.

15 Q Did you go back later that night?

16 A Yes, I drove back, because I was afraid, I  
17 wanted to see what happens, even though that we knew that  
18 the building was empty at that time, but I was afraid  
19 that something could have happened, and we went back.

20 Q Were you there when the bomb was actually  
21 exploding?

22 A No.

23 Q It was after it exploded?

24 A After.

25 Q Did it cause a lot of damage?



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A Yes, it did.

Q Was there also another activity that was supposed to have been happening that day that Omega 7 people were doing?

A Yes, in a pro-Castro magazine in Miami.

Q That's Replica Magazine?

A Replica Magazine, yes.

Q What were those other people supposed to be doing?

A They put gasoline or something in a can.

Q In a garbage can?

A In a garbage can, and put it on the door as a protest.

Q And they lit the gasoline and the idea was to have a fire or explosion?

A Yes, for the press, so the press will see it.

Q Were you present when the garbage can was purchased that was going to be used?

A Yeah, the garbage can, yes.

Q Who was it that bought the garbage can?

A Gerardo.

Q Necuze?

A Yes.

Q Who was it that was putting the garbage can there

1  
2 or was supposed to be putting it there?

3 A It was supposed to be Justo.

4 Q Justo Rodriguez?

5 A Yes, and Nestor.

6 Q Nestor Gomez?

7 A Yes.

8 Q At an earlier time, had you gone near the  
9 American Airways charter office at a time when something  
10 was supposed to happen?

11 A Yeah, they told me to go to the mall.

12 Q Who told you?

13 A Arocena said -- I didn't know who did it -- at  
14 that time, that company was trading with Castro, lately  
15 was indicted in Miami for illegal trade with the enemy.

16 Q The American Airways charter was later indicted  
17 for illegal trading with the enemy?

18 A And some of them was arrested again in the  
19 airport with documents from Castro. But, anyway, I was  
20 supposed to go there at a certain time and watch from  
21 across the street that no light went on on the building  
22 in case somebody was walking into the building. My job was  
23 just to call and let them know that a bomb was placed so  
24 they can evacuate the building.

25 Q And did a light go on when you were watching?

1  
2 A I saw a light, it went on the same floor, but  
3 I didn't know the power, and I was afraid maybe the person  
4 could walk up or down, or whatever could happen upstairs,  
5 so what I did was I called immediately the company and  
6 told them that a bomb was placed and that they will --  
7 so they will dismantle it. They put it in a way always that  
8 nobody is around.

9 Q When you say they, who are you talking about?

10 A Arocena.

11 Q Was there also a time when a 57 millimeter shell  
12 or something similar to that was thrown at a location?

13 A Yes, on Replica.

14 Q And what happened on that occasion?

15 A It didn't go off, so --

16 Q Where were you at the time?

17 A I was there.

18 Q Who threw the shell?

19 A Jerry.

20 Q And who else was there?

21 A Arocena was driving around.

22 Q And whose idea was it to do this attack?

23 A Arocena.

24 Q And who obtained the shell, if you know?

25 A Him. I never knew where he obtained anything.

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Q But it was Arocena who had gotten it?

A Yes, that I know, you know.

Q Did you also participate in attempted bombings of the Nicaraguan Consulate?

A After that -- yeah. Okay.

Q Did you want to add something?

A I don't know the date.

Q I understand that. Don't worry about that. Did you participate in an attempted bombing of the Nicaraguan Consulate?

A Because we didn't want to do anything else, and because our goal was to send commandos to Cuba, but, well, it was decided that it should be done, so Gerardo and I, Necuze, we went there, and Jerry got out of the car and put it there, but it never worked.

Q And did you have a discussion later with Arocena about it?

A Yes.

Q And what was that, briefly?

A More or less I, myself, I was against it all the time, even though I did it, against any actions in the United States, even though that it's very sad to see how they allow the enemy to be trading in the United States while they are invading Central America and, you know, and in

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Cuba you see your families and relatives in jail and being killed.

Anyway, I'm not saying that I did right, it was done, but I was against actions in the United States. I was always trying to gear the actions toward Cuba.

So we had an argument that we didn't want to do anything else in the United States.

Q Do you happen to recall where Arocena was that day?

A Not exactly. I would lie if I --

Q Let me pass that for now. You may recall at some later point. At the time of the Mexican Consulate bombing, where was Arocena that day?

A I learned he was in New York.

Q And did he tell you he was coming to New York to put some bombs down?

A Yeah, he mentioned that he was coming to New York. He didn't specify where or how. He never spoke about anything else but whatever you were doing.

Q And did you find out that, indeed, a bomb did go off the same day or thereabouts, that the bomb went off at the Mexican Consulate in Miami?

A Yes.

Q Where did it go off in New York?

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A I think it was in the Mexican --

Q The Mexican Consulate in New York, also?

A I think so, something like that. I don't  
remember.

Q All right. Who is Manny Fernandez?

A Manny Fernandez is from Elizabeth. Unfortunately,  
I got involved with him, because he promised -- should I--

Q Yes, go ahead.

A Because maybe you weren't going to ask that.

Q Go ahead.

A He had promised through somebody else that he  
was going to donate money for Omega 7.

Q Who was the person he promised it to?

A Tony Ibarria.

Q And Tony Ibarria spoke to you?

A Through Arocena, arranged for me to talk to  
Tony, so he said that he didn't want to show his face.

Q Arocena didn't want to show his face?

A He made the arrangement, anyway.

Q And you already knew who Tony was?

A Yes.

Q And you spoke to Tony and Tony said that Manhy  
wanted to give money to Omega 7?

A Yes.

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Q All right. Was any money given?

A Yes.

Q And was there ever an occasion when you directly got money?

A Yes.

Q And who gave you that money?

A Manny.

Q And where were you when he gave you the money?

A In a tire store where they sell tires.

Q By the Latin Tire store?

A Latin Tire, yes.

Q Were you inside it or outside?

A Outside.

Q Did Manny give you the money inside of any kind of envelope or wrapper?

A Yes, in an envelope, closed.

Q Did he tell you how much money he was giving on that occasion?

A Yes. I'm pretty sure it was \$16,000. I don't know the number. But he said it was \$16,000.

Q That's one-six-zero-zero-zero, correct?

A Yes.

Q And what did you do with that money?

A He said if I wanted to count it. I said no.

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2 What I wanted was to get out, so I went. I just gave it  
3 to Arocena.

4 Q Was there ever a time when Manny Fernandez  
5 wanted Omega 7 to do some things for Fernandez?

6 A Yeah. Up to that time, I didn't know what busi-  
7 ness he was in, you know, then I learned that he was  
8 dealing with drugs.

9 Q How did you learn that?

10 A They said that he had some accounts that people  
11 didn't pay him.

12 Q Who told you that?

13 A Well, Arocena in the discussion. That was when--  
14 the dates I don't recall, Mr. Tabak. I told Arocena that,  
15 you know, he should meet him because I didn't want to be  
16 dealing with him in that way.

17 Q And what did Manny Fernandez want Omega 7 to  
18 do with the people that owed money to Manny?

19 A He wanted to call on the phone and say, you  
20 know, you're overdue so much money in all accounts that  
21 he has that people didn't pay.

22 Q And Arocena told you that this was drug money  
23 that was owed to Fernandez?

24 A At first, no, but then he said that actually  
25 what he was looking for was to see if he could get the



1  
2 connection of M-19 movement with the drug people. The M-19  
3 is the Colombian Communist Movement, that it has been  
4 learned that they trade with drugs and Castro, and he  
5 stated he wanted to find out where they hid the money so  
6 we could complete the infiltration of Cuba, which you need  
7 boats, canons and all kind of weapons to infiltrate people  
8 inside the island.

9 Q So Arocena told you that these people that owed  
10 money to Manny Fernandez owed it because of drugs Manny  
11 Fernandez had sold to them?

12 A Yes.

13 Q Was it a large amount of money that these  
14 people owed?

15 A I didn't get involved into the amounts. I didn't  
16 know how much, you know. I don't think it was that much.

17 Q You're not sure at the moment?

18 A No, no.

19 Q Now, did you make any phone callsto any of  
20 these people?

21 A I did make a couple of phone calls.

22 Q Was there one person who wasnever available?

23 A Yes.

24 Q And did Arocena later tell you that he had done  
25 anything to get this person's attention?

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A Yes. He say it like a joke. What he did was, in order -- because he said like he was -- I don't know how to explain it -- that he wasn't doing anything to get the people to pay the money, he just wanted Manny to give the money that he had promised.

Q To Arocena?

A Arocena. And what he did was, he put some kind of a can with gasoline on the side of a car so it looked like a fire, but it wasn't actually a fire. It was never reported on the press, anyway.

Q So, in other words, Arocena told you that with regard to one of these drug people who owed money to Manny Fernandez, that since this drug guy was not returning phone calls that you people were making, Arocena told you that he put a can with gasoline in it --

A A little can.

Q -- which he lit --

A I don't know whether he did it or somebody else. I think he did it.

Q He told you that a can of gasoline was put next to the car and lit to make it look like they were going to blow up the car or do something like that if the man didn't pay up, is that correct?

A Yes.

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2 Q Now, were you ever present at a time when Manny  
3 Fernandez introduced you to or pointed you out to someone  
4 who owed money to him?

5 A Yeah. One day, we went -- that's the only day.  
6 We went to a place where I got lost -- anyway, when we  
7 got there, I know he was talking with Arocena, Manny and  
8 somebody else, and I was walking, and they told me, like,  
9 you know, wait, and they were discussing something and  
10 supposed to be like, you know, about the money, or whatever,  
11 and I was there. I don't recognize the face of the guy.  
12 If you put it in front of me, I wouldn't be able to --

13 Q In any event, you and Arocena were supposed to  
14 look like tough guys and Manny was going to say that this  
15 man had to pay you the money in the future?

16 A Because they spoke -- you didn't see them  
17 arguing. Maybe it was like a friendly visit, -- not  
18 friendly.

19 Q Businesslike?

20 A Yes.

21 Q But, in any event, the gist of what Fernandez  
22 was saying to the man was, you're going to have to pay the  
23 money that you owe to me to these two men, is that  
24 correct?

25 A Well, he could have said this to Manny because

1 I was standing far.

2 Q That's your understanding of what the purpose  
3 was supposed to be?

4 A It was supposed to be that way, yeah.

5 Q While Arocena was a fugitive -- and you under-  
6 stand what that means, charges had been filed and he was  
7 running away --

8 A Yes.

9 Q -- were you <sup>in</sup> contact with Arocena?

10 A Yeah, he used to call me at the office.

11 Q And how did you know where you were supposed to  
12 meet him?

13 A Well, he make it so obvious the first time,  
14 and then he told me that we were going to meet in a couple  
15 of places.

16 Q How did he tell you, over the phone, which  
17 place it was?

18 A Like he put a name, like I think one was  
19 American restaurant, something like that.

20 Q When he got on the phone --

21 A He told me, I want to see you at such time in  
22 that place. I knew that that place was on 37th Avenue or  
23 another place.

24 Q What I mean is, did he have some kind of code?  
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A Yes, a kind of code, yes.

Q What did he use, numbers or letters?

A A letter-type of code.

Q A or B?

A A and B, that's it.

Q That was to tell you the place to meet him?

A Yes.

Q Did you ever meet him at the place that he was  
actually staying at?

A Yes, because actually what he was asking me,  
if I could help him economically, you know, that was his  
main worry at the time, to be able to pay, I guess, the  
rent, and the taxes, and whatever, and I told him I didn't  
have the money because my business -- I had invested  
everything in the business, and so forth. And one day I  
show him my bills. So I was afraid that he was going to  
think that I didn't want to help him. So one day he called  
me for that, like in an emergency, and he told me to go  
to the house where he was staying.

Q And you went to the actual house?

A Yes. I was really scared, because I was afraid  
if something happens, like it did, he could think that  
they follow me or I could have squealed or told the police.  
So I really was -- I told him I don't like it, I don't

1  
2 even want to know where you are now because if something  
3 happens, you may think that I did it.

4 Q Did he tell you how many other people knew  
5 where that house was?

6 A No.

7 Q Did he say anything like you're the only one  
8 who knows where this is?

9 A That's why I was so afraid. He didn't use no  
10 disguise at all, almost, and I told him, how could you  
11 be walking the streets like that, they are going to  
12 recognize you. I thought if they see somebody and follow  
13 him, if I'm the only one that knows the address, he's  
14 going to think that I'm the one that reported him.

15 Q And you knew at the time that you were seeing  
16 him that he was a fugitive, is that correct?

17 A Yes.

18 Q Indeed, you had already told the Grand Jury  
19 that you didn't know where he was?

20 A Yes, you're right,

21 Q You had, in fact, seen him, correct?

22 A Yes.

23 Q Now did you ever give him a tape recording  
24 while he was a fugitive?

25 A A tape recording, no. A cassette.

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Q Why a cassette?

A He took it, actually.

Q What was on that cassette?

A When the FBI had gone to my office, I had a tape recorder which I told the FBI I wasn't hiding, it was a big tape recorder that I use when I dictate letters, and it has a voice activator.

Q This was a recording of a meeting with you and some FBI agents?

A Yes. I didn't expect them to come --

Q You gave that to Arocena?

A Yes, I had it and that I mentioned it to him, and he said, could I listen to it and I said yes, well are you going to give it back tome. He said yeah, so he took it.

Q Now, when did you move to Florida, approximately?

A About April 1979.

Q Before you moved you had lived in New Jersey, correct?

A Yes.

Q Before you moved from New Jersey to Florida, was there at least one occasion when Arocena asked you to make a phone call that had to do with a bombing?

A Yes. It was like a dry run, you call it, I think,

1  
2 because I was not involved in anything. I was mostly in  
3 American politics, and the organization that I had to help  
4 was the Cuban refugees and so forth. So he asked me if I  
5 could call up a certain number at a certain time, which  
6 nobody answered.

7 Q And what did he want you to say?

8 A That a bomb was placed, and it was due to go off,  
9 you know, and then when I mentioned to him, he laughed,  
10 like, you know, like -- I realized later, when I knew him,  
11 that he was trying me.

12 Q You thought he was just testing you?

13 A Yes, because nothing happened.

14 Q Is it fair to say that you have been only  
15 answering the questions that I've asked you here today and  
16 that there are other matters that you know about that  
17 we have not gone into with the Grand Jury today?

18 A Yes.

19 MR. TABAK: I'm going to ask that the witness  
20 be temporarily excused and that you wait outside.

21 THE FOREMAN: You are temporarily excused.

22 THE WITNESS: Thank you.

23 (Witness excused. Time noted: 3:05 o'clock p.m.)

24 (Colloquy follows.)  
25



EXHIBIT C

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	AFFIDAVIT IN SUPPORT OF
	:	MOTION FOR JUDGMENT
- v -	:	<u>ON FORFEITURE OF BAIL</u>
JOSE IGNACIO GONZALEZ,	:	84 Cr. 151 (RLC)
	:	83 Cr. 828 (RLC)
Defendant.	:	

-----x

STATE OF NEW YORK	)	
COUNTY OF NEW YORK	:	ss.:
SOUTHERN DISTRICT OF NEW YORK	)	

BRUCE A. GREEN, being duly sworn, deposes and says:

1. I am an Assistant United States Attorney in the office of Rudolph W. Giuliani, the United States Attorney for the Southern District of New York, and am familiar with the above-captioned case. I make this affidavit in support of the Government's motion for judgment on forfeiture of the \$50,000 personal recognizance bond signed by the defendant JOSE IGNACIO GONZALEZ and secured by the mortgage of MAXIMO M. RIERA, a/k/a "Mariano Riera," 4510 N.W. 5th Street, Miami, Florida.

2. On February 21, 1984, after entering into a cooperation agreement with the Office of the United States Attorney, Jose Ignacio Gonzalez pleaded guilty to Information 84 Cr. 151 (RLC), which charged him in two counts with illegal possession of a destructive device in violation of Title 26, United States Code, Section 5861 (d), and with conspiracy in violation of Title 18, United States Code, Section 371. At the

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time, with the consent of the Government, the Court reduced Gonzalez's bail to a \$50,000 personal recognizance bond signed by Gonzalez and secured by property of Maximo M. Riera.

3. On February 21, 1984, Jose Ignacio Gonzalez signed and acknowledged before the Magistrate an appearance bond in the amount of \$50,000. The bond was secured by the mortgage of Maximo M. Riera, a/k/a "Mariano Riera," 4510 N.W. 5th Street, Miami, Florida. The conditions of the bond included, among other things, that the defendant report twice a week to the Federal Bureau of Investigation and that he not depart the Southern/Eastern District of New York on the Southern District of Florida. A copy of the bond is attached.

4. On February 21, 1984, my office received a mortgage executed by Maximo M. Riera, a/k/a "Mariano Riera," 4510 N.W. 5th Street, Miami, Florida, which secures a debt of \$50,000 to the United States of America. A copy of the mortgage is attached.

5. On April 12, 1984, Jose Ignacio Gonzalez failed to appear in the Office of the United States Attorney for the Southern District of New York as previously arranged. Since that time, he has had no contact with this Office or with the Federal Bureau of Investigation. This Office was subsequently advised that the defendant entered Guatemala on April 12, 1984.

6. On June 5, 1984, the defendant failed to appear before Your Honor despite having been ordered to do so, and accordingly the Court issued a warrant for the defendant's arrest.

7. Upon information and belief a diligent effort has been made by the Federal Bureau of Investigation and others to locate and arrest the defendant pursuant to the warrant. In addition, the defendant's wife and daughter have been urged to try to reach the defendant and to persuade him to surrender voluntarily. To date, all of these efforts have been unavailing.

8. Attached hereto is a proposed Order and Judgment pursuant to Rule 46(e) (3) of the Federal Rules of Criminal Procedure.

WHEREFORE, the United States moves that this motion be granted in all respects.



BRUCE A. GREEN  
Assistant United States Attorney

Sworn to before me this  
1st day of August, 1984



PEARL ZWIN  
Notary Public, State of New York  
No. 31-4729864  
Qualified in New York County  
Commission Expires March 30, 1986

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

- v -

ORDER AND JUDGMENT

JOSE IGNACIO GONZALEZ, :

84 Cr. 151 (RLC)

83 Cr. 828 (RLC)

Defendant. :

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This cause having come on to be heard on the motion of Rudolph W. Giuliani, United States Attorney for the Southern District of New York, by Bruce A. Green, Assistant United States Attorney,

IT IS HEREBY ORDERED AND ADJUDGED that the United States of America have and recover judgment against the defendant Jose Ignacio Gonzalez and against the obligor Maximo M. Riera, a/k/a "Mariano Riera," in the sum of \$50,000 pursuant to Rule 46(e) (3) of the Federal Rules of Criminal Procedure and that United States of America have execution therefore.

Dated: New York, New York

, 1984

\_\_\_\_\_  
HON. ROBERT L. CARTER  
United States District Judge