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BY:

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Attorney for the People of Guam

IN THE SUPERIOR COURT OF GUAM

THE PEOPLE OF GUAM,

Plaintiff,

vs.

JAY RYAN GAZA,
DOB: 06/01/1983

Defendant.

S.C. Criminal Case No.: CF-0055-17
GPD Case No. 17-01926 / 17-01868 / 17-02188 / 17-03261 / 17-03270 & 16-24730

PLEA AGREEMENT

Pursuant to Title 8 Guam Code Annotated § 60.80, the defendant, JAY RYAN GAZA, represented by JOHN TERLAJE, ESQ., and the People of Guam represented by the Attorney General through JAMES C. COLLINS, ESQ., enter into the following plea agreement:

1. The defendant, having been advised, understands the following:
 - a. the nature of the charge and its elements to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; the right to consult with and be represented by an attorney at every stage of these proceedings;
 - b. The right to consult with and be represented by an attorney at every stage of these proceedings;

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- 1 c. the right to plead not guilty, the right to confront and cross-examine witnesses, and
2 the right against self-incrimination;
3 d. that by pleading guilty to the charge the right to a jury trial is waived; and upon
4 acceptance of the guilty plea by the Court, defendant stands convicted just as though
5 convicted by a jury;
6 e. that if defendant pleads guilty, the Court may ask questions about the offense charged,
7 and if defendant answers these questions on the record, and in the presence of
8 Defendant's attorney, the answers later may be used against Defendant;
9 f. That Defendant has a right to prosecution by indictment or preliminary hearing and,
10 if this right is waived, Defendant may be prosecuted by an information filed by the
11 prosecutor; and.
12 g. that if the Defendant is an alien, Defendant's guilty plea may have immigration
13 consequences, including deportation, and that the defendant has been counseled as to
14 any impact upon Defendant's immigration status.

15 2. Defendant voluntarily, and without coercion or promises apart from this Plea
16 Agreement, agrees to enter *pleas* to the charges of **RETAIL THEFT (As a Misdemeanor)**, a
17 violation of 9 GCA §§ 43.91 (a) & 43.20 (c), **TWO CHARGES**. Pursuant to 9 GCA §§ 80.34 (a)
18 & 80.50 (c), these Misdemeanor offenses carries a sentence of no more than one (1) year
19 incarceration and a fine of one thousand dollars (\$1,000).

20 The charge arises out of the incident described in Guam Police Department Report No. GPD
21 No. 17-02188 & 17-01868 and the facts as follows

22
23 On or about the 21st day of January, 2017, in Guam, the defendant, JAY RYAN GAZA, did
24 unlawfully and knowingly carry away property of MacTech Guam, a retail mercantile
25 establishment, that is a stereo and speakers, offered for sale at MacTech Guam, with the intent
26 of permanently depriving MacTech Guam of the possession, use and benefit of such
27 merchandise without paying the full retail value of such merchandise, the amount involved
28 exceeding fifty dollars (\$50.00) but less than five hundred dollars (\$500.00).

1 On or about the 20th day of January, 2017, in Guam, the defendant, JAY RYAN GAZA, did
2 unlawfully and knowingly carry away property of Benson Guam Enterprises, a retail
3 mercantile establishment, that is a chainsaw and spray paint, offered for sale at Benson Guam
4 Enterprises, with the intent of permanently depriving Benson Guam Enterprises of the
5 possession, use and benefit of such merchandise without paying the full retail value of such
6 merchandise, the amount involved exceeding fifty dollars (\$50.00) but less than five hundred
7 dollars (\$500.00).

8 3. The Defendant understands that to establish a violation of **RETAIL THEFT (As a**
9 **Misdemeanor)**, as charged pursuant to 9 GCA §§ 43.91 (a) & 43.20 (c), the People must prove each
10 of the following elements beyond a reasonable doubt:

11 **First:** the incident occurred on or about the 21st day of January, 2017, in Guam;

12 **Second:** the defendant did carry away property of MacTech Guam, a retail mercantile
13 establishment, that is a stereo and speakers, offered for sale at MacTech
14 Guam, with the intent of permanently depriving MacTech Guam of the
15 possession, use and benefit of such merchandise without paying the full retail
16 value of such merchandise, the amount involved exceeding fifty dollars
17 (\$50.00) but less than five hundred dollars (\$500.00); and,

18 **Third:** the defendant did so intentionally and knowingly.

19 The Defendant understands that to establish a violation of **RETAIL THEFT (As a**
20 **Misdemeanor)**, as charged pursuant to 9 GCA §§ 43.91 (a) & 43.20 (c), the People must prove each
21 of the following elements beyond a reasonable doubt:

22 **First:** the incident occurred on or about the 20th day of January, 2017, in Guam;

23 **Second:** the defendant did carry away property of Benson Guam Enterprises, a retail
24 mercantile establishment, that is a chainsaw and spray paint, offered for sale
25 at Benson Guam Enterprises, with the intent of permanently depriving
26 Benson Guam Enterprises of the possession, use and benefit of such
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merchandise without paying the full retail value of such merchandise, the amount involved exceeding fifty dollars (\$50.00) but less than five hundred dollars (\$500.00); and,

Third: the defendant did so intentionally and knowingly.

4. Defendant understands and agrees Defendant may be called upon to testify under oath about the factual details of these transactions at the taking of this guilty plea.

5. Defendant understands that Defendant has a right to move for a reduction of sentence within one hundred twenty (120) days of sentencing pursuant to 8 GCA § 120.46 and 9 GCA § 80.22, and agrees to waive that right for the purpose of this plea.

6. Defendant understands that Defendant has a right to appeal Defendant's convictions in this case pursuant to 8 GCA §§ 130.10 and 130.15, and agrees to waive that right for the purpose of this plea.

7. Defendant understands and agrees that this agreement shall not be binding on the People should the Defendant be charged with or commit a crime between the time of Defendant's agreement and the time for sentencing in this case.

8. The Attorney General and Defendant agree to the following:

- a. Defendant agrees to fully and truthfully cooperate with the Government of Guam Attorney General's Office and any other government entity lawfully authorized to conduct any inquiry, investigation or proceeding related to the offenses to which Defendant is pleading guilty and CF-0055-17;
- b. Defendant agrees to testify truthfully at any court proceeding, including grand jury, trial or any other hearing to which he is called to testify, specifically concerning his own case or those involving CF-0055-17;
- c. Defendant agrees that this cooperation with the Attorney General will begin immediately following his plea of guilty;

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1 d. Defendant understands and agrees that if he does not cooperate fully with the Attorney
2 General as detailed herein, that the Attorney General may later charge and prosecute
3 her for any crimes she may have committed, or seek to have this plea agreement
4 revoked on the basis of such non-cooperation.

5 9. Defendant understands that the Court may enter a judgment for a lesser included
6 offense, if one exists, pursuant to 9 GCA § 80.22, and agrees to waive the right to such a reduction
7 for purposes of this plea.

8 10. The Attorney General and Defendant agree, in consideration for Defendant's plea(s)
9 to the following:

10 That as to the charges of **TWO CHARGES of RETAIL THEFT (As a**
11 **Misdemeanor)**, the Court will sentence the Defendant to a period of **ONE (1) YEAR**
12 incarceration, all suspended, with credit for time served. Defendant shall be placed
13 on a probation term of **ONE (1) year**. In addition, the following conditions and
14 penalties shall be imposed:

- 15
- 16 a. Defendant shall perform forty (150) hours of community service work under the
17 direction of the Alternative Sentencing Office;
- 18 b. Defendant shall pay a fine in the amount of five hundred dollars (\$500), plus court
19 costs, all or part of which may be converted to community service hours at the
20 prevailing minimum wage rate;
- 21 c. Defendant shall be liable for restitution in the following amounts- (1) one hundred and
22 seventy-two dollars (\$172.00) to MacTech Guam; and, (2) two hundred and five
23 dollars (\$205.00) to Benson Guam Enterprises. Defendant shall be jointly and
24 severally liable for these entire restitution amounts, along with any other co-
25 defendants who are or do plead guilty in connection with these specific crimes as
26 charged in this case. Defendant indicates he is ready, willing, and able to pay these
27 amounts of restitution as a material condition of his probation;
- 28 d. That during the course of Defendant's supervision, sanctions up to and including days
of incarceration at the Department of Corrections may be imposed as sanctions. Days

1 of incarceration imposed as sanctions for violation of supervision requirements will
2 not be credited as time served pursuant to 9 GCA § 80.46;

3 e. That during defendant's probation period, the following conditions of probation shall
4 be imposed:

- 5 i. Defendant shall report to the Probation Office as ordered by the Court, and at
6 those times will take a drug test if requested. Failure to take the drug tests, if
7 requested, will be considered a violation. Defendant will report for initial
8 intake within two working days of Defendant's release from the Department
9 of Corrections or Defendant's guilty plea, whichever is the latter;
- 10 ii. Defendant is to surrender Defendant's Passport, if any, to the Probation Office;
- 11 iii. Defendant shall not leave Guam without the approval of the Court or Probation
12 Office, with prior notice being given to the Office of the Attorney General,
13 Prosecution Division;
- 14 iv. Defendant shall not possess or consume any illegal controlled substances;
- 15 v. Defendant shall not consume any alcoholic beverages;
- 16 vi. Defendant shall not enter any establishments which sell primarily alcoholic
17 beverages;
- 18 vii. Defendant shall not consume any alcoholic beverages;
- 19 viii. Defendant shall permit Probation Officers or Peace Officers to search the
20 Defendant's person, automobile and residence or room where the
21 Defendant is residing, for firearms, alcohol, illegal controlled substances,
22 drug masking agent or prohibitor or adulterate at any time such a search
23 is requested. Failure to allow such a search will be considered a violation
24 of probation. Defendant and Defendant's attorney stipulate that a
25 presumptive positive field test for drugs, including the Roche Cup or On
26 Tract Test Systems, will be considered evidence of a probation violation.
27 It will be a presumptive violation of probation to find any drug masking
28 agent or prohibitor or adulterate in the Defendant's possession,
automobile, residence or room where the Defendant is residing or if
Defendant has tested presumptive positive for any prohibitor or

1 adulterate. It shall also be a violation for submitting any sample for
2 testing that is was not provided by the Defendant;

3 ix. Defendant shall stay away from and shall not contact any employees of
4 MacTech Guam and Benson Guam Enterprises, any customers of these
5 establishments, or their retail locations, and shall stay no less than five hundred
6 feet (500 ft) away from these places and persons;

7 x. Defendant shall make good faith efforts to obtain and maintain legal
8 employment or continue in school;

9 xi. Defendant shall obey all the laws of Guam; and,

10 xii. Defendant shall abide by any other reasonable conditions imposed by the
11 Court or the Probation Office.

12 11. Defendant understands that if Defendants violates any conditions of release or of
13 probation, that the Court may find Defendant in violation and sentence Defendant to serve the
14 maximum sentence in this case.

15 12. Defendant states Defendant has told Defendant's lawyer all the facts and
16 circumstances known about the charges. Defendant's lawyer has counseled and advised Defendant
17 on the nature of each charge as well as on any and all lesser included charges.

18 13. Defendant and the People each intend this Plea Agreement and the sentence imposed
19 be a final sentence and a total and conclusive resolution of the charges described within this Plea
20 Agreement.

21 14. The parties hereto fully and completely understand and agree that it is in court's duty
22 to impose sentence upon the Defendant, and that any sentence either stipulated to or recommended
23 herein is not binding on the court. If after accepting this plea the court concludes that any of the plea
24 agreement's provisions regarding sentence or the term and conditions of probation are inappropriate,
25 it can reject the plea. If the court decides to reject the plea agreement provisions regarding
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1 sentencing, it must give both the People and the Defendant an opportunity to withdraw from the plea
2 agreement. In case this plea agreement is withdrawn, all original charges will automatically be
3 reinstated.

4 15. If the Court decides to reject the plea agreement provisions regarding sentencing and
5 neither the People nor the Defendant elects to withdraw the plea agreement, then any sentence either
6 stipulated to or recommended herein is not binding upon the court, and the court is bound only by
7 the sentencing limits set forth in the applicable statutes.
8

9 16. By signature, Defendant attests Defendant has read this agreement and its provisions
10 have been fully explained by Defendant's attorney. Defendant believes Defendant's lawyer has
11 done all that anyone could do to counsel and assist Defendant and is satisfied with the advice and
12 help received.
13

14 XXXXX

15 XXXX

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JCL

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3 J. R. Gaza
JAY RYAN GAZA
4 Defendant

5 Dated: 4/17/17

James C. Collins
JAMES C. COLLINS, ESQ.
Assistant Attorney General

Dated: 04/27/17

6
7 John Terlaje
JOHN TERLAJE, ESQ.
8 Counsel for Defendant

9 Dated: 4/17/17

10
11 After a hearing held on MAY 23 2017, 20__, and a finding the Defendant's pleas
12 of guilty to **TWO CHARGES** of **RETAIL THEFT (As a Misdemeanor)** are knowingly and
13 voluntarily made, this Court now accepts the guilty plea and adjudges the Defendant guilty of these
14 offenses. The Court will also accept the Plea Agreement and will sentence the Defendant as provided
15 therein.

16 A Progress Hearing is set for September 14, 2017.

17
18 Vernon P. Perez
HONORABLE VERNON P. PEREZ
19 Judge, Superior Court of Guam

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23 **SERVICE VIA COURT BOX**

24 I acknowledge that a copy of the
original hereto was placed in the
court box of:

25 AG, J. Terlaje, BPD;

26 DMR

27 Date: 4/21/17 Time: 11:15

28 Q
Deputy Clerk, Superior Court of Guam