

for the Northern Mariana Islands
By _____

IN THE UNITED STATES DISTRICT COURT (Deputy Clerk)
FOR THE NORTHERN MARIANA ISLANDS

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4 *In re:*) GENERAL ORDER No. 15-01
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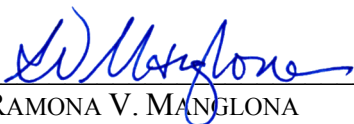
PROTOCOL FOR DETERMINATION OF
SENTENCE REDUCTIONS UNDER
AMENDMENT 782 TO THE UNITED
STATES SENTENCING GUIDELINES

10 Amendment 782 of §1B1.10 of the United States Sentencing Guidelines (“USSG”)
11 retroactively reduced the threshold amounts in the drug quantity tables at USSG §§2D1.1 and
12 2D1.11, so that many drug quantities have a base offense level that is two levels lower than
13 before the amendment. As a result, some persons convicted of federal drug crimes who are
14 presently incarcerated and serving a sentence with a release date no earlier than November 1,
15 2015, may be eligible for a sentence reduction.

16 On January 9, 2015, the United States Attorney’s Office and resource counsel for
17 defense attorneys empaneled under the Criminal Justice Act submitted a Proposed Protocol for
18 Requests for Discretionary Sentence Reductions Based on Guideline Amendment 782
19 (“Protocol”). The Protocol was developed in consultation with officers of the United States
20 Probation Office and the Chief Judge of this District.

21 The Court hereby adopts the Protocol and attaches it to this Order as the procedure by
22 which requests for Amendment 782 sentence reductions will be determined in this District.

23 SO ORDERED this 13th day of January, 2015.

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25 
26 _____
27 RAMONA V. MANGLONA
28 Chief Judge

MEMORANDUM

Date: January 9, 2015

To: The Honorable Ramona Manglona
Chief Judge, U.S. District Court
District of the Northern Mariana Islands

From: Alicia A. Limtiaco, United States Attorney
James S. Sirok, CJA Resource Counsel - NMI
and CJA Panel District Representative - NMI

Re: Proposed Protocol for Requests for Discretionary Sentence Reductions Based on Guideline Amendment 782

By this memorandum, the United States Attorney's Office ("USAO") and the CJA Resource Counsel for the NMI and CJA Panel District Representative for the NMI ("CJARC") together request that this Court adopt uniform procedures for litigating motions under 18 U.S.C. § 3582(c) seeking relief under Amendment 782 to the United States Sentencing Guidelines, which took effect on November 1, 2014. This Court adopted uniform procedures under comparable circumstances in 2008 and in 2011, to the benefit of the Court, the parties, and the eligible defendants. In consultation with the United States Probation Department ("Probation"), the USAO and CJARC have drafted the following proposed procedures based on models created for use in the District of Guam and Nevada. .

A. Background

On April 30, 2014, the U.S. Sentencing Commission promulgated and submitted to Congress proposed amendments to the U.S. Sentencing Guidelines (U.S.S.G.). One proposed amendment (Amendment 782) would lower drug offense levels across all drug types, resulting in lower advisory guideline sentencing ranges for many drug offenders. *See* Amendments to the Sentencing Guidelines, April 30, 2014, available at: http://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/20140430_RF_Amendments.pdf. In the commentary to the proposed amendment, the Commission explains:

[Amendment 782] reduces by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties, resulting in corresponding guideline ranges that include the mandatory minimum penalties. Accordingly, offenses

involving drug quantities that trigger a five-year statutory minimum are assigned a base offense level of 24 (51 to 63 months at Criminal History Category I, which includes the five-year (60 month) statutory minimum for such offenses), and offenses involving drug quantities that trigger a ten-year statutory minimum are assigned a base offense level of 30 (97 to 121 months at Criminal History Category I, which includes the ten-year (120 month) statutory minimum for such offenses). Offense levels for quantities above and below the mandatory minimum threshold quantities similarly are adjusted downward by two levels, except that the minimum base offense level of 6 and the maximum base offense level of 38 for most drug types is retained, as are previously existing minimum and maximum base offense levels for particular drug types.

The amendment also makes parallel changes to the quantity tables in § 201.11 (Unlawfully Distributing, Importing, Exporting or Possessing a Listed Chemical; Attempt or Conspiracy), which apply to offenses involving chemical precursors of controlled substances. § 201.11 is generally structured to provide offense levels that are tied to, but less severe than, the base offense levels in §2D1.1 for offenses involving the final product.

On July 18, 2014, the Commission further proposed an amendment to U.S.S.G. § 1B1.10. Under that amendment, which took effect on November 1, 2014, judges will, with certain limitations, be given the discretion to extend the sentence reduction embodied in Amendment 782 to offenders currently in prison pursuant to 18 U.S.C. § 3582(c)(2).

¹ See Amendments to the Sentencing Guidelines (Preliminary), July 18, 2014, available at http://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly/amendments/20140718_RFP_Amendments_Retroactivity.pdf. In the commentary to the proposed amendment, the Commission explains that Amendment 782 will be listed in U.S.S.G. § 1B1.10(d) as an amendment that may be available for retroactive application, subject to a special instruction that "[t]he court shall not order a reduced term of imprisonment based on Amendment 782 unless the effective date of the court's order is November 1, 2015, or later." The Commission further explains that:

The proposed amendment also provides a new application note clarifying that this special instruction does not preclude the court from conducting sentence reduction proceedings and entering orders before November 1, 2015, provided that any order reducing the defendant's term of imprisonment has an effective date of November 1, 2015, or later.

In preparation for Amendment 782, the Sentencing Commission's Office of Research and Data prepared a list of federal offenders sentenced in the District of the Northern Mariana Islands whom the Commission estimates are eligible to seek a sentence reduction. On October 4, 2014, the Commission provided that list to Chief Judge Manglona, who in turn provided it to the USAO, CJARC, and Probation. *See* Exhibit 1. Based on their initial cursory review of the list, the USAO and CJARC believe it is likely that the list is both under inclusive (i.e., that it omits federal prisoners who are eligible for the reduction) and over inclusive (i.e., that it includes federal

¹ 18 U.S.C. § 3582(c)(2) provides, in relevant part, that [t]he court may not modify a term of imprisonment once it has been imposed except that * * * in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553 (a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

prisoners who are not eligible for the reduction).

In addition to the 3 federal prisoners on the list assembled by the Commission, the USAO and CJARC anticipate that more federal offenders who were sentenced in the District of the Northern Mariana Islands will seek sentencing reductions under Amendment 782.

B. Case Processing Under 18 U.S.C. § 3582(c)(2)

The goals of this proposed protocol are

- to determine, as efficiently as possible, which prisoners are and which prisoners are not statutorily eligible under 18 U.S.C. § 3582(c)(2) to seek a sentence reduction pursuant to Amendment 782;
- to identify, as efficiently as possible, those prisoners for whom the USAO and CJARC agree that a sentence reduction is both statutorily authorized and appropriate, and to provide the Court sufficient information to evaluate joint recommendations for reductions;
- to provide a framework for the Court to resolve cases in which the USAO and CJARC disagree about either a) whether the defendant is statutorily eligible for a reduction, or b) whether the discretionary reduction is appropriate.

The proposed protocol that follows provides a framework for evaluating and processing requests for sentence reductions for both the prisoners listed on the list provided by the Commission, and other prisoners who file pro se motions seeking sentence reductions.

The proposed guidelines amendment took effect November 1, 2014, and thus the Court has jurisdiction to consider motions for sentence reductions pursuant to that amendment now. The USAO and CJARC request that the Court adopt this proposed protocol as soon as practicable so that the USAO and CJARC can begin collecting information, evaluating cases, and preparing stipulations and motions that can be filed after November 1, 2014. The USAO and CJARC believe the proposed protocol will be beneficial to their offices, the Court, and the eligible defendants. In particular, because the Bureau of Prisons is likely to be inundated with requests for information from offices around the country after November 1, 2014, beginning the process now will greatly increase efficiency. As the Court now has jurisdiction, both the USAO and CJARC believe the Court can begin issuing the initial appointment orders described below, so that the USAO, CJARC, and Probation can begin their work.

1. Prisoners on the Commission's List of Individuals Who May Be Eligible for a Sentence Reduction under Amendment 782

The USAO and CJARC propose that the sentences of the 3 federal prisoners identified by the Commission as possibly eligible for a sentence reduction under Amendment 782 be evaluated and considered in the order of their possible release date. The Commission's list includes 2 federal prisoners whom the Commission believes may be statutorily eligible for a reduction which, if granted, could make them eligible for release in May 2018. The remaining person would be eligible for release on August 28, 2019. The Court has also identified 3 additional federal prisoners who have filed pro se motions for an Amendment 782 sentence reduction. *See* Exhibit 1A. The Court has already appointed counsel for one of these individuals and is in the process of appointing counsel for the other five.

The Court will issue an Order on Motion, appointing the attorney to represent the defendant nunc pro tunc to the date of the filing of the Motion and setting forth dates and responsibilities for reviewing the prisoner's sentence. *See* Exhibit 2 - PROPOSED ORDER ON MOTION (Filed By Attorney on Behalf of Defendant Seeking Reduction).² Specifically, the Order will direct Probation to make its own determination whether the defendant is statutorily eligible for a sentence reduction under Amendment 782, and to provide that determination (in a 2014 Drug Retroactive Sentencing Worksheet), along with the defendant's original PSR, to the attorney and USAO; direct Probation to generate the defendant's current "inmate profile" (also called a "Sentry Report") and be available to meet and confer with the USAO and attorney about that report, and permit the parties to request the defendant's more in-depth BOP Progress and Disciplinary Reports; and direct the attorney to file any appropriate motion or stipulation, and the USAO to respond to any counseled motion for a sentencing reduction.

This Proposed Order is modified from the Order used in the prior protocols in three significant ways. First, it does not require Probation to obtain the defendant's full BOP Progress and Disciplinary Reports in every case, but rather directs Probation to obtain those reports only upon request of the USAO or attorney. In some cases (for example, where the prisoner was sentenced to a still-applicable statutory minimum term of imprisonment), it will be clear from a review of the PSR and other available documents that the prisoner is not statutorily eligible for relief. In other cases (where, for example, the prisoner's Sentry Report reflects the absence of any disciplinary actions against the prisoner), the USAO and attorney may agree that the information on the Sentry Report is sufficient to support a joint recommendation for a sentence reduction. This modification, directing Probation to obtain the Progress and Disciplinary Reports only in cases where the USAO or attorney requests it, will reduce unnecessary work for Probation (and the BOP) and increase efficiency, while still ensuring that the parties have access to all the information they believe they need to make their recommendations.

² Appointments can be made under the Criminal Justice Act, 18 U.S.C. § 3006A(a)(1) and (c). Although defendants do not have a constitutional or statutory right to counsel in proceedings under 18 U.S.C. § 3582(c), *see United States v. Townsend*, 98 F.3d 510, 512-513 (9th Cir. 1996), the USAO does not object to such appointments in these cases and, indeed, appreciates the Court's appointment of CJA counsel to take on this responsibility.

Second, the Proposed Order grants the USAO, attorney, and Probation much more time to complete their ordered tasks. These longer time periods are necessary due to the possibility that additional prisoners may be identified as potentially eligible, and are especially necessary at the outset because the parties will be evaluating the cases initially identified all at once. We emphasize, however, that because the Commission has directed that no sentence reduction may take effect before November 1, 2015, these longer time limits will not cause any delay in relief to any prisoner for whom such relief is granted. The USAO and CJARC anticipate that in mid-2015, after handling the initial group of prisoners who are potentially eligible for release in November 2015, they may propose shorter time limits to the Court.

Third, the Proposed Order (and protocol) does not include language about hearings on the motions. The USAO and CJARC anticipate that in some cases, there will be an agreement between the USAO and the attorney about whether a hearing is necessary and appropriate (and whether and how the defendants should participate), and in other cases they will disagree. The USAO and CJARC anticipate that, in cases of disagreement, the USAO and attorney will make their arguments to the Court, and the Court will decide those issues on a case-by-case basis.

The Court will appoint a CJA attorney for a defendant who has not filed a motion for reduction but who may be eligible for such, and issue the relevant Order. *See* Exhibit 3 - PROPOSED ORDER (CJA Appointment for Defendant Who Has Not Filed Motion but May be Eligible for Reduction).

2. Cases in which the Defendant Has Filed a Request (Letter or Motion) For a Sentence Reduction under Amendment 782

In any case in which a defendant files either a letter or motion requesting relief under Amendment 782, the Court will issue an Order appointing a CJA attorney and providing for the timetable for resolution (including Probation's preparation of the 2014 Drug Retroactive Sentencing Worksheet assessing whether the defendant is statutorily eligible for a sentence reduction under Amendment 782). *See* Exhibit 4- PROPOSED ORDER (PRO SE REQUEST by Defendant Seeking Reduction). No response to defendant's pro se motion shall be required of the government until the CJA attorney has determined whether the defendant is eligible for a sentence reduction.³

If counsel for the defendant determines that the defendant is not eligible for a sentence reduction under the retroactive provisions of the Guidelines amendments, counsel shall

³ To avoid the confusion that often arises with automatically generated "response due" dates on cm-ecf, it would be helpful if the Clerk's Office could create a new docketing event, *e.g.*, "Motion to Reduce Sentence re Amendment 782- 18:3582" that does not generate a response due date (similar to the docketing event created for the first retroactive reduction to the crack cocaine guidelines).

(1) communicate that determination to the defendant; and (2) move to withdraw as counsel for the defendant.

If counsel for the defendant files a motion to withdraw, the Court will review Probation's 2014 Drug Retroactive Sentencing Worksheet and determine whether a response from the USAO to the defendant's pro se motion is necessary, or whether (in light of the counsel's withdrawal and Probation's 2014 Drug Retroactive Sentencing Worksheet) the Court can rule on the motion without requiring a government response. If the Court determines that a response from the USAO is warranted, it shall order one.

3. Joint Stipulations and Waivers

If the parties reach an agreement concerning a discretionary sentence reduction, a Joint Stipulation regarding the amended sentence will be filed along with a Declaration from the defendant consenting to the entry of an amended sentence and setting forth any appropriate waivers. *See* Exhibit 5 - Sample Joint Stipulation; Exhibit 6 - Sample Defendant's Declaration. The Joint Stipulation will contain a certification by defense counsel that counsel has communicated with the defendant and that the defendant consents to the proposed resolution. The Joint Stipulation shall set forth the amended Guidelines sentencing range as calculated by the parties and any agreement to a particular sentence.

EXHIBIT 1

***ESTIMATED RETROACTIVE ELIGIBLE DRUG TRAFFICKING OFFENDERS FOUND WITHIN USSC DATAFILES
DISTRICT OF THE NORTHERN MARIANA ISLANDS***

EXHIBIT 1A

***ESTIMATED RETROACTIVE ELIGIBLE DRUG TRAFFICKING OFFENDERS FOUND WITHIN THE U.S.
DISTRICT COURT OF THE NORTHERN MARIANA ISLANDS CRIMINAL CASE FILES***

EXHIBIT 2 - PROPOSED ORDER ON MOTION (Filed By Attorney on Behalf of Defendant Seeking Reduction)

The Defendant, by and through his/her attorney, has filed a Motion requesting appointment of counsel and suggesting to the Court that he may be eligible for discretionary relief pursuant to 18 U.S.C. § 3582(c)(2). Accordingly, IT IS HEREBY ORDERED that [NAME OF COUNSEL] is appointed as counsel to represent the Defendant nunc pro tunc to the date of the filing of the Motion.

IT IS FURTHER ORDERED that the Probation Office shall provide the attorney for Defendant and the government with the Defendant's Presentence Report; shall generate the Defendant's current Inmate Profile (also known as a "Sentry Report"); and shall prepare a 2014 Drug Retroactive Sentencing Worksheet addressing whether, in the Probation Office's assessment, the Defendant is statutorily eligible for a sentence reduction pursuant to Guidelines Amendment 782, and further advising the Court of the applicable and recommended guideline range. The Probation Office will serve the Presentence Report and 2014 Drug Retroactive Sentencing Worksheet on the attorney for Defendant, the United States Attorney, and the Court, and shall be prepared to meet and confer with the attorney for Defendant and the United States Attorney to discuss the Sentry Report, within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that the United States Attorney or the attorney for Defendant may, within 30 days after receiving those reports from the Probation Office, request that the Probation Office provide the Defendant's Progress Report and Disciplinary Records

from the Bureau of Prisons. If the United States Attorney or the attorney for Defendant makes such a request, the Progress Report and Disciplinary Records shall be made accessible to the attorney for Defendant, the United States Attorney, and the Court as soon as possible.

IT IS FURTHER ORDERED that the attorney for Defendant shall, within 120 days of this Order, file any appropriate motion or stipulation. If the attorney for Defendant files a motion for a sentence reduction pursuant to Guidelines Amendment 782, the United States Attorney shall serve any response to such motion within thirty (30) days of the filing of that motion unless for good cause the time is extended.

Dated:

UNITED STATES DISTRICT JUDGE

EXHIBIT - 3 PROPOSED ORDER (CJA Appointment for Defendant Who Has Not Filed Motion but May be Eligible for Reduction)

The Court has been advised that Defendant may be eligible for discretionary relief pursuant to 18 U.S.C. § 3582(c)(2), and concludes that the appointment of counsel is appropriate. Accordingly, IT IS HEREBY ORDERED that [NAME OF COUNSEL] is appointed as counsel to represent the Defendant.

IT IS FURTHER ORDERED that the Probation Office shall provide counsel for the Defendant and the government with the Defendant's Presentence Report; shall generate the Defendant's current Inmate Profile (also known as a "Sentry Report"); and shall prepare a 2014 Drug Retroactive Sentencing Worksheet addressing whether, in the Probation Office's assessment, the Defendant is statutorily eligible for a sentence reduction pursuant to Guidelines Amendment 782, and further advising the Court of the applicable and recommended guideline range. The Probation Office will serve the Presentence Report and 2014 Drug Retroactive Sentencing Worksheet on Defendant's counsel, the United States Attorney, and the Court, and shall be prepared to meet and confer with Defendant's counsel and the United States Attorney to discuss the Sentry Report, within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that the United States Attorney or Defendant's counsel may, within 30 days after receiving those reports from the Probation Office, request that the Probation Office provide the Defendant's Progress Report and Disciplinary Records from the Bureau of Prisons. If the United States Attorney or

Defendant's counsel makes such a request, the Progress Report and Disciplinary Records shall be made accessible to the Defendant's counsel, the United States Attorney, and the Court as soon as possible.

IT IS FURTHER ORDERED that Defendant's counsel shall, within 120 days of this Order, file any appropriate motion or stipulation. If Defendant's counsel files a motion for a sentence reduction pursuant to Guidelines Amendment 782, the United States Attorney shall serve any response to such motion within thirty (30) days of the filing of that motion unless for good cause the time is extended.

Dated:

UNITED STATES DISTRICT JUDGE

EXHIBIT 4 - PROPOSED ORDER (PRO SE REQUEST by Defendant Seeking Reduction)

The Defendant has filed a [motion] [letter, which the Court will consider as a motion,] seeking Discretionary Relief pursuant to 18 U.S.C. § 3582(c)(2). Accordingly, IT IS HEREBY ORDERED that [NAME OF COUNSEL] is appointed as counsel to represent the Defendant.

IT IS FURTHER ORDERED that the Clerk of Court shall distribute a copy of the document filed by the Defendant to the Defendant's counsel, the United States Attorney, and the U.S. Probation Office forthwith.

IT IS FURTHER ORDERED that the Probation Office shall provide counsel for the Defendant and the government with the Defendant's Presentence Report; shall generate the Defendant's current Inmate Profile (also known as a "Sentry Report"); and shall prepare a 2014 Drug Retroactive Sentencing Worksheet addressing whether, in the Probation Office's assessment, the Defendant is statutorily eligible for a sentence reduction pursuant to Guidelines Amendment 782, and further advising the Court of the applicable and recommended guideline range. The Probation Office will serve the Presentence Report and 2014 Drug Retroactive Sentencing Worksheet on Defendant's counsel, the United States Attorney, and the Court, and shall be prepared to meet and confer with Defendant's counsel and the United States Attorney to discuss the Sentry Report, within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that the United States Attorney or Defendant's counsel may, within 30 days after receiving those reports from the Probation Office, request that the Probation Office provide the Defendant's Progress Report and Disciplinary Records from the Bureau of Prisons. If the United States Attorney or Defendant's counsel makes such a request, the Progress Report and Disciplinary Records shall be made accessible to the Defendant's counsel, the United States Attorney, and the Court as soon as possible.

IT IS FURTHER ORDERED that Defendant's counsel shall, within 120 days of this Order, file any appropriate motion or stipulation. If Defendant's counsel files a motion for a sentence reduction pursuant to Guidelines Amendment 782, the United States Attorney shall serve any response to such motion within thirty (30) days of the filing of that motion unless for good cause the time is extended.

Dated:

UNITED STATES DISTRICT JUDGE

EXHIBIT 5 – SAMPLE JOINT STIPULATION

ALICIA A. G. LIMTIACO
UNITED STATES ATTORNEY
[ASSISTANT U.S. ATTORNEY]

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)	CR
)	
Plaintiff,)	JOINT STIPULATION FOR
)	DISCRETIONARY RELIEF
vs.)	UNDER 18 U.S.C. §3582(c)(2)
)	
xxxxx,)	
)	
Defendant.)	
_____)	

The United States of America, by Assistant United States Attorney XXX, and Defendant XXX, by NAME OF COUNSEL XXX, hereby submit the following Joint Stipulation for Discretionary Relief pursuant to 18 U.S.C. § 3582(c)(2).

The parties agree and stipulate to the following:

A. Material Facts in Support of Joint Stipulation

1. Defendant was previously convicted and sentenced for offenses involving controlled substances.

2. On _____, ____, this Court sentenced Defendant to ____ months imprisonment for [offense], in violation of 21 U.S.C. [Section], as set forth in count ____ of the indictment. This Court previously found: (a) that Defendant's total offense level was __; (2) that Defendant's criminal history category was __; and that the advisory guidelines sentencing range was ____-____.

3. Following imposition of this sentence, the U.S. Sentencing Commission promulgated Amendment 782, which took effect on November 1, 2014. Amendment 782: (a) reduces the guidelines offense levels across all drug types; and (b) with certain limitations, applies retroactively to defendants sentenced prior to November 1, 2014.

4. Defendant seeks a discretionary reduction in sentence pursuant to Amendment 782, and in accordance with 18 U.S.C. § 3582(c)(2) which (among other things) provides that, in certain circumstances, a sentencing court "may reduce the term of imprisonment."

B. Terms of Sentence Reduction Under 18 U.S.C. §3582(c)(2)

Defendant is eligible for a discretionary reduction to the guideline imprisonment range. Pursuant to 18 U.S.C. § 3582(c)(2) and Guidelines Amendment 782: (a) Defendant's revised total offense level is _____; (b) Defendant's criminal history category remains ____; and (c) the revised advisory guidelines sentencing range is ___-___ months imprisonment. Based on the foregoing, the parties jointly recommend that Defendant be sentenced to a revised term of ___ months imprisonment.

C. Waivers; Review and Consent of Defendant

1. Defendant knowingly and voluntarily waives any right to appeal any aspect of the revised sentence, provided that, if the revised sentence exceeds the recommended term of ___ months, Defendant may appeal that aspect of the revised sentence. *See* Declaration, attached as Exhibit I.

2. Defendant (a) waives any right he may have to a hearing on his/her motion under 18 U.S.C. § 3582(c)(2); (b) waives any right he/she may have to attend such a hearing; (c) Defendant has reviewed this stipulation with defense counsel; and (d) agrees with and consents to this stipulation. *See* Declaration, attached as Exhibit 1.

D. 2014 Drug Retroactive Sentencing Worksheet

The parties jointly request, for purposes of this Court's adjudication of Defendant's pending motion under 18 U.S.C. § 3582(c)(2), that this Court direct the United States Probation Office to submit a 2014 Drug Retroactive Sentencing Worksheet, confirming Defendant's revised guidelines imprisonment range and describing any public safety factors (including Defendant's institutional history) relevant to this Joint Stipulation and discretionary relief under 18 U.S.C. § 3582(c)(2).

E. Acknowledgment of Reserved Rights

Notwithstanding this Joint Stipulation, the United States expressly preserves and does not waive its contentions that a defendant seeking relief under 18 U.S.C. § 3582(c)(2) has no constitutional or statutory right to counsel, to a hearing on the motion, or to be present at any hearing on the motion.

Respectfully submitted,
ALICIA A. LIMITIACO
United States Attorney

Dated:

Assistant U.S. Attorney

Dated:

Defendant

Dated:

Counsel for Defendant

EXHIBIT 6 - SAMPLE D E F E N D A N T ' S D E C L A R A T I O N

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)	CR
)	
Plaintiff,)	DECLARATION IN SUPPORT OF JOINT
)	STIPULATION UNDER
vs.)	18 U.S.C. § 3582(c)(2)
)	
xxxxx,)	
)	
Defendant.)	
_____)	

1. I, [Defendant], am the Defendant in the above-captioned case and the movant seeking relief in a pending motion under 18 U.S.C. § 3582(c)(2).

2. I have read and discussed with my attorney, [attorney's name], the "Joint Stipulation Under 18 U.S.C. § 3582(c)(2)," dated [date] (the "Joint Stipulation") to be filed in this case.

3. I agree with and consent to the Joint Stipulation.

4. My attorney has explained my appellate rights to me. I hereby knowingly and voluntarily waive the right to appeal any aspect of the revised sentence imposed by the Court under the terms of the Joint Stipulation, provided that, if the revised sentence exceeds the recommended term of _____ months imprisonment, I may appeal that aspect of the revised sentence.

5. I hereby waive any right I may have to a hearing on my pending motion for discretionary relief under 18 U.S.C. § 3582(c)(2), or to attend such a hearing.

DATED this ____ day of ____, 201__.

DEFENDANT