



U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

Pre-MUR 390

MAR 30 2000

By Hand

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: United States v. Mark Nichols and Gregorio Cervantes

Dear Mr. Noble:

We are forwarding herewith two checks payable to the Federal Election Commission, one for \$56,000 from Mark Nichols and the other for \$26,000 from Gregorio Cervantes, the defendants in the captioned criminal Federal Election Campaign Act (FECA) cases in the Central District of California.

These checks have been tendered to us by these defendants as a consequence of global plea agreements through which they seek to satisfy simultaneously their criminal and their administrative liability for knowingly and wilfully violating FECA by laundering excessive contributions from the Cabazon Band of the Missions Indians to federal candidates through conduits, in violation of 2 U.S.C. §§ 441a, 441f and 437g(d).

We also are enclosing copies of the defendants' plea agreements, the charges to which they pleaded guilty, and a transcript of the relevant court proceedings. As indicated in these materials, defendant Nichols, the major offender, has paid a criminal fine of \$200,000 and defendant Cervantes, a lesser offender, has paid a criminal fine of \$13,000.

During our criminal investigation, we kept your office informed of the circumstances of this case and of these defendants' desire to reach a global settlement of their criminal and noncriminal FECA liability, albeit in hypothetical terms. We have also informed these defendants that the Department of Justice lacks authority to speak for the Commission in assessing

noncriminal remedies under 2 U.S.C. § 437g(a). The plea agreements we negotiated in these two cases address the possibility that the Commission may decide not to accept the proposed noncriminal fines in language we have previously used in similar cases. However, we believe that the amounts tendered by these defendants to the Commission represent reasonable and just administrative penalties. Should the Commission disagree, we request that the two checks be returned to us so that we may refund them to the defendants in accordance with the terms of their plea agreements.

Please let me know if we can assist you further in these matters.

Sincerely



Craig C. Donsanto
Director, Election Crimes Branch
Public Integrity Section

Enclosures

cc: Jeff Rawitz
Assistant United States Attorney
Los Angeles

21-04-402-3275

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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

ALEJANDRO N. MAYORKAS
United States Attorney
GEORGE S. CARDONA
Assistant United States Attorney
Chief, Criminal Division
JEFFREY M. RAWITZ (State Bar No. 145529)
Assistant United States Attorney
1300 United States Courthouse
312 North Spring Street
Los Angeles, California 90012
(213) 894-2302

Attorney for Plaintiff
United States of America

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. CR 99-642(B)-ABC
)	
Plaintiff,)	<u>NOTICE OF FILING OF</u>
)	<u>ORIGINAL PLEA AGREEMENT</u>
v.)	
)	
MARK NICHOLS,)	
)	
Defendant.)	

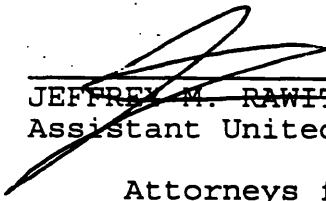
Plaintiff United States of America hereby files notice of
filing of original Plea Agreement in the above-titled case.

Dated: October 12, 1999

Respectfully submitted,

ALEJANDRO N. MAYORKAS
United States Attorney

GEORGE S. CARDONA
Assistant United States Attorney
Chief, Criminal Division


JEFFREY M. RAWITZ
Assistant United States Attorney

Attorneys for Plaintiff
United States of America

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PLEA AGREEMENT

United States v. Mark Nichols, CR 99-642(B)-ABC

INTRODUCTORY PARAGRAPH

1. This constitutes the plea agreement between defendant Mark Nichols (hereinafter "defendant") and the United States Attorney's Office for the Central District of California ("this Office") in United States v. Mark Nichols et. al., CR 98-642(B)-ABC. The terms of the agreement are as follows:

PLEA

2. Defendant agrees to plead guilty to counts one through three of the Second Superseding Information (the "Information"), a copy of which is attached to this agreement as Exhibit A. The Second Superseding Information charges defendant with three counts of violating Title 2 U.S.C. §§ 441(f) and 437g(d); and Title 18 U.S.C. § 2, by causing the making of illegal conduit campaign contributions.

3. The plea will be pursuant to Federal Rule of Criminal Procedure 11(e)(1)(c). If the Court does not accept this 11(e)(1)(C) agreement, then neither party is bound by this agreement and it will be deemed null and void.

NATURE OF THE OFFENSE

4. In order to be guilty of violating 2 U.S.C. §§ 441(f) and 437(d); and 18 U.S.C. § 2, defendant must have: (1) knowingly and wilfully (2) made, or caused to be made, a contribution in connection with an election to any federal political office or in connection with any primary election, convention, or caucus held to select candidates for any federal

1 political office, (3) in the name of another person, (4) with
2 said illegal contributions aggregating \$2,000 or more during the
3 calendar year. By signing this agreement, defendant admits that
4 defendant is, in fact, guilty of these offenses. Furthermore,
5 defendant specifically agrees to the factual basis for the plea
6 which is attached to this agreement.

7 PENALTIES

8 5. The statutory maximum sentence that the Court can
9 impose for each count of conviction under 2 U.S.C. §§ 441f and
10 437g(d); and 18 U.S.C. §§ 2 and 18 U.S.C. § 3571(b)(3) is one
11 year incarceration, an additional one year of supervised release,
12 a fine of \$100,000, and a special assessment of \$25 for each
13 count of conviction or five years probation, a fine of \$100,000
14 per count, and a special assessment of \$25 for each count of
15 conviction. The Court can also order defendant to pay the costs
16 of defendant's imprisonment should the court impose any.
17 Defendant agrees to pay the special assessment at or before the
18 time of sentencing.

19 6. If defendant is placed on supervised release following
20 imprisonment and defendant violates one or more of the conditions
21 of supervised release, defendant may be returned to prison for
22 all or part of the term of supervised release, which could result
23 in defendant serving a total term of imprisonment greater than
24 the statutory maximum stated above. This paragraph is included
25 to ensure that defendant is fully advised of the maximum
26 statutory penalties. Under the terms of this agreement,
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1 defendant cannot be sentenced to a term of imprisonment or
2 supervised release.

3 AGREED ON SENTENCING FACTORS AND FINE AMOUNT

4 7. Applicable Guideline

5 The parties agree and stipulate that the applicable
6 guideline is U.S.S.G § 2X5.1 because there is no United States
7 Sentencing Guideline that is sufficiently analogous for the
8 offense described in 2 U.S.C. § 437g(d). The parties further
9 stipulate that the provisions of 18 U.S.C. § 3553(b) shall
10 control the fines applicable to the offenses described in this
11 plea agreement.

12 8. Criminal Fine

13 The parties agree that as part of his sentence defendant
14 shall be ordered to pay a total criminal fine in the amount of
15 \$200,000, payable as follows: The first payment shall be in the
16 amount of \$118,000.00 and shall be tendered at the time of the
17 imposition of sentence. The second payment of \$82,000.00 shall
18 be within twenty-four months after the first payment is tendered.
19 Payments shall be in the form of a cashier's check made payable
20 to the United States. Failure of defendant to make the payments
21 required as part of the agreed-upon sentence shall (1) constitute
22 a breach of this agreement allowing this Office to reinstate the
23 underlying First Superseding Indictment with the statute of
24 limitations having been tolled for the period between the signing
25 of this agreement and the reinstatement of the First Superseding
26 Indictment, and (2) constitute a violation of defendant's

1 probation.

2 9. Resolution of Administrative and Civil Liabilities with
3 the Federal Election Commission

4 Defendant admits that his conduct knowingly and wilfully
5 violated 2 U.S.C. § 441(f) of the Federal Election Campaign Act,
6 and that the Federal Election Commission (FEC) has exclusive
7 authority to seek civil remedies against him for those violations
8 pursuant to 2 U.S.C. § 437g(a)(5).

9 Defendant agrees to submit to the FEC's jurisdiction, to
10 cooperate with the FEC in its compliance proceedings against
11 defendant, including waiving FEC notification procedures to which
12 he may be entitled, all evidentiary privileges, and any statute
13 of limitations which may be applicable to the FEC compliance
14 proceedings, and to enter into a conciliation agreement with the
15 FEC and to pay whatever civil penalty the FEC deems appropriate
16 pursuant to the provisions of 2 U.S.C. § 437g(a)(5). This Office
17 and defendant have agreed that an administrative and civil fine
18 of \$56,000 would be an appropriate civil disposition of this
19 matter before the FEC in view of the charged conduct and the
20 conditions of this plea agreement. However, defendant has been
21 advised that this part of the plea agreement is not binding on
22 the FEC.¹

23 Defendant agrees to tender a check in the amount of \$56,000
24

25 ¹ Should the FEC impose a fine in excess of \$56,000.00 for
26 the offense conduct charges in the First Superseding Indictment,
27 the amount in excess of \$56,000 shall be credited against
28 defendant's obligation to make criminal fine payments as
discussed in paragraph 8 herein.

1 made payable to the FEC at the time of the imposition of
2 sentence. This Office agrees to forward this check to the FEC,
3 along with a copy of this agreement and its recommendation.

4 In the event that the FEC should accept the proposed sum as
5 an appropriate noncriminal remedy for the FECA violations
6 admitted in this agreement, after a conciliation agreement has
7 been entered into by defendant with the FEC, and a check has been
8 tendered and accepted by the FEC, no further proceedings (either
9 criminal or administrative) other than those associated with the
10 implementation of this plea agreement shall be undertaken against
11 defendant by this Office, the Department of Justice, or the FEC
12 for the FECA violations admitted in this agreement.

13 However, in the event that the FEC should refuse to accept
14 this sum as an appropriate noncriminal remedy for the FECA
15 violations admitted in this agreement, the check will be returned
16 to defendant, and the issue of the amount of the appropriate
17 administrative remedy shall be determined exclusively by the FEC
18 through the conciliation process in 2 U.S.C. § 437g(a)(5).

19 10. Probation

20 The parties agree that: (1) defendant shall not be sentenced
21 to a period of imprisonment, although imprisonment may be ordered
22 as a condition of probation; (2) defendant shall be sentenced to
23 no less than three years of probation; (3) the government retains
24 the right to argue for, and the court shall have the right to
25 impose a sentence including a period of up to five years
26 probation; and (4) the government retains the right to argue for,

1 and the court shall have the right to include as a condition of
2 the probationary sentence to be imposed, any of the discretionary
3 conditions listed in 18 U.S.C. § 3563(b) including but not
4 limited to imprisonment by the Bureau of Prisons for a period of
5 not to exceed one year consistent with the dictates of 18 U.S.C.
6 § 3563(b) (10).

7 11. Forfeiture

8 The parties agree that no forfeiture should be ordered as
9 part of the criminal sentence.

10 12. Special Assessment

11 Defendant agrees to pay to the Clerk of the Court for the
12 United States District Court for the Central District of
13 California on the date of sentencing a mandatory special
14 assessment of \$25.00 for each count.

15 FACTUAL BASIS

16 13. Defendant and this Office agree and stipulate to the
17 statement of facts attached hereto and incorporated herein.

18 CONSIDERATION BY OFFICE

19 14. This Office, in exchange for defendant's guilty plea
20 and complete fulfillment of all of defendant's obligations under
21 this agreement, agrees that it will at the time of sentencing
22 dismiss the underlying Indictment and First Superseding
23 Indictment.

24 WAIVER OF CONSTITUTIONAL RIGHTS

25 15. Defendant understands that by pleading guilty,
26 defendant will be giving up the following Constitutional rights:
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1 Defendant has the right to plead not guilty and the right to be
2 tried by a jury or a court if defendant waives defendant's right
3 to a jury trial. At a trial, defendant would have the right to
4 the assistance of counsel. During the trial, defendant would be
5 presumed innocent and a jury would be instructed that the burden
6 of proof is on the government to prove defendant guilty beyond a
7 reasonable doubt. Defendant would have the right to confront and
8 cross-examine witnesses against defendant. If defendant wishes,
9 defendant could present evidence and or testify. On the other
10 hand, if defendant did not wish to testify or present evidence,
11 that fact could not be used against defendant and a jury would be
12 so instructed. Defendant would also have the right to call
13 witnesses on defendant's behalf. By pleading guilty, defendant
14 will be giving up all of these rights. Defendant also will be
15 giving up the right to pursue any pre-trial motions that were or
16 could have been brought.

17 WAIVER OF APPEAL

18 16. Defendant understands that Title 18, United States
19 Code, Section 3742 gives defendant the right to appeal the
20 sentence imposed by the Court. Acknowledging this, defendant
21 knowingly and voluntarily waives the right to appeal any sentence
22 imposed by the Court so long as the sentence is within the
23 statutory maximum authorized by law and comports with the
24 sentence set forth in this agreement.

25 17. The government likewise agrees to waive its right to
26 appeal the sentence imposed by the Court so long as it comports
27

1 with the sentence set forth in this agreement.

2 18. This agreement is limited to defendant and this Office
3 and cannot bind any other federal, state or local prosecuting,
4 administrative or regulatory authorities, except as set forth in
5 paragraph 9. above.

6 NO ADDITIONAL AGREEMENTS

7 19. Except as expressly set forth herein, there are no
8 additional promises, understandings or agreements between this
9 Office or any other government office and defendant or
10 defendant's counsel concerning any other criminal prosecution,
11 civil litigation or administrative proceeding relating to any
12 other federal, state or local charges that may now be pending or
13 hereafter be brought against defendant, or the sentence that
14 might be imposed as a result of defendant's guilty pleas pursuant
15 to this Agreement. Nor may any additional agreement,

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1 understanding or condition be entered into unless in writing and
2 signed by all parties.


3 If a fully executed copy of this agreement is not returned
4 to me by September 23, 1999, it will be automatically withdrawn
5 and thereafter of no legal effect or force.

6 This agreement shall be effective upon execution by
7 defendant and this Office.

8 AGREED AND ACCEPTED

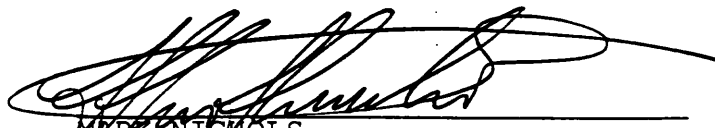
9 UNITED STATES ATTORNEY'S OFFICE
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 ALEJANDRO N. MAYORKAS
12 United States Attorney

13 
14 JEFFREY M. RAWITZ,
15 Assistant United States Attorney
16 Public Corruption & Government Fraud Section

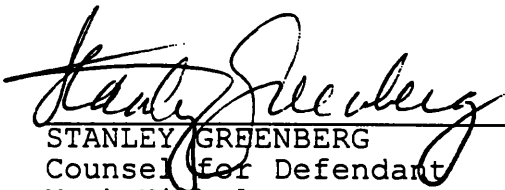
17 Date

18 9/29/99

19 
20 MARK NICHOLS
21 Defendant

22 Date

23 9/30/99

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25 STANLEY GREENBERG
26 Counsel for Defendant
27 Mark Nichols
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FACTUAL BASIS

The Federal Election Campaign Act ("FECA") governs contributions to candidates and their campaign committees in federal elections. Under FECA, it is illegal for one person to (a) contribute more than \$1000 to a particular candidate in either the primary or general federal election, or (b) make a contribution in the name of another or, in other words, to make disguised contributions through a "conduit" contributor.

Under FECA, the Federal Elections Commission ("FEC") is the agency of the United States responsible for: (a) receiving the required campaign contribution and disbursement reports, (b) making these reports available to the public, and (c) investigating violations of the law concerning illegal campaign contributions to federal candidates.

Under FECA, a candidate for federal office must establish a political committee through which funds can be raised. The treasurer of a federal candidate's political committee is required to file a periodic report with the FEC disclosing, among other things, the name of each contributor who contributed more than \$200 during the reporting period, and the amount of their contribution. Federal law requires these reports to be made available to the public throughout the campaign and thereafter.

Defendant MARK NICHOLS was Chief Executive Officer of the Cabazon Band of Mission Indians in Riverside County, California (the "Tribe"). In this capacity, defendant MARK NICHOLS supervised employees of the Tribe, including employees of the Fantasy Springs Casino, which was owned and operated by the Tribe.

President William Jefferson Clinton and Vice President Albert Gore, Jr., were candidates for President and Vice President of the United States during the campaign preceding the 1996 federal election. "The Clinton/Gore '96 Primary Committee" ("Clinton/Gore Committee") was a political committee authorized to support their candidacies, and the committee was subject to the reporting provisions and the campaign financing limitations of FECA.

Beginning in or about 1994 and continuing through December 12, 1995, defendant Nichols engaged in a scheme to knowingly and willfully cause the Tribe to circumvent the campaign contributions limits imposed by the FECA, by using the Tribe's money to make conduit contributions through various members, or employees, of the Tribe (the "conduits"). The manner in which this scheme was effectuated was to encourage the conduits to make contributions to a candidate with the understanding that they would be reimbursed for their contributions by the Tribe.

Defendant Nichols would make the reimbursement payments by issuing the conduits "bonuses", or "loans" which were subsequently forgiven.

Specifically, defendant knowingly and willfully caused the following conduit contributions to be made in violation of 2 U.S.C. § 441(f) and 437g(d)

The Donald and Elaine Goodman Contributions

On or about June 15, 1995, defendant MARK NICHOLS caused Donald Goodman to issue check nos. 978 for \$1,000 to "Clinton/Gore '96". This check was drawn on the bank account of Donald Goodman at Home Savings of America, account

On or about June 15, 1995, defendant MARK NICHOLS caused Elaine Goodman to issue check nos. 979 for \$1,000 to "Clinton/Gore '96". This check was drawn account at Home Savings of America.

On or about June 20, 1995, defendant MARK NICHOLS caused the Tribe to issue Donald Goodman check nos. 863 in the amount of \$10,000 ("check nos. 863") as reimbursement for the June 15, 1995 \$1,000 checks issued by Donald and Elaine Goodman to Clinton/Gore '96.

On or about June 24, 1995, Donald Goodman deposited check "863" into his account at Home Savings of America.

Defendant GREG CERVANTES'S Contribution (Count One)

On or about June 17, 1995, defendant GREG CERVANTES issued check nos. 92 for \$1,000 to "Clinton/Gore '96". This check was drawn on the joint bank account of Gregorio and Hortencia Cervantes at First Interstate Bank, account nos.

On or about June 19, 1995, defendant MARK NICHOLS caused the Tribe to issue defendant GREG CERVANTES check number nos. 14080 in the amount of \$4,000 ("check nos. 14080") which was to be used in part to reimburse defendant GREG CERVANTES for the above described contribution.

On or about June 20, 1995, defendant GREG CERVANTES took check nos. 14080 to First Interstate Bank in Indio, California and deposited \$2,000 into Cervantes account nos. A \$1,000 of this deposit was made to reimburse defendant GREG CERVANTES for his \$1,000 contribution made to Clinton/Gore '96.

1 The David and AnnMarie Riemer Contributions (Counts Two and
2 Three)

3 On or about June 29, 1995, defendant MARK NICHOLS caused
4 David Riemer to issue check nos. 2272 for \$1,000 to "Clinton/Gore
5 '96". This check was drawn on the joint bank account held in the
6 names of David Riemer and AnnMarie Riemer at Bank of America,
7 account nos.

8 On or about September 15, 1995, defendant MARK NICHOLS
9 caused AnnMarie Riemer to issue check nos. 2401 for \$1,000 to
10 "Clinton/Gore '96". This check was drawn on account nos.
11 at Bank of America.

12 On or about September 19, 1995, defendant MARK NICHOLS
13 caused the Tribe to issue David Riemer check nos. 37563 in the
14 amount of \$2,000 ("check nos. 37563") as reimbursement for David
15 Riemer's June 29, and AnneMarie Riemer's September 15, \$1,000
16 checks to Clinton/Gore '96.

17 On or about September 19, 1995, David Riemer deposited check
18 nos. 37563 into account at Bank of America.

19 Other Conduit Contributions

20 Between October, 1994, and December 1995, defendant Nichols
21 cased the Tribe to make at least 28 conduit contributions in the
22 above described manner, usually in \$1,000 amounts, to various
23 candidates for the United States House of Representatives and
24 United States Senate, knowing that such conduct constituted a
25 violation of 2 U.S.C. §§ 441(f) and 437d(G).
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FILED

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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY:

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK NICHOLS and
GREGORIO CERVANTES,
aka Greg Cervantes,

Defendants.

CR 98-642(B)-ABC

SECOND
SUPERSEDING
INFORMATION

[2 U.S.C. §§ 441(f), 437g(d): Illegal
Conduit Campaign Contributions; 18
U.S.C. § 2: Causing an Act to be Done]

The United States Attorney charges:

GENERAL ALLEGATIONS

At all times relevant to the Second Superseding Information:

1. The Federal Election Campaign Act ("FECA") governs contributions to candidates and their campaign committees in federal elections. Under FECA, it is illegal for one person to (a) contribute more than \$1000 to a particular candidate in either the primary or general federal election, or (b) make a contribution in the name of another or, in other words, to make disguised contributions through a "conduit" contributor.

JMR:jmr

2. Under FECA, the Federal Elections Commission ("FEC") is the agency of the United States responsible for: (a) receiving the required campaign contribution and disbursement reports, (b) making these reports available to the public, and (c) investigating violations of the law concerning illegal campaign contributions to federal candidates.

3. Under FECA, a candidate for federal office must establish a political committee through which funds can be raised. The treasurer of a federal candidate's political committee is required to file a periodic report with the FEC disclosing, among other things, the name of each contributor who contributed more than \$200 during the reporting period, and the amount of their contribution. Federal law requires these reports to be made available to the public throughout the campaign and thereafter.

4. Defendant MARK NICHOLS was Chief Executive Officer of the Cabazon Band of Missions Indians in Riverside County, California (the "Tribe"). In this capacity, defendant MARK NICHOLS supervised employees of the Tribe, including employees of the Fantasy Springs Casino, which was owned and operated by the Tribe.

5. Defendant GREG CERVANTES was Customer Service Representative of the Tribe in Riverside County, California.

6. President William Jefferson Clinton and Vice President Albert Gore, Jr., were candidates for President and Vice President of the United States during the campaign preceding the 1996 federal election. "The Clinton/Gore '96 Primary Committee" ("Clinton/Gore Committee") was a political committee authorized to support their candidacies, and the committee was subject to the reporting provisions and the campaign financing limitations of FECA.

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21.04.402.3291

COUNT ONE

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 17, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about June 16, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Greg Cervantes's name.

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21-04-402-3293

COUNT TWO

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 29, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about June 29, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in David Riemer's name.

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COUNT THREE

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about September 20, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about September 20, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Anne Riemer's name.

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COUNT FOUR

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 17, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant GREG CERVANTES knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about July 27, 1995, defendant CERVANTES, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Beartice Cervantes's name.

ALEJANDRO N. MAYORKAS
United States Attorney

GEORGE S. CARDONA
Assistant United States Attorney
Chief, Criminal Division

KIMBERLY A. DUNNE
Assistant United States Attorney
Chief, Public Corruption & Government Fraud
Section

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21 04 402 3295

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9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
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12 UNITED STATES OF AMERICA,)

13 Plaintiff,)

14 v.)

15 MARK NICHOLS and)
16 GREGORIO CERVANTES,)
17 aka Greg Cervantes,)

18 Defendants.)
19

CR 98-642(B)-ABC

SECOND
SUPERSEDING
INFORMATION

[2 U.S.C. §§ 441(f), 437g(d): Illegal
Conduit Campaign Contributions; 18
U.S.C. § 2: Causing an Act to be Done]

20 The United States Attorney charges:

21 GENERAL ALLEGATIONS

22 At all times relevant to the Second Superseding Information:

23 1. The Federal Election Campaign Act ("FECA") governs contributions to
24 candidates and their campaign committees in federal elections. Under FECA, it is illegal for one
25 person to (a) contribute more than \$1000 to a particular candidate in either the primary or general
26 federal election, or (b) make a contribution in the name of another or, in other words, to make
27 disguised contributions through a "conduit" contributor.
28

JMR:jmr

2. Under FECA, the Federal Elections Commission ("FEC") is the agency of the United States responsible for: (a) receiving the required campaign contribution and disbursement reports, (b) making these reports available to the public, and (c) investigating violations of the law concerning illegal campaign contributions to federal candidates.

3. Under FECA, a candidate for federal office must establish a political committee through which funds can be raised. The treasurer of a federal candidate's political committee is required to file a periodic report with the FEC disclosing, among other things, the name of each contributor who contributed more than \$200 during the reporting period, and the amount of their contribution. Federal law requires these reports to be made available to the public throughout the campaign and thereafter.

4. Defendant MARK NICHOLS was Chief Executive Officer of the Cabazon Band of Missions Indians in Riverside County, California (the "Tribe"). In this capacity, defendant MARK NICHOLS supervised employees of the Tribe, including employees of the Fantasy Springs Casino, which was owned and operated by the Tribe.

5. Defendant GREG CERVANTES was Customer Service Representative of the Tribe in Riverside County, California.

6. President William Jefferson Clinton and Vice President Albert Gore, Jr., were candidates for President and Vice President of the United States during the campaign preceding the 1996 federal election. "The Clinton/Gore '96 Primary Committee" ("Clinton/Gore Committee") was a political committee authorized to support their candidacies, and the committee was subject to the reporting provisions and the campaign financing limitations of FECA.

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COUNT ONE

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 17, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about June 16, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Greg Cervantes's name.

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COUNT TWO

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 29, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about June 29, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in David Riemer's name.

21 04 402 3299

COUNT THREE

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about September 20, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about September 20, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Anne Riemer's name.

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COUNT FOUR

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 17, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant GREG CERVANTES knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about July 27, 1995, defendant CERVANTES, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Beartice Cervantes's name.

ALEJANDRO N. MAYORKAS
United States Attorney

GEORGE S. CARDONA
Assistant United States Attorney
Chief, Criminal Division

KIMBERLY A. DUNNE
Assistant United States Attorney
Chief, Public Corruption & Government Fraud
Section

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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY:

1 ALEJANDRO N. MAYORKAS
United States Attorney
2 GEORGE S. CARDONA
Assistant United States Attorney
3 Chief, Criminal Division
JEFFREY M. RAWITZ (State Bar No. 145529)
4 Assistant United States Attorney
1300 United States Courthouse
5 312 North Spring Street
Los Angeles, California 90012
6 (213) 894-2302

7 Attorney for Plaintiff
United States of America

8 UNITED STATES DISTRICT COURT

9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) No. CR 99-642(B)-ABC
11)
12 Plaintiff,) NOTICE OF FILING OF
13 v.) ORIGINAL PLEA AGREEMENT
14)
15 GREGORIO CERVANTES,)
Defendant.)


16 Plaintiff United States of America hereby files notice of
17 filing of original Plea Agreement in the above-titled case.

18 Dated: October 12, 1999

Respectfully submitted,

19 ALEJANDRO N. MAYORKAS
20 United States Attorney

21 GEORGE S. CARDONA
22 Assistant United States Attorney
Chief, Criminal Division

23
24 
JEFFREY M. RAWITZ
25 Assistant United States Attorney

26 Attorneys for Plaintiff
United States of America
27
28

1 **PLEA AGREEMENT**

2 United States v. Gregorio Cervantes, CR 99-642(B)-ABC

3 INTRODUCTORY PARAGRAPH

4
5 1. This constitutes the plea agreement between defendant
6 Gregorio Cervantes (hereinafter "defendant") and the United
7 States Attorney's Office for the Central District of California
8 ("this Office") in United States v. Gergorio Cervantes et. al.,
9 CR 98-642(B)-ABC. The terms of the agreement are as follows:

10 PLEA

11 2. Defendant agrees to plead guilty to count four of the
12 Second Superseding Information (the "Information"), a copy of
13 which is attached to this agreement as Exhibit A. Count four of
14 the Information charges defendant with violating Title 2 U.S.C.
15 §§ 441(f) and 437g(d); and Title 18 U.S.C. § 2, by causing the
16 making of illegal conduit campaign contributions.

17 3. The plea will be pursuant to Federal Rule of Criminal
18 Procedure 11(e)(1)(c). If the Court does not accept this
19 11(e)(1)(C) agreement, then neither party is bound by this
20 agreement and it will be deemed null and void.

21 NATURE OF THE OFFENSE

22 4. In order to be guilty of violating 2 U.S.C.
23 §§ 441(f) and 437(d); and 18 U.S.C. § 2, defendant must have: (1)
24 knowingly and wilfully (2) made, or caused to be made, a
25 contribution in connection with an election to any federal
26 political office or in connection with any primary election,
27 convention, or caucus held to select candidates for any federal
28 political office, (3) in the name of another person, (4) with

1 said illegal contributions aggregating \$2,000 or more during the
2 calendar year. By signing this agreement, defendant admits that
3 defendant is, in fact, guilty of this offense. Furthermore,
4 defendant specifically agrees to the factual basis for the plea
5 which is attached to this agreement.

6 PENALTIES

7 5. The statutory maximum sentence that the Court can
8 impose for a conviction under 2 U.S.C. §§ 441f and 437g(d); and
9 18 U.S.C. §§ 2 and 18 U.S.C. § 3571(b)(3) is one year
10 incarceration; an additional one year of supervised release; a
11 fine of \$100,000; and a special assessment of \$25 or five years
12 probation; a fine of \$100,000; and a special assessment of \$25.
13 The Court can also order defendant to pay the costs of
14 defendant's imprisonment. Defendant agrees to pay the special
15 assessment at or before the time of sentencing.

16 6. If defendant is placed on supervised release following
17 imprisonment and defendant violates one or more of the conditions
18 of supervised release, defendant may be returned to prison for
19 all or part of the term of supervised release, which could result
20 in defendant serving a total term of imprisonment greater than
21 the statutory maximum stated above.

22 AGREED ON SENTENCE

23 7. Applicable Guideline

24 The parties agree and stipulate that the applicable
25 guideline is U.S.S.G § 2X5.1 because there is no United States
26 Sentencing Guideline that is sufficiently analogous for the
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1 offense described in 2 U.S.C. § 437g(d). The parties further
2 stipulate that the provisions of 18 U.S.C. § 3553(b) shall
3 control the fines applicable to the offenses described in this
4 plea agreement.

5 8. Fine

6 The parties agree that as part of his sentence defendant
7 shall be ordered to pay a total criminal fine in the amount of
8 \$13,000. The payment shall be tendered within one year of the
9 the imposition of sentence and made in the form of a cashier's
10 check payable to the United States. Failure of defendant to make
11 the payments required as part of the agreed-upon sentence shall
12 (1) constitute a breach of this agreement allowing this Office to
13 reinstate the underlying First Superseding Indictment with the
14 statute of limitations having been tolled for the period between
15 the signing of this agreement and the reinstatement of the First
16 Superseding Indictment, and (2) constitute a violation of
17 defendant's probation.

18 9. Resolution of Administrative and Civil Liabilities with
19 the Federal Election Commission

20 Defendant admits that his conduct knowingly and willfully
21 violated 2 U.S.C. § 441(f) of the Federal Election Campaign Act,
22 and that the Federal Election Commission (FEC) has exclusive
23 authority to seek civil remedies against him for those violations
24 pursuant to 2 U.S.C. § 437g(a)(5).

25 Defendant agrees to submit to the FEC's jurisdiction, to
26 cooperate with the FEC in its compliance proceedings against
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1 defendant, including waiving FEC notification procedures to which
2 he may be entitled, all evidentiary privileges, and any statute
3 of limitations which may be applicable to the FEC compliance
4 proceedings, and to enter into a conciliation agreement with the
5 FEC and to pay whatever civil penalty the FEC deems appropriate
6 pursuant to the provisions of 2 U.S.C. § 437g(a)(5). This Office
7 and defendant have agreed that an administrative and civil fine
8 of \$26,000 would be an appropriate civil disposition of this
9 matter before the FEC in view of the charged conduct and the
10 conditions of this plea agreement. However, defendant has been
11 advised that this part of the plea agreement is not binding on
12 the FEC.

13 Defendant agrees to tender a check in the amount of \$26,000
14 made payable to the FEC at the time defendant enters his plea of
15 guilty before the court. This Office agrees to forward this
16 check to the FEC, along with a copy of this agreement and its
17 recommendation.

18 In the event that the FEC should accept the proposed sum as
19 an appropriate noncriminal remedy for the FECA violations
20 admitted in this agreement, after a conciliation agreement has
21 been entered into by defendant with the FEC, and a check has been
22 tendered and accepted by the FEC, no further proceedings (either
23 criminal or administrative) other than those associated with the
24 implementation of this plea agreement shall be undertaken against
25 defendant by this Office, the Department of Justice, or the FEC
26 for the FECA violations admitted in this agreement.

1 However, in the event that the FEC should refuse to accept
2 this sum as an appropriate noncriminal remedy for the FECA
3 violations admitted in this agreement, the check will be returned
4 to defendant, and the issue of the amount of the appropriate
5 administrative remedy shall be determined exclusively by the FEC
6 through the conciliation process in 2 U.S.C. § 437g(a)(5).

7 10. Incarceration, Community Confinement Center, Home
8 Detention and Community Service

9 The parties agree that defendant shall not be sentenced to
10 any term of incarceration, confinement in a community confinement
11 center, home detention or community service.

12 11. Probation

13 The parties agree that defendant shall be placed on one year
14 of probation as part of his sentence in this case.

15 12. Forfeiture

16 The parties agree that no forfeiture should be ordered as
17 part of the criminal sentence.

18 13. Special Assessment

19 Defendant agrees to pay to the Clerk of the Court for the
20 United States District Court for the Central District of
21 California on the date of sentencing a mandatory special
22 assessment of \$25.00.

23 FACTUAL BASIS

24 14. Defendant and this Office agree and stipulate to the
25 statement of facts attached hereto and incorporated herein.

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1 WAIVER OF APPEAL

2 17. Defendant understands that Title 18, United States
3 Code, Section 3742 gives defendant the right to appeal the
4 sentence imposed by the Court. Acknowledging this, defendant
5 knowingly and voluntarily waives the right to appeal any sentence
6 imposed by the Court and the manner in which the sentence is
7 determined, so long as the sentence is within the statutory
8 maximum authorized by law and comports with the sentence set
9 forth in this agreement.

10 18. The government likewise agrees to waive its right to
11 appeal the sentence imposed by the Court and the manner in which
12 the sentence is determined so long as it comports with the
13 sentence set forth in this agreement.

14 19. This agreement is limited to defendant and this Office
15 and cannot bind any other federal, state or local prosecuting,
16 administrative or regulatory authorities, except as set forth in
17 paragraph 9 above.

18 NO ADDITIONAL AGREEMENTS

19 20. Except as expressly set forth herein, there are no
20 additional promises, understandings or agreements between this
21 Office or any other government office and defendant or
22 defendant's counsel concerning any other criminal prosecution,
23 civil litigation or administrative proceeding relating to any
24 other federal, state or local charges that may now be pending or
25 hereafter be brought against defendant, or the sentence that
26 might be imposed as a result of defendant's guilty pleas pursuant
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1 to this Agreement. Nor may any additional agreement,
2 understanding or condition be entered into unless in writing and
3 signed by all parties.

4 If a fully executed copy of this agreement is not returned
5 to me by September 23, 1999, it will be automatically withdrawn
6 and thereafter of no legal effect or force.

7 This agreement shall be effective upon execution by
8 defendant and this Office.

9 AGREED AND ACCEPTED

10 UNITED STATES ATTORNEY'S OFFICE
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

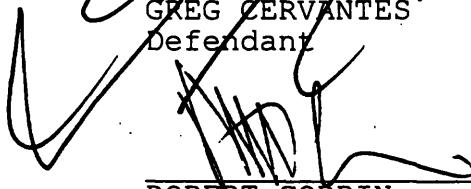
12 ALEJANDRO N. MAYORKAS
13 United States Attorney

14 
15 JEFFREY M. RAWITZ
16 Assistant United States Attorney
17 Public Corruption & Government Fraud Section

18 as of 9/22/99
19 Date

20 10/5/99
21 Date


22 GREG CERVANTES
23 Defendant


24 ROBERT CORBIN
25 Counsel for Defendant
26 Greg Cervantes
27
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FACTUAL BASIS

The Federal Election Campaign Act ("FECA") governs contributions to candidates and their campaign committees in federal elections. Under FECA, it is illegal for one person to (a) contribute more than \$1000 to a particular candidate in either the primary or general federal election, or (b) make a contribution in the name of another or, in other words, to make disguised contributions through a "conduit" contributor.

Under FECA, the Federal Elections Commission ("FEC") is the agency of the United States responsible for: (a) receiving the required campaign contribution and disbursement reports, (b) making these reports available to the public, and (c) investigating violations of the law concerning illegal campaign contributions to federal candidates.

Under FECA, a candidate for federal office must establish a political committee through which funds can be raised. The treasurer of a federal candidate's political committee is required to file a periodic report with the FEC disclosing, among other things, the name of each contributor who contributed more than \$200 during the reporting period, and the amount of their contribution. Federal law requires these reports to be made available to the public throughout the campaign and thereafter.

Defendant MARK NICHOLS was Chief Executive Officer of the Cabazon Band of Mission Indians in Riverside County, California (the "Tribe"). In this capacity, defendant MARK NICHOLS supervised employees of the Tribe, including employees of the Fantasy Springs Casino, which was owned and operated by the Tribe.

Defendant GREG CERVANTES was Customer Service Representative of the Tribe in Riverside County, California.

President William Jefferson Clinton and Vice President Albert Gore, Jr., were candidates for President and Vice President of the United States during the campaign preceding the 1996 federal election. "The Clinton/Gore '96 Primary Committee" ("Clinton/Gore Committee") was a political committee authorized to support their candidacies, and the committee was subject to the reporting provisions and the campaign financing limitations of FECA.

Beginning in or about October, 1994 and continuing through July 27, 1995, defendant Cervantes in concert with co-conspirator Nichols engaged in a scheme to knowingly and wilfully cause the Tribe to circumvent the campaign contributions limits imposed by the FECA, by using the Tribe's money to make conduit

1 contributions through defendant Cervantes' family members (the
2 "conduits").

3 The manner in which this scheme was effectuated was that
4 defendant Cervantes would encourage the conduits to make
5 contributions to a candidate with the understanding that they
6 would be reimbursed for their contributions by the Tribe. The
7 manner in which the reimbursements would occur is that within a
8 few days of the conduits making the contribution, co-conspirator
9 Nichols would cause the Tribe to issue either a "bonus" check or
10 a "loan" to defendant Cervantes, who in turn would reimburse the
11 conduits.

12 Specifically, defendant Cervantes knowingly and willfully
13 caused the following conduit contributions to be made in
14 violation of 2 U.S.C. § 441(f) and 437g(d):

15 The Greg and Hortencia Cervantes Contributions

16 On or about June 17, 1995, defendant GREG CERVANTES issued
17 check nos. 92 for \$1,000 to "Clinton/Gore '96". This check was
18 drawn on the joint bank account of Gregorio and Hortencia
19 Cervantes at First Interstate Bank, account nos.

20 On or about June 17, 1995, defendant GREG CERVANTES caused
21 Hortencia Cervantes to issue check nos. 93 for \$1,000 to
22 "Clinton/Gore '96". This check was drawn on account nos.
23 at First Interstate Bank.

24 On or about June 19, 1995, defendant MARK NICHOLS caused the
25 Tribe to issue defendant GREG CERVANTES check number nos. 14080
26 in the amount of \$4,000 ("check nos. 14080") a portion of which
27 was to be used to reimburse defendant GREG CERVANTES and
28 Hortencia Cervantes for the described above contributions.

On or about June 20, 1995, defendant GREG CERVANTES took
check 14080 to First Interstate Bank in Indio, California and put
\$2,000 into Cervantes account nos. This deposit was
made to reimburse the defendant GREG CERVANTES and Hortencia
Cervantes for their \$1,000 contributions made to Clinton/Gore
'96.

The Beartice Cervantes Contribution

On or about July 25, 1995, defendant GREG CERVANTES caused
his sister Beartice Cervantes to issue check number 362 for
\$1,000 to "Clinton/Gore '96 Primary." This check was drawn on
First Interstate bank account number

On or about July 26, 1995, defendant MARK NICHOLS caused the
Tribe to issue defendant GREG CERVANTES check number 14493 for
\$2,000. \$1,000 of this check was to be used to reimburse

1 Beartice Cervantes for the above described contribution.

2 On or about July 27, 1995, defendant GERG CERVANTES
3 deposited \$1,000 in cash into Beartice Cervantes First Interstate
4 bank account number Defendant GREG CERVANTES made the
5 deposit to reimburse Beartice Cervantes for her July 25, 1995
6 \$1,000 contribution to "Clinton/Gore '96 Primary," and used the
7 proceeds of the Tribe's check number 14493 given to him by
8 defendant MARK NICHOLS.

9 Other Conduit Contributions

10 Between October, 1994, and July 1995, defendant Cervantes
11 caused the Tribe to make at least 13 conduit contributions in the
12 above described manner, usually in \$1,000 amounts, to various
13 candidates for the United States House of Representatives and
14 United States Senate, knowing that such conduct constituted a
15 violation of 2 U.S.C. §§ 441(f) and 437d(G).
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9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11

12 UNITED STATES OF AMERICA,)

CR 98-642(B)-ABC

13 Plaintiff,)

SECOND
SUPERSEDING
INFORMATION

14 v.)

15 MARK NICHOLS and)
16 GREGORIO CERVANTES,)
17 aka Greg Cervantes,)

[2 U.S.C. §§ 441(f), 437g(d): Illegal
Conduit Campaign Contributions; 18
U.S.C. § 2: Causing an Act to be Done]

18 Defendants.)
19

The United States Attorney charges:

20 GENERAL ALLEGATIONS
21

At all times relevant to the Second Superseding Information:

22 1. The Federal Election Campaign Act ("FECA") governs contributions to
23 candidates and their campaign committees in federal elections. Under FECA, it is illegal for one
24 person to (a) contribute more than \$1000 to a particular candidate in either the primary or general
25 federal election, or (b) make a contribution in the name of another or, in other words, to make
26 disguised contributions through a "conduit" contributor.
27

28 JMR:jmr

2. Under FECA, the Federal Elections Commission ("FEC") is the agency of the United States responsible for: (a) receiving the required campaign contribution and disbursement reports, (b) making these reports available to the public, and (c) investigating violations of the law concerning illegal campaign contributions to federal candidates.

3. Under FECA, a candidate for federal office must establish a political committee through which funds can be raised. The treasurer of a federal candidate's political committee is required to file a periodic report with the FEC disclosing, among other things, the name of each contributor who contributed more than \$200 during the reporting period, and the amount of their contribution. Federal law requires these reports to be made available to the public throughout the campaign and thereafter.

4. Defendant MARK NICHOLS was Chief Executive Officer of the Cabazon Band of Missions Indians in Riverside County, California (the “Tribe”). In this capacity, defendant MARK NICHOLS supervised employees of the Tribe, including employees of the Fantasy Springs Casino, which was owned and operated by the Tribe.

5. Defendant GREG CERVANTES was Customer Service Representative of the Tribe in Riverside County, California.

6. President William Jefferson Clinton and Vice President Albert Gore, Jr., were candidates for President and Vice President of the United States during the campaign preceding the 1996 federal election. "The Clinton/Gore '96 Primary Committee" ("Clinton/Gore Committee") was a political committee authorized to support their candidacies, and the committee was subject to the reporting provisions and the campaign financing limitations of FECA.

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COUNT ONE

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 17, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about June 16, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Greg Cervantes's name.

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21-04-402-3517

COUNT TWO

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 29, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about June 29, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in David Riemer's name.

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COUNT THREE

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about September 20, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant MARK NICHOLS knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about September 20, 1995, defendant NICHOLS, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Anne Riemer's name.

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COUNT FOUR

[2 U.S.C. §§ 441(f), 437g(d); 18 U.S.C. § 2]

On or about June 17, 1995, in Riverside County, within the Central District of California, and elsewhere, defendant GREG CERVANTES knowingly and willfully caused to be contributed to a federal campaign committee, illegal contributions aggregating more than \$2,000 in a calendar year. Specifically, on or about July 27, 1995, defendant CERVANTES, having previously caused at least \$2,000 in conduit contributions to be made to the Clinton-Gore '96 Primary Committee on behalf of the Cabazon Band of Mission Indians, knowingly and willfully caused the tribe to make an additional \$1,000 conduit contribution in Bearice Cervantes's name.

ALEJANDRO N. MAYORKAS
United States Attorney

GEORGE S. CARDONA
Assistant United States Attorney
Chief, Criminal Division

KIMBERLY A. DUNNE
Assistant United States Attorney
Chief, Public Corruption & Government Fraud
Section

1 CERTIFICATE OF SERVICE BY MAIL

2 I, **VERONICA BARAJAS**, declare:

3 That I am a citizen of the United States and resident or
4 employed in Los Angeles County, California; that my business
5 address is Office of United States Attorney, United States
6 Courthouse, 312 North Spring Street, Los Angeles, California
7 90012; that I am over the age of eighteen years, and am not a
8 party to the above-entitled action;

9 That I am employed by the United States Attorney for the
10 Central District of California who is a member of the Bar of the
11 United States District Court for the Central District of
12 California, at whose direction the service by mail described in
13 this certificate was made; that on **October 12, 1999**, I deposited
14 in the United States mail in the United States Courthouse at 312
15 North Spring Street, Los Angeles, California, in the above-
16 entitled action, in an envelope bearing the requisite postage, a
17 copy of:

18 **NOTICE OF FILING OF ORIGINAL PLEA AGREEMENT**

19 Addressed to: **ROBERT L. CORBIN, ESQ.**
20 **601 West Fifth Street**
21 **12th Floor**
Los Angeles, CA 90017-2025

22 at **his/her/their** last known address, at which place there is a
23 delivery service by United States mail

24 This Certificate is executed on **October 12, 1999**, at Los
25 Angeles, California.

26 I certify under penalty of perjury that the foregoing is
27 true and correct.

28 
VERONICA BARAJAS

1
2 UNITED STATES DISTRICT COURT
3 CENTRAL DISTRICT OF CALIFORNIA

4 - - -
5 HONORABLE AUDREY B. COLLINS, JUDGE PRESIDING
6 - - -

7
8 UNITED STATES OF AMERICA,)
Plaintiff,)

9 vs.)

No. CR 98-642 ABC

10 MARK NICHOLS,)
11 GREGORIO CERVANTES,)
12 Defendants.)

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14
15
16
17 REPORTER'S TRANSCRIPT OF PROCEEDINGS
Change of Plea
18 Los Angeles, California
Thursday, October 14, 1999

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24
25
COPY

DAVID A. SALYER, CSR, RMR
Official Court Reporter
License No. 4410
255 East Temple Street
Room 1179-E
Los Angeles, California 90012
P: 213/687-4148 * F: 213/687-0576

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I N D E X

PROCEEDINGS:

Plea of Nichols

4

Plea of Cervantes

27

21.04.402.333

1 LOS ANGELES, CALIFORNIA, THURSDAY, OCTOBER 14, 1999

2 1:30 P.M.

3 THE CLERK: Item number one, CR 98-642 ABC, United
4 States of America versus Mark Nichols and Gregorio Cervantes.
5 Counsel, your appearances?

6 MR. RAWITZ: Good afternoon, your Honor. Jeff
7 Rawitz for the United States.

8 MR. GREENBERG: Good afternoon. Stanley Greenberg
9 present with Mr. Nichols.

10 We are here for a change of plea and we are ready
-11 to proceed.

12 MR. CORBIN: Good afternoon. Robert Corbin
13 appearing with Mr. Cervantes.

14 THE COURT: Good afternoon, counsel.

15 As you indicated, this matter is here for a change
16 of plea. And the Court has received notice of filing of the
17 original plea agreement and copies of the plea agreement on
18 each defendant, and the Court has had an opportunity to
19 review that and they certainly appear to be in order.

20 Although there are a lot of similarities, I think
21 it would probably be better to take each plea separately.

22 As to Mr. Nichols, it's the Court's understanding,
23 Mr. Nichols, that this afternoon you wish to plead guilty to
24 counts 1, 2 and 3; is that correct?

25 DEFENDANT NICHOLS: Yes.

1 THE COURT: All right. Why don't you rise so the
2 Court can hear your answers and go up to the podium because
3 this is a very serious matter. I do handle changes of plea
4 under oath. And at this time the clerk will arraign and
5 swear you as to counts 1, 2 and 3.

6 We will have plenty of opportunity during the plea
7 colloquy for you to ask any questions and if you need more
8 time to speak to your attorney, please let me know because
9 your answers will be under oath and if it is determined that
10 you willfully lied to the Court, it could be a basis for
11 perjury prosecution.

12 So we will ask that Mr. Nichols be sworn as to
13 counts 1, 2 and 3.

14 THE CLERK: Thank you, your Honor.

15 Is Mark Nichols your true and correct name?

16 DEFENDANT NICHOLS: Yes.

17 THE CLERK: Is it your intention at this time to
18 withdraw you previous not guilty plea to counts 1, 2 and 3 of
19 the indictment?

20 DEFENDANT NICHOLS: Yes.

21 THE CLERK: The Court will now ask you some
22 questions regarding the plea.

23 (Defendant sworn.)

24 DEFENDANT NICHOLS: Yes.

25 THE CLERK: Thank you.

1 MR. GREENBERG: Excuse me, your Honor.

2 I think I need to clarify one thing.

3 He will not be changing his plea as to counts 1, 2
4 and 3 of the indictment but entering guilty pleas to Count 1,
5 2 and 3 of the second superseding information.

6 THE COURT: That's correct.

7 I should indicate I have received the second
8 superseding information which was filed October 12th.

9 Have the defendants been arraigned on this
10 information?

11 MR. GREENBERG: No.

12 THE COURT: All right.

13 Then let's start there.

14 As to Mr. Nichols and Mr. Cervantes, there is a
15 second superseding information.

16 And the charges as to count 1 are different than
17 they are certainly than they are in the preceding
18 informations or indictments.

19 Count 1 charging Title 2 United States Code Section
20 441(f) and 437g, subsection D, and Title 18 United States
21 Code Section 2.

22 Now, you do have a right, both of you, Mr. Nichols
23 and Mr. Cervantes, to have me read out the entire
24 information.

25 Do you give up that right?

1 DEFENDANT NICHOLS: Yes.

2 DEFENDANT CERVANTES: Yes.

3 THE COURT: You also have a right to be advised as
4 to your constitutional rights, the same rights that we will
5 be going over in a few moments as to your plea.

6 You do have a right to read out to you all of your
7 rights before we proceed any further on the second
8 superseding information.

9 Do you give up your right to have me read those
10 separately because I will cover them in a few minutes as to
- 11 your plea?

12 DEFENDANT NICHOLS: Yes.

13 DEFENDANT CERVANTES: Yes..

14 THE COURT: All right. And as to your pleas I do
15 understand that at this time, as I stated, Mr. Nichols, you
16 plan to plead guilty to counts 1, 2 and 3 and, Mr. Cervantes,
17 as to count 4 in which you are charged would you be pleading
18 guilty; is that correct?

19 DEFENDANT CERVANTES: That is correct, your Honor.

20 DEFENDANT NICHOLS: Yes.

21 THE COURT: Now, before we go any further,
22 Mr. Nichols, how old are you?

23 DEFENDANT NICHOLS: 41.

24 THE COURT: And how far did you go to school?

25 DEFENDANT NICHOLS: Approximately three years in

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1 college.

2 THE COURT: All right.

3 If you do have questions as we go along, just let
4 me know and I will be happy to give you time to speak with
5 your attorney or if you have questions for me, you can
6 certainly address them to me.

7 I also have to ask your indulgence, unfortunately I
8 have a bit of a cold. We will try to get through this
9 without too much sneezing or coughing.

10 First of all, I will go over with you the charges
11 to which you are pleading this afternoon, advise of your
12 constitutional rights, go over the consequences of the plea
13 which are included in the plea agreement and we will explore
14 the plea agreement somewhat and then we will go over
15 sentencing factors.

16 First of all, to plead guilty to counts 1 through
17 3, in order to be found guilty of violating Title 2 of the
18 United States Code Section 441(f) and 437g (d) and Title 18
19 United States Code Section 2 all of which are charged in
20 counts 1, 2 and 3 the Government would have to prove, number
21 one, that you knowingly and willfully, number two, made or
22 caused to be made a contribution in connection with an
23 election to any federal political office or in connection
24 with any primary election, convention or caucus held to
25 select candidates for any federal political office, number 3,

1 in the name of another person, number 4, with said illegal
2 contributions aggregating \$2,000 or more during the calendar
3 year.

4 Do you understand that that is what you are charged
5 with in those counts?

6 DEFENDANT NICHOLS: Yes.

7 THE COURT: Next I would like to advise you of your
8 constitutional rights which you will be giving up if you
9 plead guilty today.

10 First, you have a right to a speedy and public
- 11 trial.

12 You have the right to be tried by a jury and you
13 have the right to make the Government prove its case against
14 you beyond a reasonable doubt to all 12 jurors.

15 In other words, you can only be convicted if the
16 Government proved beyond a reasonable doubt all of the
17 elements that I just went over when explaining the charge to
18 you.

19 If the case went to trial, you have the right to
20 confront and cross-examine all the witnesses called to
21 testify against you and you would have the right to subpoena
22 witnesses to testify on your own behalf.

23 You have the right to be represented by an attorney
24 throughout the proceedings. If you cannot afford an
25 attorney, one would be appointed for you free of charge.

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1 If the case went to trial, you would have a right
2 to testify on your own behalf. However, you could not be
3 compelled to testify or to incriminate yourself in any way.

4 And if the case did go to trial and you decided not
5 to testify, that fact could not be used against you in the
6 trial.

7 But if I accept your plea today, you are
8 incriminating yourself because you are admitting your guilt.

9 In essence, you are testifying against yourself.

10 There won't be a trial and I will sentence you
11 based on your plea today.

12 Have you discussed this case and these rights with
13 your attorney?

14 DEFENDANT NICHOLS: Yes, I have.

15 THE COURT: Do you understand your constitutional
16 rights?

17 DEFENDANT NICHOLS: Yes, I do.

18 THE COURT: And do you understand that if you plead
19 guilty, you are giving up all of these rights, including your
20 right to a jury trial?

21 DEFENDANT NICHOLS: Yes, I do.

22 THE COURT: And understanding that, do you give up
23 these rights?

24 DEFENDANT NICHOLS: Yes.

25 THE COURT: At this time I would like to go over

1 the consequences of your plea as covered in the plea
2 agreement at paragraph 5.

3 The statutory maximum sentence that the Court could
4 impose for each count of conviction under Title 2 of the
5 United States Code Section 441 (f) 437g subsection D and
6 Title 18 United States Code Section 2 and 18 United States
7 Code Section 3571 (b) (3) is one year of incarceration, an
8 additional one year supervised release, a fine of \$100,000
9 and a special assessment of \$25 for each count of conviction
10 or five years probation, a fine of \$100,000 per count, and a
- 11 special assessment of \$25 per each count of conviction.

12 The Court can also order you to pay the costs of
13 your imprisonment should the Court impose any. And you agree
14 to pay a special assessment at or before the time of
15 sentencing.

16 I have mentioned the term "supervised release."
17 That is a period of time following your release from
18 imprisonment and certain conditions and terms are imposed
19 upon you.

20 If those are violated, any of them, then you could
21 be returned to prison for all or part of the term of
22 supervised release which could obviously result in your
23 serving a total term in prison greater than the statutory
24 maximum of one year which was just mentioned.

25 Under the terms of this agreement, actually, the

1 plea agreement states that you cannot be sentenced to a term
2 of imprisonment or supervised release.

3 I believe that would relate to paragraph 10 in
4 which it's agreed you are not be sentenced to a period of
5 imprisonment although imprisonment may be ordered as a
6 condition of probation.

7 In addition in your particular case, one of the
8 consequences is covered at paragraph 8 that the parties have
9 agreed that as part of your sentence you would be ordered to
10 pay a total criminal fine in the amount of \$200,000 and the
11 plea agreement does set out the method under which that would
12 be paid and that if you didn't pay, that would constitute a
13 breach of the agreement allowing the Government to reinstate
14 the underlying first superseding indictment.

15 Do you understand those consequences?

16 DEFENDANT NICHOLS: Yes, I do.

17 THE COURT: I should also indicate that if you are
18 on probation, parole or supervised release in some other
19 case, different from this one, your plea today could result
20 in a violation of that probation, parole or supervised
21 release in the other case and that could result in your
22 serving more time in that other case.

23 Do you understand that?

24 DEFENDANT NICHOLS: Yes.

25 THE COURT: Another consequence that appears to be

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1 a consequence arising out of the plea agreement is that you
2 have agreed to submit to the federal election campaigns
3 jurisdiction to cooperate in its compliance proceedings and
4 this has to do with the resolution of administrative and
5 civil liabilities at paragraph 9.

6 And there is an agreement within paragraph 9 that
7 you and the Government have agreed to an administrative and
8 civil fine of \$56,000 as an appropriate civil disposition but
9 as part of the plea agreement is not binding on the FEC.

10 Do you understand those consequences?

11 DEFENDANT NICHOLS: Yes, I do.

12 THE COURT: All right.

13 If I haven't mentioned it, paragraph 12, another
14 consequence is that there is a mandatory special assessment
15 of \$25 for each count which you agree to pay on the date of
16 sentencing.

17 Do you understand that consequence?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Have you had sufficient time to discuss
20 this charge, possible punishment, facts and defenses with
21 Mr. Greenberg, your counsel?

22 DEFENDANT NICHOLS: Yes, I have.

23 THE COURT: We have discussed the plea agreement
24 already quite a bit.

25 Have you read this plea agreement?

1 DEFENDANT NICHOLS: Yes.

2 THE COURT: Is this your signature at page 9, just
3 above your name?

4 DEFENDANT NICHOLS: Yes.

5 THE COURT: Do you understand that the Court is not
6 a party to the agreement? In other words, you understand I
7 haven't signed it.

8 If you look at the signature page, the Court hasn't
9 signed. I'm not a party to it and I haven't agreed to the
10 terms. I haven't seen the terms until I got it the other
11 day.

12 Do you understand that?

13 DEFENDANT NICHOLS: Yes.

14 THE COURT: I also noticed that there is a waiver
15 of some appeal rights.

16 Paragraph 16, normally you have the right to appeal
17 any sentence imposed by the Court but in this paragraph you
18 are knowingly and voluntarily giving up your right to appeal
19 any sentence imposed by the Court as long as the sentence is
20 within the statutory maximum authorized by law and as long as
21 it comports with the sentence set forth in this agreement.

22 So do you understand that you are giving up some
23 appeal rights?

24 DEFENDANT NICHOLS: Yes.

25 MR. GREENBERG: May I have one moment, your Honor?

1 THE COURT: Yes.

2 MR. GREENBERG: Thank you, your Honor.

3 MR. RAWITZ: There is one additional consequence I
4 would like to point out the court.

5 It's under heading 10, your Honor, probation.

6 The parties have agreed that a minimum of three
7 years probation would be imposed by the Court. The statute
8 provides for no more than five. There is a range there and
9 three years is the minimum.

10 The only other clarification I would like to make,
11 your Honor, is to a certain extent while the Court is not a
12 signator to the agreement, the Court is, to the extent
13 indicated in agreement, because it's an 11(e)(1)(c) agreement
14 bound by the terms of the agreement, to the extent they are
15 agreed to in the plea agreement.

16 So it's unusual to that extent, your Honor.

17 THE COURT: Right. The Court understands it to be
18 that way, that I'm not a signator. I haven't signed off on
19 this agreement and I'm not bound by it, but the Court has the
20 option to accept the plea agreement as it is or to reject
21 it. And if I reject it totally, then you are not bound by it
22 at all and everybody would just go back to square one.

23 If I accept it, I accept it as written and I would
24 not deviate from the consequences that are laid out.

25 Is that everyone's understanding?

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1 MR. GREENBERG: That is our understanding, your
2 Honor.

3 MR. RAWITZ: Yes, your Honor. Thank you.

4 THE COURT: All right.

5 I don't remember if I asked you this.

6 Do you need any more time to discuss the plea
7 agreement with your attorney?

8 DEFENDANT NICHOLS: No, thank you.

9 THE COURT: All right. Now, when we you come back
10 for sentencing in January normally the sentencing is
11 determined under the sentencing guidelines and you don't
12 really know what you are sentence will be. This is, as was
13 just stated, a little bit different in that the consequences
14 are laid out and the agreed-upon sentence is laid out here.

15 So are you familiar with all of the paragraphs that
16 discuss the consequences here paragraph 8 on the fine,
17 paragraph 9, the resolution of the civil liabilities,
18 paragraph 10 which was previously referred to, that you won't
19 even be sentenced to a period of imprisonment although it may
20 be ordered as a term of probation, that you will be sentenced
21 to no less than three years probation, that the Government
22 could argue for a sentence including up to five years
23 probation and that the Government could argue for any of the
24 discretionary conditions listed in 3563(b), including
25 imprisonment for a period of not to exceed one year, that

1 there is no forfeiture and the special assessment?

2 Are you familiar with all of those components of
3 the sentence?

4 DEFENDANT NICHOLS: Yes, I am.

5 MR. RAWITZ: There is only one additional paragraph
6 I would draw the Court's attention to and that is paragraph
7 7, your Honor.

8 This is a case, based on the unique nature of the
9 statute involved, the parties have agreed that there is no
10 analogous guideline that is going to be used. It will come
11 into play -- it may well come into play to the extent the
12 Government argues for a term of incarceration and that is,
13 again, somewhat unusual. So I just wanted to draw the
14 Court's attention to it.

15 THE COURT: All right.

16 And you are aware of paragraph 7, Mr. Nichols?

17 DEFENDANT NICHOLS: Yes.

18 THE COURT: Which was just referred to on the
19 applicable guidelines?

20 DEFENDANT NICHOLS: Yes.

21 THE COURT: All right. Now, are we still sending
22 this matter out the probation; is that anticipated?

23 MR. RAWITZ: That is correct, your Honor.

24 The Court still has discretion not really regarding
25 the fine but to the extent that there is any detention or

1 community service, any combination that would be for the
2 Court to determine consistent with the agreement and the
3 pre-sentence report would be helpful to the Court in that
4 regard.

5 THE COURT: I'm sure it will.

6 Mr. Nichols, this will be going out to the
7 probation department. You will have an opportunity to be
8 interviewed.

9 The probation department will prepare a report
10 containing its recommendations and a lot of information from
11 the Court.

12 The Court will consider that report and any
13 additional papers from the parties and then the Court will
14 make its determination as to whether the Court will concur
15 with the conditions of the plea agreement or not.

16 Do you understand that?

17 DEFENDANT NICHOLS: Yes.

18 THE COURT: And at that time, of course, I will
19 make the final determination as to whether or not to accept
20 the plea agreement.

21 That is because right now I don't know if you might
22 have a prior criminal history that we are all just not aware
23 of, so it would be premature for me to decide that today.

24 But if I did reject the plea agreement, then as I
25 said, you would have an opportunity to withdraw your plea and

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1 change it at that time.

2 Do you understand that?

3 DEFENDANT NICHOLS: Yes.

4 THE COURT: I do have to advise you, although it
5 may not apply to you, that if you are not a United States
6 citizen there could be immigration consequences to your plea
7 such as deportation.

8 Do you understand that?

9 DEFENDANT NICHOLS: Yes.

10 THE COURT: All right. Also is this considered a
- 11 felony plea?

12 MR. RAWITZ: No, your Honor.

13 THE COURT: All right.

14 Has anyone made any promises, threats or used force
15 against you or your family in order to get you to plead
16 guilty today?

17 DEFENDANT NICHOLS: No.

18 THE COURT: Have you taken any medication or drugs
19 of any kind within the last 48 hours?

20 DEFENDANT NICHOLS: No.

21 THE COURT: The Court does find that Mr. Nichols is
22 in full possession of his faculties.

23 Now, at this time --

24 MR. GREENBERG: I'm sorry, I didn't hear what you
25 said just then.

1 THE COURT: I just said he's in full possession of
2 his faculties.

3 Now, at this time I would ask the Government,
4 Mr. Rawitz, to recite the factual basis that the Government
5 would prove if the case went to trial.

6 And, Mr. Nichols, I will ask you to listen
7 carefully because I will ask you if this is true and
8 correct.

9 MR. RAWITZ: Your Honor, as your Honor can see, on
10 pages 10 through 12, of, I believe, the plea agreement it's a
11 very extensive factual basis.

12 I would ask that the Court inquire of Mr. Nichols
13 whether he has reviewed the facts as they are set forth on
14 pages 10 through 12 and agrees that the Government could
15 prove those facts. The Government represents to the Court
16 that it can, in fact, prove those facts. That may save some
17 time.

18 There will be a fair amount of overlap, actually,
19 between the facts in Mr. Nichol's plea agreement and
20 Mr. Cervantes.

21 I can, if your Honor would like, just to summarize
22 what the evidence is as opposed reading the entirety of the
23 stipulated facts into the record whatever is the Court's
24 preference.

25 THE COURT: Why don't we do both.

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1 First let me ask you, Mr. Nichols, if you have read
2 the very detailed factual basis at pages 10 through 12.

3 DEFENDANT NICHOLS: Yes.

4 THE COURT: And having read that, is everything
5 that is stated in there about you, your conduct and your
6 intent true and correct?

7 DEFENDANT NICHOLS: Yes.

8 THE COURT: All right. I do think it would be good
9 for the record to just summarize, if you could, Mr. Rawitz.

10 MR. RAWITZ: Thank you very much.

11 As your Honor is aware, after our many pleadings in
12 this case, Mr. Nichols is the chief executive of the Cabazon
13 Band of which one of the business interests is the casino out
14 in the desert.

15 Mr. Nichols in that role wanted to make
16 contributions in this case to President Clinton and
17 vice-president Gore's campaign. At that time they were not
18 in the offices but merely running for the offices. He was
19 aware there were limits of \$1,000 in the primary and \$1,000
20 in the general election to make those contributions and in an
21 effort to circumvent those limits Mr. Nichols agreed to or
22 caused various members or employees of the casino which he
23 supervised to make contributions on the representation that
24 they would then be reimbursed for those contributions and
25 that is, in fact, what happened, your Honor.

1 It happened regarding the Goodmans, which is
2 reflected on page 11. They made contributions of \$1,000 each
3 on June 15 and were reimbursed.

4 Often what happened, your Honor, was Mr. Goodman
5 was an employee of the casino and in various instances either
6 an advance or a loan was made as an advance that was
7 undeserved of the loan that was subsequently forgiven and
8 then there were actually reimbursements for those
9 contributions and that what happened regarding Mr. Goodman.

10 Mr. Nichols also caused Mr. Cervantes to make a
11 \$1,000 contribution which on June 17th which he caused the
12 casino to reimburse him for on June 19.

13 David and Ann Marie Riemer, R-I-E-M-E-R made
14 contributions on June 29th and September 15th, respectively,
15 and were thereafter reimbursed by Mr. Nichols who caused or
16 tried to issue a check to Mr. Riemer. He was an employee of
17 the casino to reimburse for those contributions knowing that
18 he was prohibited from doing so.

19 During the course of October 1994 through December
20 of 1995 Mr. Nichols caused 28 conduit contributions to be
21 made to President Clinton's campaign knowing that that
22 conduct constituted a violation of Title 2, USC sections 441
23 (f) and 437g, subsection D, your Honor.

24 THE COURT: Thank you.

25 Again, Mr. Nichols, having heard that summary, is

1 the summary -- excuse me. Is the summary, not only the
2 facts, but your conduct and intent as stated true and
3 correct?

4 MR. GREENBERG: May we have a moment, your Honor?

5 THE COURT: Yes.

6 MR. GREENBERG: I think we heard one or two things
7 I need to talk to him about.

8 One thing I know that Mr. Rawitz said is that
9 President Clinton and Gore were not in office. At the time
10 they were running for a second term.

11 THE COURT: All right.

12 MR. GREENBERG: Also if I may, I want to clarify
13 two areas and I think Mr. Nichols will adopt it.

14 Mr. Rawitz made reference to the Goodman's, Don and
15 Elaine Goodman getting some advances.

16 I think in actuality what happened was Mr. Goodman
17 was given bonuses and he used some of that money to make the
18 contribution.

19 And the other thing is it was two candidates beyond
20 just President Clinton and Mr. Gore. It was some other
21 candidates who were also set forth.

22 I think with that clarification I think Mr. Nichols
23 will adopt what Mr. Rawitz has just said.

24 THE COURT: Is that clarification accepted
25 Mr. Rawitz?

1 MR. RAWITZ: Let me just respond briefly.

2 The bonuses, to the extent they were called
3 bonuses, were not, in fact, bonuses. They were
4 reimbursements. So if it was a bonus or a reimbursement
5 characterized as a bonus as opposed to an advance, I have no
6 objection to the changing of the terminology so long as the
7 understanding is the bonus was given for the purpose of
8 reimbursing in this case Mr. Goodman.

9 The other issue regarding various campaigns, we
10 need to be specific.

11 The second superseding information only addresses
12 campaign contributions made to -- Mr. Greenberg is
13 correct -- the president's and vice-president's campaign.

14 That is important. I make that clarification
15 because the statute speaks to limits vis-a-vis a particular
16 candidate and you have to give in excess of \$2,000 to a
17 particular candidate.

18 And so the only candidates or the only campaign
19 which is indicated in the second superseding information is
20 that of the president and the vice-president. It is
21 certainly true that of the other 28 conduit contributions,
22 they were made to various senators and house of
23 representatives and the house of representative candidates,
24 but those contributions which are addressed in the second
25 superseding information only address those made to the

1 president and vice-president.

2 THE COURT: Is that true?

3 DEFENDANT: That is correct.

4 THE COURT: I just wanted to make sure that was
5 true.

6 All right. So that that is accepted, then, that it
7 is true. This superseding information is only the
8 Clinton-Gore campaigns that are at issue.

9 Any dispute as to the nature of the bonus as it has
10 now been characterized by the Government? Is that accepted
-11 as characterized by the Government?

12 DEFENDANT NICHOLS: Yes.

13 THE COURT: All right. Then, again, as to the
14 summary and the full layout of the facts and the plea
15 agreement Mr. Nichols, are you pleading guilty because, in
16 truth and in fact, you are guilty of the conduct alleged in
17 counts 1, 2, and 3?

18 DEFENDANT NICHOLS: Yes.

19 THE COURT: Is the Government satisfied as to the
20 factual basis?

21 MR. RAWITZ: Thank you very much, your Honor. We
22 are.

23 THE COURT: And Mr. Greenberg, have you conferred
24 with and advised your client regarding his plea?

25 MR. GREENBERG: Yes.

1 THE COURT: Do you believe it's being made freely
2 and voluntary with a full understanding of the nature and the
3 consequences?

4 MR. GREENBERG: I do.

5 THE COURT: Do you concur there is a factual basis?

6 MR. GREENBERG: I do.

7 THE COURT: And, Mr. Nichols, are you satisfied
8 with the performance and representation of your attorney,
9 Mr. Greenberg?

10 DEFENDANT NICHOLS: Yes, very much so.

11 THE COURT: And having in mind all that we have
12 discussed this afternoon regarding the plea of guilty to
13 counts 1, 2 and 3, how do you wish to plead?

14 DEFENDANT NICHOLS: Guilty, your Honor.

15 THE COURT: The Court finds there is a factual
16 basis for the plea.

17 The Court finds Mr. Mark Nichols has entered his
18 plea freely and voluntarily with a full understanding of the
19 nature of the charges against him and the consequences of his
20 plea and the plea should be entered if the Court accepts it
21 at the time of sentencing.

22 Sentencing, if it's convenient with everyone, would
23 be January 3rd of 2000.

24 MR. GREENBERG: Your Honor, could we push that more
25 into the middle of -- wait a minute.

1 Could we get that into the week following, please?

2 THE COURT: January 10th?

3 MR. GREENBERG: That would be fine.

4 THE COURT: Sentencing, then, will be January 10th
5 2,000 at 1:30 p.m.

6 And, Mr. Nichols, you are ordered to return at that
7 date and time and unless the Court continues it on
8 stipulation without further court order, you must return
9 January 10th at 1:30 p.m.

10 Thank you.

11 DEFENDANT NICHOLS: Thank you.

12 THE COURT: That concludes the plea as to
13 Mr. Nichols.

14 Mr. Cervantes?

15 Mr. Cervantes, my understanding at this time is you
16 wish to change your -- you haven't entered a plea.

17 My understanding as to the new second superseding
18 information as to count 4 you wish to enter a plea of guilty;
19 is that correct?

20 DEFENDANT CERVANTES: Yes.

21 THE COURT: Again, I would like to do these matters
22 under oath.

23 You will have plenty of time to discuss the issues
24 as we go along with your counsel, but the Court will ask you
25 questions and you will be answering under oath. So if it

1 were determined you had willfully lied to the Court, you
2 could be subject to prosecution for perjury.

3 I will ask that Mr. Cervantes be sworn as to count
4 4.

5 THE CLERK: Count 4.

6 Thank you.

7 Is Gregorio Cervantes your true and correct name?

8 DEFENDANT CERVANTES: Yes.

9 THE CLERK: Is it your intention at this time to
10 withdraw your previous entry of plea as to count 4 of the
11 original indictment and enter a plea to count 4 of the second
12 superseding information?

13 MR. CORBIN: He is going to enter a plea of guilty
14 to count 4 of the second superseding information.

15 THE CLERK: Right.

16 MR. CORBIN: Which has no relationship at all to
17 any of the prior indictments.

18 THE CLERK: But are you not withdrawing your
19 previous pleas of not guilty to the initial indictment?

20 DEFENDANT CERVANTES: I am.

21 MR. CORBIN: Well, he is not -- he is not
22 withdrawing his previously entered pleas of not guilty
23 because count 4 in the second superseding information would
24 be different and no relationship.

25 THE CLERK: Thank you.

1 The Court will now ask you some questions regarding
2 your plea.

3 Please raise your right hand.

4 (Defendant sworn.)

5 DEFENDANT CERVANTES: Yes.

6 THE CLERK: Thank you.

7 THE COURT: Mr. Cervantes, how old are you, sir?

8 DEFENDANT CERVANTES: I'm 38.

9 THE COURT: And how far did you get in school?

10 DEFENDANT CERVANTES: Associate of arts degree from
11 the College of the Desert in Palm Desert, a B.A. from the
12 University of Riverside and some public policy work in
13 University of Georgetown, Washington D.C.

14 THE COURT: If you have any questions as we go
15 through the process, please feel free to ask for a moment to
16 speak with your attorney or you can ask me if the question is
17 one you would like to ask me directly.

18 First, I would like to make sure you understand
19 what you're pleading to and then go through your
20 constitutional rights and the consequences of your plea and
21 then review the sentencing proceeding.

22 You have agreed to plead guilty to count 4 of the
23 second superseding information that charges you with
24 violating Title 2, United States Code section 441(f) and
25 437g, subsection D, and also Title 18, United States Code

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1 Section 2 by causing the making of illegal conduit campaign
2 contributions.

3 Now, in order to be found guilty of violating those
4 sections the Government would have to prove at trial that you
5 must have, one, knowingly and willfully, two, made or caused
6 to be made a contribution in connection with an election to
7 any federal political office or in connection with any
8 primary election, convention or caucus held to select
9 candidates for any federal political office, three, in the
10 name of another person, four, with said illegal contributions
11 aggregating \$2,000 or more during the calendar year.

12 Do you understand that is what you will be pleading
13 guilty to?

14 DEFENDANT CERVANTES: I do, your Honor.

15 THE COURT: All right.

16 I would like to advise you of your constitutional
17 rights because you will be giving them up if you plead guilty
18 to count 4.

19 You have a right to a speedy and public trial.

20 You have a right to be tried by a jury and you have
21 the right to make the Government prove the case against you
22 beyond a reasonable doubt to all 12 jurors, which means the
23 Government would have to prove all of those elements we have
24 just went through to all 12 jurors.

25 You have the right to be represented by an

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1 attorney. If you can't afford an attorney, one would be
2 appointed for you free of charge.

3 You have the right to confront and cross-examine
4 all the witnesses who would be called to testify against you
5 and you have the right to have witnesses subpoenaed to
6 testify on your behalf.

7 You have the right to testify yourself if the case
8 went to trial, but you couldn't be compelled to testify
9 against yourself or to incriminate yourself in any way. And
10 if you decided not to testify at trial, the Government
-11 couldn't use that against you in trial.

12 If I accept your plea, today, you are, in fact,
13 testifying against yourself. You're incriminating yourself
14 because you're admitting your guilt, so you are giving up
15 your right against self-incrimination.

16 There won't be a trial and I will sentence you
17 based on your plea today.

18 Have you discussed this case and these rights with
19 your attorney, Mr. Corbin?

20 DEFENDANT CERVANTES: I have.

21 THE COURT: Do you understand your constitutional
22 rights?

23 DEFENDANT CERVANTES: Yes, I do.

24 THE COURT: Do you understand that if you plead
25 guilty, you are giving up these rights, including the right

1 to a jury trial?

2 DEFENDANT CERVANTES: I do.

3 THE COURT: Understanding that, do you give up
4 these rights?

5 DEFENDANT CERVANTES: That is correct.

6 THE COURT: I would like to go over the
7 consequences of the plea as set forth in the plea agreement.

8 Starting at paragraph 5, the statutory maximum
9 sentence that the Court can impose for a conviction under
10 Title 2 USC section 441(f) and 437g, subsection D, and Title
11 18 United States Code -- and Title 18 United States Code
12 3571 (b)(3) is one year incarceration and additional one year
13 of supervised release, a fine of \$100,000, and a special
14 assessment of \$25, five years probation, a fine of \$100,000
15 and a special assessment of \$25.

16 The Court can also order you to pay the costs of
17 imprisonment and you agree to pay the special assessment at
18 or before the time of sentencing.

19 If you are placed on supervised release and violate
20 any of those conditions, you could be returned to prison for
21 all or part of the term of supervised release.

22 However, in this plea agreement at paragraph 10 the
23 parties have agreed that if the Court accepts it you shall
24 not be sentenced to any term of incarceration, confinement in
25 a punitive confinement center, home detention or community

1 service.

2 Instead, according to paragraph 11, in this plea
3 agreement, the parties have agreed you would be placed
4 on one-year probation as part of your sentence in this case.

5 In paragraph 12 the parties have agreed there will
6 be no forfeiture and in paragraph 13 you do agree to pay a
7 special assessment of \$25 to the clerk of the Court from the
8 date of sentencing.

9 It's also agreed upon in the plea agreement that
10 there is no guideline that is really analogous to this and
11 that the applicable guideline would be 2X5.1.

12 And another consequence is paragraph 8 as part of
13 your sentence you shall be ordered to pay a total criminal
14 fine in the amount of \$13,000. And if you fail to make the
15 payment required as part of this agreement, then that would
16 be a breach of -- constitute a breach of the agreement,
17 allowing the Government to reinstate the underlying first
18 superseding indictment. And it would also constitute a
19 violation of your probation.

20 Another consequence is the resolution of
21 administrative and civil liabilities with the Federal
22 Election Commission at paragraph 9 in which you are agreeing
23 to submit to the FEC's jurisdiction and to cooperate and that
24 an appropriate administrative and civil fine is \$26,000. But
25 this part of the plea agreement is not binding to the FEC.

1 Still, you are agreeing to tender a check in that amount at
2 the time you enter your plea of guilty.

3 Those appear to be the consequences.

4 Do you understand all of those consequences and
5 terms?

6 DEFENDANT CERVANTES: I do, your Honor.

7 THE COURT: If you should be -- excuse me, if you
8 should be on probation, parole or supervised release in some
9 other, different case, your plea to this matter could result
10 in another court finding that you have violated that
11 probation or parole or supervised release which could result
12 in your serving more time in some other case.

13 Do you understand that?

14 DEFENDANT CERVANTES: I do.

15 Your Honor, I have no other case pending.

16 THE COURT: I understand. I'm just required to go
17 through quite a few of these things.

18 DEFENDANT CERVANTES: Thank you.

19 THE COURT: Do you feel you have had sufficient
20 time to discuss the charges, the possible punishment, all of
21 the consequences and the defenses with your attorney,
22 Mr. Corbin?

23 DEFENDANT CERVANTES: I have, your honor.

24 THE COURT: We have already talked about the plea
25 agreement quite a bit.

1 Have you had a chance to read and study the plea
2 agreement as much as you would like to?

3 DEFENDANT CERVANTES: I have.

4 THE COURT: And is this your signature on page 8?

5 DEFENDANT CERVANTES: Yes, it is.

6 THE COURT: Also, as part of the plea agreement the
7 Court notes that you are giving up some appeal rights at
8 paragraph 17.

9 Normally, you have the right to appeal any sentence
10 imposed by this Court.

11 You are giving up the right to appeal any sentence
12 in the matter which is determined as long as it's within the
13 statutory maximum authorized by law and comports with the
14 sentence set forth in this agreement.

15 Do you understand you are giving up some appeal
16 rights?

17 DEFENDANT CERVANTES: I do.

18 THE COURT: Do you need any more time to discuss
19 this plea agreement with Mr. Corbin?

20 DEFENDANT CERVANTES: I do not.

21 THE COURT: Now, again, the Court will have an
22 opportunity to study a presentence report which is going to
23 be prepared by probation. And you will have an opportunity
24 to see that and the Court can read that and any other papers
25 from counsel and then at that time the Court will decide

1 whether to accept and go along with the plea agreement or
2 not.

3 But if the Court doesn't accept it, then you would
4 have an opportunity to withdraw your plea.

5 Do you understand that?

6 DEFENDANT CERVANTES: Yes, I do.

7 THE COURT: Again, this may not apply to you, but
8 if you are not a United States citizen, there could be
9 immigration consequences from the plea such as deportation.

10 Do you understand that?

11 DEFENDANT CERVANTES: I do.

12 THE COURT: Has anyone made any promises, threats
13 or used force against you to get to you sign and accept the
14 terms of this plea agreement?

15 DEFENDANT CERVANTES: No.

16 THE COURT: Have you taken any medication or drugs
17 within the last 48 hours?

18 DEFENDANT CERVANTES: I have not.

19 THE COURT: The Court does find that Mr. Cervantes
20 is in full possession of his faculties.

21 And let me ask you, in terms of a factual basis,
22 whether you have read the factual basis at pages 9, 10 and 11
23 of the plea agreement?

24 DEFENDANT CERVANTES: I have.

25 THE COURT: And do you agree that everything said

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1 in there about you, your conduct and your intent is true and
2 correct?

3 DEFENDANT CERVANTES: I do, your Honor. I agree to
4 the factual basis that is stipulated in pages 9, 10 and 11.

5 THE COURT: All right.

6 For the Government, the previous oral summary that
7 you gave on the record as to Mr. Nichols, is there anything
8 that you would add to that or anything as to Mr. Cervantes?

9 MR. RAWITZ: Just very slightly, your Honor.

10 Mr. Cervantes held a different position which I
11 would note. He was a customer services representative so he
12 was not near the same position of authority as Mr. Nichols.

13 Mr. Cervantes involvement in this scheme primarily
14 involved causing members of his family to make the
15 contributions.

16 These people were not employees of -- often not
17 employees of the tribe itself but were family members. And
18 Mr. Cervantes would have the members of his family make the
19 contribution and then agree to have them reimbursed with
20 tribe money and that is, in fact, what happened.

21 He would consult and confer with Mr. Nichols who
22 would then cause a check to be issued to Mr. Cervantes. The
23 purpose of the check would then be to give and reimburse his
24 family members.

25 That was true as regarding his and I believe his

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1 wife's contribution on June 17th for which he was reimbursed
2 on June 19.

3 Beatrice Cervantes' contribution on July 25th for
4 which she was reimbursed-- for which Mr. Greg Cervantes was
5 reimbursed on the 26th and then he deposited that money into
6 Beatrice Cervantes' bank account on her behalf.

7 And, again, your Honor, in terms of the amount of
8 contributions in which Mr. Cervantes was involved, it was a
9 smaller amount.

10 There were 13 conduit contributions in which he was
11 directly involved causing the tribe's money to be used to
12 reimburse the individuals who made the contributions.

13 Just for your Honor's interest, the figure in the
14 FEC fine is, in fact, double the amount of the contributions
15 that were involved in each respective defendant's conduct.
16 So it's 26,000 because Mr. Cervantes was involved in 13
17 conduit contributions and 56,000 for Mr. Nichols because he
18 was involved in 28 conduit contributions, just as your Honor
19 understands how we came to those FEC numbers.

20 That, of course, just so your Honor knew in doing
21 that, is under Title 2 section 441(f) and 437g, subsection D.

22 THE COURT: Mr. Cervantes, do you agree with the
23 oral summary just given?

24 DEFENDANT CERVANTES: I do, your Honor.

25 I want to let you know for the record that my wife

1 Hortencia was unaware of my conduct during this period.

2 THE COURT: All right. The Court understands
3 that.

4 Are you pleading guilty because in truth and fact
5 you are guilty of the conduct charged in count 4?

6 DEFENDANT CERVANTES: I am.

7 THE COURT: All right.

8 Mr. Corbin, have you had an opportunity to confer
9 with and advise your client regarding this plea?

10 MR. CORBIN: Yes.

11 THE COURT: Do you believe it's being made freely
12 and with an understanding of the charges and consequences?

13 MR. CORBIN: Yes, your Honor.

14 THE COURT: And do you concur there is a factual
15 basis?

16 MR. CORBIN: Yes.

17 THE COURT: Mr. Cervantes, are you satisfied with
18 the performance and representation of your attorney in this
19 case, Mr. Corbin?

20 DEFENDANT CERVANTES: I am.

21 THE COURT: All right. Having in mind all that we
22 have discussed this afternoon regarding your plea of guilty
23 to count 4, how do you wish to plead to count 4?

24 DEFENDANT CERVANTES: Guilty, your Honor.

25 THE COURT: The Court finds there is a factual

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1 basis for the plea and the Court finds that Mr. Gregorio
2 Cervantes has entered his plea to count 4 fully and
3 voluntarily with a full understanding of the charge against
4 him and the consequences.

5 The plea is entered and the Court will make the
6 final determination whether to accept it at the time of
7 sentencing.

8 The Court will just indicate the Court would
9 certainly be inclined to accept it absent some surprises in
10 the presentence report.

11 And I had already set a date of January 10th, 2000
12 for sentencing.

13 Is that also agreeable as to Mr. Cervantes?

14 MR. CORBIN: Yes, your Honor.

15 THE COURT: All right. Mr. Cervantes, you are
16 ordered to return January 10th 2000 at 1:30 without further
17 court order or subpoena.

18 MR. CORBIN: Your Honor, just one last thing.

19 Paragraph 9 of the plea agreement, page four, lines
20 13 through 17, actually require Mr. Cervantes to pay the
21 \$26,000 to the FEC today.

22 We have access to the money. We just don't have
23 the money with us.

24 I have spoken with Mr. Rawitz and he has agreed to
25 excuse us from that aspect of the plea agreement with the

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1 understanding that the money will be paid in the foreseeable
2 future.

3 THE COURT: All right. Then that is certainly fine
4 with the Court also.

5 And similarly, if there is an agreement to
6 Mr. Nichols, that is fine also.

7 MR. RAWITZ: Your Honor, may I have one moment to
8 confer with counsel?

9 THE COURT: Yes.

10 MR. RAWITZ: Thank you very much, your Honor.

11 The issue which we were discussing, your Honor, was
12 the pending appeal in this matter.

13 The Government's opening brief is due on Monday.

14 We have been staying the briefing schedule in an
15 effort to reach the resolution that we reached today and your
16 honor's clerk was kind enough to get us into court so that we
17 could enter the pleas before Monday which is when the opening
18 brief is due.

19 The issue arises, your Honor, because the
20 Government would not be inclined to dismiss its appeal until
21 the Court has formally accepted the plea agreements because
22 if we dismiss our appeal and then for some unforeseen reason
23 your Honor rejects the plea agreements, we would be in a bad
24 position in the Ninth Circuit in terms of the appeal.

25 So we have, it seems like, two options, your Honor.

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1 One of the options is to request a further stay of
2 the Ninth Circuit until after the date of sentencing at which
3 point your Honor will have opined regarding your decision
4 about accepting the plea. It sounds like absent some
5 extraordinary circumstance you are inclined to do so.

6 THE COURT: That is correct.

7 MR. RAWITZ: Or your Honor can indicate that your
8 Honor accepts the plea agreements in which we could file --
9 I had actually prepared a motion to dismiss which I intend to
10 file either today or tomorrow, which I hadn't anticipated,
-11 although it may be procedurally correct the way your Honor is
12 proceeding, that you don't do it until you actually see the
13 presentence report.

14 I just wanted to raise that for the Court because
15 your Honor does want to, I believe -- did want to know about
16 what is going on with the appeal.

17 THE COURT: I was very curious.

18 MR. RAWITZ: Having spent quite a bit of time
19 actually preparing an appeal, I'm sorry I won't be able to
20 file, you know, we have these two options.

21 And I think it's up to your Honor whether you are
22 comfortable accepting the plea before or after.

23 THE COURT: You are correct.

24 Procedurally the Court generally doesn't accept it
25 until after it has seen a report in case there is some

1 surprise.

2 I don't know if the Government has had an
3 opportunity to look into any potential prior criminal history
4 which would be the only thing that would cause the Court to
5 reject it .

6 I don't know if you can represent to the Court that
7 you have looked into that and that you are comfortable that
8 the defendants don't have any prior criminal history.

9 MR. RAWITZ: I can promise your Honor in
10 anticipation that I will have to cross-examine these
11 defendants whether they would want to know whether there
12 would be any impeachment evidence that I would be able to use
13 regarding criminal history, and there is -- there are no
14 convictions, to the best of my knowledge, your Honor..

15 THE COURT: All right. I will just ask both
16 defense counsel if that is also your representation based on
17 your understanding at this time, Mr. Greenberg?

18 MR. GREENBERG: Your Honor, the only way I can
19 answer that is I have learned from some bitter experience in
20 the past I can only say, "Not to my knowledge." But whether
21 something is or is not a conviction, I have been surprised in
22 the past, but not to my knowledge.

23 MR. RAWITZ: Maybe your Honor can inquire to
24 Mr. Nichols as he should surely know.

25 MR. GREENBERG: That is exactly the problem.

1 My clients rarely know the correct answer.

2 THE COURT: I realize they may be not attuned to
3 the niceties of felonies and misdemeanors, but is it
4 acceptable for this purpose if I ask them if they have ever
5 been convicted of any criminal offense?

6 MR. GREENBERG: May I just have a moment?

7 THE COURT: That is my only concern. And if
8 everyone is comfortable that the answer is no, I would accept
9 it.

10 MR. GREENBERG: I am informed by my client that the
11 answer is no.

12 THE COURT: And as to Mr. Cervantes?

13 MR. CORBIN: Mr. Cervantes has no priors to my
14 knowledge and he represents to me that he does not know of
15 any.

16 THE COURT: Mr. Cervantes, you haven't been
17 convicted of any prior criminal offenses?

18 DEFENDANT CERVANTES: No, your Honor.

19 THE COURT: And the Government's due diligence has
20 not uncovered any such prior convictions?

21 MR. RAWITZ: That is correct.

22 THE COURT: Based upon that, the Court does accept
23 both plea agreements, specifically as to Mr. Nichols and the
24 plea agreement as to Mr. Cervantes.

25 The terms of the plea agreements are acceptable to

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1 the Court.

2 MR. CORBIN: Thank you very much.

3 MR. RAWITZ: We appreciate that.

4 THE COURT: The Court is recess.

5 (End of proceedings.)

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C E R T I F I C A T E

I hereby certify that the foregoing matter is
transcribed from the stenographic notes taken by me and is a
true and accurate transcription of the same.

DAVID A. SALYER, CSR, RMR
Official Court Reporter
License No. 4410

DATED: March 21, 2000