



U.S. Department of Justice

Joshua S. Levy
Acting United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

July 31, 2024

Timothy Goulden
Kurt Olson
Goulden Law Offices



Re: KBC Capital, LLC

Dear Tim and Kurt:

The Acting United States Attorney for the District of Massachusetts (the "U.S. Attorney") and your client, KBC Capital, LLC ("Defendant"), agree as follows, pursuant to Federal Rule of Criminal Procedure ("Rule") 11(c)(1)(C):

1. Change of Plea

As soon as is practicable, Defendant will waive Indictment and plead guilty to counts 1 through 26 of the Information: Transferring a Firearm Regulated by the National Firearms Act, in violation of 26 U.S.C. § 5861(e). Defendant admits that Defendant committed the crimes specified in these counts and is in fact guilty of each one.

Defendant agrees to the Statement of Facts included in Attachment A.

2. Penalties

Defendant faces the following maximum penalties: a fine of \$10,000 per violation; supervised release for 3 years; a mandatory special assessment of \$400 for each count; restitution; and forfeiture to the extent charged in the Information.

3. Rule 11(c)(1)(C) Plea

In accordance with Rule 11(c)(1)(C), if the Court accepts this Plea Agreement, the Court

must include the agreed disposition in the judgment. If the Court rejects any part of this Plea Agreement, the U.S. Attorney may void the agreement and/or Defendant may withdraw from it. Defendant may not withdraw Defendant's plea for any other reason.

Should the U.S. Attorney void the agreement and/or Defendant moves to withdraw Defendant's guilty plea, Defendant agrees to waive any defenses based upon statute of limitations, the constitutional protection against pre-indictment delay, and the Speedy Trial Act for all charges that could have been brought as of the date of this Plea Agreement.

4. Sentencing Guidelines

The parties agree, based on the following calculations, that Defendant's total "offense level" under the Guidelines is 25:

- a) Defendant's base offense level is 18, because the offense involves a firearm described in 26 U.S.C. § 5845(a) (USSG § 2K2.1(a)(5));
- b) Defendant's offense level is increased by 10, because the offense involved more than 200 firearms (USSG § 2K2.1(b)(1)(E)); and
- c) Defendant's offense level is decreased by 3, because Defendant has accepted responsibility for Defendant's crimes (USSG § 3E1.1).

Defendant understands that the Court is not required to follow this calculation. Defendant also understands that the government will object to any reduction in Defendant's sentence based on acceptance of responsibility, and may be released from the parties' agreed-upon disposition in Paragraph 5 if: (a) at sentencing, Defendant (directly or through counsel) indicates that Defendant does not fully accept responsibility for having engaged in the conduct underlying each of the elements of the crimes to which Defendant is pleading guilty; or (b) by the time of sentencing, Defendant has committed a new federal or state offense, or has in any way obstructed justice.

Nothing in this Plea Agreement affects the U.S. Attorney's obligation to provide the Court and the U.S. Probation Office with accurate and complete information regarding this case.

5. Agreed Disposition

The parties agree on the following sentence:

- a) a fine \$260,000;
- b) A period of probation for three years;
- c) In addition to the mandatory conditions of probation pursuant to USSG § 8D1.3 and 18 U.S.C. § 3563(a), which include the full payment of the fine set forth in paragraph 5(a), the period of probation shall also require Defendant to cease marketing firearms accessories, including those previously marketed under

Defendant's "Lethal Eye" business line.

- d) a mandatory special assessment of \$10,400 (\$400 per count, per 18 U.S.C. § 3013(a)(2)(B)), which Defendant must pay to the Clerk of the Court by the date of sentencing;
- e) forfeiture as set forth in Paragraph 7.

Defendant agrees that all criminal monetary penalties, including special assessment, restitution, forfeiture, and/or fine imposed shall be payable immediately. The parties agree that Defendant shall pay the fine identified in Paragraph 5(a) in twelve equal quarterly installments on the following schedule:

Due within ten days of pleading guilty: \$21,666.67
Due by September 30, 2024: \$21,666.67
Due by December 31, 2024: \$21,666.67
Due by March 31, 2025: \$21,666.67
Due by June 30, 2025: \$21,666.67
Due by September 30, 2025: \$21,666.67
Due by December 31, 2025: \$21,666.67
Due by March 31, 2026: \$21,666.67
Due by June 30, 2026: \$21,666.66
Due by September 30, 2026: \$21,666.66
Due by December 31, 2026: \$21,666.66
Due by March 31, 2026: \$21,666.66

Defendant further agrees that any Court-ordered repayment schedule does not preclude further enforcement or collection by the United States.

6. Waiver of Appellate Rights and Challenges to Conviction or Sentence

Defendant has the right to challenge Defendant's conviction and sentence on "direct appeal." This means that Defendant has the right to ask a higher court (the "appeals court") to look at what happened in this case and, if the appeals court finds that the trial court or the parties made certain mistakes, overturn Defendant's conviction or sentence. Also, in some instances, Defendant has the right to file a separate civil lawsuit claiming that serious mistakes were made in this case and that Defendant's conviction or sentence should be overturned.

Defendant understands that Defendant has these rights, but now agrees to give them up. Specifically, Defendant agrees that:

- a) Defendant will not challenge Defendant's conviction on direct appeal or in any other proceeding, including in a separate civil lawsuit; and
- b) Defendant will not challenge Defendant's sentence, including any court orders related to forfeiture, restitution, fines or supervised release, on direct appeal or in any other proceeding, including in a separate civil lawsuit.

The U.S. Attorney agrees not to appeal the imposition of the sentence agreed to by the parties in paragraph 5.

Defendant understands that, by agreeing to the above, Defendant is agreeing that Defendant's conviction and sentence will be final when the Court issues a written judgment after the sentencing hearing in this case. That is, after the Court issues a written judgment, Defendant will lose the right to appeal or otherwise challenge Defendant's conviction and sentence regardless of whether Defendant later changes Defendant's mind or finds new information that would have led Defendant not to agree to give up these rights in the first place.

Defendant is agreeing to give up these rights in exchange for concessions the U.S. Attorney is making in this Agreement.

The parties agree that, despite giving up these rights, Defendant keeps the right to later claim that Defendant's lawyer rendered ineffective assistance of counsel, or that the prosecutor or a member of law enforcement involved in the case engaged in misconduct serious enough to entitle Defendant to have Defendant's conviction or sentence overturned.

7. Forfeiture

Defendant understands that the Court will, upon acceptance of Defendant's guilty plea, enter an order of forfeiture as part of Defendant's sentence, and that the order of forfeiture may include assets directly traceable to Defendant's offense, assets used to facilitate Defendant's offense, substitute assets and/or a money judgment equal to the value of the property derived from, or otherwise involved in, the offense.

8. Civil Liability

This Plea Agreement does not affect any civil liability, including any tax liability, Defendant has incurred or may later incur due to Defendant's criminal conduct and guilty plea to the charges specified in Paragraph 1 of this Agreement.

9. Breach of Plea Agreement

Defendant understands that if Defendant breaches any provision of this Agreement, violates any condition of Defendant's pre-trial release or commits any crime following Defendant's execution of this Plea Agreement, Defendant cannot rely upon such conduct to withdraw Defendant's guilty plea. Defendant's conduct, however, would give the U.S. Attorney the right to be released from the U.S. Attorney's commitments under this Agreement, to pursue any charges that were, or are to be, dismissed under this Agreement, and to use against Defendant any of Defendant's statements, and any information or materials Defendant provided to the government during investigation or prosecution of Defendant's case—even if the parties had entered any earlier written or oral agreements or understandings about this issue.

Defendant also understands that if Defendant breaches any provision of this Agreement or

engages in any of the aforementioned conduct, Defendant thereby waives any defenses based on the statute of limitations, constitutional protections against pre-indictment delay, and the Speedy Trial Act, that Defendant otherwise may have had to any charges based on conduct occurring before the date of this Agreement.

10. Who is Bound by Plea Agreement

This Agreement is only between Defendant and the Acting U.S. Attorney for the District of Massachusetts. It does not bind the Attorney General of the United States or any other federal, state, or local prosecuting authorities.

11. Modifications to Plea Agreement

This Agreement can be modified or supplemented only in a written memorandum signed by both parties, or through proceedings in open court.


* * *

If this letter accurately reflects the agreement between the U.S. Attorney and Defendant, please have Defendant sign the Acknowledgment of Plea Agreement below. Please also sign below as Witness. Return the original of this letter to Assistant U.S. Attorney Evan D. Panich.


Sincerely,

JOSHUA S. LEVY
Acting United States Attorney

By:



RILWAN ADEDUNTAN
Chief, Narcotics and Money Laundering Unit



EVAN D. PANICH
Assistant U.S. Attorney

Corporate Acknowledgment of Plea Agreement

I am authorized to execute this Plea Agreement on behalf of KBC Capital, LLC. I have read this letter of Agreement in its entirety and has discussed it fully with KBC Capital, LLC's attorney. I acknowledge that this letter fully sets forth KBC Capital, LLC's agreement with the U.S. Attorney. I acknowledge that no additional promises or representations have been made to KBC Capital, LLC by any officials of the United States in connection with this matter.



XIAOZHONG ZHANG
President
KBC Capital, LLC

I certify that Defendant's President has authority to enter into this Plea Agreement and has (1) reviewed the Information in this case and the proposed Plea Agreement; (2) consulted with legal counsel in connection with the matter; (3) agreed to enter into the proposed Plea Agreement; and (4) agreed to authorize Defendant to plead guilty to the charges specified in the Plea Agreement.



Timothy Goulden, Esq.
Kurt Olson, Esq.
Attorneys for KBC Capital, LLC

**UNITED STATES DISTRICT COURT
FOR THE MASSACHUSETTS**

UNITED STATES OF AMERICA)
)
 v.)
)
KBC CAPITAL, LLC)
)
 Defendant.)
)
)
)
 _____)

Criminal No. 24-cr-_____

ATTACHMENT A

STATEMENT OF FACTS

The following Statement of Facts is incorporated by reference as part of the Plea Agreement (the “Agreement”) between the United States Attorney’s Office for the District of Massachusetts (the "U.S. Attorney's Office") and KBC Capital, LLC (“KBC” or “the Company”) as well as the Deferred Prosecution Agreement between the U.S. Attorney’s Office and Xiaozhong ZHANG. KBC and ZHANG hereby agree and stipulate that the following information is true and accurate. KBC and ZHANG admit, accept, and acknowledge that it is responsible for the acts of its officers, directors, employees, and agents as set forth below. Should the United States pursue the prosecution that is deferred by the DPA, Zhang and KBC Capital, LLC agree that they will neither contest the admissibility of, nor contradict, this Statement of Facts in any such proceeding. The following facts establish beyond a reasonable doubt the charges set forth in the criminal Information attached to this Agreement:

I. Background on KBC Capital, LLC

1. KBC is a New Hampshire corporation with a principal place of business in Nashua, New Hampshire. KBC sells a variety of consumer products across several business lines.

2. “Lethal Eye” was the trade name of KBC’s business lines that marketed accessories for firearms. Lethal Eye was in operation for approximately ten years until it ceased to operate in 2023.

3. The President and sole shareholder of KBC is Xiaozhong (“Mark”) ZHANG. ZHANG was ultimately responsible for all corporate decisions KBC made. KBC also employed an operations manager (the “Operations Manager”), whom KBC paid an annual salary and whose compensation was not dependent on sales. The Operations Manager has never had an ownership interest in KBC.

II. Background on National Firearms Act

4. The National Firearms Act (“NFA”) regulates the manufacture, possession, and registration of certain weapons defined under the Act, generally referred to as “NFA Firearms.” NFA Firearms include, among other things, short-barreled rifles (SBRs), suppressors (i.e., silencers), short-barreled shotguns, and machineguns. *See* 26 U.S.C. § 5845(a).

5. The NFA imposes taxes on the making and transfer of NFA Firearms, as well as a special occupational tax on Federal Firearms Licensees (“FFLs”) engaged in the business of importing, manufacturing, and dealing in NFA firearms. *See* 26 U.S.C. §§ 5801, 5821. The NFA requires registration of all NFA firearms with the Attorney General in the National Firearms Registration and Transfer Record (“NFRTR”). *See* 26 U.S.C. § 5841.

6. The purpose of the NFA is to regulate transactions in NFA firearms, which are deemed to be more dangerous than those not regulated by the NFA due to their proliferation in criminal activity at the time the NFA was enacted. Further prohibitions and limitations are implemented by states. For example, possession of a suppressor is illegal in Massachusetts by “any person, other than a federally licensed firearms manufacturer, an authorized agent of the municipal

police training committee, or a duly authorized sworn law enforcement officer while acting within the scope of official duties....” M.G.L. ch. 269, § 10(a).

7. The NFA also requires that an FFL be a Special Occupational Taxpayer (SOT) or file additional paperwork with the Bureau of Alcohol, Tobacco, and Firearms (“ATF”) in order to buy, sell, transfer, or manufacture items regulated by the NFA. The NFA further prohibits an FFL who is not an SOT to manufacture or change a firearm that originally was not an NFA weapon to create an NFA weapon. For example, creating a short-barreled rifle out of pistol parts without fulfilling the registration and taxing requirements is a violation of the NFA because such a firearm is subject to all those requirements of the NFA. Non-SOT holders cannot make an NFA Firearm without receiving prior ATF approval.

III. KBC (d/b/a Lethal Eye) Engaged in Criminal Conduct

A. Advertisements on Lethal Eye’s Websites

8. Using its website, www.lethaleye.com, KBC marketed various firearm parts that included adapters, muzzle breaks, slide lock levels, and trigger connectors. The website also contained a video that displayed and audibly explained how to use the advertised adapters to attach automotive oil filters / solvent traps to the barrel of a pistol.¹ Although automotive oil filters did not appear available for sale on the website, they could be found for sale after utilizing the “search” function on the website by typing one of several individual letters that included “A,” “D” and “F.”²

¹ A solvent trap or automotive oil filter attached to the end of a firearm barrel will function as a firearm silencer / suppressor if the firearm is fired and will continue to do so with subsequent firings.

² A solvent trap or automotive oil filter attached to a firearm is not considered a firearm silencer / suppressor until a hole is created on the bottom of the filter by drilling or firing the firearm once attached. It is NOT common practice to attach solvent traps or automotive oil filters to firearms for any legal purpose (e.g., firearm cleaning).

9. Several “muzzle breaks” advertised for sale appeared to be firearm silencers, given their length and design.³ Every webpage on the Lethal Eye website included a disclaimer that contained but was not limited to the following statements:

All products are designed and sold with 100% COMPLETE COMPLIANCE AND COOPERATION for and with BATFE [ATF] and NFA rules and regulations.

BUYER UNDERSTANDS THAT THESE ARE NOT SUPPRESSORS AND OR SILENCERS IN ANY WAY SHAPE OR FORM.

This disclaimer was included in an attempt to insulate Lethal Eye from criminal liability and was not in fact accurate. A search of ATF records confirmed that KBC never corresponded with ATF regarding its products.

10. In or about 2017, ZHANG and the Operations Manager attended a gun show that was also attended by an individual known to the parties but identified here as “INDIVIDUAL NO. 1.” At this gun show, INDIVIDUAL NO. 1 was selling firearms accessories that are not federally regulated. ZHANG and the Operations Manager approached INDIVIDUAL NO. 1 to ask if INDIVIDUAL NO. 1 would be interested in distributing some of KBC’s products. INDIVIDUAL NO. 1 agreed to sell what KBC (doing business as Lethal Eye) marketed as muzzle breaks, end caps, and thread adapters, but which were actually components of a silencer. INDIVIDUAL NO. 1 recognized that some of the products that KBC marketed could be used to manufacture a silencer, and as a result, advised KBC to include a disclaimer on its website. ZHANG made the ultimate decision to place the disclaimer on the Lethal Eye website, thus acknowledging the possibility that Lethal Eye’s products could be used in contravention of the National Firearms Act.

³ Most commercially available muzzle breaks are typically no longer than 2 to 3 inches, as additional length does not add to their intended function of reducing recoil and muzzle rise. The items advertised by Lethal Eye (“M-079”, “M-074”, and “M-099”) appeared to have “baffles” similar to a firearm silencer / suppressor.

B. *Investigators' Purchase and KBC's Delivery of Unregistered NFA Suppressors*

11. On May 19, 2023, and June 5, 2023, investigators purchased suspected suppressors and additional firearm parts from www.lethaleye.com. The items purchased on May 19, 2023, were a "½ - 28 Quad Thread Oil Filter Solvent Trap Adapter" (Item M-048) and a "½ - 28 Pitch 18 Port Gilled Muzzle Break Recoil Reducer Combo" (Item M-074 combo). On June 1, 2023, the package containing the items was retrieved by investigators at an undercover mailbox (the "UC Drop Box"). The package label included KBC's address on its label as the return address. The handwritten text "1 x M-074 combo" and "1 x M-048," were visible at the bottom of the label. The items purchased on June 5, 2023, were two (2) "Muzzle Break .308 5/8-24 TPI 6 Inch Length 7075 Aluminum Precision Recoils" (Item M-099 / M-095). On June 21, 2023, the package containing the items was retrieved by investigators at the UC Drop Box. The package label contained 17E Clinton Drive, Hollis, New Hampshire as the return address, with "2 x M-099" handwritten on the bottom of the label.



12. On June 22, 2023, investigators sent all items purchased from KBC to the Firearms Technology Criminal Branch ("FTCB") within ATF for analysis and classification. FTCB concluded that items M-074 and M-099 were classified as firearm silencers. As such, these items

are subject to the provisions of the NFA and require registration upon manufacture and any subsequent transfer in the National FRTR in accordance with 26 U.S.C. § 5861. However, neither ZHANG, the Operations Manager, nor KBC submitted any applications to transfer or register any of the firearm silencers purchased by investigators.

13. ATF records confirm that neither KBC, ZHANG, nor the Operations Manager are FFLs. Therefore, they are not licensed importers, licensed manufacturers, or licensed dealers, as those terms are defined in 18 U.S.C. § 921. Accordingly, KBC manufactured and transferred NFA Firearms in violation of federal law.

C. Bulk Purchase of Additional Firearm Silencers in Violation of the NFA

14. In May of 2023, the U.S. Postal Inspection Service USPIS created an email account (hereinafter, the “source account”) from which to purchase items as well as communicate with Lethal Eye. This email account has been the listed account on all purchases and used for all email communications with Lethal Eye.

15. On July 18, 2023, at the direction of investigators, a confidential source (the “CS”) attempted to contact both phone numbers ((800) 232-5158 and (603) 716-5153) listed on the website www.lethaleye.com. There was no answer at either number, and both numbers had the same generic automated message after several rings. The CS wrote an email that he/she sent to “info@lethaleye.com” from the source account. (This email address is listed on www.lethaleye.com under “contact info” and is also listed below the phone number of “6037165153” when the “menu” function is utilized). In the email, which was reviewed by investigators, the CS requested a bulk order of the “M-099” items and requested a discount. The

CS requested to pick the items up and pay cash. The CS also requested to speak with someone from Lethal Eye regarding the deal.

16. Several hours later, a response was sent from “Crystal Wang” (train-rain@hotmail.com) asking how many “M-099s” the CS was looking for. The bottom of the email read “Best regards, Marisol”.

17. As email negotiations continued over the next several days, “Marisol” offered a price of \$1,394.87 for fifteen (15) of the “M-099s” but advised that local pick up was not available, instead offering to ship anywhere in the United States. In a subsequent email “Marisol” sent to the CS on July 24, 2023, the CS was given the option to pay by check or receive an electronic invoice.

18. At the direction of investigators, the CS requested the invoice, which the CS received via email on July 27, 2023. Following receipt of the invoice, the CS instructions advised Lethal Eye that the invoice was not functioning properly, requested a name and shipping address for a money order. On July 31, 2023, “Crystal Wang” responded to make the “check” payable to “KBC Capital LLC” at “12 Murphy Dr. Suite 200, Nashua, New Hampshire.”

19. On July 31, 2023, investigators sent (2) US Postal Money Orders (one for \$1,000.00 USD and the other for \$394.87 USD) via overnight US Mail to KBC Capital LLC at 12 Murphy Drive, Suite 200, Nashua, New Hampshire. Records from the Federal Reserve show that the money orders were negotiated for KBC’s benefit at a TD Bank ATM 10 Gusabel Avenue, Nashua, New Hampshire.

20. The requested “M-099s” were shipped to the UC Drop Box and recovered on August 7, 2023. The package label showed the sender as “KBC Capital LLC” and contained writing at the bottom of the label showing “15 x M-099.” The label listed 17E Clinton Dr. Hollis,

NH as the return address. As set forth above, M-099s previously received from Lethal Eye were declared firearm silencers by ATF FTCB.



IV. Search Warrant Execution

21. On August 18, 2023, investigators executed that search warrant at KBC’s principal place of business, resulting in the seizure of three-hundred-twenty-seven (327) firearm silencers, five (5) firearms not regulated by the NFA, and several hundred silencer endcaps and associated parts (e.g., tubing, adapters, et al.). Present at KBC’s business address were sufficient components to manufacture a functioning silencer.

V. Transfers of Suppressor Parts to Massachusetts Residents in Violation of the NFA

22. Between 2020 and 2023, KBC transferred the following suppressor parts in violation of the NFA:

<u>Count</u>	<u>Part Number</u>	<u>Purchase Date</u>
1	M-079	9/13/2022
2	M-079	11/8/2022
3	M-079	2/6/2023
4	M-099	6/5/2023
5	M-099	6/5/2023
6	M-099	8/3/2023
7	M-099	8/3/2023

<u>Count</u>	<u>Part Number</u>	<u>Purchase Date</u>
8	M-099	8/3/2023
9	M-099	8/3/2023
10	M-099	8/3/2023
11	M-099	8/3/2023
12	M-099	8/3/2023
13	M-099	8/3/2023
14	M-099	8/3/2023
15	M-099	8/3/2023
16	M-099	8/3/2023
17	M-099	8/3/2023
18	M-099	8/3/2023
19	M-099	8/3/2023
20	M-099	8/3/2023
21	M-074	5/19/2023
22	M-074	3/8/2022
23	M-074	10/14/2020
24	M-074	4/8/2020
25	M-074	10/25/2022
26	M-074	5/27/2022