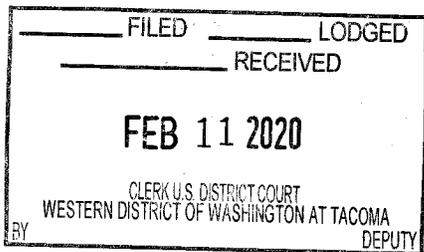


Judge Benjamin H. Settle



7 UNITED STATES DISTRICT COURT FOR THE
 8 WESTERN DISTRICT OF WASHINGTON
 9 AT TACOMA

11 UNITED STATES OF AMERICA,
 12 Plaintiff,
 13 v.
 14 MICHAEL WAYNE PICKERING
 15 Defendant.

NO. CR20-5005 BHS

PLEA AGREEMENT

18 The United States of America, by and through Brian T. Moran, United States
 19 Attorney for the Western District of Washington, and WILLIAM DREHER, Assistant
 20 United States Attorney for said District, Defendant MICHAEL WAYNE PICKERING
 21 and Defendant's attorney, JOHN R. CARPENTER, enter into the following Agreement,
 22 pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B).

23 **1. Waiver of Indictment.** Defendant, having been advised of the right to be
 24 charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge
 25 brought by the United States Attorney in an Information.

26 **2. The Charges.** Defendant, having been advised of the right to have this
 27 matter tried before a jury, agrees to waive that right and enters a plea of guilty to the
 28 following charges contained in the information.

1 a. Conspiracy to Commit Theft within Special Maritime and Territorial
2 Jurisdiction, as charged in Count 1, in violation of Title 18, United States Code, Section
3 371.

4 b. Conspiracy to Commit Access Device Fraud, as charged in Count 2, in
5 violation of Title 18, United States Code, Section 1029(b)(2).

6 c. Aggravated Identity Theft, as charged in Count 3, in violation of Title 18,
7 United States Code, Section 1028A.

8 By entering these pleas of guilty, Defendant hereby waives all objections to the
9 form of the charging document. Defendant further understands that before entering any
10 guilty pleas, Defendant will be placed under oath. Any statement given by Defendant
11 under oath may be used by the United States in a prosecution for perjury or false
12 statement.

13 **3. Elements of the Offenses.** The elements of the offenses to which
14 Defendant is pleading guilty are as follows:

15 a. The elements of Conspiracy to Commit Theft within Special Maritime and
16 Territorial Jurisdiction, as charged in Count 1, are as follows:

17 First, there was an agreement between two or more persons to commit Theft
18 within Special Maritime and Territorial Jurisdiction;

19 Second, the defendant became a member of the conspiracy knowing of at least
20 one of its objects and intending to help accomplish it; and

21 Third, one of the members of the conspiracy performed at least one overt act in
22 furtherance of the conspiracy.

23 b. The elements of Conspiracy to Commit Access Device Fraud, as charged in
24 Count 2, are as follows:

25 First, there was an agreement between two or more persons to commit
26 violations of Title 18, United States Code, Section 1029(a)(5),¹ namely

27
28 ¹ Access Device Fraud under Title 18, United States Code, Section 1029(a)(5), the object of the conspiracy, has the following elements:

1 to knowingly and with intent to defraud effect transactions, with 1 or
2 more access devices issued to other persons, to receive payment or any
3 other thing of value during any 1-year period the aggregate value of
4 which is equal to or greater than \$1,000;

5 Second, the defendant became a member of the conspiracy knowing of its
6 object and intending to help accomplish it; and

7 Third, one of the members of the conspiracy performed at least one overt act in
8 furtherance of the conspiracy.

9 c. The elements of Aggravated Identity Theft, as charged in Count 3, are as
10 follows:

11 First, the defendant knowingly transferred, possessed, or used without legal
12 authority a means of identification of another person;

13 Second, the defendant knew that the means of identification belonged to a real
14 person; and

15 Third, the defendant did so during and in relation to (as relevant here) access
16 device fraud.

17 **4. The Penalties.** Defendant understands that the statutory penalties
18 applicable to the offenses to which Defendant is pleading guilty are as follows:

19 a. For the offense of Conspiracy to Commit Theft within Special Maritime
20 and Territorial Jurisdiction, as charged in Count 1: A maximum term of imprisonment of
21 up to 5 years, a fine of up to \$250,000.00, a period of supervision following release from
22 prison of up to 3 years, and a mandatory special assessment of \$100. If a probationary
23 sentence is imposed, the probation period can be for up to five (5) years.

24
25
26 First, with access devices issued to other persons, the defendant knowingly effected transactions;
27 Second, the defendant obtained through such transactions at any time during a one-year period beginning
28 May 1, 2018, and ending May 1, 2019, a total of at least \$1,000 in payments or other things of value;
Third, the defendant acted with intent to defraud; and
Fourth, the defendant's conduct in some way affected commerce between one state and other states, or
between a state of the United States and a foreign country.

1 b. For the offense of Conspiracy to Commit Access Device Fraud, as charged
2 in Count 2: A maximum term of imprisonment of up to 7.5 years (90 months), a fine of
3 up to \$250,000.00, a period of supervision following release from prison of up to 3 years,
4 and a mandatory special assessment of \$100. If a probationary sentence is imposed, the
5 probation period can be for up to five (5) years.

6 c. For the offense of Aggravated Identity Theft, as charged in Count 3: A
7 mandatory consecutive term of imprisonment of 2 years, a fine of up to \$250,000.00, a
8 period of supervision following release from prison of up to 1 year, and a mandatory
9 special assessment of \$100.

10 Defendant understands that supervised release is a period of time following
11 imprisonment during which Defendant will be subject to certain restrictive conditions and
12 requirements. Defendant further understands that, if supervised release is imposed and
13 Defendant violates one or more of the conditions or requirements, Defendant could be
14 returned to prison for all or part of the term of supervised release that was originally
15 imposed. This could result in Defendant serving a total term of imprisonment greater
16 than the statutory maximum stated above.

17 Defendant understands that as a part of any sentence, in addition to any term of
18 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
19 restitution to any victim of the offense, as required by law.

20 Defendant further understands that the consequences of pleading guilty may
21 include the forfeiture of certain property, either as a part of the sentence imposed by the
22 Court, or as a result of civil judicial or administrative process.

23 Defendant agrees that any monetary penalty the Court imposes, including the
24 special assessment, fine, costs, or restitution, is due and payable immediately and further
25 agrees to submit a completed Financial Statement of Debtor form as requested by the
26 United States Attorney's Office.

27 **5. Immigration Consequences.** Defendant recognizes that pleading guilty
28 may have consequences with respect to Defendant's immigration status if Defendant is

1 not a citizen of the United States. Under federal law, a broad range of crimes are grounds
2 for removal, and some offenses make removal from the United States presumptively
3 mandatory. Removal and other immigration consequences are the subject of a separate
4 proceeding, and Defendant understands that no one, including Defendant's attorney and
5 the Court, can predict with certainty the effect of a guilty plea on immigration status.
6 Defendant nevertheless affirms that Defendant wants to plead guilty regardless of any
7 immigration consequences that Defendant's guilty pleas may entail, even if the
8 consequence is Defendant's mandatory removal from the United States.

9 **6. Rights Waived by Pleading Guilty.** Defendant understands that by
10 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- 11 a. The right to plead not guilty and to persist in a plea of not guilty;
- 12 b. The right to a speedy and public trial before a jury of Defendant's peers;
- 13 c. The right to the effective assistance of counsel at trial, including, if
14 Defendant could not afford an attorney, the right to have the Court appoint one for
15 Defendant;
- 16 d. The right to be presumed innocent until guilt has been established beyond a
17 reasonable doubt at trial;
- 18 e. The right to confront and cross-examine witnesses against Defendant at
19 trial;
- 20 f. The right to compel or subpoena witnesses to appear on Defendant's behalf
21 at trial;
- 22 g. The right to testify or to remain silent at trial, at which trial such silence
23 could not be used against Defendant; and
- 24 h. The right to appeal a finding of guilt or any pretrial rulings.

25 **7. United States Sentencing Guidelines.** Defendant understands and
26 acknowledges that the Court must consider the sentencing range calculated under the
27 United States Sentencing Guidelines and possible departures under the Sentencing
28 Guidelines together with the other factors set forth in Title 18, United States Code,

1 Section 3553(a), including: (1) the nature and circumstances of the offenses; (2) the
2 history and characteristics of Defendant; (3) the need for the sentence to reflect the
3 seriousness of the offenses, to promote respect for the law, and to provide just
4 punishment for the offenses; (4) the need for the sentence to afford adequate deterrence to
5 criminal conduct; (5) the need for the sentence to protect the public from further crimes
6 of Defendant; (6) the need to provide Defendant with educational and vocational training,
7 medical care, or other correctional treatment in the most effective manner; (7) the kinds
8 of sentences available; (8) the need to provide restitution to victims; and (9) the need to
9 avoid unwarranted sentence disparity among defendants involved in similar conduct who
10 have similar records. Accordingly, Defendant understands and acknowledges that:

11 a. The Court will determine Defendant's Sentencing Guidelines range at the
12 time of sentencing;

13 b. After consideration of the Sentencing Guidelines and the factors in

14 c. 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law,
15 up to the maximum term authorized by law;

16 d. The Court is not bound by any recommendation regarding the sentence to
17 be imposed, or by any calculation or estimation of the Sentencing Guidelines range
18 offered by the parties or the United States Probation Department, or by any stipulations
19 or agreements between the parties in this Plea Agreement; and

20 e. Defendant may not withdraw a guilty plea solely because of the sentence
21 imposed by the Court.

22 8. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
23 guaranteed what sentence the Court will impose.

24 9. **Statement of Facts.** The parties agree on the following facts. Defendant
25 admits Defendant is guilty of the charged offense or offenses:

26 a. From March 28 until April 29, 2018, Defendant and a co-conspirator
27 conspired to break into and steal from unattended vehicles located at trailheads within the
28 Western District of Washington. As part of that conspiracy, Defendant traveled to

1 remote trailheads and parking areas within Olympic National Park, Olympic National
2 Forest, and Mount Rainier National Park, typically late at night or early in the morning.
3 Defendant and his co-conspirator would then use a window punch or other means to
4 break the window of the vehicles, and would then steal the victims' personal property
5 from within the vehicles. The personal property included the vehicle occupants' hiking
6 gear, electronics, clothing, and personal effects such as diaries, books, or toiletries. It
7 also included access devices, including credit cards and debit cards, found within the
8 vehicles. Defendant and his co-conspirator would then use the access devices to
9 fraudulently purchase retail merchandise, including gift cards, at retail establishments in
10 the Western District of Washington.

11 b. On or about March 28, 2019, Defendant and his co-conspirator drove to the
12 Graves Creek Trailhead within Olympic National Park and broke into two vehicles.
13 Defendant stole and took away the personal property of the two vehicles' occupants, and
14 the value of that personal property was at least \$2,774. From one of the vehicles,
15 Defendant stole one access device, a debit card ending in 9300, and attempted to use that
16 access device to withdraw \$700 at an ATM machine.

17 c. On or about March 28, 2019, Defendant and his co-conspirator drove to the
18 Fletcher Canyon Trailhead within the Olympic National Forest and broke into one
19 vehicle. Defendant stole and took away the personal property of the vehicle's occupants,
20 and the value of that personal property was at least \$9,200.

21 d. On or about April 5, 2019, Defendant and his co-conspirator drove to the
22 Graves Creek Trailhead within Olympic National Park and broke into two vehicles.
23 Defendant stole and took away the personal property of the two vehicles' occupants, and
24 the value of that personal property was at least \$1,219.

25 e. On or about April 5, 2019, Defendant and his co-conspirator drove to the
26 Fletcher Canyon Trailhead within the Olympic National Forest and broke into one
27 vehicle. Defendant stole and took away the personal property of the vehicle's occupants,
28 and the value of that personal property was at least \$6,730. From that vehicle, Defendant

1 stole one access device, a debit card ending in 0227, and used that access device to
2 purchase \$14.49 in retail merchandise and to attempt to purchase \$271.21 in retail
3 merchandise.

4 f. On or about April 13, 2019, Defendant and his co-conspirator drove to the
5 area around Lena Lake within the Olympic National Forest and broke into three vehicles.
6 Defendant stole and took away the personal property of the three vehicles' occupants, and
7 the value of that personal property was at least \$150. From one of the vehicles,
8 Defendant stole five access devices, credit cards ending in 0399, 5152, 0158, and 4574,
9 and a debit card ending in 6062, and used those access devices in the Western District of
10 Washington to purchase over \$4,250 in merchandise and gift cards. In using those access
11 devices, on several occasions, Defendant's co-conspirator forged the signature of the
12 holder of the access devices, knowing on each occasion that the holder of the access
13 devices were real persons and that they did not have authority (legal or otherwise) to use
14 the access devices at all. Defendant's co-conspirator used these access devices during
15 and in relation to the access device fraud described in this paragraph. Defendant aided
16 and abetted his co-conspirator's use of those access devices and the forgeries of the
17 signatures of the holders of the access devices.

18 g. On or about April 15, 2019, Defendant and his co-conspirator drove to the
19 Hoh Rainforest Visitor Center parking lot within Olympic National Park and broke into
20 two vehicles. Defendant stole and took away the personal property of the two vehicles'
21 occupants, and the value of that personal property was at least \$6,123. One of the
22 vehicles suffered damage that cost \$459 to repair. The remaining vehicles suffered
23 damage, as described in paragraph j below.

24 h. On or about April 16, 2019, Defendant and his co-conspirator drove to the
25 Third Beach parking lot within Olympic National Park and broke into four vehicles.
26 Defendant stole and took away the personal property of the four vehicles' occupants, and
27 the value of that personal property was at least \$1,000. From one of the vehicles,
28 Defendant stole two access devices, credit cards ending in 9831 and 0820, and used or

1 attempted to use those access devices to purchase \$1049.50 in merchandise and gift
2 cards.

3 i. On or about April 21, 2019, Defendant and his co-conspirator drove to the
4 Paradise parking area within Mount Rainier National Park and broke into six vehicles.
5 Defendant stole and took away the personal property of the six vehicles' occupants, and
6 the value of that personal property was at least \$4,061. From the vehicles, Defendant
7 stole seven access devices, credit or debit cards ending in 0501, 1268, 0432, 5534, 6870,
8 1000, and 1001, and used those access devices to purchase over \$1,518 in merchandise
9 and gift cards.

10 j. On or about April 29, 2019, Defendant and his co-conspirator drove to the
11 Graves Creek Trailhead within Olympic National Park and broke into four vehicles.
12 Defendant and his co-conspirator stole and took away the personal property of the four
13 vehicles' occupants, and the value of that personal property was at least \$3,630. One of
14 the vehicles that Defendant broke into suffered damages that cost \$550 to repair; another
15 vehicle suffered damages that cost \$697 to repair, which includes the cost of a
16 replacement vehicle and hotel reservation lost due to the vehicle being inoperable. The
17 remaining vehicles suffered damage, as described in paragraph j below.

18 k. Aside from the vehicles with repair costs specifically outlined above, the
19 cost to repair each of the vehicles whose windows Defendant smashed was at least \$300
20 per vehicle. There were a total of 23 vehicles other than those outlined above whose
21 windows were smashed by Defendant, with a total loss due to repairing those vehicles of
22 \$6,900. As noted above, the damage to the remaining three vehicles resulted in damages
23 that totaled \$1,706.

24 The parties agree that the Court may consider additional facts contained in the
25 Presentence Report (subject to standard objections by the parties) and/or that may be
26 presented by the United States or Defendant at the time of sentencing, and that the factual
27 statement contained herein is not intended to limit the facts that the parties may present to
28 the Court at the time of sentencing.

1 **10. Sentencing Factors.** The parties agree that the following Sentencing
2 Guidelines provisions apply to this case:

- 3 a. A base offense level of 6. *See* USSG §2B1.1(a)(2).
4 b. A 6-point increase in the offense level due to the loss amount being greater
5 than \$40,000 but less than \$95,000. *See* USSG §2B1.1(b)(1)(D).
6 c. A 2-point increase in the offense level due to the number of victims being
7 greater than 10. *See* USSG §2B1.1(b)(2)(A)(i).

8 The parties agree they are free to present arguments regarding the applicability of
9 all other provisions of the United States Sentencing Guidelines. Defendant understands,
10 however, that at the time of sentencing, the Court is free to reject these stipulated
11 adjustments, and is further free to apply additional downward or upward adjustments in
12 determining Defendant's Sentencing Guidelines range.

13 **11. Acceptance of Responsibility.** At sentencing, *if* the Court concludes
14 Defendant qualifies for a downward adjustment acceptance for acceptance of
15 responsibility pursuant to USSG § 3E1.1(a) and Defendant's offense level is 16 or
16 greater, the United States will make the motion necessary to permit the Court to decrease
17 the total offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because
18 Defendant has assisted the United States by timely notifying the United States of
19 Defendant's intention to plead guilty, thereby permitting the United States to avoid
20 preparing for trial and permitting the Court to allocate its resources efficiently.

21 **12. Recommendation Regarding Imprisonment.** Pursuant to Federal Rule of
22 Criminal Procedure 11(c)(1)(B), the government agrees to recommend that the
23 appropriate term of imprisonment to be imposed by the Court at the time of sentencing is:

- 24 a. 24 months on Count 3, to be served consecutive to both the sentence
25 imposed on Counts 1 and 2 and the sentence imposed on the Defendant in *State v.*
26 *Pickering*, No. 19-1-00176-05; and
27 b. 30 months on Counts 1 and 2, to be served concurrently to the sentence
28 imposed on the Defendant in *State v. Pickering*, No. 19-1-00176-05.

1 Defendant understands that this recommendation is not binding on the Court and
2 the Court may reject the recommendation of the parties and may impose any term of
3 imprisonment up to the statutory maximum penalty authorized by law. Defendant further
4 understands that Defendant cannot withdraw a guilty plea simply because of the sentence
5 imposed by the Court. Except as otherwise provided in this Plea Agreement, the parties
6 are free to present arguments regarding any other aspect of sentencing.

7 **13. Restitution.** Defendant agrees that the Court can order Defendant to pay
8 restitution to the victims of Defendant's crimes and, in exchange for the agreements by
9 the United States contained in this plea agreement, Defendant agrees that restitution in
10 this case should not be limited to the offense(s) of conviction. Defendant is aware that
11 the United States will present evidence supporting an order of restitution for all losses
12 caused by all of Defendant's criminal conduct known to the United States at the time of
13 Defendant's guilty plea(s) to include those losses resulting from crimes not charged or
14 admitted by Defendant in the Statement of Facts. In exchange for the promises by the
15 United States contained in this plea agreement, Defendant agrees that Defendant will be
16 responsible for any order by the District Court requiring the payment of restitution for
17 such losses.

18 a. The full amount of restitution shall be due and payable immediately on
19 entry of judgment and shall be paid as quickly as possible. If the Court finds that the
20 defendant is unable to make immediate restitution in full and sets a payment schedule as
21 contemplated in 18 U.S.C. § 3664(f), Defendant agrees that the Court's schedule
22 represents a minimum payment obligation and does not preclude the U.S. Attorney's
23 Office from pursuing any other means by which to satisfy the defendant's full and
24 immediately-enforceable financial obligation, including, but not limited to, by pursuing
25 assets that come to light only after the district court finds that the defendant is unable to
26 make immediate restitution.

27 b. Defendant agrees to disclose all assets in which Defendant has any interest
28 or over which Defendant exercises control, directly or indirectly, including those held by

1 a spouse, nominee, or third party. Defendant agrees to cooperate fully with the United
2 States' investigation identifying all property in which Defendant has an interest and with
3 the United States' lawful efforts to enforce prompt payment of the financial obligations to
4 be imposed in connection with this prosecution. Defendant's cooperation obligations are:
5 (1) before sentencing, and no more than 30 days after executing this Plea Agreement,
6 truthfully and completely executing a Financial Disclosure Statement provided by the
7 United States Attorney's Office and signed under penalty of perjury regarding
8 Defendant's and Defendant's spouse's financial circumstances and producing supporting
9 documentation, including tax returns, as requested; (2) providing updates with any
10 material changes in circumstances, as described in 18 U.S.C. § 3664(k), within seven
11 days of the event giving rise to the changed circumstances; (3) authorizing the United
12 States Attorney's Office to obtain Defendant's credit report before sentencing; (4)
13 providing waivers, consents or releases requested by the U.S. Attorney's Office to access
14 records to verify the financial information; (5) authorizing the U.S. Attorney's Office to
15 inspect and copy all financial documents and information held by the U.S. Probation
16 Office; (6) submitting to an interview regarding Defendant's Financial Statement and
17 supporting documents before sentencing (if requested by the United States Attorney's
18 Office), and fully and truthfully answering questions during such interview; and (7)
19 notifying the United States Attorney's Office before transferring any interest in property
20 owned directly or indirectly by Defendant, including any interest held or owned in any
21 other name, including all forms of business entities and trusts.

22 c. The parties acknowledge that voluntary payment of restitution prior to the
23 adjudication of guilt is a factor the Court considers in determining whether Defendant
24 qualifies for acceptance of responsibility pursuant to USSG § 3E1.1(a).

25 **14. Forfeiture.** The Defendant understands that forfeiture is part of the
26 sentence that must be imposed in this case. The Defendant agrees to forfeit to the United
27 States, immediately, his right, title, and interest in any and all property that constitutes
28 proceeds of, or was involved in, his commission of Conspiracy to Commit Access Device

1 Fraud, in violation of 18 U.S.C. § 1029(b)(2). All such property is forfeitable pursuant to
2 18 U.S.C. §§ 982(a)(2)(B) and 1029(c)(1)(C), and the United States reserves its right to
3 proceed against any property not identified in this Plea Agreement, if that property
4 constitutes proceeds of, or was involved in, the Defendant's commission of Conspiracy to
5 Commit Access Device Fraud.

6 **15. Abandonment of Contraband.** Defendant also agrees that, if any federal
7 law enforcement agency seized any illegal contraband that was in Defendant's direct or
8 indirect control, Defendant consents to the federal administrative disposition, official use,
9 and/or destruction of that contraband.

10 **16. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
11 the United States Attorney's Office for the Western District of Washington agrees not to
12 prosecute Defendant for any additional offenses known to it as of the time of this Plea
13 Agreement based upon evidence in its possession at this time, and that arise out of the
14 conduct giving rise to this investigation. In this regard, Defendant recognizes the United
15 States has agreed not to prosecute all of the criminal charges the evidence establishes
16 were committed by Defendant solely because of the promises made by Defendant in this
17 Plea Agreement. Defendant agrees, however, that for purposes of preparing the
18 Presentence Report, the United States Attorney's Office will provide the United States
19 Probation Office with evidence of all conduct committed by Defendant.

20 Defendant agrees that any charges to be dismissed before or at the time of
21 sentencing were substantially justified in light of the evidence available to the United
22 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant
23 with a basis for any future claims under the "Hyde Amendment," Pub. L. No. 105-119
24 (1997).

25 **17. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
26 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
27 Agreement and Defendant may be prosecuted for all offenses for which the United States
28 has evidence. Defendant agrees not to oppose any steps taken by the United States to

1 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
2 Agreement. Defendant also agrees that, if Defendant is in breach of this Plea Agreement,
3 Defendant has waived any objection to the re-institution of any charges that previously
4 were dismissed or any additional charges that had not been prosecuted.

5 Defendant further understands that if, after the date of this Agreement, Defendant
6 should engage in illegal conduct, or conduct that violates any conditions of release or the
7 conditions of confinement (examples of which include, but are not limited to, obstruction
8 of justice, failure to appear for a court proceeding, criminal conduct while pending
9 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,
10 Probation Officer, or Court), the United States is free under this Plea Agreement to file
11 additional charges against Defendant or to seek a sentence that takes such conduct into
12 consideration by requesting the Court to apply additional adjustments or enhancements in
13 its Sentencing Guidelines calculations in order to increase the applicable advisory
14 Guidelines range, and/or by seeking an upward departure or variance from the calculated
15 advisory Guidelines range. Under these circumstances, the United States is free to seek
16 such adjustments, enhancements, departures, and/or variances even if otherwise
17 precluded by the terms of the Plea Agreement.

18 **18. Waiver of Appellate Rights and Rights to Collateral Attacks.**

19 Defendant acknowledges that, by entering the guilty pleas required by this plea
20 agreement, Defendant waives all rights to appeal from Defendant's conviction and any
21 pretrial rulings of the Court. Defendant further agrees that, provided the Court imposes a
22 custodial sentence that is within or below the Sentencing Guidelines range (or the
23 statutory mandatory minimum, if greater than the Guidelines range) as determined by the
24 Court at the time of sentencing, Defendant waives to the full extent of the law:

25 a. Any right conferred by Title 18, United States Code, Section 3742, to
26 challenge, on direct appeal, the sentence imposed by the Court, including any fine,
27 restitution order, probation or supervised release conditions, or forfeiture order (if
28 applicable); and

1 b. Any right to bring a collateral attack against the conviction and sentence,
2 including any restitution order imposed, except as it may relate to the effectiveness of
3 legal representation; and

4 This waiver does not preclude Defendant from bringing an appropriate motion
5 pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or
6 the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

7 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
8 attacking (except as to effectiveness of legal representation) the conviction or sentence in
9 any way, the United States may prosecute Defendant for any counts, including those with
10 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
11 Agreement.

12 **19. Voluntariness of Plea.** Defendant agrees that Defendant has entered into
13 this Plea Agreement freely and voluntarily, and that no threats or promises were made to
14 induce Defendant to enter a plea of guilty other than the promises contained in this Plea
15 Agreement or set forth on the record at the change of plea hearing in this matter.

16 **20. Statute of Limitations.** In the event this Plea Agreement is not accepted
17 by the Court for any reason, or Defendant breaches any of the terms of this Plea
18 Agreement, the statute of limitations shall be deemed to have been tolled from the date of
19 the Plea Agreement to: (1) thirty (30) days following the date of non-acceptance of the
20 Plea Agreement by the Court; or (2) thirty (30) days following the date on which a breach
21 of the Plea Agreement by Defendant is discovered by the United States Attorney's
22 Office.

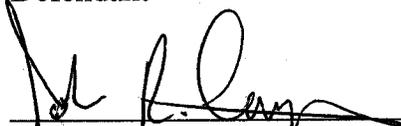
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21. **Completeness of Agreement.** The United States and Defendant acknowledge that these terms constitute the entire Plea Agreement between the parties, except as may be set forth on the record at the change of plea hearing in this matter. This Agreement binds only the United States Attorney’s Office for the Western District of Washington. It does not bind any other United States Attorney’s Office or any other office or agency of the United States, or any state or local prosecutor.

Dated this 11 day of February, 2020.


MICHAEL PICKERING
Defendant


JOHN R. CARPENTER
Attorney for Defendant


KATHERYN K. FRIERSON
Assistant United States Attorney


WILLIAM DREHER
Assistant United States Attorney