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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY _____
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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,

13 v.

14 JEFFREY R. DAVID,
15 Defendant.

CASE NO. **2:18-CR-0253 GEB**
PLEA AGREEMENT

16
17 **I. INTRODUCTION**

18 **A. Scope of Agreement.**

19 The information in this case charges the defendant with violations of 18 U.S.C. § 1343 – Wire
20 Fraud (Counts 1 and 2), 18 U.S.C. § 1957 – Money Laundering (Counts 3 through 10), and 18 U.S.C.
21 § 1028A(a)(1) – Aggravated Identity Theft (Count 11). This document contains the complete plea
22 agreement between the United States Attorney’s Office for the Eastern District of California (the
23 “government”) and the defendant regarding this case. This plea agreement is limited to the United
24 States Attorney’s Office for the Eastern District of California and cannot bind any other federal, state, or
25 local prosecuting, administrative, or regulatory authorities.

26 **B. Court Not a Party.**

27 The Court is not a party to this plea agreement. Sentencing is a matter solely within the
28 discretion of the Court, and the Court may take into consideration any and all facts and circumstances

1 concerning the criminal activities of defendant, including activities which may not have been charged in
2 the information. The Court is under no obligation to accept any recommendations made by the
3 government, and the Court may in its discretion impose any sentence it deems appropriate up to and
4 including the statutory maximum stated in this plea agreement.

5 If the Court should impose any sentence up to the maximum established by the statute, the
6 defendant cannot, for that reason alone, withdraw his guilty plea, and he will remain bound to fulfill all
7 of the obligations under this plea agreement. The defendant understands that neither the prosecutor,
8 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will
9 receive.

10 II. DEFENDANT'S OBLIGATIONS

11 A. Guilty Plea.

12 The defendant will plead guilty to Count 1 (Wire Fraud) and Count 11 (Aggravated Identity
13 Theft). The defendant agrees that he is in fact guilty of these charges and that the facts set forth in the
14 Factual Basis for Plea attached hereto as Exhibit A are accurate.

15 The defendant agrees that this plea agreement will be filed with the Court and become a part of
16 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his
17 plea(s) should the Court not follow the government's sentencing recommendations.

18 The defendant agrees that the statements made by him in signing this Agreement, including the
19 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by
20 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a
21 guilty plea pursuant to this Agreement. The defendant waives any rights under Fed. R. Crim. P. 11(f)
22 and Fed. R. Evid. 410, to the extent that these rules are inconsistent with this paragraph or with this
23 Agreement generally.

24 1. Waiver of Indictment:

25 The defendant acknowledges that under the United States Constitution he is entitled to be
26 indicted by a grand jury on the charges to which he is pleading guilty and that pursuant to Fed. R. Crim.
27 P. 7(b) he agrees to waive any and all rights he has to being prosecuted by way of indictment to the
28 charges set forth in the information. The defendant agrees that at a time set by the Court, he will sign a

1 written waiver of prosecution by Indictment and consent to proceed by Information rather than by
2 Indictment.

3 **B. Restitution.**

4 The Mandatory Victim Restitution Act requires the Court to order restitution to the victims of
5 certain offenses. Defendant agrees that his conduct is governed by the Mandatory Restitution Act
6 pursuant to 18 U.S.C. § 3663A(c)(1)(A)(ii) and agrees to pay the full amount of restitution to all victims
7 affected by this offense, including, but not limited to, the victims covered in the factual basis, victims
8 covered in those counts to be dismissed as part of the plea agreement pursuant to 18 U.S.C.
9 § 3663A(a)(3), other victims as a result of the defendant's conduct for the offenses charged from the
10 periods of 2012 through 2018, and victim expenses cognizable under 18 U.S.C. § 3663A(b)(4). The
11 amount of restitution identified by the parties to date will be at least approximately \$13,429,000 dollars,
12 which does not include any victim expenses cognizable under 18 U.S.C. § 3663A(b)(4) that will be
13 calculated and presented prior to sentencing. The defendant understands and agrees that he will be
14 responsible for restitution amounts presented by victims in excess of the currently identified amount
15 insofar as those amounts identified by victims are cognizable expenses under restitution statutes and
16 case law.

17 Defendant further agrees that he will not seek to discharge any restitution obligation or any part
18 of such obligation in any bankruptcy proceeding. Payment of restitution shall be by cashier's or
19 certified check made payable to the Clerk of the Court. The defendant understands that this plea
20 agreement is voidable at the option of the government if he fails to pay the stipulated restitution prior to
21 his scheduled court appearance for sentencing.

22 **C. Fine.**

23 The defendant reserves the right to argue to Probation and at sentencing that he is unable to pay a
24 fine, and that no fine should be imposed. The defendant understands that it is his burden to affirmatively
25 prove that he is unable to pay a fine, and agrees to provide a financial statement under penalty of perjury
26 to the Probation Officer and the government in advance of the issuance of the draft Presentence
27 Investigation Report, along with supporting documentation. The government retains the right to oppose
28 the waiver of a fine. If the Court imposes a fine, the defendant agrees to pay such fine if and as ordered