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4 Attorney for Defendant

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9 IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF
MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

10 _____)
STATE OF MONTANA,) Case No.: DC-10-455 (C)
11 Plaintiff,)
12 vs.) ACKNOWLEDGMENT OF RIGHTS AND PLEA
AGREEMENT
13 MATTHEW GILLESPIE,)
14 Defendant)
15 _____)

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17 I, Matthew Gillespie, Defendant in the above-entitled matter, having had an opportunity to
18 examine the charges brought against me, including the investigation file, and after consultation with my
attorney and being fully advised, acknowledge my rights, and agree to plead guilty as hereinafter set
forth.

19 I acknowledge that my attorney has explained to me and advised me of the following and I fully
understand that:

- 20
- 21 1. I have the right to object to and move for suppression of any evidence that may have been
obtained in violation of the Constitution.
 - 22 2. I have the right to plead not guilty, or to persist in that plea if it has already been made, and
thereby place the burden of proof in proving my guilt upon the prosecution beyond a
23 reasonable doubt.
 - 24 3. I have the right to a speedy and public trial by jury and at that trial I have the following
rights:
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Defendant's Initials *MGC*

- 1 a. The right to the effective assistance of counsel;
- 2 b. The right to confront and cross-examine witness against me;
- 3 c. The right to testify;
- 4 d. The right to call and have witnesses testify on my behalf;
- 5 e. The right not to be compelled to incriminate myself;
- 6 f. The right to have the charges proven beyond a reasonable doubt and to appeal a finding
7 of guilty;

8 4. By pleading guilty I will "waive" or give up certain of those rights mentioned above.

9 5. In Flathead County Cause No. DC-10-455 (C), I am charged with: **THEFT, a Felony,**
10 **(Insurance Fraud) M.C.A. 33-1-12-2 and M.C.A. 45-6-301 (1) (a)**, punishable pursuant to
11 M.C.A. 45-6-301 (8). The maximum possible punishment provided for by the law would be a
12 fine not to exceed \$50,000.00 and/or imprisonment in the Montana State Prison for a term not
13 to exceed ten (10) years.

14 6. I have had ample time and opportunity to discuss this case with my attorney, received the full
15 benefit of my attorney's advice, and am satisfied with the services of my attorney.

16 7. I am not suffering from any mental disease or defect, or any emotional disability, nor am I
17 acting under the influence of alcohol, drugs or prescription medicine.

18 8. I have not been threatened, coerced, forced, intimidated, or influenced in any way.

19 9. I have entered into this agreement freely and voluntarily and with full knowledge of its terms
20 and conditions.

21 10. I understand that a Plea Bargain Agreement is an agreement between a Defendant and a
22 prosecutor that in exchange for a particular plea the prosecutor will recommend a particular
23 sentence.

24 11. I hereby acknowledge under Montana law, I am entitled to have prepared and submitted to
25 the Court for consideration prior to sentencing, a pre-sentence investigation. I hereby waive
the preparation of said pre-sentence investigation.

12. I understand the Court may or may not participate in the making of such agreement, nor is the
Court bound by the agreement.

13. I understand on my plea of guilty alone I could lawfully be sentenced to the maximum
punishment authorized to the offense to which I plead guilty and the recommendation of the
County Attorney in no way binds the Court when imposing sentence.

14. I understand the sentence to be imposed is within the sole discretion of the sentencing Judge
and the State does not make any promise or representation as to what the sentence will be.

Defendant's Initials MRC

- 1 15. I understand if the Court does not impose the sentence recommended by the prosecutor, the
2 Court is not required to allow me to withdraw my plea of guilty.
- 3 16. I have discussed the sentencing laws of this State contained in Title 46, Chapter 18 Montana
4 Code Annotated with my attorney and have been advised of the most severe sentence
5 imposed.
- 6 17. I have considered the most severe sentence that could be imposed.
- 7 18. I understand this agreement is limited to the Flathead County Attorney's Office and cannot
8 bind other state, local, or federal prosecuting authorities.
- 9 19. This agreement encompasses all of the understanding of the parties. No other promises have
10 been made to me other than those specified in this plea agreement.

Dated this 20th day of May, 2011



Matthew Gillespie,
DEFENDANT

Defendant's Initials _____

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PLEA AGREEMENT

Pursuant to Sections M.C.A. 46-12-204 and M.C.A. 46-12-211, and conditioned upon the understanding specified below:

In Flathead County Cause # DC-10-455 (C) the Defendant agrees to enter a plea of guilty to the offense of **THEFT, a Felony, (Insurance Fraud) M.C.A. 33-1-12-2 and M.C.A. 45-6-301 (1) (a).**

In exchange for the plea of guilty the County Attorney agrees to recommend the following at sentencing:

1. The Defendant pay fines and fees as order by the Court.
2. **The Defendant shall receive a three (3) year deferred imposition of sentence.**
3. **Defendant shall pay restitution in the amount of \$3982.16.**
4. The Defendant remain law abiding.
5. In the event the Defendant makes full restitution in this matter he may be considered for early discharge.

The prosecutor shall not be bound to make the agreed upon recommendation and may either withdraw from the agreement or make a different recommendation in the event the Defendant misrepresents material facts concerning the Defendant's past record, or additional or other criminal conduct by the Defendant occurs or is discovered prior to the time of sentencing.

The State agrees that the Defendant shall be entitled to withdraw from this agreement:

- a. At any time prior to entry of a guilty plea.
- b. Subsequent to the entry of a guilty plea in the event the State fails to perform its obligations pursuant to this agreement; or
- c. If the Court refuses to accept the Defendant's plea of guilty.

The Defendant agrees the State shall be entitled to withdraw from this agreement in the event the Defendant fails or refuses to comply with the terms of this agreement, or upon the happening of any of the following events.

- a. The refusal or failure of the Defendant to give any agreed upon statement, or subsequent statement upon request, or answer any question concerning any subject about which the Defendant is questioned;
- b. Any escape or attempted escape by the Defendant, or the Defendant's refusal or failure to make himself available to cooperate with the prosecution under the terms of this agreement. The Defendant's refusal or failure to enter the agreed upon pleas of guilty and to have the Court accept such plea of guilty.

Defendant's Initials MRC

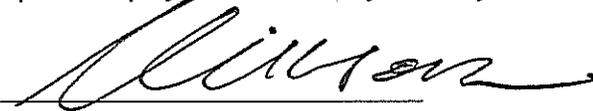
1 No additional promises, agreements or conditions have been entered into other than those set
2 forth in this plea agreement.

3 Dated this 20 day of May, 2011.

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5 Matthew Gillespie
6 DEFENDANT

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8 Mike Winsor
9 Special Deputy Elathead County Attorney

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12 Glen Neier
13 Attorney of Defendant

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25 Defendant's Initials _____