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Attorney for Defendant

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

STATE OF MONTANA, Plaintiff, vs. TIMOTHY SHAWN PERRY, Defendant.	**Cause No. DC-10-456 (C)** **PLEA AGREEMENT**

ACKNOWLEDGMENT OF RIGHTS

I, TIMOTHY PERRY, the Defendant in the above-entitled matter, have had an opportunity to examine the charges brought against me and, after consultation with my attorney and being fully advised, acknowledge my rights and agree to plead guilty as hereinafter set forth.

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

1. I have the right to object to and move for the suppression of any evidence that may have been obtained in violation of the law or constitution.

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 upon the prosecution to prove my guilt beyond a

reasonable doubt.

3. I have the right to a speedy and public trial by jury and at that trial I have the following rights:

A. The right to effective assistance of counsel.
B. The right to confront and cross-examine witnesses against me.
C. The right to testify.
D. The right to call and have witnesses testify on my behalf.
E. The right not to be compelled to incriminate myself.
F. The right to have the charges proven beyond a reasonable doubt and to appeal a finding of guilty.

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

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

6. I am not suffering from any mental disease or defect, or any emotional disability, and am not acting under the influence of alcohol, drugs or prescription medicine.

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

8. I have entered into this Agreement freely and voluntarily and with full knowledge of its terms and conditions.

9. I understand that a Plea Bargain Agreement is an agreement between a Defendant and the prosecutor which provides that in exchange for a particular plea from the Defendant, the prosecutor will recommend a particular sentence.

10. I understand that the Court may not participate in the making of such an agreement and that the Court is not bound by the agreement.

11. I understand that upon my plea of guilty alone I could lawfully be sentenced to the

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maximum punishment authorized for the offense to which I plead guilty and that the recommendation of the County Attorney in no way binds the Court when imposing sentence.

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

13. I understand that if the Court does not impose the sentence recommended by the prosecutor, the Court is not required to allow me to withdraw my plea of guilty.

14. I have discussed the sentencing laws of this State with my attorney and have been advised of the most severe sentence that can be imposed.

15. I have considered the most severe sentence that could be imposed.

16. I understand that this Agreement is limited to the Flathead County Attorney's Office and cannot bind other state, local or federal prosecuting authorities.

17. It is the understanding of the parties that the victim is in support of the terms of this Agreement.

18. This Agreement encompasses all of the understandings of the parties. No other promises have been made to me other than those specified in this Agreement.

DATED this 28 day July, 2011.

By: _____
Timothy Perry
Defendant

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PLEA AGREEMENT

WHEREAS, the Defendant has been charged in the above-entitled Court with the offense/s of:

COUNT I: INSURANCE FRAUD/THEFT, a felony, a first offense, and a violation of Mont. Code Ann. §§33-1-1202 (1)-(2) and 45-6-301 (6)(a), alleged to have occurred on or about July 15, 2009.

WHEREAS, pursuant to §46-12-204 M.C.A and §46-12-211 (1) (a) and (b) M.C.A. and in consideration of the mutual promises contained herein, the parties agree as follows:

1. **Count I:**

(A) **Defendant's Promise/s**: The Defendant agrees to enter a plea of guilty to Count I, Insurance Fraud, a felony, a first offense, as charged in the Information. The Defendant understands that the maximum penalty provided by law for commission of this offense is a maximum term in the State Prison of ten (10) years and a maximum fine of $50,000.00.

(B) **State's Promise/s and Recommendation**: In consideration for the Defendant's plea of guilty to Count I, the State, represented by Special Assistant Attorneys General Mike Winsor and Jameson Walker, agrees to:

i) recommend that the Court grant the Defendant a (6) year MSP Sentence, all to be suspended and to run concurrent with any sentence imposed in DC-02-146 (C) and DC-05-380 (B), with the Defendant to receive credit for any time served;

ii) recommend that the Defendant be considered for ISP;

iii) recommend that the Court require the Defendant to pay restitution in the amount of $3,982.16 to Safeco Insurance Company, which is ½ of the total amount due, it being understood that the other ½ shall be paid by the other Defendant involved in this transaction, Matthew

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Gillespie; and

iv) withdraw the State's prior Notice of Intent to seek treatment as a Persistent Felony Offender.

2. The State agrees that the Defendant shall be entitled to withdraw from this Agreement:

(A) At any time prior to the 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.

3. The Defendant agrees that the State shall be entitled to withdraw from this agreement in the event that the Defendant fails or refuses to comply with the terms of this agreement or upon the Defendant's refusal or failure to enter any agreed upon plea of guilty or to have the Court accept such plea of guilty.

4. No additional promises, agreements or conditions have been entered into other than those set forth in this Plea Agreement.

DATED this 14th day of July, 2011.

By: _____
Mike Winsor
Special Assistant Attorney General,
Special Deputy Flathead County Attorney

By: _____
Christina Valacich
Attorney for Defendant

By: _____
Timothy Perry
Defendant

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