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Attorney for the State

**MONTANA FIRST JUDICIAL DISTRICT COURT
 LEWIS AND CLARK COUNTY**

<p>STATE OF MONTANA, Plaintiff, v. WILLIAM R. NOONEY, Defendant.</p>	<p>Cause No. ADC-2013-277</p> <p>ACKNOWLEDGMENT OF WAIVER OF RIGHTS BY ENTERING ADMISSIONS AND PLEA AGREEMENT</p>
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ACKNOWLEDGMENT OF WAIVER OF RIGHT BY ENTERING ADMISSIONS

I, WILLIAM R. NOONEY, the Defendant in the above-entitled matter, have had an opportunity to examine the State's Petition to Revoke (Petition) and the allegations brought against me, including the investigative file, and after consultation with my attorney and being fully advised, acknowledge my rights, and agree to enter admissions to the allegations in this case as hereinafter set forth.

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

1. I have the right to challenge the sufficiency of the Petition and the documents supporting it;
2. I have the right to object to any evidence that may have been obtained in violation of law;

3. I have the right to deny the allegations in the Petition and supporting documents, and to persist in the denials, and thereby place the burden of proof in proving the allegations upon the prosecution by a preponderance of the evidence;

4. I have the right to a hearing(s) before a judge. I acknowledge that at such hearing(s) I have the following rights:

- a. the right to appear and to present evidence in my own behalf;
- 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 allegations proven by a preponderance of the evidence and to appeal a finding that the allegations are true; and
- g. the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1.

5. I am charged with the following allegations/violations as stated in the Petition and supporting documents:

Allegation 1: Failure to pay restitution.

Allegation 2: Failure to obtain permission before purchasing automobiles or incurring debt.

Allegation 3: Failure to obtain permission before engaging in a business.

6. By entering an admission to any of the allegations in the Petition, I will waive or give up those rights mentioned above and below, with the exception of the right to effective assistance of counsel, which may be examined through postconviction proceedings to determine whether my plea was voluntary;

7. I have had ample time and opportunity to discuss this case with my attorney and to prepare a defense. I received the full benefit of my attorney's advice, and I am satisfied with the services of my attorney. I acknowledge that I have received a full copy

of the investigative file and have had the opportunity to review or discuss the contents of that file with my attorney;

8. I am not suffering from any mental disease or defect, or any emotional disability, nor am I acting under the influence of alcohol, drugs, or prescription medicine that would preclude me from making any knowing, intelligent, and voluntary decision or plea;

9. I have not been threatened, coerced, forced, intimidated, or influenced in any way in making my decision to enter admissions;

10. I have entered into this agreement freely and voluntarily and with full knowledge of its terms and conditions;

11. I understand that a plea bargain agreement is an agreement between a defendant and a prosecutor that in exchange for particular actions and a particular plea the prosecutor will be obligated to fulfill any requirements set forth in the plea agreement;

12. I waive all rights to appeal any issue in the case with the exception of the right to effective assistance of counsel, which may be examined through postconviction proceedings to determine whether my plea was voluntary.

13. I have discussed with my attorneys the sentencing laws of the State of Montana contained in the Montana Code Annotated, and the maximum possible penalty and collateral consequences for the allegations to which I will enter admissions, and have been advised of the most severe sentence that can be imposed. That should I be in the United States illegally, I may, upon conviction, be subject to deportation if I am not an American citizen;

14. I believe it is in my interest to enter admissions in this case. My attorney left the decision to enter admissions totally to me, advising only of the consequences of going to a revocation hearing;

15. I understand that I may be limited in my right to vote, own or possess a firearm, be restricted in my associations with certain persons or groups, be barred from

certain occupations, be prevented from holding public office and/or be restricted in my movements based on my admissions;

16. I understand and agree that the State may use any statements written or affirmed by me in any statement of facts relative to pleas or plea agreements, made by me during plea negotiations, and/or made by me during a change of plea colloquy with the Court or counsel, should my admissions be rejected by the Court, subsequently withdrawn by me, or for any other reason;

17. My attorney has also informed me of any and all plea offers provided by the Commissioner of Securities & Insurance, Office of the Montana State Auditor;

18. The plea agreement encompasses all of the understandings of the parties. No other promises have been made to me other than those specified in the plea agreement; and

19. I also understand that this plea agreement is entered into pursuant to Mont. Code Ann. § 46-12-211(1)(c). If the Court does not follow the plea agreement, I will not be permitted to withdraw my pleas.

Dated this 3 day of November, 2023.



WILLIAM R. NOONEY
DEFENDANT

PLEA AGREEMENT

1. The Defendant will enter ADMISSIONS to each allegation in the Petition. The underlying criminal offense to which the Defendant received a deferred sentence in this matter was FAILURE TO REGISTER AS A SECURITIES SALESPERSON, a felony, common scheme, in violation of Mont. Code Ann. § 30-10-201(1), which occurred between on or about February 13, 2008, and April 19, 2009. The maximum possible penalty for committing said offense is a fine not to exceed \$5,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

Since the Defendant previously received a deferred imposition of sentence from the Court for committing said offense, the Court may impose any sentence that might have been originally imposed, which means that the Defendant's maximum exposure would be a fine not to exceed \$5,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

2. The Defendant will state on the record a factual basis to support his admissions. By signing this Plea Agreement, the Defendant specifically agrees to the following:

Allegation 1: I admit that I failed to pay restitution. For example, I failed to make any restitution payments for the months of August 2017, February 2018, October 2018, April 2021, October 2021, November 2021, October 2022, November 2022, December 2022, January 2023, February 2023, and April 2023.

I also failed to make my agreed-upon restitution payment of \$1,400 for the month of September 2017.

I also failed to make my agreed-upon restitution payment of \$1,800 for the months of October 2017, November 2017, and December 2017.

I also failed to make my agreed-upon restitution payment of \$2,400 for the months of January 2018, March 2018, July 2018, November 2020, December 2020, February 2021, March 2023, May 2023, June 2023, and July 2023.

Allegation 2: I admit that I failed to obtain permission before purchasing automobiles or incurring debts. The violation began on August 30, 2017, and continued until the date of revocation.

Allegation 3: I admit that I failed to obtain permission before engaging in a business. The starting date of this violation is August 30, 2017. The violation began on August 30, 2017, and continued until the date of revocation.

The Defendant also admits and agrees that the facts alleged in the State's Petition and supporting documents are true and provide a factual basis for the Court to accept the Defendant's admissions and find that the Defendant committed the alleged violations.

3. **The Defendant specifically agrees and stipulates that he should not receive credit for elapsed time against his sentence.** The Defendant understands that he is waiving any factual or legal argument (past, present, or future) that he should receive or should have received credit for elapsed time against his sentence in this case. The Defendant's stipulation and waiver is an important component of this Plea Agreement. Without such an express stipulation and waiver, the State would not be recommending another deferred imposition of sentence to the Court in this case.

4. The Defendant admits, agrees and will state on the record that he is completely satisfied with his attorney, and that his attorney has done everything that was requested of him by the Defendant.

5. The Defendant admits, agrees and will state on the record that he is entering admissions only because he in fact violated the terms and conditions of the Court's Judgment and/or probation.

6. The Defendant agrees to remain law abiding pending sentencing and follow all conditions of his pre-trial release and previously imposed terms and conditions of the Court's Judgment and/or probation.

7. The Defendant agrees to appear at the Lewis and Clark County Sheriff's Office for booking and release immediately after sentencing, if required.

JOINT RECOMMENDATION

8. In exchange for Defendant's admission to each allegation in the Petition, the State and the Defendant agree to jointly recommend that the Court defer sentencing the Defendant for a period of six (6) years, be subject to conditions of supervision by and rules of the Department of Corrections and the conditions detailed in Exhibit B, to pay the

stipulated restitution amount of approximately \$181,499.79, and to pay any DOC administration fee pertaining the restitution collection and processing.

9. The parties agree that a presentence investigation is unnecessary in this case. Both parties agree and stipulate that the Defendant owes \$181,499.79 in restitution. The parties agree and stipulate that the Defendant is employed and employable, and has the ability to pay restitution, fines, fees, and surcharges, and has the ability to make payments over time if needed.

10. The parties agree that restitution is due immediately. Similar to the Court's Judgment and Sentence Upon Revocation, dated August 30, 2017, the parties agree that the Court should order a monthly, restitution payment schedule for the Defendant. The parties recommend the following monthly payment schedule:

- at least \$800 per month from November 2023 through the remainder of the sentence, or until such time as this schedule is amended by order of the Court.

11. The parties agree that the Defendant has not made and cannot make a sufficient showing to excuse his violation of failing to pay restitution.

12. The parties agree that elapsed time should not be credited in this case. The parties agree that the Court can make a finding and that evidence exists in the records and recollection of the probation and parole officer(s) that the Defendant did not sufficiently inform the probation and parole officer(s) of his vehicle purchases, other debts he incurred, and his un-approved business ventures from the date of the Court's Judgment and Sentence Upon Revocation, August 30, 2017, and continued until the date of revocation. These failures to do so substantially affected the probation officer(s) ability to monitor the Defendant's finances and deficiencies in making the stipulated, monthly restitution payments. The parties agree that these violations, in addition to the Defendant's failure to pay restitution as outlined above, form a sufficient basis and rationale that elapsed time should not be credited.

13. The parties agree that the Defendant has not served time in a detention center or on home arrest in this case. Therefore, no credit for time served shall be recommended.

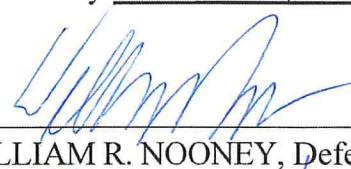
14. In addition to the above recommendations, the parties agree that the Court should order the following terms and conditions identified in attached Exhibit B.

15. This Plea Agreement constitutes the entire agreement between the parties. Any term or condition which is not expressly stated or incorporated by reference as part of this Plea Agreement is not to be considered part of the agreement.

16. The Plea Agreement is specifically conditioned upon the fact that the Defendant's criminal history as represented by Defense Counsel and set out in the State's case file is accurate. The Plea Agreement is also contingent upon the Defendant committing no new crimes, following all conditions of bail, conditions of release pending sentencing, conditions of probation, and not absconding prior to sentencing.

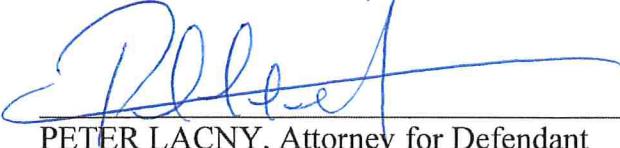
17. If the Defendant does not obey all laws or conditions or absconds prior to sentencing, the Defendant agrees that the State will no longer be bound by the recommendations stated in the Plea Agreement and the State may make any recommendation at sentencing. Also, the Defendant understands that he will not be allowed to withdraw his admissions if he fails to obey all laws or conditions or absconds prior to sentencing.

18. This Plea Agreement is void unless signed by the Defendant, Defendant's attorney, and the State by November 8, 2023.


WILLIAM R. NOONEY, Defendant

DATE:

11/3/23


PETER LACNY, Attorney for Defendant

DATE:

11-3-2023


CHRIS MCCONNELL, Attorney for the State

DATE:

11/2023

EXHIBIT B

STANDARD CONDITIONS

1. The Defendant shall be placed under the supervision of the Department of Corrections (DOC), subject to all rules and regulations of Adult Probation & Parole (AP&P).
2. The Defendant must obtain prior written approval from his supervising officer before taking up residence in any location. The Defendant shall not change his place of residence without first obtaining written permission from his supervising officer or the officer's designee. The Defendant must make the residence open and available to an officer for a home visit or for a search upon reasonable suspicion. The Defendant will not own dangerous or vicious animals and will not use any device that would hinder an officer from visiting or searching the residence.
3. The Defendant must obtain permission from his supervising officer or the officer's designee before leaving his assigned district.
4. The Defendant must seek and maintain employment or maintain a program approved by the Board of Pardons and Parole (BOPP) or the supervising officer. Unless otherwise directed by his supervising officer, the Defendant must inform his employer and any other person or entity, as determined by the supervising officer, of his status on probation, parole, or other community supervision
5. Unless otherwise directed, the Defendant must submit written monthly reports to his supervising officer on forms provided by AP&P. The Defendant must personally contact his supervising officer or designee when directed by the officer.
6. The Defendant must obtain permission from his supervising officer before engaging in a business, purchasing real property, purchasing an automobile, or incurring a debt. This includes any expense, especially vehicles, the Defendant may have or use to purchase for his business as an Uber or Lyft driver and for any vehicles he wishes to purchase to rent out through Turo or other ride/car sharing businesses.
7. Upon reasonable suspicion that the Defendant has violated the conditions of supervision, a probation and parole officer may search the person, vehicle, and residence of the Defendant, and the Defendant must submit to such search. A probation and parole officer may authorize a law enforcement agency to conduct a search, provided the probation and parole officer determines reasonable suspicion exists that the Defendant has violated the conditions of supervision.
8. The Defendant must comply with all municipal, county, state, and federal laws and ordinances and shall conduct himself as a good citizen. The Defendant is required, within 72 hours, to report any arrest or contact with law enforcement to his supervising officer or designee. The Defendant must be cooperative and be truthful in all communications and dealings with any probation and parole officer and with any law enforcement agency.

9. The Defendant is prohibited from gambling.
10. The Defendant shall not enter any casinos or other gambling establishments until all financial obligations in this matter have been paid in full.
11. The Defendant shall pay all fines, fees, and restitution ordered by the sentencing court.
12. The Defendant shall pay the following fees and/or charges:
 - a. The Probation & Parole Officer shall determine the amount of supervision fees (§ 46-23-1031, MCA) to be paid each month in the form of money order or cashier's check to the Department of Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620 (\$50 per month if the Defendant is sentenced under §45-9-202, MCA, dangerous drug felony offense and placed on ISP). The DOC shall take a portion of the Defendant's inmate account if the Defendant is incarcerated.
 - b. The Defendant shall pay court ordered restitution in the amount of \$181,499.79. The Defendant shall pay restitution online at <https://svc.mt.gov/doa/opp/COROffenderPay/cart> OR by money order or cashier's check sent to the Department of Corrections, Collections Unit, PO Box 201350, Helena, MT 59620. The Defendant must include the District Court case number & his DOC offender ID # 3014484. The Defendant shall be assessed a 10% administration fee on all restitution ordered. All of the methods for collection of restitution provided under §§ 46-18-241 through 46-18-249, MCA, shall apply, including garnishment of wages and interception of state tax refunds. Pursuant to § 46-18-244(6)(b), MCA, the Defendant shall sign a statement allowing any employer to garnish up to 25% of his wages. The Defendant shall continue to make monthly restitution payments until he has paid full restitution, even after incarceration or supervision has ended.
13. The Defendant is not entitled to credit against time served in jail prior to or after conviction because the Defendant has not served time in jail on this offense either prior to or after his convictions. (§ 46-18-403, MCA).
14. The Defendant is not entitled to credit against any fine for time served in jail prior to conviction because the Defendant has not served time in jail on this offense. (§ 46-18-403, MCA)
15. The Defendant will surrender to the court any registry identification card issued under the Medical Marijuana Act. (§ 46-18-202(l)(f), MCA)
16. The Defendant shall not abscond from supervision. Absconding is a non-compliance violation as defined in § 46-23-1001(1), MCA.
17. The Defendant shall not knowingly associate with probationers, parolees, prison inmates, or persons in the custody of any law enforcement agency without prior approval from his supervising officer outside a work, treatment, or self-help group setting. The Defendant shall not associate with persons as ordered by the court or BOPP.

18. The Defendant shall not knowingly have any contact, oral, written, electronic or through a third party, with the victim(s) unless such contact is voluntarily initiated by the victim(s) through the Department of Corrections. DOC staff may notify victims about the availability of opportunities for facilitated contact with their offenders without being considered "third parties."
19. The Defendant shall comply with all sanctions given as a result of an intervention, on-site (preliminary), or disciplinary hearing.
20. The Defendant shall not, whether in his position of employment or otherwise, and whether or not compensated to do so: offer, sell, or negotiate or solicit the sale of any security, investment, or other financial product or service; offer any recommendation regarding the advisability of the purchase or sale of any security, investment, or other financial product or service; serve in any capacity exercising control over the funds of clients, including serving in a fiduciary capacity; serve in any capacity in which he manages or exercises control over any portion of the funds or accounts of an employer, community organization, or other entity or program with which he is affiliated.

SPECIAL CONDITIONS

21. The payment of restitution shall be Defendant's primary financial obligation behind only meeting his own basic needs for food, housing, clothing, and medical care. The Defendant shall sign an agreement with his conservator, Burke and Associates, or any other future fiduciary, that after his own basic needs, restitution in the amount determined by the Court shall be the first item paid by the Defendant's trust or other financial accounts each month.
22. Restitution shall be paid in full before money is spent on any non-essential expenses including home or outside entertainment, travel, pets, charitable, giving or any other expenditure deemed non-essential by his supervising officer.
23. The monthly restitution payment, as set by his supervising officer and/or the court, is due each and every month, until restitution, is paid in full, and, further, failure to make a monthly restitution payment as directed constitutes a violation of the terms of probation and may result in the revocation of the Defendant's probation.
24. The Defendant shall provide his supervising officer with a current listing of all bank accounts, investment or other financial accounts or safety deposits boxes in which he has any interest and, upon request, permit his supervising officer to review the contacts, statements, or any other records connect thereto.
25. At the request of his supervising officer, the Defendant shall provide monthly reports to his supervising officer, which document his pay from Uber, Lyft, and Turo (and any other ride-sharing business) and identify which accounts this pay is being deposited. The Defendant shall inform his supervising officer of any large expenses incurred if one of the vehicles must have a repair over \$500.

26. The Defendant shall sign a release of information with his supervising officer and his conservator and any other financial fiduciary, each year he is on supervision, so the supervising officer can verify what the Defendant's money is going to. The Defendant shall provide access to any and all of his financial accounts, upon request of his supervising officer.
27. At the request of his supervising officer, the Defendant shall provide a detailed itemized listing of all assets in which he has any interest including real or personal property to include land, residences or other structures, mobile homes or vehicles of any kind including recreational vehicles and watercraft, cash on hand, bank accounts or investments, pensions or retirement accounts or any other asset which presently or in the future will or may be a source of income or may be sold or liquidated to provide funds to pay restitution.
28. At the request of his supervising officer, the Defendant shall prepare, submit and update a monthly budget listing all income or other funds available to him from any and all sources including employment, inheritance of gifts, and all regular and necessary personal, household, medical or other expenses, including estimated seasonal expenses such as residential heating. If the Defendant resides with others, this calculation will itemize the financial contributions of all other household members.
29. At the request of his supervising officer, the Defendant shall provide a copy of his yearly State and Federal Tax returns to his supervising officer.
30. At the request of his supervising officer, the Defendant shall provide a yearly credit report to his supervising officer.
31. To confirm, clarify, explain, support or refute any representation made by the Defendant in connection with the above conditions, Defendant will provide to his supervising officer an original copy or certified copy of any relevant documentation in his possession or under his control, or which he can reasonably obtain, and/or execute any consent, waiver or authorization requested by his supervising officer as necessary to obtain such documentation.

CERTIFICATE OF SERVICE

I, Peter Francis Lacny, hereby certify that I have served true and accurate copies of the foregoing Acknowledgment - Acknowledgment of Rights to the following on 11-06-2023:

Christopher Rhodes McConnell (Govt Attorney)
840 Helena Ave
Helena MT 59601
Representing: State of Montana
Service Method: eService

Peter F Lacny (Govt Attorney)
Central Square Building, 201 W Main, Suite 201
Missoula 59802
Representing: State of Montana
Service Method: Email

Electronically signed by Danielle Rovira on behalf of Peter Francis Lacny
Dated: 11-06-2023