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JAN 14 2009	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
DEPUTY	

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF ARIZONA

9 United States of America,

10 Plaintiff,

11 v.

12 **Francisco David LEON-Pacheco**
 13 Defendant.

09-4505M

14 PLEA AGREEMENT
 15 (Flip-Flop)

16 **Fast Track 5K3.1**

17 The parties enter into the following agreement:

18 1. Defendant will enter a plea to Count 2 of the complaint, Fraud and Related
 19 Activity in Connection With Identification Documents, a misdemeanor offense, in
 20 violation of Title 18, United States Code, Section 1028(a). This plea will occur no later
 21 than the time set for detention hearing/preliminary hearing.

22 2. The government will dismiss Count 1 of the complaint, Aggravated Identity Theft, a
 23 felony, in violation of Title 18, United States Code, Section 1028A. This charge, if
 24 proven, carries a minimum mandatory two-year sentence consecutive to any other
 25 sentence imposed, a fine of \$250,000, three years supervised release, and a \$100 special
 26 assessment. The government will dismiss this charge at the time of sentencing. The
 elements of the offense are: (1) Defendant knowingly possessed an identification

document, authentication feature or false identification; (2) Defendant possessed the document or feature with the intent to defraud the United States.

3. The maximum penalties for the offense to which I am pleading are not more than one (1) year in custody, a \$100,000 fine, \$25 special assessment, and up to one year supervised release.

4. Pursuant to this plea agreement, the government and the defendant stipulate and agree to a sentence of 60 days of imprisonment in a United States Marshals facility. The government will move to remit the special assessment.

5. The parties waive a Pre-Sentence Investigation Report and agree that sentencing will occur on the date of the change of plea.

6. Defendant waives: (1) any right to appeal the Court's entry of judgment against the defendant; (2) any right to appeal the imposition of sentence upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); and (3) any right to collaterally attack defendant's conviction and sentence under Title 28, United States Code, Section 2255, or any other collateral attack.

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1 **7. Factual Basis for Plea:**

2 On or about January 10, 2009, at or near Nogales, in the District of Arizona, I,
3 Francisco David LEON-Pacheco, presented a Border Crossing Card, Form DSP-150
4 which was issued in a name other than my own and to a real person as proof of my
5 lawful authority to enter into the United States so that I could gain unlawful entry into
6 the United States. I am a Mexican citizen present in the United States illegally.

7 Dated this 4th day of January, 2009.

8
9 ~~Francisco David LEON-Pacheco~~
10 Francisco David LEON-Pacheco
11 Defendant

12 *Rosemarie Kelly*
13 Defense Counsel

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15
16 DIANE J. HUMETEWA
17 United States Attorney
18 District of Arizona

19 *Claire Kelly*
20 Assistant U.S. Attorney