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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10	UNITED STATES OF AMERICA,)	CASE NO.1:13-cr-00030 LJO-SKO
)	
11	Plaintiff,)	MEMORANDUM OF PLEA AGREEMENT
)	PURSUANT TO RULE 11(c) OF THE
12)	FEDERAL RULES OF CRIMINAL
)	PROCEDURE
13	v.)	
)	
14)	Date: To Be Determined
)	Time: To Be Determined
15	PRINCESA ALVARADO MATA,)	Place: Courtroom No. 4
	aka Concepcion Torres,)	Hon. Lawrence J. O'Neill
16	aka Concepcion Torres Prado,)	
)	
17	Defendant.)	
)	

18
19 Pursuant to Rule 11(c) of the Federal Rules of Criminal
20 Procedure, the United States of America, by and through Benjamin B.
21 Wagner, the United States Attorney for the Eastern District of
22 California, and Assistant United States Attorney HENRY Z. CARBAJAL
23 III; and defendant PRINCESA ALVARADO MATA, aka Concepcion Torres
24 Prado, and her attorney, BRIAN ANDRITCH, have agreed as follows:

25 1. Scope of Agreement

26 This document contains the complete Memorandum of Plea Agreement
27 ("Plea Agreement") between the United States Attorney's Office for
28 the Eastern District of California ("Government") and defendant

1 regarding this case. This Plea Agreement is limited to the United
2 States Attorney's Office for the Eastern District of California and
3 cannot bind any other federal, state, or local prosecuting,
4 administrative, or regulatory authorities.

5 2. Charges

6 (a) Defendant acknowledges that she has been charged in the
7 Indictment as follows:

8 Theft of Public Money, in violation of Title 18, United States
9 Code, Section 641, and

10 Criminal Forfeiture pursuant to Title 18, United States Code,
11 Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461.

12 (b) The defendant further acknowledges that she has been
13 charged in a single count Superseding Information as follows:

14 Misuse of a Social Security Number, in violation of 42 U.S.C. §
15 40g(a)(7)(B).

16 3. Nature, Elements and Possible Defenses

17 The defendant has read the charges against her contained in the
18 Indictment and Superseding Information, and those charges have been
19 fully explained to her by her attorney. Further, the defendant fully
20 understands the nature and elements of the crime in the Superseding
21 Information to which she is pleading guilty, together with the
22 possible defenses thereto, and has discussed them with her attorney.

23 The elements of the crime of Misuse of a Social Security Number
24 are:

25 First, the defendant represented for any purpose a particular
26 social security account number to be hers;

27 Second, the representation was false; and

28 Third, the defendant acted with intent to deceive.

///

1 4. Agreements by the Defendant

2 (a) The defendant agrees that this Plea Agreement shall be
3 filed with the court and become a part of the record of the case.

4 (b) The defendant understands and agrees that she has a right
5 to have her case proceed by way of indictment brought through a grand
6 jury and hereby knowingly and intelligently waives her right to
7 proceed by indictment and elects to have her case proceed by way of
8 Superseding Information pursuant to Federal Rule of Criminal
9 Procedure 7(b).

10 (c) The defendant agrees to enter a plea of guilty to the
11 essential elements of the charge contained in the Superseding
12 Information, which charges her with Misuse of a Social Security
13 Number, in violation of 42 U.S.C. § 408(a)(7)(B).

14 (d) The defendant understands and agrees that she will not be
15 allowed to withdraw her plea should the Court fail to follow the
16 Government's sentencing recommendations.

17 (e) The Defendant further acknowledges that her plea of guilty
18 is voluntary and that no force, threats, promises or representations
19 have been made to anybody, nor agreement reached, other than those
20 set forth expressly in this Plea Agreement, to induce the defendant
21 to plead guilty.

22 (f) The defendant agrees to waive all defenses to the charge in
23 the Superseding Information based on the statute of limitations for
24 the offense charged therein.

25 (g) The defendant agrees that the 2012 United States Sentencing
26 Guidelines will be applied to her offense of conviction. The
27 defendant waives any objection to application of the 2012 Sentencing
28 Guidelines to her offense of conviction, including but not limited to

1 any objection that application of the 2012 Sentencing Guidelines to
2 her offense of conviction violates the Ex Post Facto Clause of the
3 U.S. Constitution.

4 (h) The defendant agrees that her base offense level for Misuse
5 of a Social Security Number is six (6) pursuant to Section
6 2B1.1(a)(2) of the 2012 United States Sentencing Commission
7 Guidelines Manual ("Sentencing Guidelines"), and an eight (8) level
8 increase applies for loss more than \$70,000 but less than \$120,000
9 (U.S.S.G. § 2B1.1(b)(1)(E)).

10 (i) Defendant knowingly and voluntarily waives her
11 Constitutional and statutory rights to appeal her plea, conviction,
12 order of restitution, order of forfeiture and sentence. This waiver
13 of appeal includes, but is not limited to, an express waiver of
14 defendant's right to appeal her plea, conviction, order of
15 restitution, order of forfeiture and sentence on any ground,
16 including any appeal right conferred by 18 U.S.C. § 3742. Regardless
17 of the sentence she receives, defendant gives up any right she may
18 have to bring a post-appeal attack on her plea, conviction, order of
19 restitution, order of forfeiture and sentence. She specifically
20 agrees not to file a motion under 28 U.S.C. § 2255 or § 2241
21 attacking her plea, conviction, order of restitution or sentence.

22 (j) The defendant agrees to not move for any downward
23 adjustments in her offense levels under either Chapters Two, Three,
24 Four or Five of the United States Sentencing Guidelines. The
25 defendant also agrees not to move for a downward departure or
26 variance of her sentence whether under the United States Sentencing
27 Guidelines or the factors of 18 U.S.C. § 3553. Defendant understands
28 and agrees that this agreement by her includes but is not limited to,

1 not moving for a downward departure of her offense level, criminal
2 history category or criminal history points as defined by the United
3 States Sentencing Guidelines. Additionally, the defendant agrees
4 that the application of the guidelines to her case results in a
5 reasonable sentence and that the defendant will not request that the
6 court apply the sentencing factors under Section 3553 of Title 18,
7 United States Code, to arrive at a sentence different than that
8 called for under the guidelines. The defendant acknowledges that if
9 the defendant requests or suggests in any manner a different sentence
10 than what is called for under the guidelines that the government, at
11 its sole discretion, may withdraw from this plea agreement and
12 continue with its prosecution of the defendant as if this plea
13 agreement were not entered.

14 (k) The defendant recognizes that pleading guilty may have
15 consequences with respect to her immigration status if she is not a
16 citizen of the United States. Under federal law, a broad range of
17 crimes are removable offenses, including the offense to which the
18 defendant is pleading guilty. Removal and other immigration
19 consequences are the subject of a separate proceeding, however, and
20 the defendant understands that no one, including her attorney or the
21 district court, can predict to a certainty the effect of conviction
22 on the defendant's immigration status. The defendant nevertheless
23 affirms that she wants to plead guilty regardless of any immigration
24 consequences that her plea may entail, even if the consequence is her
25 automatic removal from the United States.

26 (L) Pursuant to Section 3663(a)(3) of Title 18, United States
27 Code, the defendant agrees to pay the full amount of restitution as
28 ordered by the court to all victims affected by this offense,

1 including but not limited to the victims covered in the factual
2 basis, victims covered in those counts to be dismissed as part of the
3 plea agreement pursuant to 18 U.S.C. § 3663A(a)(3) and other victims
4 as a result of the defendant's conduct for the offenses charged and
5 in an amount determined by the court at sentencing, but no less than
6 \$93,023.90.

7 (m) Defendant agrees to make a full and complete disclosure of
8 defendant's assets and financial condition, and will complete the
9 United States Attorney's Office's "Authorization to Release
10 Information" and "Financial Statement" within five (5) weeks from the
11 entry of the defendant's change of plea. The defendant also agrees
12 to have the court to enter an order to that effect.

13 (n) The defendant understands that the Court must consult the
14 Federal Sentencing Guidelines (as promulgated by the Sentencing
15 Commission pursuant to the Sentencing Reform Act of 1984, 18 U.S.C.
16 §§ 3551-3742 and 28 U.S.C. §§ 991-998, and as modified by United
17 States v. Booker and United States v. Fanfan, 543 U.S. 220, 125
18 S. Ct. 738 (2005)), and must take them into account when determining
19 a final sentence. The defendant understands that the Court will
20 determine a non-binding and advisory guideline sentencing range for
21 this case pursuant to the Sentencing Guidelines. The defendant
22 further understands that the Court will consider whether there is a
23 basis for departure from the guideline sentencing range (either above
24 or below the guideline sentencing range) because there exists an
25 aggravating or mitigating circumstance of a kind, or to a degree, not
26 adequately taken into consideration by the Sentencing Commission in
27 formulating the Guidelines. The defendant further understands that
28 the Court, after consultation and consideration of the Sentencing

1 Guidelines, must impose a sentence that is reasonable in light of the
2 factors set forth in 18 U.S.C. § 3553(a).

3 (o) Defendant agrees to waive all rights under the "Hyde
4 Amendment," Pub. L. No. 105-109, § 617, 111 Stat. 2519 (1997), to
5 recover attorneys' fees or other litigation expenses in connection
6 with the investigation and prosecution of all charges in the above-
7 captioned matter and of any related allegations (including without
8 limitation any charges to be dismissed pursuant to this Plea
9 Agreement and any charges previously dismissed).

10 5. Agreements by the Government

11 (a) The government will recommend a two-level reduction (if the
12 offense level is less than 16) or a three-level reduction (if the
13 offense level reaches 16) in the computation of the defendant's
14 offense level if the defendant clearly demonstrates acceptance of
15 responsibility for her conduct as defined in Section 3E1.1 of the
16 Sentencing Guidelines.

17 (b) The government agrees that the defendant's base offense
18 level for Misuse of a Social Security Number is six (6) pursuant to
19 Section 2B1.1(a)(2) of the 2012 United States Sentencing Commission
20 Guidelines Manual ("Sentencing Guidelines"), and an eight (8) level
21 increase applies for loss more than \$70,000 but less than \$120,000
22 (U.S.S.G. § 2B1.1(b)(1)(E)).

23 (c) If the defendant's guideline range, after all adjustments,
24 falls within:

25 i. Zone A of the Sentencing Table, then the government agrees
26 to recommend that the defendant be sentenced to imprisonment for the
27 term of imprisonment spent in custody, determined as of the date of
28 sentencing;

1 ii. Zone B of the Sentencing Table, then the government will
2 recommend that the defendant be sentenced to imprisonment for the
3 term spent in custody, as determined as of the date of sentencing, or
4 the low end of the applicable guideline range, whichever is greater;
5 or

6 iii. Zone C of the Sentencing Table, then the government will
7 recommend that the defendant be sentenced to imprisonment for half of
8 defendant's minimum term with a term of supervised release which
9 includes the remainder of the minimum term served in home detention,
10 to be paid by the defendant; or

11 iv. Zone D of the Sentencing Table, then the government will
12 recommend that the defendant be sentenced to imprisonment at the low
13 end of the applicable guideline range.

14 (d) The defendant acknowledges and understands that the
15 government makes no other representations to her regarding fines,
16 whether any other specific offense characteristics apply to her
17 conduct, her criminal history under Chapter Four or whether
18 additional enhancements or reductions under Chapters Two, Three or
19 Five of the United States Sentencing Guidelines apply and defendant
20 understands that the government is free to comment and to make
21 recommendations to the court and the probation officer regarding
22 those matters.

23 (e) The government will dismiss the pending indictment against
24 the defendant at the time of sentencing.

25 6. Factual Basis

26 The defendant will plead guilty because she is in fact guilty of
27 the crime set forth in the Superseding Information. The defendant
28 also agrees that the following are the facts of this case, although

1 she acknowledges that, as to other facts, the parties may disagree:

2
3 On or about December 1999, within the State and Eastern
4 District of California, defendant PRINCESA ALVARADO MATA,
5 in a matter within the jurisdiction of the United States
6 Social Security Administration, for the purpose of
7 obtaining something of value and for other purposes, and
8 with the intent to deceive, falsely represented in a Social
9 Security disability insurance benefits application that her
10 Social Security account number was xxx-xx-4313, when in
11 fact, as defendant well knew, Social Security account
12 number xxx-xx-4313 was not assigned to the defendant, all
13 in violation of 42 U.S.C. Section 408(a)(7)(B).

14 On or about December 1999, the defendant PRINCESA ALVARADO
15 MATA completed and submitted an application for Social
16 Security disability insurance (SSDI) benefits to the Social
17 Security Administration (SSA). As an applicant for and
18 recipient of SSDI benefits payments, the defendant was
19 required to truthfully report her identity and social
20 security number at the inception of her disability claim.
21 In her December 1999 benefits application, the defendant
22 falsely represented that she was Concepcion Torres, and
23 used Concepcion Torres' name, date of birth and Social
24 Security number xxx-xx-4313 to apply for and receive SSDI
25 benefits. The defendant provided these representations
26 with the intent to deceive SSA, knowing all the while that
27 such statements were materially false in that she assumed
28 the identity of Concepcion Torres, was not actually
29 Concepcion Torres and that Social Security number xxx-xx-
30 4313 was not issued to her. Had MATA disclosed she was
31 applying for and receiving SSDI benefits under a false
32 identity and/or Social Security number that did not belong
33 to her, SSA would not have paid or continued to pay SSDI
34 benefits to the defendant.

35 The defendant began receiving SSA Title II Disability
36 Insurance benefits (SSDI) in approximately July 2000 under
37 the identity of Concepcion Torres of Texas with Social
38 Security number xxx-xx-4313, born August 1949, for a
39 primary disability of disorder of muscle, ligament and/or
40 fascia. As of November 2009, the defendant was receiving
41 SSDI benefits in the amount of approximately \$871.00 per
42 month based on her disability claim. The SSDI benefits were
43 received via check mailed from SSA to the defendant's home
44 in Bakersfield, California. The defendant would obtain the
45 SSDI benefit checks at her home in Bakersfield, California
46 each month and cash the benefit checks at financial
47 institutions and other businesses in the area of
48 Bakersfield, California.

49 Between July 2000 and November 2009, overpayments of Title
50 II SSDI benefits to the defendant totaled approximately
51 \$93,023.90. Between July 2000 and November 2009, the
52 defendant received approximately \$93,023.90 in Title II

1 Social Security funds by misrepresenting her identity and
2 Social Security number in order to obtain the Title II
3 Social Security funds to which the defendant knew she was
4 not entitled under the identity of Concepcion Torres.

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7. Potential Sentence

The following is the maximum potential sentence which the defendant faces on Count One:

(a) Imprisonment.

Maximum: Five (5) years.

(b) Fine.

Maximum: Two Hundred and Fifty Thousand Dollars (\$250,000.00).

(c) Both such fine and imprisonment.

(d) Restitution- Mandatory

(e) Term of Supervised Release:

Maximum: Three (3) years.

(Should the defendant violate any of the terms of her supervised release, she can be returned to prison for the period of supervised release actually imposed by the Court or two (2) years, whichever is less.)

(f) Penalty Assessment.

Mandatory: One Hundred Dollars (\$100.00).

8. Waiver of Rights

Defendant understands that by pleading guilty she surrenders certain rights, including the following:

(a) If defendant persisted in a plea of not guilty to the charges against her, she would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by a judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government and the judge all must agree that the trial be conducted by the judge without a jury.

1 (b) If the trial were a jury trial, the jury would be composed
2 of twelve lay persons selected at random. Defendant and her attorney
3 would have a say in who the jurors would be by removing prospective
4 jurors for cause where actual bias or other disqualification is
5 shown, or without cause by exercising peremptory challenges. The
6 jury would have to agree unanimously before it could return a verdict
7 of either guilty or not guilty. The jury would be instructed that
8 defendant is presumed innocent and that it could not convict her
9 unless, after hearing all the evidence, it was persuaded of her guilt
10 beyond a reasonable doubt.

11 (c) If the trial were held before a judge without a jury, the
12 judge would find the facts and determine, after hearing all the
13 evidence, whether or not he was persuaded of the defendant's guilt
14 beyond a reasonable doubt.

15 (d) At a trial, whether by a jury or a judge, the government
16 would be required to present its witnesses and other evidence against
17 defendant. Defendant would be able to confront those government
18 witnesses and her attorney would be able to cross-examine them. In
19 turn, defendant could present witnesses and other evidence on her own
20 behalf. If the witnesses for defendant would not appear voluntarily,
21 she could require their attendance through the subpoena power of the
22 Court. At trial, the defendant would also have the right to
23 assistance of legal counsel. If she could not afford legal counsel,
24 one would be appointed for her by the court at no expense to her.

25 (e) At a trial, defendant would have a privilege against self-
26 incrimination so that she could decline to testify,
27 and no inference of guilt could be drawn from this refusal to
28 testify.

1 (f) If the defendant ever attempts to vacate her plea, dismiss
2 the underlying charges, or reduce or set aside her sentence on any
3 count(s) to which she is pleading guilty, the Government shall have
4 the right (1) to prosecute defendant on any and all count(s) to which
5 she pleaded guilty, and (2) to file any new charges that would
6 otherwise be barred by this Plea Agreement. The decision to pursue
7 any or all of these options is solely in the discretion of the
8 Government. By signing this Plea Agreement, the defendant agrees to
9 waive any objections, motions, and defenses she might have to the
10 Government's decision. Defendant specifically agrees not to raise
11 any objections based on the passage of time with respect to such
12 counts including, but not limited to, any statutes of limitation or
13 any objections based on the Speedy Trial Act or the Speedy Trial
14 Clause of the Sixth Amendment.

15 Defendant understands that by pleading guilty she is waiving all
16 of the rights set forth above and defendant's attorney has explained
17 those rights to her and the consequences of her waiver of those
18 rights.

19 9. Right to Counsel

20 The defendant understands that she has a right to counsel
21 throughout her case from her initial appearance through her trial or
22 guilty plea, or any dismissal of the case against her, and through
23 and including any sentencing. If not for the waiver of appeal rights
24 in this Plea Agreement, the defendant would also have a right to
25 counsel on a direct appeal in her case. The defendant understands
26 that the right to counsel includes the provision of defense counsel
27 through the Court if the defendant cannot afford to hire counsel.

28 10. Questions by Court

1 Defendant understands that if the Court questions her under
2 oath, on the record and in the presence of counsel, about the offense
3 to which she has pleaded guilty, her answers, if false, may later be
4 used against her in a prosecution for perjury.

5 11. Entire Plea Agreement

6 This plea of guilty is freely and voluntarily made and not the
7 result of force or threats or of promises apart from those set forth
8 in this plea agreement. There have been no representations or
9 promises from anyone as to what sentence this Court will impose.
10 Other than this Plea Agreement, no agreement, understanding, promise,
11 or condition between the government and the defendant exists, nor
12 will such agreement, understanding, promise, or condition exist
13 unless it is committed to writing and signed by the defendant,
14 counsel for the defendant, and counsel for the United States.

15 12. Court not a Party

16 It is understood by the parties that the Court is not a party to
17 this Plea Agreement. Sentencing is a matter solely within the
18 discretion of the Court, the Court is under no obligation to accept
19 any recommendations made by the government, and the Court may in its
20 discretion impose any sentence it deems appropriate up to and
21 including the statutory maximum stated in this Plea Agreement.
22 Further, in making its sentencing decision, the Court may take into
23 consideration any and all facts and circumstances concerning the
24 criminal activities of defendant, including activities which may not
25 have been charged in the Indictment.

26 If the Court should impose any sentence up to the maximum
27 established by the statute, the defendant cannot, for that reason
28 alone, withdraw her guilty plea, and she will remain bound to fulfill

1 all of the obligations under this Plea Agreement. The defendant
2 understands that neither the prosecutor, defense counsel, nor the
3 Court can make a binding prediction or promise regarding the sentence
4 he will receive.

5 13. Presentence Report

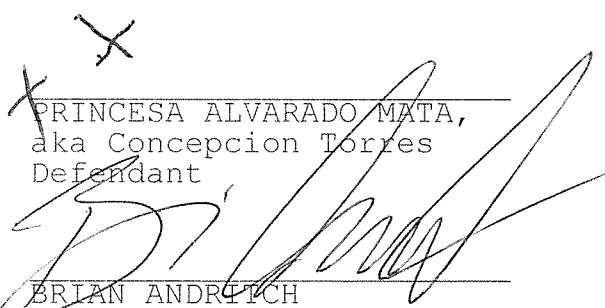
6 Defendant understands that the United States Probation Office is
7 not a party to this agreement and will conduct an independent
8 investigation of defendant's activities and her background. It will
9 then prepare a presentence report which it will submit to the Court
10 as its independent sentencing recommendation. In addition, the
11 government will fully apprise the Probation Office, as well as the
12 Court, of the full and true nature, scope and extent of the
13 defendant's criminal activities, including information on her
14 background and criminal history.

15
16 BENJAMIN B. WAGNER
United States Attorney

17 Dated: 9/23/13

18 By: 
HENRY Z. CARBAJAL III
Assistant U.S. Attorney

19
20 Dated: 9/19/13

21 
PRINCESA ALVARADO MATA,
aka Concepcion Torres
Defendant

22
23 Dated: 9/20/13

24 BRIAN ANDRETTICH
Attorney for Defendant

25
26 Dated: 9/20/2013

27 
Interpreter #100758