

(503) _____ - _____

Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

UNITED STATES OF AMERICA,)	
)	CR No. _____
Plaintiff,)	
)	PETITION TO ENTER PLEA
vs.)	OF GUILTY, CERTIFICATE
)	OF COUNSEL, AND ORDER
_____ ,)	ENTERING PLEA.
)	
Defendant.)	

The defendant represents to the court:

1. My name is _____ . I am _____ years old. I have gone to school up to and including the _____ .
2. My attorney is _____ .
3. My attorney and I have discussed my case fully. I have received a copy of the Indictment or Information. I have read the Indictment or Information, or it has been read to me, and I have discussed it with my attorney. My attorney has counseled and advised me concerning the nature of each charge, any lesser-included offense(s), and the possible defenses that I might have in

this case. I have been advised and understand that the elements of the charge(s) alleged against me to which I am pleading "GUILTY" are as follows [see instructions]:

I have had a full and adequate opportunity to disclose to my attorney all facts known to me that relate to my case. I understand that the Court may ask whether I am satisfied with the advice I have received from my attorney.

4. I know that if I plead "GUILTY," I will have to answer any questions that the judge asks me about the offense(s) to which I am pleading guilty. I also know that if I answer falsely, under oath, and in the presence of my attorney, my answers could be used against me in a prosecution for perjury or false statement.

5. I am not under the influence of alcohol or drugs. I am not suffering from any injury, illness or disability affecting my thinking or my ability to reason except as follows: _____

_____ . I have

not taken any drugs or medications within the past seven (7) days except as follows: _____

6. I understand that conviction of a crime can result in consequences in addition to imprisonment. Such consequences include deportation, or removal from the United States, or denial of naturalization, if I am not a United States citizen; loss of eligibility to receive federal benefits; loss of certain civil rights (which may be temporary or permanent depending on applicable state or federal

law), such as the right to vote, to hold public office, and to possess a firearm; and loss of the privilege to engage in certain occupations licensed by the state or federal government.

7. I know that I may plead “NOT GUILTY” to any crime charged against me and that I may persist in that plea if it has already been made. I know that if I plead “NOT GUILTY” the Constitution guarantees me:

a. The right to a speedy and public trial by jury, during which I will be presumed to be innocent unless and until I am proven guilty by the government beyond a reasonable doubt and by the unanimous vote of twelve jurors;

b. The right to have the assistance of an attorney at all stages of the proceedings;

c. The right to use the power and process of the court to compel the production of evidence, including the attendance of witnesses in my favor;

d. The right to see, hear, confront, and cross-examine all witnesses called to testify against me;

e. The right to decide for myself whether to take the witness stand and testify, and if I decide not to take the witness stand, I understand that no inference of guilt may be drawn from this decision; and

f. The right not to be compelled to incriminate myself.

8. I know that if I plead “GUILTY” there will be no trial before either a judge or a jury, and that I will not be able to appeal from the judge’s denial of any pretrial motions I may have filed concerning matters or issues not related to the court’s jurisdiction [*see instructions*].

9. In this case I am pleading "GUILTY" under Rule 11(c)(1)(___). My attorney has explained the effect of my plea under Rule 11(c)(1)(___) to be as follows [see instructions]:

10. I know the maximum sentence which can be imposed upon me for the crime(s) to which I am pleading guilty is _____ imprisonment and a fine of \$ _____. I also know there is a mandatory minimum sentence of _____ years imprisonment.

11. I know that the judge, in addition to any other penalty, will order a special assessment as provided by law in the amount of \$ _____ per count of conviction.

12. I know that if I am ordered to pay a fine, and I willfully refuse to pay that fine, I can be returned to court, where the amount of the unpaid balance owed on the fine can be substantially increased by the judge and I can be imprisoned for up to one year.

13. My attorney has discussed with me the Federal Sentencing Guidelines. I know that the Guidelines are advisory, not mandatory. I also know the sentencing judge, in determining the particular sentence to be imposed, must consider those factors set forth in Title 18, United States Code, Section 3553(a), including but not limited to: the nature and circumstances of the offense, my own history and characteristics, the goals of sentencing (punishment, deterrence, protection and rehabilitation) and the sentencing range established by the advisory Guidelines. If my attorney or any other person has calculated a guideline range for me, I know that this is only a prediction and

advisory and that it is the judge who makes the final decision as to what the guideline range is and what sentence will be imposed. I also know that a judge may not impose a sentence greater than the maximum sentence referred to in paragraph (10) above.

14. I know from discussion with my attorney that, under the Federal Sentencing Guidelines, if I am sentenced to prison I am not entitled to parole. I will have to serve the full sentence imposed except for any credit for good behavior that I earn. I can earn credit for good behavior in prison at a rate of up to 54 days for each year of imprisonment served. Credit for good behavior does not apply to a sentence of one year or less.

15. I know that if I am sentenced to prison, the judge will impose a term of supervised release to follow the prison sentence. During my supervised release term I will be supervised by a probation officer according to terms and conditions set by the judge. In my case, a term of supervised release can be _____ to _____ years. If I violate the conditions of supervised release, I may be sent back to prison for up to _____ year(s) [*see instructions*].

16. I know that in addition to or in lieu of any other penalty, the judge can order restitution payments to any victim of any offense to which I plead guilty. I am also informed that, for certain crimes of violence and crimes involving fraud or deceit, it is mandatory that the judge impose restitution in the full amount of any financial loss or harm caused by an offense. If imposed, the victim can use the order of restitution to obtain a civil judgment lien. A restitution order can be enforced by the United States for up to twenty (20) years from the date of my release from imprisonment, or, if I am not imprisoned, twenty (20) years from the date of the entry of judgment. If I willfully refuse to pay restitution as ordered, a judge may resentence me to any sentence which could originally have been imposed.

17. On any fine or restitution in an amount of \$2,500 or more, I know that I will be required to pay interest unless that fine or restitution is paid within fifteen (15) days from the date of the entry of judgment.

18. If I am on probation, parole, or supervised release in any other state or federal case, I know that by pleading guilty in this court my probation, parole or supervised release may be revoked and I may be required to serve time in that case, which may be consecutive, that is, in addition to any sentence imposed on me in this court.

19. If I have another case pending in any state or federal court, I know that my Petition and Plea Agreement in this case do not, in the absence of an express and written agreement, apply to my other case(s), and that I can be faced with consecutive sentences of imprisonment.

20. My plea of "GUILTY" is based on a Plea Agreement that I have made with the prosecutor. That Plea Agreement is attached hereto and incorporated herein. I have read or had read to me the Plea Agreement, and I understand the Plea Agreement.

21. The Plea Agreement contains the only agreement between the United States government and me. No officer or agent of any branch of government (federal, state or local) or anyone else has promised or suggested that I will receive a lesser term of imprisonment, or probation, or any other form of leniency if I plead "GUILTY" except as stated in the Plea Agreement. I understand that I cannot rely on any promise or suggestion made to me by a government agent or officer which is not stated in writing in the Plea Agreement, or which is not presented to the judge in my presence in open court at the time of the entry of my plea of guilty.

22. My plea of "GUILTY" is not the result of force, threat, or intimidation.

23. I hereby request that the judge accept my plea of "GUILTY" to the following

count(s):

24. I know that the judge must be satisfied that a crime occurred and that I committed that crime before my plea of "GUILTY" can be accepted. With respect to the charge(s) to which I am pleading guilty, I represent that I did the following acts and that the following facts are true [*see instructions*]:

25. I offer my plea of "GUILTY" freely and voluntarily and of my own accord and with a full understanding of the allegations set forth in the Indictment or Information, and with a full understanding of the statements set forth in this Petition and in the Certificate of my attorney that is attached to this Petition.

SIGNED by me in the presence of my attorney, after reading (or having had read to me) all of the foregoing pages and paragraphs of this Petition on this ___ day of _____, 200__.

Defendant

CERTIFICATE OF COUNSEL

The undersigned, as attorney for defendant _____, hereby certifies:

1. I have fully explained to the defendant the allegations contained in the Indictment or Information in this case, any lesser-included offense(s), and the possible defenses which may apply in this case.

2. I have personally examined the attached Petition To Enter Plea of Guilty And Order Entering Plea, explained all its provisions to the defendant, and discussed fully with the defendant all matters described and referred to in the Petition.

3. I have explained to the defendant the maximum penalty and other consequences of entering a plea of guilty described in paragraphs (6)-(20) of the Petition, and I have also explained to the defendant the applicable Federal Sentencing Guidelines.

4. I recommend that the Court accept the defendant's plea of "GUILTY."

SIGNED by me in the presence of the above-named defendant, and after full discussion with the defendant of the contents of the Petition To Enter Plea of Guilty, and any Plea Agreement, on this ____ day of _____, 200__.

Attorney for Defendant

ORDER ENTERING PLEA

I find that the defendant's plea of GUILTY has been made freely and voluntarily and not out of ignorance, fear, inadvertence, or coercion. I further find the defendant has admitted facts that prove each of the necessary elements of the crime(s) to which the defendant has pled guilty.

IT IS THEREFORE ORDERED that the defendant's plea of GUILTY be accepted and entered as requested in this Petition and as recommended in the Certificate of defendant's attorney.

DATED this ____ of _____, 200 __, in open court.

Judge, U.S. District Court

**INSTRUCTIONS FOR USE OF "PETITION TO ENTER PLEA OF
GUILTY AND ORDER ENTERING PLEA" FORM**

1. Throughout the petition form there are asterisks or blanks where information pertaining to the particular case and particular defendant is to be typed or written in.

2. Paragraph (1) calls for the name of the defendant, the defendant's age, and the highest level of education attained by the defendant.

3. Paragraph (2) calls for the name of the attorney of record.

4. Paragraph (3) calls for a brief statement identifying the elements of the offense(s) to which the defendant is pleading guilty. The statement should include a reference to any special *mens rea* requirement(s) beyond that of simple general intent. If the elements are set out in a government plea letter or plea agreement, which is attached to the plea petition, reference to the letter or plea agreement is sufficient.

5. Paragraph (5) calls for a statement as to any illness or disability which may presently be affecting the reasoning or thinking ability of the defendant. The standard of competence for entry of a guilty plea is whether the defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding - and whether he has a rational as well as factual understanding of the proceedings against him. Many defendants suffer from illness resulting in cognitive impairment which does not meet this standard of incompetence. It is nevertheless important that those disabilities be identified and considered in terms of their effect on the defendant's mental state. If privacy concerns militate against public disclosure, counsel should consider a letter to the court accompanied by a request to seal.

6. Paragraph (8) should be amended or stricken if the plea is entered pursuant to Rule 11(a)(2). In the event of the entry of a conditional Rule 11(a)(2) plea, defense counsel shall set forth in, or append to, the Petition To Enter Plea Of Guilty a written statement specifying the pretrial motions for which the right to appeal is reserved.

7. Paragraph (9) requires that counsel identify whether the plea is pursuant to Rule 11(c)(1)(A), Rule 11(c)(1)(B), or Rule 11(c)(1)(C), and further describe the effect of the plea. In describing the effect of the plea, counsel shall incorporate the following language into paragraph (9) of the plea petition:

If the plea is pursuant to Rule 11(c)(1)(A):

My plea of guilty is under Rule 11(c)(1)(A), pursuant to a Plea Agreement whereby the prosecutor has promised to dismiss other charges against me; therefore, at or before sentencing, the judge must either accept the Plea Agreement or allow me to withdraw my plea.

If the plea is pursuant to Rule 11(c)(1)(B):

My plea of guilty is under Rule 11(c)(1)(B); therefore, although the judge will consider the recommendations and agreements of both the prosecution and defense attorneys concerning sentencing, the judge is not obligated to follow those recommendations or agreements. If the judge imposes a sentence different from what I expected to receive under the terms of my Plea Agreement with the prosecutor, I do not have a right to withdraw my plea.

If the plea is pursuant to Rule 11(c)(1)(C):

My plea of guilty is under Rule 11(c)(1)(C); therefore, at the time of sentencing, the judge must either impose the specific sentence agreed upon by the prosecutor and me, or allow me to withdraw my plea.

8. Paragraph (10) calls for a statement of the maximum sentence that can be imposed. If the defendant is pleading to more than one count, the total maximum sentence should set forth the result if the sentences imposed for the offenses of conviction were ordered to run consecutive to one another.

9. Paragraph (11) requires identification of the applicable special assessment as found in 18 U.S.C. § 3013 (*e.g.*, \$100 per count for felony offenses; \$25 per count for class A misdemeanor offenses).

10. Paragraph (15) requires counsel to identify the maximum and minimum supervised release term ranges as found either in 18 U.S.C. § 3583(b), in the specific statute of conviction (*e.g.*, 21 U.S.C. § 841(b)), or in U.S.S.G. § 5D1.2, and the maximum term that may be imposed in the event of a revocation as described in 18 U.S.C. § 3583(e)(3).

11. Paragraph (24) requires that the specific count(s) to which the defendant's plea of guilty is being entered be identified.

12. Paragraph (25) requires a statement of fact describing the circumstances and conduct that counsel and the defendant agree constitute the factual basis for the defendant's plea of guilty.