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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA

8 United States of America,
9 Plaintiff,
10 v.
11 Panfilo Baeza-Garibay,
12 Defendant.

RCC (JU)
CR 04-0425-PHX-ROS
REVOCATION DISPOSITION
AGREEMENT

13
14 The United States of America and the defendant agree to the following disposition
15 of this matter:

16 TERMS OF THE AGREEMENT

- 17 1. This is a revocation of:
18 (X) supervised release
19 () probation
20 2. The defendant will admit to a violation of Special Condition 1 contained in the
21 Judgement and Conviction in Case No. CR-04-0425-001-PHX-ROS. This is a Grade C
22 violation. As a result, the defendant's supervised release will be revoked. The government
23 agrees to dismiss at disposition any remaining allegations in the petition, if the defendant
24 is sentenced in accordance with this agreement.
25 3. The parties agree that the defendant will be sentenced to:
26 () _____ months incarceration; OR

1 (X) a period of incarceration not to exceed the middle of the applicable
2 guideline range under U.S.S.G. § 7B1.4(a) (Revocation Table), and
not below the minimum of that range; OR

3 () other

4 (specify): _____ This sentence
5 will be followed by:

6 () an additional term of _____ months of supervised release

7 (X) an additional term of supervised release to be determined by the court

8 () NO additional term of supervised release

9 If the defendant is sentenced to a term of probation or supervised release, the
10 defendant agrees to comply with the previously imposed conditions and any others
11 the probation department or court deems appropriate.

12 () In addition, the following additional condition(s) shall be imposed:

13 _____
14 _____
15 _____

16 5. Consecutive/Concurrent sentences:

17 () There is no agreement regarding consecutive or concurrent sentences
(or the issue is not applicable in this case);

18 (X) The government agrees that it will not take a position whether this
19 sentence should be concurrent or consecutive to another sentence.

20 6. Statutory and Guideline Provisions:

21 a) U.S.S.G. § 7B1.4, the Terms of Imprisonment (Policy Statement) provides:

22 **Revocation Table**
(In months of imprisonment)

23

<u>Grade of Violation</u>	<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>	<u>V</u>	<u>VI</u>
24 Grade C	3-9	4-10	5-11	6-12	7-13	8-14
25 Grade B	4-10	6-12	8-14	12-18	18-24	21-27

26

1 **Grade A** (1) Except as provided in subdivision (2) below:

2 12-18 15-21 18-24 24-30 30-37 33-41

3 (2) Where a defendant was on probation or supervised release as a
4 result of a Class A felony:

5 24-30 27-33 30-37 37-46 46-57 51-63

6 Penalties applicable for defendant's original offense:

7 1) Criminal History - IV

8 2) Guideline Range - 15-21 months

9 3) Statutory Maximum Incarceration - 2 years

10 4) Maximum Supervised Release - 1 year

11 c) For **probation** violations, the defendant, upon revocation of probation, may
12 be re-sentenced to any term of imprisonment not to exceed statutory
13 maximum of the original offense of conviction. (18 U.S.C. § 3565 (a)(2))

14 d) For **supervised release** violations, the maximum *imprisonment* upon
15 revocation of supervised release (pursuant to 18 U.S.C. § 3583 (e)(3)) is:

16 () Class A felony - 5 years

17 () Class B felony - 3 years

18 () Class C or D felony - 2 years

19 (X) Any other case - 1 year

20 The maximum *supervised release* following any term of imprisonment upon
21 revocation of supervised release shall not exceed the maximum supervised
22 release for the underlying offense, less any term of imprisonment that was
23 imposed upon revocation. (18 U.S.C. § 3883(h))

24 7. Waiver of Appeal & Collateral Attacks - The defendant waives any and all motions,
25 defenses, probable cause determinations, and objections which the defendant could assert
26 to the information or indictment, or petition to revoke, or to the Court's entry of judgment
and imposition of sentence upon the defendant, providing the sentence is consistent with
this agreement. The defendant further waives: (1) any right to appeal the Court's entry of
judgment against defendant; (2) any right to appeal the imposition of sentence upon

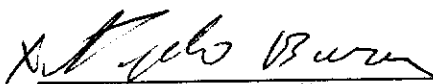
1 defendant; and (3) any right to collaterally attack defendant's conviction and sentence in
2 a habeas petition under 28 U.S.C. § 2255 or motion under any other statute or rule. If the
3 defendant files a notice of appeal or any habeas petition, notwithstanding this agreement,
4 the defendant agrees that, upon motion of the government, this case shall be remanded to
5 the district court to determine whether defendant is in breach of this agreement and, if so,
6 to permit the United States to withdraw from this disposition agreement.

7 8. The defendant understands the government's obligation to provide all information
8 in its file regarding the defendant to the United States Probation Office. The defendant
9 fully understands and agrees to cooperate fully with the United States Probation Office in
10 providing all information requested by the probation officer.

11 9. I understand all of the provisions of this agreement. This written disposition
12 agreement contains all the terms and conditions of my agreement, and any promises made
13 by anyone (including my attorney) that are not contained within this written agreement are
14 without effect and are void.

15 Date

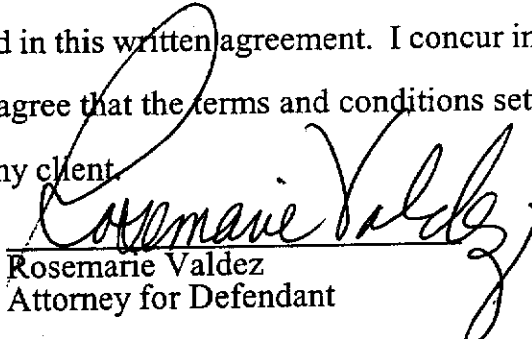
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Panfilo Baeza-Garibay
Defendant

16
17 10. I have discussed this case and the written agreement with my client in detail, and
18 have translated it for him if he does not speak English. No assurances, promises, or
19 representations have been given to me or my client by the government or by any of its
20 representatives which are not contained in this written agreement. I concur in the entry of
21 the agreement as indicated above and agree that the terms and conditions set forth in this
22 agreement are in the best interests of my client.

23 Date

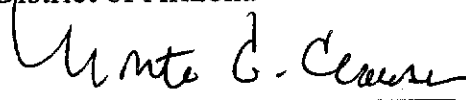
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Rosemarie Valdez
Attorney for Defendant

1 11. I have reviewed this matter and the agreement. I agree on behalf of the United
2 States that the terms and conditions set forth are appropriate and are in the best interests
3 of justice.

4 PAUL K. CHARLTON
5 United States Attorney
6 District of Arizona

7 10/17/05
8 Date

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Monte G. Claus
for Lisa A. Compagno
Assistant U.S. Attorney