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

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	Criminal No. 2:08-M-6513
)	
v.)	Citation Nos. F 3690801; F 3690803;
)	F 3690804
DALE ROBERT KELLOGG,)	
)	
Defendant.)	

AGREEMENT FOR PRETRIAL DIVERSION,

PARTICULARIZED TERMS:

The United States and the Defendant, Dale Robert Kellogg, appearing by and through his attorney, Ron M. Kopriva, hereby mutually agree to dispose of the above entitled matter through a Pretrial Diversion Agreement, placing the Defendant on a twelve month period of Pretrial Diversion, as more specifically outlined below.

1. By Citation number F 3690801, dated July 2, 2008, the Defendant, Dale Robert Kellogg, is alleged to have committed an offense against the United States—Interference with a Federal Officer in the Performance of Lawful Duties, in violation of 36 C.F.R. § 261.3(a).

1a. By Citation number F 3690803, dated July 2, 2008, the Defendant, Dale Robert Kellogg, is alleged to have committed an offense against the United States— No Driver's License, in violation of 36 C.F.R. § 261.54(D).

2. The Defendant, Dale Robert Kellogg, upon the advice and consultation of counsel, admits and accepts responsibility for the allegations contained in July 2, 2008, Citation Numbers F 3690801, and F 3690803, as evidenced by Defendant's signature on this Agreement. The Defendant, Dale Robert Kellogg, voluntarily, and with the advice of counsel, agrees that if this matter should go to trial, pursuant to the terms of this Agreement, this admission shall be fully admissible against him in such trial, and may be considered by the Court as full and complete evidence of his guilt beyond a reasonable doubt. Further, the Defendant expressly waives any right he may have pursuant to Rule 11(e)(6), Fed. R. Crim. P., to exclude this admission of guilt from any such trial.

3. Based upon the Defendant's acceptance of responsibility and after investigation of the offense as well as the Defendant's background, it is in the interest of the parties and the interest of justice that this matter be resolved by the parties entering into a one year Pretrial Diversion Agreement.

4. The United States may release the Defendant from the obligations of this Agreement at any time. However, should the Defendant violate any of the terms and conditions of this Agreement the United States may revoke or modify any condition of Pretrial Diversion or modify the period of supervision, which shall in no case exceed twelve months. Additionally,

should the Defendant violate any condition of Pretrial Diversion the United States may initiate prosecution for the offenses contained in the July 2, 2008, Citation Numbers F 3690801, and F 3690803. If the United States initiates such prosecution it will furnish the Defendant with written notice, mailed to the address provided by the Defendant and his Attorney, of the condition alleged to have been violated and of the Government's intent to prosecute. The United States will also provide the Defendant with a reasonable opportunity to respond to or explain the apparent violation prior to re-filing the charge.

5. Prosecution of the Defendant, Dale Robert Kellogg, in the District of Wyoming for the allegation contained in the July 2, 2008, Citation Numbers F 3690801, and F 3690803 shall be deferred for the period of one year, beginning from the date of his signature hereon, provided the Defendant abides by the terms and conditions of the agreement as outlined below. Upon Defendant's successful completion of the one year Pretrial Diversion Agreement the United States will not prosecute the Defendant for the charge contained in Citation Numbers F 3690801, and F 3690803, and said charges will be dismissed.

6. By signing this agreement the Defendant admits the allegations contained in the July 2, 2008, Citation Numbers F 3690801, and F 3690803. If the United States Attorney decides that the Defendant has violated the terms of his probation, and after considering the Defendant's explanation, if any, the United States Attorney may file an Information with the Court, initiating prosecution again for the charge, and the admission contained herein may be used against the Defendant at a trial should he refuse to enter a plea of "Guilty" to the offense at that time. For the time being, the charges will be dismissed without prejudice after the Defendant has signed and returned this Agreement to the United States Attorney's Office.

GENERAL & SPECIAL CONDITIONS OF PRETRIAL DIVERSION

- I. The Defendant shall not violate any law, federal, state, or local and shall immediately contact his attorney who shall then contact the United States Attorney's Office, at P.O. Box 449 Lander, WY 82520, if arrested and/or cited by any law enforcement officer.
- II. The Defendant shall work regularly at a lawful occupation.
- III. During the one year period of Pretrial Diversion the Defendant shall notify his attorney immediately should he change his address.
- IV. The Defendant shall not possess nor use any controlled substances (except as may be prescribed by a medical professional licensed to prescribe controlled substances).

7. The Defendant, Dale Robert Kellogg, asserts, certifies and acknowledges he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. He is also aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. He hereby requests the United States Attorney for the District of Wyoming to defer such prosecution. He agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary

delay at his request, and he waives any defense to such prosecution on the ground that such delay operated to deny his rights under Rule 48(b) of the Federal Rules of Criminal Procedure, and the Sixth Amendment to the Constitution of the United States and the Speedy Trial Act, to a speedy trial, or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period of this agreement.

8. Defendant acknowledges he has read the foregoing Pretrial Diversion Agreement. The Defendant, Dale Robert Kellogg, fully understands the conditions of this Agreement and agrees to comply with said conditions as evidenced by his signature.

DALE ROBERT KELLOGG
Defendant

Date

RON M. KOPRIVA
Attorney for Defendant

Date

JASON M. CONDER
Assistant United States Attorney

Date

RON M. KOPRIVA
KOPRIVA LAW OFFICE, P.C.
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DATE 8/19/09

RE: Dale Kellogg

TO: Brian Michaels

---FAX NO. (541) 686-2137

FROM: KOPRIVA LAW OFFICE, P.C.

---FAX NO. (307) 332-4261

DESCRIPTION OF DOCUMENTS TRANSMITTED: Pretrial Diversion Agreement

IN ADDITION TO THIS COVER LETTER, 5 PAGE(S) ARE BEING TRANSMITTED. SHOULD YOU HAVE ANY DIFFICULTY RECEIVING ANY OF THE PAGES, PLEASE CALL (307) 332-5595.

OTHER INFORMATION: Good talking to you Brian?

Please support me in this to Dale if he contacts you to discuss it. Thanks a bunch!

Ron

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