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6 **UNITED STATES DISTRICT COURT**

7 **SOUTHERN DISTRICT OF CALIFORNIA**

8 UNITED STATES OF AMERICA,

Case No.: 13CR3781  
13CR3782  
13CR4781  
24CR \_\_\_\_\_

9 v.

10 LEONARD GLENN FRANCIS,

**SENTENCING MEMORANDUM**

11 Defendant.

Date: November 5, 2024

12 The UNITED STATES OF AMERICA, through its counsel, Tara K. McGrath,  
13 United States Attorney, and W. Mark Conover and Fred Sheppard, Assistant  
14 U.S. Attorneys, hereby files its Memorandum in Support of Sentencing.

15 Over the past decade, this Court has heard U.S. Navy personnel from  
16 petty officers to Admirals admit their corruption and betrayal at the  
17 behest of Leonard Francis and his company, Glenn Defense Marine Asia  
18 (GDMA). In return for dinners, hotel rooms, prostitutes, and cash, among  
19 other items, these individuals helped defraud the U.S. Navy out of tens  
20 of millions of dollars.

21 Francis now comes before the Court to be held accountable for  
22 orchestrating and overseeing a years-long bribery and corruption  
23 campaign that, for all practical purposes, engulfed a generation of U.S.  
24 Navy command staff. For his part, and considering his later flight  
25 weighed against his unprecedented, years-long cooperation with

1 authorities, the United States recommends Francis be sentenced to 140  
2 months in prison.

3 Section 3553(a) requires "a sentence sufficient, but not greater  
4 than necessary," to reflect the seriousness of the crime, promote respect  
5 for the law, punish justly, deter crime, protect the public, and give  
6 Francis needed training or treatment. 18 U.S.C. § 3553(a) (2). The statute  
7 enumerates factors that must be considered: the sentencing guidelines,  
8 the offense, the defendant's background, the purposes of sentencing and  
9 sentences available, unwarranted disparities, and any need for  
10 restitution. 18 U.S.C. § 3553(a).

11 **Sentencing Guidelines**

12 The initial step is an accurate calculation of the guideline range  
13 without departures. *Kimrough v. United States*, 128 S. Ct. 558, 574  
14 (2007); see *United States v. Mohamed*, 459 F.3d 979, 986-87 (9th Cir.  
15 2006). In the Sentencing Addendum filed separately, the parties have  
16 agreed to the following sentencing guidelines applicable to all four  
17 cases:

18 <b>Group One - Bribery:</b>	
19 Base Offense Level [USSG § 2C1.1(a) (2)]	12
20 Special Offense Characteristics -	
21 More than One Bribe [USSG § 2C1.1(b) (1)]	+2
22 Value of Benefit Received (more than	
23 \$9,500,000 but less than \$25,000,000)	
[USSG §§ 2C1.1(b) (2) and 2B1.1(b) (1) (K)]	+20
24 Offense Involved Public Officials In	
25 High-Level Decision-Making and Sensitive	
Positions [USSG § 2C1.1(b) (3)]	+4
26 Obstruction of Justice [USSG § 3C1.1]	<u>+2</u>
27 <b>Total (Bribery Group)</b>	<b>40</b>

**Group Two - Fraud:**

Base Offense Level [USSG § 2B1.1(a)(2)]	6
Special Offense Characteristics - Loss in excess of \$20,000,000 [USSG § 2B1.1(b)(1)(K)]	+20
Substantial part of the scheme committed overseas, and use of sophisticated means [USSG § 2B1.1(b)(10)(B) and (C)]	+2
Organizer/Leader [USSG § 3B1.1(a)]	+4
Obstruction of Justice [USSG § 3C1.1]	+2
<b>Total (Fraud Group)</b>	<b><u>34</u></b>

Pursuant to USSG § 3D1.4, the combined offense level is determined as follows:

Highest Offense-Level [Bribery Group]	40
Addition of Fraud Group	+1
<b>Total Combined Offense Level</b>	<b><u>41</u></b>
Acceptance of Responsibility [USSG § 3E1.1]	-3
Combination of Circumstances [USSG § 5K2.0]	<u>-1</u>
<b>Final Offense Level</b>	<b>37</b>

These sentencing guidelines, as agreed to by the parties, account for the underlying criminal conduct charged in Francis's four cases. They do not, however, consider his cooperation with authorities once captured.

**Francis and the Corruption**

As the Chief Executive Officer of GDMA, Francis oversaw ship husbanding for the U.S. Navy for over 25 years. Starting in approximately 2004 and continuing through his arrest in September 2013, Francis and numerous Naval officers conspired to provide Francis and GDMA employees with internal, proprietary U.S. Navy information about competitors'

1 pricing, performance, and bids for U.S. Navy contracts; GDMA's  
2 performance and billing improprieties; and the U.S. Navy's internal  
3 deliberations about ship husbanding issues generally. But U.S. Navy  
4 officers and others went further – divulging classified information  
5 about the U.S. Navy's scheduling of ship and submarine port visits in  
6 the Seventh Fleet's area of responsibility.

7 Armed with this information, Francis and GDMA employees influenced  
8 the scheduling and selection of "fat revenue GDMA ports" such as "Phuket,  
9 [Laem Chabang, Thailand], [Port Klang, Malaysia] PKCC, and now Kota  
10 Kinabalu" for U.S. Navy aircraft carriers and other ships. Trying to  
11 keep ahead of being exposed and end his bilking of U.S. coffers, Francis  
12 compromised the Naval Criminal Investigative Service in the form of  
13 Special Agent John Beliveau. The total actual loss to the U.S. Navy  
14 exceeded \$20 million.  
15

16 The price for this betrayal: expensive dinners, liquor, hotel  
17 rooms, luxury goods, cash, and prostitutes. Francis oversaw it all and  
18 delivered these bribes personally time and again.  
19

20 A Malaysian citizen living in Singapore with incredible wealth and  
21 foreign and American contacts, Francis could have remained untouched.  
22 But his greed was boundless. In September 2013, Francis was lured to the  
23 United States by the prospect of a massive contract worth millions.  
24 Instead of scoring another contract, he was arrested.  
25

26 Fourteen months after his capture, Francis pled guilty to  
27 conspiracy, bribery, and fraud charges on behalf of himself and GDMA.  
28 The underlying plea agreement included a 37-page factual basis. Francis

1 admitted to presiding over a massive criminal scheme involving "scores"  
2 of U.S. Navy officials and more than \$20 million in fraudulent loss to  
3 the U.S. Navy:

4 GDMA, Francis, and other GDMA employees maintained corrupt  
5 relationships with scores of U.S. Navy officers and employees  
6 and federal employees... In the aggregate, ... GDMA and Francis  
7 gave their public official co-conspirators millions of  
8 dollars in things of value including over \$500,000 in cash;  
9 hundreds of thousands of dollars in the services of  
10 prostitutes and associated expenses; hundreds of thousands of  
11 dollars in travel expenses, including airfare, often first or  
12 business class, luxurious hotel stays, incidentals, and spa  
13 treatments; hundreds of thousands of dollars in lavish meals,  
14 top-shelf alcohol and wine, and entertainment; and hundreds  
15 of thousands of dollars in luxury gifts, including designer  
16 handbags and leather goods, watches, fountain pens, fine  
17 wine, champagne, Scotch, Kobe beef, Spanish suckling pigs,  
18 designer furniture, Cuban cigars, consumer electronics,  
19 ornamental swords, and hand-made ship models.

20 In return, Francis admitted that U.S. Navy personnel and command  
21 staff provided:

- 22 • classified information about the U.S. Navy's scheduling of ship  
23 and submarine port visits in the Seventh Fleet's area of  
24 responsibility;
- 25 • other internal, proprietary U.S. Navy information, including  
26 information about competitors' pricing and performance,  
27 information about competitors' bids for U.S. Navy contracts,  
28 information about the U.S. Navy's internal deliberations about  
ship husbanding issues generally, about GDMA's performance and  
potential billing improprieties specifically, and information  
about NCIS and U.S. Navy investigations into GDMA's practices;
- favorable evaluations and recommendations to others within the  
U.S. Navy; and
- the exercise of the [U.S. Navy] co-conspirators' position and  
influence ... to benefit GDMA, including by the award of U.S. Navy  
contracts to GDMA, by the scheduling and movement of U.S. Navy  
ships to various ports favored by GDMA, and by the advocating  
for and advancing GDMA's interests...

This Court is intimately familiar with the details of the bribes  
and corruption overseen by Francis from the months-long trial with weeks

1 of testimony from coconspirators, and from the numerous guilty pleas and  
2 sentencings of U.S. Navy personnel and others.<sup>1</sup>

3 **Flight to Avoid Sentencing**

4 After pleading guilty, Francis remained in custody until December  
5 2017, when he was eventually release on a medical furlough following  
6 extensive pretrial-detention litigation. This Court held regular  
7 hearings and continuously reviewed his furlough until, when it was clear  
8 that his sentencing was imminent, Francis fled.

9 On September 4, 2022, in advance of his forthcoming sentencing  
10 hearing, Francis removed the GPS bracelet from his ankle, crossed the  
11 border into Mexico, and ultimately made his way to Venezuela. He was  
12 eventually returned to the United States in December 2023.

13 Francis has since agreed to plead guilty to failing to appear for  
14 his sentencing as ordered, in violation of 18 U.S.C. § 3146(a)(1). See  
15 Exhibit 1 [signed plea agreement] and 2 [underlying information].

16 **Cooperation**

17 Francis's massive scheme to defraud the United States over many  
18 years and his inveterate bribery and corruption of the highest levels  
19 of the U.S. Navy were aggravated and egregious. By contrast, once caught  
20

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21 <sup>1</sup> Some of those that have pleaded guilty and later been sentenced by  
22 this Court include: Supervisory Special Agent John Beliveau; Rear  
23 Admiral Robert Gilbeau; Captain Michael Brooks; Captain Jeffrey  
24 Breslau; Captain David Haas; Captain Jesus Cantu; Colonel Enrico  
25 Deguzman; Commander Michael Misiewicz; Commander David Kapaun;  
26 Commander Troy Amundson; Commander Jose Sanchez; Commander Donald  
27 Hornbeck; Lt. Commander Gentry Debord; Lt. Commander Daniel Dusek; Lt.  
28 Commander Bobby Pitts; Lt. Commander Edmond Aruffo; Lt. JG Todd Malaki;  
Chief Warrant Officer Robert Gorsuch; Master Chief Petty Officer Ricarte  
David; Chief Petty Officer Brooks Parks; Logistics Specialist Dan Layug;  
Paul Simpkins; Alex Wisidagama; Neil Peterson; Raja Shamsa; and Pornpun  
Settaphakorn.

1 and having pleaded guilty, Francis engaged in an equally unparalleled  
2 campaign to cooperate with authorities.

3 Less than two weeks following his arrest, Francis met for two days  
4 of debriefs. For more than five years, Francis continued to debrief with  
5 investigators – meeting more than 50 times to discuss a level of  
6 corruption that the U.S. Navy had never seen before.

7 Francis provided detailed information on hundreds of individuals,  
8 from petty officers to admirals, including captains, commanders, Vice  
9 Admirals, and Rear Admirals. In addition to sitting for debriefs, he  
10 supplied through his attorneys the GDMA servers and hardcopy documents,  
11 financial records, photographs, dinner menus, entertainment receipts,  
12 Bravo-Zulu messages, hotel and travel records, and Navy contracting  
13 documents.

14 Information provided to agents about the scope of the bribery and  
15 fraud schemes, and the identity of those involved, was corroborated by  
16 multiple other sources. These included the testimony, sworn statements,  
17 and guilty pleas of co-conspirators; U.S. Navy emails, contracts, and  
18 invoices; and third-party records (from Gmail, airlines, banks, credit  
19 card companies, hotels, and other third-party entities).

20 To pick just one type of bribe, at least a dozen U.S. Navy personnel  
21 admitted under oath to accepting prostitutes from Francis in exchange  
22 for taking official acts.<sup>2</sup>

23  
24

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25 <sup>2</sup> See Plea Agreements of: John Beliveau, Daniel Dusek, Todd Dale  
26 Malaki, Michael Vannak Khem Misiewicz, Paul Simpkins, Gentry Debord,  
27 Michael George Brooks, Troy Amundson, David William Haas, Jesus Vasquez  
28 Cantu, Jose Luis Sanchez, and Donald Hornbeck. See also recorded  
statements introduced at trial of David Newland (“some girls showed up”  
to the MacArthur Suite, though he “did not partake”) and James Dolan  
(Pegasus Club event in Thailand was first time he “sexually engaged”  
with a woman supplied by Francis).

1 Sworn testimony by conspirators also corroborated the physical and  
2 electronic evidence that Francis divulged. For example, emails,  
3 photographs, and menus supplied by Francis and his attorneys were  
4 corroborated at trial by percipient witnesses - including Edmund Aruffo,  
5 Steven Barney, Jesus Cantu, Edward "Chip" Zawislak, Jeffrey Rathbun,  
6 Alexander Gillett, and Stephen Shedd. Each testified about emails sent  
7 or received, as well as to the authenticity of other documents, of which  
8 they had personal knowledge.<sup>3</sup>

9 Francis and his legal team provided documentation and physical  
10 evidence on hundreds of occasions, and compiled chronologies with  
11 supporting documentation of the corruption he oversaw. Beyond that,  
12 Francis "repatriated" classified material unlawfully provided by US Navy  
13 officers, provided supporting documentation for extradition of GDMA  
14 employees, and testified by deposition in a court-martial.

15 Nearly three dozen defendants (including Francis and GDMA) were  
16 federally charged in criminal cases. Two others were criminally charged  
17 in foreign jurisdictions (Alex Gillet in Australia and Shannon Kaur in  
18 Singapore).

19 The U.S. Navy also undertook discipline for those not charged in  
20 federal criminal court. Four individuals were subject to General Courts

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21 <sup>3</sup> For example, Aruffo's testimony covered approximately 90 documents  
22 separately authenticated as GDMA business records. Many were emails he  
23 personally sent or received. Others were photographs of people Aruffo  
24 knew and others were GDMA payment vouchers and invoices for events he  
25 personally attended or arranged. Cantu admitted nearly 20 exhibits,  
26 consisting of emails to and from him, emails referencing events or people  
27 he knew about, and photos from events he attended. Other witnesses  
28 confirmed that emails certified as GDMA business records were accurate  
emails they sent or received. Navy Judge Advocate General Stephen Barney  
discussed an ethics email he wrote. Steven Shedd admitted at least a  
dozen emails he had written or received. Edward "Chip" Zawislak discussed  
emails he testified were true and accurate copies of emails received in  
his military email account. Alexander Gillett discussed emails he sent  
from his "dingo11" Cooltoad account.

1 Marshal and four more received Non-Judicial Punishment. Nine  
2 individuals received Secretarial Letters of Censure, including four  
3 Captains and five Admirals. Three Admirals received Non-Punitive  
4 Letters of Caution. Ultimately, over 600 individuals have been referred  
5 by the investigative team to the Navy Consolidated Disposition Authority  
6 (CDA), which was convened "for possible administrative and disciplinary  
7 actions over Navy personnel relating to the investigations of misconduct  
8 associated with Glenn Defense Marine Asia (GDMA)." See CDA Appointment  
9 Letters at <https://www.ncis.navy.mil/Media/Reading-Room/>.

10 The U.S. Navy, as an institution, has also responded to the findings  
11 of the investigation as well. "Our behavior, as an organization and as  
12 individuals, must signal our commitment to the values we so often  
13 proclaim," wrote Chief Naval Officer Admiral John Richardson. "As senior  
14 leaders, our personal conduct, and the example it sets, are essential  
15 to our credibility."

16 As Rear Admiral Sawyer succinctly stated:

17 [The] U.S. Pacific Fleet is charged with the care and safety  
18 of 97,000 Active Duty, 9,400 Reservist and 21,000 Navy  
19 Civilians supporting over 199 ships, submarines and 1,127  
20 aircraft... We are a Navy built on trust and integrity and we  
21 demand behavior that reflects our values of honor, courage,  
22 and commitment. ... The Glenn Defense Marine Asia scandal and  
the misconduct of those convicted, breached this trust within  
the Navy lifelines and eroded the public's confidence in the  
U.S. Navy.

23 - P.G. Sawyer, Rear Admiral, Deputy Commander, U.S. Pacific  
24 Fleet, U.S. Navy, letter to the Court

25 Once the corruption was exposed, Congress began parallel  
26 proceedings focused on the U.S. Navy's contracting practices, as well  
27 as on impact readiness, operations, and information security because of  
28 Francis and GDMA's corruption. The U.S. Navy later instituted  
significant revisions to its contracting practices.

1 It is undeniable that Francis's cooperation, corroborating years  
2 of investigative efforts before and after his arrest, substantially  
3 assisted the United States.

4 **CONCLUSION**

5 In light of the aggravated nature and circumstances of this offense,  
6 the history and characteristics of Francis, his flight to avoid  
7 sentencing, and considering his prior, years-long cooperation, the  
8 United States recommends a sentence of 140 months' custody, a \$250,000  
9 fine, three years of supervised release, \$20 million in restitution to  
10 the U.S. Navy, and a \$400 special assessment.

11 Perhaps a harsher sentence would be justified given Francis's  
12 egregious and prolonged criminal conduct, as well as his violation of  
13 the Court's trust with respect to his release on medical furlough. But  
14 the substantial assistance provided by Francis cannot be ignored, and  
15 the degree and significance of his cooperation cannot be overstated  
16 regardless of what one thinks of the individual or his underlying  
17 criminal conduct.

18 The recommended sentence promotes respect for the law at home and  
19 abroad, as well as provides just punishment and the necessary deterrence  
20 to those in and out of uniform who may be considering a similar course  
21 of conduct.

22

23 DATED: October 15, 2024.

24

Respectfully submitted,  
TARA K. MCGRATH  
United States Attorney

25

/s/ Fred Sheppard  
Fred Sheppard  
W. Mark Conover  
Assistant U.S. Attorneys

26

27

28

# **Exhibit 1**

# **Plea Agreement**

1 TARA K. MCGRATH  
United States Attorney  
2 W. MARK CONOVER  
Assistant U.S. Attorney  
3 California Bar No. 236090  
Office of the U.S. Attorney  
4 880 Front St., Room 6293  
San Diego, CA 92101

5 Attorneys for United States of America

6  
7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA

9 UNITED STATES OF AMERICA,

Case No. 24CR \_\_\_\_\_ -JLS

10  
11 v.

PLEA AGREEMENT

12 LEONARD GLENN FRANCIS,

13 Defendant.  
14

15  
16 IT IS HEREBY AGREED between UNITED STATES OF AMERICA, through its  
17 counsel, Tara K. McGrath, United States Attorney, and W. Mark Conover  
18 and Fred Sheppard, Assistant United States Attorneys, and Defendant  
19 LEONARD GLENN FRANCIS, with the advice and consent of Doug Sprague,  
20 counsel for Defendant, as follows:

21 I

22 THE PLEA

23 Defendant agrees to plead guilty to an Information charging  
24 Defendant with failure to appear, in violation of 18 U.S.C. 3146.

25 This plea agreement is part of a "package" disposition with the  
26 plea agreement previously accepted by this Court in cases United States  
27 v. Francis, et al, Case Nos. 13CR3781, 13CR3782, 13CR4287. For Defendant  
28 to receive the benefits of this agreement, Defendant must proceed to a

1 combined sentencing hearing on all four cases, which is currently set  
2 for November 5, 2024.

3 II

4 NATURE OF THE OFFENSE

5 A. ELEMENTS EXPLAINED

6 The offense to which Defendant is pleading guilty has the following  
7 elements:

8 1. Defendant was released from custody under the Bail Reform  
9 Act while pending sentencing for an offense punishable by 15 years or  
10 more in custody;

11 2. Defendant had been ordered to appear before a judicial  
12 officer on September 22, 2022, as a condition of his release;

13 3. Defendant knew of this required appearance; and

14 4. Defendant willfully failed to appear as required by his  
15 conditions of release.

16 B. ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS

17 Defendant has fully discussed the facts of this case with defense  
18 counsel. Defendant has committed each element of the crime and admits  
19 that there is a factual basis for this guilty plea.

20 The following facts are true and undisputed:

21 1. On or about September 16, 2013, Defendant was arrested  
22 in the Southern District of California and charged in  
23 *United States v. Leonard Glenn Francis*, Case Nos.  
24 13CR3781, 13CR3782, 13CR4287 with three felonies:  
25 Conspiracy to Commit Bribery, Bribery (18, U.S.C §  
26 201(b)(1)(A) and (C) and 201(b)(2)(A)), and Conspiracy  
27 to Defraud the United States (18 U.S.C §371). The  
28 maximum term of imprisonment for Bribery is 15 years.

2. Defendant was in pretrial custody from the date of his  
arrest until on or about December 18, 2017, when he  
was released under the Bail Reform Act by order of the  
Court and under the supervision of Pretrial Services.

- 1 3. From December 18, 2017, through September 4, 2022, Defendant was out of custody and on bond.
- 2
- 3 4. As part of his conditions of release, the Honorable Janis L. Sammartino, a United States District Judge, ordered that Defendant appear in court in the Southern District of California on September 22, 2022.
- 4
- 5 5. Defendant knew of this required appearance.
- 6
- 7 6. On or about September 4, 2022, in the Southern District of California, Defendant removed the GPS bracelet from his ankle without permission.
- 8
- 9 7. Defendant then fled the United States, initially to Mexico, then to Cuba, and finally to Venezuela, in part to flee from his upcoming sentencing.
- 10
- 11 8. On or about September 22, 2022, Defendant willfully failed to appear in court, as previously ordered.

12 III

13 PENALTIES

14 The crime to which Defendant is pleading guilty carries the  
15 following penalties:

- 16 A. a maximum 10 years in prison;
- 17 B. a maximum \$250,000.00 fine;
- 18 C. a mandatory special assessment of \$100; and
- 19 D. a term of supervised release of up to 3 years. Failure to  
20 comply with any condition of supervised release may result in  
21 revocation of supervised release, requiring Defendant to  
22 serve in prison, upon revocation, all or part of the statutory  
23 maximum term of supervised release.

24 Pursuant to Title 18, United States Code, Section 3146(b)(2), a  
25 term of imprisonment imposed under this section, if any, shall be  
26 consecutive to the sentence of imprisonment for any other offense.

IV

DEFENDANT'S WAIVER OF TRIAL RIGHTS AND UNDERSTANDING OF CONSEQUENCES

This guilty plea waives Defendant's right at trial to:

- A. Continue to plead not guilty and require the Government to prove the elements of the crime beyond a reasonable doubt;
- B. A speedy and public trial by jury;
- C. The assistance of counsel at all stages;
- D. Confront and cross-examine adverse witnesses;
- E. Testify and present evidence and to have witnesses testify on behalf of Defendant; and,
- F. Not testify or have any adverse inferences drawn from the failure to testify.

Defendant has been advised by counsel and understands that because defendant is not a citizen of the United States, defendant's conviction in this case makes it practically inevitable and a virtual certainty that defendant will be removed or deported from the United States. Defendant may also be denied United States citizenship and admission to the United States in the future.

V

DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

Any information establishing the factual innocence of Defendant known to the undersigned prosecutor in this case has been turned over to Defendant. The Government will continue to provide such information establishing the factual innocence of Defendant.

If this case proceeded to trial, the Government would be required to provide impeachment information for its witnesses. In addition, if Defendant raised an affirmative defense, the Government would be required to provide information in its possession that supports such a

1 defense. By pleading guilty Defendant will not be provided this  
2 information, if any, and Defendant waives any right to this information.  
3 Defendant will not attempt to withdraw the guilty plea or to file a  
4 collateral attack based on the existence of this information.

5 VI

6 DEFENDANT'S REPRESENTATION THAT GUILTY  
7 PLEA IS KNOWING AND VOLUNTARY

8 Defendant represents that:

- 9 A. Defendant has had a full opportunity to discuss all the facts  
10 and circumstances of this case with defense counsel and has  
11 a clear understanding of the charges and the consequences of  
12 this plea. By pleading guilty, Defendant may be giving up,  
13 and rendered ineligible to receive, valuable government  
14 benefits and civic rights, such as the right to vote, the  
15 right to possess a firearm, the right to hold office, and the  
16 right to serve on a jury. The conviction in this case may  
17 subject Defendant to various collateral consequences,  
18 including but not limited to revocation of probation, parole,  
19 or supervised release in another case; debarment from  
20 government contracting; and suspension or revocation of a  
21 professional license, none of which can serve as grounds to  
22 withdraw Defendant's guilty plea.
- 23 B. No one has made any promises or offered any rewards in return  
24 for this guilty plea, other than those contained in this  
25 agreement or otherwise disclosed to the Court.
- 26 C. No one has threatened Defendant or Defendant's family to  
27 induce this guilty plea.
- 28 D. Defendant is pleading guilty because Defendant is guilty and  
for no other reason.

VII

AGREEMENT LIMITED TO U.S. DEPARTMENT OF JUSTICE

This plea agreement is limited to the United States Department of  
Justice ("United States") and cannot bind any other authorities in any  
type of matter, although the United States will bring this plea  
agreement to the attention of other authorities if requested by  
Defendant. The United States promises not to prosecute Defendant for  
any other conduct arising out of the investigation that led to the

1 charges in case nos. 13CR3781, 13CR3782, and 13CR4287 or otherwise known  
2 to the United States as of the date of this Agreement, including any  
3 criminal conduct admitted to by Defendant leading to the Information  
4 filed in this case.

5 VIII

6 APPLICABILITY OF SENTENCING GUIDELINES

7 The sentence imposed will be based on the factors set forth in 18  
8 U.S.C. § 3553(a). In imposing the sentence, the sentencing judge must  
9 consult the United States Sentencing Guidelines (Guidelines) and take  
10 them into account. Defendant has discussed the Guidelines with defense  
11 counsel and understands that the Guidelines are only advisory, not  
12 mandatory. The Court may impose a sentence more severe or less severe  
13 than otherwise applicable under the Guidelines, up to the maximum in  
14 the statute of conviction. The sentence cannot be determined until a  
15 presentence report is prepared by the U.S. Probation Office and defense  
16 counsel and the Government have an opportunity to review and challenge  
17 the presentence report. Nothing in this plea agreement limits the  
18 Government's duty to provide complete and accurate facts to the district  
19 court and the U.S. Probation Office.

20 The Sentencing Addendum attached hereto and incorporated herein by  
21 reference as if set forth in the original, governs the parties'  
22 Guidelines recommendations.

23 IX

24 SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

25 This plea agreement is made pursuant to Federal Rule of Criminal  
26 Procedure 11(c)(1)(B). The sentence is within the sole discretion of  
27 the sentencing judge who may impose the maximum sentence provided by  
28 statute. It is uncertain at this time what Defendant's sentence will

1 be. The Government has not made and will not make any representation  
2 about what sentence Defendant will receive. Any estimate of the probable  
3 sentence by defense counsel is not a promise and is not binding on the  
4 Court. Any recommendation by the Government at sentencing also is not  
5 binding on the Court. If the sentencing judge does not follow any of  
6 the parties' sentencing recommendations, Defendant will not withdraw  
7 the plea.

8 X

9 PARTIES' SENTENCING RECOMMENDATIONS

10 The Sentencing Addendum attached hereto and incorporated herein by  
11 reference, as if set forth in the original, governs the parties'  
12 sentencing calculations and custodial recommendations in this case and  
13 case Nos. 13CR3781, 13CR3782, and 13CR4287.

14 The United States will not be obligated to recommend any adjustment  
15 for acceptance of responsibility if the defendant engages in conduct  
16 inconsistent with acceptance of responsibility in this matter  
17 including, but not limited to, the following:

18 1. Failing to truthfully admit a complete factual basis as  
19 provided in this plea agreement at the time the plea is entered, or  
20 falsely denying or making a statement inconsistent with, the factual  
21 basis set forth herein;

22 2. Falsely denying prior criminal conduct;

23 3. Being untruthful with the government, the Court or the  
24 Probation Office; or

25 4. Materially breaching this plea agreement in any way.

26 //

27 //

28 //

XI

SPECIAL ASSESSMENT/FINE/SUPERVISED RELEASE

1. Special Assessment

The parties will jointly recommend that Defendant pay a special assessment in the amount of \$100.00 per felony count of conviction to be paid forthwith at time of sentencing. Special assessments shall be paid through the office of the Clerk of the District Court by bank or cashier's check or money order made payable to the "Clerk, United States District Court."

2. Fine

The parties have no agreement as to a fine, if any, the Court may order the defendant pay.

3. Supervised Release

If the Court imposes a term of supervised release, Defendant will not seek to reduce or terminate early the term of supervised release until Defendant has served at least 2/3 of the term of supervised release and has fully paid and satisfied any special assessments, fine, criminal forfeiture judgment, and restitution judgment.

XII

DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

The Sentencing Addendum attached hereto and incorporated herein by reference, as if set forth in the original, governs the defendant's waiver of appeal and collateral attack in this case.

XIII

BREACH OF THE PLEA AGREEMENT

Defendant and Defendant's attorney know the terms of this agreement and shall raise, before the sentencing hearing is complete, any claim that the Government has not complied with this agreement. Otherwise,

1 such claims shall be deemed waived (that is, deliberately not raised  
2 despite awareness that the claim could be raised), cannot later be made  
3 to any court, and if later made to a court, shall constitute a breach  
4 of this agreement.

5 Defendant breaches this agreement if Defendant violates or fails  
6 to perform any obligation under this agreement. The following are non-  
7 exhaustive examples of acts constituting a breach:

- 8 1. Failing to plead guilty pursuant to this agreement;
- 9 2. Failing to fully accept responsibility as established in  
10 Section X above;
- 11 3. Failing to appear in court;
- 12 4. Attempting to withdraw the plea;
- 13 5. Failing to abide by any court order related to this case;
- 14 6. Appealing (which occurs if a notice of appeal is filed)  
15 or collaterally attacking the conviction or sentence in  
16 violation of the Sentencing Addendum filed in  
17 conjunction with the plea agreement; or
- 18 7. Engaging in additional criminal conduct from the time of  
19 arrest until the time of sentencing.

20 If Defendant breaches this plea agreement, Defendant will not be  
21 able to enforce any provisions, and the Government will be relieved of  
22 all its obligations under this plea agreement. For example, the  
23 Government may proceed to sentencing but recommend a different sentence  
24 than what it agreed to recommend above. Or the Government may pursue  
25 any charges including those that were dismissed, promised to be  
26 dismissed, or not filed as a result of this agreement (Defendant agrees  
27 that any statute of limitations relating to such charges is tolled  
28 indefinitely as of the date all parties have signed this agreement;

1 Defendant also waives any double jeopardy defense to such charges). In  
2 addition, the Government may move to set aside Defendant's guilty plea.  
3 Defendant may not withdraw the guilty plea based on the Government's  
4 pursuit of remedies for Defendant's breach.

5 Additionally, if Defendant breaches this plea agreement: (i) any  
6 statements made by Defendant, under oath, at the guilty plea hearing  
7 (before either a Magistrate Judge or a District Judge); (ii) the factual  
8 basis statement in Section II.B in this agreement; and (iii) any  
9 evidence derived from such statements, are admissible against Defendant  
10 in any prosecution of, or any action against, Defendant. This includes  
11 the prosecution of the charge(s) that is the subject of this plea  
12 agreement or any charge(s) that the prosecution agreed to dismiss or  
13 not file as part of this agreement, but later pursues because of a  
14 breach by the Defendant. Additionally, Defendant knowingly,  
15 voluntarily, and intelligently waives any argument that the statements  
16 and any evidence derived from the statements should be suppressed,  
17 cannot be used by the Government, or are inadmissible under the United  
18 States Constitution, any statute, Rule 410 of the Federal Rules of  
19 Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, and  
20 any other federal rule.

21 XIII

22 CONTENTS AND MODIFICATION OF AGREEMENT

23 This plea agreement, which incorporates the Sentencing Addendum to  
24 be filed at the same time, embodies the entire agreement between the  
25 parties as to the defendant's failure to appear for sentencing in  
26 September 2022, and supersedes any other agreement, written or oral, as  
27  
28



1 to that failure to appear. No modification of this plea agreement shall  
2 be effective unless in writing signed by all parties.

3 XIV

4 DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

5 By signing this agreement, Defendant certifies that Defendant has  
6 read it (or that it has been read to Defendant in Defendant's native  
7 language). Defendant has discussed the terms of this agreement with  
8 defense counsel and fully understands its meaning and effect.  
9

10 XV

11 DEFENDANT SATISFIED WITH COUNSEL

12 Defendant has consulted with counsel and is satisfied with  
13 counsel's representation. This is Defendant's independent opinion, and  
14 Defendant's counsel did not advise Defendant about what to say in this  
15 regard.  
16

17 TARA K. MCGRATH  
United States Attorney

18  
19 DATED

9/27/2024

20 W. MARK CONOVER  
FRED SHEPPARD  
Assistant U.S. Attorneys

21  
22 DATED

9/24/2024

23 DOUG SPRAGUE  
Defense Counsel

24 IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER  
25 PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" SECTION ABOVE  
26 ARE TRUE.

27 DATED

9/23/2024

28 LEONARD GLENN FRANCIS  
Defendant

# **Exhibit 2**

# **Information**

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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

v.

LEONARD GLENN FRANCIS,

Defendant.

Case No. \_\_\_\_\_

**I N F O R M A T I O N**

Title 18, U.S.C., Sec. 3146  
- Failure to Appear for  
Sentencing

The United States Attorney charges:

**COUNT 1**

On or about September 22, 2022, in the Southern District of California, the defendant, LEONARD G. FRANCIS, having been released pursuant to Chapter 207 of Title 18, United States Code, while awaiting sentence after conviction for an offense punishable by imprisonment for a term of 15 years or more in *United States v. Francis, et. al*, Criminal Case Nos. 13CR3781, 13CR3782, 13CR4287, did knowingly and willfully fail

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//

1 to appear before the Honorable Judge Janis L. Sammartino as required by  
2 his conditions of release, in violation of 18 U.S.C. § 3146(a)(1).

3  
4 DATED: September \_\_\_\_, 2024.

5 TARA K. McGRATH  
6 United States Attorney

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8 Assistant U.S. Attorney  
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