

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO



UNITED STATES OF AMERICA,
Plaintiff,

v.

CRIMINAL NO. 15-046 (PG)
15-047 (PG)

[1] LUIS ESCABI-PEREZ,
Defendant.

PLEA AGREEMENT
(Pursuant to Fed. R. Crim. P. 11(c)(1)(A) & (B))

TO THE HONORABLE COURT:

COMES NOW, the United States of America, by and through its attorneys for the District of Puerto Rico: Rosa Emilia Rodríguez-Vélez, United States Attorney, [REDACTED] Assistant United States Attorney and Chief, Criminal Division, [REDACTED] Assistant United States Attorney and Chief, Financial Crimes and Corruption Unit, and [REDACTED] Special Assistant United States Attorney, along with defendant, Luis Escabi-Pérez, and his counsel, [REDACTED] and pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A) & (B), state to this Honorable Court that they have reached a Plea Agreement, the terms and conditions of which are as follows:

1. COUNTS TO WHICH DEFENDANT PLEADS GUILTY

Defendant agrees to plead guilty to Count Two of Criminal Nos. 15-046(PG) and 15-047(PG).

Count Two of Criminal No. 15-046(PG):

Paragraphs one through thirty of the General Allegations are realleged and incorporated by reference as if fully set forth herein.

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The Scheme and Artifice to Defraud

From on or about September 1, 2010, to on or about March 23, 2011, defendants, [1] LUIS ESCABI PEREZ and [2] ALBERTO SOSTRE-CINTRON, devised and intended to devise a scheme to defraud the SSA, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

Manner and Means of the Scheme and Artifice to Defraud

Paragraphs thirty-four through thirty-nine of the Manner and Means of the Conspiracy, are hereby re-alleged and incorporated herein by reference, as in substance alleging the Manner and Means of the Scheme and Artifice to Defraud.

On or about January 25, 2011, in the District of Puerto Rico, the defendant,

[1] LUIS ESCABI PEREZ,

for purposes of executing the scheme and artifice to defraud more fully discussed below, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:

COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO	January 25, 2011	866-314-6792	Transmission of Psychiatric Medical Report to SSA for [2] ALBERTO SOSTRE-CINTRON

All in violation of Title 18, United States Code, Section 1343.

Count Two of Criminal No. 15-047(PG):

Paragraphs one through thirty of the General Allegations are realleged and incorporated by reference as if fully set forth herein.

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The Scheme and Artifice to Defraud

From on or about June 30, 2010, to on or about March 31, 2011, defendants, [1] LUIS ESCABI PEREZ and [2] ROSA PAGAN-RAMOS, devised and intended to devise a scheme to defraud the SSA, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

Manner and Means of the Scheme and Artifice to Defraud

Paragraphs thirty-four through thirty-nine of the Manner and Means of the Conspiracy, are hereby re-alleged and incorporated herein by reference, as in substance alleging the Manner and Means of the Scheme and Artifice to Defraud.

On or about March 1, 2011, in the District of Puerto Rico, the defendant,

[1] LUIS ESCABI-PEREZ,

for purposes of executing the scheme and artifice to defraud more fully discussed below, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:

COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO	March 1, 2011	866-314-6792	Transmission of Psychiatric Medical Report to SSA for [2] ROSA PAGAN-RAMOS

All in violation of Title 18, United States Code, Section 1343.

2. MAXIMUM PENALTIES

The maximum statutory penalty for the offense charged in Count Two of Crim. Nos. 15-046(PG) and 15-047(PG) is a term of imprisonment of not more than twenty (20) years pursuant

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to 18 U.S.C. § 1343; a fine not to exceed two hundred and fifty thousand dollars (\$250,000.00) pursuant to 18 U.S.C. § 3571(b)(3); a supervised release term of not more than three (3) years pursuant to 18 U.S.C. § 3583(b)(2); and a Special Monetary Assessment of one hundred dollars (\$100.00) per count of conviction pursuant to 18 U.S.C. § 3013(a)(2)(A).

3. SENTENCING GUIDELINES APPLICABILITY

Defendant acknowledges that the Court may impose a sentence in accordance with the applicable provision(s) of the Sentencing Guidelines, Title 18 United States Code, § 3551, et seq. (hereinafter Guidelines), which are now advisory. Further, the defendant acknowledges and is aware that parole has been abolished and the imposition of sentence may not be suspended.

4. SPECIAL MONETARY ASSESSMENT

Defendant agrees to pay a special monetary assessment of one hundred dollars (\$100.00), per count of conviction, to be deposited in the Crime Victim Fund pursuant to 18 U.S.C. § 3013(a)(2)(A).

5. FINES AND RESTITUTION

The defendant is aware that the Court may, pursuant to Section 5E1.2 of the Sentencing Guidelines Manual, order the defendant to pay a fine sufficient to reimburse the government for the costs of any imprisonment, probation or supervised release ordered. As part of this Plea Agreement, the United States will make no recommendations as to the imposition of fines. The defendant agrees to produce complete information regarding all restitution victims and defendant agrees to execute a financial statement to the United States (OBD Form 500). The defendant acknowledges that the restitution sought in this case does not impact the Social Security Administration's administrative policies or proceedings.

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As to all criminal cases currently pending, the parties agree that the defendant will pay restitution to the United States Social Security Administration in the amount of \$230,244.00.

6. RULE 11(c)(1)(B) WARNINGS

Defendant is aware that his sentence is within the sound discretion of the sentencing judge and of the advisory nature of the Guidelines, including the Guidelines Policy Statements, Application, and Background Notes. Further, defendant understands and acknowledges that the Court is not a party to this Plea Agreement and thus, is not bound by this agreement or the sentencing calculations and recommendations contained. Defendant specifically acknowledges that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense to which defendant is pleading guilty. Defendant is aware that the Court may accept or reject the Plea Agreement, or may defer its decision whether to accept or reject the Plea Agreement until it has considered the pre-sentence investigation report. See Fed. R. Crim. P. 11(c)(3)(A). Should the Court impose a sentence up to the maximum established by statute, defendant cannot, for that reason alone, withdraw his guilty plea, and will remain bound to fulfill all of the obligations under this Plea Agreement. See Fed. R. Crim. P. 11(c)(3)(B).

7. APPLICABILITY OF UNITED STATES SENTENCING GUIDELINES

Defendant is aware that pursuant to the decisions issued by the Supreme Court of the United States in the cases of United States v. Booker and United States v. Fanfan, 543 U.S. 220 (2005), the Guidelines are no longer mandatory and must be considered effectively advisory. Therefore, after due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), the United States and Defendant submit the following advisory Guideline calculation:

PLEA AGREEMENT SENTENCING GUIDELINES CALCULATION TABLE	
Count Two Criminal Cases: 15-046 and 15-047	
BASE OFFENSE LEVEL [U.S.S.G. § 2B1.1(a)(1)]	7
SPECIFIC OFFENSE CHARACTERISTICS [U.S.S.G. § 2B1.1(b)(1)(G)] Amount of loss greater than \$200,000.00	+12
Adjustment pursuant to U.S.S.G. § 3B1.3: abuse of position of trust or use of special skill	+ 2
Acceptance of Responsibility pursuant to U.S.S.G. § 3E1.1	-3
TOTAL OFFENSE LEVEL	18
Guideline Range: 27-33 Months of Imprisonment <u>if</u> Criminal History Category I	

8. NO STIPULATION AS TO CRIMINAL HISTORY CATEGORY

The parties do not stipulate as to any Criminal History Category for defendant.

9. SENTENCE RECOMMENDATION

The parties agree to recommend a term of imprisonment within the applicable guideline range. The parties also agree to the following:

- i. As to all criminal cases currently pending, the defendant will pay restitution to the United States Social Security Administration in the amount of \$230,244.00.
- ii. The defendant will abstain from participating in any proceeding within the Social Security Administration. This prohibition is in perpetuity and includes, but is not limited to, the submission of medical evidence, participating as a consultative examiner or as an expert, among other forms of participation.

- iii. On or before the sentencing hearing in any of the cases covered by this agreement, the defendant will voluntarily surrender his Drug Enforcement Administration (DEA) license which authorizes the prescription of controlled substances.
- iv. The parties agree that this plea agreement will be notified to the following entities with jurisdiction over disciplinary measures against doctors in Puerto Rico:
 - a. Tribunal Examinador de Médicos (Board of Medical Examiners);
 - b. Junta de Licenciamiento y Disciplina Médica de Puerto Rico (Board of Medical Licensure and Discipline);
 - c. Colegio de Médicos Cirujanos de Puerto Rico (College of Physicians and Surgeons of Puerto Rico).

10. WAIVER OF APPEAL

The defendant knowingly and voluntarily waives the right to appeal the judgment and sentence in this case, provided that the defendant is sentenced in accordance with the terms and conditions set forth in the Sentence Recommendation provisions of this Plea Agreement.

11. NO FURTHER ADJUSTMENTS OR DEPARTURES

The United States and defendant agree that no further adjustments or departures to defendant's total adjusted base offense level and no variance sentence under 18 U.S.C. § 3553 shall be sought by defendant. The parties agree that any request by defendant for an adjustment or departure will be considered a material breach of this Plea Agreement, and the United States will be free to ask for any sentence, either guideline or statutory.

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12. SATISFACTION WITH COUNSEL

Defendant represents to the Court that he is satisfied with counsel, [REDACTED]

[REDACTED] and states that counsel has rendered effective legal assistance.

13. RIGHTS SURRENDERED BY DEFENDANT THROUGH GUILTY PLEA

Defendant understands that by entering into this Plea Agreement he surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

- A. If defendant had persisted in a plea of not guilty to the charges, defendant would have had the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if defendant, the United States and the judge agree.
- B. If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. Defendant and defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be instructed that defendant is presumed innocent, that it could not convict defendant unless, after hearing all the evidence, it was persuaded of defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.
- C. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established defendant's guilt beyond a reasonable doubt.
- D. At a trial, the United States would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, defendant could present witnesses and other evidence on defendant's own behalf. If the witnesses for defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court.
- E. At a trial, defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from defendant's refusal to testify. If

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defendant desired to do so, defendant could testify on his behalf.

14. STIPULATION OF FACTS

The accompanying Stipulation of Facts signed by defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Stipulation of Facts and agrees that the facts therein are accurate in every respect and that the United States would have proven those facts beyond a reasonable doubt at trial.

15. LIMITATIONS OF PLEA AGREEMENT

This Plea Agreement binds only the United States Attorney's Office for the District of Puerto Rico and defendant. It does not bind any other federal district, state, or local authorities.

16. ENTIRETY OF PLEA AGREEMENT

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This written agreement constitutes the complete Plea Agreement between the United States, defendant, and defense counsel. The United States has made no promises or representations except as set forth in writing in this Plea Agreement and deny the existence of any other term and conditions not stated herein.

17. AMENDMENTS TO PLEA AGREEMENT

No other promises, terms, or conditions will be entered unless in writing and signed by all parties.

18. VOLUNTARINESS OF GUILTY PLEA

Defendant acknowledges that no threats have been made against him and that he is pleading guilty freely and voluntarily and only because he is guilty.

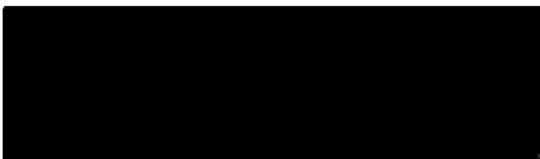
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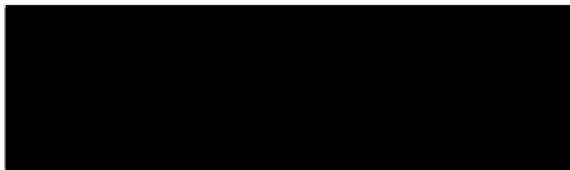
19. DISMISSAL OF REMANING COUNTS

After sentencing, the United States of America will move the court to dismiss any remaining count of the indictments subject to this agreement.

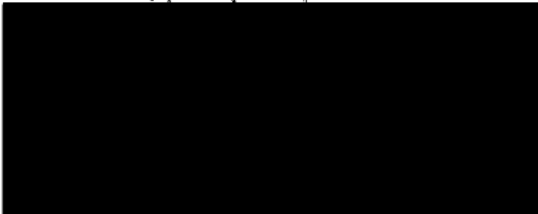
ROSA EMILIA RODRÍGUEZ-VÉLEZ
United States Attorney



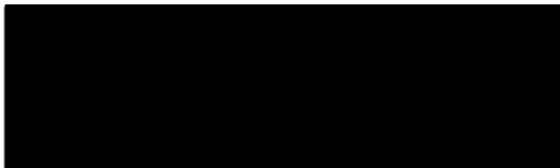
Assistant U.S. Attorney
Chief, Criminal Division
Dated: 6/30/15




Assistant U.S. Attorney
Chief, Financial Fraud and Corruption Unit
Dated: 6-29-15



Special Assistant U.S. Attorney
Dated: 06/29/15



Counsel for Defendant
Dated: 7/17/2015



Luis Escabí-Pérez
Defendant
Dated: 7/17/2015

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UNDERSTANDING OF RIGHTS

I have consulted with my counsel and fully understand all of my rights with respect to the Superseding Indictment pending against me. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines, Policy Statements, Application, and Background Notes which may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with your attorney. My counsel has translated the plea agreement to me in the Spanish language and I have no doubts to the contents of the agreement. I fully understand this agreement and I voluntarily agree to it.

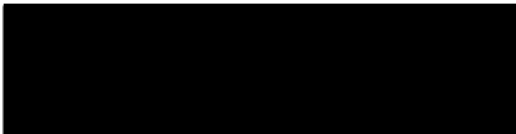
Date: 7/17/2015



Luis Escabi-Pérez
Defendant

I am the attorney for the defendant. I have fully explained to the defendant his rights with respect to the pending Superseding Indictment. Further, I have reviewed the provisions of the Sentencing Guidelines, Policy Statements, Application, and Background Notes, and I have fully explained to the defendant the provisions of those guidelines which may apply in this case. I have carefully reviewed every part this Plea Agreement with the defendant. I have translated the plea agreement and explained it in the Spanish language to the defendant who has expressed having no doubts as to the contents of the agreement. To my knowledge, the defendant is entering into this agreement voluntarily, intelligently, and with full knowledge of all consequences of defendant's plea of guilty.

Date: 7/17/2015



Counsel for Defendant

STIPULATION OF FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, the United States of America and defendant Luis ESCABI-PEREZ (hereinafter “defendant” or “ESCABI-PEREZ”) agree that the following recital provides a true and accurate summary of the facts leading to defendant’s acceptance of criminal responsibility for violation of Title 18, U.S.C., Section 1343 in Crim. Nos. 15-039(FAB), 15-040(FAB), 15-041(FAB), 15-045(FAB), 15-046(PG) and 15-047(PG).

The SSA is an agency or department of the United States. At all times material to this case, ESCABI-PEREZ, was a Psychiatrist, licensed to practice medicine in Puerto Rico, and operated a medical office in Bayamón, Puerto Rico. The defendant submitted Psychiatric Medical Reports to the SSA in support of applications for disability insurance benefits submitted by his patients. ESCABI-PEREZ would at times charge a fee of up to five thousand dollars (\$5,000.00) to backdate medical records of his patients in order to represent the SSA a longer history of medical treatment.

At times material to this Indictment, and as part of the law enforcement investigation, a confidential source (hereinafter “Person A”) was referred to the defendant, ESCABI-PEREZ. Person A was selected to act as a putative patient for ESCABI-PEREZ among other things, because Person A was generally in good health, and was not suffering from any physical or mental disabling conditions. Person A visited the office of ESCABI-PEREZ beginning in or about, November 4, 2013, through on or about April 10, 2014.

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On January 15, 2014, ESCABI-PEREZ, submitted a medical report to the SSA suggesting that Person A was suffering from disabling psychiatric conditions, and that the first medical visit of Person A to him was on April 2, 2013, even though ESCABI-PEREZ then and there well knew that Person's A first visit was on November 4, 2013 and that Person A was not suffering from any disabling psychiatric conditions.

On May 02, 2014, Person A was approved by SSA for disability insurance benefit payments, with an onset date of February 01, 2013. Person A initially received \$11,242.00, as a retroactive payment, and monthly disability insurance benefit payments of approximately \$1,536.00. The total amount of benefits paid to Person A from the date of entitlement through the date of this Indictment is approximately \$27,096.00.

It was a part of the manner and means of the unlawful scheme that ESCABI-PEREZ, would abuse his position of trust and/or his special skills as a psychiatrist, by creating the appearance that he was treating Person A for alleged mental conditions. LUIS ESCABI-PEREZ, charged Person A a fee of \$5,000.00 for the submission of the fraudulent psychiatric report to the SSA and for backdating the medical file.

It was further a part of the manner and means of the unlawful scheme that ESCABI-PEREZ, would submit via facsimile transmission, to a number in the Continental United States, a psychiatric report to the SSA, supporting the existence of the alleged psychiatric conditions suffered by Person A in spite of the fact that these psychiatric conditions were contrived.

ESCABI-PEREZ also admits that he submitted fraudulent psychiatric reports to the SSA for the following co-defendants: Edwin Figueroa, Ana Morales-De Jesús, Raul Dominguez-

Figueroa, Alberto Sostre-Cintrón, and Rosa Pagán-Ramos (collectively referred to as “co-defendants”). ESCABI-PEREZ conspired with the co-defendants for the submission of the fraudulent psychiatric reports to the SSA and the co-defendants paid for backdating their medical file.

From on or about November 4, 2013, to on or about May 2, 2014, ESCABI-PEREZ devised and intended to devise a scheme and artifice to defraud the SSA and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. On January 15, 2014, ESCABI-PEREZ for purposes of executing the scheme and artifice to defraud mentioned above caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:

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COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO 15-039(FAB)	January 15, 2014	866-314-6792	Transmission of Fraudulent Psychiatric Report to SSA for Person A


From on or about January 13, 2011, to on or about June 22, 2011, ESCABI-PEREZ and EDWIN FIGUEROA devised and intended to devise a scheme and artifice to defraud the SSA and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. On May 10, 2011, ESCABI-PEREZ for purposes of executing the scheme and artifice to defraud mentioned above caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:

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COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO 15-040(FAB)	May 10, 2011	866-314-6792	Transmission of Fraudulent Psychiatric Report to SSA for EDWIN FIGUEROA

From on or about November 4, 2010, to on or about June 10, 2011, ESCABI-PEREZ and ANA MORALES-DE JESUS devised and intended to devise a scheme and artifice to defraud the SSA and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. On May 10, 2011, ESCABI-PEREZ for purposes of executing the scheme and artifice to defraud mentioned above caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:



COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO 15-041(FAB)	May 10, 2011	866-314-6792	Transmission of Fraudulent Psychiatric Report to SSA for ANA MORALES DE JESUS

From on or about February 8, 2011, to on or about February 28, 2012, ESCABI-PEREZ and RAUL DOMINGUEZ-FIGUEROA devised and intended to devise a scheme and artifice to defraud the SSA and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. On July 19, 2011, ESCABI-PEREZ for purposes of executing the scheme and artifice to defraud mentioned above caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:

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COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO 15-045(FAB)	July 19, 2011	866-314-6792	Transmission of Fraudulent Psychiatric Report to SSA for RAUL DOMINGUEZ-FIGUEROA

From on or about September 1, 2010, to on or about March 23, 2011, ESCABI-PEREZ and ALBERTO SOSTRE-CINTRON devised and intended to devise a scheme and artifice to defraud the SSA and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. On January 25, 2011, ESCABI-PEREZ for purposes of executing the scheme and artifice to defraud mentioned above caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:

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COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO 15-046(PG)	January 25, 2011	866-314-6792	Transmission of Fraudulent Psychiatric Report to SSA for ALBERTO SOSTRE-CINTRON

From on or about June 30, 2010, to on or about March 31, 2011, ESCABI-PEREZ and ROSA PAGAN-RAMOS devised and intended to devise a scheme and artifice to defraud the SSA and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises. On March 1, 2011, ESCABI-PEREZ for purposes of executing the scheme and artifice to defraud mentioned above caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below:

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COUNT	DATE	SSA FAX NO.	DOCUMENT TRANSMITTED
TWO 15-047(PG)	March 1, 2011	866-314-6792	Transmission of Fraudulent Psychiatric Report to SSA for ROSA PAGAN-RAMOS

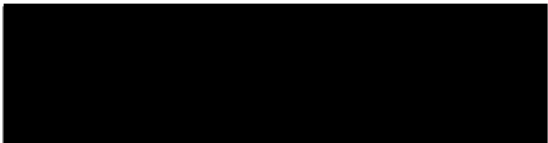
The parties agree that the total amount of loss that resulted from the above-mentioned scheme is \$230,244.00.

At trial, the United States would have proven beyond a reasonable doubt that defendant is guilty as charged in Count Two of the Indictments in Crim. Nos. 15-039(FAB), 15-040(FAB), 15-041(FAB), 15-045(FAB), 15-046(PG) and 15-047(PG) by presenting physical and documentary evidence, including, but not limited to, testimony of witnesses, videos, photographs, documents, and other physical evidence. Full discovery was timely made available to defendant for review.



Special Assistant United States Attorney

Date: 06/29/15



Counsel for Defendant
 Dated: 7/17/2015

Luis Escabi-Perez
 Defendant
 Dated: 7/17/2015