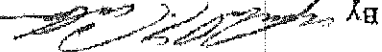


MBC:nm
Enclosure

Assistant U.S. Attorney
MARK E. CULLERS

By 

LAWRENCE G. BROWN
United States Attorney

Very truly yours,

Thank you for your consideration of this matter.

The offer contained in the plea agreement will remain open until close of business on October 2, 2009, after which it will not be renewed on terms as favorable to your client.

Enclosed please find a proposed plea agreement in the above-captioned case.

Dear Mr. Fogderude:

Re: U.S. v. Vincent Steven Booth
No. 1:09-cr-00142 LJO

Mr. Eric K. Fogderude
Fletcher and Fogderude, Inc.
5412 N. Palm Avenue
Suite 101
Fresno, CA 93704

September 9, 2009

Robert E. Coyle Federal
Building
2500 Tulare Street
Suite 4101
Fresno, CA 93721
Phone 559/497-4000
Fax 559/497-4099
TDD 559/497-4500

U.S. DEPARTMENT OF JUSTICE
United States Attorney
Eastern District of California
Lawrence G. Brown
United States Attorney



Indictment, NO. 1:09-cr-00142 LJO in the Eastern District of
The defendant acknowledges that he has been charged by

1. Charges.

and his attorney, ERIC K. FOGDERUDE, have agreed as follows:
United States Attorneys, and the defendant, VINCENT STEVEN BOOTH,
California, MARK E. CULLERS and JAMES R. TERZIAN, Assistant
G. BROWN, the United States Attorney for the Eastern District of
Procedure, the United States of America, by and through LAWRENCE
Pursuant to Rule 11(c) of the Federal Rules of Criminal

Hon. Lawrence J. O'Neill
Courtroom: Four
Time: TBA
Date: TBA
CRIMINAL PROCEDURE
FEDERAL RULES OF
RULE 11(c) OF THE
AGREEMENT PURSUANT TO
MEMORANDUM OF PLEA
NO. 1:09-cr-00142 LJO

Defendant.

VINCENT STEVEN BOOTH,

v.

Plaintiff,

UNITED STATES OF AMERICA,

EASTERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT FOR THE

LAWRENCE G. BROWN
United States Attorney
MARK E. CULLERS
JAMES R. TERZIAN
Assistant U.S. Attorneys
4401 Federal Building
2500 Tulare Street
Fresno, California 93721
Telephone: (559) 497-4000

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1 California, with:
 2 (1) Conspiracy, in violation of Title 18, United States Code,
 3 Section 371;
 4 (2) Tax Evasion and Aiding and Abetting, in violation of
 5 Title 26, United States Code, Section 7201 and Title 18, United
 6 States Code, Section 2 (Three Counts), and
 7 (3) Presenting Fictitious Instrument Purporting to be an
 8 Actual Security of the United States and Aiding and Abetting, in
 9 violation of Title 18, United States Code, Sections 514 and 2
 10 (Four Counts).
 11 2. Nature, Elements and Possible Defenses.
 12 (a) The defendant has read the charges contained in the
 13 indictment, and those charges have been fully explained to him by
 14 his attorney.
 15 (b) The defendant fully understands the nature and
 16 elements of the crimes with which he has been charged, together
 17 with the possible defenses thereto, and has discussed them with
 18 his attorney.
 19 The elements of the crime of Conspiracy are:
 20 (1) first, beginning on or about January 6, 1999, and
 21 continuing through on or about April 9, 2009, there was
 22 an agreement between two or more persons to defraud the
 23 United States, and a department or agency thereof, by
 24 willfully attempting to evade or defeat any income tax,
 25 or the payment thereof, due and payable to the Internal
 26 Revenue Service;
 27 (2) Second, the defendant became a member of the
 28 conspiracy knowing of at least one of its objects and

1 intending to help accomplish it; and
 2 (3) Third, one of the members of the conspiracy
 3 performed at least one overt act for the purpose of
 4 carrying out the conspiracy.
 5 Agreements by the Defendant.
 6 (a) The defendant agrees that this plea agreement shall
 7 be filed with the court and become a part of the record of the
 8 case.
 9 (b) The defendant agrees to enter a plea of guilty to
 10 Count One of the indictment, charging him with conspiracy, in
 11 violation of Title 18, United States Code, Section 371.
 12 (c) The defendant agrees the amount of tax loss
 13 pursuant to Section 274.1 of the Sentencing Guidelines is
 14 \$3,875,028.99, for the 1995, 1996 and 1997 tax years.
 15 (d) The defendant agrees that the offense involved
 16 sophisticated concealment pursuant to Section 271.1(b)(2) of the
 17 Sentencing Guidelines.
 18 (e) Defendant understands and agrees that he will not be
 19 allowed to withdraw his plea should the court fail to follow the
 20 government's sentencing recommendations.
 21 (f) The defendant is aware that Title 18, United States
 22 Code, Section 3742 affords a defendant the right to appeal any
 23 sentence imposed. Acknowledging this, the defendant knowingly and
 24 voluntarily agrees to waive all Constitutional and statutory
 25 rights to appeal his conviction and sentence, including, but not
 26 limited to an express waiver of appeal of this plea (including any
 27 venue and statute of limitations issues) and to attack
 28 collaterally his mental competence, and his plea, or his sentence,

1 including but not limited to, filing a motion under 28 U.S.C.
2 §2255, 28 U.S.C. 2241, or 18 U.S.C. §3742, or otherwise.
3 If the defendant's conviction on the count to which he is pleading
4 guilty is ever vacated at the defendant's request, or his sentence
5 is ever reduced at his request, the government shall have the
6 following rights: (1) to prosecute the defendant on any count to
7 which he pleaded guilty; (2) to reinstate any counts that may be
8 dismissed under this agreement; and (3) to file any new charges
9 that would otherwise be barred by this agreement. The decision to
10 pursue any or all of these options is solely in the discretion of
11 the United States Attorney's Office. By signing this agreement,
12 the defendant agrees to waive any objections, motions, and
13 defenses he might have to the government's decision, including
14 double jeopardy. In particular, he agrees not to raise any
15 objections based on the passage of time with respect to such
16 counts including, but not limited to, any statutes of limitation
17 or any objections based on the speedy trial act or the speedy
18 trial clause of the Sixth Amendment.
19 (g) The defendant agrees to waive all rights under the
20 "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to
21 recover attorneys' fees and any other litigation expenses in
22 connection with the investigation or prosecution of this action
23 and any allegations in any way related thereto (including without
24 limitation, any charges to be dismissed under this plea agreement
25 and any charges previously dismissed).
26 (h) If it is determined that the defendant has violated
27 any provision of this Agreement, or if the defendant successfully
28 moves to withdraw his plea: (1) all statements made by the

1 defendant to the government, the Court, or other designated law
2 enforcement agents, or any testimony given by the defendant before
3 a grand jury or other tribunal, whether before or after this
4 Agreement, shall be admissible as evidence in any criminal, civil,
5 or administrative proceedings hereafter brought against the
6 defendant; and (2) the defendant shall assert no claim under the
7 United States Constitution, any statute, the Federal Rules of
8 Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or
9 any other Federal rule, that statements made by the defendant
10 before or after this Agreement, or any leads derived therefrom,
11 should be suppressed. By signing this Agreement, the defendant
12 waives any and all rights in the foregoing respects; and
13 (1) The defendant understands that the Court must
14 consult the Federal Sentencing Guidelines (as promulgated by the
15 Sentencing Commission pursuant to the Sentencing Reform Act of
16 1984, 18 U.S.C. § 3551-3742 and 28 U.S.C. §§ 991-998, and as
17 modified by United States v. Booker and United States v. Fanfan,
18 125 S. Ct. 738 (2005), and must take them into account when
19 determining a final sentence. Defendant understands that the
20 Court will determine a non-binding and advisory guideline
21 sentencing range for this case pursuant to the Sentencing
22 Guidelines. Defendant further understands that the Court will
23 consider whether there is a basis for departure from the guideline
24 range (either above or below the guideline range) because there
25 exists an aggravating or mitigating circumstance of a kind, or to
26 a degree, not adequately taken into consideration by the
27 Sentencing Commission in formulating the Guidelines. Defendant
28 further understands that the Court, after consultation and

1 consideration of the Sentencing Guidelines, must impose a sentence
 2 that is reasonable in light of the factors set forth in 18 U.S.C.
 3 § 3553(a). The defendant agrees and stipulates that the guideline
 4 sentence is a reasonable sentence in this case.
 5 (j) The defendant further acknowledges that his plea of
 6 guilty is voluntary and that no force, threats, promises or
 7 representations have been made to anybody, nor agreement reached,
 8 other than those set forth expressly in this agreement, to induce
 9 the defendant to plead guilty.
 10 (k) The defendant agrees to pay a special assessment of
 11 \$100.00 at the time of sentencing by delivering a check or money
 12 order payable to the United States District Court to the United
 13 States Probation Office immediately before the sentencing hearing.
 14 (l) The defendant further agrees that this agreement
 15 does not affect or release, in any manner, any civil or
 16 administrative claims, fines, penalties, causes of action, damages
 17 or other matters that may be within the jurisdiction of any
 18 governmental agency, including the Internal Revenue Service;
 19 specifically, without limitation, this agreement does not affect
 20 in any manner any additional tax, civil penalties or other matters
 21 that may be imposed by the Internal Revenue Service relative to
 22 taxes owed by the defendant for the following tax years: 1995,
 23 1996 and 1997.
 24 (m) Within 180 days after sentencing, the defendant
 25 agrees to pay all taxes, penalties and interest due and owing to
 26 the Internal Revenue Service for the years 1995, 1996 and 1997.
 27 The defendant will cooperate with the Internal Revenue Service,
 28 in the determination of income taxes due for the tax years 1995,

1 1996 and 1997, and will provide the Internal Revenue Service with
 2 all requested information regarding those tax years.
 3 (n) In addition to entering a plea of guilty as set
 4 forth above, the defendant agree to cooperate with the government
 5 in the investigation and prosecution of those individuals with
 6 whom he was involved in the acts of conspiracy and evasion of
 7 which he is charged, including those individuals from whom he
 8 obtained information and/or instruction in the acts of evasion.
 9 This cooperation shall include, but is not limited to: (1)
 10 responding truthfully and completely to all questions posed by the
 11 government, whether in interviews, in correspondence, or telephone
 12 conversations; (2) attending all meetings at which the government
 13 requests the defendant's presence; (3) producing voluntarily any
 14 and all documents, records, or other tangible evidence requested
 15 by the government; (4) testifying truthfully before federal and
 16 state grand juries; (5) testifying truthfully in any and all state
 17 and federal court proceedings if called as a witness by local,
 18 state and federal government prosecutors; and (6) not to
 19 participate in any criminal activity while cooperating with the
 20 government. The defendant agrees to stipulate to any continuances
 21 of sentencing necessary to fulfill his obligations under this
 22 paragraph.
 23 (o) If the government learns that the defendant has
 24 committed any crime while subject to this agreement, or if any of
 25 the defendant's statements or testimony prove to be knowingly
 26 false, misleading, or materially incomplete, or if the defendant
 27 otherwise violates this plea agreement in any way, the government
 28 will no longer be bound by its representations to the defendant

1 concerning the limits on criminal prosecution and sentencing as
 2 set forth herein. The determination whether the defendant has
 3 violated the plea agreement will be under a probable cause
 4 standard.

5 4. Agreements by the Government.

6 (a) The government will recommend that the defendant
 7 receive a two-level reduction in the computation of his offense
 8 level due to his acceptance of responsibility if his adjusted
 9 offense level is below 16; or a three-level reduction in the
 10 computation of his offense level if his adjusted offense level is
 11 16 or greater; provided that the defendant qualifies for such a
 12 reduction in his interview with the probation officer and in his
 13 statements to the court.

14 (b) The government will recommend that the defendant
 15 receive a sentence at the low end of the applicable sentencing
 16 guideline range determined by the court at the sentencing hearing.

17 (c) The government agrees the amount of tax loss
 18 pursuant to section 254.1 of the Sentencing Guidelines is
 19 \$3,875,028.99.

20 (d) If, in the government's sole opinion, the defendant
 21 renders and continues to render substantial assistance as set
 22 forth in paragraph 3(n) above, the government will move at the
 23 time of sentencing, pursuant to section 5K1.1 of the United States
 24 Sentencing Guidelines, that the court depart below any statutory
 25 mandatory minimum and guideline range applicable to the
 26 defendant's offense conduct, and will recommend a sentence
 27 reduction of not more than fifty percent (50%). If, in the
 28 government's sole opinion, however, the defendant does not fulfill

28 In furtherance of the conspiracy, defendants VINCENT STEVEN
29 BOOTH and Michael S. Toane, employed, among others, the following

27 MANNER AND MEANS OF THE CONSPIRACY

26 Internal Revenue Service,
25 income tax, or the payment thereof, due and payable to the
24 agency thereof, by willfully attempting to evade or defeat any
23 grand duty, to defraud the United States, and a department or
22 with each other, and with others both known and unknown to the
21 defendant VINCENT STEVEN BOOTH, along with defendant Michael S.
20 Toane, knowingly and intentionally agreed, combined and conspired
19 in the State and Eastern District of California, and elsewhere,
18 January 6, 1999, and continuing until on or about April 3, 2009,
17 beginning on a date not known, but no later than on or about

20 facts, the parties may disagree:

19 facts of the case, although he acknowledges that, as to other
18 indictment. The defendant also agrees that the following are the
17 fact guilty of the crimes set forth in Count One of the

16 (a) The defendant will plead guilty because he is in

15 5. Factual Basis.

14 defendant's sentencing.

13 right of the indictment, as against the defendant, at the time of
12 (g) The government agrees to dismiss Counts Two through

11 the United States Probation Office and/or the Court.

10 the defendant is pleading guilty and all other relevant conduct to
9 providing any and all information concerning the offenses to which
8 (f) This agreement does not prevent the government from

7 dismiss the indictment as against Louise Q. Booth.

6 government will move, at the time of defendant's sentencing, to
5 substantial assistance as set forth in paragraph 3(m) above, the

4 (e) If the defendant renders and continues to render

3 5K1.1.

2 under no obligation to file any motion pursuant to U.S.B.G. §

1 any obligation under paragraph 3(n) above, the government will be

1 manner and means:

2 A. The defendants used, and caused to be used, invalid trusts, corporations and nominees to evade their taxes and the payment of prior year assessments, while maintaining control and benefitting from the trusts, corporations and nominee bank accounts.

3 B. The defendants filed, and cause to be filed, bogus liabilities against their properties to create the appearance of no equity in those properties to further impede the Internal Revenue Service in its duty to collect taxes due and owing.

4 C. The defendants submitted, and cause to be submitted, false "Bills of Exchange" which would purport to extinguish all or part of the defendants' tax liabilities.

5 D. The defendants created, and caused to be created, frivolous deed transfers of their property for little or no consideration in an effort to keep the property out of the reach of the Internal Revenue Service.

6 E. As a result of the defendants' conduct, over \$1.3 million in back taxes has been evaded to date.

7 OVERT ACTS

8 In furtherance of that conspiracy and to effect the object thereof, defendant VINCENT STEVEN BOOTH performed the following overt acts in the State and Eastern District of California:

9 A. On or about May 5, 2005, defendant VINCENT STEVEN BOOTH submitted to the Internal Revenue Service three "Bills of Exchange" in the total amount of \$1,618,658.09.

10 B. On or about October 4, 2005, defendant VINCENT STEVEN BOOTH gave a deposition in the case of United States of America v. Steven Booth and Louise O. Booth, Case No. 1:05-cv-290 REC-DLB.

11 C. On or about October 22, 2005, defendant VINCENT STEVEN BOOTH wrote a memo to Internal Revenue Service Revenue Agent Fred Chynoweth.

12 All in violation of Title 18, United States Code, section 371.

13 Potential Sentence.

14 The following is the maximum potential sentence which

15 the defendant faces:

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28 composed of twelve lay persons selected at random. The defendant
27 (c) If the trial were a jury trial, the jury would be

26 an attorney, who would be appointed if necessary.
25 (b) At trial, he would have the right to be assisted by

24 conducted by the judge without a jury.
23 government and the judge all must agree that the trial be

22 conducted by the judge sitting without a jury, the defendant, the
21 right to a jury trial. However, in order that the trial be

20 trial by a judge sitting without a jury. The defendant has a
19 and speedy trial. The trial could be either a jury trial or a

18 to the charges against him, he would have the right to a public
17 (a) If the defendant persisted in a plea of not guilty

16 surrenders certain rights, including the following:
15 The defendant understands that by pleading guilty he

14 7. Waiver of Rights.

13 Mandatory: One Hundred Dollars
(\$100) per count.

12 (e) Penalty Assessment.

11 court, or two (2) years, whichever is less.)
10 term of supervised release actually imposed by the
9 supervised release, he can be returned to prison for the
(should the defendant violate any of the terms of his

8 (d) Term of Supervised Release.
Maximum: Three (3) years.

7 (c) Both such fine and imprisonment.

6 Maximum: Two Hundred Fifty
Thousand Dollars (\$250,000.00).

5 (b) Fine.

4 Maximum: five (5) years.

3 (a) Imprisonment.

2 Count Three:

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1 and his attorney would have a say in who the jurors would be by
 2 removing prospective jurors for cause where actual bias or other
 3 disqualification is shown, or without cause by exercising
 4 peremptory challenges. The jury would have to agree unanimously
 5 before it could return a verdict of either guilty or not guilty.
 6 The jury would be instructed that the defendant is presumed
 7 innocent and that it could not convict him unless, after hearing
 8 all the evidence, it was persuaded of his guilt beyond a
 9 reasonable doubt.

10 (d) If the trial were held before a judge without a
 11 jury, the judge would find the facts and determine, after hearing
 12 all the evidence, whether or not he was persuaded of the
 13 defendant's guilt beyond a reasonable doubt.

14 (e) At a trial, whether by a jury or a judge, the
 15 government would be required to present its witnesses and other
 16 evidence against the defendant. The defendant would be able to
 17 confront those government witnesses and his attorney would be able
 18 to cross-examine them. In turn, the defendant could present
 19 witnesses and other evidence on his own behalf. If the witnesses
 20 for the defendant would not appear voluntarily, he could require
 21 their attendance through the subpoena power of the court.

22 (f) At a trial, the defendant would have a privilege
 23 against self-incrimination so that he could decline to testify,
 24 and no inference of guilt could be drawn from this refusal to
 25 testify. The defendant understands that by pleading guilty he is
 26 waiving all of the rights set forth above and the defendant's
 27 attorney has explained those rights to him and the consequences of
 28 his waiver of those rights.

1 The defendant understands that if the court questions him
2 under oath, on the record and in the presence of counsel, about
3 the offenses to which he has pleaded guilty, his answers, if
4 false, may later be used against him in a prosecution for perjury
5 or false statement.

6 9. Entire Agreement.
7 The defendant and his attorney acknowledge that no threats,
8 promises or representations have been made, nor agreement reached,
9 other than those set forth in this Agreement, to induce defendant
10 to plead guilty.

11 10. Court not a Party.
12 It is understood by the parties that the sentencing court is
13 neither a party to nor bound by this agreement and the sentencing
14 judge is free to impose the maximum penalties as set forth in
15 paragraph 6 above.

16 11. Presentence Report.
17 The defendant understands that the United States Probation
18 office is not a party to this agreement and will conduct an
19 independent investigation of the defendant's activities and his
20 background and prepare a presentence report which it will submit
21 to the court as its own sentencing recommendation. In addition,
22 the government will fully apprise the Probation Office, as well as
23 the court, of the full and true nature, scope and extent of the
24 defendant's criminal activities concerning the charges to which
25 the defendant is entering a plea of guilty, including activities
26 which may not have been charged in the indictment or were the
27 subject of dismissed counts.

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DATED: September 10, 2009

DATED: September 11, 2009

DATED: September 12, 2009

ERIC K. FOGDERUPE
Attorney for Defendant

VINCENT STEVEN BOOTH
Defendant

MARK E. COLLERS
JAMES R. TERZIAN
Assistant U.S. Attorneys

LAWRENCE G. BROWN
United States Attorney