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IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff,)

MEMORANDUM OF PLEA)

AGREEMENT PURSUANT TO)

RULE 11(c) OF THE)

FEDERAL RULES OF)

CRIMINAL PROCEDURE)

VINCENT STEVEN BOOTH,)

Defendant.)

Date: TBA)

Time: TBA)

Courtroom: Four)

Hon. Lawrence J. O'Neill)

Pursuant to Rule 11(c) of the Federal Rules of Criminal

procedure, the United States of America, by and through BENJAMIN

B. WAGNER, the United States Attorney for the Eastern District of

California, MARK E. CULTERS and SUSAN PHAN, Assistant United

States Attorneys, and the defendant, VINCENT STEVEN BOOTH, and

his attorney, ERIC K. FOGDERUDE, have agreed as follows:

1. Charges.

The defendant acknowledges that he has been charged by

Indictment, NO. 1:09-cr-00142 LJO in the Eastern District of

California, with:

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(1) Conspiracy, in violation of Title 18, United States Code, Section 371;

(2) Tax Evasion and Aiding and Abetting, in violation of

Title 26, United States Code, Section 7201 and Title 18, United

States Code, Section 2 (Three Counts), and

(3) Presenting Fictitious Instrument Purporting to be an

Actual Security of the United States and Aiding and Abetting, in

violation of Title 18, United States Code, Sections 514 and 2

(Four Counts).

2. Nature, Elements and Possible Defenses.

(a) The defendant has read the charges contained in the

Indictment, and those charges have been fully explained to him by

his attorney.

(b) The defendant fully understands the nature and

elements of the crimes with which he has been charged, together

with the possible defenses thereto, and has discussed them with

his attorney.

The elements of the crime of conspiracy are:

(1) First, beginning on or about January 6, 1999, and

continuing through on or about April 9, 2009, there was

an agreement between two or more persons to defraud the

United States, and a department or agency thereof, by

willfully attempting to evade or defeat any income tax,

or the payment thereof, due and payable to the Internal

Revenue Service;

(2) Second, the defendant became a member of the

conspiracy knowing of at least one of its objects and

intending to help accomplish it; and

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(3) Third, one of the members of the conspiracy

performed at least one overt act for the purpose of

carrying out the conspiracy.

3. Agreements by the Defendant.

(a) The defendant agrees that this plea agreement shall

be filed with the court and become a part of the record of the

case.

(b) The defendant agrees to enter a plea of guilty to

Count One of the Indictment, charging him with conspiracy, in

violation of Title 18, United States Code, Section 371.

(c) The defendant agrees that the amount of tax loss

pursuant to Section 274.1 of the Sentencing Guidelines is

\$207,310.

(d) The defendant agrees that, due to the fact that he

was acting upon the instruction and guidance of others, the

offense did not involve sophisticated concealment by the defendant

pursuant to Section 271.1(b) (2) of the Sentencing Guidelines.

(e) Defendant understands and agrees that he will not be

allowed to withdraw his plea should the court fail to follow the

government's sentencing recommendations.

(f) The defendant is aware that Title 18, United States

Code, Section 3742 affords a defendant the right to appeal any

sentence imposed. Acknowledging this, the defendant knowingly and

voluntarily agrees to waive all constitutional and statutory

rights to appeal his conviction and sentence, including, but not

limited to an express waiver of appeal of this plea (including any

venue and statute of limitations issues) and to attack

collaterally his mental competence, and his plea, or his sentence,

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including but not limited to, filing a motion under 28 U.S.C.

§2255, 28 U.S.C. 2241, or 18 U.S.C. §3742, or otherwise.

If the defendant's conviction on the count to which he is

pleading guilty is ever vacated at the defendant's request, or his

sentence is ever reduced at his request, the government shall have

the following rights: (1) to prosecute the defendant on any count

to which he pleaded guilty; (2) to reinstate any counts that may

be dismissed under this agreement; and (3) to file any new charges

that would otherwise be barred by this agreement. The decision to

pursue any or all of these options is solely in the discretion of

the United States Attorney's Office. By signing this agreement,

the defendant agrees to waive any objections, motions, and

defenses he might have to the government's decision, including

double jeopardy. In particular, he agrees not to raise any

objections based on the passage of time with respect to such

counts including, but not limited to, any statutes of limitation

or any objections based on the Speedy Trial Act or the Speedy

Trial Clause of the Sixth Amendment.

(g) The defendant agrees to waive all rights under the

"Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), to

recover attorneys' fees and any other litigation expenses in

connection with the investigation or prosecution of this action

and any allegations in any way related thereto (including without

limitation, any charges to be dismissed under this plea agreement

and any charges previously dismissed).

(h) If it is determined that the defendant has violated

any provision of this Agreement, or if the defendant successfully

moves to withdraw his plea: (1) all statements made by the

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defendant to the government, the Court, or other designated law enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal, whether before or after this Agreement, shall be admissible as evidence in any criminal, civil, or administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no claim under the United States Constitution, any statute, the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by the defendant before or after this Agreement, or any leads derived therefrom, should be suppressed. By signing this Agreement, the defendant waives any and all rights in the foregoing respects; and

(1) The defendant understands that the Court must consult the Federal Sentencing Guidelines (as promulgated by the Sentencing Commission pursuant to the Sentencing Reform Act of 1984, 18 U.S.C. § 3551-3742 and 28 U.S.C. §§ 991-998, and as modified by United States v. Booker and United States v. Ruffin, 125 S. Ct. 738 (2005), and must take them into account when determining a final sentence. Defendant understands that the Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the Sentencing Guidelines. Defendant further understands that the Court will consider whether there is a basis for departure from the guideline range (either above or below the guideline range) because there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the Guidelines. Defendant further understands that the Court, after consultation and

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consideration of the Sentencing Guidelines, must impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a). The defendant agrees and stipulates that the guideline sentence is a reasonable sentence in this case.

(j) The defendant further acknowledges that his plea of guilty is voluntary and that no force, threats, promises or representations have been made to anybody, nor agreement reached, other than those set forth expressly in this agreement, to induce the defendant to plead guilty.

(k) The defendant agrees to pay a special assessment of \$100.00 at the time of sentencing by delivering a check or money order payable to the United States District Court to the United States Probation Office immediately before the sentencing hearing. (l) The defendant further agrees that this agreement does not affect or release, in any manner, any civil or administrative claims, fines, interest, penalties, causes of action, damages or other matters that may be within the jurisdiction of any governmental agency, including the Internal Revenue Service; specifically, without limitation, this agreement does not affect in any manner any additional tax, civil penalties, interest or other matters that may be imposed by the Internal Revenue Service relative to taxes owed by the defendant for the following tax years: 1995, 1996 and 1997.

(m) Within 180 days after sentencing, the defendant agrees to pay all taxes, penalties and interest due and owing to the Internal Revenue Service for the years 1995, 1996 and 1997. The defendant will cooperate with the Internal Revenue Service, in the determination of income taxes due for the tax years 1995, 1996

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and 1997, and will provide the Internal Revenue Service with all requested information regarding those tax years.

(n) The defendant further agrees to immediately cease

and desist from the concealment of personal assets, real property and income under nominee and trust entities, and the defendant

further agrees to the immediate collapse of all trust entities

over which he has an interest or which he has concealed his income and assets, including, but not limited to, Bakerfield Property

and Trust, 21st Century Trust, Alpha Omega Trust, Aligned

Enterprises, Southern Financial and Mariposa Holdings.

(o) The defendant further agrees to correctly report to the Internal Revenue Service all income earned from his

chiropractic business for the tax years 1995 through 2009, and to

file amended tax returns for each of those years to accurately

reflect such income.

(p) In addition to entering a plea of guilty as set

forth above, the defendant agree to cooperate with the government in the investigation and prosecution of those individuals with

whom he was involved in the acts of conspiracy and evasion of

which he is charged, including those individuals from whom he

obtained information and/or instruction in the acts of evasion.

This cooperation shall include, but is not limited to: (1)

responding truthfully and completely to all questions posed by the government, whether in interviews, in correspondence, or telephone

conversations; (2) attending all meetings at which the government

requests the defendant's presence; (3) producing voluntarily any

and all documents, records, or other tangible evidence requested

by the government; (4) testifying truthfully before federal and

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state grand juries; (5) testifying truthfully in any and all state

and federal court proceedings if called as a witness by local,

state and federal government prosecutors; and (6) not to

participate in any criminal activity while cooperating with the

government. The defendant agrees to stipulate to any continuances

of sentencing necessary to fulfill his obligations under this

paragraph.

(g) If the government learns that the defendant has

committed any crime while subject to this agreement, or if any of

the defendant's statements or testimony prove to be knowingly

false, misleading, or materially incomplete, or if the defendant

otherwise violates this plea agreement in any way, the government

will no longer be bound by its representations to the defendant

concerning the limits on criminal prosecution and sentencing as

set forth herein. The determination whether the defendant has

violated the plea agreement will be under a probable cause

standard.

4. Agreements by the Government.

(a) The government will recommend that the defendant

receive a two-level reduction in the computation of his offense

level due to his acceptance of responsibility if his adjusted

offense level is below 16; or a three-level reduction in the

computation of his offense level if his adjusted offense level is

16 or greater; provided that the defendant qualifies for such a

reduction in his interview with the probation officer and in his

statements to the court.

(b) The government will recommend that the defendant

receive a sentence at the low end of the applicable sentencing

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guideline range determined by the Court at the sentencing hearing.

(c) The government agrees the amount of tax loss

pursuant to Section 274.1 of the Sentencing Guidelines is

\$207,310.

(d) The government agrees that, due to the fact that he

was acting upon the instruction and guidance of others, the

offense did not involve sophisticated concealment by the defendant

pursuant to Section 211.1(b) (2) of the Sentencing Guidelines.

(e) If, in the government's sole opinion, the defendant

renders and continues to render substantial assistance as set

forth in paragraph 3(p) above, the government will move at the

time of sentencing, pursuant to Section 5K1.1 of the United States

Sentencing Guidelines, that the Court depart below any statutory

mandatory minimum and guideline range applicable to the

defendant's offense conduct, and will recommend a sentence

reduction of not more than fifty percent (50%). If, in the

government's sole opinion, however, the defendant does not fulfill

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

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

5K1.1.

(f) If the defendant renders and continues to render

substantial assistance as set forth in paragraph 3(p) above, the

government will move, at the time of defendant's sentencing, to

dismiss the indictment as against Louise Q. Booth.

(g) This agreement does not prevent the government from

providing any and all information concerning the offenses to which

the defendant is pleading guilty and all other relevant conduct to

the United States Probation Office and/or the Court.

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(h) The government agrees to dismiss Counts Two through Eight of the indictment, as against the defendant, at the time of defendant's sentencing.

5. Factual Basis.

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

fact guilty of the crimes set forth in Count One of the

indictment. The defendant also agrees that the following are the

facts of the case, although he acknowledges that, as to other

facts, the parties may disagree:

Beginning on a date not known, but no later than on or about January 6, 1999, and continuing until on or about April 9, 2009, in the state and Eastern District of California, and elsewhere, defendant VINCENT STEVEN BOOTH, along with defendant Michael S. Ioane, knowingly and intentionally agreed, combined and conspired with each other, and with others both known and unknown to the grand jury, to defraud the United States, and a department or agency thereof, by willfully attempting to evade or defeat any income tax, or the payment thereof, due and payable to the Internal Revenue Service.

MANNER AND MEANS OF THE CONSPIRACY

In furtherance of the conspiracy, defendants VINCENT STEVEN BOOTH and Michael S. Ioane, employed, among others, the following manner and means:

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 benefiting from the trusts, corporations and nominee bank accounts.

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.

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.

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

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of the reach of the Internal Revenue Service.

OVERT ACTS

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:

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.

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-DJB.

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

All in violation of Title 18, United States Code, section

371.

6. Potential Sentence.

The following is the maximum potential sentence which

the defendant faces:

Count One:

(a) Imprisonment.

Maximum: Five (5) years.

(b) Fine.

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

(c) Both such fine and imprisonment.

(d) Term of Supervised Release.

Maximum: Three (3) years.

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

(e) Penalty Assessment.

Mandatory: One Hundred Dollars (\$100).

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7. Waiver of Rights.

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

- (a) If the defendant persisted in a plea of not guilty to the charges against him, he would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by a judge sitting without a jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the government and the judge all must agree that the trial be conducted by the judge without a jury.
- (b) At trial, he would have the right to be assisted by an attorney, who would be appointed if necessary.
- (c) If the trial were a jury trial, the jury would be composed of twelve lay persons selected at random. The defendant and his attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or 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 the defendant is presumed innocent and that it could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt.
- (d) If the trial were held before a judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not he was persuaded of the defendant's guilt beyond a reasonable doubt.

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(e) At a trial, whether by a jury or a judge, the

government would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence on his own behalf. If the witnesses for the defendant would not appear voluntarily, he could require their attendance through the subpoena power of the court.

(f) At a trial, the defendant would have a privilege

against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from this refusal to testify. The defendant understands that by pleading guilty he is waiving all of the rights set forth above and the defendant's attorney has explained those rights to him and the consequences of his waiver of those rights.

8. Questions by Court.

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

9. Entire Agreement.

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

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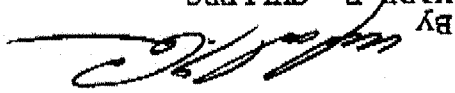
10. Court not a Party.
It is understood by the parties that the sentencing court is neither a party to nor bound by this agreement and the sentencing judge is free to impose the maximum penalties as set forth in paragraph 6 above.

11. Presentence Report.

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

DATED: July 2, 2010

BENJAMIN B. WAGNER
United States Attorney

By: 

MARK E. CULLERS
SUSAN PHAN
Assistant U.S. Attorneys

By: 
VINCENT STEVEN BOOTH
Defendant

DATED: July 15, 2010

ERIC K. FOSBERG
Attorney for Defendant

