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7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION
11

12 UNITED STATES OF AMERICA,) No. CR-04-40043-SBA
13 Plaintiff,)
14 v.) PLEA AGREEMENT
15 DAREN M. LASKY,)
16 Defendant.)
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18 I, DAREN M. LASKY, and the United States Attorney's Office for the Northern District
19 of California (hereafter "the government") enter into this written plea agreement (the
20 "Agreement") pursuant to Rules 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal
21 Procedure:

22 The Defendant's Promises

23 1. I agree to plead guilty to counts one through four of the captioned information
24 charging me with tax evasion, in violation of 26 U.S.C. § 7201. I agree that the elements of the
25 offense and the maximum penalties for each count are as follows: (1) an attempt to evade or
26 defeat a tax or payment thereof; (2) additional tax is due and owing; and (3) defendant did so
27 knowingly and willfully.

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- 1 a. Maximum prison sentence 5 years
- 2 b. Maximum fine \$250,000
- 3 c. Maximum supervised release term 3 years
- 4 d. Mandatory special assessment \$100 (per count)
- 5 e. Total Restitution (4 counts) \$165,806, plus statutory interest

6 2. I agree that I am guilty of the offenses to which I will plead guilty, and I agree that
7 the following facts are true:

8 I am a 34 year old independent flooring contractor residing in Oakley, California. I did
9 independent contractor work for many businesses in the Bay Area during 1998, 1999, 2000, and
10 2001. I received checks from these businesses and although I knew I was required to file tax
11 returns reporting the income I earned and to pay taxes on that income, I intentionally did not file
12 tax returns reporting the income or pay taxes on this income to the Internal Revenue Service for
13 the 1998, 1999, 2000, and 2001 tax years.

14 In order to conceal my income from the IRS, I arranged for my compensation for the
15 services I provided to general contractors to be falsely reported by them to the Internal Revenue
16 Service on Form 1099-MISC as paid, not to me, but to non-existent corporations with false and
17 fraudulent Employer Identification Numbers (numbers assigned by the Internal Revenue Service,
18 to others, but not to me). The false business names that I used included Commercial Flooring,
19 Inc. and Showers, Tubs, Designs and Flooring, Inc. (STDF, Inc.). To conceal my income and
20 assets from the IRS, I used bank accounts opened in other names instead of using my own name
21 and my Social Security number so the bank would not report my activities to the IRS.

22 I knew I was required to report and pay my true and correct tax liabilities for the 1998,
23 1999, 2000, and 2001 tax years. My true and correct tax liabilities for those years as computed
24 by the Internal Revenue Service using the net worth method of proof are as follows: \$76,104 for
25 1998; \$1,389 for 1999; \$34,335 for 2000; and \$53,978 for 2001. I should have reported these
26 amounts as due and owing on federal income tax returns for those years and paid those amounts
27 to the IRS. Instead, I did not file 1998, 1999, 2000, and 2001 tax returns to evade my true and
28 correct tax liabilities.

1 3. I agree to give up all rights that I would have if I chose to proceed to trial,
2 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
3 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
4 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
5 to pursue any affirmative defenses and present evidence.

6 4. I agree to give up my right to appeal my convictions, the judgment, and orders of
7 the Court. I also agree to waive any right I may have to appeal my sentence.

8 As to any matter in which I am cooperating with the government pursuant to this
9 agreement, I waive any right I may have to assert the attorney-client privilege to decline to
10 answer questions relating to communications with counsel for any other defendant including a
11 defendant acting pro se, except as to communications where counsel for the other defendant was
12 my attorney of record. I also waive my right to conflict-free representation by any attorney or
13 pro se defendant where a conflict arises from that attorney's or defendant's participation in a
14 joint defense agreement to which I also was a party.

15 5. I agree not to file any collateral attack on my convictions or sentence, including a
16 petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim
17 that my constitutional right to the effective assistance of counsel was violated.

18 6. I agree not to ask the Court to withdraw my guilty pleas at any time after they are
19 entered.

20 7. I agree that the Sentencing Guidelines in effect at the time the offenses were
21 committed should be calculated as follows, and that I will not ask for any other adjustment to or
22 reduction in the offense level or for a downward departure of any kind:

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|----|--|-----------|
| 23 | a. Base Offense Level, U.S.S.G. §§2T1.1 and 2T4.1: | 15 |
| 24 | b. Amount of loss: | \$165,806 |
| 25 | c. Acceptance of responsibility: | -2 |
| 26 | d. Adjusted offense level: | 13 |

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1 8. I agree that the court may order and I will pay restitution in the amount of
2 \$165,806. I agree that I will make a good faith effort to pay any fine, forfeiture or restitution I
3 am ordered to pay. Before or after sentencing, I will, upon request of the Court, the government,
4 or the U.S. Probation Office, provide accurate and complete financial information, submit sworn
5 statements and give depositions under oath concerning my assets and my ability to pay, surrender
6 assets I obtained as a result of my crimes, and release funds and property under my control in
7 order to pay any fine, forfeiture, or restitution. I agree to pay the special assessment at the time
8 of sentencing.

9 9. I agree to cooperate with the U.S. Attorney's Office before and after I am
10 sentenced. My cooperation will include, but will not be limited to, the following:

- 11 a. I will respond truthfully and completely to any and all questions put to me,
12 whether in interviews, before a grand jury or at any trial or other proceeding;
- 13 b. I will provide all documents and other material asked for by the government;
- 14 c. I will testify truthfully at any grand jury, court or other proceeding as
15 requested by the government;
- 16 d. I will surrender any and all assets acquired or obtained directly or indirectly as
17 a result of my illegal conduct;
- 18 e. I will request continuances of my sentencing date, as necessary, until my
19 cooperation is completed;
- 20 f. I will tell the government about any contacts I may have with any
21 co-defendants or subjects of investigation, or their attorneys or individuals
22 employed by their attorneys;
- 23 g. I will not reveal my cooperation, or any information related to it, to anyone
24 without prior consent of the government;

25 10. Pursuant to section 6103(c) of the Internal Revenue Code (26 U.S.C.), I authorize
26 officers and employees of the Internal Revenue Service to disclose for any purpose any of the
27 "returns[s]" and "return information" as those terms are defined in section 6103(b) of the Internal
28 Revenue Code, obtained by the IRS during the investigation of this matter which resulted in the
information filed against me in this matter.

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1 11. I agree that the government's decision whether to file a motion pursuant to USSG
2 §5K1.1, as described in the government promises section below, is based on its sole and
3 exclusive decision of whether I have provided substantial assistance and that decision will be
4 binding on me. I understand that the government's decision whether to file such a motion, or the
5 extent of the departure recommended by any motion, will not depend on whether convictions are
6 obtained in any case. I also understand that the Court will not be bound by any recommendation
7 made by the government.

8 12. I agree not to commit or attempt to commit any crimes before sentence is imposed
9 or before I surrender to serve my sentence; violate the terms of my pretrial release (if any);
10 intentionally provide false information or testimony to the Court, the Probation Office, Pretrial
11 Services, or the government; or fail to comply with any of the other promises I have made in this
12 Agreement. I agree that, if I fail to comply with any promises I have made in this Agreement,
13 then the government will be released from all of its promises, but I will not be released from my
14 guilty pleas.

15 13. If I am prosecuted after failing to comply with any promises I made in this
16 Agreement, then (a) I agree that any statements I made to any law enforcement or other
17 government agency or in Court, whether or not made pursuant to the cooperation provisions of
18 this Agreement, may be used in any way; (b) I waive any and all claims under the United States
19 Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal
20 Rules of Evidence, or any other federal statute or rule, to suppress or restrict the use of my
21 statements, or any leads derived from those statements; and (c) I waive any defense to any
22 prosecution that it is barred by a statute of limitations, if the limitations period has run between
23 the date of this Agreement and the date I am indicted.

24 14. I agree that this Agreement contains all of the promises and agreements between
25 the government and me, and I will not claim otherwise in the future.

26 15. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
27 District of California only, and does not bind any other federal, state, or local agency.

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1 The Government's Promises

2 16. The government agrees to move to dismiss any open charges pending against the
3 defendant in the captioned information at the time of sentencing.

4 17. The government agrees not to file or seek any additional charges against the
5 defendant that could be filed as a result of the investigation that led to the pending information.

6 18. The government agrees not to use any statements made by the defendant pursuant
7 to this Agreement against him, unless the defendant fails to comply with any promises in this
8 agreement.

9 19. If, in its sole and exclusive judgment, the government decides that the defendant
10 has cooperated fully and truthfully, provided substantial assistance to law enforcement authorities
11 within the meaning of U.S.S.G. §5K1.1, and otherwise complied fully with this Agreement, it
12 will file with the Court a motion under §5K1.1 and/or 18 U.S.C. §3553 that explains the nature
13 and extent of the defendant's cooperation and recommends a downward departure.

14 The Defendant's Affirmations

15 20. I confirm that I have had adequate time to discuss this case, the evidence, and this
16 Agreement with my attorney, and that he has provided me with all the legal advice that I
17 requested.

18 21. I confirm that while I considered signing this Agreement and, at the time I signed
19 it, I was not under the influence of any alcohol, drug, or medicine.

20 22. I confirm that my decision to enter a guilty plea is made knowing the charges that
21 have been brought against me, any possible defenses, and the benefits and possible detriments of
22 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
23 one coerced or threatened me to enter into this agreement.

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25 Dated: _____

DAREN M. LASKY
Defendant

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KEVIN V. RYAN
United States Attorney

Dated: _____

THOMAS MOORE
Assistant United States Attorney

I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights he is giving up by pleading guilty, and, based on the information now known to me, his decision to plead guilty is knowing and voluntary.

Dated: _____

MICHAEL MURRAY
Attorney for Defendant