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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ZAIN I. ALI,

17 Defendant.
18 _____

No. CR 01-40045 SBA

PLEA AGREEMENT

19 I, Zain I. Ali, and the United States Attorney's Office for the Northern District of
20 California (hereafter "the government") enter into this written plea agreement (the "Agreement")
21 pursuant to Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure:
22

23 The Defendant's Promises

24 1. I agree to plead guilty to Count Three of the captioned indictment charging me
25 with willfully attempting to evade and defeat income taxes due and owing to the United States of
26 America for the calendar year 1996, in violation of 26 U.S.C. § 7201. I agree that the elements
27 of the offense and the maximum penalties are as follows: (1) the defendant has a tax due and
28 owing for the calendar year 1996; (2) the defendant attempted to evade or defeat the income

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CR 01-40045 SBA

1 taxes due for calendar year 1996; and (3) the defendant's attempt to evade was willful.

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|---|----|---------------------------------|--------------|
| 2 | a. | Maximum prison sentence | 5 years |
| 3 | b. | Maximum fine | \$ 250,000 |
| 4 | c. | Maximum supervised release term | 3 years |
| 5 | d. | Mandatory special assessment | \$ 100 |
| 6 | e. | Restitution | \$ 99,068.47 |

7 2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that
8 the following facts are true: While I was the accounting manager at Vic/Tal Sales, I embezzled
9 \$386,248.63 over the years 1994, 1995 and 1996. As accounting manager, my responsibilities
10 included accounts receivable, accounts payable, preparing checks (including stamping the
11 company president's signature on each check), reconciling checking accounts, and preparing
12 monthly income statements, balance sheets and general ledger entries. In 1994, 1995 and 1996, I
13 issued checks payable to myself which referenced the names of third-party vendors. These were
14 actual vendors with whom Vic/Tal Sales did business; however, I fabricated the services
15 rendered, the invoice dates and the amounts. To further conceal the embezzlement, I input false
16 invoice data into the computerized accounts payable system. For each false invoice, I altered the
17 accounts payable master file, substituting as the payee my own name and address for the
18 vendor's. I used the president's signature stamp to endorse the checks. When canceled checks
19 and bank statements arrived in the mail, I removed the canceled checks which reflected payments
20 to myself to further conceal the embezzlement. As an accountant, I knew that income from
21 embezzlement is taxable and must be reported on one's federal income tax return. For the years
22 1994 and 1995, I gave no information about my embezzlement income to my tax return preparer.
23 Accordingly, I falsified my federal income tax returns by omitting \$ 79,114.92 and \$ 110,865.72
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1 in embezzlement income for 1994 and 1995, respectively. I failed to file a federal income tax
2 return for 1996 notwithstanding the fact that I knew that I had received \$ 196,267.99 in
3 embezzlement income.
4

5 3. I agree to give up all rights that I would have if I chose to proceed to trial,
6 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
7 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
8 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
9 to pursue any affirmative defenses and present evidence.
10

11 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
12 the Court. I also agree to waive any right I may have to appeal my sentence.
13

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

17 6. I agree not to ask the Court to withdraw my guilty plea at any time after it is
18 entered.
19

20 7. I agree that the Sentencing Guidelines should be calculated under U.S.S.G. §§
21 2T1.1 and 2T4.1, and that the total tax loss for sentencing purposes is \$ 99,068.47. I further
22 agree that the Sentencing Guidelines should be calculated as follows, and that I will not ask for
23 any other adjustments to or reductions of the offense level:
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- 1 a. Base Offense Level, U.S.S.G. § 2T4.1: 14
- 2 b. Acceptance of responsibility: <2>
- 3 (If I meet the requirements of
- 4 U.S.S.G. § 3E1.1)
- 5 c. Adjusted offense level 12

6 I agree that, regardless of any other provision in this agreement, the government may and will

7 provide to the Court and the Probation Office all information relevant to the charged offenses or

8 the sentencing decision. I also agree that the Court is not bound by the Sentencing Guidelines

9 calculations above, the Court may conclude that a higher guideline range applies to me, and, if it

10 does, I will not be entitled, nor will I ask, to withdraw my guilty plea.

12 8. I agree that the court may order and I will pay restitution in the amount of

13 \$ 99,068.47, which represents the total tax loss for sentencing purposes for my 1994, 1995 and

14 1996 tax years. I agree that I will make a good faith effort to pay any fine, forfeiture or

15 restitution I am ordered to pay. Before or after sentencing, I will, upon request of the Court, the

16 government, or the U.S. Probation Office, provide accurate and complete financial information,

17 submit sworn statements and give depositions under oath concerning my assets and my ability to

18 pay, surrender assets I obtained as a result of my crimes, and release funds and property under my

19 control in order to pay any fine, forfeiture, or restitution. I agree to pay the special assessment at

20 the time of sentencing.

23 I agree to comply and cooperate with the Internal Revenue Service in a good-faith effort

24 to determine the accurate amount of, and pay any, outstanding tax liabilities, including any

25 penalties and interest. Though I have agreed to an amount of restitution as a part of the agreed-

26 upon disposition of this case, I agree that this agreement with respect to restitution does not bar

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1 the Internal Revenue Service from making a civil determination with respect to additional taxes,
2 interest and penalties for which I may be liable, nor will it bar me from civilly contesting any
3 such liabilities as determined by the Internal Revenue Service.
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5 9. I agree not to commit or attempt to commit any crimes before sentence is imposed
6 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
7 release (if any); intentionally provide false information to the Court, the Probation Office,
8 Pretrial Services, or the government; or fail to comply with any of the other promises I have
9 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
10 Agreement, then the government will be released from all of its promises below, but I will not be
11 released from my guilty plea.
12

13 10. I agree that this Agreement contains all of the promises and agreements between
14 the government and me, and I will not claim otherwise in the future.
15

16 11. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
17 District of California only, and does not bind any other federal, state, or local agency.
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18 The Government's Promises
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20 12. The government agrees to move to dismiss any open charges pending against the
21 defendant in the captioned indictment at the time of sentencing.

22 13. The government agrees not to file or seek any additional charges against the
23 defendant that could be filed as a result of the investigation that led to the captioned indictment.
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25 14. The government agrees to recommend the Guidelines calculations set out above.
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1 The Defendant's Affirmations

2 15. I confirm that I have had adequate time to discuss this case, the evidence, and this
3 Agreement with my attorney, and that he has provided me with all the legal advice that I
4 requested.
5

6 16. I confirm that while I considered signing this Agreement, and at the time I signed
7 it, I was not under the influence of any alcohol, drug, or medicine.
8

9 17. I confirm that my decision to enter a guilty plea is made knowing the charges that
10 have been brought against me, any possible defenses, and the benefits and possible detriments of
11 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
12 one coerced or threatened me to enter into this agreement.
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16 Dated: _____

ZAIN I. ALI
Defendant

KEVIN V. RYAN
United States Attorney

22 Dated: _____

DAVID L. DENIER
Assistant United States Attorney

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

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9 ROBERT J. BELES
10 Attorney for Defendant
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