

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 10 CR 718
) Judge James Zagel
)
)
MICHAEL SINGLETON)

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant MICHAEL SINGLETON, and his attorney, LOUIS MEYERS, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The parties to this Agreement have agreed upon the following:

Charge in This Case

2. The indictment in this case charges defendant with twelve counts of willfully aiding and assisting in the preparation and presentation of false and fraudulent tax returns, in violation of Title 26, United States Code, Section 7206(2).

3. Defendant has read the charges against him contained in the indictment, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charge to Which Defendant is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to Counts One and Two of the indictment, both which charge defendant with willfully aiding

and assisting in the preparation and presentation of a false and fraudulent tax return filed on behalf of Taxpayer AS, in violation of Title 26, United States Code, Section 7206(2).

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charges contained in Counts One and Two of the indictment. In pleading guilty, defendant admits the following facts and that those facts establish his guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline § 1B1.3:

a. With respect to Count One of the indictment

On or about January 27, 2005, at Bellwood, in the Northern District of Illinois, Eastern Division, defendant MICHAEL SINGLETON (“SINGLETON”) willfully aided and assisted in the preparation and presentation to the Internal Revenue Service (“IRS”) of a return and claim on behalf of Taxpayer AS, namely, a U.S. Individual Income Tax Return Form 1040 for tax year 2004, which was false and fraudulent as to material matters contained therein, in that SINGLETON falsely represented and stated on said return that:

(a) On Schedule E, lines 23 and 25, that Taxpayer AS had losses from rental real estate totaling \$19,318;

(b) On Form 8863, line 4, that Taxpayer AS incurred expenses related to post-secondary education or vocational training totaling \$3,850; and

(c) On Form 1040, line 72(a), that Taxpayer AS was entitled to a refund in the amount of \$4,949;

whereas SINGLETON knew that such information was false and fraudulent; in violation of Title 26, United States Code, Section 7206(2).

More specifically, between 2005 and 2008, SINGLETON owned and operated ITA Services, a company located in Bellwood, Illinois. Through ITA Services, SINGLETON personally prepared and filed income tax returns on behalf of individual taxpayers. Between 2005 and 2008, in his capacity as a tax preparer, and in return for a fee, SINGLETON prepared and caused the submission to the IRS of approximately 1,041 U.S. Individual Income Tax Return Form 1040s on behalf of the clients of ITA Services. The IRS reviewed 88 of these returns prepared by SINGLETON. In connection with all of the returns reviewed by the IRS, SINGLETON knowingly included false statements and representations in order to fraudulently obtain tax refunds for these clients or to fraudulently increase the tax refunds to which they were entitled.

The false representations that SINGLETON made in these 88 returns included: (1) overstating and misrepresenting the number of dependents, expenses and deductions on Form 1040, Schedule A; (2) overstating and misrepresenting business losses on Form 1040, Schedule C; (3) overstating and misrepresenting losses from rental real estate on Form 1040, Schedule E; and (4) overstating and misrepresenting educational and vocational expenses on Form 8863. Through these misrepresentations and overstatements, SINGLETON decreased SINGLETON'S clients' taxable income, thereby fraudulently reducing his clients' tax liability and improperly qualifying them for refunds.

One of the returns prepared and filed by SINGLETON included a U.S. Individual Income Tax Return Form 1040 submitted on behalf of Taxpayer AS for tax year 2004. SINGLETON prepared and caused this return to be filed with the IRS on or about January 27, 2005, knowing that this tax return contained multiple false and fraudulent representations. In particular, SINGLETON knew that the 2004 tax return that he prepared for Taxpayer AS: (1) falsely represented on Schedule E, lines 23, and 25, that Taxpayer AS had losses from rental real estate totaling \$19,318, when, in fact, SINGLETON knew that Taxpayer AS did not own any rental property and had incurred no such losses; (2) falsely represented on Form 8863, line 4, that Taxpayer AS incurred expenses related to post-secondary education or vocational training totaling \$3,850, when, in fact, SINGLETON knew that Taxpayer AS did not attend post-secondary or vocational training in 2004 and had incurred no such expenses; and (3) falsely represented on Form 1040, line 72(a), that Taxpayer AS was entitled to a refund in the amount of \$4,949 when in fact, Taxpayer AS was due a tax refund of \$846 from the IRS for tax year 2004, therefore resulting in a actual approximate loss to the IRS of \$4,103.

b. With respect to Count Two of the indictment

On or about January 30, 2006, at Hillside, in the Northern District of Illinois, Eastern Division, SINGLETON willfully aided and assisted in the preparation and presentation to the IRS of a return and claim on behalf of Taxpayer AS, namely, a U.S. Individual Income Tax Return Form 1040 for tax year 2005, which was false and fraudulent as to material

matters contained therein, in that SINGLETON falsely represented and stated on said return that:

(a) On Schedule E, lines 23 and 25, that Taxpayer AS had losses from rental real estate totaling \$25,000;

(b) On Form 1040, line 73(a), that Taxpayer AS was entitled to a refund in the amount of \$4,746;

whereas SINGLETON knew that such information was false and fraudulent; in violation of Title 26, United States Code, Section 7206(2).

Another return prepared and filed by SINGLETON included a U.S. Individual Income Tax Return Form 1040 submitted on behalf of Taxpayer AS for tax year 2005. SINGLETON prepared and caused this return to be filed with the IRS on or about January 30, 2006, knowing that this tax return contained multiple false and fraudulent representations.

In particular, SINGLETON knew that the 2005 tax return that he prepared for Taxpayer AS: (1) falsely represented on Schedule E, lines 23, and 25, that Taxpayer AS had losses from rental real estate totaling \$25,000, when, in fact, SINGLETON knew that Taxpayer AS did not own any rental property and had incurred no such losses; (2) falsely represented on Form 1040, line 73 (a), that Taxpayer AS was entitled to a refund in the amount of \$4,746.

7. Defendant also acknowledges that for the purpose of computing his sentence under the Sentencing Guidelines, the following conduct, to which he stipulates, constitutes relevant conduct under Guideline §1B1.3

SINGLETON further acknowledges that for the tax years 2004 - 2007, he willfully aided and assisted in the preparation, review and submission of approximately 547 additional individual tax returns to the IRS. SINGLETON further acknowledges that he prepared these tax returns in a similarly fraudulent manner as the tax returns described in Paragraph 6 of this plea agreement. These tax returns resulted in an approximate actual loss to the IRS of \$2,854,800.

Maximum Statutory Penalties

8. Defendant understands that the charges to which he is pleading guilty carries the following statutory penalties:

a. Counts One and Two carry a maximum sentence of 3 years' imprisonment. These offenses also carry a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater. Defendant further understands that the Court must order costs of prosecution, estimated not to exceed \$500. Defendant further understands that the judge also may impose a term of supervised release of not more than one year.

b. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court. The Court also may order restitution to any persons as agreed by the parties.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which he has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

9. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2010 Guidelines Manual.

b. **Offense Level Calculations.**

i. The base offense level for the charges in Counts One and Two of the indictment is 24 because the loss resulting from the offense and relevant conduct (\$ 2,854,800) is more than \$2,500,000, but less than \$7,000,000, pursuant to Guideline § 2T4.1(J).

ii. The offense level should be increased by two levels because defendant was in the business of preparing or assisting in the preparation of tax returns, pursuant to Guideline § 2T1.4(b)(1).

iii. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not

receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline § 3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

iv. In accord with Guideline § 3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline § 3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level for Counts One and Two is 23 which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 46 to 57 months' imprisonment, in addition to any supervised release and fine the Court may impose.

e. Defendant and his attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this plea agreement is not governed by Fed.R.Crim.P. 11(c)(1)(B), and that errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Plea Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Plea Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

11. The government agrees to recommend that the Court impose a sentence of imprisonment within the applicable guidelines range and to make no further recommendation

concerning what sentence of imprisonment should be imposed. Defendant is free to recommend that the Court impose any sentence that he deems appropriate.

12. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Plea Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

13. Regarding restitution, defendant agrees to pay restitution to the Internal Revenue Service of \$ 2,854,800 minus any amounts repaid prior to sentencing, pursuant to Title 18, United States Code, §§ 3663(a)(3) and 3664.

14. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k), he is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect his ability to pay restitution.

15. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

16. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 10 CR 718.

17. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver or release by the United States or any of its agencies of any administrative or judicial civil claim, demand or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities, except as expressly set forth in this Agreement.

18. Defendant understands that nothing in this Plea Agreement shall limit the Internal Revenue Service in its collection of any taxes, interest or penalties from defendant. Defendant understands that the amount of tax as calculated by the IRS may exceed the amount of tax due as calculated for the criminal tax case.

Waiver of Rights

19. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charge against him, and if he does, he would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. However, in order that the trial be conducted by the judge sitting without a

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

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could

require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

b. **Appellate rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

c. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

20. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of defendant's conduct regarding the charge against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

21. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline § 3E1.1 and enhancement of his sentence for obstruction of justice under Guideline § 3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

22. For the purpose of monitoring defendant's compliance with his obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

23. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

24. Regarding matters relating to the Internal Revenue Service, defendant agrees as follows (nothing in this paragraph, however, precludes defendant from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS):

a. Defendant agrees to cooperate with the Internal Revenue Service in any tax examination or audit of defendant which directly or indirectly relates to or arises out of the course of conduct which defendant has acknowledged in this Plea Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records which the IRS may request.

b. Defendant will not object to a motion brought by the United States Attorney's Office for the entry of an order authorizing disclosure to the Internal Revenue Service of documents, testimony and related investigative materials which may constitute grand jury material, preliminary to or in connection with any judicial proceeding, pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i). In addition, defendant will not object to the government's solicitation of consent from third parties who provided records or other materials to the grand jury pursuant to grand jury subpoenas, to turn those materials over to the IRS for use in civil or administrative proceedings or investigations, rather than returning them to the third parties

for later summons or subpoena in connection with a civil or administrative proceeding involving, or investigation of, defendant.

Conclusion

25. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record and may be disclosed to any person.

26. Defendant understands that his compliance with each part of this Plea Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

27. Should the judge refuse to accept defendant's plea of guilty, this Plea Agreement shall become null and void and neither party will be bound thereto.

28. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Plea Agreement to cause defendant to plead guilty.

29. Defendant acknowledges that he has read this Plea Agreement and carefully reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

PATRICK J. FITZGERALD
United States Attorney

MICHAEL SINGLETON
Defendant

TONY IWEAGWU
Assistant United States Attorney

LOUIS MEYERS
Attorney for Defendant