

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

UNITED STATES OF AMERICA

v.

Case Number 3:16cr80/MCR

JAMES R.J. SCHELTEMA

FACTUAL BASIS FOR GUILTY PLEA

The defendant admits that if this case were to proceed to trial, the government could prove the following facts.

During the years 2010 – 2013, JAMES R. J. SCHELTEMA, a certified public accountant (CPA) and attorney, received restricted stock as compensation for legal and accounting services that he performed for Medical Marijuana, Inc., stock symbol MJNA, and Marijuana, Inc., stock symbol HEMP, as detailed in Employment, Non-Disclosure and Confidentiality Agreements he had with the California companies, but he did not fully report the income on his tax returns. Restricted stock is not reportable as gross income until the restriction is lifted, unless an election is made by the receiver to report it in the year of receipt, but SCHELTEMA did not report certain compensation on his tax returns when the restriction was lifted nor in the year of receipt (though, in some instances, he was unable to deposit stock certificates due to legal reasons). SCHELTEMA also sold

the stock through brokerage accounts and did not accurately reflect the sales on his tax returns.

More specifically, SCHELTEMA knowingly filed fraudulent individual income tax returns, Forms 1040, for 2011 and 2012, which contained written declarations that they were made under penalties of perjury, and which he did not believe were true and correct as to every material matter, in that they did not reflect the compensation that he received, and did not accurately reflect his capital gains from the sale of the stock. That is, SCHELTEMA reported no compensation on his 2011 or 2012 individual income tax returns although he received substantial compensation/income in 2011 and 2012. He also failed to report substantial compensation in gross stock sales in 2011 and deducted false costs of sales to offset capital gains in 2012. After being notified of the investigation by the IRS, SCHELTEMA filed amended returns for 2011 and 2012, yet he still did not report compensation he received in 2012 nor stock sales in 2011.

SCHELTEMA also evaded the assessment of income taxes for 2013 by failing to timely file an individual income tax return and corporate income tax returns, Form 1120S, for 2 sub-chapter S corporations; Expert Search Group LLC, and Small Cap Development, Inc., that he owned and operated (he obtained an extension for tax year 2013 until October 15, 2014; yet he still failed to file after the time for an extension expired). He received compensation/income from Marijuana,

Inc., and capital gains from the sale of stock in 2013 but failed to timely file returns reporting the income. When the Marijuana, Inc., stock was sold and the proceeds were being sent to SCHELTEMA, he instructed the payer to make some of the checks payable to his wife and to Small Cap Development in an effort to evade notice. He then subsequently failed to report the compensation and the proceeds from the sale of stock on a delinquent and amended 2013 individual income tax return, which he filed after being notified of the investigation by IRS Criminal Investigation.


A search warrant was executed at SCHELTEMA's residence on November 13, 2014, and his computers were imaged. Copies of SCHELTEMA's employment agreements with Medical Marijuana, Inc., and Marijuana, Inc., as well as other documents reflecting SCHELTEMA's receipt of stock as compensation for services rendered were found on his computers. After the search warrant was executed at his residence on November 13, 2014, and he was notified of the investigation by IRS Criminal Investigation, SCHELTEMA filed a delinquent individual income tax return for 2013, delinquent corporate income tax returns for 2013 for Expert Search Group LLC, and Small Cap Development, Inc., 2 subchapter S corporations he owned and operated, 2 amended individual income tax returns for 2011, an amended individual income tax return for 2012, and an amended individual income tax return for 2013. Even though SCHELTEMA hired an outside CPA, and a certified

forensic accountant, and filed the delinquent 2013 return and amended returns for 2011 and 2012, he still did not report all of the compensation that he received or all of the stock sales. SCHELTEMA concedes he failed to report stock that he received as compensation for the years 2011-2013, and that his filings were in violation of law as outlined in the instant indictment (which is incorporated herein as true and correct, all within the Northern District of Florida).

The parties agree that the tax loss for criminal purposes that is due and owing, resulting from the defendant's filing of fraudulent returns for 2011 and 2012 and the failure to timely file a return for 2013, is an issue to be resolved by the Court at the time of sentencing, but that it falls somewhere between \$100,000 - \$275,000.

Elements of the Offense

The defendant has reviewed Eleventh Pattern Jury Instructions O107.1 and O109.1 with his defense counsel and understands the elements that must be proven herein.




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1-19-17 

Date

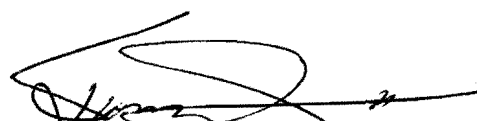
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1/19/17

Date



JAMES R.J. SCHELTEMA
Defendant

1/19/17

Date