```
THOMAS P. O'BRIEN
 1
    United States Attorney
    ROBB C. ADKINS
    Assistant United States Attorney
    Chief, Santa Ana Branch Office
    BRETT A. SAGEL (CBN: 243918)
 4
    Assistant United States Attorney
         Ronald Reagan Federal Building
 5
         411 West Fourth Street, Suite 8000
         Santa Ana, California 92701
         Telephone: (714) 338-3598 Facsimile: (714) 338-3708
 6
 7
         Email:
                Brett.Sagel@usdoj.gov
   Attorneys for Plaintiff
 8
    UNITED STATES OF AMERICA
 9
                       UNITED STATES DISTRICT COURT
10
                  FOR THE CENTRAL DISTRICT OF CALIFORNIA
11
12
    UNITED STATES OF AMERICA,
                                ) NO. SA CR 07-227-CJC
13
                                   GOVERNMENT'S SENTENCING POSITION
              Plaintiff,
                                   AND RESPONSE TO PRE-SENTENCE REPORT
14
                 v.
                                 ) Date:
                                             April 14, 2008
                                   Time:
                                             10:00 a.m.
15
    IGOR M. OLENICOFF,
16
              Defendant.
17
         Plaintiff United States of America, by and through its
18
19
    counsel of record, submits the government's sentencing position
20
    and response to Pre-Sentence Report.
21
    Dated: March 31, 2008
                                   Respectfully submitted,
22
                                   THOMAS P. O'BRIEN
                                   United States Attorney
23
                                   ROBB C. ADKINS
24
                                   Assistant United States Attorney
                                   Chief, Santa Ana Branch Office
25
26
                                    BRETT A. SAGEL
                                   BRETT A. SAGEL
27
                                   Assistant United States Attorney
28
                                   Attorneys for Plaintiff
                                   United States of America
```

## MEMORANDUM OF POINTS AND AUTHORITIES

On December 12, 2007, defendant IGOR M. OLENICOFF ("defendant") pled guilty to a one count information, which he is solely named, that charged him with filing a false 2002 U.S. Individual Income Tax Return, in violation of Title 26, United States Code, Sections 7206(1). (PSR  $\P\P$  1-2). The Probation Office has determined that defendant's total offense level is 4 and the criminal history category is I. (PSR ¶ 72). Thus, the sentencing range would be 0-6 months imprisonment. The Probation Office recommends defendant be placed on probation for a term of one year, pay a fine of \$3,500, and pay a special assessment of \$100. The government has no objection to the factual statements in the PSR, the offense level calculation, or the calculation of criminal history category. The Government, however, has one objection to the probation office's recommendation, the term of probation, which the Government will address infra.

Pursuant to Paragraph 15 of defendant's plea agreement, defendant had numerous obligations, including, but not limited to: providing the U.S. Attorney's Office with a completed financial statement listing all of defendant's assets; abandon his claim for the 1999 corporate refund to Olen Properties Corporation; move all assets held foreign financial accounts to financial accounts in the United States; and cooperate with the Internal Revenue Service to determine defendant's individual and corporate tax liabilities for the tax years 1998 through 2004.

<sup>&</sup>lt;sup>1</sup>"PSR" refers to the Pre-Sentence Report prepared by the United States Probation Office and disclosed on March 10, 2008.

Defendant has complied with all of his obligations, including the paying of approximately \$52 million to the Department of Treasury prior to his change of plea to resolve his civil tax liabilities.

Pursuant to the factual basis of the plea agreement alone, defendant's conduct regarding the use of off-shore bank accounts and the transferring of assets to these accounts dates back to at least 1992. Although defendant has fully met his obligations pursuant to the plea agreement, the Government believes a longer period of probation is warranted to ensure defendant's future compliance with the Internal Revenue laws. The Government urges the Court to sentence defendant to a term of probation of three years, which would account for the nature and circumstances of the offense and the history of defendant and would afford adequate protection to the public from further crimes of defendant, among other Section 3553 factors. The Government does not oppose minimal supervision over defendant and minimal restrictions placed on defendant in years two and three of probation; but these additional years will allow this Court authority over defendant in case he does not comply fully with his responsibilities. In sum, the Government urges this Court to sentence defendant pursuant to the Government's recommendations below.

## CONCLUSION

The government recommends that defendant be:

- (1) sentenced to a term of probation for three years;
- (2) ordered to pay a fine in the amount of \$3,500; and
- (3) ordered to pay a \$100 special assessment.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28