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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

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15 UNITED STATES OF AMERICA

16 UNITED STATES DISTRICT COURT

17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 UNITED STATES OF AMERICA,

19 Plaintiff,

20 v.

21 ZVI SPERLING,

22 Defendant.

CR 13 00108

) No.

) PLEA AGREEMENT FOR DEFENDANT

) ZVI SPERLING

23
24
25 1. This constitutes the plea agreement between ZVI
26 SPERLING("defendant") and the United States Attorney's Office for
27 the Central District of California and the U.S. Department of
28 Justice, Tax Division (collectively the "USAO") in the above-

1 captioned case. This agreement is limited to the USAO and cannot
2 bind any other federal, state or local prosecuting,
3 administrative or regulatory authorities and is subject to the
4 approval of the Department of Justice, Tax Division.
5

6 DEFENDANT'S OBLIGATIONS

7 2. Defendant agrees to:

8 a) Give up the right to indictment by a grand jury and
9 at the earliest opportunity requested by the USAO and provided by
10 the Court, to appear and plead guilty to a one count Information
11 charging a violation of 18 U.S.C. § 371 in the form attached to
12 this agreement or a substantially similar form.

13 b) Not to contest facts agreed to in this agreement.

14 c) Abide by all agreements regarding sentencing factors
15 contained in this agreement.
16

17 d) Appear for all court appearances, surrender as
18 ordered for service of sentence, obey all conditions of any bond,
19 and obey any other ongoing court order in this matter.

20 e) Not commit any crime; however, offenses which would
21 be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are
22 not within the scope of this agreement.
23

24 f) Be truthful at all times with Pretrial Services, the
25 U.S. Probation Office, and the Court.

26 g) Pay the applicable special assessment at or before
27 the time of sentencing unless defendant lacks the ability to pay
28

1 and submits a completed financial statement (form OBD-5000) to
2 the USAO prior to sentencing.

3 h) Not seek the discharge of any restitution
4 obligation, in whole or in part, in any present or future
5 bankruptcy proceeding.
6

7 3. Defendant further agrees to cooperate fully with the
8 USAO, the Internal Revenue Service, and, as directed by the USAO,
9 any other federal, state, local, or foreign prosecuting,
10 enforcement, administrative, or regulatory authority. This
11 cooperation requires defendant to:

12 a) Respond truthfully and completely to all questions
13 that may be put to defendant, whether in interviews, before a
14 grand jury, or at any trial or other court proceeding.
15

16 b) Attend all meetings, grand jury sessions, trials or
17 other proceedings at which defendant's presence is requested by
18 the USAO or compelled by subpoena or court order.

19 c) Produce voluntarily all documents, records, or other
20 tangible evidence relating to matters about which the USAO, or
21 its designee, inquires.
22

23 4. For purposes of this agreement: (1) "Cooperation
24 Information" shall mean any statements made, or documents,
25 records, tangible evidence, or other information provided, by
26 defendant pursuant to defendant's cooperation under this
27 agreement; and (2) "Plea Information" shall be any statements
28

1 made by defendant, under oath, at the guilty plea hearing and the
2 agreed to factual basis statement in this agreement.

3 DEFENDANT'S OTHER OBLIGATIONS

4 5. Defendant also agrees:

5 a) To cooperate with the IRS in the civil examination,
6 determination, assessment and collection of income taxes related
7 to defendant's 2006 through 2011 income tax returns and any
8 related corporate/entity tax returns, and further agrees not to
9 conceal, transfer, or dissipate funds or property that could be
10 used to satisfy such taxes, penalties and interest.
11

12 b) To sign Closing Agreements with the IRS prior to the
13 time of sentencing for the years 2006 through 2011, correctly
14 reporting income and deductions for these years. Further, if
15 requested to do so by the IRS, provide the IRS with information
16 regarding the years covered by the Closing Agreements, and will
17 make his best efforts to promptly pay all additional taxes,
18 penalties and interest assessed by the IRS as well as any
19 additional amounts determined by the IRS to be owing.
20

21 c) That defendant is liable for the penalty imposed by
22 the Internal Revenue Code, 26 U.S.C. § 6663, on the taxes set
23 forth in Paragraph 18, plus on the tax on the net income on all
24 funds held in foreign bank accounts or one half of the net income
25 if the account was jointly owned with his brother, for the
26 calendar years 2006, 2007, 2008, 2009, 2010 and 2011. Defendant
27
28

1 agrees that a civil penalty under 26 U.S.C. § 6663 may be
2 assessed against him.

3 d) To give up any and all objections that could be
4 asserted to the Examination Division of the IRS receiving
5 materials or information obtained during the criminal
6 investigation of this matter, including materials and information
7 obtained through grand jury subpoenas.
8

9 e) That nothing in this agreement shall preclude or bar
10 the IRS from the assessment and/or collection of any additional
11 tax liability, including interest and penalties, determined to be
12 due and owing from defendant by the IRS for 2006, 2007, 2008,
13 2009, 2010 and 2011.
14

15 f) That, in order to resolve defendant's civil
16 liability for failing to file Reports of Foreign Bank and
17 Financial Accounts, Forms TD F 90-22.1, and other foreign
18 information reporting obligations under the United States law,
19 for tax years 2006 through 2011, defendant will pay a fifty
20 percent penalty with respect to the Defendant's one-half interest
21 in the jointly held funds in the undeclared offshore account at
22 Bank A for the one year with the highest balance in the account
23 for the calendar years 2006 through 2011, and agrees to pay this
24 sum of money prior to sentencing to the United States Treasury,
25 through the U.S. Department of Justice, Tax Division.
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1 Guidelines and all other relevant factors under 18 U.S.C. §
2 3553(a).

3 e) Not prosecute Jacob Sperling, Shelly Sperling, and
4 Miri Sperling, for any violations known to the USAO at the time
5 of this plea arising out of the information provided by the
6 defendant, and defendant's conduct (i) described in the
7 Information or (ii) described in the statement of facts provided
8 in Attachment A. Defendant understands that the USAO is free to
9 prosecute the above individuals for any other unlawful past
10 conduct or any unlawful conduct that occurs after the date of
11 this agreement.
12

13 7. The USAO further agrees:
14

15 a) Not to offer as evidence in its case-in-chief in the
16 above-captioned case or any other prosecution that may be brought
17 against defendant by the USAO, or in connection with any
18 sentencing proceeding in any case that may be brought against
19 defendant by the USAO, any Cooperation Information. Defendant
20 agrees, however, that the USAO may use both Cooperation
21 Information and Plea Information: (1) to obtain and pursue leads
22 to other evidence, which evidence may be used for any purpose,
23 including any prosecution of defendant, (2) to cross-examine
24 defendant should defendant testify, or to rebut any evidence,
25 argument or representations made by defendant or a witness called
26 by defendant in any trial, sentencing hearing, or other court
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1 proceeding, and (3) in any criminal prosecution of defendant for
2 false statement, obstruction of justice, or perjury.

3 e) Not to use Cooperation Information against defendant
4 at sentencing for the purpose of determining the applicable
5 guideline range including the appropriateness of an upward
6 departure, or the sentence to be imposed, and to recommend to the
7 Court that Cooperation Information not be used in determining the
8 applicable guideline range or the sentence to be imposed.

9 Defendant understands, however, that Cooperation Information will
10 be disclosed to the probation office and the Court, and that the
11 Court may use this information for the purposes set forth in
12 U.S.S.G. § 1B1.8(b) and for determining the sentence to be
13 imposed.
14

15 f) In connection with defendant's sentencing, to bring
16 to the Court's attention the nature and extent of defendant's
17 cooperation.
18

19 g) If the USAO determines, in its exclusive judgment,
20 that defendant has both complied with defendant's obligations
21 under this agreement and provided substantial assistance to law
22 enforcement in the prosecution or investigation of another
23 ("substantial assistance"), to move the Court pursuant to
24 U.S.S.G. § 5K1.1 to fix an offense level and corresponding
25 guideline range below that otherwise dictated by the sentencing
26 guidelines, and to recommend a sentence within this reduced
27
28

1 range. Defendant understands that he cannot withdraw his plea of
2 guilty if this Office does not file a motion for a downward
3 departure. Defendant further understands that this Office has
4 not made a determination as of this date whether the facts of
5 this case presents circumstances deserving of a downward
6 departure.
7

8 DEFENDANT'S UNDERSTANDINGS REGARDING SUBSTANTIAL ASSISTANCE.

9 8. Defendant understands the following:

10 a) Any knowingly false or misleading statement by
11 defendant will subject defendant to prosecution for false
12 statement, obstruction of justice, and perjury and will
13 constitute a breach by defendant of this agreement.
14

15 b) Nothing in this agreement requires the USAO or any
16 other prosecuting or law enforcement agency to accept any
17 cooperation or assistance that defendant may offer, or to use it
18 in any particular way.

19 c) Defendant cannot withdraw defendant's guilty plea if
20 the USAO does not make a motion pursuant to U.S.S.G. § 5K1.1 for
21 a reduced guideline range or if the USAO makes such a motion and
22 the Court does not grant it or if the Court grants such a USAO
23 motion but elects to sentence above the reduced range.
24

25 d) At this time the USAO makes no agreement or
26 representation as to whether any cooperation that defendant has
27 provided or intends to provide constitutes substantial
28

1 assistance. The decision whether defendant has provided
2 substantial assistance will rest solely within the exclusive
3 judgment of the USAO.

4 e) The USAO's determination of whether defendant has
5 provided substantial assistance will not depend in any way on
6 whether the government prevails at any trial or court hearing in
7 which defendant testifies or in which the government otherwise
8 presents information resulting from defendant's cooperation.

10 NATURE OF THE OFFENSE

11 9. Defendant understands that for defendant to be guilty
12 of the crime charged in Count One, (a violation of Title 18,
13 United States Code, Section 371) the following must be true:

14 a) Beginning in or about 2001 and continuing through
15 in or about 2011, there was an agreement between two or more
16 persons to defraud the United States by impairing, obstructing,
17 and defeating the lawful functions and duties of the Internal
18 Revenue Service ("IRS"), through deceitful and dishonest means;

19 b) Defendant became a member of the conspiracy knowing
20 its object and intending to help accomplish it; and

21 c) One of the members of the conspiracy performed at
22 least one overt act for the purpose of carrying out the
23 conspiracy.

24 Defendant admits that defendant is, in fact, guilty of this
25 offense as described in count One of the Information.

PENALTIES AND RESTITUTION

10. Defendant understands that the statutory maximum sentence that the Court can impose for a violation of Title 18, United States Code, Section 371 is: five years imprisonment; a three year period of supervised release; a fine of \$250,000 or twice the amount of gross gain or gross loss resulting from the offense, whichever is greater; and a mandatory special assessment of \$100. Defendant agrees to pay the special assessment at or before the time of sentencing.

11. Defendant understands and agrees that the Court: (a) may order defendant to pay restitution in the form of any additional taxes, interest and penalties that defendant owes to the United States based upon the count of conviction and any relevant conduct; (b) may order defendant to pay any additional fines that defendant owes to the United States; and (c) must order defendant to pay the costs of prosecution, which may be in addition to the statutory maximum fine stated above. The parties agree that the restitution that should be ordered is \$70,918.

12. The parties further agree that the tax loss determined for criminal purposes is not binding for civil purposes and is exclusive of civil penalties and interest.

13. Defendant understands that supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant

1 understands that if defendant violates one or more of the
2 conditions of any supervised release imposed, defendant may be
3 returned to prison for all or part of the term of supervised
4 release, which could result in defendant serving a total term of
5 imprisonment greater than the statutory maximum stated above.
6

7 14. Defendant also understands that, by pleading guilty,
8 defendant may be giving up valuable government benefits and
9 valuable civic rights, such as the right to vote, the right to
10 possess a firearm, the right to hold office, and the right to
11 serve on a jury. Defendant further understands that the
12 conviction in this case may subject defendant to various
13 collateral consequences, including but not limited to,
14 deportation, revocation of probation, parole, or supervised
15 release in another case, and suspension or revocation of a
16 professional license. Defendant understands that unanticipated
17 collateral consequences will not serve as grounds to withdraw
18 defendant's guilty plea.
19

20 15. Defendant understands that, if defendant is not a
21 United States citizen, the felony conviction in this case may
22 subject defendant to removal, also known as deportation, which
23 may, under some circumstances, be mandatory. The Court cannot
24 and defendant's attorney also may not be able to, advise
25 defendant fully regarding the immigration consequences of the
26 felony conviction in this case. Defendant understands that by
27
28

1 entering a guilty plea defendant waives any claim that unexpected
2 immigration consequences may render defendant's guilty plea
3 invalid.

4 FACTUAL BASIS

5
6 16. Defendant and the USAO agree and stipulate to the
7 statement of facts provided in Attachment A which is attached
8 hereto and incorporated by reference herein. The statement of
9 facts includes facts sufficient to support a plea of guilty to
10 the charge described in this plea agreement. It is not meant to
11 be a complete recitation of all facts relevant to the underlying
12 criminal conduct or all facts known to defendant that relate to
13 that conduct. The parties stipulate that the conduct of
14 defendant referred to in Attachment A hereto violated 18 U.S.C.
15 § 371 as charged in Count One of the Information.
16

17 SENTENCING FACTORS

18 17. Defendant understands in determining defendant's
19 sentence the Court is required to consider the factors set forth
20 in 18 U.S.C. § 3553(a)(1)-(7), including the kinds of sentence
21 and sentencing range established under the United States
22 Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines").
23 Defendant understands that the Sentencing Guidelines are only
24 advisory, that defendant cannot have any expectation or receiving
25 a sentence within the Sentencing Guideline range, and that after
26 considering the Sentencing Guidelines and the other § 3553(a)
27
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1 factors, the Court will be free to exercise its discretion to
2 impose any sentence it finds appropriate up to the maximum set by
3 statute for the crime of conviction.

4 18. Defendant and the USAO agree and stipulate to the
5 following applicable sentencing guideline factors under the
6 November 2011 Guideline Sentencing Manual and the Supreme Court
7 holding in United States v. Booker:
8

9 a) Tax Loss: The relevant actual, probable, or
10 intended tax loss under Section 2T1.1 of the
11 Sentencing Guidelines resulting from the offense
12 committed in this case and all relevant conduct is
13 the tax loss associated with defendant's
14 undeclared accounts at Bank A in Israel. The
15 parties agree that the tax loss is more than
16 \$30,000, but less than \$80,000 (exclusive of
17 interest and penalties) for an Offense Level of
18 14. See U.S.S.G. §§ 2T1.1 and 2T4.1.
19

20 b) Sophisticated Means: The offense involved
21 sophisticated means, which results in a two-level
22 offense increase. See U.S.S.G. § 2T1.1(b) (2).
23

24 The parties agree that the adjustments for "aggravating
25 role" and "mitigating role" under U.S.S.G. §§ 3B1.1 and 3B1.2 are
26 not applicable. Subject to the provisions of the preceding
27 sentence and paragraph 7, defendant and the USAO agree not to
28

1 seek, argue, or suggest in any way, either orally or in writing,
2 that any other specific offense characteristics, adjustments, or
3 departures relating to the applicable Offense Level be imposed.
4 The USAO will agree to a downward adjustment for acceptance of
5 responsibility (and, if applicable, move for an additional level
6 under 3E1.1(b)) only if the conditions set forth in this
7 agreement are met. Defendant agrees, however, that if, after
8 signing this agreement but prior to sentencing, defendant were to
9 commit an act, or the USAO were to discover a previously
10 undiscovered act committed by defendant prior to signing this
11 agreement, which act, in the judgment of the USAO, constituted
12 obstruction of justice withing the meaning of U.S.S.G. § 3C1.1,
13 the USAO would be free to seek the enhancement set forth in that
14 section. Additionally, each party reserves the right to argue,
15 and to dispute the arguments of the other, regarding the
16 applicability of 18 U.S.C. Section 3553(a) and other departure
17 factors.
18

19
20 19. Defendant understands that there is no agreement as to
21 defendant's criminal history or criminal history category.
22

23 20. The stipulations in this agreement do not bind either
24 the United States Probation Office or the Court. The Court will
25 determine the facts and calculations relevant to sentencing.
26 Both defendant and the USAO are free to: (a) supplement the facts
27 stipulated to in this agreement by supplying relevant information
28

1 to the United States Probation Office and the Court, (b) correct
2 any and all factual misstatements relating to the calculation of
3 the sentence, and (c) argue on appeal and collateral review that
4 the Court's sentencing calculations are not error, although each
5 party agrees to maintain its view that the calculations in
6 paragraph 18 are consistent with the facts of this case.
7

8 21. Defendant understands that if the Court finds facts or
9 reaches conclusions different from those in any stipulation
10 contained in this agreement, defendant cannot, for that reason
11 alone, withdraw defendant's guilty plea.
12

13 WAIVER OF CONSTITUTIONAL RIGHTS

14 22. By pleading guilty, defendant gives up the following
15 rights:

- 16 a) The right to persist in a plea of not guilty.
17 b) The right to a speedy and public trial by jury.
18 c) The right to the assistance of counsel at trial,
19 including, if defendant could not afford an attorney, the right
20 to have the Court appoint one for defendant. In this regard,
21 defendant understands that, despite his plea of guilty, he
22 retains the right to be represented by counsel at every other
23 stage of the proceedings.
24
25 d) The right to be presumed innocent and to have the
26 burden of proof placed on the government to prove defendant
27 guilty beyond a reasonable doubt.
28

1 e) The right to confront and cross-examine witnesses
2 against defendant.

3 f) The right, if defendant wished, to testify on
4 defendant's own behalf and present evidence in opposition to the
5 charges, including the right to call witnesses and to subpoena
6 those witnesses to testify.
7

8 g) The right not to be compelled to testify, and, if
9 defendant chose not to testify or present evidence, to have that
10 choice not be used against defendant.

11 h) Any and all rights to pursue any affirmative
12 defenses, Fourth Amendment or Fifth Amendment claims, and other
13 pretrial motions that have been filed or could be filed.
14

15 WAIVER OF APPEAL OF CONVICTION

16 23. Defendant understands that, with the exception of an
17 appeal based on a claim that defendant's guilty plea was
18 involuntary, by pleading guilty defendant is waiving and giving
19 up any right to appeal defendant's conviction on the offense to
20 which defendant is pleading guilty.
21

22 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

23 24. Defendant agrees that, provided the Court imposes a
24 term of imprisonment within or below the range corresponding to a
25 total offense level of 13 and the criminal history category
26 calculated by the Court, defendant gives up the right to appeal
27 all of the following: (a) the procedures and calculations used to
28

1 determine and impose any portion of the sentence; (b) the term of
2 imprisonment imposed by the Court; (c) the fine imposed by the
3 court, provided it is within the statutory maximum; (d) the
4 amount and terms of any restitution order, provided it requires
5 payment of no more than \$70,918; (e) the term of probation or
6 supervised release imposed by the Court, provided it is within
7 the statutory maximum; and (f) any of the following conditions of
8 probation or supervised release imposed by the Court: the
9 standard conditions set forth in General Orders 318, 01-05,
10 and/or 05-02 of this Court; the drug testing conditions mandated
11 by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug
12 use conditions authorized by 18 U.S.C. § 3563(b)(7).
13
14

15 25. The USAO agrees that, provided (a) all portions of the
16 sentence are at or below the statutory maximum specified above,
17 (b) the Court calculates the offense level to be used for
18 selecting a sentencing range under the Sentencing Guidelines to
19 be 13 or above prior to any departure under U.S.S.G. § 5K1.1, and
20 (c) the Court imposes a term of imprisonment within or above the
21 range corresponding to the offense level calculated after any
22 downward departure under U.S.S.G. § 5K1.1 and the criminal
23 history category calculated by the Court, the USAO gives up its
24 right to appeal any portion of the sentence, with the exception
25 that the USAO reserves the right to appeal the amount of
26 restitution ordered if that amount is less than \$70,918.
27
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1 RESULT OF WITHDRAWAL OF GUILTY PLEA

2 26. Defendant agrees that if, after entering the guilty
3 plea pursuant to this agreement, defendant seeks to withdraw and
4 succeeds in withdrawing defendant's guilty plea on any basis
5 other than a claim and finding that entry into this plea
6 agreement was involuntary, then (a) the USAO will be relieved of
7 all of its obligations under this agreement; and (b) should the
8 USAO choose to pursue any charge or any civil, administrative, or
9 regulatory action that was either dismissed or not filed as a
10 result of this agreement, then (i) any applicable statute of
11 limitations will be tolled between the date of defendant's
12 signing of this agreement and the filing commencing any such
13 action; and (ii) defendant waives and gives up all defenses based
14 on the statute of limitations, any claim of pre-indictment delay,
15 or any speedy trial claim with respect to any such action, except
16 to the extent that such defenses existed as of the date of
17 defendant's signing this agreement.
18

19 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

20 27. Defendant agrees that if the count of conviction is
21 vacated, reversed, or set aside, both the USAO and defendant will
22 be released from all their obligations under this agreement.
23

24 //

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1 EFFECTIVE DATE OF AGREEMENT

2 28. This agreement is effective upon signature and
3 execution by defendant, defendant's counsel, and an Assistant
4 United States Attorney.
5

6 BREACH OF AGREEMENT

7 29. Defendant agrees that if defendant, at any time after
8 the signature of this agreement and execution of all required
9 certifications by defendant, defendant's counsel, and an
10 Assistant United States Attorney, knowingly violates or fails to
11 perform any of defendant's obligations under this agreement ("a
12 breach"), the USAO may declare this agreement breached. For
13 example, if defendant knowingly, in an interview, before a grand
14 jury, or at trial, falsely accuses another person of criminal
15 conduct or falsely minimizes defendant's own role, or the role of
16 another, in criminal conduct, defendant will have breached this
17 agreement. All of defendant's obligations are material, a single
18 breach of this agreement is sufficient for the USAO to declare a
19 breach, and defendant shall not be deemed to have cured a breach
20 without the express agreement of the USAO in writing. If the
21 USAO declares this agreement breached, and the Court finds such a
22 breach to have occurred, then:
23
24

25 (a) If defendant has previously entered a guilty plea
26 pursuant to this agreement, defendant will not be able to
27 withdraw the guilty plea.
28

1 (b) The USAO will be relieved of all its obligations
2 under this agreement; in particular, the USAO: (i) will no longer
3 be bound by any agreements concerning sentencing and will be free
4 to seek any sentence up to the statutory maximum for the crime to
5 which defendant has pleaded guilty; (ii) will no longer be bound
6 by any agreements regarding criminal prosecution, and will be
7 free to criminally prosecute defendant for any crime, including
8 charges that the USAO would otherwise have been obligated not to
9 criminally prosecute pursuant to this agreement; and (iii) will
10 no longer be bound by any agreement regarding the use of
11 Cooperation Information and will be free to use any Cooperation
12 Information in any way in any investigation, criminal
13 prosecution, or civil, administrative, or regulatory action.
14

15 c) The USAO will be free to criminally prosecute
16 defendant for false statement, obstruction of justice, and
17 perjury based on any knowingly false or misleading statement by
18 defendant.
19

20 d) In any investigation, criminal prosecution, or
21 civil, administrative, or regulatory action: (i) defendant will
22 not assert, and hereby waives and gives up, any claim that any
23 Cooperation Information was obtained in violation of the Fifth
24 Amendment privilege against compelled self-incrimination; and
25 (ii) defendant agrees that any Cooperation Information and any
26 Plea Information, as well as any evidence derived from any
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1 Cooperation Information or any Plea Information, shall be
2 admissible against defendant, and defendant will not assert, and
3 hereby waives and gives up, any claim under the United States
4 Constitution, any statute, Rule 410 of the Federal Rules of
5 Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure,
6 or any other federal rule, that any Cooperation Information, any
7 Plea Information, or any evidence derived from any Cooperation
8 Information or any Plea Information should be suppressed or is
9 inadmissible.
10

11 30. Following the Court's finding of a knowing breach of
12 this agreement by defendant, should the USAO choose to pursue any
13 charge or any civil, administrative, or regulatory action that
14 was either dismissed or not filed as a result of this agreement,
15 then:
16

17 a) Defendant agrees that any applicable statute of
18 limitations is tolled between the date of defendant's signing of
19 this agreement and the filing commencing any such action.
20

21 b) Defendant waives and gives up all defenses based on
22 the statute of limitations, any claim of pre-indictment delay, or
23 any speedy trial claim with respect to any such action, except to
24 the extent that such defenses existed as of the date of
25 defendant's signing this agreement.

26 //

27 //

COURT AND PROBATION OFFICE NOT PARTIES

32. Defendant understands that the Court and the United States Probation Office are not parties to this agreement and need not accept any of the USAO's sentencing recommendations or the parties' agreements to facts or sentencing factors.

33. Defendant understands that both defendant and the USAO are free to: (a) supplement the facts by supplying relevant information to the United States Probation Office and the Court, (b) correct any and all factual misstatements relating to the Court's Sentencing Guidelines calculations, and (c) argue on appeal and collateral review that the Court's Sentencing Guidelines calculations are not in error, although each party agrees to maintain its views that the calculations in paragraph 18 are consistent with the facts of this case. While this paragraph permits both the USAO and defendant to submit full and complete factual information to the United States Probation Office and the Court, even if that factual information may be viewed as inconsistent with the facts agreed to in this agreement, this paragraph does not affect defendant's and the USAO's obligations not to contest the facts agreed to in this agreement.

34. Defendant understands that even if the Court ignores any sentencing recommendation, finds facts or reaches conclusions different from those agreed to, and/or imposes any sentence up to

1 the maximum established by statute, defendant cannot, for that
2 reason, withdraw defendant's guilty plea, and defendant will
3 remain bound to fulfill all defendant's obligations under this
4 agreement. Defendant understands that no one - not the
5 prosecutor, defendant's attorney, or the Court - can make a
6 binding prediction or promise regarding the sentence defendant
7 will receive, except that it will be within the statutory
8 maximum.
9

10 NO ADDITIONAL AGREEMENTS

11 35. Defendant understands that, except as set forth herein,
12 there are no promises, understandings, or agreements between the
13 USAO and defendant or defendant's attorney, and that no
14 additional promise, understanding, or agreement may be entered
15 into unless in a writing signed by all parties or on the record
16 in court.
17

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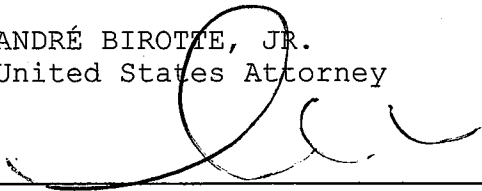
1 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

2 36. The parties agree that this agreement will be
3 considered part of the record of defendant's guilty plea hearing
4 as if the entire agreement had been read into the record of the
5 proceeding.
6

7 AGREED AND ACCEPTED

8 UNITED STATES ATTORNEY'S OFFICE
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 ANDRÉ BIROTTE, JR.
11 United States Attorney

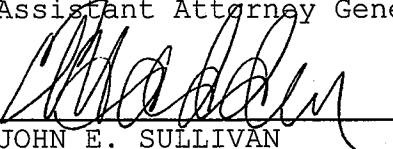
12 
13 SANDRA R. BROWN
14 Assistant United States Attorney
15 Chief, Tax Division

2/13/12

Date

16
17 UNITED STATES DEPARTMENT OF JUSTICE
18 TAX DIVISION

19 KATHRYN KENEALLY
20 Assistant Attorney General

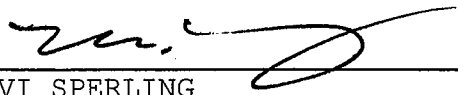
21 
22 JOHN E. SULLIVAN
23 Senior Litigation Counsel
24 ELIZABETH C. HADDEN
25 Assistant Chief
26
27
28

2/4/2013

Date

CERTIFICATION OF DEFENDANT

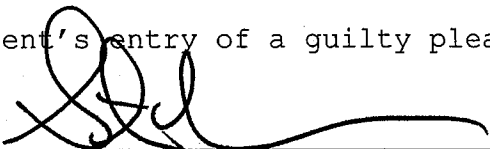
I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.


ZVI SPERLING
Defendant

2-1-13
Date

1 CERTIFICATION OF DEFENDANT'S ATTORNEY

2 I am Zvi Sperling's attorney. I have carefully and
3 thoroughly discussed every part of this agreement with my client.
4 Further, I have fully advised my client of his rights, of
5 possible pretrial motions that might be filed, of possible
6 defenses that might be asserted either prior to or at trial, of
7 the sentencing factors set forth in 18 U.S.C. § 3553(a), of
8 relevant Sentencing Guidelines provisions, and of the
9 consequences of entering into this agreement. To my knowledge:
10 no promises, inducements, or representations of any kind have
11 been made to my client other than those contained in this
12 agreement; no one has threatened or forced my client in any way
13 to enter into this agreement; my client's decision to enter into
14 this agreement is an informed and voluntary one; and the factual
15 basis set forth in this agreement is sufficient to support my
16 client's entry of a guilty plea pursuant to this agreement.
17

18 
19 _____
20 STEVEN TOSCHER
21 Counsel for Defendant
22 Zvi Sperling
23
24
25
26
27
28

2-1-13

Date

1 ATTACHMENT A

2 STATEMENT OF FACTS

3 SPERLING was born and raised in Tel Aviv, Israel. He moved
4 to the United States in 1990 to attend school. He is a United
5 States citizen and also holds an Israeli passport.

6 SPERLING's brother had moved to the United States years
7 earlier. His brother created a company in 1970, which sells
8 wholesale goods("the Company"). In 1975, SPERLING invested
9 \$10,000 into the Company and became part owner. Eventually,
10 SPERLING began working full time for the Company. SPERLING now
11 owns 49% of the Company and is the Executive Vice President.
12 SPERLING's brother owns 51% of the Company.

13 In or about 2001, SPERLING met with Banker 1 from Bank A in
14 Beverly Hills, California. During the meeting, Banker 1 offered
15 SPERLING an opportunity to open a secret bank account at Bank A
16 in Israel.

17 SPERLING and his brother already had a foreign bank account
18 in China that he used for business expenses because many of the
19 goods were imported from China. The money SPERLING and his
20 brother kept in China was profits from the Company that had not
21 been reported in the United States.

22 Banker 1 convinced SPERLING to move the money from China
23 into a bank account at Bank A in Israel. SPERLING wanted to keep
24 the money secret from the United States Government and Banker 1
25 ensured that the money would be secret at Bank A in Israel.

1 Banker 1 also explained that SPERLING could use the money by
2 borrowing against the money at Bank A in the United States.

3 SPERLING agreed to move the money to Bank A. SPERLING wire
4 transferred the money from China to Bank A in Israel. The
5 account was opened under an offshore nominee company's name.
6 Banker 1 arranged for an attorney in Israel to create the
7 offshore nominee. The name of the nominee company was "Orot
8 Investments, Limited ("Orot"). Orot means light in Hebrew. The
9 offshore nominee company was an Island of Nevis corporation. The
10 attorney was the authorized signer on the Orot account, however,
11 the attorney needed SPERLING's approval and signature to do
12 anything with the account. The account was opened this way in
13 order to keep it secret and make it harder to detect by the
14 United States Government.

15 The bank statements for the Orot account at Bank A were sent
16 to the attorney. The attorney then faxed the banks statements to
17 SPERLING in the United States. Also, when the SPERLING traveled
18 to Israel he would visit the attorney and look at his bank
19 statements while he was there.

20 SPERLING would also visit Bank A in Israel when he was
21 there. He would meet with Banker 2, Banker 3, and Banker 4 at
22 Bank A in Israel. SPERLING met with Banker 2 in Israel and
23 discussed how best to invest the money at Bank A to avoid
24 detection by the United States Government.

25 In or about 2003, SPERLING and his brother began borrowing

1 money from Bank A in Los Angeles using the Orot account at Bank A
2 in Israel as collateral. These loans were called "Back to Back
3 Loans." In order to be approved for the back to back loan at
4 Bank A in Los Angeles, SPERLING had to move the money at Bank A
5 in Israel into a Certificate of Deposit ("CD") account at Bank A.
6 SPERLING wanted to use the loans to expand the Comany and related
7 businesses. SPERLING signed most of the back to back loan
8 documents at Bank A in Los Angeles. SPERLING signed these
9 documents in the presence of Bank A bankers in Los Angeles.

10 SPERLING was told by Banker 5 at Bank A in Los Angeles, CA
11 that SPERLING had to have an account at Bank A in Israel to
12 "pledge" in order to get approved for the back to back loan in
13 Los Angeles, CA. Banker 5 told SPERLING that if he did not
14 pledge the Israeli account at Bank A as collateral for the back
15 to back loan then the loan would not be approved. SPERLING had to
16 sign a pledge document pledging the Israeli Bank A account as
17 collateral as part of the paper work for the back to back loan.

18 In or about 2006, SPERLING payed down part of the back to
19 back loan in order to reduce the pledge amount from the Orot
20 account at Bank A in Israel. SPERLING provided a check to a loan
21 officer at Bank A in Los Angeles, CA and told the loan officer to
22 make sure that his pledge in Israel got reduced by the amount of
23 the check.

24 There was about \$4 million in the Orot account in Bank A in
25 Israel. SPERLING never reported the Israeli account on his

1 federal income tax returns. SPERLING never reported the interest
2 earned on the Orot account. SPERLING also never filed Reports of
3 Foreign Bank and Financial Accounts ("FBAR") for the Orot
4 account.

5 In or about 2008, SPERLING was contacted by a loan officer
6 at Bank A. He was told that the Bank A branch in Los Angeles may
7 be closing and that he needed to pay off all of the back to back
8 loans. SPERLING paid off the back to back loans and moved all of
9 the money from Bank A to Bank B in Israel. SPERLING did not pay
10 off the loans with the money in Israel because he did not want
11 the United States Government to know about the money he had in
12 Israel.

13 A banker at Bank B while at a meeting at a hotel in Beverly
14 Hills, Los Angeles, California, told SPERLING that Bank B was
15 better able than Bank A to keep the accounts secret.

16 The banker explained that Bank B could arrange for back to
17 back loan for SPERLING. This banker and a loan officer from the
18 Beverly Hills branch of Bank B arranged for SPERLING to receive a
19 back to back loan from Bank B.

20 SPERLING never told his accountant about his undeclared
21 accounts at Bank A and Bank B, and failed to report any income
22 from the accounts on his individual income tax returns that were
23 filed with the IRS. For tax years 2005 through 2008, SPERLING
24 failed to report interest income of approximately \$381,563.

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Barbara Le

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2 RE: UNITED STATES OF AMERICA v. ZVI SPERLING

3
4
5 Service List

6 Steven Toscher, Esq.
7 Hochman, Salkin, Rettig, Toscher & Perez, P.C.
8 9150 Wilshire Blvd., Ste 300
9 Beverly Hills, CA 90212-3414
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