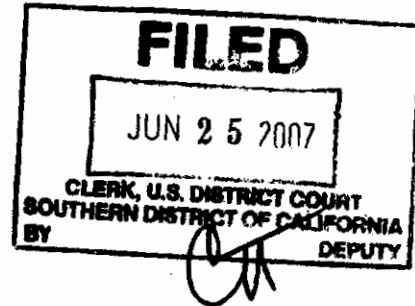


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7



8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA, ) Criminal Case No. 06CR1806-W  
11 Plaintiff, )  
12 v. )  
13 ) PLEA AGREEMENT  
14 KELLY MICHELLE FISHER-BUH (4), )  
15 Defendant. )

16 IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF AMERICA, through its  
17 counsel, KAREN P. HEWITT, United States Attorney, and Steven E. Stone, Assistant United States  
18 Attorney, and Defendant, KELLY MICHELE FISHER ("Defendant"), with the advice and consent of Joseph  
19 Milchen, counsel for Defendant, as follows:

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Def. Initials   
06CR1806-W

I

THE PLEA

Defendant agrees to plead guilty to Count 12 of the Indictment charging Defendant with tax evasion in violation of Title 26, United States Code, Section 7201, as follows:

From on or about January 1, 2001, up to and through April 15, 2002, within the Southern District of California, and elsewhere, defendant KELLY MICHELLE FISHER-BUH did willfully attempt to evade and defeat individual income taxes due and owing by her to the United States of America for the calendar year 2001, by failing to file a United States Individual Income Tax Return despite earning income of sufficient amount to require the filing of an individual income tax return, and by committing various affirmative acts of evasion, including concealing assets and income by maintaining bank accounts in nominee names, and receiving income in a nominee name. All in violation of Title 26, United States Code, Section 7201.

In exchange for Defendant's guilty plea to the above charge and subject to the conditions set forth herein, the Government agrees to dismiss Counts 10 and 11 of the Indictment immediately following the sentencing of Defendant.

In addition, Defendant agrees that her conduct in failing to file correct and accurate personal and corporate returns for the tax years 1999 and 2000 as alleged in Counts 10 and 11 of the Indictment will be used by the Government, the Probation Office, and the Court as relevant conduct under Section 1B1.3 of the United States Sentencing Guidelines Manual, November 2001, to determine tax loss for the purpose of sentencing.

II

NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

Defendant understands that the offense to which Defendant is pleading guilty has the following elements:

1. The defendant owed more federal income tax than was declared due on the defendant's income tax return;
2. The defendant knew that more federal income tax was owed than was declared due on the defendant's income tax return;

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Def. Initials   
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1           3.     The defendant made an affirmative attempt to evade or defeat an income tax within  
2                     the Southern District of California; and

3           4.     The defendant acted willfully in attempting to evade or defeat such additional tax.

4     **B.     ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS**

5           Defendant has fully discussed the facts of this case with defense counsel. Defendant has committed  
6 each of the elements of the crime, and admits that there is a factual basis for this guilty plea. The following  
7 facts are true and undisputed:

8           1.     For each of the calendar years 1999, 2000, and 2001, Defendant willfully intended  
9                     to evade and did evade her federal income taxes by failing to declare all or part of her  
10                    wages and income in those calendar years.

11          2.     For the calendar years, 1999 through 2001, Defendant worked at Commercial Money  
12                     Center in a variety of capacities. Specifically, she worked under the direction of her  
13                     father, R. Fisher, and brother, M. Fisher, on a variety of projects. She received both  
14                     a salary and commissions from her work at Commercial Money Center.

15          3.     Defendant's larger, unsalaried portion of her compensation (commissions) from  
16                     Commercial Money Center was made payable to an entity called Stegie, Inc.  
17                     ("Stegie"). These commissions were deposited into a bank account in the name of  
18                     Stegie controlled by Defendant for her personal use. Defendant and, at times, her  
19                     husband were the only signatories on the account.

20          4.     Stegie was an alter ego entity with no legitimate business purpose used by Defendant  
21                     to evade federal income taxes. Stegie was incorporated in Nevada in March 1999 by  
22                     Defendant and her brother, M. Fisher. Defendant and her brother, M. Fisher, were  
23                     Stegie's only officers. Stegie did not maintain a general operating account, any  
24                     books or records, record minutes or conduct board meetings. No corporate tax  
25                     returns were ever filed for Stegie and no payroll taxes were paid.

26          5.     Defendant received unreported income through Stegie for the years 1999, 2000, and  
27                     2001. This conduct, as Defendant then and there well knew, constituted willful and  
28                     intentional acts to understate personal taxable income.

1 6. For the years 1999 to 2001, Defendant's evasion of taxes provided for a total  
2 underreporting of \$239,845 in personal taxable income and \$59,575.31 in personal  
3 taxes due and owing.

4 7. For the calendar year 1999, Defendant failed to declare all or part of her wages and  
5 income, willfully evading taxes due and owing as follows:

6 a. On or about December 26, 2001, Defendant signed and submitted for filing  
7 with the Internal Revenue Service a joint U.S. Individual Income Tax Return,  
8 Form 1040, on behalf of herself and her spouse, within the Southern District  
9 of California, wherein it was stated that their joint taxable income for said  
10 calendar year was the sum of \$30,408, and that the amount of tax due and  
11 owing thereon was the sum of \$5,602.

12 b. Defendant then and there well knew and believed that such return did not  
13 report their true taxable income for said calendar because during 1999 she  
14 received commission checks and other payments constituting income which  
15 she knowingly did not declare on the 1999 income tax return.

16 c. Defendant had true and actual joint taxable income for calendar year 1999 in  
17 the sum of \$93,008, upon which said joint taxable income there was owing  
18 to the United States an income tax of \$21,489.

19 8. For the calendar year 2000, Defendant failed to declare all or part of her wages and  
20 income, willfully evading taxes due and owing as follows:

21 a. On or about June 10, 2002, Defendant signed and submitted for filing with  
22 the Internal Revenue Service a joint U.S. Individual Income Tax Return,  
23 Form 1040, on behalf of herself and her spouse, within the Southern District  
24 of California, wherein it was stated that their joint taxable income for said  
25 calendar year was the sum of \$61,429, and that the amount of tax due and  
26 owing thereon was the sum of \$11,499.

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1 b. Defendant then and there well knew and believed that such return did not  
2 report their true taxable income for said calendar because during 2000 she  
3 received commission checks and other payments constituting income which  
4 she knowingly did not declare on the 2000 income tax return.

5 c. Defendant had true and actual joint taxable income for calendar year 2000 in  
6 the sum of \$151,801, upon which said joint taxable income there was owing  
7 to the United States an income tax of \$38,179.31.

8 9. For the calendar year 2001, Defendant did not file any tax returns with the Internal  
9 Revenue Service. Defendant had true taxable income for calendar year 2001 in the  
10 sum of \$80,173, upon which said taxable income there was owing to the United  
11 States an income tax of \$17,008.

12 III

13 PENALTIES

14 Defendant understands that the crime to which Defendant is pleading guilty carries the following  
15 penalties:

- 16 A. a maximum 5 years in prison;  
17 B. a maximum \$100,000 fine;  
18 C. a mandatory special assessment of \$100 per count; and  
19 D. a term of supervised release of at least 2 years but no more than 3 years. Defendant  
20 understands that failure to comply with any of the conditions of supervised release may result  
21 in revocation of supervised release, requiring Defendant to serve in prison all or part of the  
22 term of supervised release.

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IV

**DEFENDANT'S WAIVER OF TRIAL RIGHTS**

Defendant understands that this guilty plea waives her right to:

- A. continue to plead not guilty and require the United States to prove the elements of the crime beyond a reasonable doubt;
- B. a speedy and public trial by jury;
- C. the assistance of counsel at all stages of trial;
- D. confront and cross-examine adverse witnesses;
- E. present evidence and to have witnesses testify on behalf of Defendant; and
- F. not testify or have any adverse inferences drawn from the failure to testify.

V

**DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION**

The United States represents that any information establishing the factual innocence of Defendant known to the undersigned prosecutor in this case has been turned over to Defendant. The United States will continue to provide such information establishing the factual innocence of Defendant.

Defendant understands that if this case proceeded to trial, the United States would be required to provide impeachment information relating to any informants or other witnesses. In addition, if Defendant raised an affirmative defense, the United States would be required to provide information in its possession that supports such a defense. Defendant acknowledges, however, that by pleading guilty Defendant will not be provided this information, if any, and Defendant also waives the right to this information. Finally, Defendant agrees not to attempt to withdraw the guilty plea or to file a collateral attack based on the existence of this information.

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VI

**DEFENDANT'S REPRESENTATION THAT GUILTY  
PLEA IS KNOWING AND VOLUNTARY**

Defendant represents that:

- A. Defendant has had a full opportunity to discuss all the facts and circumstances of this case with defense counsel, and has a clear understanding of the charges and the consequences of this plea;
- B. No one has made any promises or offered any rewards in return for this guilty plea, other than those contained in this plea agreement or otherwise disclosed to the court;
- C. No one has threatened Defendant or Defendant's family to induce this guilty plea; and
- D. Defendant is pleading guilty because in truth and in fact Defendant is guilty and for no other reason.

VII

**AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE  
SOUTHERN DISTRICT OF CALIFORNIA**

This plea agreement is limited to the United States Attorney's Office for the Southern District of California, and cannot bind any other federal, state or local prosecuting, administrative, or regulatory authorities, although the United States will bring this plea agreement to the attention of other authorities if requested by Defendant.

VIII

**APPLICABILITY OF THE SENTENCING GUIDELINES**

Defendant understands the sentence imposed will be based on the factors set forth in 18 U.S.C. § 3553(a). Defendant understands further that in imposing the sentence, the sentencing judge must consult the United States Sentencing Guidelines (Guidelines) and take them into account. Defendant has discussed the Guidelines with defense counsel and understands that the Guidelines are only advisory, not mandatory, and the court may impose a sentence more severe or less severe than otherwise applicable under the Guidelines, up to the maximum in the statute of conviction. Defendant understands further that the sentence cannot be determined until a presentence report has been prepared by the U.S. Probation Office and defense counsel and the Government have had an opportunity to review and challenge the presentence report. Nothing in this plea agreement shall be construed as limiting the Government's duty to provide complete and accurate facts to the district court and the U.S. Probation Office.

Def. Initials KJ  
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IX

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). Defendant understands that the sentence is within the sole discretion of the sentencing judge. The Government has not made and will not make any representation as to what sentence Defendant will receive. Defendant understands that the sentencing judge may impose the maximum sentence provided by statute, and is also aware that any estimate of the probable sentence by defense counsel is a prediction, not a promise, and is not binding on the Court. Likewise, the recommendation made by the Government is not binding on the Court, and it is uncertain at this time what defendant's sentence will be. Defendant also has been advised and understands that if the sentencing judge does not follow any of the parties' sentencing recommendations, Defendant nevertheless has no right to withdraw the plea.

X

PARTIES' SENTENCING RECOMMENDATIONS

A. SENTENCING GUIDELINE CALCULATIONS

Although the parties understand that the Guidelines are only advisory and just one of the factors the court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly recommend the following Base Offense Level, Specific Offense Characteristics, and Adjustments under the Guidelines in effect as of November 1, 2001:

1.	Base Offense Level [§ 2T1.1(a); 2T4.1(E)] [More than \$30,000 in tax loss]	+14
2.	Use of sophisticated means [§ 2T1.1(b)(2)]	+2
3.	Acceptance of Responsibility [§ 3E1.1]	- 3
	<b>RESULTING OFFENSE LEVEL</b>	<b>13</b>

B. ACCEPTANCE OF RESPONSIBILITY

Notwithstanding paragraph A.3 above, the Government will not recommend any adjustment for Acceptance of Responsibility if defendant:

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Def. Initials *KJ*  
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- 1 1. Fails to admit a complete factual basis for the plea at the time it is entered, or
- 2 2. Denies involvement in the offense, gives conflicting statements about that
- 3 involvement, or is untruthful with the Court or probation officer, or
- 4 3. Fails to appear in court, or
- 5 4. Engages in additional criminal conduct, or
- 6 5. Attempts to withdraw the plea, or
- 7 6. Refuses to abide by any lawful court order.

8 C. ADJUSTMENTS

9 Defendant hereby reserves the right to request any additional adjustments. The Government reserves  
10 the right to oppose any adjustment not set forth in Section X, paragraph A above.

11 D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

12 There is no agreement as to Defendant's Criminal History Category.

13 E. DEPARTURES

14 Defendant hereby reserves the right to request any additional downward departures. The  
15 Government reserves the right to oppose any downward departure not set forth in Section X, paragraph A  
16 above.

17 F. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

18 The parties agree that the facts in the "factual basis" paragraph of this agreement are true, and may  
19 be considered as "relevant conduct" under USSG § 1B1.3 and as the nature and circumstances of the offense  
20 under 18 U.S.C. § 3553(a)(1).

21 G. PARTIES' RECOMMENDATIONS REGARDING CUSTODY

22 The Government will recommend that Defendant be sentenced to the low end of the advisory  
23 guideline range as calculated by the Government pursuant to this agreement. However, if the Court adopts  
24 an offense level or downward adjustment or departure below the Government's recommendations in this plea  
25 agreement, the Government will recommend a sentence as near as possible to what the sentence would have  
26 been if the Government's recommendations had been followed.

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1 H. SPECIAL ASSESSMENT AND FINE

2 Special Assessment. The parties will jointly recommend that Defendant pay a special assessment in  
3 the amount of \$100.00 to be paid forthwith at time of sentencing. The special assessment shall be paid  
4 through the office of the Clerk of the District Court by bank or cashier's check or money order made payable  
5 to the "Clerk, United States District Court."

6 Fine. The parties will jointly recommend that Defendant pay a fine at the low end of the applicable  
7 Guidelines range determined by the Court. The fine shall be paid through the Office of the Clerk of the  
8 District Court by bank or cashier's check or money order made payable to the "Clerk, United States District  
9 Court."

10 XI

11 DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

12 In exchange for the Government's concessions in this plea agreement, Defendant waives, to the full  
13 extent of the law, any right to appeal or to collaterally attack the conviction and sentence, including any  
14 restitution order, unless the court imposes a custodial sentence greater than the high end of the guideline  
15 range (or statutory mandatory minimum term, if applicable) recommended by the United States pursuant to  
16 this plea agreement at the time of sentencing. If the custodial sentence is greater than the high end of that  
17 range, Defendant may appeal, but the United States will be free to support on appeal the sentence actually  
18 imposed. If Defendant believes the Government's recommendation is not in accord with this plea  
19 agreement, Defendant will object at the time of sentencing; otherwise the objection will be deemed waived.

20 XII

21 CRIMES AFTER ARREST OR BREACH OF THE AGREEMENT WILL PERMIT THE  
22 UNITED STATES TO RECOMMEND A HIGHER SENTENCE OR SET ASIDE THE PLEA

23 This plea agreement is based on the understanding that, prior to Defendant's sentencing in this case,  
24 Defendant has not committed or been arrested for any offense not known to the United States prior to  
25 Defendant's sentencing. This plea agreement is further based on the understanding that Defendant has  
26 committed no criminal conduct since Defendant's arrest on the present charges, and that Defendant will  
27 commit no additional criminal conduct before sentencing. If Defendant has engaged in or engages in  
28 additional criminal conduct during this period, or breaches any of the terms of any agreement with the

1 United States, the Government will not be bound by the recommendations in this plea agreement, and may  
2 recommend any lawful sentence. In addition, at its option, the United States may move to set aside the plea.

3 XIII

4 ENTIRE AGREEMENT

5 This plea agreement embodies the entire plea agreement between the parties and supersedes any other  
6 plea agreement, written or oral.

7 XIV

8 MODIFICATION OF AGREEMENT MUST BE IN WRITING

9 No modification of this plea agreement shall be effective unless in writing signed by all parties.

10 XV

11 DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

12 By signing this plea agreement, Defendant certifies that Defendant has read it (or that it has been read  
13 to Defendant in Defendant's native language). Defendant has discussed the terms of this plea agreement  
14 with defense counsel and fully understands its meaning and effect.

15 XVI

16 DEFENDANT SATISFIED WITH COUNSEL

17 Defendant has consulted with counsel and is satisfied with counsel's representation.

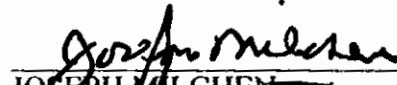
18 KAREN P. HEWITT  
United States Attorney

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20 STEVEN E. STONE  
Assistant United States Attorney


21 6/25/07  
DATED

22 6/25/07  
DATED

23   
JOSEPH MILCHEN  
Attorney for Defendant

24  
25 IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER  
26 PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" PARAGRAPH ABOVE  
27 ARE TRUE.

28 6/25/07  
DATED

29   
KELLY MICHELE FISHER  
Defendant