



U.S. Department of Justice

Kenneth L. Wainstein
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

September 8, 2006

Michelle M. Peterson, Esq.
Assistant Federal Public Defender
625 Indiana Avenue, N.W., Suite 550
Washington, D.C. 20004

Steven E. Fagell, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

FILED

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NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Re: United States v. Walter Anderson 05-66 (PLF)

Dear Ms. Peterson and Mr. Fagell:

This letter sets forth the full and complete plea offer to your client, Walter C. Anderson. This offer is by the Criminal Division of the United States Attorney's Office for the District of Columbia and the Tax Division of the U.S. Department of Justice (the "Offices") and is binding upon both. Upon receipt, the executed letter will itself become the plea agreement. The terms of the offer are as follows:

1. **Charges:** Pursuant to Fed. R. Crim. P. 11(c)(1)(C), Mr. Anderson agrees to waive his right to a trial and to plead guilty to Counts V (Tax Evasion for 1998), VI (Tax Evasion for 1999) and XI (D.C. Fraud for 1999) of the Indictment. It is understood that the guilty plea will be based on a factual admission of guilt to the offenses charged and will be entered in accordance with Rule 11 of the Federal Rules of Criminal Procedure.
2. **Penalties and assessments:** Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and Mr. Anderson agree that the maximum term of imprisonment will be ten years. Mr. Anderson agrees that the court shall sentence Mr. Anderson after a consideration of the factors contained in 18 U.S.C. §3553(a), and the court is obligated to calculate and consider, but is not bound by, the United States Sentencing Guidelines (2001). Mr. Anderson agrees that for purposes of the calculation of a guideline sentence the tax loss in this matter exceeds \$100 million, and that the offense involved sophisticated means. The government agrees that Mr. Anderson is entitled to a three level reduction for acceptance of responsibility. Mr. Anderson also agrees to pay the special assessment of \$200 within ten (10) days of sentencing by cashier's

check or certified check made payable to Clerk, United States District Court for the District of Columbia.

3. **Waiver of Rights:** Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410 limit the admissibility of statements made in the course of plea proceedings or plea discussions in both civil and criminal proceedings, if the guilty plea is later withdrawn. Mr. Anderson expressly warrants that he has discussed these rules with his counsel and understands them. Mr. Anderson voluntarily waives and gives up the rights enumerated in Federal Rule of Criminal Procedure 11(f) and Federal Rule of Evidence 410. Mr. Anderson understands and agrees that any statements that he makes in the course of its guilty plea or in connection with this plea agreement are admissible against Mr. Anderson for any purpose in any criminal or civil proceeding, if the guilty plea is subsequently withdrawn.

Mr. Anderson waives all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this agreement is signed in the event that (1) Mr. Anderson's conviction is later vacated for any reason or (2) Mr. Anderson violates this agreement. Mr. Anderson agrees that with respect to all charges referred to in the indictment, he is not a "prevailing party" within the meaning of the "Hyde Amendments," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law. Mr. Anderson further agrees not to file any claims under that law or claims of any other type against the Department of Justice, or any components of the Department, including the U.S. Attorney's Office, or against the Treasury Department or any components of the department, including the Internal Revenue Service, or against any personnel of those departments and component offices or agencies, based on the conduct during the investigation and prosecution of this case.

4. **Restitution:** Mr. Anderson agrees that the court may order restitution pursuant to 18 U.S.C. § 3572 and 16 D.C. Code § 711.

5. **Court is Not Bound:** Mr. Anderson understands that this plea offer is contingent upon acceptance by the Court. If the Court refuses to accept any provision of this plea agreement, neither party shall be bound by the provisions of the agreement, and Mr. Anderson shall have the right to withdraw its plea pursuant to Fed. R. Crim. P. 11(c)(5).

6. **Breach of Agreement:** Mr. Anderson agrees that if he fails to comply with any of the provisions of this plea agreement, makes false or misleading statements before the Court, commits any further crimes, or attempts to withdraw the plea, the United States will have the right to characterize such conduct as a breach of this plea agreement. In the event of such a breach, (a) the United States will be free from its obligations under the agreement and may take whatever position it believes appropriate as to the sentence (for example, should your client commit any conduct after the date of this agreement – examples of which include but are not limited to, obstruction of justice and false statements to law enforcement agents, the probation office or the Court – the government is free under this agreement to seek an increase in sentencing based on that post-agreement conduct); (b) Mr. Anderson will not have the right to

withdraw the guilty plea; (c) Mr. Anderson shall be fully subject to criminal prosecution for any other crimes which it has committed or might commit, if any, including perjury and obstruction of justice; and (d) the United States will be free to use against Mr. Anderson, directly and indirectly, in any criminal or civil proceeding any of the information or materials provided by it pursuant to this agreement.

In the event of such breach, any such prosecutions of Mr. Anderson not time-barred by the applicable statute of limitations on the date of the signing of this agreement may be commenced against him in accordance with this paragraph, notwithstanding the running of the applicable statute of limitations in the interval between now and the commencement of such prosecutions. Mr. Anderson knowingly and voluntarily agrees to waive any and all defenses based on the statute of limitations for any prosecutions commenced pursuant to the provisions of this paragraph.

7. **Complete Agreement:** No other agreements, promises, understandings, or representations have been made by the parties or their counsel than those contained in writing herein, nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by Mr. Anderson, the United States Attorney for the District of Columbia, and the Department of Justice, Tax Division.

This agreement does not bind any federal, state, or local prosecuting authority other than the Offices, and does not prohibit the Offices from initiating or prosecuting any civil or administrative proceedings directly or indirectly involving Mr. Anderson, including, but not limited to, proceedings by the Internal Revenue Service or the District of Columbia Office of Tax and Revenue relating to potential civil tax liability.

If the foregoing terms and conditions are satisfactory, Mr. Anderson may indicate his assent by signing the agreement in the space indicated below and returning the original to the United States Attorney's Office for the District of Columbia once it has been signed by Mr. Anderson and his counsel.

Date: 9/8/06

Kenneth L. Wainstein
KENNETH L. WAINSTEIN
UNITED STATES ATTORNEY

Date: 9/8/06

Susan B. Menzer
SUSAN B. MENZER
ASSISTANT U.S. ATTORNEY
Fraud & Public Corruption Section
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 514-6869

Date: 9/8/06

Karen E. Kelly
KAREN E. KELLY
TRIAL ATTORNEY
U.S. Department of Justice
Tax Division, Criminal Enforcement Section
601 D Street, N.W.
Washington, D.C. 20530

Date: 9/8/06

Walter C. Anderson
WALTER C. ANDERSON
DEFENDANT

On behalf of Mr. Anderson, I have read this plea agreement and have discussed it with him. Mr. Anderson does this voluntarily of his own free will, intending to be legally bound. No threats have been made to Mr. Anderson and he is pleading guilty because Mr. Anderson is in fact guilty of the offenses identified in paragraph one.

Date: 9/8/06

Michelle M. Peterson
MICHELLE M. PETERSON
Counsel for Walter C. Anderson

Date: 9/8/06

Steven A. Fagell
STEVEN A. FAGELL
Counsel for Walter C. Anderson