

UNITED STATES TAX COURT

WALTER C. ANDERSON,)
)
 Petitioner,)
)
 v.) Docket No. 20364-07
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ANSWER

RESPONDENT, in answer to the petition filed in the above-entitled case, admits, denies and alleges as follows:

1. Admits. Alleges that Petitioner's complete Prisoner Registry Number is 27981-016.
2. Admits. Alleges that the notice of deficiency was mailed to petitioner on July 17, 2007.
3. Admits. Alleges that all of the deficiencies and penalties are in dispute.
4. Denies the respondent erred as alleged in paragraph 4, pages 3 through 6 of the petition. Alleges with respect to petitioner's ISSUE III that the Court lacks jurisdiction over uncollected interest that is not the subject of a claim for abatement under I.R.C section 6404(e). Further denies the factual allegations contained within the section of paragraph 4 labeled "SUMMARY OF ASSIGNMENT OF ERRORS" on page 6 of the petition.

5. In the absence of numbered subparagraphs, respondent will answer the allegations of paragraph 5 by subparagraph and page number, responding by sentence where necessary, in sections as labeled by petitioner.

ISSUE I - 1995-1999, Section A.

First unnumbered subparagraph on page 7. Admits the first sentence, including the quotation from the notice of deficiency. Denies the remaining allegations of the subparagraph.

Second unnumbered subparagraph on page 7. Admits that Gold & Appel Transfer S.A. is a British Virgin Islands corporation as alleged in the second sentence. Denies the remaining allegations of the subparagraph.

Third unnumbered subparagraph on page 7. Admits. Alleges that it was petitioner who caused the formation of Gold & Appel.

Fourth unnumbered subparagraph on page 7. Denies the entire subparagraph for lack of sufficient information.¹

¹ Numerous allegations in the petition are being denied for lack of sufficient information. Although some of such allegations may be susceptible of admission in whole or in part based on information in the possession of respondent's Criminal Investigation Division, the Criminal Investigation Division is prevented from giving access to much of the information in its possession to respondent's undersigned counsel by the provisions of Rule 6 of the Federal Rules of Criminal Procedure. Respondent's counsel is in the process of applying for a 6(e) order permitting him access to that information, and when

Fifth unnumbered subparagraph on page 7. Denies that any transactions between petitioner and Gold & Appel were arms length as alleged in the second sentence. Denies the remaining allegations of the subparagraph for lack of sufficient information.

Sixth unnumbered subparagraph on page 7. Denies for lack of sufficient information.

First unnumbered subparagraph on page 8. Admits the second sentence. Denies the remaining allegations of the subparagraph for lack of sufficient information.

Second unnumbered subparagraph on page 8. Admits the first, second, fifth and sixth sentences. Denies the remaining allegations of the subparagraph for lack of sufficient information.

Third unnumbered subparagraph on page 8. Denies for lack of sufficient information.

Fourth unnumbered subparagraph on page 8, as continued at the top of page 9. Admits that financial transactions occurred between petitioner and Gold & Appel in the forms of loans, expense reimbursements, the payment of consulting and management

information becomes available to counsel on petitioner's allegations that have been denied for lack of information, respondent will modify his position on such matters, either by amended answer or through the stipulation process.

service fees to Entre International, and the payment of salary, bonus, and share options related to petitioner's employment with Esprit Telecom Plc. Denies the remaining allegations of the subparagraph for lack of sufficient information.

First full unnumbered subparagraph on page 9. Admits the first and second sentences. Admits that the criminal investigation and related Grand Jury Investigation were thorough, but denies they were complete and exhaustive, as alleged in the third sentence, for lack of sufficient information. Admits the fourth sentence. Denies the fifth and sixth sentences for lack of sufficient information. Admits the ninth sentence, except denies that the picture of petitioner's activities presented by the government's evidence was comprehensive, for lack of sufficient information.

Second full unnumbered subparagraph on page 9. Admits the first, third, and fifth sentences. Denies the second sentence for lack of sufficient information. Denies the fourth and eighth sentences. Admits the sixth sentence, except alleges that the guilty plea was to three of the 12 counts of the superceding indictment. Denies the seventh sentence; alleges that the reservation expressed by petitioner through counsel was that "Mr. Anderson does not concede that every fact contained within the indictment is accurate."

Third full unnumbered subparagraph on page 9, as continued at the top of page 10. Denies the first sentence. Admits that government witnesses testified that petitioner followed some of the proper corporate forms as alleged in the second sentence, to the extent that the offshore entities he created were legal entities that existed in their respective jurisdictions; denies the remaining allegations of the second sentence. Admits the third sentence, except denies any implication that the forensic accountants had access to all pertinent material about Gold & Appel. Admits the fourth sentence. Denies the fifth sentence for lack of sufficient information; alleges that there is no EXHIBIT B attached to the copy of the petition served on the respondent.

First full unnumbered subparagraph on page 10. Admits that the quotation is an accurate representation of the quoted portion of the accountant's report; denies the remaining allegations of the subparagraph, including the facts stated in the quotation, for lack of sufficient information.

Second full unnumbered subparagraph on page 10. Admits that the quotation is an accurate representation of the quoted portion of the accountant's report; denies the remaining allegations of the subparagraph, including the facts stated in the quotation, for lack of sufficient information.

Third full unnumbered subparagraph on page 10. Admits that the Government did not contest the report at petitioner's sentencing hearing; denies the remaining allegations of the subparagraph. Alleges that the accountant's report was received in evidence without objection from the United States because the theory of the prosecution did not require challenging the form of the transactions adopted by the defendant.

SUMMARY OF STATEMENT OF FACTS FOR ISSUE I - part A for years 1995 to 1999

First through fifth unnumbered subparagraphs on page 11. Denies.

Subparagraph B. at the top of page 12. Admits that the notice of deficiency does not explicitly state petitioner owned Gold & Appel Transfer S.A. as alleged in the first sentence; denies the remaining allegations of the first sentence. Admits the second sentence. Admits the third sentence; alleges that the respondent determined that Gold & Appel Transfer S.A. is a controlled foreign corporation of which petitioner is the sole United States shareholder.

First unnumbered subparagraph on page 12. Neither admits nor denies, as this subparagraph contains no allegations of fact.

Second unnumbered subparagraph on page 12. Denies the first sentence; alleges that petitioner admitted through counsel at the guilty plea hearing that he retained control over the assets of Gold & Appel Transfer S.A. and was required under U.S. law to pay tax on the gains from those assets. Denies the second sentence.

Third unnumbered subparagraph on page 12. Denies the first sentence, except admits that petitioner created the "Smaller World Trust." Denies the second sentence for lack of sufficient information. Denies the third sentence.

Fourth unnumbered subparagraph on page 12. Admits.

First unnumbered subparagraph on page 13. Admits that petitioner created the "Smaller World Trust," as alleged in the first sentence; denies the remaining allegations of the first sentence. Denies the second sentence for lack of sufficient information. Admits that petitioner formed Iceberg Transport S.A., a Panama corporation, and then arranged for the shares of Gold & Appel Transfer, S.A. to be transferred to Iceberg Transport, as alleged in the third sentence; denies the remaining allegations of the third sentence; and alleges that Icomnet acted at all times with respect to Gold & Appel as a nominee or accommodation party for petitioner, who was the sole beneficial owner of Gold & Appel.

Second unnumbered subparagraph on page 13. Admits the first and third sentences. Denies the second sentence. Admits the fourth sentence, except alleges that the legal and accounting professionals were engaged by petitioner. Denies the fifth sentence.

Third unnumbered subparagraph on page 13. Admits the first sentence, except denies any implication that the disclosures to the SEC were complete and accurate. Denies the second sentence for lack of sufficient information. Admits the third sentence. Admits that some of the SEC filings disclaimed beneficial ownership of Gold & Appel by petitioner as alleged in the fourth sentence; denies any implication that the disclosures to the SEC were complete and accurate; denies the remaining allegations of the fourth sentence. Denies the fifth sentence for lack of sufficient information, except denies that Gold & Appel made a good faith effort to comply with all legal requirements of various jurisdictions.

First unnumbered subparagraph on page 14. Admits that petitioner did not hide his management control over Gold & Appel as alleged in the third sentence. Denies the remaining allegations of the subparagraph for lack of sufficient information.

Second unnumbered subparagraph on page 14. Denies the first and third sentences for lack of sufficient information. Denies the second and sixth sentences. Admits that petitioner intended to have an active role in the administration of the "trust", as alleged in the fourth sentence; denies the remaining allegations of the fourth sentence for lack of sufficient information. Admits the fifth sentence, except denies any implication that petitioner has revealed the details of the "Smaller World Trust" at some time since 2002.

Third unnumbered subparagraph on page 14. Denies the first, second, and fifth sentences. Denies the third and fourth sentences for lack of sufficient information.

First unnumbered subparagraph on page 15. Denies the first and third sentences for lack of sufficient information. Admits the second sentence. Denies the third sentence for lack of sufficient information. Denies the fourth sentence for lack of sufficient information; alleges that there is no EXHIBIT C attached to the copy of the petition served on the respondent. Admits the fifth sentence, except denies any implication that the information referred to is accurate.

MID ATLANTIC TELECOM

Second unnumbered subparagraph on page 15. Denies the first sentence for lack of sufficient information. Admits the second through the fourth sentences. Admits that Mid-Atlantic served customers in Washington, DC, Virginia, Maryland, Delaware, Pennsylvania, West Virginia, and New York City, as alleged in the fifth sentence; denies the remaining allegations of the fifth sentence for lack of sufficient information. Admits the sixth and seventh sentences. Denies the eighth sentence, except admits that petitioner transferred a significant portion of his Mid Atlantic Telecom shares to Gold & Appel Transfer S.A. and that Icomnet was partly owned, but controlled by petitioner. Denies the ninth through the eleventh sentences. Admits the twelfth sentence, except denies that the legal and accounting professionals had access to all of the transactions and documents pertaining to Gold & Appel. Admits the thirteenth sentence.

TELCO COMMUNICATION GROUP INC.

First unnumbered subparagraph on page 16. Admits the first sentence. Denies the remaining allegations of the subparagraph for lack of sufficient information.

Second unnumbered subparagraph on page 16. Denies the first sentence. Denies the second through the fourth sentences for lack of sufficient information. Admits the fifth and sixth sentences.

Third unnumbered subparagraph on page 16. Admits the first sentence. Denies the second and third sentences. Admits that the petitioner arranged with TELCO management to allow Iceberg to obtain the shares that he previously held, as alleged in the fourth sentence; denies the remaining allegations of the fourth sentence. Admits that significant sums of Gold & Appel funds were used by TELCO to fund its initial business activities, as alleged in the fifth sentence; denies the remaining allegations of the fifth sentence.

First unnumbered subparagraph on page 17. Admits that Iceberg Transport transferred the shares in TELCO to Gold & Appel where the petitioner was actively managing investment activities, as alleged in the first sentence; denies the remaining allegations of the first sentence for lack of sufficient information. Admits the second through the fourth sentences.

Second unnumbered subparagraph on page 17. Admits the first sentence; alleges that the audits referred to were financial audits. Admits the second sentence. Denies the third

sentence. Admits the fourth sentence, except denies that no United States citizens were beneficial owners of Iceberg Transport.

Third unnumbered subparagraph on page 17 as continued on page 18. Admits the first and second sentences. Admits the third sentence, except denies that the legal and accounting professionals were given complete and accurate information about Gold & Appel. Denies the fourth through sixth and the tenth sentences for lack of sufficient information. Admits the seventh, eighth, and thirteenth sentences, except denies any implication that the disclosures to the SEC were complete and accurate regarding petitioner's relationship to Gold & Appel and Iceberg Transport. Denies the ninth sentence. Admits the eleventh and twelfth sentences.

First full unnumbered subparagraph on page 18. Admits the first and second sentences. Denies the third sentence. Denies the fourth sentence for lack of sufficient information.

ESPRIT TELECOM PLC. / ICOMNET

Second full unnumbered subparagraph on page 18. Admits the first sentence. Admits that Icomnet S.A. was a British Virgin Islands corporation, as alleged in the second sentence; denies the remaining allegations of the second sentence for lack of

sufficient information. Denies the third, fourth, and fifth sentences for lack of sufficient information.

Third full unnumbered subparagraph on page 18, as continued on page 19. Denies the first sentence; alleges that petitioner formed Gold & Appel Transfer S.A. and caused its shares to be titled in the name of Icomnet as a nominee or accommodation party with no beneficial interest. Denies the second through the fourth sentences for lack of sufficient information.

First full unnumbered subparagraph on page 19. Admits the first sentence. Denies the remaining allegations of the subparagraph for lack of sufficient information.

Second full unnumbered subparagraph on page 19. Admits the first sentence, except denies that the petitioner negotiated the sale of Esprit Telecom to GTS and denies that petitioner served as CEO of Esprit after 1997. Admits the second and third sentences. Denies the fourth sentence; alleges that petitioner transferred the shares in question to Gold & Appel Transfer S.A. rather than to the "Smaller World Trust." Denies the fifth sentence for lack of sufficient information, except denies that the Foundation for the International Non-governmental Development of Space was or is a 501(c)(3) type not-for-profit organization.

Third full unnumbered subparagraph on page 19. Denies the first sentence for lack of sufficient information. Admits the second and third sentences, except denies any implication that the disclosures were complete and accurate. Denies that petitioner made all the disclosures required by the SEC and other regulatory agencies as alleged in the fourth sentence; denies the remaining allegations of the fourth sentence for lack of sufficient information.

SMALLER WORLD TRUST / SMALLER WORLD FOUNDATION

First unnumbered subparagraph on page 20. Admits the petitioner created the "Smaller World Trust" under the laws of the British Virgin Islands as alleged in the first sentence, except denies any implication that the "trust" functioned as a bona fide trust with an independent trustee; denies the remaining allegations of the subparagraph for lack of sufficient information.

Second unnumbered subparagraph on page 20. Denies the entire subparagraph for lack of sufficient information. Alleges that there is no EXHIBIT D attached to the copy of the petition served on the respondent.

Third unnumbered subparagraph on page 20. Denies the first and fifth sentences for lack of sufficient information. Admits

the second sentence. Admits that around the same time a company petitioner had started and operated for 10 years was sold (Mid Atlantic Telecom) as alleged in the third sentence; denies the remaining allegations of the third sentence for lack of sufficient information. Denies that petitioner was the co-founder of International Space University as alleged in the fourth sentence; denies the remaining allegations of the fourth sentence for lack of sufficient information.

First unnumbered subparagraph on page 21. Denies the entire subparagraph for lack of sufficient information.

Second unnumbered subparagraph on page 21. Denies for lack of sufficient information, except denies any implication the "trust" functioned as a bona fide trust with an independent trustee.

Third unnumbered subparagraph on page 21. Denies the first sentence for lack of sufficient information. Denies the second sentence. Neither admits nor denies the third sentence as it contains no separate allegations of fact.

Subparagraph labeled "a. Irrevocability of the trust and endowments" on page 22. Admits the first and second sentences. Denies the third sentence. Denies the fourth and fifth sentences, including the quotations, for lack of sufficient information; alleges that there is no EXHIBIT D attached to the

copy of the petition served on the respondent. Denies the sixth and eighth sentences for lack of sufficient information. Denies the seventh and ninth sentences.

Subparagraph labeled "b. Compensation Limitations" on page 22, as continued on page 23. Denies the entire subparagraph, including the facts stated in the quotations, for lack of sufficient information; alleges that there is no EXHIBIT E attached to the copy of the petition served on the respondent.

Subparagraph labeled "c. Arms Length Management" on page 23, as continued on pages 24 and 25. Denies the first sentence for lack of sufficient information. Admits that the quotations contained in the second and third sentences are accurate representations of the quoted portions of the accountant's report; denies the remaining allegations of the second and third sentences, including the facts stated in the quotations, for lack of sufficient information. Denies the fourth sentence; alleges that the accountant's report was received in evidence without objection from the United States because the theory of the prosecution did not require challenging the form of the transactions adopted by the defendant. Admits that the fifth sentence contains an accurate quotation of an excerpt from the sentencing hearing; alleges that there is no EXHIBIT H attached to the copy of the petition served on the respondent; denies any

implication that, when Agent Birmingham testified that petitioner's entities having legal existence under the laws of offshore secrecy jurisdictions could not be disregarded for purposes of a criminal proceeding, he was signifying agreement that the entities were not in fact employed as alter egos or nominees of petitioner. Admits the sixth and eighth sentences. Denies the seventh sentence; alleges that the accountant's report was received in evidence without objection from the United States because the theory of the prosecution did not require challenging the form of the transactions adopted by the defendant. Denies the ninth sentence.

First full unnumbered paragraph on page 25. Denies.

Subparagraph labeled "d." on page 25. Admits the first sentence, except denies that petitioner's true purpose in obtaining such advice was to comply with United States regulations and tax laws. Admits the second sentence except denies any implication that petitioner gave beneficial ownership of Gold & Appel or its assets to the "trust" or that the "trust" functioned as a bona fide trust with an independent trustee. Denies the third and seventh sentences for lack of sufficient information. Admits the fourth sentence. Admits the petitioner used books, articles, and other written materials relating to this subject and that he also contacted legal professionals and

trust managers in researching the initial plans for the "trust" as alleged in the fifth sentence; denies the remaining allegations of the fifth sentence, including any implication that petitioner relied in good faith on such materials, professionals, and trust managers. Admits the sixth sentence, except denies for lack of sufficient information the allegation about the relationship in time among the hiring of the accountants, the formation of the "trust", and the movement of Esprit Telecom's activities to Europe, and denies any implication that the information petitioner provided to his accountants was complete and accurate.

Unnumbered subparagraph constituting all of page 26.

Denies the first sentence. Admits the second and third sentences, except denies for lack of sufficient information the allegations about the timing of these events in relation to the hiring of Buchanon & Company. Denies the fourth sentence for lack of sufficient information; alleges that there is no EXHIBIT I attached to the copy of the petition served on the respondent. Denies the fifth sentence, including facts stated in the quotation, for lack of sufficient information. Admits that the "trust" referred to was a British Virgin Islands trust as alleged in the sixth sentence; denies the remaining allegations of the sixth sentence for lack of sufficient information.

Admits that in fact petitioner was not the "trustee" but was the person who was in control of the trustee as alleged in the seventh sentence; denies the remaining allegations of the seventh sentence. Admits the eighth sentence, except denies any implication that petitioner's assurances and explanations to his accountants were true, accurate, and complete. Denies the ninth through the eleventh sentences, including the facts stated in the quotation, for lack of sufficient information. Admits the twelfth sentence, except denies the documents petitioner provided the accountants were complete or accurately reflected the substance of petitioner's transactions. Admits the thirteenth sentence.

First unnumbered subparagraph on page 27. Denies the first sentence for lack of sufficient information. Admits the second sentence. Denies the third sentence. Admits the fourth sentence, except denies any implication that petitioner could have achieved the desired appearances for his transactions and returns with a less sophisticated preparer.

Second unnumbered subparagraph on page 27. Admits the first, fourth, and sixth sentences. Denies the second and third sentences for lack of sufficient information. Admits the fifth sentence, except denies that the Gold & Appel history petitioner gave to Swidler & Berlin was its entire history and denies that

Gold & Appel's inception was as a subsidiary of Icomnet S.A. in 1992. Denies the seventh and eighth sentences.

Third unnumbered subparagraph on page 27, as continued on page 28. Denies the first sentence for lack of sufficient information, except denies that any of the gains from Telco Communications Group, Inc., stock accrued to the "Smaller World Trust." Denies the second through the sixth and the eighth sentences for lack of sufficient information. Admits the seventh sentence. Denies the ninth sentence.

First full unnumbered subparagraph on page 28. Admits that in setting up and managing the "Smaller World Trust" and other offshore entities petitioner used information from sources including books, professional tax guides, legal and accounting professionals, and other professional service companies which provide services to United States and international corporations and trusts, as alleged in the first sentence; denies that petitioner relied in good faith on such sources; denies the remaining allegations of the first sentence. Denies the second, third, fifth, and eighth sentences. Denies the fourth sentence for lack of sufficient information; denies any implication that any such agreements served as meaningful restrictions on petitioner's absolute control of the "trust." Admits the sixth sentence, except denies that petitioner's true purpose in

obtaining the advice was to comply with the United States regulations and tax laws. Admits the seventh sentence, except denies that the information provided to the professionals was accurate and complete.

First unnumbered subparagraph on page 29. Admits the first sentence. Denies the second sentence. Admits the third sentence except denies that the hundreds of millions of dollars of assets passed through the "trust."

Second unnumbered subparagraph on page 29, including the quotation. Denies the first, third, fifth, and seventh sentences, including the quotation in the seventh sentence, for lack of sufficient information. Admits petitioner knew that foreign trusts are not always respected by United States courts as alleged in the second sentence; denies the remaining allegations of the second sentence for lack of sufficient information. Denies the fourth and sixth sentences.

Third unnumbered subparagraph on page 29, as continued on page 30. Admits petitioner formed the Panama Foundation with the assistance of Panama legal counsel, as alleged in the first sentence; denies the remaining allegations of the first sentence. Denies the second sentence. Admits the third sentence. Denies the fourth and fifth sentences for lack of sufficient information.

First full unnumbered subparagraph on page 30. Admits the first and third sentences. Denies the second, fourth, and fifth sentences for lack of sufficient information.

Second full unnumbered subparagraph on page 30. Admits the first and second sentences. Denies the third, fourth, and seventh sentences for lack of sufficient information. Admits that in 1996, shortly before Telco Communications Group Inc. went to the public market, petitioner was advised by his legal counsel that he would be required to make certain disclosures as alleged in the fifth sentence; denies the remaining allegations of the fifth sentence for lack of sufficient information. Admits that petitioner publicly disclosed that he had management control over Gold & Appel Transport S.A. as alleged in the sixth sentence; denies the remaining allegations of the sixth sentence for lack of sufficient information.

Third full unnumbered subparagraph on page 30. Admits, except denies that petitioner believed or believes that he had a right to conceal from the Internal Revenue Service facts about his control and/or ownership of offshore assets and entities.

SUMMARY OF FACT FOR ISSUE I - part B for years 1995 to 1999.

First unnumbered subparagraph on page 31. Admits petitioner formed the "Smaller World Trust" in 1993 as alleged in the first sentence; denies the remaining allegations of the first sentence. Denies the second sentence.

Second unnumbered subparagraph on page 31. Admits petitioner worked with legal and accounting professionals and disclosed information, including the fact that he had complete management control over Gold & Appel Transfer S.A.; denies any implication the information petitioner disclosed to his professional advisors was accurate and complete; denies the remaining allegations of the subparagraph.

Third unnumbered subparagraph on page 31. Denies.

Fourth unnumbered subparagraph on page 31. Denies.

Fifth unnumbered subparagraph on page 31. Denies, except admits petitioner cannot claim any losses on his taxes from Gold & Appel.

Sixth unnumbered subparagraph on page 31. Denies.

Seventh unnumbered subparagraph on page 31. Admits, except denies that "Smaller World Trust" is in fact the owner of Gold & Appel Transfer S.A. and Iceberg Transport S.A.

Subparagraph C. on page 32. Denies the entire subparagraph.

First unnumbered subparagraph on page 32. Admits that the petitioner held seats on the boards of directors of Mid Atlantic Telecom, Telco Communications Group Inc., and Esprit Telecom Plc, as alleged in the third sentence; denies that in so doing petitioner was acting for and on behalf of Gold & Appel. Denies the remaining allegations of the subparagraph.

Second unnumbered subparagraph on page 32, as continued on page 33. Admits that petitioner disclosed his control over Gold & Appel in SEC filings; denies that he otherwise openly managed all the activities in Gold & Appel as alleged in the first sentence. Admits the second sentence. Denies the third, sixth, seventh, and eighth sentences. Admits that petitioner has managed some of the investment activities of Gold & Appel through major United States based brokerage firms as alleged in the fourth sentence; denies the remaining allegations of the fourth sentence for lack of sufficient information. Denies the fifth sentence for lack of sufficient information.

First full unnumbered subparagraph on page 33. Neither admits nor denies the third sentence as it contains no allegations of fact. Denies the remaining allegations of the subparagraph.

Second full unnumbered subparagraph on page 33. Denies the entire subparagraph.

Third full unnumbered subparagraph on page 33, as continued on page 34. Neither admits nor denies, as this subparagraph contains no allegations of fact.

SUMMARY OF STATEMENT OF FACTS FOR ISSUE I - part C for years 1995 to 1999 [Respondent has changed the placement of this heading to occur after the subparagraph that begins on the preceding page.]

First full unnumbered subparagraph on page 34. Denies.

Second full unnumbered subparagraph on page 34. Denies.

Third full unnumbered subparagraph on page 34. Admits the first sentence, except denies petitioner intended not to be the actual beneficial owner of Gold & Appel. Denies the second sentence.

Fourth full unnumbered subparagraph on page 34. Denies.

Fifth full unnumbered subparagraph on page 34. Denies.

ISSUE II - 1995-1999

Subparagraph A. on page 35. Admits.

Subparagraph B. on page 35. Admits.

SUMMARY OF STATEMENT OF FACTS FOR ISSUE II - part A. & B.
for years 1995 to 1999

Unnumbered subparagraph on page 35. Admits.

ISSUE III - 1995-1999

Subparagraph A. on page 36. Denies the entire
subparagraph.

Subparagraph B. on page 36. Denies the first sentence.
Denies the remaining allegations of the subparagraph for lack of
sufficient information.

First unnumbered subparagraph on page 36. Denies the first
sentence. Neither admits nor denies the second sentence, as it
contains no allegations of fact.

SUMMARY OF STATEMENT OF FACTS FOR ISSUE III - part A. & B.
for years 1995-1999

Second unnumbered subparagraph on page 36. Admits that
interest should be calculated on the tax as ultimately
determined by the Court as alleged in the first sentence, but
alleges that the court lacks jurisdiction over uncollected
interest that is not the subject of a claim for abatement under
I.R.C. section 6404(e); further alleges that the only penalty
determined in the notice of deficiency is the fraud penalty;

denies the remaining allegations of the first sentence. Neither admits nor denies the second sentence, as it contains no allegations of fact.

ISSUE IV - year 1999 only

Subparagraph A. on page 37. Denies the first, second, fourth, and fifth sentences for lack of sufficient information. Admits that FINDS was formed under the laws of the State of Delaware and that it has filed tax returns with the IRS as alleged in the third sentence; denies the remaining allegations of the third sentence.

First unnumbered subparagraph on page 37. Denies. Alleges respondent has determined that petitioner has not established that a contribution was made to FINDS in 1998; that FINDS was an I.R.C. section 501(c)(3) organization or that any contribution to it was otherwise deductible; the amount of any deductible contribution; or that any deduction is not limited under I.R.C. section 68.

Second unnumbered subparagraph on page 37. Denies for lack of sufficient information.

Subparagraph B. on page 37. Denies. Alleges that respondent has determined that petitioner has not established that a contribution was made to FINDS in 1998; that FINDS is an

I.R.C. section 501(c)(3) organization or that any contribution to it was otherwise deductible; the amount of any deductible contribution; or that any deduction is not limited under I.R.C. section 68.

Third unnumbered subparagraph on page 37. Denies for lack of sufficient information.

SUMMARY OF FACTS FOR ISSUE IV - Part A. & B. for year 1995-1999

Fourth unnumbered subparagraph on page 37. Denies for lack of sufficient information, except denies any implication that FINDS is a section 501(c)(3) organization.

Fifth unnumbered subparagraph on page 37. Denies for lack of sufficient information. Alleges that a diligent search by respondent has failed to locate the original 1998 return filed by petitioner.

SUPPLEMENTAL STATEMENT IN RELATION TO THE HISTORY OF THIS MATTER

First unnumbered subparagraph on page 38. Neither admits nor denies the first sentence, as it contains no allegations of fact. Admits the second sentence, except denies that petitioner was compelled to plead guilty; alleges that, in response to direct questions from the trial judge, petitioner testified

under oath that no one had forced him in any way to decide to plead guilty and that he was pleading guilty voluntarily and because he was guilty of each of the charges. Denies the third and fourth sentences. Denies the fifth sentence; alleges that EXHIBIT K is not attached to the copy of the petition served on the respondent. Admits the sixth sentence; alleges that petitioner admitted through counsel at the guilty plea hearing that he did agree with the Government's allegation that he retained control over the assets of Gold & Appel S.A. and was required under U.S. law to pay tax on the gains from those assets. Denies the seventh through the ninth sentences.

Second unnumbered subparagraph on page 38, as continued on page 39. Admits the first through the third sentences. Admits that during the three years the investigation was pending petitioner hired counsel as alleged in the fourth sentence; denies the remaining allegations of the fourth sentence for lack of sufficient information. Admits that during these three years petitioner traveled extensively outside the United States as alleged in the fifth sentence; denies the remaining allegations of the fifth sentence for lack of sufficient information. Denies the sixth sentence for lack of sufficient information. Denies petitioner took no steps to flee as alleged in the

seventh sentence; denies the remaining allegations for lack of sufficient information.

First full unnumbered subparagraph on page 39. Admits the first and the eighth sentences. Denies the second, third, and fifth sentences. Denies the fourth sentence; alleges the U.S. District Court found that the United States had presented "strong evidence of petitioner's clear interest in fleeing the jurisdiction and his intent to do so." Admits that early in the proceeding in a hearing relating to petitioner's bond, prosecutor Menzer stated there was "nothing to hold him here" as alleged in the sixth sentence; denies the remaining allegations of the sixth sentence; alleges that the prosecutor made the statement with reference to the lack of unencumbered assets in the Washington D.C. area as contrasted with petitioner's extensive offshore assets. Denies the seventh sentence for lack of sufficient information. Admits the ninth sentence, except denies the petitioner's D.C. residence was his only residence.

Second full unnumbered subparagraph on page 39. Admits that the trial judge ordered petitioner's pre-trial detention as alleged in the first sentence; denies the remaining allegations of the first sentence. Denies the second and fourth sentences. Admits that the third sentence includes a substantially verbatim quotation from the August 10, 2005, order; alleges that the

order denied defendant's motion for release from pre-trial detention.

Third full unnumbered subparagraph on page 39, as continued on page 40. Admits the prosecutor obtained a copy of what purported to be the "Smaller World Trust" provisions as alleged in the first sentence; denies the remaining allegations of the first sentence for lack of sufficient information. Admits the IRS investigators and prosecutors concluded that petitioner was the "owner" of the investment vehicle which he had managed since its creation in 1992 [Gold & Appel Transfer S.A.] as alleged in the second sentence; denies the remaining allegations of the second sentence. Admits that petitioner was indicted as alleged in the third sentence; denies the remaining allegations of the third sentence. Denies the fourth sentence.

First full unnumbered subparagraph on page 40. Denies the remaining allegations of the first sentence for lack of sufficient information, except admits the conditions in the Washington, D.C., city jail are poor. Denies the second sentence for lack of sufficient information, except denies that any special conditions of confinement under which petitioner may have been placed were at the request of the prosecutors; alleges that petitioner was originally confined in a more modern facility and was transferred to the D.C. city jail only after

the first facility determined he was unmanageable because he had violated facility rules by, among other things, paying off other inmates and possession of a cell phone. Denies the third sentence for lack of sufficient information; alleges that EXHIBIT L was not attached to the copy of the petition served on the respondent. Admits that the trial judge agreed that the DC jail conditions were poor as alleged in the fourth sentence; denies the remaining allegations of the fourth sentence except admits that the report was received in evidence without objection by the United States. Denies the fifth sentence for lack of sufficient information.

Second full unnumbered subparagraph on page 40, as continued on page 41. Denies the first sentence. Denies the second sentence for lack of sufficient information. Denies the third sentence; alleges that at the plea hearing, in response to direct questions from the trial judge, petitioner testified under oath that no one had forced him in any way to decide to plead guilty and that he was pleading guilty voluntarily and because he was guilty of each of the charges.

First full unnumbered subparagraph on page 41. Denies the first sentence. Admits that petitioner was transferred to a minimum security "camp" after the court imposed sentence as alleged in the second sentence; denies the remaining allegations

of the second sentence for lack of sufficient information. Neither admits nor denies the third sentence, as it contains no allegations of fact.

Second full unnumbered subparagraph on page 41. Denies the first through the third, seventh, and eighth sentences for lack of sufficient information. Denies the fourth and fifth sentences. Admits that petitioner was at one point represented by a Federal Public Defender as alleged in the sixth sentence; denies the remaining allegations of the sixth sentence for lack of sufficient information. Denies the ninth sentence for lack of sufficient information, except denies any implication that petitioner has not at all times remained in control of the "Smaller World Trust" and "Smaller World Foundation."

Third full unnumbered subparagraph on page 41. Admits the first sentence. Admits that petitioner has already served around three years of his sentence as alleged in the second sentence; denies the remaining allegations of the second sentence for lack of sufficient information.

Fourth full unnumbered subparagraph on page 41. Denies the entire subparagraph.

First unnumbered subparagraph on page 42. Admits the first sentence. Neither admits nor denies the allegations of the second through the sixth sentences, as they contain no

allegations of fact. Denies the seventh sentence. Denies that any of the decisions or actions of the Internal Revenue Service Criminal Investigation Division or the Department of Justice in petitioner's criminal investigation and prosecution were improperly motivated.

Second unnumbered subparagraph on page 42. Denies the first sentence. Admits that a review of petitioner's business and professional history will confirm that petitioner is a highly productive and unique individual who has created significant investment profits and productive enterprises throughout his lifetime and who has been financially successful as alleged in the second sentence; denies the remaining allegations of the second sentence.

Third unnumbered subparagraph on page 42. Denies the first sentence. Admits the second sentence.

Fourth unnumbered subparagraph on page 42. Neither admits nor denies, as the subparagraph contains no allegations of fact.

6. Denies generally each and every allegation of the petition not herein specifically admitted, qualified or denied.

7. FURTHER ANSWERING the petition, and as a defense to the assignment of error that the statute of limitations bars the assessment and collection of the deficiencies in income tax due

from petitioner for the taxable years 1995, 1996, 1997, 1998, and 1999, respondent alleges:

(a) The income tax due from petitioner for the years 1995, 1996, 1997, 1998, and 1999 may be assessed, or a proceeding in Court for the collection of such tax may be begun without assessment, at any time under the provisions of I.R.C. § 6501

(c) (1), because petitioner filed false or fraudulent income tax returns for said years with intent to evade tax, as is more fully set forth by the facts alleged in paragraphs 9 and 10 below setting forth the details of the fraud, which facts are incorporated herein by reference and relied upon by respondent as a defense to any issue involving the statute of limitations.

8. FURTHER ANSWERING the petition, and as a defense to the assignment of error that the statute of limitations bars the assessment and collection of the deficiencies in income tax due from petitioner for the taxable years 1995, 1996, 1997, 1998, and 1999, respondent alleges:

(a) Petitioner was required under the provisions of I.R.C. section 6038 to file a Form 5471, Information Return of U.S. Persons with respect to Certain Foreign Corporations, for Gold & Appel Transfer S.A., a British Virgin Islands corporation, and for Iceberg Transport S.A., a Panamanian corporation, both of which were controlled by petitioner within the meaning of

section 6038, for each of the taxable years 1995, 1996, 1997, 1998, and 1999, on or before April 15, 1996, April 15, 1997, April 15, 1998, April 15, 1999, and April 17, 2000, respectively.

(b) Under the provisions of I.R.C. section 6501(c)(8), the time for the assessment of any tax imposed on petitioner by the Internal Revenue Code with respect to income items related to Gold & Appel Transfer S.A. and Iceberg Transport S.A. will not expire before the date which is three years after the date on which the petitioner files the Forms 5471, Information Returns of U.S. Persons with respect to Certain Foreign Corporations, with respect to Gold & Appel Transfer S.A. and Iceberg Transport S.A.

(c) Respondent has diligently searched respondent's records and has determined that no Form 5471, Information Return of U.S. Persons with respect to Certain Foreign Corporations, had been filed by petitioner for either Gold & Appel Transfer S.A. or Iceberg Transport S.A., for any of the taxable years 1995, 1996, 1997, 1998, and 1999 as of July 17, 2007.

(d) The notice of deficiency setting forth respondent's determination of the income tax deficiencies for the taxable years 1995, 1996, 1997, 1998, and 1999 was timely sent to petitioner by certified mail on July 17, 2007, which date was

prior to the expiration of the periods for assessment of income tax imposed with respect to income items related to Gold & Appel Transfer S.A. and Iceberg Transport S.A.

9. FURTHER ANSWERING the petition and in support of the determination that a part of the underpayments of tax required to be shown on the petitioner's income tax returns for each of the taxable years 1995, 1996, 1997, 1998, and 1999 are due to fraud, the respondent alleges:

(a) During each of the years 1995 through 1999, petitioner was employed as a corporate executive and was engaged in the business of managing investments for his own account.

(b) During the taxable years 1995 through 1999, the petitioner's principal place of business at which some of his books and records were maintained was located at various addresses in Washington, D.C., including 1920 L Street, NW, Suite 500, Washington, D.C., 20036, and 2000 L Street, NW, Suite 200, Washington, D.C., 20036.

(c) Petitioner's residence, at which some of his books and records were maintained, was located at 2012 Wyoming Avenue, NW, Suite 504, Washington, D.C., 20009 from approximately 1995 to approximately February 25, 1998, and at 3030 K Street, NW, Suite 305, Washington, D.C., 20007, from approximately February 25, 1998 through the end of 1999.

(d) Petitioner's books and records were maintained, and petitioner's income tax returns were filed for the years here involved, on the cash method of accounting.

(e) Petitioner's income tax returns for the years 1995, 1996, 1997, 1998, and 1999 were filed on April 15, 1996, June 21, 1997, August 31, 1998, September 30, 1999, and October 19, 2000, respectively.

(f) During the taxable years 1995, 1996, 1997, 1998, and 1999, petitioner had Subpart F income from Gold & Appel Transfer S.A. in the respective amounts of \$1,045,952, \$4,901,740, \$91,880,465, \$126,303,951, and \$238,561,316, which income was not reported on his income tax returns for said years.

(g) During the taxable years 1995, 1996, 1997, and 1999, petitioner had wage, bonus, and/or other income from Esprit Telecom Plc. in the respective amounts of \$75,000, \$175,000, \$10,879, and \$400,629, which income was not reported on his income tax returns for said years.

(h) During the taxable years 1995, 1996, 1997, 1998, and 1999, petitioner had interest income from Barclays Bank in the respective amounts of \$337, \$1,102, \$11,349, \$24,760, and \$16,822, which income was not reported on his income tax returns for said years.

(i) During the taxable year 1997, petitioner received reimbursement of previously deducted legal expenses in the amount of \$232,106, which income was not reported on his 1997 income tax return.

(j) During the taxable year 1999, petitioner realized capital gain income in the amount of \$133,348 from the sale of 3,922 shares of Global Telesystems Group Inc., which income was not reported on his 1999 income tax return.

(k) On his income tax return for 1999, petitioner claimed a charitable contribution carryover in the amount of \$14,711,726, when no such amount had previously been claimed as a charitable contribution on petitioner's returns, the purported gift was not complete and irrevocable, and the purported donee was not a section 501(c)(3) organization.

(l) Petitioner fraudulently and with intent to evade taxes filed false and fraudulent income tax returns for each of the taxable years 1995, 1996, 1997, 1998, and 1999 that omitted the Subpart F income from Gold & Appel Transfer S.A., the wage, bonus, and /or other income from Esprit Telecom Plc., the interest income received from Barclays Bank, the reimbursement of previously deducted legal expenses, and the capital gain from the sale of Global Telesystems Group Inc. stock, and that falsely claimed the charitable contribution carryover for 1999.

(m) Petitioner's fraudulent omission of specific items of income on his income tax returns filed for 1995, 1996, 1997, 1998, and 1999 and his false claim of a charitable contribution carryover for 1999 are part of a five year pattern of intent to evade tax.

(n) Petitioner's fraudulent omission of specific items of income on his income tax returns filed for 1995, 1996, 1997, 1998, and 1999 and his false claim of a charitable contribution carryover for 1999 are further part of a 12 year pattern of underreporting his income and corruptly obstructing, impeding and impairing the due administration of the Internal Revenue Laws, including the following actions:

(1) Petitioner failed to file any returns for 1987 through 1993 until, after repeated contacts by the IRS, he filed delinquent returns for 1987 through 1989 on August 8, 1994, and for 1990 through 1993 on September 14, 1994;

(2) After receiving notifications from the IRS of federal tax liens filed in his name, reflecting that he owed more than \$390,000 for tax years 1987 through 1993, petitioner purchased real property with Gold & Appel Transfer S.A. funds and held the properties in the name of corporate or trust entities created and controlled by him, including the names of

"TWCD," "Red Tulip," "Vaca Trust," and "One World Properties," to conceal his ownership interests in these assets from the IRS;

(3) In or about the Spring of 2001, petitioner agreed to sell the only District of Columbia property that he held in his name, located at 2012 Wyoming Avenue, N.W. ("Wyoming Avenue Property");

(4) To fraudulently obtain a release from an IRS lien against the Wyoming Avenue Property, petitioner made false and misleading statements to his representatives, well knowing that they would repeat these false and misleading statements to the IRS;

(5) Specifically, in an attempt to mislead the IRS as to the value of its lien, petitioner falsely stated that Gold & Appel Transfer S.A. still held a mortgage on the Wyoming Avenue Property;

(6) In or about November 2001, petitioner caused his attorney to forward a check in the amount of \$49,162 to the IRS, under the false pretense that the amount of \$49,162 represented the full amount of proceeds from the sale available to satisfy the IRS lien when, in fact, petitioner knew that the Gold & Appel Transfer S.A. mortgage on the Wyoming Avenue Property had previously been satisfied;

(7) Petitioner further caused his attorney to wire transfer the balance of the actual sale proceeds, \$140,542.69, to a bank account he controlled in the name of Gold & Appel Transfer S.A. at Barclays Bank, purportedly satisfying a mortgage that petitioner knew no longer existed; and

(8) From on or about September 14, 1994, through on or about April 15, 2000, petitioner falsely represented to the IRS that he was a resident of the State of Florida when, in fact, petitioner did not reside there.

(o) Petitioner took the following actions, among others, with respect to Gold & Appel Transfer S.A.:

(1) On or about September 6, 1992, petitioner hired Arias, Fabrega & Fabrega Trust Company ("Arias Fabrega"), a corporate service company located in the British Virgin Islands (BVI), to form Gold & Appel Transfer S.A. (Gold & Appel).

(2) Gold & Appel was an International Business Company (IBC), which is a special class of corporation widely used in tax haven and financial secrecy jurisdictions and authorized to do business anywhere other than in the chartering jurisdiction.

(3) Petitioner specifically directed Arias Fabrega to use a pre-existing "shelf" corporation to form Gold & Appel.

(4) Petitioner directed Arias Fabrega to issue only 10 of the authorized 1000 shares of Gold & Appel stock, to Icomnet S.A., another IBC previously formed by petitioner in the BVI, and granted himself an exclusive option to purchase the remaining 990 shares of Gold & Appel for a total of \$990.

(5) Icomnet acted at all times as nominee for petitioner in holding the Gold & Appel shares.

(6) On or about September 23, 1993, petitioner, using the alias Mark Roth, hired another corporate service company, The Company Store, to form another IBC named Iceberg Transport, S.A. ("Iceberg"), this time in Panama.

(7) Petitioner directed that Iceberg's stock be issued as bearer shares (an unregistered form of stock certificates that do not identify the owner but confer ownership on whoever possesses them) and directed The Company Store to send Iceberg's bearer shares to a private mail box petitioner controlled in the Netherlands.

(8) Petitioner had possession of Iceberg's bearer shares in March 2002.

(9) In or about November 1993, petitioner made Iceberg the nominal owner of Gold & Appel by transferring Icomnet's 10 shares of Gold & Appel to Iceberg, but continued to

hold the exclusive option to purchase the remaining 990 Gold & Appel shares.

(10) After the transfer of Icomnet's Gold & Appel shares to Iceberg in 1993, petitioner represented that Iceberg owned Gold & Appel.

(11) Petitioner further attempted to disguise his ownership of Gold & Appel and Iceberg by, among other methods, using aliases, private mail boxes and nominee directors and officers, who took all direction from petitioner and exercised no discretion of their own.

(12) In reality, petitioner owned, and controlled the affairs of, Gold & Appel and Iceberg, including having exclusive control over these corporations' officers, directors, business records, bank and brokerage accounts, which control he exercised through broadly drafted powers of attorney.

(13) Beginning in or about October 1992, and continuing through in or about July 1996, petitioner transferred most of his extensive personal holdings in three telecommunication companies, Mid-Atlantic Telecom ("MAT"), Esprit Telecom ("Esprit") and Telco Communications Group ("Telco"), to Gold & Appel for little or no consideration; in the case of Telco, this transfer took the form of a surrender of a block of petitioner's Telco shares to Telco, the

reissuance by Telco of equivalent new shares to Iceberg, and a subsequent transfer of the new Telco shares from Iceberg to Gold & Appel.

(14) Petitioner did not report the transfers of MAT, Esprit, and Telco stock to Gold & Appel and Iceberg to the Internal Revenue Service as required by I.R.C. section 6038.

(15) Between 1995 and 1999, petitioner used the assets of Gold & Appel, which included the profits realized from these three telecommunication corporations, to invest in other business ventures generating more than approximately \$450,000,000 in earnings for Gold & Appel during this period.

(16) For the tax years 1992 through 1999, petitioner lied to his accountants about his ownership of Gold & Appel and Iceberg, causing the accountants to prepare, and then himself signing and filing, false United States Individual Income Tax Returns for these years that falsely failed to include the net profits of Gold & Appel as income to petitioner.

(p) Petitioner took the following actions, among others, with respect to his foreign bank accounts:

(1) In or about 1994, petitioner opened two bank accounts at Barclays Bank in Jersey, one in the name of Gold & Appel ("the Gold & Appel account") and one in his own name ("the Anderson I account").

(2) Petitioner was the sole signatory on both Barclays accounts.

(3) In the bank application for the Anderson I account, petitioner falsely stated that he was a citizen of the Dominican Republic, and provided a mailing address in the Netherlands.

(4) On or about February 4, 1997, petitioner purchased a high-interest account at Barclays Bank in Jersey ("the Anderson II account") by transferring funds from the Anderson I account, and directed that account statements for the Anderson II account be sent to the Netherlands address.

(5) For tax years 1994 through 1999, petitioner lied to his accountants about his control over these foreign bank accounts, causing the accountants to prepare, and then himself signing and filing, false United States Individual Income Tax Returns for those years that falsely omitted the Schedule B information relating to foreign bank accounts and the interest earned on the Anderson I and II accounts; and petitioner failed to file Forms TD-F with the United States Department of the Treasury, disclosing his interest and control in any of these foreign bank accounts.

(6) From on or about November 6, 1995, through on or about November 11, 1996, petitioner directed Esprit Telecom Plc.

to deposit into the Anderson I account a total of \$250,000 earned by him, and concealed these payments from his accountants, resulting in their preparation and his signing and filing false United States Individual Income Tax Returns that omitted this income.

(g) Petitioner took the following actions, among others, with respect to his legal expense reimbursement:

(1) During the preparation of his 1997 income tax return, petitioner failed to disclose to his accountant that he had received \$232,106 during that year in settlement of a lawsuit, most or all of which represented reimbursement for legal fees previously deducted by petitioner, causing the accountant to prepare, and then himself signing and filing a 1997 return that falsely omitted that income.

(2) When petitioner's 1995 return was being audited by the IRS during the period in or about April 1998 through in or about September 1998, petitioner represented to his accountant that certain 1995 deductions he had claimed were for unreimbursed legal fees incurred in litigation, and failed to disclose to the accountant that most or all of those legal fees had been reimbursed to petitioner in 1997.

(3) Petitioner made these false and misleading representations well knowing that the accountant would repeat

them to the IRS during his representation of petitioner in the audit.

(4) The reimbursement should have been reported as income on petitioner's 1997 United States Individual Income Tax Return.

(5) As a result of petitioner's misrepresentation, the IRS closed the audit without reviewing his 1997 United States Individual Income Tax Return.

(r) Resulting in part from petitioner's omission of the Subpart F income from Gold & Appel, the wage, bonus, and/or other income from Esprit, the interest income received from Barclays bank, the reimbursement of previously deducted legal expenses, and the capital gain from the sale of Global Telesystems Group Inc. stock, and from the false claim of a charitable contribution carryover enumerated above, petitioner understated his taxable income on his income tax returns for 1995, 1996, 1997, 1998, and 1999 in the respective amounts of \$1,179,003, \$5,094,321, \$92,206,017, \$126,390,176, and \$240,096,114.

(s) Resulting in part from petitioner's omission of the Subpart F income from Gold & Appel, the wage, bonus, and/or other income from Esprit, the interest income received from Barclays bank, the reimbursement of previously deducted legal

expenses, and the capital gain from the sale of Global Telesystems Group Inc. stock, and from the false claim of a charitable contribution carryover enumerated above, petitioner understated his income tax liabilities on his income tax returns for 1995, 1996, 1997, 1998, and 1999 in the respective amounts of \$386,344, \$2,012,045, \$36,490,421, \$50,022,418, and \$94,868,390.

(t) The petitioner's creation of Gold & Appel and Iceberg in tax haven jurisdictions with financial secrecy laws and practices; his use of nominee shareholders, bearer shares, aliases, private mailboxes, and nominee directors and officers to conceal his ownership of Gold & Appel and Iceberg; his use of foreign bank accounts; his lies and misrepresentations to his accountants about the ownership of Gold & Appel and Iceberg, about his ownership and control of foreign bank accounts and about his reimbursement of previously deducted legal fees; and his filing of false income tax returns based on those lies and misrepresentations were all fraudulent, with intent to evade tax.

(u) The petitioner fraudulently, and with intent to evade tax, omitted from his income tax returns for 1995, 1996, 1997, 1998, and 1999 Subpart F income from Gold & Appel, wage, bonus, and/or other income from Esprit, interest income received from

Barclays Bank, reimbursement of previously deducted legal expenses, and capital gain from the sale of Global Telesystems Group Inc. stock in the respective total amounts of \$1,121,289, \$5,077,842, \$9,213,799, \$126,328,711, and \$239,112,115, and claimed a false charitable contribution carryover for 1999 in the amount of \$14,711,726.

(v) A part of the deficiency in income taxes for each of the taxable years 1995, 1996, 1997, 1998, and 1999 is due to fraud with intent to evade taxes.

10. FURTHER ANSWERING the petition, and in support of the determination that a part of the underpayment of tax required to be shown on the petitioner's income tax returns for the taxable years 1998 and 1999 is due to fraud, the respondent affirmatively relies on the doctrine of collateral estoppel (estoppel by judgment), and alleges:

(a) Walter C. Anderson, the petitioner herein, is the same person who was the defendant in the criminal case of United States of America v. Walter Anderson (District of Columbia), Criminal Number 05-066 (PLF). The judgment entered in that case became final on June 15, 2007. An appeal and cross appeal were filed and the appeal is still pending, but the issues in the appeal relate only to the sentence, and the defendant has not

sought to withdraw the guilty plea upon which the judgment is based.

(b) The respondent herein is a party in privity with the United States of America, the prosecuting party in the aforesaid criminal case.

(c) The superceding indictment filed on September 30, 2005, in said criminal case set forth the following charges, among others, against the defendant, the petitioner herein:

"The Grand Jury Charges:

. . . .

COUNT FIVE
Tax Evasion 1998

42. Paragraphs 1 through 18, 21 through 31, 33, 35, and 36 of this Indictment are hereby realleged and incorporated as if fully set forth herein.

43. From on or about January 1, 1998, through on or about September 30, 1999, in the District of Columbia and elsewhere, ANDERSON did willfully attempt to evade and defeat a large part of the income tax due and owing by him to the United States for the tax year 1998 by various means, including but not limited to the following:

a) filing and causing to be filed a false and

fraudulent 1998 United States Individual Income Tax Return, wherein he falsely stated that his total income was \$67,939 and that the total tax due and owing thereon was \$494, whereas, as he then and there well knew and believed, his total income was substantially greater than what he reported and a substantial additional tax was due and owing to the United States.

Specifically, he failed to report the following additional items of income in the following approximate amounts:

- (i) \$126,303,951 Subpart F investment-type income from G&A [Gold & Appel]; and
 - (ii) \$24,760 interest income from Barclays Bank;
- b) failing to notify the IRS, as required by law, on a Schedule B of the 1998 United States Individual Income Tax Return of his signature authority and control of the G&A, ANDERSON 1 and ANDERSON 2 accounts at Barclays Bank;
- c) failing to file the required Form TD-F, The Report of Foreign Bank and Financial Account, with the Department of the Treasury to report his control of G&A, ANDERSON 1 and ANDERSON 2

accounts at Barclays Bank;

d) operating his business affairs in a manner designed to conceal his ownership and control of G&A and Iceberg during tax year 1998, through various means, including but not limited to the following:

- (i) directing nominees to create and sign documents of G&A and Iceberg;
- (ii) engaging corporate service centers to receive mail addressed to G&A and Iceberg;
and
- (iii) making or causing to be made false and fraudulent statements regarding the ownership and control of G&A and Iceberg;

In violation of Title 26, United States Code, Section 7201.

COUNT SIX
Tax Evasion 1999

44. Paragraphs 1 through 18, 21 through 31, and 33 through 36 of this Indictment are hereby realleged and incorporated as if fully set forth herein.

45. From on or about January 1, 1999, through on or about

October 19, 2000, in the District of Columbia and elsewhere, ANDERSON did willfully attempt to evade and defeat a large part of the income tax due and owing by him to the United States for the tax year 1999 by various means, including but not limited to the following:

- a) filing and causing to be filed a false and fraudulent 1999 United States Individual Income Tax Return, wherein he falsely stated that his total income was \$3,324,179, and that the total tax due and owing thereon was \$458,370, whereas, as he then well knew and believed, his total income was substantially greater than what he reported and a substantial additional tax was due and owing to the United States.

Specifically, he failed to report the following additional items of income in the following approximate amounts:

- (i) \$238,561,316 Subpart F investment-type income from G&A;
- (ii) \$400,629 income from Esprit;
- (iii) \$16,822 interest income from Barclays Bank; and

- (iv) \$133,348 capital gain income;
- b) failing to notify the IRS, as required by law, on a Schedule B of the 1999 United States Individual Income Tax Return of his signature authority and control of the G&A, ANDERSON 1 and ANDERSON 2 accounts at Barclays Bank;
- c) failing to file the required Form TD-F, The Report of Foreign Bank and Financial Account, with the Department of the Treasury to report his control of G&A, ANDERSON 1 and ANDERSON 2 accounts at Barclays Bank;
- d) operating his business affairs in a manner designed to conceal his ownership and control of G&A and Iceberg during tax year 1999, through various means, including but not limited to the following:
 - (i) directing nominees to create and sign documents of G&A and Iceberg;
 - (ii) engaging corporate service centers to receive mail addressed to G&A and Iceberg; and
 - (iii) making or causing to be made false and fraudulent statements regarding the

ownership and control of G&A and Iceberg;

In violation of Title 26, United States Code, Section 7201."

(d) The petitioner on September 8, 2006, entered a plea of guilty to the charges set forth against him in Counts Five and Six of said superceding indictment. A copy of the transcript of the plea hearing is attached hereto as Exhibit A.

(e) On June 15, 2007, the United States District Court entered its amended judgment pursuant to said plea, a copy of which is attached hereto as Exhibit B.

(f) Among the issues of fact determined in the aforesaid criminal case was whether Walter Anderson, the defendant therein, did in fact willfully file a false and fraudulent income tax return for each of the years 1998 and 1999 with the intent to evade and defeat income tax, and whether he did in fact by such means understate a part of the income tax due and owing by him to the United States of America for each of said years.

(g) One of the issues in the instant case is whether the fraud penalty imposed by I.R.C. section 6663 should be imposed against the petitioner for each of the years 1998 and 1999.

(h) Said issue in the instant case is the same as the issue that was presented and determined adversely to the petitioner in the aforesaid criminal case to the extent that both the imposition of the fraud penalty against the petitioner for the taxable years 1998 and 1999 under I.R.C. section 6663 and said judgment and conviction of the petitioner for violation of I.R.C. section 7201 are each dependent on findings that petitioner for each of said years did in fact file a false and fraudulent return with intent to evade tax and that by reason of such fraud there is for each of said years an underpayment of income tax.

(i) The prior criminal conviction of the petitioner under I.R.C. section 7201 for the taxable years 1998 and 1999 is conclusive and binding on petitioner, and by reason thereof the petitioner is estopped in the instant case, under the doctrine of collateral estoppel (estoppel by judgment), from denying herein that he willfully filed a false and fraudulent income tax return for each of the taxable years 1998 and 1999 with intent to evade and defeat a part of the income tax due and owing by him for each of said years, and that due to such fraud there is for said year an underpayment of tax within the meaning of I.R.C. section 6663.

(j) By reason of such prior criminal conviction, the petitioner is estopped in the instant case, under the doctrine of collateral estoppel (estoppel by judgment), from denying that a part of the underpayment of income tax for each of the years 1998 and 1999 is due to fraud, and that, therefore, the petitioner is liable for the fraud penalty imposed by I.R.C. section 6663 for each of said years, as determined by the respondent in the statutory notice upon which notice the instant case is based.

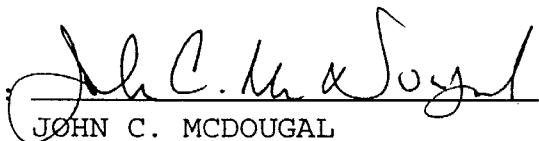
WHEREFORE, it is prayed:

- (1) That the relief sought in the petition be denied;
- (2) That respondent's determination, as set forth in the notice of deficiency, be in all respects approved;
- (3) That the Court determine that for the taxable years 1998 and 1999 petitioner is estopped, under the doctrine of collateral estoppel (estoppel by judgment), from denying liability for the penalties imposed by I.R.C. § 6663;
- (4) That the Court determine that the assessment and collection of the deficiencies for the years 1995, 1996, 1997, 1998, and 1999 are not barred by the statute of limitations; and

(5) That the penalties under provisions of I.R.C. § 6663 for the years 1995, 1996, 1997, 1998, and 1999, as set forth in the notice of deficiency, be in all respects approved.

DONALD L. KORB
Chief Counsel
Internal Revenue Service

Date: 11/6/07

By: 
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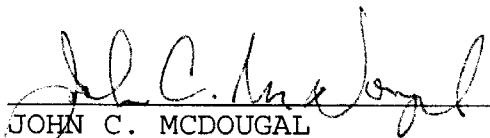
Docket No. 20364-07

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing ANSWER was served on petitioner by mailing the same on 11/6/07 in a postage paid wrapper addressed as follows:

Walter C. Anderson
#27981
FCI Camp
Federal Correctional Institution
P.O. Box 420
Fairton, NJ 08320

Date: 11/6/07



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