

1 MELINDA HAAG (CABN 132612)
2 United States Attorney

3 DAVID R. CALLAWAY (CABN 121782)
4 Chief, Criminal Division

5 THOMAS NEWMAN (NYSBN 4256178)
6 Assistant United States Attorney

7 450 Golden Gate Ave., Box 36055
8 San Francisco, California 94102
9 Telephone: (415) 436-7200
10 Fax: (415) 436-7234

11 CHRISTOPHER S. STRAUSS (LABN 28770)
12 ELLEN M. QUATTRUCCI (DCBN 462103)
13 Trial Attorneys
14 U.S. Department of Justice, Tax Division
15 Western Criminal Enforcement Section

16 601 D. St. NW, Room 7022
17 Washington, D.C. 20004
18 Telephone: (202) 514-5762
19 Facsimile: (202) 514-9623
20 E-mail: Christopher.S.Strauss@usdoj.gov
21 Attorneys for the United States

22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA
24 SAN JOSE DIVISION

25 UNITED STATES OF AMERICA,)

26 Plaintiff)

27 v.)

28 MOSHE HANDELSMAN,)

Defendant.)

No. CR 13-384 LHK

GOVERNMENT'S SENTENCING
MEMORANDUM AND MOTION FOR
DOWNWARD DEPARTURE

DATE: February 25, 2014
TIME: 9:30 a.m.

1 The United States of America, by and through Christopher S. Strauss and Ellen M.
2 Quattrucci, United States Department of Justice Trial Attorneys, hereby files its Sentencing
3 Memorandum and Motion for Downward Departure pursuant to U.S.S.G. § 5K1.1. The United
4 States agrees with the Presentence Investigation Report's ("PSR") recitation of the relevant facts,
5 and agrees with the advisory Sentencing Guideline Range calculated in the Presentence Report
6 which is consistent with that contained in the plea agreement entered July 17, 2013, and places
7 Mr. Handelsman at a Total Offense Level of nineteen (19).

8 **INTRODUCTION**

9 *1. Count of Conviction*

10 On July 17, 2014, Mr. Handelsman plead guilty to one count of making and subscribing a
11 false tax return, Form 1040, for tax year 2007.

12
13 *2. Factual Background*

14 The factual background of the offense of conviction is set forth in detail at pp. 4-7 of the
15 PSR and is not repeated herein. The first contact the government had with Mr. Handelsman was
16 through his attorney, Scott Frewing, Esq. in January 2012. On or about January 27, 2012, Mr.
17 Handelsman filed a voluntary disclosure through the IRS's offshore initiative disclosing all of his
18 foreign accounts and disclosing to the IRS that he had received a subpoena duces tecum and that
19 he had been advised that he was a subject of an investigation. Mr. Handelsman's voluntary
20 disclosure was initially accepted by the IRS. However, his participation in that program was
21 subsequently terminated due to Mr. Handelsman's pre-existing status as a subject of an
22 investigation involving Mr. Handelsman's tax return advisors and preparers, David Kalai and
23 Nadav Kalai, the CEO and President of United Revenue Service ("URS"), respectively. When
24 Mr. Handelsman submitted his voluntary disclosure, the prosecutors did not review that
25 voluntary disclosure nor did the government use any information in that disclosure in advance of
26 Mr. Handelsman's interview or plea negotiations due to the IRS's representation that Mr.
27 Handelsman had been pre-cleared for participation in the voluntary disclosure program.
28

1 Throughout the Spring of 2012, the government was advised through Mr. Frewing and
2 through attorney proffers with Mr. Frewing that Mr. Handelsman was willing, ready, and able to
3 meet with the government and proffer all of the facts regarding all of his offshore activity, much
4 of which was unknown to the government. Mr. Handelsman did meet with the government on
5 June 7, 2012, for a full interview. After plea negotiations had concluded, the government did
6 receive a copy of Mr. Handelsman's voluntary disclosure in order to comply with its discovery
7 obligations in United States v. David Almog, David Kalai, and Nadav Kalai, 11-CR930(B)-TJH
8 (C.D.CA), the trial at which Mr. Handelsman testified. Upon review, the undersigned prosecutor
9 determined that the voluntary disclosure submitted to the IRS on January 27, 2012 contained full
10 and accurate information regarding Mr. Handelsman's offshore activity.

11 As noted in the in the PSR, Mr. Handelsman timely paid all taxes, fraud penalties, and
12 interest due of \$1,613,238.00. In addition, Mr. Handelsman paid a civil penalty of
13 \$1,520,958.00, representing 50% of the highest aggregate balance of his offshore accounts
14 between 2005 and 2010. The tax harm from Mr. Handelsman's criminal conduct outlined in the
15 factual basis, which spanned tax years 2003 through 2008, was approximately \$830,000.

16
17 3. Summary of Government's Sentencing Position

18 Mr. Handelsman has demonstrated remorse for his criminal conduct and has fully
19 cooperated with government. On June 7, 2012, Mr. Handelsman and his attorney met with the
20 Special Agent and prosecutors in this case. He was extremely cooperative and forthcoming
21 during that interview. Mr. Handelsman did not engage in any attempt to minimize his own
22 conduct nor did he engage in any partial and progressive truth-telling. Mr. Handelsman's
23 statements were corroborated by other evidence the government had collected in the case and the
24 government was not asked to proffer the evidence it had regarding Mr. Handelsman prior to Mr.
25 Handelsman's interview. Mr. Handelsman has advised the government that Mr. Handelsman
26 remains willing to further cooperate in any ongoing investigations being conducted by the
27 Department of Justice. Accordingly, the government is recommending that Mr. Handelsman be
28

1 sentenced at an offense level of 11, as further explained below in the government’s motion for
2 downward departure.

3 4. Costs of Prosecution

4 Title 28, United States Code Section 1918 allows a District Court to tax costs of
5 prosecution “whenever any conviction for any offense not capital is obtained.” The costs of
6 prosecution that may be assessed are set forth in Title 28, United States Code Section 1920. Such
7 costs include the fees and disbursements for witness travel and subsistence. 28 U.S.C. § 1920(3).
8 However, given that Mr. Handelsman pled guilty prior to indictment, the United States does not
9 seek costs of prosecution in this case.

10
11 5. Restitution

12 Mr. Handelsman has paid restitution, penalties, interest, and a civil penalty for failing to
13 file a Report of Foreign Bank and Financial Accounts, all totaling \$3,134,196.00. Mr.
14 Handelsman paid much of these amounts prior to the IRS actually assessing or demanding any
15 payment for the taxes, penalties and interest due by submitting advance payments. Because all
16 restitution has been paid, no restitution order is necessary in this case.

17 **B. SENTENCING RECOMMENDATION AND MOTION FOR DOWNWARD**
18 **DEPARTURE**

19 6. Fine

20 The government is recommending a fine of \$6,000, which is the low end of the advisory
21 Sentencing Guidelines range U.S.S.G. § 5E1.2(c)(3).

22 **C. MOTION FOR DOWNWARD DEPARTURE PURSUANT U.S.S.G. § 5K1.1**

23 Pursuant to U.S.S.G § 5K1.1, the Court may depart from the advisory guideline range
24 when a defendant has provided substantial assistance in the investigation or prosecution of
25 another person who has committed an offense. The government is moving the Court to depart
26 eight (8) levels from the computed guideline range to a Total Offense Level of 11, and moves the
27 Court to sentence Mr. Handelsman consistent with a Level 11 offense.

1 The appropriate reduction shall be determined by the court for reasons stated that may include,
2 but are not limited to, consideration of the following:

3 (1) the court's evaluation of the significance and usefulness of the defendant's
4 assistance, taking into consideration the government's evaluation of the assistance rendered;

5 (2) the truthfulness, completeness, and reliability of any information or testimony
6 provided by the defendant;

7 (3) the nature and extent of the defendant's assistance;

8 (4) any injury suffered, or any danger or risk of injury to the defendant or his family
9 resulting from his assistance; and

10 (5) the timeliness of the defendant's assistance.

11 Further, this Court should consider the factors set out in 18 U.S.C. § 3553(a) in
12 determining an appropriate sentence, including the nature and characteristics of the defendant.

13 As noted above, the prosecution team was in contact with counsel for Mr. Handelsman
14 beginning in January 2012 and first had in-person contact with counsel for Mr. Handelsman in
15 May 2012. The prosecutors had contacted other URS clients, but Mr. Handelsman was the first
16 client to interview with the government who had substantial and useful information. Mr.
17 Handelsman's cooperation, including his payments of monetary penalties, has been
18 extraordinarily timely.

19 Through the attorney proffers with Mr. Frewing during the Spring of 2012, the
20 government learned that Mr. Handelsman had invaluable information with respect to David
21 Kalai's and Nadav Kalai's scheme to defraud the IRS. A Special Agent with IRS Criminal
22 Investigation and the prosecutors conducted one interview session with Mr. Handelsman on June
23 7, 2012. Based in significant part upon the information gleaned through the Spring of 2012 and
24 Mr. Handelsman's interview, the government was in a position to file a Superseding Indictment
25
26
27
28

1 charging David Kalai and Nadav Kalai with Conspiracy to Defraud the United States, 18 U.S.C. §
2 371, on June 14, 2012.¹

3 Mr. Handelsman's cooperation, information, and most importantly his testimony at the
4 trial of David Kalai and Nadav Kalai in December, 2014, were extremely valuable in two
5 respects: (a) the quality and substance of the information given by Mr. Handelsman that directly
6 undermined two of the defenses David Kalai was putting forward pre-trial; and (b) Mr.
7 Handelsman's forthrightness, demeanor, and consistency during his interview and during his trial
8 testimony which rendered Mr. Handelsman a credible witness. Both David Kalai and Nadav
9 Kalai were convicted of, among other charges, Conspiracy to Defraud the United States, 18
10 U.S.C. § 371, for forming an illegal scheme to assist URS's clients to hide assets and income
11 offshore in multiple banks in multiple countries.

12 7. Quality and Substance of Mr Handelsman's Substantial Assistance

13 David Kalai raised two main defenses pretrial and during the opening statement by David
14 Kalai's counsel at trial. The first defense was that the entire offshore scheme was the brainchild
15 of Robert Sandlin, the former URS Vice President who was convicted for stealing money from
16 URS clients (a scheme allegedly unbeknownst to the Kalais). Mr. Sandlin worked at URS from
17 approximately 2000 through 2006. The other main defense was that David Kalai purportedly
18 "retired" from URS in 2004, at which time Nadav Kalai became President of URS, so, the
19 argument went, David Kalai could not be responsible for any criminal conduct after 2004.

20 As noted in the factual basis of Mr. Handelsman's plea agreement, Mr. Handelsman was
21 able to relay in detail his own conduct he participated in on the advice of David Kalai beginning
22 in the 1990's which involved two offshore companies and two offshore bank accounts prior to
23 Mr. Sandlin's employment at URS. At trial, Mr. Handelsman was the only witness who could tie
24 David Kalai's conduct with Nadav Kalai's conduct over a period from the early 1990's through
25

26 ¹ Prior to June 2012, the only defendant who had been charged was co-defendant David Almog
27 who fled the United States. A First Superseding Indictment was filed June 14, 2012. A copy of
28 the Second Superseding Indictment filed on October 17, 2013, on which the Kalai's were tried in
December 2014, is attached hereto as Exhibit A for the Court's reference.

1 2007 thus providing compelling proof of the conspiracy. Mr. Handelsman testified that although
2 David Kalai always remained his primary tax return preparer, Nadav Kalai took over preparing
3 (or signing) Mr. Handelsman's tax returns in the early 2000's. Mr. Handelsman also testified
4 that throughout the 2000's he continued to have meetings during the tax year with Nadav Kalai
5 at which projections of business income would be computed in order that Nadav Kalai or David
6 Kalai could advise Mr. Handelsman how much money Mr. Handelsman should transfer offshore
7 and claim as false "Information Acquisition" expenses to reduce his tax liability. That exact
8 pattern of conduct of such mid-year meetings by Nadav Kalai at which he would provide
9 projections to determine the amount to be transferred offshore was directly corroborated through
10 the testimony and documents of another trial witness who had similar meetings. Mr.
11 Handelsman was also able to produce to the government copies of all of the checks sent from
12 Advanced Forecasting Corp. to the bank account held at Bank C and prepare a summary to
13 present to the jury at trial. The substance and quality of information given, the fact that it was
14 corroborated, and his trial testimony rendered David Kalai's and Nadav Kalai's defenses
15 untenable.

16 8. *Demeanor and Timeliness of Mr Handelsman's Cooperation*

17 With respect to Mr. Handelsman's demeanor during his interview and testimony at trial,
18 Mr. Handelsman was extraordinarily forthright in explaining all of the steps taken to accomplish
19 David Kalai's scheme.² He fully acknowledged his criminal liability and did not seek to
20 minimize his conduct or engage in progressive truth-telling. The government recognizes that
21 pursuant to U.S.S.G. § 5K1.1 "[t]he sentencing reduction for assistance to authorities shall be
22 considered independently of any reduction for acceptance of responsibility." *Id.* Application
23 Note 2. However, Mr. Handelsman's straightforward acceptance of his own responsibility was
24 an important part of his substantial assistance because his presentation of unvarnished statements
25 and testimony enhanced his credibility during his trial testimony. The vital impact of his

26 _____
27 ² It should be noted that Mr. Handelsman traveled to Los Angeles the day after receiving one of
28 his ongoing medical treatments, a fact that the government respectfully requests be given weight
in deciding the government's motion.

1 demeanor and completeness during his interview and willingness to be forthright about his own
2 culpability as well as how David Kalai and Nadav Kalai masterminded this offshore scheme was
3 of great assistance to the government in prosecuting David Kalai and Nadav Kalai. The fact that
4 only one interview with Mr. Handelsman was necessary made any cross-examination by defense
5 counsel based upon impeachment wholly ineffective at trial. The reason cross-examination of
6 Mr. Handelsman was ineffective at trial was, in this prosecutor's view, because Mr.
7 Handelsman's testimony was completely consistent with his proffer interview, and his demeanor
8 on the stand appeared to this prosecutor to contain many of the attributes included in the Court's
9 instruction to the jury on how to positively assess the credibility of witnesses.

10 **D. 18 U.S.C. § 3553(a)**

11 First, the Court is to consider the nature and circumstances of the offense and the history
12 and characteristics of the defendant. 18 U.S.C. § 3553(a)(1). Next, 18 U.S.C. § 3553(a)(2) asks
13 the Court to consider the need for the sentence imposed to reflect the seriousness of the offense,
14 to promote respect for the law, and to provide just punishment for the offense, as well as to
15 afford adequate deterrence.

16 The government does not dispute any information in the PSR regarding Mr.
17 Handelsman's personal characteristics, family history, physical history, and lack of any prior
18 criminal activity. The information in the PSR the government submits provides the relevant
19 information to assist the Court in properly applying 18 U.S.C. § 3553(a). Accordingly, the
20 government defers to the Court regarding its analysis pursuant to § 3553(a).

21 **E. CONCLUSION**

22
23 Based upon the foregoing, the United States concurs with the Presentence Report's
24 offense level calculation, recommended enhancements and adjustments. Although this Court is
25 not bound by any government recommendation, the government respectfully requests that this
26 Court give "substantial weight" to the government's assessment of Mr. Handelsman's substantial
27 assistance. U.S.S.C. § 5K1.1, Application Note 3.

1 Accordingly, the government respectfully requests that the Court impose a guideline
2 sentence consistent with a Level 11 offense. The government also defers to the Court regarding
3 the manner in which is sentence is imposed consistent with a Level 11 offense as set forth in the
4 advisory Sentencing Guidelines.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,

MELINDA HAAG
United States Attorney

 /s Christopher S. Strauss
Christopher S. Strauss
Trial Attorney
U.S. Department of Justice, Tax Division

FILED

2013 OCT 17 PM 2:34

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

February 2013 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ALMOG,
DAVID KALAI, and
NADAV KALAI,

Defendants.

CR No. 11-00930(B)-TJH

S E C O N D
S U P E R S E D I N G
I N D I C T M E N T

[18 U.S.C. § 371: Conspiracy]
[31 U.S.C. §§ 5314 and
5322(a), 31 C.F.R. §§ 103.24,
103.27(c), and 103.27(d)
(relocated to 31 C.F.R.
§§ 1010.350(a), 1010.306(c),
and 1010.306(d)): Willful
Failure to File Reports of
Foreign Bank and Financial
Accounts TD F 90-22.1]

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all relevant times to this Indictment:

1. United Revenue Service, Inc. (hereinafter "URS") was a tax preparation business, incorporated in the State of Nevada, with multiple locations throughout the United States.

2. At various times between in or about 2000 and in or about 2011, URS had its headquarters in Newport Beach,

Exhibit
A

1 California; Costa Mesa, California; and Bethesda, Maryland. URS
2 also had locations in Los Angeles, California; Santa Clara,
3 California; San Diego, California; Seattle, Washington; Dallas,
4 Texas; St. Louis, Missouri; Chicago, Illinois; Boston,
5 Massachusetts; New York, New York; and Atlanta, Georgia.

6 3. Between in or about 2000 and continuing through in or
7 about 2010, URS operated its tax return preparation business in
8 various locations under the names of URS; URS Tax, Inc.; URS
9 East LLC; URS Northern California LP; and URS Southern
10 California, LP (hereinafter collectively referred to as "URS").

11 4. Defendant DAVID KALAI (hereinafter "D. KALAI")
12 established URS in or about 1988 and also worked at URS as a tax
13 return preparer. In addition to being a tax return preparer, D.
14 KALAI served as the President of URS until on or about January
15 1, 2002. He also served as the Chief Executive Officer and
16 Chairman of the Board of Directors of URS until on or about
17 April 19, 2004, when he resigned those positions at a meeting of
18 the URS Board of Directors. After his resignation on or about
19 April 19, 2004, D. KALAI remained a member of the Board of
20 Directors of URS, remained active in the business operations of
21 URS, and continued to prepare tax returns on behalf of URS
22 clients.

23 5. Defendant D. KALAI worked primarily at URS
24 headquarters in Newport Beach, California, and later, at URS's
25 location in Costa Mesa, California.

26 6. Defendant NADAV KALAI (hereinafter "N. KALAI"), who
27 is defendant D. KALAI's son, worked for URS as a tax return
28 preparer from at least in or about 2001 and continuing until at
least in or about 2011. Defendant N. KALAI assumed the position
of President of URS on or about January 1, 2002.

7. Defendant N. KALAI worked primarily at URS's
headquarters in Bethesda, Maryland, as well as URS locations in

1 Newport Beach, California, and Costa Mesa, California, both
2 located in the Central District of California.

3 8. Defendants D. KALAI and N. KALAI were Israeli citizens
4 who subsequently became naturalized citizens of the United
5 States.

6 9. Defendant DAVID ALMOG (hereinafter "ALMOG") was a tax
7 return preparer employed by URS. Defendant ALMOG began working
8 for URS in or about 2002. As of at least in or about 2006,
9 defendant ALMOG was the branch manager of URS's New York office
10 located in Manhattan and a supervisor of tax return preparers at
11 URS's East Coast locations. Defendant ALMOG was an Israeli
12 citizen and a United States Permanent Resident Alien.

13 10. Unindicted co-conspirator R.S. was a tax return
14 preparer and the Vice-President of URS from in or about 2000
15 until in or about early 2006. R.S. worked out of the Newport
16 Beach, California URS headquarters, located in the Central
17 District of California.

18 11. A.F., M.A., M.N., B.F., A.I., and M.W. were tax
19 preparation clients of URS (collectively, the "Clients").

20 12. Bank A was a large financial institution headquartered
21 in Tel-Aviv, Israel. Bank A currently describes itself as
22 maintaining a "premier position in the world of international
23 private banking" with private bankers who will be a customer's
24 "loyal and discreet consultant." Bank A currently advertises
25 that it is "strategically located in financial centers in 17
26 countries," including banking operations in Luxembourg
27 (hereinafter "Bank A Luxembourg").

28 13. Bank B was a mid-size financial institution
headquartered in Tel-Aviv, Israel. Bank B offered private
banking services it currently describes as being tailored to a
customer's "preferred communications channels and information"
while "maintaining total discretion." Bank B further advertised
a worldwide presence "on four continents through subsidiaries,

1 branches, and representative offices," including a branch of its
2 Swiss banking operations located in Luxembourg (hereinafter
3 "Bank B Switzerland-Luxembourg Branch").

4 14. The Internal Revenue Service ("IRS") was an agency of
5 the United States Department of Treasury responsible for
6 administering and enforcing the tax laws of the United States
7 and collecting the taxes owed to the Treasury of the United
8 States.

9 15. United States citizens, resident aliens, and legal
10 permanent residents of the United States were required to file
11 an individual income tax return with the IRS reporting their
12 worldwide income for each year if their gross income exceeded a
13 certain amount.

14 16. The IRS required on Form 1040, Schedule B, Part III,
15 Line 7a, that every taxpayer answer the following question by
16 checking a "Yes" or "No" box: "At any time during [the calendar
17 year], did you have an interest in or a signature or other
18 authority over a financial account in a foreign country, such as
19 a bank account, securities account, or other financial account?"
20 If the answer to the question posed on Line 7a was "Yes," and
21 other exceptions not relevant here did not apply, then the box
22 on line 7a had to be checked "Yes." If the "Yes" box on line 7a
23 was checked, then Line 7b required the taxpayer to enter the
24 name of the foreign country in which the financial account was
25 located.

26 17. United States citizens, resident aliens, and legal
27 permanent residents of the United States who had a financial
28 interest in, or signature or other authority over, one or more
financial accounts in a foreign country with an aggregate value
of more than \$10,000 at any time during a particular calendar
year were required to file with the Department of the Treasury a
Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1

1 (hereinafter referred to as an "FBAR"). The FBAR for the
2 applicable year was due by June 30 of the following year.

3 18. An "undeclared bank account" was a financial account
4 maintained in a foreign country that was not reported to the
5 United States government on a tax return and an FBAR.

6 19. These introductory allegations are re-alleged in Count
7 One of this Second Superseding Indictment.

8 20. The introductory allegations in paragraphs 8, 12 and
9 17 are re-alleged in Counts Two through Five of this Second
10 Superseding Indictment.

11 //

12 //

13 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT ONE

[18 U.S.C. § 371]

A. OBJECT OF THE CONSPIRACY

21. From in or about April 2000, the exact date being unknown to the Grand Jury, and continuing thereafter up to at least in or about 2010, in the Central District of California, and elsewhere, defendants D. KALAI, N. KALAI, ALMOG, and others known and unknown to the Grand Jury, knowingly combined, conspired, and agreed to defraud the United States by deceitful and dishonest means for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of a government agency, namely, the Internal Revenue Service of the United States Treasury Department, in the ascertainment, computation, assessment, and collection of revenue, namely, income taxes.

B. MANNER AND MEANS OF THE CONSPIRACY

22. The object of the conspiracy was carried out, and was to be carried out, in substance, as follows:

a. In order to conceal the Clients' assets and income from the IRS, defendants ALMOG, D. KALAI, and N. KALAI, along with unindicted co-conspirator R.S., would aid, assist, advise, and facilitate the establishment of undeclared bank accounts at Bank A Luxembourg and Bank B Switzerland-Luxembourg Branch.

b. In order to hide the Clients' ownership and control of assets and conceal the Clients' income from the IRS, defendants ALMOG, D. KALAI, and N. KALAI, along with unindicted co-conspirator R.S., would incorporate and cause to be incorporated offshore companies in Belize and elsewhere to act as named account holders on the undeclared bank accounts at Bank A Luxembourg and Bank B Switzerland-Luxembourg Branch.

c. In order to conceal assets and income from the IRS, defendants ALMOG, D. KALAI, and N. KALAI, along with

1 unindicted co-conspirator R.S., would aid, assist, advise, and
2 facilitate the transfer of the Clients' funds to the undeclared
3 bank accounts at Bank A Luxembourg and Bank B
4 Switzerland-Luxembourg Branch from, among other places, bank
5 accounts held at a Wells Fargo branch located within the Central
6 District of California.

6 d. In order to conceal the true nature of the
7 transfers of money to the Bank A Luxembourg bank accounts and
8 fraudulently reduce the amount of income reported on income tax
9 returns, defendants ALMOG, D. KALAI, and N. KALAI, along with
10 unindicted co-conspirator R.S., would prepare and aid, assist,
11 and advise the preparation of false corporate and partnership
12 tax returns on behalf of clients A.F., M.A., B.F., and M.W.,
13 which falsely reported the money sent offshore as a (1) false
14 investment loss; and/or (2) false business expense.

14 e. In order to reduce fraudulently the amount of
15 income tax reported due, defendants ALMOG, D. KALAI, and N.
16 KALAI, along with unindicted co-conspirator R.S., would prepare
17 and aid, assist, advise, and cause the preparation of false
18 individual income tax returns for the Clients that (1)
19 under-reported the Clients' true income; and (2) failed to
20 disclose the existence of, and the Clients' financial interest
21 in, and authority over, the Clients' undeclared bank accounts at
22 Bank A Luxembourg and Bank B Switzerland-Luxembourg Branch.

21 f. In order to further conceal income from the IRS,
22 defendants ALMOG, D. KALAI, and N. KALAI, along with unindicted
23 co-conspirator R.S., would file and cause to be filed false
24 individual, corporate, and partnership tax returns with the IRS.

25 g. In order to further conceal the Clients'
26 ownership and control over the assets in the undeclared bank
27 accounts, defendants ALMOG, D. KALAI, and N. KALAI, along with
28 unindicted co-conspirator R.S., would cause the Clients to fail
to prepare and file FBARS with the Department of the Treasury

1 concerning the Clients' foreign financial accounts at Bank A
2 Luxembourg and Bank B Switzerland-Luxembourg Branch.

3 C. OVERT ACTS

4 23. In furtherance of the conspiracy, and to accomplish
5 its object, defendants D. KALAI, N. KALAI, ALMOG, and unindicted
6 co-conspirator R.S., together with others known and unknown to
7 the Grand Jury, committed and willfully caused others to commit
8 the following overt acts, among others, in the Central District
9 of California and elsewhere:

10 Client A.F.

11 Overt Acts Nos. 1-3: On or about the following dates,
12 defendant ALMOG directed and caused client A.F. to transfer the
13 following amounts from A.F.'s E-Trade Securities account at Bank
14 of New York, which were deposited into a Wells Fargo bank
15 account located in the Central District of California in the
16 name of Platinum Planning Group, account number xxxxxxxx738
(hereinafter, the "PPG Account"):

OVERT ACT	DATE	AMOUNT
17 1	7/22/2004	\$521,000
18 2	12/1/2004	\$523,000
19 3	12/20/2004	\$557,000

20 Overt Act No. 4: In or about August 2004, defendant
21 ALMOG opened and caused to be opened a bank account at Bank A
22 Luxembourg in the name of Katumba Capital, Inc. on behalf of
23 client A.F.

24 Overt Act No. 5: On or about August 8, 2004,
25 defendant ALMOG sent a three-page fax from the New York URS
26 office to unindicted co-conspirator R.S. in the Newport Beach,
27 California URS office that confirmed the opening of the Katumba
28 Capital, Inc. account and provided wiring instruction
information needed to wire money to the Katumba Capital, Inc.
account held at Bank A Luxembourg.

Overt Acts Nos. 6-14: On or about the following dates, unindicted co-conspirator R.S. caused the following amounts to be wired to account number xxx718 held in the name of Katumba Capital, Inc. at Bank A Luxembourg from one of three bank accounts located within the Central District of California: (1) the PPG account; (2) a Wells Fargo bank account in the name of Transnet Asset Management, account number xxxxxxx448 (hereinafter the "Transnet Account"); and (3) a Wells Fargo bank account in the name of Global Securities Trading, LLC, account number xxxxxxx820 (hereinafter the "Global Securities Account"), as specified below:

OVERT ACT	DATE	TRANSFERRED FROM	AMOUNT
6	8/10/2004	PPG Account	\$150,000
7	8/18/2004	PPG Account	\$400,000
8	10/4/2004	PPG Account	\$60,000
9	11/17/2004	PPG Account	\$300,000
10	12/27/2004	PPG Account	\$200,000
11	1/12/2005	PPG Account	\$160,000
12	1/31/2005	Transnet Account	\$220,000
13	2/8/2005	Transnet Account	\$220,000
14	4/14/2005	Global Securities Account	\$200,000

Overt Acts Nos. 15-16: On or about the following dates, unindicted co-conspirator R.S. filed and caused to be filed false U.S. Returns of Partnership Income, Forms 1065, for the tax years specified below on behalf of client A.F. in the name of Platinum/[F.] Trading JV, which falsely claimed losses in the total amounts listed below:

OVERT ACT	DATE	TAX YEAR	LOSS CLAIMED
15	8/10/2005	2003	\$811,628 - Line 22
16	8/10/2005	2004	\$1,105,858 - Line 22

Overt Act No. 17: On or about August 9, 2005, defendant ALMOG filed and caused to be filed a false U.S. Individual Income Tax Return, Form 1040, on behalf of client A.F. for tax year 2004 that (1) failed to report the existence

1 of A.F. 's foreign financial account at Bank A Luxembourg on
 2 Schedule B; and (2) falsely claimed a loss of \$1,821,612 on
 3 Schedule E, Line 29(b).

4 Overt Act No. 18: On or about April 17, 2006,
 5 defendant ALMOG filed and caused to be filed a false U.S.
 6 Individual Income Tax Return, Form 1040, on behalf of client
 7 A.F. for tax year 2005 that failed to report the existence of
 8 A.F.'s foreign financial account at Bank A Luxembourg on
 9 Schedule B.

10 Overt Act No. 19: On or about April 15, 2007,
 11 defendant ALMOG filed and caused to be filed a false U.S.
 12 Individual Income Tax Return, Form 1040, on behalf of client
 13 A.F. for tax year 2006 that failed to report the existence of
 14 A.F.'s foreign financial account at Bank A Luxembourg on
 15 Schedule B.

16 Overt Acts Nos. 20-22: On or before the following
 17 dates, defendant ALMOG caused client A.F. to fail to file an
 18 FBAR reporting A.F.'s financial interest in, and signature and
 19 other authority over, A.F.'s Bank A Luxembourg account:

OVERT ACT	CALENDAR YEAR	DUE DATE OF FBAR
20	2004	June 30, 2005
21	2005	June 30, 2006
22	2006	June 30, 2007

20 Client M.A.

21 Overt Act No. 23: In or about July 2005, defendant N.
 22 KALAI advised client M.A. to create an offshore corporation and
 23 establish a foreign financial account in the corporation's name
 24 for the purpose of transferring M.A.'s current business income
 25 into the foreign account and deducting those transfers as
 26 business expenses on M.A.'s business tax returns.

27 Overt Act No. 24: In or about August 2005, defendant
 28 N. KALAI directed and caused the incorporation of an

1 International Business Company called Antelope Int'l, Ltd. in
 2 Belize on behalf of client M.A.

3 Overt Act No. 25: On or about September 29, 2005,
 4 defendant N. KALAI caused Bank A Luxembourg account opening
 5 forms to be delivered to client M.A.

6 Overt Act No. 26: On or about October 4, 2005,
 7 defendant N. KALAI directed and caused the issuance of two
 8 25,000 bearer share stock certificates in Antelope Int'l, Ltd.

9 Overt Act No. 27: In or about late 2005, defendant N.
 10 KALAI directed client M.A. to transfer \$250,000 to account
 11 number xxx877 held in the name of Antelope Int'l, Ltd. at Bank A
 12 Luxembourg.

13 Overt Acts Nos. 28-30: On or about the following
 14 dates, defendant N. KALAI filed and caused to be filed false
 15 U.S. Returns of Partnership Income, Forms 1065, for the tax
 16 years specified below in the name of Quattro International
 17 Consulting, on behalf of client M.A., which falsely claimed
 18 deductions for "Outside Services" in the amounts listed below:

OVERT ACT	DATE	TAX YEAR	DEDUCTION CLAIMED
28	4/11/2006	2005	\$250,000 - Statement 1, Line 20
29	4/19/2007	2006	\$640,825 - Statement 1, Line 20
30	3/30/2008	2007	\$257,850 - Schedule, TY 2007 Itemized Other Deductions

19
 20 Overt Acts Nos. 31-33: On or about the following
 21 dates, defendant N. KALAI filed and caused to be filed false
 22 U.S. Individual Income Tax Returns, Forms 1040, on behalf of
 23 client M.A. and his spouse for the tax years specified below
 24 that (1) failed to report the existence of M.A.'s foreign
 25 financial account at Bank A Luxembourg on Schedule B; (2) failed
 26 to report income in the amount specified below that was
 27 generated by M.A.'s Bank A Luxembourg account; and (3) falsely
 28 claimed losses from Quattro International Consulting on Schedule

1 E, Line 29(b) for the following tax years and in the amounts
2 specified below:

OVERT ACT	DATE	TAX YEAR	LOSS CLAIMED	UNREPORTED INCOME
31	4/4/2006	2005	\$61,683	\$483
32	4/10/2007	2006	\$23,279	\$14,317
33	3/15/2008	2007	\$31,627	\$47,567

6 Overt Act No. 34: On or about April 30, 2009,
7 defendant N. KALAI filed and caused to be filed a false U.S.
8 Individual Income Tax Return, Form 1040, on behalf of client
9 M.A. and his spouse for tax year 2008 that (1) failed to report
10 the existence of M.A.'s foreign financial account at Bank A
11 Luxembourg on Schedule B; and (2) failed to report \$38,520 of
12 income generated by M.A.'s Bank A Luxembourg account.

13 Overt Acts Nos. 35-38: On or before the following
14 dates, defendant N. KALAI caused client M.A. to fail to file an
15 FBAR reporting M.A.'s financial interest in, and signature and
16 other authority over, M.A.'s Bank A Luxembourg account:

OVERT ACT	CALENDAR YEAR	DUE DATE OF FBAR
35	2005	June 30, 2006
36	2006	June 30, 2007
37	2007	June 30, 2008
38	2008	June 30, 2009

19 Client M.N.

20 Overt Act No. 39: In or about Spring 2000, defendant
21 D. KALAI advised client M.N. to open a foreign financial account
22 in which to deposit proceeds of the sale of stock.

23 Overt Act No. 40: In or about Spring 2000, defendant
24 D. KALAI referred client M.N. to a banker, D.Z., at Bank B in
25 Tel-Aviv, Israel, to establish a foreign financial account.

26 Overt Act No. 41: On or about April 28, 2000,
27 defendant D. KALAI aided, assisted, and caused client M.N. to
28

1 obtain a power of attorney over Falcon Corporate Holdings, Ltd.,
 2 a Cayman Islands corporation.

3 Overt Act No. 42: On or about March 21, 2002,
 4 defendant D. KALAI filed and caused to be filed a false U.S.
 5 Individual Income Tax Return, Form 1040, on behalf of client
 6 M.N. and his spouse for tax year 2001 that failed to report the
 7 existence of M.N.'s foreign financial account at Bank B
 Switzerland-Luxembourg Branch.

8 Overt Acts Nos. 43-45: On or about the following
 9 dates, the co-conspirator listed below filed and caused to be
 10 filed false U.S. Individual Income Tax Returns, Forms 1040, on
 11 behalf of client M.N. and his spouse for the tax years specified
 12 below that (1) failed to report the existence of M.N.'s foreign
 13 financial account at Bank B Switzerland-Luxembourg Branch; and
 14 (2) failed to report income in the amount specified below
 15 generated by M.N.'s account at Bank B Switzerland-Luxembourg
 Branch:

OVERT ACT	CO-CONSPIRATOR	DATE	TAX YEAR	UNREPORTED INCOME
43	R.S.	8/12/2005	2004	\$108,039
44	R.S.	4/28/2006	2005	\$190,007
45	D. KALAI	2/27/2008	2007	\$127,699

19 Overt Acts Nos. 46-49: On or before the following
 20 dates, the co-conspirator listed below caused client M.N. to
 21 fail to file an FBAR reporting M.N.'s financial interest in, and
 22 signature and other authority over, M.N.'s foreign financial
 23 account at Bank B Switzerland-Luxembourg Branch:

OVERT ACT	CO-CONSPIRATOR	CALENDAR YEAR	DUE DATE OF FBAR
46	D. KALAI	2001	June 30, 2002
47	R.S.	2004	June 30, 2005
48	R.S.	2005	June 30, 2006
49	D. KALAI	2007	June 30, 2008

1 characterize the transaction as a gift from B.F.'s sister to
2 B.F.'s wife.

3
4 Client M.W.

5 Overt Act No. 57: On or about March 23, 2001,
6 unindicted co-conspirator R.S. aided, assisted, and caused the
7 incorporation of Arcos Iris Investments, Inc. in Belize on
8 behalf of client M.W.

9 Overt Act No. 58: In or about 2002, defendant D.
10 KALAI introduced client M.W. to the branch manager at Bank A's
11 branch in Beverly Hills, California, for the purpose of opening
12 a foreign financial account at Bank A Luxembourg in the name of
13 Arcos Iris Investments, Inc.

14 Overt Acts Nos. 59-63: On or about the following
15 dates, unindicted co-conspirator R.S. directed and caused client
16 M.W. to wire the following amounts from M.W.'s financial
17 accounts at MBNA America Bank, N.A. and Solomon Smith Barney to
18 the PPG Account:

OVERT ACT	DATE	AMOUNT
59	11/29/2002	\$400,000
60	12/4/2002	\$600,000
61	12/5/2002	\$375,000
62	12/11/2002	\$650,000
63	12/16/2002	\$350,000

20
21 Overt Acts Nos. 64-68: On or about the following
22 dates, unindicted co-conspirator R.S. caused the following
23 amounts to be wired from Platinum Planning Group to account
24 number xxx241 held in the name of Arcos Iris Investments, Inc.
25 at Bank A Luxembourg:

OVERT ACT	DATE	AMOUNT
64	1/29/2003	\$300,000
65	2/7/2003	\$300,000
66	2/19/2003	\$300,000

67	3/18/2003	\$300,000
68	4/9/2003	\$270,000

Overt Act No. 69: On or about April 17, 2003, unindicted co-conspirator R.S. filed and caused to be filed a false U.S. Return of Partnership Income, Form 1065, in the name of Platinum Partners I for tax year 2002 that claimed a false loss of \$2,175,000 on Line 6.

Overt Act No. 70: On or about April 17, 2003, unindicted co-conspirator R.S. filed and caused to be filed a false U.S. Income Tax Return for an S Corporation, Form 1120S, in the name of MWE International, Inc., for tax year 2002 on behalf of client M.W. that claimed a false loss attributable to Platinum Partners I of \$2,066,520 on Line 5, Other Income (Loss).

Overt Act No. 71: On or about April 14, 2003, unindicted co-conspirator R.S. filed and caused to be filed a false U.S. Individual Income Tax Return, Form 1040, on behalf of client M.W. and his spouse for tax year 2002 that claimed a false loss of \$2,167,306 from MWE International, Inc. on Schedule E, Line 27(i)(C) and (D).

Overt Act No. 72: On or before June 30, 2004, unindicted co-conspirator R.S. caused client M.W. to fail to file an FBAR for calendar year 2003 reporting M.W.'s financial interest in, and signature and other authority over, his Bank A Luxembourg account.

Client A.I.

Overt Act No. 73: In and around 2000 or 2001, defendant N. KALAI advised A.I. to open a foreign financial account.

1 Overt Act No. 74: In and around November 2001,
2 defendant N. KALAI aided, assisted, and caused the incorporation
3 of ITV Holdings, Ltd. in Belize on behalf of client A.I.

4 Overt Act Nos. 75-76: On or about the following
5 dates, N. KALAI filed and caused to be filed false U.S.
6 Individual Income Tax Returns, Forms 1040, on behalf of client
7 A.I. and his spouse for the tax years specified below that
8 failed to report the existence of A.I.'s foreign financial
9 account at Bank B Switzerland-Luxembourg Branch:

OVERT ACT	DATE	TAX YEAR
75	4/14/2009	2008
76	9/13/2010	2009

COUNTS TWO AND THREE

[31 U.S.C. §§ 5314 and 5322(a); 31 C.F.R. §§ 103.24, 103.27(c) and (d) (relocated to § 1010.350(a) and §§ 1010.306(c) and (d))]

24. On or before the time required by law, including any lawful extensions, defendant D. KALAI did knowingly and willfully fail to file a Report of Foreign Bank and Financial Accounts (Form TD F 90-22.1) (FBAR) by mailing such report to the Department of the Treasury in Detroit, Michigan, or by hand-carrying it to any local office of the Internal Revenue Service, including any office within the Central District of California, for forwarding to the Department of the Treasury in Detroit, disclosing that he had a financial interest in, and signature and other authority over, a bank, securities, and other financial account in a foreign country, namely, an account located in Luxembourg at Bank A, which account had an aggregate value of more than \$10,000 at any time during the years listed below:

COUNT	CALENDAR YEAR	DUE DATE FOR FBAR
TWO	2008	June 30, 2009
THREE	2009	June 30, 2010

COUNTS FOUR AND FIVE

[31 U.S.C. §§ 5314 and 5322(a); 31 C.F.R. §§ 103.24, 103.27(c) and (d) (relocated to § 1010.350(a) and §§ 1010.306(c) and (d))]

25. On before the time required by law, including any lawful extensions, defendant N. KALAI did knowingly and willfully fail to file a Report of Foreign Bank and Financial Accounts (Form TD F 90-22.1) (FBAR) by mailing such report to the Department of the Treasury in Detroit, Michigan, or by hand-carrying it to any local office of the Internal Revenue Service, including any office within the Central District of California, for forwarding to the Department of the Treasury in Detroit, disclosing that he had a financial interest in, and signature and other authority over, a bank, securities, and other financial account in a foreign country, namely, an account located in Luxembourg at Bank A, which account had an aggregate

/ / / /

/ / / /

/ / / /

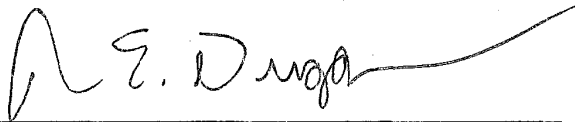
1 value of more than \$10,000 at any time during the years listed
2 below:

COUNT	CALENDAR YEAR	DUE DATE FOR FBAR
3 FOUR	2008	June 30, 2009
4 FIVE	2009	June 30, 2010

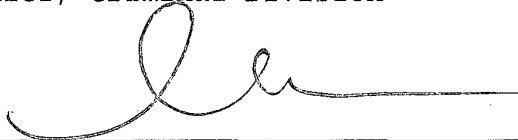
6 A TRUE BILL

7
8 151
9 Foreperson

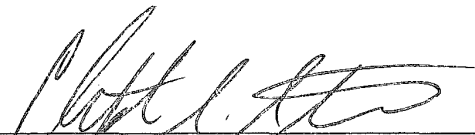
10 ANDRÉ BIROTTE JR.
11 United States Attorney

12 

14 ROBERT E. DUGDALE
15 Assistant United States Attorney
16 Chief, Criminal Division

17 

18 SANDRA R. BROWN
19 Assistant United States Attorney
20 Chief, Tax Division

21 

22 CHRISTOPHER S. STRAUSS
23 ELLEN M. QUATTRUCCI
24 Trial Attorneys
25 Department of Justice, Tax Division