

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

2006 MAR 28 P 2:07

UNITED STATES OF AMERICA

v.

STEVEN E. WINTER

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2 : 06 cr 094
CASE NO. _____

JUDGE HOLSCHUH

PLEA AGREEMENT

Plaintiff United States of America and Defendant STEVEN E. WINTER hereby enter into the following Plea Agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure:

1. Defendant STEVEN E. WINTER will enter pleas of guilty to the following counts of the Information filed herein: Count 2 which charges him with subscribing to a tax return which he did not believe to be true and correct as to every material matter in violation of 26 U.S.C. § 7206(1); and Count 10 which charges him with making false documents containing materially false statements in violation of 18 U.S.C. § 1001. The defendant understands his right to proceed by Indictment returned by a Grand Jury instead of by Information, but waives his right to prosecution by Indictment.

2. Defendant STEVEN E. WINTER understands the maximum penalty that may be imposed pursuant to his plea of guilty to Count 2 is a term of imprisonment of not more than three (3) years, a fine of not more than \$250,000, complete restitution to the Internal Revenue Service, the costs of prosecution and up to three (3) years of supervised release.

3. Defendant STEVEN E. WINTER understands the maximum penalty that may be imposed pursuant to each of his plea of guilty to Count 10 is a term of imprisonment of not more than five (5) years, a fine of not more than \$250,000, complete restitution to the victims of his crime, and up to three (3) years of supervised release.

4. Defendant STEVEN E. WINTER further understands that the Court has the authority to impose penalties on these two counts (Counts 2 and 10) of the Information to be served consecutively, that is, one after the other if the Court so chooses.

5. Defendant STEVEN E. WINTER will pay special assessments of \$100 on each count for a total of \$200, as required in 18 U.S.C. § 3013. These assessments shall be paid by defendant before sentence is imposed and defendant will furnish a receipt at sentencing. These payments shall be made to the United States District Court, at the Clerk's Office, 85 Marconi Boulevard, Columbus, Ohio 43215.

6. Defendant STEVEN E. WINTER further understands that he has the following rights, among others:

- a. To be represented by an attorney at every stage of the proceeding, and that, if necessary, one will be appointed to represent him;
- b. To plead not guilty and to be tried by a jury;
- c. To be assisted by counsel during such trial;
- d. To confront and cross-examine adverse witnesses;
- e. To use compulsory process to summon witnesses for the defense;
- f. Not to be compelled to testify; and

- g. To be presumed innocent throughout trial until and unless found guilty by a jury beyond a reasonable doubt.

7. Defendant STEVEN E. WINTER understands that if his pleas of guilty to the charges set forth in Counts 2 and 10 of the Information are accepted by the Court there will not be a further trial of any kind, so that by pleading guilty he waives, or gives up, his right to a trial.

8. Defendant STEVEN E. WINTER understands that the Court intends to question him on the record about the offenses to which he pleads guilty, which questioning may be under oath and which could provide a basis for a later prosecution of this defendant for perjury or false statements if he does not tell the truth.

9. Defendant STEVEN E. WINTER acknowledges that on October 17, 2005, on December 8, 2005, and again on January 24, 2006, he and his counsel executed waivers of statutes of limitations, copies of which are appended hereto as Exhibits A, B and C, respectively.

10. If his pleas of guilty are entered and not withdrawn and this defendant acts in accordance with all other terms of this agreement, the United States Attorney for the Southern District of Ohio agrees to seek leave of Court to dismiss Counts 1, 3, 4, 5, 6, 7, 8 and 9 of the Information at the sentencing hearing.

11. The parties agree that at the time of his pleas of guilty, the defendant has accepted responsibility for the offenses and therefore is entitled to a two-level reduction in the applicable base offense level under Section 3E1.1(a) of the U. S. Sentencing Guidelines ("U.S.S.G."), and may also receive a third point under subsection (b) if his offense level is 16 or greater. At the

time of sentencing, the United States will not object to this same determination provided defendant's conduct has continued to demonstrate compliance with the terms of U.S.S.G. § 3E1.1. The parties further understand that this agreement is not binding on the Probation Department or the Court and that the final determination concerning the use and application of the Guidelines and for imposition of the sentence in this case rests solely with the Court.

12. The parties agree that Defendant STEVEN E. WINTER's relevant conduct for the criminal tax charges is \$253,028, includes Counts 1 through 4 and is computed pursuant to U.S.S.G. § 2T1.1(a)(1); and that his relevant conduct for the false statements' charges is \$179,220, includes Counts 5 through 10 and is computed pursuant to U.S.S.G. § 2B1.1(b)(1). Defendant STEVEN E. WINTER further agrees that the amount of restitution due to the IRS for tax purposes is \$253,028; that the amount of restitution due to HUD is \$174,720; and that the amount of restitution due to other victims of the false statements charges is \$4,500. The parties further agree that if, in the sole discretion of the government, a lesser amount should be reported as relevant conduct and/or restitution, then the government will report that lesser amount to the Probation Department and the Court together with an explanation therefor. The parties understand that this agreement is not binding on the Probation Department or the Court and that the final determination concerning the application of the U.S.S.G. and for imposition of the sentence in this case rests solely with the Court, which includes, but is not limited to, a determination of losses and the appropriate amount of restitution to be imposed.


13. Defendant STEVEN E. WINTER is aware that, in light of *United States v. Booker*, 125 S.Ct. 738 (2005), the United States Sentencing Guidelines are advisory and are no longer mandatory. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set forth for the offenses to which he pleads guilty, and may require that such sentences be served consecutively. The defendant is aware that the Court has not yet determined a sentence. The defendant is further aware that any estimate of a probable sentencing range that he may have received, or may receive in the future, from his counsel, the United States, or the probation office is a prediction, not a promise, and is not binding on the United States, the Probation Department or the Court. The United States makes no promise or representation concerning the sentence that the defendant will receive, and the defendant cannot withdraw his guilty pleas based upon the actual sentence.

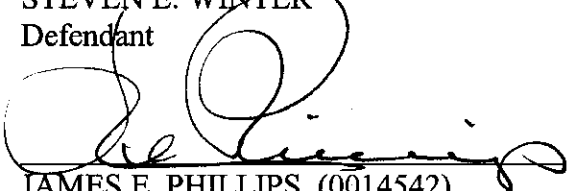
14. The defendant, STEVEN E. WINTER, is aware of his obligations to make accurate returns to the Internal Revenue Service and to pay his taxes, and nothing in this Plea Agreement is intended to affect or otherwise interfere with any such obligation for any year, which this defendant understands he must resolve with the Internal Revenue Service separate and apart from this criminal case.

15. By virtue of his pleas of guilty to the charges set forth in Counts 2 and 10 of the Information, this defendant understands that he is not a prevailing party as defined by 18 U.S.C. § 3006A and hereby expressly waives his right to sue the United States.

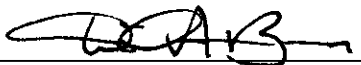
16. No additional promises, agreements, or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

3/24/06
(Date)


STEVEN E. WINTER
Defendant


JAMES E. PHILLIPS (0014542)
Attorney for Defendant
Vorys Sater Seymour and Pease
52 East Gay Street
Columbus, Ohio 43215
614/ 464-5610

GREGORY G. LOCKHART
United States Attorney


DANIEL A. BROWN (0023147)
Assistant United States Attorney
303 Marconi Blvd., Suite 200
Columbus, Ohio 43215
614/ 469-5715

WAIVER OF STATUTE OF LIMITATIONS

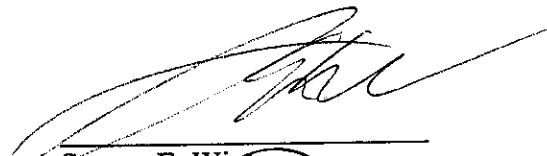
1. I, Steven E. Winter, have been advised by my attorney, James E. Phillips, that I am a target of an investigation in the Southern District of Ohio with respect to a number of matters, including but not limited to possible violations of Title 26, United States Code, Sections 7201 (tax evasion) and/or 7206(1) (subscribing false tax return).
2. I have also been advised that part of the aforementioned investigation involves possible criminal matters within the jurisdiction of the Department of Housing and Urban Development ("HUD"), including possible violations of several statutes (*e.g.*, frauds, false statements) within Title 18, United States Code (general federal crimes title).
3. I have been advised by my attorney and understand that under federal law the statute of limitations for the tax offenses described above is six (6) years from the date on which the crimes were committed (Title 26, United States Code, Section 6531) and for the other crimes referenced above is five (5) years (Title 18, United States Code, Section 3282) unless there is an agreement by the person to be charged that charges may be brought after that date.
4. I understand and have consulted with my attorney regarding the negotiation of a plea agreement and related matters with the attorney for the government in order to resolve these matters.
5. I understand that by agreeing to toll and not to assert statute of limitations' claims I am giving up my right to be charged within six (6) years of the date of the alleged acts constituting a violation of tax laws, and five (5) years for other potential violations. By signing this document, I knowingly and voluntarily waive any rights I may have under the above-referenced statutes of limitations regarding charges which may result from the investigation described in this document, provided that such charges are brought on or before December 15, 2005.

EXHIBIT A

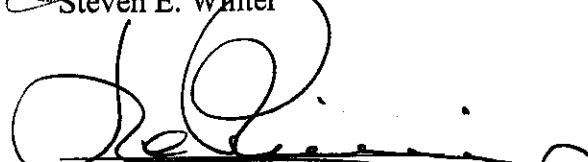
6. The purpose of this waiver is to permit attorneys for the government, including but not limited to assistants of the United States Attorney for the Southern District of Ohio and attorneys for the Tax Division of the U.S. Department of Justice, as well as investigative officials of both the Internal Revenue Service and HUD, to have meaningful communications with one another and with my attorney regarding the possible negotiation of a plea agreement and other matters pertinent to the investigation and prosecution of a criminal case against me. I further understand that if no agreement regarding disposition of this matter is reached between my attorney and an attorney for the government, I may be indicted or otherwise charged for one or more offenses described in numbered paragraphs 1 and 2, above.

7. I have discussed this matter with my attorney and I fully understand the consequences of this waiver. No promises, representations, or inducements of any kind other than those set forth herein have been made to me in connection to this waiver.

Signed this 17th day of October, 2005.



Steven E. Winter



James E. Phillips
Attorney for Steven E. Winter

SECOND SUCCESSIVE
WAIVER OF STATUTE OF LIMITATIONS

1. I, Steven E. Winter, have been advised by my attorney, James E. Phillips, that I am a target of an investigation in the Southern District of Ohio with respect to a number of matters, including but not limited to possible violations of Title 26, United States Code, Sections 7201 (tax evasion) and/or 7206(1) (subscribing false tax return).

2. I have also been advised that part of the aforementioned investigation involves possible criminal matters within the jurisdiction of the Department of Housing and Urban Development ("HUD"), including possible violations of several statutes (e.g., frauds, false statements) within Title 18, United States Code (general federal crimes title).

3. I have been advised by my attorney and understand that under federal law the statute of limitations for the tax offenses described above is six (6) years from the date on which the crimes were committed (Title 26, United States Code, Section 6531) and for the other crimes referenced above is five (5) years (Title 18, United States Code, Section 3282) unless there is an agreement by the person to be charged that charges may be brought after that date.

4. I understand and have consulted with my attorney regarding the negotiation of a plea agreement and related matters with the attorney for the government in order to resolve these matters. Previously, on October 17, 2005, I executed a similar waiver which extends the statutes of limitations up to and including December 15, 2005.

5. I understand that by continuing to agree to toll and not to assert statute of limitations' claims I continue to give up my right to be charged within six (6) years of the date of the alleged acts constituting a violation of tax laws, and five (5) years for other potential violations. By signing this document, I knowingly and voluntarily waive any rights I may have under the above-referenced statutes of limitations regarding charges which may result from the

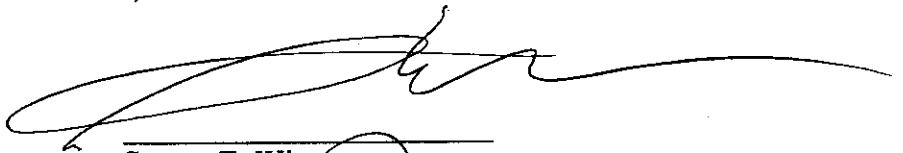
EXHIBIT B

investigation described in this document, provided that such charges are brought on or before 31 January, 2006.

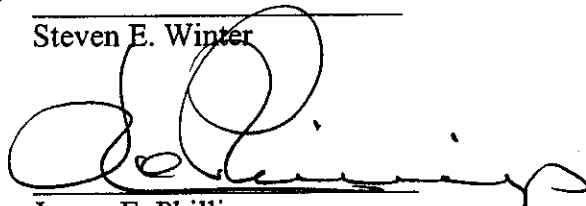
6. The purpose of this waiver is to permit my attorney to review records provided to him by attorneys for the government, as well as to permit government attorneys, including but not limited to assistants of the United States Attorney for the Southern District of Ohio and attorneys for the Tax Division of the U.S. Department of Justice, as well as investigative officials of both the Internal Revenue Service and HUD, to have meaningful communications with one another and with my attorney regarding the possible negotiation of a plea agreement and other matters pertinent to the investigation and prosecution of a criminal case against me. I further understand that if no agreement regarding disposition of this matter is reached between my attorney and an attorney for the government, I may be indicted or otherwise charged for one or more offenses described in numbered paragraphs 1 and 2, above.

7. I have discussed this matter with my attorney and I fully understand the consequences of this waiver. No promises, representations, or inducements of any kind other than those set forth herein have been made to me in connection with this waiver.

Signed this 6 day of December, 2005.



Steven E. Winter



James E. Phillips
Attorney for Steven E. Winter

THIRD SUCCESSIVE
WAIVER OF STATUTE OF LIMITATIONS

1. I, Steven E. Winter, have been advised by my attorney, James E. Phillips, that I am a target of an investigation in the Southern District of Ohio with respect to a number of matters, including but not limited to possible violations of Title 26, United States Code, Sections 7201 (tax evasion) and/or 7206(1) (subscribing false tax return).

2. I have also been advised that part of the aforementioned investigation involves possible criminal matters within the jurisdiction of the Department of Housing and Urban Development ("HUD"), including possible violations of several statutes (*e.g.*, frauds, false statements) within Title 18, United States Code (general federal crimes title).

3. I have been advised by my attorney and understand that under federal law the statute of limitations of the tax offenses described above is six (6) years from the date on which the crimes were committed (Title 26, United States Code, Section 6531) and for the other crimes referenced above is five (5) years (Title 18, United States Code, Section 3282) unless there is an agreement by the person to be charged that charges may be brought after that date.

4. I understand and have consulted with my attorney regarding the negotiation of a plea agreement and related matters with the attorney for the government in order to resolve these matters. Previously, on December 8, 2005, I executed a similar waiver which extends the statutes of limitations up to and including January 31, 2006.

5. I understand that by continuing to agree to toll and not to assert statute of limitations' claims I continue to give up my right to be charged within six (6) years of the date of the alleged acts constituting a violation of tax laws, and five (5) years for other

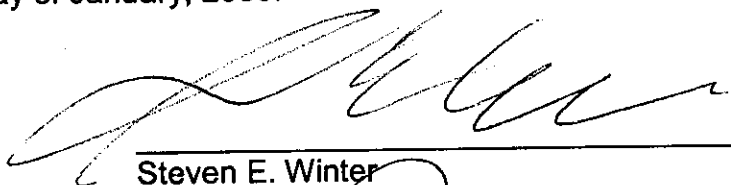
EXHIBIT C

potential violations. By signing this document, I knowingly and voluntarily waive my rights I may have under the above-referenced statutes of limitations regarding charges which may result from the investigation described in this document, provided that such charges are brought on or before March 31, 2006.

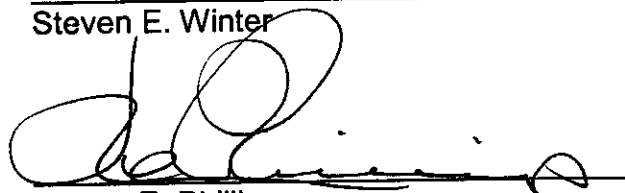
6. The purpose of this waiver is to permit my attorney to review records provided to him by attorneys for the government, as well as to permit government attorneys, including but not limited to assistants of the United States Attorney for the Southern District of Ohio and attorneys for the Tax Division of the U.S. Department of Justice, as well as investigative officials of both the Internal Revenue Service and HUD, to have meaningful communications with one another and with my attorney regarding the possible negotiation of a plea agreement and other matters pertinent to the investigation and prosecution of a criminal case against me. I further understand that if no agreement regarding disposition of this matter is reached between my attorney and an attorney for the government, I may be indicted or otherwise charged for one or more offenses described in numbered paragraphs 1 and 2, above.

7. I have discussed this matter with my attorney and I full understand the consequences of this waiver. No promises, representations, or inducements of any kind other than those set forth herein have been made to me in connection with this waiver.

Signed this 24th day of January, 2006.



Steven E. Winter



James E. Phillips
Attorney for Steven E. Winter