

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

<b>UNITED STATES OF AMERICA,</b>	:	<b>No. 3:07cr102</b>
	:	
<b>Plaintiff,</b>	:	<b>MOTION FOR CONSIDERATION</b>
	:	<b>OF PLEA AGREEMENT</b>
<b>vs.</b>	:	
	:	
<b>RODNEY R. RICHLEY, II,</b>	:	
	:	
<b>Defendant.</b>	:	

The United States respectfully requests that the Court consider accepting the fully executed Plea Agreement attached hereto as Exhibit 1.

Respectfully submitted,

GREGORY G. LOCKHART  
UNITED STATES ATTORNEY

s/Jill M. Cassara

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the within pleading was electronically filed and served on defense counsel this 20th day of March, 2008.

s/Jill M. Cassara

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Jill M. Cassara, WA Bar # 37134



as charged in the Indictment, are: 20 years imprisonment, a \$250,000 fine, 5 years of supervised release, and a mandatory \$100 special assessment, on each count. The statutory maximum penalties for a violation of 26 U.S.C. § 7201, as charged in the Indictment, are: 5 years imprisonment, a \$100,000 fine, 3 years of supervised release, costs of prosecution, and a mandatory \$100 special assessment, on each count. The statutory maximum penalties for a violation of 18 U.S.C. § 1957, as charged in the Indictment, are: 10 years imprisonment, a \$250,000 fine, 3 years of supervised release, and a mandatory \$100 special assessment.

2. Defendant understands that pursuant to 18 U.S.C. § 3663A the Court shall order, in addition to any penalties authorized by law, that Defendant make complete and full restitution to the victims directly and proximately harmed by Defendant's mail fraud conduct, or, if the victim is deceased, to the victim's estate. Those victims and the corresponding amounts of loss appear in the attached Statement of Facts. Defendant further understands that the Court may order Defendant to pay any taxes, interest and penalties that Defendant owes to the Internal Revenue Service ("IRS"). Also, Defendant understands that the Court may order Defendant to pay the costs of prosecution, which may be in addition to the statutory maximum penalties and fines stated above.

3. Once said guilty plea is entered, accepted, and not withdrawn, the USAO agrees not to charge Defendant with any additional federal criminal offenses which both occurred in the Southern District of Ohio and were part of the same scheme and course of conduct as charged in the Indictment.

4. Defendant acknowledges and understands that his sentence and whether he has accepted responsibility and given timely notification will be determined by the Court, with the

assistance of the U.S. Probation Office ("Probation Office"). Defendant understands that the Probation Office will conduct a pre-sentence investigation and will recommend to the Court an advisory sentencing guidelines range, including, among other matters, a base offense level, specific offense characteristics, adjustments and any departures. Defendant understands that the Probation Office's recommendations are not binding on the Court.

5. For the purpose of calculating an advisory sentencing guidelines range only, the parties will take the following positions at sentencing with respect to the application of the sentencing guidelines:

- a. The parties agree there are three groups of offenses: 1) "The Mail Fraud Offenses," arising from counts 2, 6, and 9 of the Indictment; 2) "The Tax Evasion Offenses," arising from counts 13, 17, 20 and 26 of the Indictment; and 3) "The Money Laundering Offenses," arising from count 32 of the Indictment. The parties agree that these offenses constitute distinct groups of offenses, that the offense level applicable to each group shall be determined applying the rules specified in U.S.S.G. § 3D1.3, and that the combined offense level applicable to all groups taken together shall be determined by applying the rules specified in U.S.S.G. § 3D1.4.
- b. The parties recommend that the following calculations be considered by the Court at the time of sentencing:

**Mail Fraud Offenses**

Base Offense Level:	7	U.S.S.G. § 2B1.1(a)(1)
Specific Offense Characteristics:	+18	U.S.S.G. § 2B1.1(b)(1)(J) (aggregate loss more than \$2,500,000)

	+2	U.S.S.G. § 3B1.3 (abuse of position of public or private trust)
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**Tax Evasion Offenses**

Base Offense Level:	24	U.S.S.G. §§ 2T1.1(a)(1); 2T4.1(J) (tax loss exceeded more than \$2,500,000)
	+2	U.S.S.G. § 3B1.3 (abuse of position of public or private trust)

**Money Laundering Offenses**

Base Offense Level:	At least level 27; not greater than level 29	U.S.S.G. §§ 2S1.1(a)(1); 1B1.3; 1B1.5
Specific Offense Characteristics:	+1	U.S.S.G. § 2S1.1(b)(2)(A) (conviction under 18 U.S.C. § 1957)

The parties reserve the right to argue for, and offer evidence in connection with, a Base Offense Level for the Money Laundering Offenses within the above-specified range, additional specific offense characteristics, adjustments and departures, and the factors set forth in 18 U.S.C. § 3553(a). Defendant understands that any agreements or recommendations made by the parties are not binding on the Court or the Probation Office. Defendant further understands that the sentencing guidelines ranges proposed by each of the parties are advisory, to be considered by the Court along with other appropriate sentencing factors in accordance with 18 U.S.C. § 3553. Defendant understands that the Court alone will determine an appropriate sentence. Defendant further understands that if the Court does not follow any agreements or recommendations made by the parties, he does not have the right to withdraw his plea of guilty. Defendant understands and acknowledges that he has not received any promises, guarantees or assurances as to a specific sentence, that he could receive up to the maximum penalties provided

by law if the Court so determines.

6. Provided that Defendant demonstrates an acceptance of responsibility for the offenses up to and including the time of sentencing, the USAO agrees to recommend a two-level reduction in the applicable sentencing guideline offense level pursuant to U.S.S.G. § 3E1.1, and to recommend, and, if necessary, move for an additional one-level reduction if available under that section. Defendant acknowledges and understands that the Court, with the assistance of the Probation Department, will independently determine his sentence and whether he has accepted responsibility and given timely notification.

7. Defendant reserves the right to request a non-guidelines sentence based on the factors set forth in 18 U.S.C. § 3553(a). The USAO will oppose any argument for a departure or sentence outside the sentencing guidelines range under the factors set forth in 18 U.S.C. § 3553(a). In the event Defendant contends that there is a basis for departure from, or a sentence outside, the otherwise applicable sentencing guidelines range based on his medical, mental and/or emotional condition, or otherwise intends to rely on any such condition at sentencing, Defendant will, forthwith upon request, execute all releases and other documentation necessary to permit the USAO and its experts, including medical personnel of the Bureau of Prisons, to obtain access to Defendant's medical, psychiatric, and psychotherapeutic records and will also provide to the USAO forthwith copies of any such records already in his possession. In addition, Defendant will authorize his care providers to discuss his condition with the USAO and its agents, including medical personnel of the Bureau of Prisons, as well as experts retained by the USAO. Defendant also agrees to submit to examinations and interviews with experts retained by and chosen by the USAO, including medical personnel of the Bureau of Prisons, if it is deemed

necessary by the Court.

DEFENDANT'S ADDITIONAL OBLIGATIONS

8. Defendant agrees that he will pay to the United States Clerk of Court, prior to or at the time of sentencing, the mandatory special assessments in the total amount of \$800 (corresponding to \$100 per each count of conviction).

9. Defendant further agrees that he will provide all requested information by the Probation Office concerning his assets and any other relevant information.

10. Defendant further agrees that he is not a prevailing party as defined by the Hyde Amendment, Public Law 105-119, Title VI, Nov. 26, 1997 (set forth as a statutory note under 18 U.S.C. § 3006A) and hereby expressly waives filing any suit or asserting any claim against the United States, including its agents and employees, under said provision.

11. Defendant further agrees:

- a. To file with the IRS complete and accurate tax returns for all tax years and periods up to and including the date of sentencing, which were required to be filed pursuant to the tax laws of the United States but which have not previously been filed;
- b. To file with the IRS complete and accurate amended returns for all previously-filed incomplete or inaccurate tax returns, for all tax years and periods up to the date of sentencing;
- c. To fully cooperate with the IRS in order to determine and calculate all taxes, interest, and penalties due and owing by Defendant to the United States, including but not limited to making Defendant's books and records

available, and providing supporting documentation to the IRS for examination and copying upon reasonable request;

- d. To pay to the IRS all taxes, penalties, and interest due and owing by Defendant to the United States, including but not limited to all taxes, penalties, and interest owed on all returns filed pursuant to this Plea Agreement, or, if financially unable to do so, make repayment arrangements with the IRS which are satisfactory to the IRS; and
- e. To comply with the tax laws of the United States.

12. Defendant agrees that nothing in this agreement forecloses or limits the ability of the IRS to examine and make adjustments to any return filed pursuant to this agreement, and that Defendant will not, after filing the returns, file any claim for refund of taxes, penalties, or interest for amounts attributable to the returns filed in connection with this Plea Agreement.

13. Defendant further agrees to allow the contents of his IRS criminal file to be given to civil attorneys and support staff of the IRS and the USAO to enable them to investigate any and all taxes and penalties that may be due and owing by Defendant. With respect to disclosure of the criminal file to the IRS, Defendant waives any rights under 26 U.S.C. § 7213, and any other right of privacy with respect to Defendant's tax returns and return information.

14. Defendant further agrees to make complete and full restitution to all victims for the losses caused by Defendant's activities. Pursuant to 18 U.S.C. § 3663A, or any other applicable statute or Court order, Defendant agrees as a condition of this Plea Agreement to make complete and full restitution to the victims directly and proximately harmed by Defendant's mail fraud conduct. Those victims and the corresponding amounts of loss appear in

the attached Statement of Facts. Defendant agrees that, in consideration of the USAO's compliance with its obligations under this Plea Agreement, the total amount of restitution is not restricted to the amounts alleged in the counts to which Defendant is pleading guilty and may include losses arising from charges not prosecuted pursuant to this Plea Agreement as well as all relevant conduct in connection with those counts and charges.

15. Defendant further agrees to make complete and full restitution to the IRS for the losses caused by Defendant's tax evasion conduct. Pursuant to 18 U.S.C. § 3663(a)(3), or any other applicable statute or Court order, Defendant agrees as a condition of this Plea Agreement to make complete and full restitution to the IRS in the amount of \$4,713,164.80. Defendant agrees that, in return for the USAO's compliance with its obligations under this Plea Agreement, the total amount of restitution is not restricted to the amounts alleged in the counts to which Defendant is pleading guilty and may include losses arising from charges not prosecuted pursuant to this Plea Agreement as well as all relevant conduct in connection with those counts and charges.

16. The parties agree to recommend to the Court that restitution shall first be paid to the victims directly and proximately harmed by Defendant's mail fraud conduct before the IRS is paid restitution. The parties further agree to recommend to the Court that the amount of restitution Defendant owes to the IRS shall be reduced by any amounts of restitution paid by Defendant to the mail fraud victims that the mail fraud victims actually pay over to the IRS in partial or complete satisfaction of the tax liability which resulted from Defendant's willful conduct.

17. Defendant further agrees and understands that he will not be permitted to

withdraw his guilty plea if he disagrees with the amount of restitution ultimately ordered by the Court, or the manner or method by which restitution shall be made. Defendant understands that this agreement relating to restitution is not an agreement on the amount of loss under U.S.S.G. § 2B1.1. Defendant understands that the amount of restitution owed may exceed the amount of loss for offense level purposes. Defendant further understands that nothing herein constitutes a final determination of Defendant's tax, interest, or penalty liability for any tax year or period, or precludes the IRS from further efforts to determine and collect taxes, interest, or penalties from Defendant.

18. Defendant agrees, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), or any other applicable statute or Court order, to the forfeiture of all his interest in all property constituting or derived from proceeds traceable to Defendant's violation of 18 U.S.C. § 1341 in counts 2, 6, and 9, including the following:

- a. \$4,387,985.80 in a money judgment representing the amount of the proceeds Defendant obtained as a result of his offense of mail fraud as alleged in counts 2, 6, and 9;
- b. All right, title, and interest in the whole of any lot or tract of land, together with its buildings, appurtenances, improvements, fixtures, attachments, and easements, located at No. 22841 Stateline Road, Lawrenceburg, Indiana, 47025, more particularly described as:  
Lot Number 11, 12, 13, and 14, as designated on the recorded plat of "Jackson Acres", in Plat Record 5, page 14, of the plat records of Dearborn County, Indiana, being part of the northwest quarter of Section

12, Township 6 North, Range 1 West, Dearborn County, Indiana.

19. Defendant waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant understands that forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the Court to advise him of this, pursuant to Rule 11(b)(1)(J), at the time his guilty plea is accepted. Defendant further waives all constitutional and statutory challenges (including direct appeal, habeas corpus, or any other means) to the forfeiture referenced above.

20. Defendant agrees to take all steps as requested by the United States to pass clear title to the real property to the United States, including testifying truthfully in any judicial forfeiture proceeding.

21. Defendant acknowledges that he is not entitled to use forfeited assets to satisfy any fine, restitution, cost of prosecution, or any other penalty the Court may impose upon the Defendant in addition to forfeiture.

22. Defendant agrees that he will provide the USAO expert reports, motions, memoranda of law and documentation of any kind on which he intends to rely at sentencing no later than 21 days before sentencing. Any basis for sentencing with respect to which all expert reports, motions, memoranda of law and documentation have not been provided to the USAO at least 21 days before sentencing, shall be deemed waived.

#### THE USAO'S OBLIGATIONS

23. If Defendant complies fully with all of his obligations under this Plea Agreement, the USAO agrees, at the time of sentencing, to the dismissal of the remaining counts in the

**Indictment.**

24. The USAO specifically reserves the right not to recommend a reduction under U.S.S.G. § 3E1.1 if, at any time between his execution of this Agreement and sentencing,

**Defendant:**

- a. Fails to admit a complete factual basis for the plea;
- b. Fails to truthfully admit his conduct in the offenses of conviction;
- c. Falsely denies, or frivolously contests relevant conduct for which Defendant is accountable for under U.S.S.G. § 1B1.3;
- d. Fails to provide truthful information about his financial status;
- e. Gives false or misleading testimony in any proceeding relating to the criminal conduct charged in this case and any relevant conduct for which Defendant is accountable under U.S.S.G. § 1B1.3;
- f. Engages in acts which form a basis for finding that Defendant has obstructed or impeded the administration of justice under U.S.S.G. § 3C1.1;
- g. Commits a crime;
- h. Transfers any asset protected under any provision of this Agreement; or
- i. Attempts to withdraw his guilty plea.

Defendant expressly understands that he may not withdraw his plea of guilty if, for any of the reasons listed above, the USAO does not recommend that he receive a reduction in offense level for acceptance of responsibility. Defendant expressly understands that, in addition to declining to recommend an acceptance of responsibility adjustment, the USAO may seek an

upward adjustment pursuant to U.S.S.G. § 3C1.1 if Defendant obstructs justice after the date of this Agreement.

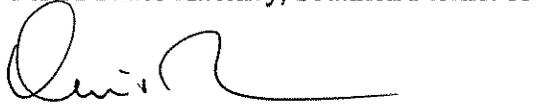
DISCUSSION, UNDERSTANDING, COMPLETE AGREEMENT

25. By signing this Plea Agreement, Defendant acknowledges that he has read and discussed its terms with his attorney, and that he understands and accepts those terms knowingly and voluntarily, without duress or coercion, and of his own free will, because he is in fact guilty and believes this agreement is in his best interests. Defendant further states that no additional promises or representations have been made to him by any official of the United States in connection with this matter. Defendant further understands the crimes to which he is pleading guilty, the maximum penalties for those offenses, and the sentencing guidelines potentially applicable to them. Defendant further acknowledges that he is fully satisfied by the legal representation provided to him by his attorney and has had sufficient time to meet and discuss the case, the charges, possible defenses, the terms of this Plea Agreement and the waiver of his rights.

26. Should Defendant's guilty plea not be accepted by the Court for whatever reason, or later be withdrawn on motion of Defendant, this Agreement shall be null and void at the option of the USAO.

27. Defendant acknowledges that this document contains the entire Plea Agreement between Defendant and the USAO through its undersigned attorneys. No other agreements, promises, deals, bargains or understandings exist which modify or alter these terms. This Plea Agreement binds only the United States Attorney's Office for the Southern District of Ohio and the United States Department of Justice, Tax Division, and does not bind any other federal, state or local prosecuting authority.

GREGORY G. LOCKHART  
United States Attorney, Southern District of Ohio



VIPAL J. PATEL  
Deputy Criminal Chief  
Assistant United States Attorney

3/20/08  
Date



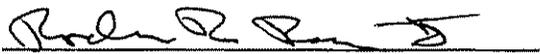
JORGE ALMONTE  
Trial Attorney  
Tax Division, Criminal Enforcement Section

March 19, 2008  
Date



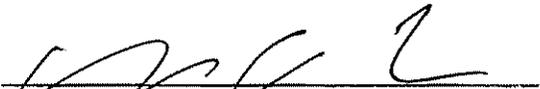
JILL M. CASSARA  
Trial Attorney  
Tax Division, Criminal Enforcement Section

March 19, 2008  
Date



RODNEY R. RICHLEY, II  
Defendant

3-3-2008  
Date



DENNIS A. LIEBERMAN  
Attorney for RODNEY R. RICHLEY, II

3/3/2008  
Date

STATEMENT OF FACTS

**UNITED STATES vs. RODNEY R. RICHLEY, II**

The Mail Fraud Offenses

From a date unknown, but sometime in or about January 2000, and continuing up until the date of the Indictment, the defendant, **RODNEY R. RICHLEY, II**, (“defendant RICHLEY”) while in the Southern District of Ohio and elsewhere, did knowingly devise and participate in, and intended to devise and participate in, a scheme and artifice to defraud and to obtain money and property from clients of Payroll Data Service, Inc. (“PDS”) in Kettering, Ohio, including, but not limited to, those named in Counts 2, 6 and 9 of the Indictment, by means of material false and fraudulent pretenses, representations, promises, and omissions of material fact.

Defendant RICHLEY owned and operated PDS, through which he provided payroll services to the public. The payroll services included the preparation and filing of federal and state employment tax returns and the automated collection and payment of said employment taxes to the relevant federal and state taxing agencies on a regular basis. PDS clients were required by law to withhold, report, and pay over federal employment taxes to the Internal Revenue Service (“IRS”) on the amount of wages that they paid to their employees.

It was a part of the scheme and artifice to defraud that defendant RICHLEY would cause PDS to enter into agreements with clients to provide employment tax services. As part of these agreements, PDS would agree to collect employment taxes from the clients to be timely paid over to relevant federal and state taxing agencies, and PDS would further agree it would prepare and file all required employment tax returns on behalf of the PDS clients.

It was further a part of the scheme and artifice to defraud that defendant RICHLEY

would cause PDS clients to grant PDS direct electronic access to the clients' bank accounts for the transfer of employment taxes to the PDS business bank account, number XXXXX3175, maintained at National City Bank. It was further a part of the scheme and artifice to defraud that defendant RICHLEY withdrew millions of dollars from the PDS clients' bank accounts under the guise of collecting and accumulating employment taxes owed by the clients for the purpose of paying those taxes over to federal and state taxing authorities. It was further a part of the scheme and artifice to defraud that defendant RICHLEY would represent to the PDS clients that PDS would pay over to the relevant federal and state taxing agencies all required employment taxes using the funds collected from the clients. It was further part of the scheme and artifice to defraud that defendant RICHLEY would commingle all client employment taxes in a single account that was used to fund PDS's operating expenditures as well as defendant RICHLEY's personal expenditures. As part of the scheme and artifice to defraud, defendant RICHLEY caused approximately \$4,387,985.80 in employment taxes collected from PDS clients not to be paid to the IRS.

It was further part of the scheme and artifice to defraud that defendant RICHLEY would prepare and file with the IRS false Forms 941, Employer's Quarterly Federal Tax Returns, on behalf of the PDS clients. The Forms 941 either under-reported on Line 11 the total amount of client employment tax liability or falsely reported on Line 14 that the total deposits of reported total client employment tax liability were in fact paid. Collectively, through the filing of false Forms 941's defendant RICHLEY defrauded the following PDS clients, including, but not limited to:

FRAUD LOSS CHARGE			
DDS CLIENT	TIME PERIOD	NUMBER OF FALSE FORMS 941 FILED	APPROXIMATE TOTAL OF UNDER-REPORTED OR UNPAID TAX LIABILITY
L & M Cleaning, Inc.	2001-2003	6	\$239,317.74
Grandma's Garden, Inc.	2001-2002	5	\$207,527.07
Upper Valley Family Care, Inc.	2002	3	\$149,976.81
Springfield Acme Electric Co.	2001-2003	7	\$40,938.84
B.B.K.M. Inc. d/b/a Progressive Printers Inc.	2000	3	\$330,066.18
Gustin's Hallmark Shops, Carol J. Stamps	2001-2003	5	\$38,374.57
Burt E. Shear, M.D. & Associates, Inc.	2001-2003	5	\$117,958.78
Miami-Cast, Inc.	2001-2003	6	\$153,164.13
Daniel O'Brien DDS Inc.	2002	3	\$77,718.82
William J. Hagerty DDS, Inc.	2002-2003	4	\$378,596.89
Ludy Greenhouse Mfg Corp.	2001-2002	5	\$380,322.16
CB Manufacturing & Sales Co., Inc.	2002	2	\$71,418.67
Fed Holdings Inc.	2000-2003	8	\$240,354.38
Federal Commercial Interiors	2001-2002	7	\$92,987.68
Federal Flooring Company	2001-2003	8	\$688,516.61
Specialty Sheet Metal	2000-2003	9	\$335,029.67
Tropical Interiors Inc.	2001-2002	4	\$58,939.88
Horticultural Designs Inc.	2002	2	\$1,023.67
BMP Management Co.	2001-2003	6	\$251,387.13
Burtsfield Foods, Inc. d/b/a Ritter's Frozen Custard	2002	3	\$15,793.00

FRAUD LOSS CHART			
PDS CLIENT	TIME PERIOD	NUMBER OF FALSE FORMS 941 FILED	APPROXIMATE TOTAL OF FUNDS REPORTED OR UNPAID TAX LIABILITY
Computer Creations LLC	2001-2002	4	\$111,358.09
Imperial Packaging Corporation	2003	1	\$9,102.40
Castor Construction Co. Inc.	2002-2003	3	\$9,371.89
Debra McFall Inc. d/b/a West Carrollton License Agency	2001-2003	5	\$28,112.20
Mark-Bil Co. Ltd. d/b/a Skyline Chili	2002-2003	4	\$39,862.47
Prime Time Party Rental Inc.	2001-2002	4	\$27,982.36
Target Tool Rental Inc.	2002	2	\$11,213.81
Joe's Pizzeria Inc.	2002-2003	2	\$13,639.87
Finch Rental, Inc.	2002-2003	4	\$31,450.86
Kevin F. Sunshein D.P.M., Inc.	2001-2003	5	\$23,610.39
JGB Inc. d/b/a Do It Yourself Rental	2001-2002	4	\$17,950.30
Compass Services Inc.	2001-2003	5	\$18,844.83
Club Champions Cin. LLC	2002-2003	4	\$7,424.51
VP & Associates Inc.	2001-2003	5	\$28,138.61
Miami Products & Chemical Co.	2001-2003	7	\$126,398.23
Design Tech Inc.	2002-2003	4	\$14,112.30
<b>TOTAL</b>			<b>\$4,387,985.80</b>

It was further part of the scheme and artifice to defraud that defendant RICHLEY would provide PDS clients with un-filed Forms 941 for the periods referenced above that correctly

reported the amount of taxes owed by the clients. Defendant RICHLEY represented to the PDS clients that PDS had actually filed the correct tax returns with the IRS. Defendant RICHLEY did so intending to lull the PDS clients into believing that PDS had properly remitted the clients' employment taxes to the IRS. It was further part of the scheme and artifice to defraud that defendant RICHLEY would also provide payroll summaries to the clients in order to lull the clients into believing that PDS had withdrawn the appropriate amount of employment taxes from the client bank accounts. The payroll summaries reflected, among other things, the amount of client funds withdrawn by PDS, the date of the withdrawals, and the purpose of those withdrawals.

It was further part of the scheme and artifice to defraud that defendant RICHLEY opened and maintained zero-balance bank accounts at National City Bank, including bank account number XXXXX3239, directly funded by PDS business bank account number XXXX3715 at National City Bank. Defendant RICHLEY would also make periodic transfers of client employment taxes from PDS business bank account number XXXX3715 at National City Bank to various personal bank accounts at National City Bank and Farmers & Merchants Bank, held either individually or jointly with his then-wife, Janetta Richley. It was further part of the scheme and artifice to defraud that defendant RICHLEY used the client employment taxes intended for payment to the IRS for a variety of personal expenditures, including, but not limited to, the purchase of multiple luxury vehicles, the withdrawal of approximately \$732,000.00 in U.S. currency through approximately 570 ATM withdrawals, and the payment of approximately \$360,000.00 to multiple hotels and gambling establishments in Las Vegas, Nevada for non-business purposes.

It was further part of the scheme and artifice to defraud that defendant RICHLEY used client employment taxes intended for payment to the IRS for the benefit of a personal friend, Sonie Meyer, in the form of wire transfers and checks, including, but not limited to, the purchase of a luxury vehicle, the purchase of a residence located at 21316 Alpine Drive, Lawrenceburg, Indiana 47025, the funding of a bogus PDS salary for Ms. Meyer totaling approximately \$24,450.00, and the funding of additional payments to Ms. Meyer totaling approximately \$130,510.00.

It was further part of the scheme and artifice to defraud that defendant RICHLEY, in order to conceal the existence of his scheme, eventually sold PDS to a business named Automatic Data Processing, Inc., in or about February 2003. Defendant RICHLEY further attempted to conceal the existence of his scheme to defraud by paying certain of the PDS clients' outstanding tax liabilities when the clients were alerted to such deficiencies by IRS correspondence, telling the PDS clients it was the result of computer errors and should be considered isolated incidents.

Defendant RICHLEY, having devised the above described scheme and artifice to defraud and obtain money and property, by means of material false and fraudulent pretenses, representations, promises, and omissions of material fact for the purpose of executing and attempting to execute the above described scheme and artifice, did knowingly cause the items described in EXHIBIT A (one page), incorporated by reference into this Statement of Facts, to be placed in an authorized depository for mail matter and to be sent and delivered by the U.S. Postal Service according to the directions thereon, each such mailing directly affecting interstate commerce, all in violation of 18 U.S.C. § 1341.

The Tax Fraud Offenses

From a date unknown, but sometime in or about January 1, 2001, up to and including the date of the Indictment, in the Southern District of Ohio and elsewhere, defendant RICHLEY did willfully attempt to evade and defeat the assessment and payment of a part of the federal employment taxes due and owing to the United States by PDS clients Federal Flooring Company, L & M Cleaning, Inc., and Specialty Sheet Metal, for each quarter described in EXHIBIT B (one page), incorporated by reference into this Statement of Facts, by: (1) preparing and causing to be prepared, signing and causing to be signed, and filing and causing to be filed with the IRS false and fraudulent Forms 941, Employer's Quarterly Federal Tax Returns, for clients Federal Flooring Company, L & M Cleaning, Inc., and Specialty Sheet Metal, (2) failing to pay over to the IRS the full amount of employment taxes due and owing by clients Federal Flooring Company, L & M Cleaning, Inc., and Specialty Sheet Metal, and (3) diverting employment tax deposits of clients Federal Flooring Company, L & M Cleaning, Inc., and Specialty Sheet Metal for purposes other than payment of Federal Flooring Company, L & M Cleaning, Inc., and Specialty Sheet Metal's employment tax liabilities, in violation of 26 U.S.C. § 7201.

Defendant RICHLEY well knew that, for each calendar year quarter described in EXHIBIT B (one page), incorporated by reference into this Statement of Facts, the actual total employee wages subject to withholding were in amounts substantially greater than reported on the respective Forms 941, Employer's Quarterly Federal Tax Returns, and upon which wages there were additional employment taxes due and owing to the United States. Defendant RICHLEY further acknowledges and agrees that the tax loss associated with each calendar year

quarter described in EXHIBIT B is described in detail in EXHIBIT C (one page), incorporated by reference into this Statement of Facts.

Defendant RICHLEY further acknowledges and agrees that he prepared and caused to be prepared, signed and caused to be signed, and filed and caused to be filed with the IRS additional Forms 941, Employer's Quarterly Federal Tax Returns, on behalf of PDS clients Federal Flooring Company and Specialty Sheet Metal that falsely and fraudulently reported, for each calendar year quarter described in EXHIBIT D (one page), incorporated by reference into this Statement of Facts, that the total deposits of employment taxes made with the IRS were in the amounts therein described, when in fact the actual total deposits of employment taxes made with the IRS were in amounts significantly lower. Defendant RICHLEY knowingly and willfully diverted the employment tax deposits of Federal Flooring Company and Specialty Sheet Metal for purposes other than payment of Federal Flooring Company and Specialty Sheet Metal's employment tax liabilities, in violation of 26 U.S.C. § 7201, in the amounts as described in EXHIBIT D.

Defendant RICHLEY further acknowledges and agrees that for purposes of determining the total tax loss attributable to the offenses of Evasion of Assessment and Payment of Employment Taxes, and Evasion of Payment of Employment Taxes, both in violation of 26 U.S.C. § 7201, the above referenced **FRAUD LOSS CHART**, totaling approximately \$4,387,985.80, shall be considered as acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the Defendant, that occurred during the commission, in preparation for, or in the course of attempting to avoid detection or responsibility of the offenses of conviction.

From on or about January 1, 2001, up to and including the date of the Indictment, in the Southern District of Ohio and elsewhere, defendant RICHLEY did willfully attempt to evade and defeat the assessment and payment of part of the income tax due and owing by him to the United States for the calendar year 2001, by, (a) filing and causing to be filed false Forms 941 for PDS clients, as set forth above; (b) diverting PDS clients' employment tax deposits for purposes other than payment of the PDS clients' employment tax liabilities; (c) utilizing U.S. currency and cashier's checks to conceal personal expenditures; and (d) preparing and causing to be prepared, signing and causing to be signed, and filing with the IRS a false 2001 U.S. Individual Income Tax Return, Form 1040, on or about June 8, 2002, which return defendant RICHLEY did not believe to be true and correct as to every material matter in that the return falsely and fraudulently stated on Line 58 that his total tax was \$141,333.00, when as defendant RICHLEY well knew, his taxes due and owing were substantially in excess of that amount, in violation of 26 U.S.C. § 7201. Defendant RICHLEY further acknowledges and agrees that the tax loss associated with the attempt to evade and defeat the assessment and payment of part of his income tax liability for the calendar year 2001 is approximately \$68,477.00.

From on or about January 1, 2002, up to and including the date of the Indictment, in the Southern District of Ohio and elsewhere, defendant RICHLEY did willfully attempt to evade and defeat the assessment and payment of part of the income tax due and owing by him to the United States for the calendar year 2002, by, (a) filing and causing to be filed false Forms 941 for PDS clients as set forth above; (b) diverting PDS clients' employment tax deposits for purposes other than payment of PDS clients' employment tax liabilities; (c) utilizing U.S. currency and cashier's checks to conceal personal expenditures; and (d) preparing and causing to be prepared, signing

and causing to be signed, and filing with the IRS a false 2002 U.S. Individual Income Tax Return, Form 1040, on or about April 3, 2003, which return defendant RICHLEY did not believe to be true and correct as to every material matter in that the return falsely and fraudulently stated on Line 61 that his total tax was \$120,424.00, when as defendant RICHLEY well knew, his taxes due and owing were substantially in excess of that amount, in violation of 26 U.S.C. § 7201. Defendant RICHLEY further acknowledges and agrees to that the tax loss associated with the attempt to evade and defeat the assessment and payment of part of his income tax liability for the calendar year 2001 is approximately \$199,350.00.

Defendant RICHLEY further acknowledges and agrees that for purposes of determining relevant conduct, the amount of approximately \$325,179.00 shall be considered as acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant, that occurred during the commission, in preparation for, or in the course of attempting to avoid detection or responsibility of the offenses of conviction for the attempt to evade and defeat the assessment and payment of part of his personal income tax liability.

Further, during the calendar years 2001 and 2002, defendant RICHLEY was the President of PDS, a corporation not expressly exempt from tax, with its principal place of business at Kettering, Ohio, and by reason of such facts he was required by law, after the close of the calendar year 2001 and 2002, and on or before March 15, 2002 and March 15, 2003, respectively, for and on behalf of said corporation, to make an income tax return to the Director, Internal Revenue Service Center, at Cincinnati, Ohio, in the Southern District of Ohio, or to the person assigned to receive returns at the local office of the IRS at Cincinnati, Ohio, or to any

other proper officer of the United States, stating specifically the items of said corporation's gross income and the deductions and credits allowed by law. Defendant RICHLEY, well-knowing all of the foregoing, did willfully fail to make an income tax return for PDS for the calendar years 2001 and 2002 to said Director of the Internal Revenue Service Center, to said person assigned to receive returns at the local office of the IRS, or to any other proper officer of the United States, in violation of 26 U.S.C. § 7203.

Defendant RICHLEY further acknowledges and agrees that the total combined tax loss associated with his violation of Title 26, Sections 7201 and 7203, is approximately \$4,713,164.80

#### The Money Laundering Offenses

From on or about July 23, 2002, through on or about February 11, 2003, in the Southern District of Ohio and elsewhere, defendant RICHLEY knowingly conducted and caused others to conduct a series of monetary transactions in criminally derived property of a value greater than \$10,000.00, totaling approximately \$375,484.24 in U.S. currency, knowing that the funds involved represented the proceeds of some unlawful activity, which property was derived from a specified unlawful activity, namely, mail fraud, in violation of Title 18, United States Code, Sections 1957 and 2, as described in more detail in EXHIBIT E (two pages), incorporated by reference into this Statement of Facts.

Defendant RICHLEY further acknowledges and agrees that for purposes of determining relevant conduct, the amount of approximately \$4,387,985.80 shall be considered as acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant, that occurred during the commission, in preparation for, or in the

course of attempting to avoid detection or responsibility of the offenses of conviction for money laundering.

#### Forfeiture Allegations

Defendant RICHLEY further acknowledges and agrees that on or about October 28, 1999, he entered into a purchase agreement regarding a property located at 21316 Alpine Drive, Hidden Valley Lake (HVL), Lawrenceburg, Indiana 47025, for approximately \$319,000.00. Defendant RICHLEY intentionally placed the property in the name of Sonie Meyer, who also appeared as the borrower on the promissory note executed at the time of the purchase of said property. The terms of the purchase included an initial earnest money deposit of approximately \$100,000.00, and a seller financed note of approximately \$219,000.00, to be paid in monthly installments of approximately \$1,800.00, with a balloon payment due on or before October 15, 2002. Defendant RICHLEY agrees that he provided funds to Ms. Meyer on a monthly basis to cover the monthly installments of the promissory note.

On or about September 25, 2002, Defendant RICHLEY delivered a certified check for \$204,480.68 to the seller in cancellation of the promissory note on the above named property. That check was purchased using funds derived from Check No. 1011 from Farmers & Merchants Bank, Account No. XX2873, in the name of Rodney R. Richley made payable to Cash, corresponding to count 32 of the Indictment. Defendant RICHLEY acknowledges and agrees that the property located at 21316 Alpine Drive, Hidden Valley Lake (HVL), Lawrenceburg, Indiana 47025 constituted or derived from proceeds obtained directly or indirectly as a result of his violation of Title 18, United States Code, Sections 1341 and 1957.

Defendant RICHLEY further acknowledges and agrees to waive all right, title and interest in the whole of any lot of tract of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements from the proceeds of the sale of the property located at 21316 Alpine Drive, Hidden Valley Lake (HVL), Lawrenceburg, Indiana 47025, including, but not limited to, any lot of tract of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements located at 22841 Stateline Road, Lawrenceburg, Indiana 47025, more particularly described as Lot Number 11, 12, 13, and 14, as designated on the recorded plat of "Jackson Acres", in Plat Record 5, page 14, of the plat records of Dearborn County, Indiana, being part of the northwest quarter of Section 12, Township 6 North, Range 1 West, Dearborn County, Indiana.

**RODNEY R. RICHLEY, II, HEREBY ACKNOWLEDGES AND AGREES THAT THE ABOVE STATEMENT OF FACTS IS TRUE AND CORRECT AND SO VERILY BELIEVES ON THIS 3 DAY OF MARCH, 2008.**

  
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RODNEY R. RICHLEY, II  
Defendant

## EXHIBIT A

CGUNT	DATE	MAIL MATTER
1	08/26/02	Form 941 for Client Federal Flooring Company mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$76,253.34 on Line 11.
2	11/09/02	Form 941 for Client Federal Flooring Company mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$72,368.96 on Line 11.
3	03/01/03	Form 941 for Client Federal Flooring Company mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$141,769.25 on Line 14.
4	05/11/03	Form 941 for Client Federal Flooring Company mailed from Kettering, Ohio received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$132,563.52 on Line 14.
5	08/29/02	Form 941 for Client L & M Cleaning, Inc. mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$35,138.73 on Line 11.
6	10/31/02	Form 941 for Client L & M Cleaning, Inc. mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$36,905.52 on Line 11.
7	08/26/02	Form 941 for Client Specialty Sheet Metal mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$45,856.97 on Line 11.
8	11/09/02	Form 941 for Client Specialty Sheet Metal mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total tax liability of \$37,009.89 on Line 11.
9	05/10/03	Form 941 for Client Specialty Sheet Metal mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$102,758.15 on Line 14.
10	05/01/03	Form 941 for Client Specialty Sheet Metal mailed from Kettering, Ohio, received by IRS Service Center in Covington, Kentucky, falsely reporting total deposits of \$99,435.14 on Line 14.

## EXHIBIT B

COUNT	PDS CLIENT	QUARTER ENDED	DATE FORM 941 FILED AT IRS	REPORTED TOTAL WAGES	REPORTED TOTAL EMPLOYE NET TAXES	ACTUAL TOTAL WAGES	ACTUAL TOTAL EMPLOYMENT TAXES DUE AND OWING
11	Federal Flooring Company	03/31/01	06/08/01	\$499,209.36	\$107,143.99	\$799,209.36	\$217,143.99
12	Federal Flooring Company	06/30/01	09/22/01	\$284,213.66	\$69,514.48	\$684,213.66	\$179,828.28
13	Federal Flooring Company	09/30/01	12/19/01	\$154,105.89	\$48,047.31	\$654,105.89	\$171,047.31
14	Federal Flooring Company	12/31/01	02/27/02	\$341,925.61	\$99,604.55	\$621,932.06	\$197,636.22
15	Federal Flooring Company	06/30/02	08/26/02	\$301,428.35	\$76,253.34	\$671,428.35	\$161,584.32
16	Federal Flooring Company	09/30/02	11/09/02	\$340,369.78	\$72,368.96	\$675,369.78	\$163,782.76
17	L & M Cleaning, Inc.	06/30/02	08/29/02	\$165,785.45	\$35,138.73	\$343,785.45	\$75,400.63
18	L & M Cleaning, Inc	09/30/02	10/31/02	\$151,693.22	\$36,905.52	\$353,693.22	\$76,731.66
19	Specialty Sheet Metal	06/30/02	08/26/02	\$150,834.90	\$45,856.97	\$353,834.90	\$97,557.69
20	Specialty Sheet Metal	09/30/02	11/09/02	\$121,179.49	\$37,009.89	\$341,179.49	\$95,275.18

## EXHIBIT C

COUNT	PBS CLIENT	QUARTER ENDED	TAX LOSS
11	Federal Flooring Company	03/31/01	\$110,000.00
12	Federal Flooring Company	06/30/01	\$110,313.80
13	Federal Flooring Company	09/30/01	\$123,000.00
14	Federal Flooring Company	12/31/01	\$98,031.67
15	Federal Flooring Company	06/30/02	\$85,330.98
16	Federal Flooring Company	09/30/02	\$91,413.80
17	L & M Cleaning, Inc.	06/30/02	\$40,261.90
18	L & M Cleaning, Inc.	09/30/02	\$39,826.14
19	Specialty Sheet Metal	06/30/02	\$51,700.72
20	Specialty Sheet Metal	09/30/02	\$58,265.29

## EXHIBIT D

COUNT	CLIENT	QUARTER ENDED	DATE FORM 941 FILED AT IRS	REPORTED TOTAL DEPOSITS	ACTUAL TOTAL DEPOSITS	TAX LOSS
21	Federal Flooring Company	12/31/02	03/01/03	\$141,769.25	\$110,085.37	\$31,683.88
22	Federal Flooring Company	03/31/03	05/11/03	\$132,563.52	\$93,790.37	\$37,773.15
23	Specialty Sheet Metal	12/31/02	05/10/03	\$102,758.15	\$79,804.81	\$22,953.34
24	Specialty Sheet Metal	03/31/03	05/01/03	\$99,435.14	\$91,298.31	\$8,136.83

## EXHIBIT E

COUNT	DATE	DESCRIPTION	AMOUNT
29	07/23/02	Check No. 4041 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchants Bank Account No. XX2873, in the name of Rodney Richley/Payroll Data Service	\$25,151.50
30	08/12/02	Check No. 4058 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchants Bank Account No. XX2873, in the name of Rodney Richley/Payroll Data Service	\$31,500.00
31	08/27/02	Check No. 4077 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchants Bank Account No. XX2873, in the name of Rodney Richley/Payroll Data Service	\$42,500.00
32	09/25/02	Check No. 1011 from Farmers & Merchants Bank, Account No. XX2873, in the name of Rodney R. Richley made payable to Cash	\$204,480.68
33	10/02/02	Check No. 4111 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchants Bank Account No. XX2873, in the name of Rodney Richley/Payroll Data Service	\$15,500.00
34	10/08/02	Check No. 4116 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchants Bank Account No. XX2873, in the name of Rodney Richley/Payroll Data Service	\$20,000.00
35	10/23/02	Check No. 4178 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchants Bank Account No. XX2873, in the name of Rodney Richley/Payroll Data Service	\$21,352.10

COUNT	DATE	DESCRIPTION	AMOUNT
36	02/11/03	Check No. 4205 from National City Bank, Account No. XXXXX3239, in the name of PDS made payable to Rodney R. Richley and deposited into Farmers & Merchants Bank Account No. XX2873, in the name of Rodney Richley/Payroll Data Service	\$15,000.00