

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

United States of America

vs.

Robert Paltrow,
Defendant

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* No. CR-2014-09
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319 Washington Street
Courtroom A
Penn Traffic Building
Johnstown, Pennsylvania

Monday, April 28, 2014

BEFORE: Kim R. Gibson, Presiding Judge

APPEARANCES:

JOHN J. VALKOVCI, JR., Esquire
Assistant United States Attorney
319 Washington Street
Room 224, Penn Traffic Building
Johnstown, Pennsylvania, 15901
(For the United States)

MARK B. SHEPPARD, Esquire
Montgomery, McCracken, Williams & Rhoads
123 South Broad Street
Philadelphia, Pennsylvania, 19109
(For the Defendant)

KAREN M. IBACH, Esquire
Montgomery, McCracken, Williams & Rhoads
123 South Broad Street
Philadelphia, Pennsylvania, 19109
(For the Defendant)

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1 P R O C E E D I N G S

2 DEPUTY CLERK GORGONE: All rise. Court
3 is in session.

4 JUDGE GIBSON: Please be seated.
5 Before we move to the waiver and plea, I believe there
6 are some attorneys to be admitted; is that correct?

7 ATTORNEY VALKOVCI: Your Honor, yes.
8 If I may?

9 JUDGE GIBSON: Yes.

10 ATTORNEY VALKOVCI: Thank you, Your
11 Honor. Your Honor, this case began, when I say this
12 case it's United States of America versus Robert
13 Paltrow, about a year ago. That's when I first met
14 Karen Ibach and Mark Sheppard. And as the case
15 progressed and I developed a working relationship with
16 them, we came to this point with the resolution of the
17 case. And then Mark asked me if I would be kind enough
18 to move for his admission and for Ms. Ibach's admission
19 to practice in the Western District of Pennsylvania.

20 Your Honor, I was flattered and
21 honored, and I would like to make that motion at this
22 point in time. Mark, no offense, but I'm going to go
23 ladies first.

24 ATTORNEY SHEPPARD: Absolutely.

25 ATTORNEY VALKOVCI: Your Honor, I'd

1 like to move for the admission of Karen M. Ibach. Ms.
2 Ibach is a partner at Montgomery, McCracken, Walker,
3 and Rhoads in Philadelphia. She is licensed to
4 practice in the Commonwealth of Pennsylvania, and her
5 number is 90579. Ms. Ibach is admitted to practice in
6 not only Pennsylvania but also in New Jersey and New
7 York. She is a graduate of Temple University School of
8 Law. She's also admitted to practice in the United
9 States District Court for the Eastern District of
10 Pennsylvania, the Middle District of Pennsylvania. So
11 with today's proceeding, Your Honor, and your
12 graciousness, we can hit the trifecta and she can be
13 licensed to practice in every federal district as well
14 as within the Third Circuit Court of Appeals.

15 She is involved in many community
16 activities as well as professional activities, Your
17 Honor. And also quite distinguished, she has been a
18 Pennsylvania Super Lawyer in the area of white collar
19 crime in 2013, and she's also a rising star in the area
20 of white collar criminal defense for the years 2010
21 through 2012. And so, Your Honor, it gives me immense
22 pleasure at this point in time to move for the
23 admission into the Western District of Pennsylvania
24 Karen M. Ibach.

25 JUDGE GIBSON: Attorney Ibach, if you

1 would stand and raise your right hand, please, and
2 repeat after me, I, and repeat your name.

3 ATTORNEY IBACH: I, Karen M. Ibach.

4 JUDGE GIBSON: Do solemnly swear.

5 ATTORNEY IBACH: Do solemnly swear.

6 JUDGE GIBSON: That as an attorney.

7 ATTORNEY IBACH: That as an attorney.

8 JUDGE GIBSON: And as a Counselor of
9 this Court.

10 ATTORNEY IBACH: And as a Counselor of
11 this Court.

12 JUDGE GIBSON: I will conduct myself
13 uprightly.

14 ATTORNEY IBACH: I will conduct myself
15 uprightly.

16 JUDGE GIBSON: And in accordance with
17 law.

18 ATTORNEY IBACH: And in accordance with
19 law.

20 JUDGE GIBSON: And I will support the
21 Constitution of the United States.

22 ATTORNEY IBACH: And I will support the
23 Constitution of the United States.

24 JUDGE GIBSON: Congratulations.

25 ATTORNEY IBACH: Thank you very much,

1 Your Honor.

2 JUDGE GIBSON: As long as you complete
3 the paperwork in the Clerk of Courts Office and sign
4 those two cards, and please, turn those two cards into
5 Ms. Gorgone, my Deputy Clerk, one will stay here and
6 one will go to Pittsburgh.

7 All right. Mr. Valkovci, you may
8 proceed with the next admission motion.

9 ATTORNEY VALKOVCI: Thank you, Your
10 Honor. Your Honor, at this time I would like to move
11 for the admission of Mark B. Sheppard. Mr. Sheppard is
12 also a partner at Montgomery, McCracken, Walker, and
13 Rhoads, a large law firm in Philadelphia. Somewhat
14 near and dear to the Court's own heart is that Mr.
15 Sheppard is a graduate of the Dickinson School of Law.
16 He is also admitted to practice in the State of New
17 York and like Ms. Ibach is licensed to practice and
18 admitted to practice in the Middle District of
19 Pennsylvania as well as the Eastern District of
20 Pennsylvania. He's also admitted to practice before
21 the Federal Circuit Court of Appeals as well as the
22 Third Circuit Court of Appeals.

23 Mr. Sheppard, I worked on with this
24 case. I've had numerous conversations, Your Honor,
25 exchanging emails, meetings back and forth. I've

1 always found him to be the consummate professional,
2 extremely competent. In fact, competent would probably
3 be an understatement, very knowledgeable in the area of
4 white collar crime, very impressive individual, and
5 very trustworthy individual to work with.

6 He is involved in his community. He's
7 involved in a number of professional associations as
8 well, Your Honor, including the National Association of
9 Criminal Defense Lawyers and others. And perhaps very
10 impressively as well, Your Honor, he has been
11 recognized as a Pennsylvania Super Lawyer for the years
12 1993 through 2013. So it gives me immense honor, and
13 it is a distinct privilege for me, Your Honor, at this
14 point in time to move for the admission of Mark B.
15 Sheppard to practice in the Western District of
16 Pennsylvania.

17 JUDGE GIBSON: Thank you, Mr. Valkovci.
18 Mr. Sheppard, if you would stand, please, and raise
19 your right hand and repeat after me, I, and repeat your
20 name?

21 ATTORNEY SHEPPARD: I, Mark Sheppard.

22 JUDGE GIBSON: Do solemnly swear.

23 ATTORNEY SHEPPARD: Do solemnly swear.

24 JUDGE GIBSON: That as an attorney.

25 ATTORNEY SHEPPARD: That as an

1 attorney.

2 JUDGE GIBSON: And as a Counselor of
3 this Court.

4 ATTORNEY SHEPPARD: And as a Counselor
5 of this Court.

6 JUDGE GIBSON: I will conduct myself
7 uprightly.

8 ATTORNEY SHEPPARD: I will conduct
9 myself uprightly.

10 JUDGE GIBSON: And in accordance with
11 law.

12 ATTORNEY SHEPPARD: And in accordance
13 with law.

14 JUDGE GIBSON: And I will support the
15 Constitution of the United States.

16 ATTORNEY SHEPPARD: And I will support
17 the Constitution of the United States.

18 JUDGE GIBSON: Congratulations.

19 ATTORNEY SHEPPARD: Thank you, Your
20 Honor.

21 JUDGE GIBSON: If you'll fill out the
22 two cards, sign them, and make sure that Ms. Gorgone
23 receives those and make sure all the paperwork is
24 completed at the Clerk of Courts and you will be duly
25 admitted. You are duly admitted in the Western

1 District.

2 ATTORNEY SHEPPARD: Thank you, Your
3 Honor. I appreciate it, Your Honor.

4 JUDGE GIBSON: And that would apply to
5 here, Pittsburgh, and Erie.

6 ATTORNEY SHEPPARD: Thank you, Your
7 Honor. And I also want to thank the Court, Mr.
8 Valkovci, and all the staff in the Clerks Office and in
9 Your Honor's chambers who were so helpful with us
10 getting this together at the end of last week.

11 JUDGE GIBSON: Well, I'm always happy
12 to hear that, and they know that's what they're
13 supposed to do, so I'm always sure that they are doing
14 that.

15 All right. That completes the motions
16 for admission of attorneys. And we are now ready to
17 turn to the case of United States versus Robert
18 Paltrow, Criminal No. 14-09. And we are going to have
19 initial appearance, arraignment, waiver of indictment,
20 waiver of jury trial, and plea hearing in this case.
21 And before we proceed any further, if Counsel would
22 enter their appearance, please?

23 ATTORNEY VALKOVCI: Good morning, Your
24 Honor. John Valkovci on behalf of the United States.
25 With me at counsel table is Internal Revenue Service

1 Criminal Investigations Special Agent Philip O'Connor
2 and to his immediate left is Internal Revenue Service
3 Revenue Agent Pebble Bulvin-Albertelli.

4 ATTORNEY SHEPPARD: Good morning, Your
5 Honor, Mark Sheppard on behalf of Mr. Paltrow and with
6 me this morning is my partner, Karen Ibach.

7 JUDGE GIBSON: All right. Attorney
8 Sheppard, if you and the Defendant would go to the
9 lectern, please. And Ms. Gorgone, if you would please
10 administer the oath to Mr. Paltrow.

11 Whereupon,

12 ROBERT PALTROW
13 having been first duly sworn, testified as follows:

14 JUDGE GIBSON: Mr. Paltrow, do you
15 understand that you are now under oath and if you
16 answer any of my questions falsely, your answers may
17 later be used against you in another prosecution for
18 perjury or making false statement?

19 MR. PALTROW: I do.

20 JUDGE GIBSON: It is my understanding
21 that you wish to waive indictment, waive jury trial,
22 and enter a plea of guilty as to Counts 1 and 2 of the
23 information filed at Criminal No. 14-09 pursuant to
24 Rule 11 of the Federal Rules of Criminal Procedure; is
25 that correct?

1 MR. PALTROW: Yes, Your Honor.

2 JUDGE GIBSON: Mr. Sheppard, is that
3 correct?

4 ATTORNEY SHEPPARD: It is, Your Honor.

5 JUDGE GIBSON: Before accepting your
6 waiver of indictment and waiver of jury trial and
7 permitting you to enter your plea, there are a great
8 number of questions that I am required to ask you in
9 order to assure that it is a valid waiver of
10 indictment, waiver of jury trial, and entry of plea.
11 If at any time you do not understand any of the
12 questions or if at any time you wish to consult with
13 your attorney, please advise me of that and I will
14 either rephrase the question or I will permit you to
15 consult with Mr. Sheppard; do you understand that?

16 MR. PALTROW: Yes, Your Honor.

17 JUDGE GIBSON: What is your full name?

18 MR. PALTROW: Robert W. Paltrow.

19 JUDGE GIBSON: And how old are you?

20 MR. PALTROW: Seventy-two (72).

21 JUDGE GIBSON: How far did you go in
22 school?

23 MR. PALTROW: Completed four years at
24 the University of Cornell, graduated with a Bachelor of
25 Arts.

1 JUDGE GIBSON: Are you able to speak,
2 read, and understand English?

3 MR. PALTROW: Yes, sir.

4 JUDGE GIBSON: Are you a citizen of the
5 United States?

6 MR. PALTROW: Yes, sir.

7 JUDGE GIBSON: The Court notes that you
8 are represented by Counsel and that Counsel is Attorney
9 Sheppard; is that correct?

10 MR. PALTROW: Yes, sir.

11 JUDGE GIBSON: You do have a right to
12 retain legal counsel, which is what you did in this
13 case or to have legal counsel appointed for you if you
14 are unable to afford counsel. Am I correct that
15 Attorney Sheppard has been retained rather than
16 appointed?

17 MR. PALTROW: Yes, Your Honor.

18 JUDGE GIBSON: Have you had a full and
19 reasonable opportunity to consult with your attorney?

20 MR. PALTROW: Yes, Your Honor.

21 JUDGE GIBSON: Have you been able to
22 communicate with your attorney without any problem?

23 MR. PALTROW: Yes.

24 JUDGE GIBSON: Attorney Sheppard, have
25 you been able to communicate with the Defendant without

1 any problem?

2 ATTORNEY SHEPPARD: I have, Your Honor.

3 JUDGE GIBSON: Mr. Paltrow, limiting
4 yourself to the last three years, can you tell me
5 whether you have any employment background during that
6 period?

7 MR. PALTROW: In the last three years,
8 yes, I have.

9 JUDGE GIBSON: Can you tell me what
10 that is, sir?

11 MR. PALTROW: Yes, I was an Officer and
12 a Director at North American Communications.

13 JUDGE GIBSON: And what officer were
14 you?

15 MR. PALTROW: I was the Vice President.

16 JUDGE GIBSON: Have you taken any
17 illegal drugs or have you consumed any alcoholic
18 beverage in the past 24 hours?

19 MR. PALTROW: Yes, Your Honor.

20 JUDGE GIBSON: Can you tell me which of
21 those and when?

22 MR. PALTROW: Last night I had wine
23 with dinner, Your Honor.

24 JUDGE GIBSON: And how many glasses of
25 wine did you have?

1 MR. PALTROW: Two.

2 JUDGE GIBSON: And you had nothing this
3 morning?

4 MR. PALTROW: No, sir.

5 JUDGE GIBSON: Okay. Mr. Sheppard, I'm
6 sure you spoke with the Defendant prior to court. Did
7 he appear to be oriented and understanding?

8 ATTORNEY SHEPPARD: Yes, Your Honor, he
9 has.

10 JUDGE GIBSON: All right. Mr. Paltrow,
11 have you taken any prescription medications, medicine,
12 or pills in the past 24 hours?

13 MR. PALTROW: No, sir.

14 JUDGE GIBSON: Are you now or have you
15 recently been under the care of a physician or a
16 psychiatrist?

17 MR. PALTROW: No, sir.

18 JUDGE GIBSON: Are you currently
19 suffering from any illness?

20 MR. PALTROW: No, sir.

21 JUDGE GIBSON: Are you now or have you
22 recently been hospitalized or treated for any mental
23 illness or addiction to narcotics of any kind?

24 MR. PALTROW: No, sir.

25 JUDGE GIBSON: Do you understand the

1 purpose of today's proceeding?

2 MR. PALTROW: Yes, sir.

3 JUDGE GIBSON: Does either Counsel have
4 any doubt about the competence of Mr. Paltrow to waive
5 indictment, waive his right to jury trial, and enter a
6 plea of guilty today?

7 ATTORNEY SHEPPARD: I do not, Your
8 Honor.

9 ATTORNEY VALKOVCI: No, Your Honor.

10 JUDGE GIBSON: Court also finds Mr.
11 Paltrow to be competent to waive indictment, waive his
12 right to jury trial, and enter his plea today. We will
13 now move to the waiver of indictment portion of this
14 proceeding.

15 It is the Court's understanding that as
16 part of the plea agreement you have agreed to waive
17 indictment as to the charges at Criminal No. 14-09; is
18 that correct, sir?

19 MR. PALTROW: Yes, Your Honor.

20 JUDGE GIBSON: I will now read to you
21 the counts contained in the information and if you have
22 a copy of that there you can follow along with me as I
23 read. Count 1 reads as follows. On or about April 15,
24 2008 in the Western District of Pennsylvania and
25 elsewhere, the Defendant, Robert Paltrow, did willfully

1 make and attempt to make and subscribe and cause to be
2 subscribed a United States Individual Income Tax Return
3 Form 1040 for calendar year 2007, which Form 1040 was
4 verified by a written declaration that it was being
5 made under penalty of perjury and was filed
6 electronically with the Internal Revenue Service, which
7 Form 1040 the Defendant, Robert Paltrow, did not
8 believe to be true and correct as to every material
9 matter in that he stated on said Form 1040 that his
10 taxable income for calendar year 2007 was the sum of
11 \$101,401 and that the amount of tax due and owing
12 thereon was the sum of \$45,114 whereas Defendant,
13 Robert Paltrow, then and there well knew and believed
14 his taxable income for calendar year 2007 was the sum
15 of \$3,104,943 upon which said taxable income there was
16 due and owing to the United States of America an income
17 tax of \$481,623 in violation of Title 26 U.S.C. Section
18 7206(1). Do you understand that charge?

19 MR. PALTROW: Yes, sir.

20 JUDGE GIBSON: Count 2 reads as
21 follows. On or about April 15, 2009 in the Western
22 District of Pennsylvania and elsewhere, the Defendant,
23 Robert Paltrow, did willfully make and attempt to make
24 and subscribe and cause to be subscribed a United
25 States Individual Income Tax Return Form 1040 for

1 calendar year 2008, which Form 1040 was verified by a
2 written declaration that it was being made under
3 penalty of perjury and was filed electronically with
4 the Internal Revenue Service, which Form 1040 the
5 Defendant, Robert Paltrow, did not believe to be true
6 and correct as to every material matter in that he
7 stated on said Form 1040 that his taxable income for
8 calendar year 2008 was the sum of \$94,137 and the
9 amount of tax due and owing thereon was the sum of
10 \$44,926, whereas the Defendant, Robert Paltrow, then
11 and there well knew and believed his taxable income for
12 calendar year 2008 was the sum of \$1,878,142 upon which
13 said taxable income there was due and owing to the
14 United States of America income tax of \$317,346 in
15 violation of Title 26 U.S.C. Section 7206(1). Do you
16 understand that charge?

17 MR. PALTROW: Yes, Your Honor.

18 JUDGE GIBSON: Did you discuss both of
19 those charges with your attorney?

20 MR. PALTROW: Yes, Your Honor.

21 JUDGE GIBSON: Mr. Paltrow, you have a
22 Constitutional right to be charged by an indictment of
23 a Grand Jury, but you can waive that right and consent
24 to being charged by information of the United States
25 Attorney. Instead of an indictment, these felony

1 charges against you have been brought by the United
2 States Attorney through the filing of an information.
3 Unless you waive indictment, you may not be charged
4 with a felony unless a Grand Jury finds by return of an
5 indictment there is probable cause to believe that a
6 crime has been committed and that you committed it. If
7 you do not waive indictment, the Government may present
8 this case to the Grand Jury and ask it to indict you.
9 A Grand Jury is composed of at least 16 and not more
10 than 23 persons, and at least 12 Grand Jurors must find
11 that there is probable cause to believe that you
12 committed the crime with which you are charged before
13 you may be indicted. The Grand Jury might or might not
14 indict you.

15 If you waive indictment by the Grand
16 Jury, the case will proceed against you on the United
17 States Attorney's information just as though you had
18 been indicted. Have you discussed waiving your right
19 to indictment by the Grand Jury with your attorney?

20 MR. PALTROW: Yes, Your Honor.

21 JUDGE GIBSON: Do you understand your
22 right to indictment by a Grand Jury?

23 MR. PALTROW: Yes, Your Honor.

24 JUDGE GIBSON: Have any threats or
25 promises been made to induce or persuade you to waive

1 indictment?

2 MR. PALTROW: No, Your Honor.

3 JUDGE GIBSON: Do you wish to waive
4 your right to indictment by Grand Jury?

5 MR. PALTROW: Yes, Your Honor.

6 JUDGE GIBSON: Attorney Sheppard, is
7 there any reason why Defendant should not waive
8 indictment?

9 ATTORNEY SHEPPARD: No, Your Honor.

10 JUDGE GIBSON: Mr. Paltrow, do you
11 hereby waive your right to indictment by a Grand Jury
12 as to the charges filed at Criminal No. 14-09?

13 MR. PALTROW: Yes, Your Honor.

14 JUDGE GIBSON: Ms. Gorgone, if you
15 would provide to the Defendant and his Counsel the
16 Waiver of Indictment Form?

17 ATTORNEY SHEPPARD: May I approach,
18 Your Honor?

19 JUDGE GIBSON: Yes. The Waiver of
20 Indictment Form has been signed by Defendant and by his
21 Counsel, and the Court finds that the waiver is
22 knowingly and voluntarily made, and it is accepted by
23 the Court. And that acceptance will be evidenced by my
24 signature on the waiver of indictment form.

25 We will now proceed to the arraignment

1 and entry of plea portion of the proceeding. Mr.
2 Paltrow, the United States Attorney for the Western
3 District of Pennsylvania filed an information against
4 you for the following counts. Count 1, filing a false
5 United States Individual Income Tax Return on or about
6 April 15, 2008 in violation of 26 U.S.C. Section
7 7206(1). Count 2, filing a false United States
8 Individual Incomes Tax Return on or about April 15,
9 2009 in violation of 26 U.S.C. Section 7206(1).

10 Prior to appearing today, Mr. Paltrow,
11 were you provided with a copy of the information?

12 MR. PALTROW: Yes, Your Honor.

13 JUDGE GIBSON: Did you read the
14 information?

15 MR. PALTROW: Yes, Your Honor.

16 JUDGE GIBSON: Do you understand that
17 you do have a right to enter a plea of not guilty to
18 the crimes charged in the information and have a jury
19 try you on those charges?

20 MR. PALTROW: Yes, sir.

21 JUDGE GIBSON: Is it your intent to
22 enter a plea of guilty to Counts 1 and 2 of the
23 information?

24 MR. PALTROW: Yes, Your Honor.

25 JUDGE GIBSON: Have you fully discussed

1 with Mr. Sheppard the charges in Counts 1 and 2 of the
2 information to which you intend to enter a guilty plea?

3 MR. PALTROW: Yes, Your Honor.

4 JUDGE GIBSON: Are you satisfied with
5 the Counsel representation and advice provided to you
6 in this case by your attorney, Mr. Sheppard, and by
7 others in his firm that you may have spoken with?

8 MR. PALTROW: Yes, I am, Your Honor.

9 JUDGE GIBSON: Attorney Sheppard, have
10 you had a full and complete opportunity to discuss the
11 information and the charges at Counts 1 and 2 with Mr.
12 Paltrow?

13 ATTORNEY SHEPPARD: I have, Your Honor.

14 JUDGE GIBSON: Did the Defendant have
15 questions for you regarding Counts 1 and 2?

16 ATTORNEY SHEPPARD: He did, Your Honor.

17 JUDGE GIBSON: Were you able to answer
18 his questions so that he understood the charges
19 included in the information?

20 ATTORNEY SHEPPARD: Yes, Your Honor.

21 JUDGE GIBSON: Mr. Paltrow, at this
22 time, I could read the information to you, although I
23 note that prior to this that in this proceeding I read
24 to you Counts 1 and 2. Do you wish for the Court to
25 read those counts to you again at this time, or do you

1 waive that reading?

2 MR. PALTROW: No thank you, Your Honor.

3 JUDGE GIBSON: You'll waive the
4 reading?

5 MR. PALTROW: Yes, sir.

6 JUDGE GIBSON: And Mr. Sheppard, do you
7 agree with that?

8 ATTORNEY SHEPPARD: I do, Your Honor.

9 (BRIEF INTERRUPTION)

10 JUDGE GIBSON: Give me just one moment.

11 ATTORNEY SHEPPARD: Is it us or ---?

12 JUDGE GIBSON: I'm not sure. Mr.

13 Valkovci, you probably know more about that than the
14 visiting Counsel. See if there's some reason for that
15 buzzing that's going on.

16 ATTORNEY VALKOVCI: I'm just going to
17 turn it off, Your Honor, and then turn it back on, but
18 I think it's fine. Maybe that was just a little too
19 close.

20 JUDGE GIBSON: Is the volume turned up
21 too much?

22 ATTORNEY VALKOVCI: I just want to make
23 sure it was this microphone, Your Honor, and that's why
24 I wanted to turn it off to see if we're still getting
25 feedback of some kind.

1 JUDGE GIBSON: I turned down the volume
2 a little bit. Perhaps that will help.

3 ATTORNEY VALKOVCI: I turned it down
4 here as well, Your Honor, on the podium.

5 JUDGE GIBSON: All right. Thank you.

6 ATTORNEY SHEPPARD: And we'll speak up,
7 Your Honor.

8 JUDGE GIBSON: Well, that was affecting
9 the ability to hear what was being said, and I'm sure
10 it was difficult for the court reporter to take down
11 what was being said. So I don't hear it at this time.
12 Perhaps that fixed it.

13 ATTORNEY SHEPPARD: Thank you, Your
14 Honor.

15 JUDGE GIBSON: All right. Do you have
16 any questions about the charges, Mr. Paltrow?

17 MR. PALTROW: No, sir.

18 JUDGE GIBSON: And did you discuss them
19 completely with Mr. Sheppard?

20 MR. PALTROW: Yes, I did.

21 JUDGE GIBSON: And was he able to
22 answer any questions that you had?

23 MR. PALTROW: Yes, sir.

24 JUDGE GIBSON: All right. It is the
25 understanding of the Court that there is a plea

1 agreement in this case, and in fact, the Court has been
2 provided with a document marked as Government Exhibit 1
3 purporting to be that plea agreement.

4 (Whereupon, the document was marked as
5 Government Exhibit No. 1 for identification.)

6 JUDGE GIBSON: Do both Counsel agree
7 that there is a plea agreement in this case?

8 ATTORNEY VALKOVCI: Yes, Your Honor.

9 ATTORNEY SHEPPARD: Yes, Your Honor.

10 JUDGE GIBSON: Mr. Paltrow, did you
11 have the opportunity to read and discuss the plea
12 agreement with your attorney before you signed it?

13 MR. PALTROW: Yes, Your Honor.

14 JUDGE GIBSON: Does the plea agreement
15 represent in its entirety any understanding you have
16 with the United States?

17 MR. PALTROW: It does, Your Honor.

18 JUDGE GIBSON: Do you understand the
19 terms of the plea agreement?

20 MR. PALTROW: Yes, I do, Your Honor.

21 JUDGE GIBSON: Has anyone made any
22 other promises or assurances of any kind to you in an
23 effort to induce or persuade you to plead guilty in
24 this case?

25 MR. PALTROW: No, Your Honor.

1 JUDGE GIBSON: Attorney Valkovci, would
2 you briefly describe to the Court the terms of the plea
3 agreement?

4 ATTORNEY VALKOVCI: Yes, Your Honor.
5 Under the terms of the agreement, Mr. Paltrow will
6 waive prosecution by indictment, enter a plea of guilty
7 to the two-count criminal information that's already
8 been presented to him by the Court. He further agrees
9 to waive venue so that prosecution of these offenses
10 could be done in the Western District of Pennsylvania.
11 Mr. Paltrow agrees to participate in the Inmate
12 Financial Responsibility Program if he is sentenced to
13 a term of incarceration. He also agrees to pay to the
14 Court the \$200 mandatory special assessment.

15 Mr. Paltrow does not object to the
16 filing of an ex parte motion by the United States
17 seeking an order from this Court to determine that pre-
18 existing records and documents created independent of
19 the Grand Jury's inquiry would not constitute Grand
20 Jury material under Rule 6(e) of the Federal Rules of
21 Criminal Procedure. Mr. Paltrow does not object to the
22 introduction into evidence of the Special Agent's
23 report and all exhibits prepared by the Internal
24 Revenue Service Criminal Investigation Division in this
25 matter. He agrees and stipulates to the release of the

1 Special Agent's report and all exhibits to the
2 Examination Division of the Internal Revenue Service
3 and understands that the information contained in the
4 Special Agent's report and all exhibits will be used in
5 the determination of any civil liability he may have to
6 the Internal Revenue Service.

7 Mr. Paltrow also agrees to pay
8 restitution to the Internal Revenue Service. The total
9 amount for restitution results from his fraudulent
10 conduct and consists of \$798,969, which reflects the
11 amount of outstanding tax due. There will be an
12 additional amount to reflect accrued interest. Mr.
13 Paltrow agrees to pay restitution as ordered by the
14 Court and any restitution entered pursuant to this plea
15 agreement. He understands that if the Court orders him
16 to pay restitution to the IRS, the IRS will use the
17 restitution order as a basis for civil assessment. And
18 Mr. Paltrow agrees that he does not have the right to
19 challenge the amount of this assessment.

20 Further, Your Honor, neither the
21 existence of a restitution payment schedule nor Mr.
22 Paltrow's timely payment of restitution according to
23 that schedule will preclude the IRS from administrative
24 collection of the restitution-based assessment
25 including levy and distraint under Section 6331 of

1 Title 26 for any remaining unpaid tax, interest, or
2 penalty as determined herein. Naturally, Your Honor,
3 Mr. Paltrow will receive proper credit from the
4 Internal Revenue Service for all payments made pursuant
5 to this agreement as set forth in the previous
6 sentence. Nothing in this agreement shall limit the
7 Internal Revenue Service in its lawful examination,
8 determine, assessment, or collection of any taxes,
9 penalties, or interest due from Mr. Paltrow for the
10 time periods covered by this agreement.

11 He further agrees to sign a Revenue
12 Agent Report for tax years 2007 and 2008 with penalties
13 and interest to be computed after assessment of the
14 taxes made by the Internal Revenue Service. The
15 Revenue Agent Reports shall conclusively determine the
16 amount of tax, interest, and penalty due for tax years
17 2007 and 2008. Mr. Paltrow further agrees that neither
18 this agreement nor any judgment, order, release, or
19 satisfaction issued in connection with this agreement
20 will satisfy, settle, or compromise his obligation to
21 pay the balance of any remaining civil liabilities
22 including tax, additional tax, additions to tax,
23 interest and penalties owed to the IRS for the time
24 periods covered by this agreement.

25 In addition, Your Honor, Mr. Paltrow

1 agrees to waive his right to take a direct appeal from
2 his conviction or sentence subject to two exceptions.
3 He may take such an appeal if the United States first
4 appeals, and he may take such an appeal if the sentence
5 imposed by this Court exceeds the statutory limits set
6 forth in the United States Code or if it unreasonably
7 exceeds the sentencing guideline range ultimately
8 determined by this court. Pursuant to the agreement,
9 the United States has retained the right of allocution
10 and will retain the right of allocution at the time of
11 sentencing. The United States agrees to recommend a
12 three-level downward adjustment to reflect Mr.
13 Paltrow's acceptance of responsibility.

14 Further, Your Honor, the parties agree
15 that the term of imprisonment that may be imposed upon
16 Mr. Paltrow is six years. The maximum fine would be
17 \$500,000 or twice the gross pecuniary gain, whichever
18 is greater; a term of supervised release of one year;
19 the cost of prosecution; the special assessment I
20 alluded to earlier in restitution. This is the
21 aggregate penalty, Your Honor, not per count. The
22 parties also stipulate that the tax loss for purposes
23 of Section 2T1.1 and 2T4.1 of the sentencing guidelines
24 would be \$798,969, and that this amount of tax loss
25 yields a base offense level of 20.

1 The parties further stipulate that the
2 base offense level should be raised by a total of two
3 levels under section 2T1.1(b) (2) to reflect
4 sophisticated means. Your Honor, I would add that the
5 United States is not aware of any other factor or
6 factors that would result in an increase or any further
7 increase in Mr. Paltrow's offense level. That in sum,
8 Your Honor, are the most relevant portions of the plea
9 agreement.

10 JUDGE GIBSON: Would both Counsel
11 approach for side bar, please?

12 (SIDE BAR BEGINS)

13 JUDGE GIBSON: I don't believe there's
14 any assistance or cooperation language?

15 ATTORNEY VALKOVCI: There is none, Your
16 Honor.

17 JUDGE GIBSON: Do you agree?

18 ATTORNEY SHEPPARD: Yes, Your Honor.

19 JUDGE GIBSON: With regard to the
20 detention issues at the end, anything I should know
21 about that?

22 ATTORNEY VALKOVCI: It will be
23 identical to Mr. Herman, Your Honor. In other words,
24 there's no evidence of a risk of flight or danger.
25 We're going to ask the Court to impose an unsecured

1 bond in the amount of \$50,000. I'm not aware of any
2 travel issues with Mr. Paltrow, but if there are we can
3 address them at that time.

4 JUDGE GIBSON: Okay. Thank you.

5 ATTORNEY VALKOVCI: Thank you, Your
6 Honor.

7 ATTORNEY SHEPPARD: Thank you, Your
8 Honor.

9 (SIDE BAR ENDS)

10 JUDGE GIBSON: Attorney Sheppard, do
11 you agree with Attorney Valkovci's rendition of the
12 contents of the plea agreement?

13 ATTORNEY SHEPPARD: Yes, Your Honor. I
14 do.

15 JUDGE GIBSON: The Court recognizes
16 that part of this plea agreement is to be classified
17 under Federal Rule of Criminal Procedure 11(c)(1)(B) in
18 that the Government agrees to recommend a two-level
19 downward adjustment for acceptance of responsibility,
20 and pursuant to Guideline Section 3E1.1(b) to move for
21 an additional one-level downward adjustment.

22 The plea agreement also sets out that
23 the maximum penalty that may be imposed is as follows.
24 A term of imprisonment of not more than six years; a
25 fine of \$500,000 or twice the gross pecuniary gain,

1 whichever is greater; a term of supervised release of
2 one year; costs of prosecution; special assessment of
3 \$200; and restitution.

4 The parties stipulate that the tax loss
5 for purposes of Guidelines Sections 2T1.1 and 2T4.1 is
6 \$798,969, and that this amount of tax loss yields a
7 base offense level of 20. The parties further
8 stipulate that the base offense level should be raised
9 by a total of two levels pursuant to Section
10 2T1.1(b)(2) of the sentencing guidelines. With respect
11 to restitution, Defendant agrees to pay restitution to
12 the Internal Revenue Service pursuant to 18 U.S.C.
13 Section 3663(a)(3). The Defendant agrees that the
14 total amount of restitution results from Defendant's
15 fraudulent conduct and consists of \$798,969, which
16 reflects the amount of outstanding tax due plus an
17 additional amount to reflect accrued interest.

18 Mr. Paltrow, do you understand that
19 under the terms of this plea agreement, you are
20 agreeing to enter a plea of guilty to Counts 1 and 2 of
21 the information at Criminal No. 14-09?

22 MR. PALTROW: Yes, I do, Your Honor.

23 JUDGE GIBSON: Do you understand that
24 you are waiving your right to take a direct appeal from
25 your conviction or sentence under 28 U.S.C. Section

1 1291 or 18 U.S.C. Section 3742 subject to the following
2 exceptions. First, that if the United States appeals
3 from your sentence you may take a direct appeal from
4 your sentence; and second, you may also take a direct
5 appeal of your sentence based on the following two
6 grounds. One, the sentence exceeds the applicable
7 statutory limits set forth in the United States Code,
8 or two, the sentence unreasonably exceeds the guideline
9 range determined by the Court under the sentencing
10 guidelines?

11 MR. PALTROW: Yes, I do, Your Honor.

12 JUDGE GIBSON: Do you understand the
13 other provisions in the plea agreement that the Court
14 has not specifically addressed today?

15 MR. PALTROW: Yes, sir.

16 JUDGE GIBSON: Do you have any
17 questions regarding what is required of you under the
18 terms of the plea agreement?

19 MR. PALTROW: No, I don't, Your Honor.

20 JUDGE GIBSON: Do you understand that
21 you do have the right to plead not guilty to all
22 charges and to continue in that plea?

23 MR. PALTROW: Yes, sir.

24 JUDGE GIBSON: Mr. Valkovci, other than
25 the plea agreement that has been presented and accepted

1 today, did the Government tender to Counsel for
2 Defendant any other formal plea agreement offers?

3 ATTORNEY VALKOVCI: No, Your Honor.

4 There was no formal plea agreement offer tendered to
5 Mr. Sheppard and Mr. Paltrow. This plea agreement
6 before the Court is a culmination of a lengthy series
7 of negotiations, but this is the only version of the
8 plea agreement that was provided, Your Honor.

9 JUDGE GIBSON: Mr. Sheppard, did you
10 receive any formal plea agreement offer from the
11 Government that you did not communicate to the
12 Defendant?

13 ATTORNEY SHEPPARD: No, sir.

14 JUDGE GIBSON: At this time, the Court
15 accepts the plea agreement, which has been tendered as
16 Government Exhibit 1.

17 (Whereupon, the document marked as
18 Government Exhibit No. 1 was received in evidence.)

19 JUDGE GIBSON: Mr. Paltrow, at this
20 time, do you wish to plead guilty to Counts 1 and 2 of
21 the information?

22 MR. PALTROW: Yes, Your Honor.

23 JUDGE GIBSON: Do you understand that
24 you do have the right to plead not guilty to those
25 charges?

1 MR. PALTROW: Yes, Your Honor.

2 JUDGE GIBSON: Do you understand that
3 you would have the right to be assisted by an attorney
4 at the trial of the charges?

5 MR. PALTROW: Yes, I do.

6 JUDGE GIBSON: Do you understand that
7 if you qualify financially you are entitled to be
8 assisted by an attorney at no cost to you at all phases
9 of the processing of the charges against you?

10 MR. PALTROW: Yes, Your Honor.

11 JUDGE GIBSON: The Court notes at this
12 time as noted previously that you have retained legal
13 Counsel, and that is Mr. Sheppard; is that correct?

14 MR. PALTROW: Yes, Your Honor.

15 JUDGE GIBSON: Do you understand that
16 under the Constitution and the laws of the United
17 States you are entitled to a speedy trial by judge and
18 jury of the charges contained in the information?

19 MR. PALTROW: Yes, Your Honor.

20 JUDGE GIBSON: Do you understand that
21 at the trial you would be presumed to be innocent?

22 MR. PALTROW: Yes, I do, Your Honor.

23 JUDGE GIBSON: Do you further
24 understand that at the trial the Government would be
25 required to prove your guilt by competent evidence and

1 beyond a reasonable doubt before you could be found
2 guilty?

3 MR. PALTROW: Yes, I do, Your Honor.

4 JUDGE GIBSON: Do you understand that
5 at the trial you would not have to prove that you are
6 innocent?

7 MR. PALTROW: I do, Your Honor.

8 JUDGE GIBSON: Have you discussed with
9 your attorney your right to a jury trial?

10 MR. PALTROW: Yes, I have.

11 JUDGE GIBSON: Do you understand that
12 you are entitled to a trial by jury in the charges
13 filed against you and that at the trial a jury
14 consisting of 12 people must all agree in order to find
15 you guilty on these charges?

16 MR. PALTROW: Yes, I do, Your Honor.

17 JUDGE GIBSON: Do you understand that
18 you would have the right to participate in the
19 selection of the jury and that you would have the right
20 to strike or eliminate any prospective juror if it was
21 demonstrated that juror was unable to render a fair and
22 impartial verdict, and you would have the right to
23 strike a total of 10 jurors without assigning any
24 reason at all?

25 MR. PALTROW: Yes, Your Honor.

1 JUDGE GIBSON: Do you understand that
2 in the course of the trial, the witnesses for the
3 government would have to come to court and testify in
4 your presence?

5 MR. PALTROW: Yes, Your Honor.

6 JUDGE GIBSON: Do you understand that
7 in the course of the trial your attorney could cross-
8 examine the witnesses for the Government, object to
9 evidence offered by the Government, offer evidence on
10 your behalf, and compel attendance of witnesses on your
11 behalf?

12 MR. PALTROW: Yes, I do, Your Honor.

13 JUDGE GIBSON: Do you understand that
14 in the course of the trial if you qualify as being
15 financially unable to pay witness fees to witnesses you
16 wish to call on your behalf, the Government would pay
17 those witness fees?

18 MR. PALTROW: Yes, sir.

19 JUDGE GIBSON: Do you understand that
20 at the trial you would have the right to testify if you
21 chose to do so?

22 MR. PALTROW: Yes, I do.

23 JUDGE GIBSON: Do you understand that
24 at the trial you also would have the right not to
25 testify and no inference or suggestion of guilt could

1 be drawn from the fact that you did not testify?

2 MR. PALTROW: Yes, sir.

3 JUDGE GIBSON: If you plead guilty and
4 the Court accepts your plea, do you understand that you
5 will waive your right to a trial and the other rights I
6 have just discussed, there will be no trial, and the
7 Court will enter a judgment of guilty and sentence you
8 on the basis of your guilty plea after conducting a
9 sentencing hearing?

10 MR. PALTROW: I do, Your Honor.

11 JUDGE GIBSON: If you plead guilty, do
12 you understand that you will also have to waive your
13 right not to incriminate yourself since I may ask you
14 questions about what you did in order to satisfy myself
15 that you are guilty as charged, and you will have to
16 acknowledge your guilt?

17 MR. PALTROW: I do, Your Honor.

18 JUDGE GIBSON: Do you understand that
19 the offenses to which you are pleading guilty are
20 felony offenses; that if your plea is accepted you will
21 be adjudged guilty of those offenses and that such
22 adjudication may deprive you of valuable civil rights
23 such as the right to vote, the right to hold public
24 office, the right to serve on a jury, and the right to
25 possess any kind of firearm?

1 MR. PALTROW: I do, Your Honor.

2 JUDGE GIBSON: Mr. Paltrow, having
3 discussed your rights with you do you still wish to
4 enter a plea of guilty as to Counts 1 and 2 of the
5 information?

6 MR. PALTROW: Yes, I do, Your Honor.

7 JUDGE GIBSON: Do you understand the
8 possible consequences of that plea?

9 MR. PALTROW: Yes, I do, Your Honor.

10 JUDGE GIBSON: Mr. Paltrow, your
11 sentence will be determined by a combination of
12 advisory sentencing guidelines, possible authorized
13 departures from those guidelines, and other statutory
14 sentencing factors, which will all be applied to the
15 specific circumstances of your case; do you understand
16 that?

17 MR. PALTROW: Yes, Your Honor.

18 JUDGE GIBSON: Do you understand that
19 this Court has the obligation to calculate the
20 applicable sentencing guideline range and to consider
21 that range, possible departures from the guidelines,
22 and sentencing factors set forth in 18 U.S.C. Section
23 3553(a)?

24 MR. PALTROW: Yes, I do, Your Honor.

25 JUDGE GIBSON: Have you and your

1 attorney discussed how the sentencing guidelines might
2 apply in your case?

3 MR. PALTROW: Yes, we have, Your Honor.

4 JUDGE GIBSON: Do you understand that
5 after it has been determined what guidelines apply to
6 your case the sentencing judge has the authority not to
7 apply those guidelines but may impose a sentence that
8 is more severe or less severe than that called for by
9 the guidelines as long as the sentence is permitted by
10 statute?

11 MR. PALTROW: Yes, Your Honor.

12 JUDGE GIBSON: Subject to the waivers
13 of appeal rights in the plea agreement which we
14 discussed previously, do you understand that you or the
15 Government may have the right to appeal any sentence
16 that the Court may impose?

17 MR. PALTROW: Yes, Your Honor.

18 JUDGE GIBSON: Do you understand that
19 parole has been abolished under the guidelines and if
20 you are sentenced to prison you will not be eligible
21 for parole?

22 MR. PALTROW: I do now, yes, Your
23 Honor.

24 JUDGE GIBSON: Do you wish to discuss
25 that with your attorney?

1 MR. PALTROW: No, sir.

2 JUDGE GIBSON: You understand?

3 ATTORNEY SHEPPARD: Your Honor, may we
4 have one moment?

5 JUDGE GIBSON: Yes.

6 (DEFENDANT CONSULTS WITH COUNSEL)

7 ATTORNEY SHEPPARD: Thank you, Your
8 Honor.

9 JUDGE GIBSON: Do you have any
10 questions about that, Mr. Paltrow?

11 MR. PALTROW: No, sir.

12 JUDGE GIBSON: I'll ask you that
13 question again, just to be certain that your answer is
14 on the record. Do you understand that parole has been
15 abolished under the guidelines and if you are sentenced
16 to prison you will not be eligible for parole?

17 MR. PALTROW: I do, Your Honor.

18 JUDGE GIBSON: Do you understand that
19 if the sentence imposed is more severe than you
20 expected you will still be bound by your plea and will
21 have no right to withdraw it?

22 MR. PALTROW: I do, Your Honor.

23 JUDGE GIBSON: The maximum penalties by
24 statute as to each of Counts 1 and 2 are the following.
25 A term of imprisonment of not more than three years; a

1 fine of \$250,000 or twice the gross pecuniary gain,
2 whichever is larger; a term of supervised release of
3 not more than one year; the costs of prosecution; a
4 special assessment of \$100; and restitution. Since you
5 may be sentenced consecutively for each of these
6 counts, the aggregate maximum penalty is as set forth
7 in the plea agreement and is as follows. A term of
8 imprisonment of not more than six years; a fine of
9 \$500,000 or twice the gross pecuniary gain, whichever
10 is greater; a term of supervised release of not more
11 than one year; costs of prosecution; and special
12 assessment of \$200; and restitution. Do you understand
13 these maximum possible penalties permitted by statute?

14 MR. PALTROW: Yes, I do, Your Honor.

15 JUDGE GIBSON: Do you understand that
16 if you are sentenced to a term of imprisonment you may
17 be sentenced to a term of supervised release to follow
18 your term of imprisonment and if you violate the
19 conditions of supervised release the Court will then
20 revoke the supervised release, you would be re-
21 incarcerated and no credit would be given for the time
22 you previously served on the term of supervised
23 release?

24 MR. PALTROW: I do, Your Honor.

25 JUDGE GIBSON: In order for the United

1 States to obtain a conviction at Counts 1 and 2 for the
2 crime of filing a false United States Individual Income
3 Tax Return in violation of 26 U.S.C. Section 7206(1),
4 the Government must prove all of the following
5 essential elements beyond a reasonable doubt. First,
6 that the Defendant made or caused to be made and
7 subscribed a United States Individual Income Tax Return
8 for the year in question that was false as to a
9 material matter. Second, that the return contained a
10 written declaration that it was made under the
11 penalties of perjury. Third, that the Defendant did
12 not believe the return to be true and correct as to the
13 material matter charged in the information. And
14 fourth, that the Defendant made or caused to be made
15 and subscribed the return willfully with the specific
16 intent to violate the law. Do you understand those
17 elements?

18 MR. PALTROW: Yes, I do.

19 JUDGE GIBSON: Have you discussed those
20 elements with your attorney prior to coming to court
21 today?

22 MR. PALTROW: I have, Your Honor.

23 JUDGE GIBSON: Mr. Paltrow, did you as
24 charged in Count 1 of the information commit the crime
25 of filing a false United States Individual Income Tax

1 Return on or about April 15, 2008 in violation of 26
2 U.S.C. Section 7206(1)?

3 MR. PALTROW: I did, Your Honor.

4 JUDGE GIBSON: Mr. Paltrow, did you as
5 charged in Count 2 of the information commit the crime
6 of filing a false United States Individual Income Tax
7 Return on or about April 15, 2009 in violation of 26
8 U.S.C. Section 7206(1)?

9 MR. PALTROW: I did, Your Honor.

10 JUDGE GIBSON: Mr. Valkovci, in
11 summary, what would be the Government's evidence at
12 trial as to the charges in the information?

13 ATTORNEY VALKOVCI: Your Honor, the
14 evidence presented at trial would be witness testimony
15 and documentary evidence that would establish that the
16 offenses charged in the information, the offenses to
17 which Mr. Paltrow pled guilty, stem from his
18 association as an officer, then as Vice President of
19 North American Communications, in which I'll refer to
20 here NAC. NAC is a multi-national corporation with its
21 corporate headquarters located in New York, and its
22 primary production facility located in Duncansville,
23 Pennsylvania.

24 NAC is a mass-mailing distributor, Your
25 Honor. In other words, the clients of NAC are entities

1 such as American Express or Citibank or other financial
2 institutions that desire mass mailings to be sent to a
3 wide variety of consumers. Sometimes it's referred to
4 as junk mail, Your Honor. In any event, these
5 individual companies contract with NAC. NAC will then
6 prepare the product, stuff the envelopes, and actually
7 do the mailings.

8 Your Honor, Mr. Paltrow is the Vice
9 President of NAC responsible for developing, servicing,
10 and maintaining many of NAC's largest accounts. He
11 supervised the sales and accounting staff. He provided
12 price quotations and estimates for prospective jobs and
13 managed the employees. As the evidence will establish,
14 Your Honor, during the course of his tenure with NAC,
15 he caused NAC to pay for a wide variety of personal
16 expenses that were incurred by him. For instance, Your
17 Honor, Mr. Paltrow had two residences that he utilized
18 on a regular basis. One was located in Palm Beach,
19 Florida and the other one was an apartment in
20 Manhattan, New York City, New York. Both of these
21 residences were held in a limited partnership, Aspetong
22 Properties.

23 Mr. Paltrow and his daughters own 100-
24 percent of the partnership interest. The Palm Beach
25 property had an assessed value of \$5.1 million and the

1 New York residence had a book value in excess of \$1
2 million. I would note, Your Honor, that I believe the
3 New York property was sold in 2010 for over \$2 million.
4 The rent on both of these properties was paid by NAC
5 while Mr. Paltrow enjoyed the benefits of residing at
6 these locations. In addition, Your Honor, Mr. Paltrow
7 caused NAC to pay for in addition to his housing needs,
8 his personal, legal, and then medical care including
9 doctors, hospitals, prescription expenses. Mr. Paltrow
10 also caused NAC to pay for American Express and Diners
11 Club Credit Card issued him from NAC. These charges
12 incurred and paid by NAC included airline tickets,
13 travel, entertainment expenses for Mr. Paltrow's travel
14 to New Zealand, France, Colorado, and Canada among
15 other places and also included purchases of luxury
16 brand clothing, shoes, meals, and entertainment.

17 As the Court is aware in a companion
18 case, another Vice President of NAC, Mr. Herman, also
19 submitted such documentation to NAC for payment for
20 travel, which was more extensive than Mr. Paltrow's.
21 However, in this case, Your Honor, Mr. Paltrow as an
22 officer of NAC acquired four vintage race cars with a
23 book value in excess of \$600,000 with NAC funds and
24 caused NAC to pay for most of the expenses related to
25 these vintage race cars including entrance fees into

1 races, transportation of the race cars, maintenance of
2 the race cars and track support. NAC also purchased
3 five luxury automobiles for Mr. Paltrow's personal use
4 and also paid for a housekeeper, luxury vacations, and
5 memberships in exclusive country clubs.

6 It is estimated, Your Honor, that NAC
7 paid to Mr. Paltrow in excess of \$4.5 million in
8 personal benefits that were not claimed on his income
9 taxes. As the evidence would also establish, Your
10 Honor, during the course of his tenure with NAC in 1991
11 NAC went through a restructuring and bankruptcy. At
12 that time, Your Honor, Mr. Paltrow was President of NAC
13 as noted by the Bankruptcy Court Judge. The
14 distinction in the minds between corporation and Mr.
15 Paltrow was blurry, perhaps even non-existent. The
16 Court also acknowledged that Mr. Paltrow was not
17 required to provide any receipt in support of his
18 alleged travel and entertainment expenses. Your Honor,
19 I offer that only and we would offer it only during the
20 course of trial, if this case went to trial, to
21 establish Mr. Paltrow's knowledge and his intent to
22 what he was doing.

23 As the information would further
24 establish, Your Honor, Mr. Paltrow filed an Individual
25 Income Tax Return 1040 for calendar year 2007 and 2008.

1 Each of those Form 1040s above the signature line had a
2 written declaration that any statements made on that
3 Form 1040 were being made under penalty of perjury.
4 When Mr. Paltrow caused --- I'm sorry, made or caused
5 to be made those two 1040 Forms, Your Honor, he
6 realized and knew and understood that they were not
7 completely true and accurate as to all material
8 matters. For example, Your Honor, on his 1040
9 submitted for calendar year 2007, he stated that his
10 taxable income for that year was \$101,401 and that he
11 only owed \$45,114 in taxes whereas he well knew and
12 believed his taxable income for that year was
13 \$3,104,943 on which he owed tax to the United States in
14 the amount of \$481,623.

15 Similarly, Your Honor, when he filed
16 his Form 1040 for calendar year 2008, it contained
17 false statements which he believed were not completely
18 true and accurate as to all material matters.
19 Specifically, he listed his taxable income as \$94,137
20 and that he owed \$44,926 in taxes to the United States.
21 The evidence would establish that Mr. Paltrow then and
22 there well knew and believed that his taxable income
23 for 2008 was the sum of \$1,878,142 on which he owed tax
24 to the United States in the amount of \$317,436.

25 In addition, Your Honor, the evidence

1 would also establish that during the course of his
2 tenure with NAC Mr. Paltrow was responsible or
3 participated in sending money to a corporation in
4 Mexico known as Berthamex and that Mr. Paltrow was
5 involved in diverting approximately \$1,000,000 to that
6 member Swiss bank account. Again, he benefited from
7 that and failed to claim that on his income tax return.
8 Your Honor, that in sum would be the Government's
9 evidence in a general explanation.

10 JUDGE GIBSON: Attorney Sheppard, are
11 you satisfied that the Government can, in fact, produce
12 the evidence just indicated by the Assistant United
13 States Attorney?

14 ATTORNEY SHEPPARD: I am, Your Honor.

15 JUDGE GIBSON: Are you satisfied that
16 the admissible part of that evidence would permit a
17 properly instructed jury to determine beyond a
18 reasonable doubt that the Defendant is guilty of the
19 crimes to which he intends to plead guilty?

20 ATTORNEY SHEPPARD: I am, Your Honor.

21 JUDGE GIBSON: Mr. Paltrow, you were
22 present when the Assistant United States Attorney
23 described the evidence he would produce if this matter
24 would proceed to trial. Is there any respect in which
25 you disagree with what he said?

1 MR. PALTROW: No, Your Honor.

2 JUDGE GIBSON: Are Counts 1 and 2 of
3 the information true to your own personal knowledge?

4 MR. PALTROW: Yes, Your Honor.

5 JUDGE GIBSON: The Court finds that
6 there is a factual basis for the guilty plea to each of
7 Counts 1 and 2 charged in the information. Mr.
8 Paltrow, do you still wish to enter a plea of guilty as
9 to the charges contained in Counts 1 and 2 of the
10 information?

11 MR. PALTROW: Yes, I do, Your Honor.

12 JUDGE GIBSON: Is this consistent with
13 your advice, Attorney Sheppard?

14 ATTORNEY SHEPPARD: It is, Your Honor.

15 JUDGE GIBSON: Mr. Paltrow, other than
16 the plea agreement which we discussed previously, has
17 anyone made any promises or assurances to you of any
18 kind in an effort to induce or persuade you to plead
19 guilty in this case?

20 MR. PALTROW: No, Your Honor.

21 JUDGE GIBSON: Has anyone attempted in
22 any way to force or coerce you to plead guilty in this
23 case?

24 MR. PALTROW: No, Your Honor.

25 JUDGE GIBSON: Are you pleading guilty

1 of your own free will because you are, in fact, guilty?

2 MR. PALTROW: Yes, I am, Your Honor.

3 JUDGE GIBSON: Mr. Paltrow, how do you
4 now plead to Count 1 of the information for the crime
5 of filing a false United States Individual Income Tax
6 Return on or about April 15, 2008 in violation of 26
7 U.S.C. Section 7206(1); guilty or not guilty?

8 MR. PALTROW: Guilty, Your Honor.

9 JUDGE GIBSON: Mr. Paltrow, how do you
10 now plead to Count 2 of the information for the crime
11 of filing a false United States Individual Income Tax
12 Return on or about April 15, 2009 in violation of 26
13 U.S.C. Section 7206(1); guilty or not guilty?

14 MR. PALTROW: Guilty, Your Honor.

15 JUDGE GIBSON: Mr. Paltrow, I have
16 observed you, your demeanor, and your attitude
17 throughout these proceedings, and I conclude that you
18 do not appear to be under the influence of any
19 substance that might affect your judgment. Since you
20 acknowledge that you are, in fact, guilty as charged in
21 Counts 1 and 2 of the information, since I find that
22 you know of your right to a trial and the rights
23 associated with the right to a trial, since I further
24 find that you know the maximum possible punishment that
25 may be imposed if you are convicted, and since I find

1 that you have not been coerced but have voluntarily and
2 knowingly pleaded guilty to Counts 1 and 2 of the
3 information, I now accept your plea of guilty as
4 tendered. It is the finding of the Court in the case
5 of United States versus Robert Paltrow, Criminal No.
6 14-09 that the Defendant is fully competent and capable
7 of entering an informed plea, that the Defendant is
8 aware of the nature of the charges and the consequences
9 of the plea, and that the entry of a guilty plea to
10 Counts 1 and 2 of the information is knowing and
11 voluntary and is supported by an independent basis in
12 fact containing each of the essential elements of the
13 offenses. Accordingly, Mr. Paltrow and his Counsel,
14 Mr. Sheppard, are now directed to sign the plea form
15 provided by the Deputy Clerk, Ms. Gorgone.

16 ATTORNEY VALKOVCI: Your Honor, at this
17 time, I would move for the admission of Government
18 Exhibit 2.

19 (Whereupon, the document was marked as
20 Government Exhibit No. 2 for identification.)

21 ATTORNEY VALKOVCI: It's a copy of the
22 Special Agent's report. As I said earlier in my
23 recitation of the provisions of the plea agreement, Mr.
24 Paltrow has agreed to the admission of this document
25 during the course of this proceeding.

1 right in the jury box, you'll see Mr. Johnston who is
2 the probation officer in this case, and if he has not
3 already done so I'm sure he will introduce himself to
4 you following this proceeding. The Court observes at
5 Local Criminal Rule 32 governance of procedures to be
6 followed in connection with the pre-sentence
7 investigation report. In summary, the United States
8 Probation Office is required to disclose the pre-
9 sentence investigation report to the Defendant and to
10 Counsel for the Defendant and the Government not less
11 than seven weeks before the date set for sentencing.
12 If any party disputes any fact material to sentencing
13 contained in the pre-sentence report or wants to have
14 included additional facts, it is the obligation of that
15 party to attempt to resolve the matter through a pre-
16 sentence conference with opposing Counsel and the
17 United States Probation Office.

18 After the pre-sentence conference and
19 not later than four weeks before sentencing, Counsel
20 for Defendant and the Government must file with the
21 Clerk of Court and serve upon opposing Counsel and the
22 United States Probation Office a pleading entitled
23 position with respect to sentencing factors. A party
24 may file a response to the opposing party's position
25 with respect to sentencing factors no later than three

1 weeks prior to sentencing. Prior to the sentencing
2 hearing, the Court shall notify the parties and the
3 probation office of the Court's tentative findings and
4 rulings to the extent practicable concerning disputed
5 facts or factors. Reasonable opportunity shall be
6 provided to the parties prior to the imposition of
7 sentence for the submission of oral or written
8 objections to the Court's tentative findings and
9 rulings.

10 Mr. Paltrow, the Court wishes to inform
11 you that it is in your best interest to cooperate with
12 the probation officer in furnishing information for the
13 pre-sentence investigation report because that report
14 will be important in the Court's determination of your
15 sentence. The disposition of sentencing is hereby set
16 for September 30, 2014 at 11:00 a.m. in this courtroom.
17 Do you understand that you're required to be present
18 for sentencing in this courtroom on September 30, 2014
19 at 11:00 a.m.?

20 MR. PALTROW: I do, Your Honor.

21 JUDGE GIBSON: I will now hear from the
22 United States with regard to the issue of detention
23 pending sentencing.

24 ATTORNEY VALKOVCI: Your Honor, I would
25 concede that clear and convincing evidence exists to

1 establish that Mr. Paltrow is neither a risk for flight
2 nor a danger to any other person or to the community.
3 Accordingly, I would ask the Court to propose an
4 unsecured bond in the amount of \$50,000.

5 JUDGE GIBSON: The Court finds by clear
6 and convincing evidence that the Defendant is not
7 likely to flee or impose a danger to the safety of any
8 other person or the community if released.
9 Accordingly, the Defendant shall be released on a
10 \$50,000 unsecured bond, which will be prepared by the
11 Court. The Defendant is advised that he will need to
12 remain with his Counsel while the bond is prepared and
13 also for processing. The bond once prepared will be
14 provided to the United States for review and the
15 Defendant and his Counsel for review, and after the
16 Defendant has executed that bond the Court will sign
17 the bond and then the Defendant will be released on
18 that bond.

19 ATTORNEY SHEPPARD: Thank you, Your
20 Honor.

21 JUDGE GIBSON: Anything further from
22 either the Defendant or the United States?

23 ATTORNEY VALKOVCI: Nothing from the
24 Government. Thank you, Your Honor.

25 ATTORNEY SHEPPARD: Nothing from the

1 Defense, Your Honor.

2 JUDGE GIBSON: All right. Thank you.

3 We will be in recess until call of court.

4 ATTORNEY SHEPPARD: Thank you, Your

5 Honor.

6 DEPUTY CLERK GORGONE: All rise. Court

7 is in recess.

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken
stenographically by me, and thereafter reduced to
typewriting by me or under my direction; and that this
transcript is a true and accurate record to the best of
my ability.

By: _____

Lynne M. Faint