

1 KEVIN V. RYAN (CSBN 118321)  
United States Attorney

2 CHARLES B. BURCH (CSBN 79002)  
3 Chief, Criminal Division

4 EMILY J. KINGSTON (CSBN 185752)  
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055  
6 San Francisco, California 94102  
7 Telephone: (415) 436-7000

8 Attorney for Plaintiffs

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA, ) Criminal No. CR-01-0129-MMC  
13 Plaintiff, )  
14 v. )  
15 SANDRA MASCARENHAS, ) PLEA AGREEMENT  
16 Defendant. )

17 I, Sandra Mascarenhas, and the United States Attorneys's Office for the Northern District  
18 of California (hereafter "the government") enter into this written plea agreement (the  
19 "Agreement") pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure:

20 The Defendant's Promises

21 1. I agree to plead guilty to the captioned superseding information charging me with  
22 obstruction of the due administration of Internal Revenue laws, in violation of 26 U.S.C. §  
23 7212(a). I agree that the elements of the offense and the maximum penalties are as follows: (1)  
24 The defendant in any way corruptly; (2) endeavored to; (3) obstruct or impede the due  
25 administration of the Internal Revenue Laws.

- 26 a. Maximum prison sentence: 5 years  
27 b. Maximum fine: \$250,000  
28 c. Maximum supervised release term: 3 years

1                   d.       Mandatory special assessment:                   \$100

2           2.       I agree that I am guilty of the offense to which I will plead guilty, and I agree that  
3 the following facts are true:

4           During the year 1995, I was married to David Gainer who owned and operated a  
5 telemarketing fund raising business, June-Berry, Inc. This business entered into contracts with  
6 various charities to raise funds for the charities using telemarketing. During this year, David  
7 Gainer received income from the operation of the telemarketing fund raising business.

8           For taxable year 1995, I caused to be prepared, through our tax return preparer, and filed  
9 with the Internal Revenue Service, a joint U.S. Individual Income Tax Returns for such year.  
10 Specifically, on or about April 17, 1998, I willfully made and subscribed a joint U.S. Individual  
11 Income Tax Return for tax year 1995, which was verified by a written declaration that it was  
12 made under the penalties of perjury. I forged the signature of David Gainer on this return and  
13 caused the return containing the forged signature to be filed with the Internal Revenue Service,  
14 when I then and there well knew and believed that the return was not true and correct as to every  
15 material matter, in that I forged the signature of David Gainer on that return. In making and  
16 subscribing such false return, I acted wilfully. *The parties agree that no loss  
was caused by this forgery.*

17           3.       I agree to give up all rights that I would have if I chose to proceed to trial,  
18 including the rights to a jury trial with the assistance of an attorney; to confront and cross-  
19 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise  
20 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and  
21 to pursue any affirmative defenses and present evidence.

22           4.       I agree to give up my right to appeal my conviction, the judgment, and orders of  
23 the Court. I also agree to waive any right I may have to appeal my sentence.

24           5.       I agree not to file any collateral attack on my conviction or sentence, including a  
25 petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim  
26 that my constitutional right to the effective assistance of counsel was violated.

27           6.       I agree not to ask the Court to withdraw my guilty plea at any time after it is  
28 entered, unless the Court declines to accept the sentence agreed to by the parties. I agree that the

1 government may withdraw from this agreement if the Court does not accept the agreed upon  
2 sentence set out below.

3 7. I agree that the Sentencing Guidelines should be calculated as follows, and that I  
4 will not ask for any other adjustments to or reductions of the offense level:

- |   |    |                                                                                        |    |
|---|----|----------------------------------------------------------------------------------------|----|
| 5 | a. | Base Offense Level, U.S.S.G. § 2J1.2:                                                  | 12 |
| 6 | b. | Acceptance of responsibility:<br>(If I meet the requirements of<br>7 U.S.S.G. § 3E1.1) | -1 |
| 8 | c. | Adjusted offense level                                                                 | 11 |

9 8. I understand that under the offense level of 11, with a Criminal History Category  
10 1, the Court may sentence me to a period of imprisonment of between 8 and 14 months, or,  
11 pursuant to U.S.S.G. § 5C1.1(d), may sentence me to a sentence of imprisonment that includes a  
12 term of supervised release with a condition that substitutes community confinement or home  
13 detention according to the schedule in subsection (e) of § 5C1.1, provided that at least one-half of  
14 the minimum term is satisfied by imprisonment; impose 1 year of supervised release (with  
15 conditions to be fixed by the Court); impose a \$5,000 fine; and impose a \$100 special assessment  
16 as to the offense to which I am pleading guilty.

17 9. I agree that the appropriate disposition of this case is as follows: A sentence of  
18 imprisonment of 5 and ½ months followed by a term of supervised release of one year with a  
19 condition requiring that 5 and ½ months be served through home detention on electronic  
20 monitoring (U.S.S.G. § 5C1.1(d)(2)), with an additional condition of community service of 150  
21 hours (U.S.S.G. §§ 5D1.3(e)(3); 5F1.3); and a \$100 special assessment (U.S.S.G. § 5E1.3).

22 10. I agree that I will make a good faith effort to pay any fine, forfeiture or restitution  
23 I am ordered to pay. Before or after sentencing, I will, upon request of the Court, the  
24 government, or the U.S. Probation Office, provide accurate and complete financial information,  
25 submit sworn statements and give depositions under oath concerning my assets and my ability to  
26 pay, surrender assets I obtained as a result of my crimes, and release funds and property under my  
27 control in order to pay any fine, forfeiture, or restitution. I agree to pay the special assessment at  
28 the time of sentencing.

1 I agree to comply and cooperate with the Internal Revenue Service in a good-faith effort  
2 to determine the accurate amount of, and pay any, outstanding tax liabilities, including any  
3 penalties and interest. I agree that any restitution imposed by the Court in sentencing does not  
4 bar the Internal Revenue Service from making a civil determination with respect to additional  
5 taxes, interest and penalties for which I may be liable, nor will it bar me from civilly contesting  
6 any such liabilities as determined by the Internal Revenue Service.

7 11. I agree that during the periods of my incarceration and supervised release I will  
8 not participate in or operate any charitable fund raising activities or businesses, nor will I  
9 participate in or operate any telemarketing activities or businesses, whether such activities or  
10 businesses are for charitable fundraising or otherwise.

11 12. I agree not to commit or attempt to commit any crimes before sentence is imposed  
12 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial  
13 release (if any); intentionally provide false information to the Court, the Probation Office,  
14 Pretrial Services, or the government; or fail to comply with any of the other promises I have  
15 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this  
16 Agreement, then the government will be released from all of its promises below, but I will not be  
17 released from my guilty plea.

18 13. I agree that this Agreement contains all of the promises and agreements between  
19 the government and me, and I will not claim otherwise in the future.

20 14. I agree that this Agreement binds the U.S. Attorney's Office for the Northern  
21 District of California only, and does not bind any other federal, state, or local agency.

22 The Government's Promises

23 15. The government agrees to move to dismiss any open charges pending against the  
24 defendant in this matter at the time of sentencing.

25 16. The government agrees not to file or seek any additional charges against the  
26 defendant that could be filed as a result of the investigation that led to the captioned superseding  
27 information.

28 17. The government agrees that the appropriate sentence in this case should be as set

1 forth in paragraph 9 above, unless the defendant violates the agreement as set forth in paragraphs  
2 10, 11, and 12, above.

3 The Defendant's Affirmations

4 18. I confirm that I have had adequate time to discuss this case, the evidence, and this  
5 Agreement with my attorney, and that he has provided me with all the legal advice that I  
6 requested.

7 19. I confirm that while I considered signing this Agreement, and at the time I signed  
8 it, I was not under the influence of any alcohol, drug, or medicine.

9 20. I confirm that my decision to enter a guilty plea is made knowing the charges that  
10 have been brought against me, any possible defenses, and the benefits and possible detriments of  
11 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no  
12 one coerced or threatened me to enter into this agreement.

13 Dated: \_\_\_\_\_

  
14 SANDRA MASCARENHAS  
15 Defendant

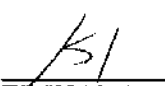
16 KEVIN V. RYAN  
17 United States Attorney

18 Dated: \_\_\_\_\_

  
19 EMILY J. KINGSTON  
20 Assistant United States Attorney

21 I have fully explained to my client all the rights that a criminal defendant has and all the  
22 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement  
23 and all the rights she is giving up by pleading guilty, and, based on the information now known  
24 to me, her decision to plead guilty is knowing and voluntary.

25 Dated: \_\_\_\_\_

  
26 EDWARD W. SWANSON  
27 Attorney for Defendant  
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