

FILED

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

MAY 18 PM 2:37

WILLIAM S. LOCKETT, Jr., BPR#010257

An Attorney Licensed in Tennessee
(Knox County)

APPELLATE COURT CLERK
NASHVILLE

NO. M2010-00816-SC-BPR-BP
BOPR DOCKET NO. 2010-1930-2-SG(14)

ORDER OF ENFORCEMENT

This matter is before the Court pursuant to Section 14 of Rule 9, Rules of the Supreme Court of Tennessee, upon a certificate filed by Disciplinary Counsel for the Board of Professional Responsibility consisting of certified copies of the Information and Plea Agreement in a Criminal Case, United States of America v. William S. Lockett, Jr., (attached as Collective Exhibit A) filed in the United States District Court Eastern District of Tennessee Knoxville on April 27, 2010, demonstrating that William S. Lockett, Jr., a Tennessee attorney, has pled guilty to a serious crime, i.e., willful failure to file an income tax return.

William S. Lockett, Jr. has previously been suspended from the practice of law by Order of Enforcement entered in this Court April 13, 2010, based on his plea of guilty in the Criminal Court for Knox County on April 8, 2010, to a serious crime, i.e., theft over \$10,000.00. That suspension has not been lifted.

It is therefore, **ORDERED, ADJUDGED** and **DECREED** by the Court that:

1. William S. Lockett, Jr. remains suspended from the practice of law pending further orders of this Court, pursuant to Section 14 of Rule 9 of the Rules of the Supreme Court of Tennessee;

2. This matter shall be referred to the Board of Professional Responsibility for the institution of a formal proceeding in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conviction by the Guilty Plea;

3. This matter is consolidated with the matter referenced in the previous Order of Enforcement entered April 10, 2010, Board of Professional Responsibility Docket Number 2010-1919-2-SG(14);

4. William S. Lockett, Jr. shall fully comply with the provisions of Section 18 of Rule 9, Rules of the Supreme Court, concerning disbarred or suspended attorneys; and

5. The Board of Professional Responsibility shall cause notice of this suspension to be published as required by Supreme Court Rule 9.

FOR THE COURT:

Cornelia A. Clark

CORNELIA A. CLARK
JUSTICE

FILED

APR 27 2010

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES OF AMERICA)
)
v.)
)
WILLIAM SOAPER LOCKETT, JR.)

NO. 3:10-CR- 59
JUDGE Varlan/Guyton

INFORMATION

The United States Attorney charges that:

COUNT 1

During the calendar year 2006, WILLIAM SOAPER LOCKETT, JR., who was a resident of Knoxville, Tennessee, had and received gross income of approximately \$122,733; that by reason of such gross income he was required by law, following the close of the calendar year 2006, and on or before April 17, 2007, to make an income tax return to the Internal Revenue Service Center at Austin, Texas, to a person assigned to receive returns at the local office of the Internal Revenue Service at Knoxville, Tennessee, or to another Internal Revenue Service office permitted by the Commissioner of the Internal Revenue, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that well-knowing and believing all of the foregoing, he did willfully fail on or about April 17, 2007, in the Eastern District of Tennessee, and elsewhere, to make an income tax return.

[Title 26, United States Code, Section 7203]

JAMES R. DEDRICK
UNITED STATES ATTORNEY

ATTEST: A TRUE COPY
CERTIFIED TRUE 5/13/10 By
PATRICIA L. McNUTT, CLERK
BY [Signature] DEP. CLERK

[Signature]
CHARLES E. ATCHLEY, JR.
Assistant United States Attorney

EXHIBIT
Collective
A

FILED

APR 27 2010

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

UNITED STATES OF AMERICA)
)
v.)
)
WILLIAM SOAPER LOCKETT, JR.)

3:10-CR-59
JUDGE Varlan/Guyton

PLEA AGREEMENT

The United States of America, by the United States Attorney for the Eastern District of Tennessee, and the defendant, William Soaper Lockett, Jr. and the defendant's attorney, W. Thomas Dillard, have agreed upon the following:

1. The defendant will waive indictment and arraignment and plead guilty to an Information charging the defendant with the following offense:

- a) Count 1: Willful failure to file a federal income tax return, in violation of 26 U.S.C. § 7203.

The punishment for this offense is as follows: A fine of not more than \$100,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution, a period of supervised release of not more than 1 year, a special assessment of \$25, and restitution.

The United States also agrees not to further prosecute the defendant in the Eastern District of Tennessee for any other criminal offenses committed by the defendant related to the charges contained in this information.

2. The parties agree that the appropriate disposition of this case would be the following as to each count:

ATTEST: A TRUE COPY
CERTIFIED TRUE 5-13-10
PATRICIA L. McNUTT, CLERK
BY *[Signature]* DEP. CLERK

- a) The Court may impose any lawful term of imprisonment, any lawful fine, and any lawful term of supervised release up to the statutory maximum;
- b) The Court will impose special assessment fees as required by law; and
- c) The Court may order forfeiture as applicable and restitution as appropriate.

3. The defendant has read the information, discussed the charges and possible defenses with defense counsel, and understands the crime charged. The defendant is pleading guilty because the defendant is in fact guilty. In order to be guilty, the defendant agrees that each of the following elements of the crime must be proved beyond a reasonable doubt:

- a) That the defendant is a person required to file a return for the taxable year;
- b) That the defendant failed to file the return as required by law;
- c) That the failure to timely file the return was willful.

4. In support of the defendant's guilty plea, the defendant agrees and stipulates to the following facts, which satisfy the offense elements. These are the facts submitted for purposes of the defendant's guilty plea. They do not necessarily constitute all of the facts in the case. Other facts may be relevant to sentencing. Both the defendant and the United States retain the right to present additional facts to the Court to ensure a fair and appropriate sentence in this case.

- a) For tax years 2006 and 2007, Lockett was employed as an attorney at Kennerly, Montgomery & Finley, P.C. in Knoxville, Tennessee and was a resident of Knoxville, Tennessee.
- b) During tax years 2006 and 2007 Lockett earned sufficient income requiring him to file income tax returns with the Internal Revenue Service. For tax years 2006 through 2007, Lockett did not report his taxable income to the Internal Revenue Service and did not file federal income tax returns.

c) During the calendar year 2006, Lockett had and received gross income of approximately \$122,733. By reason of such gross income he was required by law, following the close of the calendar year 2006, and on or before April 17, 2007, to submit an income tax return to the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Lockett willfully failed to file his income tax return for this tax year to avoid the payment of income taxes.

d) During the calendar year 2007, Lockett had and received gross income of approximately \$107,365. By reason of such gross income he was required by law, following the close of the calendar year 2007, and on or before April 15, 2008, to submit an income tax return to the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled. Lockett willfully failed to file his income tax return for this tax year to avoid the payment of income taxes.

e) For purposes of sentencing under USSG § 2T4.1(D), these willful failures to file federal income tax returns caused a tax loss to the United States of \$16,118. This amount has been paid but penalties and interest may still be ordered by the Court.

5. The defendant understands that by pleading guilty the defendant is giving up several rights, including:

- a) the right to be indicted by a grand jury for these crimes;
- b) the right to plead not guilty;
- c) the right to a speedy and public trial by jury;
- d) the right to assistance of counsel at trial;
- e) the right to be presumed innocent and to have the burden of proof placed on the United States to prove the defendant guilty beyond a reasonable doubt;

- f) the right to confront and cross-examine witnesses against the defendant;
- g) the right to testify on one's own behalf, to present evidence in opposition to the charges and to compel the attendance of witnesses; and
- h) the right not to testify and to have that choice not used against the defendant.

6. Given the defendant's agreement to plead guilty, the United States will not oppose a two-level reduction for acceptance of responsibility under the provisions of Section 3E1.1(a) of the Sentencing Guidelines. Further, if the defendant's offense level is 16 or greater, and the defendant is awarded the two-level reduction pursuant to Section 3E1.1(a), the United States agrees to move, at or before the time of sentencing, the Court to decrease the offense level by one additional level pursuant to Section 3E1.1(b) of the Sentencing Guidelines. Should the defendant engage in any conduct or make any statements that are inconsistent with accepting responsibility for the defendant's offense, including violations of conditions of release or the commission of additional offenses prior to sentencing, the United States will be free not to make such motion or to withdraw such motion if already made, and will be free to recommend to the Court that the defendant not receive any offense level reduction for acceptance of responsibility under Section 3E1.1 of the Sentencing Guidelines.

7. The defendant agrees to pay the special assessment in this case prior to sentencing.

8. The defendant agrees that the court shall order restitution, pursuant to any applicable provision of law, for any loss caused to: (1) the victim of any offense charged in this case (including dismissed counts); and (2) the victim of any criminal activity that was part of the same course of conduct or common scheme or plan as the defendant's charged offense. The defendant agrees,

pursuant to 18 U.S.C. § 3663(a)(3), that the order of restitution will be in an amount determined by the Court which may include penalties and interest.

9. No promises have been made by any representative of the United States to the defendant as to what the sentence will be in this case. Any estimates or predictions made to the defendant by defense counsel or any other person regarding any potential sentence in this case are not binding on the Court, and may not be used as a basis to rescind this plea agreement or withdraw the defendant's guilty plea. The defendant understands that the sentence in this case will be determined by the Court after it receives the presentence report from the United States Probation Office and any information presented by the parties. The defendant acknowledges that the sentencing determination will be based upon the entire scope of the defendant's criminal conduct, the defendant's criminal history, and pursuant to other factors and guidelines as set forth in the Sentencing Guidelines and the factors set forth in 18 U.S.C. § 3553.

10. Financial Obligations. The defendant agrees to pay all fines and restitution imposed by the Court to the Clerk of Court. The defendant also agrees that the full fine and/or restitution amount shall be considered due and payable immediately. If the defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the Probation Office at any time, the defendant agrees that the Bureau of Prisons and the Probation Office will have the authority to establish payment schedules to ensure payment of the fine and/or restitution. The defendant further agrees to cooperate fully in efforts to collect any financial obligation imposed by the Court by set-off of federal payments, execution on non-exempt property, and any other means the United States deems appropriate. The defendant and counsel also agree that the defendant may be contacted post-judgment regarding the collection of any financial obligation imposed by the Court without notifying the defendant's counsel and outside the presence of the defendant's counsel.

In order to facilitate the collection of financial obligations to be imposed with this prosecution, the defendant agrees to disclose fully all assets in which the defendant has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third party. In furtherance of this agreement, the defendant additionally agrees to the following specific terms and conditions:

- (a) If so requested by the United States, the defendant will promptly submit a completed financial statement to the U.S. Attorney's Office, in a form it provides and as it directs. The defendant promises that such financial statement and disclosures will be complete, accurate, and truthful.
- (b) The defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report on the defendant in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.
- (c) If so requested by the United States, the defendant will promptly execute authorizations on forms provided by the U.S. Attorney's office to permit the U.S. Attorney's Office to obtain financial and tax records of the defendant.

The defendant also agrees to send a notice of any payments made pursuant to this agreement to the IRS at the following address: IRS-RACS, Attn: MAIL STOP 6261, Restitution, 333 W. Pershing Ave., Kansas City, MO 64108.

11. (a) In consideration of the concessions made by the United States in this agreement and as a further demonstration of the defendant's acceptance of responsibility for the offense committed, the defendant agrees not to file a direct appeal of the defendant's conviction or sentence except the defendant retains the right to appeal a sentence imposed above the sentencing guideline range or any applicable mandatory minimum sentence (whichever is greater) determined by the district court.

(b) In addition, the defendant knowingly and voluntarily waives the right to file any motions or pleadings pursuant to 28 U.S.C. § 2255 or to collaterally attack the defendant's

conviction and/or resulting sentence. The parties agree that the defendant retains the right to raise, by way of collateral review under § 2255, claims of ineffective assistance of counsel or prosecutorial misconduct not known to the defendant by the time of the entry of judgment.

12. This agreement becomes effective once it is signed by the parties and is not contingent on the defendant's entry of a guilty plea. If the United States violates the terms of this agreement, the defendant will have the right to withdraw from this agreement. If the defendant violates the terms of this agreement in any way (including, but not limited to, failing to enter a guilty plea as agreed herein, moving to withdraw the guilty plea after entry), or by violating any court order or any local, state or federal law pending the resolution of this case, then the United States will have the right to void any or all parts of the agreement and may also enforce whatever parts of the agreement it chooses. In addition, the United States may prosecute the defendant for any and all federal crimes that the defendant committed related to this case, including any charges that were dismissed and any other charges which the United States agreed not to pursue. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial or double jeopardy defense to such a prosecution. The defendant also understands that a violation of this plea agreement by the defendant does not entitle the defendant to withdraw the defendant's guilty plea(s) in this case.

13. This plea agreement constitutes the full and complete agreement and understanding between the parties concerning the defendant's guilty plea to the above-referenced charge(s), and there are no other agreements, promises, undertakings, or understandings between the defendant and the United States. The parties understand and agree that the terms of this plea agreement can be modified only in writing signed by all of the parties and that any and all other promises, representations, and statements whether made before, contemporaneous with, or after this

agreement, are null and void.

JAMES R. DEDRICK
UNITED STATES ATTORNEY

04/26/2010
Date

By: Charles E. Atchley, Jr.
Charles E. Atchley, Jr.
Assistant United States Attorney

April 22, 2010
Date

William Soaper Lockett, Jr.
William Soaper Lockett, Jr.
Defendant

April 22, 2010
Date

W. Thomas Dillard
W. Thomas Dillard
Attorney for the Defendant