

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**CASE NO. 5:16cr15-RH**

**PATRICK SHAWN KELLEY**  
\_\_\_\_\_ /

**STATEMENT OF FACTS FOR GUILTY PLEA**

In support of the Plea Agreement in this case, the United States would prove the following facts at trial beyond a reasonable doubt:

Between 2009 and 2011, the defendant was a partner in American Construction Logistics and Services (ACLS), a construction company that performed work for the U.S. Government (USG) in Afghanistan. The defendant failed to file 2009, 2010, and 2011 Form 1040s and report income he received from ACLS totaling **\$1,167,025.32** in the form of wages and personal expenditures made with ACLS funds, transfers of ACLS funds to his personal bank accounts, and cash that he directed ACLS employees to wire from Afghanistan to his wife in Panama City, Florida and deposited in their personal bank accounts. The tax due and owing to the Internal Revenue Service (IRS) for the 2009, 2010, and 2011 tax years that were never paid to

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**CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA**

the IRS by the defendant is **\$210,397** (2009 - **\$32,678**; 2010 - **\$121,110**; 2011-**\$56,609**).

The defendant's wife, along with her two daughters, resided in Panama City during the years the tax evasion. At the defendant's direction via email or Skype, the defendant's wife opened the ACLS bank account, used ACLS funds to pay for personal expenditures, and transferred ACLS funds to their personal bank accounts.

The defendant's affirmative acts to evade or defeat the assessment of his federal income taxes include the following:

- a. In accordance with the defendant's instructions, the defendant's wife established an account for ACLS at Legends Bank, an American financial institution, so that the account could be used to pay American employee salaries and pay American suppliers. Only the defendant and his wife had signature authority on the account.
- b. During the years 2010 and 2011, in an effort to conceal his income from the IRS, and without the knowledge or consent of his business partners, the defendant made significant personal expenditures directly from the ACLS bank account. The expenditures included \$320,550 for the purchase of his personal residence in Panama City

Beach, Florida, \$156,000 for ownership interest in a motorcycle shop, \$44,000 for the purchase of a boat, \$10,393 for the purchase of a Jeep Wrangler, and a \$9,500 loan to a friend.

- c. The defendant diverted funds totalling \$353,520.37 from the ACLS corporate bank account to his personal bank accounts, held at Commercial Bank of Ozark (in Alabama) and Innovations Federal Credit Union (in Panama City). The defendant then used the funds to pay personal debts and make personal expenditures. These funds were in addition to the defendant's \$5,500 bi-weekly salary, which was also transferred from the ACLS corporate bank account to his personal bank accounts.
- d. While in Afghanistan, on some occasions, the defendant used his Afghan employees as nominees, to send cash to his wife. The cash was sent via Western Union transfers, in amounts below the \$10,000 Currency Transaction Report threshold (\$8,360). The defendant's wife deposited a portion of these funds into a Panama City personal bank account that she and the defendant maintained, and used the funds to pay for personal living expenses.

- e. On April 28, 2010, the defendant sent an email to his wife regarding the purchase of their personal residence in Panama City Beach, Florida. In the email, the defendant asked his wife to “ask the realtor about an escrow account for me to send the wire transfer to.” The defendant added that “I do not want to get taxed on this money by sending it through the US account.”
- f. On May 5, 2010, the defendant sent an email to an individual identified as “Sam” regarding the purchase of a Sea Ray boat. In the email, the defendant stated, “I went through the trouble to rent a slip in Panama City, wire funds to the US from Dubai to pay for this boat which is now taxable without this purchase.” To complete the transaction, the defendant wired \$44,000 from the ACLS bank account to his father, who then transferred the funds to the seller.
- g. On May 31, 2010, the defendant sent an email to his wife, instructing her to “wire Bobby \$7500 today (Per Diem) and then another \$7500 on Thursday.” The defendant continued, “I do not want this taxed as it is his bonus on the housing completion.”
- h. In 2011, the defendant transferred \$156,000 from the ACLS corporate bank account to a female to purchase a fifty-percent stake

in Black Jack Custom Motorcycles, a motorcycle shop in Panama City Beach, Florida.

In a video recorded interview of the defendant by agents on December 30, 2015, the defendant admitted that he hadn't filed federal income tax returns since 2009 and that he knew he had broken the law.

**NOTICE OF ELEMENTS**

**Counts Two & Three – Tax Evasion (26 U.S.C. §7201)**

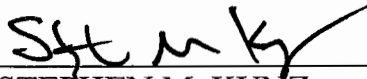
To prove a violation of 26 U.S.C. §7201, the government must prove all of the following elements beyond a reasonable doubt:

- First:* The Defendant owed a substantial income tax;
- Second:* The Defendant committed an affirmative act constituting an evasion or attempted evasion of the tax due and owing; and
- Third:* The Defendant did so willfully, intending to evade paying taxes he knew he was required to pay by law.

Generally, "any conduct, the likely effect of which would be to mislead or conceal" constitutes an affirmative act in furtherance of tax evasion. *Spies v. United States*, 317 U.S. 492, 499 (1943).

Concealing or attempting to conceal income constitutes an affirmative act of tax evasion. *United States v. Edwards*, 777 F.2d 644, 650 (11<sup>th</sup> Cir. 1985).

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