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5 **ATTORNEY FOR: DEFENDANT**

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 United States of America,
11 Plaintiff,
12
13 v.
14 Jacqueline Parker, et al.,
15 Defendant.

10CR757-ROS-PHX

**MOTION TO PRECLUDE THE
ADMISSION OF PRIVILEGED
ATTORNEY-CLIENT
COMMUNICATIONS
(EVIDENTIARY HEARING
REQUESTED)**

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19 NOW COMES the Defendant, Jacqueline Parker, by and through her counsel of
20 record, to ask this Court to preclude the admission of evidence regarding the
21 communications between the Defendants in this matter and their attorneys. As further
22 grounds therefore, the Defendant submits the following:
23

24 **UNDERLYING FACTS**

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26 The Indictment alleges that the Parker's filed joint income tax statements in 1997
27 and 1998 that the Government believes understated the Parker's income. *Id.* at 1,2. The
28 Indictment claims that the Parker's, "who were represented by legal counsel," also did
29

1 not file required income tax returns for 1999 and 2000. *Id.* at 2. The Indictment further
2 alleges that the Parker's returns understated their tax liability for 2001 and 2002. *Id.*

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4 In her initial support of the prosecution of Mr. Parker, the lead IRS special agent
5 states in her report, "A credible reliance on counsel defense would require that [Mr.]
6 Parker made full disclosure of his return preparer and to his attorney. The investigation
7 disclosed evidence showing [Mr.] Parker failed to disclose assets and business interests
8 to both is attorney and return preparer." Gvt. Bates SAR 15769.

10 ARGUMENT

11 The attorney-client privilege protects confidential communications disclosed by
12 a client to an attorney in order to obtain professional legal service. *United States v. Gray*
13 876 F.2d 1411, 1415 (9th Cir.1989), *cert. denied*, 495 U.S. 930, 110 S.Ct. 2168, 109 L.Ed.2d
14 497 (1990). "A litigant is entitled to object to adverse testimony from is attorney
15 regarding matters disclosed by the litigant in confidence." *United States v. Mackey*, 405
16 F.Supp. 854, 858 (1975)

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18 In the present case, the Defendant makes this objection out of concern that their
19 prior counsel may have disclosed confidential communications to investigators
20 regarding the Defendants' disclosure of information (or the purported lack thereof) to
21 their prior counsel. The discovery does not indicate directly that their counsel, such as
22 Greg Robinson, who is mentioned in the Special Agent's Report, shared confidential
23 attorney-client communications with investigators. The reference to the investigators'
24 conclusion that Mr. Parker failed to disclose information to his attorney, however, is
25 alarming. This concern is implicated by Mrs. Parker, who is charged with signing
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1 documents that Mr. Robinson appears to have prepared in the course of representing
2 her husband.

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4 To resolve this concern, the Defendant asks this Court to set the matter for an
5 evidentiary hearing. At that hearing, it can be determined what, if any confidential
6 attorney-client communications were relayed to the investigators from the Defendants'
7 prior counsel. The Court can then determine whether or not to preclude that evidence
8 as privileged.
9

10 **CONCLUSION**

11 For the foregoing reasons, the Defendant respectfully asks this Court to grant her
12 Motion to Preclude Privileged Attorney Communications.
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14 RESPECTFULLY SUBMITTED on April 22, 2011.

15
16 s/Joy Bertrand
17 Joy Bertrand
18 Attorney for Defendant
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CERTIFICATE OF SERVICE

On April 22, 2011, I, Joy Bertrand, attorney for the Defendant, Jacqueline Parker, filed the Defendant's Motion to Preclude Privileged Attorney-Client Communications with the Arizona District Court's electronic filing system. Based on my training and experience with electronic filing in the federal courts, it is my understanding that a copy of this request will be electronically served upon opposing counsel, Peter Sexton and Walter Perkel, and codefendant counsel Michael Minns, Ashley Arnett, and John McBea upon its submission to the Court.

Respectfully submitted this 22nd day of April, 2011.

s/Joy Bertrand
Joy Bertrand
Attorney for Defendant