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8
9 UNITED STATES DISTRICT COURT
10 DISTRICT OF ARIZONA

11 United States of America,
12
13 Plaintiff,

14 v.

15 James R. Parker,
Jacqueline L. Parker
16 Defendants.

CR 10-0757-PHX-ROS

**NOTICE OF DEFENDANTS'
REJECTION OF GOVERNMENT'S
PLEA PROPOSAL**

17 In light of the recent United States Supreme Court decisions in *Lafler v. Cooper*, 132 S.
18 Ct. 1376 (2012) and *Missouri v. Frye*, 132 S. Ct. 1399 (2012), this pleading is filed by the
19 government to place on the record the nature of the joint plea proposal recently rejected by the
20 defendants in this matter.

21 Defendant James Parker was charged in the Indictment with four felony counts of tax
22 evasion in violation of 26 U.S.C. § 7201 (a five year statutory maximum per count), and four
23 felony counts of making false statements in violation of 26 U.S.C. § 7206(1) (a three year
24 statutory maximum per count). Defendant Jacqueline Parker similarly was charged with two
25 felony counts of false statements under Section 7206(1). A conviction for Mr. Parker on the
26 charges in the Indictment could result in a sentence in excess of ten years, whereas Ms. Parker's
27 exposure is likely much less under the Sentencing Guidelines and statutory sentencing factors.
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1 The government's proposed consolidated plea offer sought to resolve the case against
2 both defendants, and required Mr. Parker to plead to the four felony 7206(1) counts, with a
3 stipulation that all four counts would run *concurrently*, thereby creating a statutory ceiling of
4 only three years for Mr. Parker, and to have Ms. Parker plead to one *misdemeanor* count of
5 submitting false information in violation of 26 U.S.C. § 7207, a charge to which she would have
6 had to plead to by way of an Information with a waiver of the statute of limitations.¹

7 The proposed plea arrangement contemplated asking the Court to defer sentencing so that
8 defendants could file original or amended joint tax returns for any tax years in dispute, and also
9 complete a detailed financial disclosure document, under oath, and subject to verification
10 through a polygraph process. The extra time was negotiated between the parties so that
11 defendants could do certain things before sentencing.

12 By a phone communication with one of Mr. Parker's lawyers on Wednesday, April 18,
13 2012, the government was told that the joint plea proposal was not going to be accepted by
14 defendants. In all other respects, the government defers to the Court as to whether any further
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24 ¹ The proposed joint plea had been approved verbally within the U.S. Attorney's Office, and
25 within the IRS Office in Phoenix. The defense was told that the government had not yet sought formal
26 Tax Division approval, which is a layered process, and would not do so until the defendants indicated
27 they wanted the proposed joint plea. The Tax Division, through counsel in Tucson, was made aware
28 of the contours of the proposed disposition, and it was not expected that the Tax Division would
disapprove of the proposed pleas when the matter was formally submitted to the Tax Division for its
approval.

1 record is needed regarding the fact that the above joint offer was communicated to, and rejected
2 by, defendants James and Jacqueline Parker.

3 Respectfully submitted this 25th day of April, 2012.

4 ANN BIRMINGHAM SCHEEL
5 Acting United States Attorney
6 District of Arizona

7 */s Peter Sexton*

8 PETER SEXTON
9 WALTER PERKEL
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10 I hereby certify that on this date, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF
11 system for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants: Michael Minns, Ashley
12 Arnett, Michael Kimerer, John McBee, and Joy Bertrand
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