



EXPEDITED COMPLAINT

<b>EXPEDITED COMPLAINT REQUEST</b>	<b>ALL COMPLAINTS MUST INCLUDE:</b>	<i>APOC case name/number/date</i>
<p>FOR requesting expedited review, ensure your complaint meets the factors required for expedited review in AS 15.13.380(c). Those factors are whether the alleged violation:</p> <ul style="list-style-type: none"> <li>is not immediately restrained (stopped), could materially affect the outcome of an election or other pending event;</li> <li>could cause irreparable harm that penalties could not adequately remedy; and</li> <li>whether there is reasonable cause to believe that a violation has occurred or will occur.</li> </ul> <p>Expedited review requires the complainant to prove the violation by a preponderance of the evidence.</p>	<ol style="list-style-type: none"> <li>1. Complainant's name + contact info</li> <li>2. Respondent's name + contact info</li> <li>3. Laws, regulations allegedly violated</li> <li>4. Description of allegations</li> <li>5. Basis of knowledge of alleged facts</li> <li>6. Documentation to support allegations</li> <li>7. Notarized signature of the complainant</li> <li>8. Proof that complaint and all supporting documents were served on respondent</li> </ol>	<p><b>ARRIVED</b></p> <p>8/31/2017</p> <p><b>APOC - ANCH PM HC FAX ELE 17-01-POFD</b></p>
<b>APOC LAWS ALLEGEDLY VIOLATED</b> <i>Specify section of law or regulation</i>		
<b>Campaign Disclosure Law</b> <input type="checkbox"/> AS 15.13 <input type="checkbox"/> 2 AAC 50.250-405	<b>Public Official Financial Disclosure</b> <input checked="" type="checkbox"/> AS 39.50 <input checked="" type="checkbox"/> 2 AAC 50.680-799	
<b>Lobbying Regulation</b> <input type="checkbox"/> AS 24.45 <input type="checkbox"/> 2 AAC 50.550-590	<b>Legislative Financial Disclosure</b> <input type="checkbox"/> AS 24.60 <input type="checkbox"/> 2 AAC 50.680-799	

<b>APOC Person or Party Group Address / Zip Tel/Fax Email</b>	<b>COMPLAINANT</b>	<b>RESPONDENT</b> <i>Person or group allegedly violating law</i>	
	Lynne V. Cameron P.O. Box 272 Skagway 99840 (907) 612-1785 lynnstuff@hotmail.com	<input checked="" type="checkbox"/> Person <input type="checkbox"/> Party <input type="checkbox"/> Group	Daniel J. Henry P.O. Box 279 Skagway 99840 (907) 983-3474 FAX (907) 983-2010 ph SFCARSKD@hotmail.com
	<b>COMPLAINANT'S REPRESENTATIVE</b>	<b>RESPONDENT'S REPRESENTATIVE</b>	
<i>complainant or respondent is political party or group, list contact person. If complainant or respondent is represented by attorney, list name + contact info</i>			
<b>et/Title</b>			
<b>ress</b>			
<b>el/Fax</b>			
<b>ill</b>			

<b>DESCRIPTION or SUMMARY of ALLEGED VIOLATION</b>	<i>Use extra pages if needed</i>	<b>SUPPORTING DOCUMENTS - DESCRIBE:</b>
C. 50: 740(a) Required to report activity of all creditors (see attached) 250:740(a)(1) This covers indebtedness; including to IRS and APOC		2017 PDED as completed by Daniel J. Henry Reference: Roger Griffin vs Daniel Henry 16-02 POED (see attached)
<b>COPIES of SERVICE ATTACHED:</b> <input type="checkbox"/> Fax - receipt confirmation <input checked="" type="checkbox"/> Certified mail - signed receipt <input type="checkbox"/> Process server - return of service <input type="checkbox"/> E-mail - delivery/read receipt <input type="checkbox"/> Other		
<b>STATE of SERVICE ATTACHED:</b> <input type="checkbox"/> State of Alaska		

**COMPLAINANT'S SWORN STATEMENT:** To the best of my knowledge and belief, these statements are true

Signature: *Lynne V. Cameron* Title: *Michelle Gihl* Date: *8/30/17*  
 Subscribed and sworn to or affirmed by me at: *Skagway, Alaska* on: *August 30, 2017*  
 Signature: *Michelle Gihl* Title: *Notary Public*

**APOC COMPLAINTS, RESPONSES, INVESTIGATION REPORTS & COMMISSION ACTIONS ARE PUBLIC DOCUMENTS**

<b>APOC ANCHORAGE</b>	<b>APOC JUNEAU</b>	<b>APOC COMPLAINT PROCESS: 2 AAC 60.460 -476</b>
E. NORTHERN LIGHTS #128	240 MAIN STREET #500	FILING COMPLAINTS: 2AAC 50.870 ANSWERING COMPLAINTS: 2AAC 50.880
HORAGE, AK 99508	P.O. BOX 110222	APOC CRITERIA for ACCEPTING COMPLAINTS: 2 AAC 50.870
76-4176 / FAX 907-276-7018	JUNEAU, AK 99811	INVESTIGATIONS & HEARINGS: 2 AAC 50.875-891
TOLFREE 800-478-4176	465-0864 / FAX 465-0832	RULES for REQUESTING EXPEDITED CONSIDERATION: AS15.13.380(c)
<a href="http://doa.alaska.gov/apoc/">http://doa.alaska.gov/apoc/</a>		<b>APOC FORMS:</b> <a href="http://doa.alaska.gov/apoc/forms_all.html">http://doa.alaska.gov/apoc/forms_all.html</a>
		<b>APOC LAWS:</b> <a href="http://doa.alaska.gov/apoc/apoclaws.html">http://doa.alaska.gov/apoc/apoclaws.html</a>

# APOC Expedited Complaint

## Supporting Documents:

- Plea Agreement: USA vs Daniel J Henry  
No. 1:16-cr-0001-LCL 2/1/16
  - APOC: Roger Griffin vs. Assemblyman Daniel Henry  
(see citation) 16-02 POFD
  - POFD Daniel J Henry filed 8/14/2017  
Municipality of Skagway
- See also: Attached Skagway News & KHNS reports  
2/27/16 10/21/16
- 

This complaint was brought after review of Mr. Henry's current POFD.

There is no mention of assessed fines for which he was made responsible in 2016.

There is no reasonable explanation of income to settle those fines.

Mr. Henry may also be in violation of 2 AAC 50.685b, gifts greater than \$250.

Zyngne V Cameron

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Zyenne V Cameron

ALASKA PUBLIC OFFICES COMMISSION  
2017 Public Official Financial Disclosure  
Covering Jan. 1- Dec. 31, 2016

RECEIVED  
Clerk Received Date

AUG 14 2017

MUNICIPALITY  
OF SKAGWAY

APOC Received Date

POFD for Municipal Officers and Candidates

You may file this paper POFD if you are a municipal officer or municipal candidate and serving or seeking office in a municipality with a population less than 15,000. All other filers must file electronically via myAlaska: <https://my.alaska.gov/>

If you are a municipal candidate and already have a current POFD on file you do not need to file a candidate POFD (AS 15.13.030)

Contact APOC

Anchorage: 2221 E. Northern Lights Blvd., Room 128, Anchorage, AK 99508 / 907-276-4176 / Fax 907-276-7018. Juneau: 240 Main St., Room 500 / P.O. Box 110222, Juneau, AK 99811 / 907-465-4864 / Fax 907-465-4832. Toll-free in-state: 800-478-4176 Online: <http://doa.alaska.gov/apoc/> E-mail: [doa.apoc@alaska.gov](mailto:doa.apoc@alaska.gov)

This document is public- Do not include information such as social security or account numbers.

If you have nothing to report in a section, check NONE. Attach additional pages where needed.

Filing as Municipal:  Office Holder  Candidate

Candidate POFD: Due when filing declaration of candidacy or nominating petition.

Initial POFD: Due 30 days from appointment.

Annual POFD: Due by March 15 each year after appointment.

Final POFD: Due 90 days after leaving office (Include information not reported on previous POFDs).

Municipality: SKAGWAY

Position:  Borough/City Mayor  Assembly member  Councilmember  School Board Member

Elected Utility Board Member  Borough/City Manager  Planning or Zoning Commission

NAME: DANIEL J. HENRY

E-MAIL: SFCALASKA@HOTMAIL.COM

FAX PHONE: 907-983-3474

PHONE 907-983-2010  
FAX

MAILING ADDRESS: P.O. BOX 279 SKAGWAY, AK. 99840

SPOUSE'S NAME: EILEEN M. HENRY

NUMBER OF DEPENDENT CHILDREN: 0

**ALASKA PUBLIC OFFICES COMMISSION**  
 2017 Public Official Financial Disclosure  
 Covering Jan. 1- Dec. 31, 2016

**SELF-EMPLOYMENT**

NONE:

List each source of self-employment income over \$1,000. See AS 39.50.200(10), source of income, 2 AAC 50.799(a), definition of self-employment, 2 AAC 50.695, reporting deferred income; and 2 AAC 50.700 for details. Disclose each client, customer or business that paid you and/or your family members more than \$1,000. Self-employment includes sole proprietors, partnerships, limited liability companies and professional corporations. Disclose income from corporations in which the filer and/or family members, hold a controlling interest (2 AAC 50.700(b)). **Exemptions:** To obtain an exemption you must file a written request and receive an exemption from the commission (2 AAC 50.775, 2 AAC 50.821).

Earned By:  Filer  Spouse  Child  
 Full-time  Part-time  Seasonal  Commission  Project  Hourly  
 Income Amount: \$ 125K  
 Dates worked: 4-1 THRU 11-1 Amount of time worked: DING TO DONG  
 Business name: SKAGWAY FISH COMPANY  
 Client name and address: NONE - I HAVE NO CUSTOMERS  
 Client name and address: PAYING 1000.00 OR MORE  
 Description of services: FOOD AND BEVERAGE

Earned By:  Filer  Spouse  Child  
 Full-time  Part-time  Seasonal  Commission  Project  Hourly  
 Income Amount: \$ \_\_\_\_\_  
 Dates worked: \_\_\_\_\_ Amount of time worked: \_\_\_\_\_  
 Business name: \_\_\_\_\_  
 Client name and address: \_\_\_\_\_  
 Client name and address: \_\_\_\_\_  
 Description of services: \_\_\_\_\_

**RENTAL INCOME**

NONE:

If any person paid you and/or your family members more than \$1,000 in rent during the preceding calendar year, report the name of the person and amount paid. If the property is managed by a person other than the filer or a family member, list the manager's name. Disclose the location of the property under Real Property Interests.

OWNER:	TENANT NAMES	AMOUNT
<input checked="" type="checkbox"/> Filer	KIRSTEN SHELLIN	1600.00
<input type="checkbox"/> Spouse	PETER METZER	1400.00
<input type="checkbox"/> Child	ALEX MARTIN	1200.00
<input type="checkbox"/> Co-owners	SAL CAMPAGNA	1200.00

ALASKA PUBLIC OFFICES COMMISSION  
2017 Public Official Financial Disclosure  
Covering Jan. 1- Dec. 31, 2016

**BUSINESS INTERESTS**

NONE:

Report businesses in which the filer or family member: 1) Served as stockholder, owner, officer, director, partner, proprietor, employee, or held an interest. 2) Had ownership interests of more than \$1,000 in a publicly traded corporation, a business, shares in non-publicly traded corporations, sole proprietorships, or limited liability companies. Include options to buy, non-profit organizations, corporations, businesses, associations, and trade groups.

Filer  Spouse  Child

Position/Type of interest: OWNER

Business name: SKAGWAY FISH COMPANY

Address: 201 CONGRESS WAY SKAGWAY, AK. 99840

Description: RESTAURANT

Filer  Spouse  Child

Position/Type of interest: \_\_\_\_\_

Business name: \_\_\_\_\_

Address: \_\_\_\_\_

Description: \_\_\_\_\_

Filer  Spouse  Child

Position/Type of interest: \_\_\_\_\_

Business name: \_\_\_\_\_

Address: \_\_\_\_\_

Description: \_\_\_\_\_

**REAL PROPERTY INTERESTS**

NONE:

A primary residence or recreational property held for personal use may be described only by zip code (2 AAC 50.720). (Enter 'Not Reported' for address if this applies to you.) Report the nature of the interest held in the property; including fee simple ownership, tenancy in common, general or limited partnership, and holder of an option to purchase. If property is jointly owned, check applicable boxes.

Owner(s):  Filer  Spouse  Child  Co-owner: THE YELLOW HOUSE

Address or description and zip-code: 13TH & MAIN ST. SKAGWAY, AK. 99840

Ownership interest: SUB-LEASE FOR EMPLOYEES

Owner(s):  Filer  Spouse  Child  Co-owner: EILEEN M. HENRY

Address or description and zip-code: 560 11TH AVE SKAGWAY, AK. 99840

Ownership interest: CO-OWNER

Owner(s):  Filer  Spouse  Child /  Co-owner: \_\_\_\_\_

Address or description and zip-code: \_\_\_\_\_

Ownership interest: \_\_\_\_\_

ALASKA PUBLIC OFFICES COMMISSION  
2017 Public Official Financial Disclosure  
Covering Jan. 1- Dec. 31, 2016

**GOVERNMENT CONTRACTS & OFFERS TO CONTRACT**

NONE:

List contracts, bids and offers to contract with the state or any state or municipal agency or entity. Report contract interests as individual, sole proprietor, family member, partnership, professional corporation, limited liability company, or through a corporation in which filer or family member/s held a controlling interest.

Contractor:  Filer  Spouse  Child

Type of Interest: \_\_\_\_\_

Bid  Offer  Held Contract ID: \_\_\_\_\_

Contracting Agency: \_\_\_\_\_

Description: \_\_\_\_\_

**NATURAL RESOURCE LEASES**

NONE:

List mineral, timber, oil and gas leases – held, bid or offered. Report lease interests as individual, sole proprietor, family member, partnership, professional corporation, limited liability company, or corporation in which you and/or a family member held a controlling interest.

Leaseholder:  Filer  Spouse  Child

Type of Interest: \_\_\_\_\_

Bid  Offer  Held Lease ID: \_\_\_\_\_

Description: \_\_\_\_\_

**CERTIFICATION**

I certify under penalty of perjury that the foregoing is true and the information in this disclosure statement is, to the best of my knowledge, true, correct and complete. A person who knowingly makes a false sworn certification is guilty of perjury.

SIGNATURE: \_\_\_\_\_

DANIEL J. HENRY

NAME

8/14/17

DATE SIGNED

Public Officials and Candidates required to file POFDs are solely responsible for filing complete, accurate and truthful forms by the deadlines.

**File this POFD with the municipal clerk where you hold or seek office.**

**THIS IS A PUBLIC DOCUMENT**

KAREN L. LOEFFLER  
United States Attorney

JACK S. SCHMIDT  
Assistant U.S. Attorney  
Federal Building & U.S. Courthouse  
709 West 9th Street, Room 937  
Post Office Box 21627  
Juneau, Alaska 99802  
Phone: (907) 796-0400  
Fax: (907) 796-0409  
Email: jack.schmidt@usdoj.gov

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA, ) No. 1:16-cr-00001-LCL  
 )  
 ) Plaintiff, )  
 ) **PLEA AGREEMENT**  
 )  
 vs. )  
 )  
 DANIEL HENRY, )  
 )  
 )  
 ) Defendant. )  
 )  
 )

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**Unless the parties jointly inform the Court in writing of any additional agreements, this document in its entirety contains the terms of the plea agreement between the defendant and the United States. This agreement is limited to the District of Alaska; it does not bind other federal, state, or local prosecuting authorities.**



**I. TERMS OF AGREEMENT, FEDERAL RULE OF CRIMINAL PROCEDURE 11, WAIVER OF CLAIM FOR ATTORNEY'S FEES AND COSTS**

**A. Terms of Agreement**

The defendant agrees to plead guilty to Counts One through Four of the Information in this case. The United States agrees not to prosecute the defendant further for any other offense related to the event that resulted in the charges contained in the Information. The parties are free to make sentencing recommendations consistent with this agreement. Any agreements the parties have on sentencing recommendations and guideline applications are set forth in Section III. The defendant will waive all rights to appeal the conviction and sentence imposed under this agreement, and will waive all rights to collaterally attack the conviction and sentence, except on the grounds of ineffective assistance of counsel or the voluntariness of the plea(s).

**B. Federal Rule of Criminal Procedure 11**

Unless the parties otherwise inform the Court in writing, Federal Rule of Criminal Procedure 11(c)(1)(A) and (B) will control this plea agreement. Thus, the defendant may not withdraw from this agreement or the guilty plea(s) if the Court rejects the parties' sentencing recommendations at the sentencing hearing.

**C. Waiver of Claim for Attorney Fees and Costs**

Because this is a negotiated resolution of the case, the parties waive any claim for the award of attorney fees and costs from the other party.

**II. CHARGES, ELEMENTS, FACTUAL BASIS, STATUTORY PENALTIES AND OTHER MATTERS AFFECTING SENTENCE, FORFEITURE**

**A. Charges**

The defendant agrees to plead guilty to the following count(s) of the

Information:

Counts One through Four: Willful Failure to File Income Tax Return, a violation of Title 26 U.S.C. § 7203.

**B. Elements**

The elements of the charge(s) to which the defendant is pleading guilty are as follows:

Counts One through Four: Willful Failure to File Income Tax Return

1. Defendant was required to file an income tax return;
2. Defendant failed to file a timely return;
3. Defendant acted willfully, intentionally violating a known legal duty.

**C. Factual Basis**

The defendant admits the truth of the allegations in Counts One through Four of the Information and the truth of the following statement, and the parties stipulate that the Court may rely upon this statement to support the factual basis for the guilty plea(s) and for the imposition of the sentence:

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The defendant received gross income in the years 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, and 2012 that the defendant knew required him to file a tax return by the required date. The defendant did not, however, file an individual income tax return, Form 1040, for the said years by the last day prescribed for the filing. The gross income received by the defendant in said years included gross income from the defendant's solely owned restaurant business, Skagway Fish Company, located in Skagway, Alaska.

In addition to failing to file returns in a timely manner, Defendant engaged in conduct intended, at least in part, to conceal and mislead the IRS as to his income by causing financial institutions to fail to file required reports to the United States Department of the Treasury. Separately, Defendant wrongfully failed to disclose his income in required reports to the State of Alaska.

On or about March 11, 2010, the defendant certified an Alaska Public Offices Commission (hereafter APOC) Financial Disclosure Statement covering the calendar year 2009, wherein the total income earned by the defendant from self-employment, specifically the business Skagway Fish Company, was stricken as to be illegible. The APOC form required the defendant to disclose any amounts of income over \$1,000.

On or about March 15, 2011, the defendant certified an APOC Financial Disclosure Statement covering the calendar year 2010, wherein the defendant indicated he had no income over \$1,000 from self-employment.

On or about March 15, 2012, the defendant certified an APOC Financial Disclosure Statement covering the calendar year 2011, wherein the defendant indicated he had no income over \$1,000 from self-employment.

On or about March 15, 2013, the defendant certified an APOC Financial Disclosure Statement covering the calendar year 2012, wherein the defendant indicated he had no income over \$1,000 from self-employment.

From at least December 2008, and continuing through at least November 2012, the defendant, and an immediate family member acting at his direction but without criminal intent, structured or attempted to structure, at least in part, currency transactions to evade the currency transaction reporting requirements of 31 U.S.C. § 5313(a). The defendant had knowledge of the currency transaction reporting requirements; however, he, or others directed by him, conducted deposits and/or the purchase of bank checks in amounts between \$9,000 and \$9,900 for the purpose of evading the reporting requirement to include the following:

December 5, 2008	\$9,500	Cash Deposit
December 8, 2008	\$9,700	Cash Deposit
April 23, 2009	\$9,900	Cash Deposit
August 4, 2009	\$9,900	Cash Deposit
October 16, 2009	\$9,000	Cash Deposit
October 29, 2009	\$9,000	Cash Deposit
November 12, 2009	\$9,400	Cash Deposit
November 16, 2009	\$9,500	Cash Deposit
July 23, 2010	\$9,900	Cashier's Check Purchase

July 23, 2010	\$9,900	Cashier's Check Purchase
July 26, 2010	\$9,900	Cashier's Check Purchase
July 26, 2010	\$9,900	Cashier's Check Purchase
July 26, 2010	\$9,900	Cashier's Check Purchase
July 27, 2010	\$9,900	Cashier's Check Purchase
July 27, 2010	\$9,900	Cashier's Check Purchase
April 16, 2012	\$9,500	Cash Deposit
November 6, 2012	\$9,900	Cash Deposit

In failing to file his returns, the Defendant admits that he acted willfully, meaning that he intentionally violated the known legal duty to file a return, and not through ignorance, mistake, or accident, or a good faith belief that he was not required to file.

**D. Statutory Penalties and Other Matters Affecting Sentence**

**1. Statutory Penalties**

The statutory penalties applicable to the charges to which the defendant is pleading guilty, based on the facts to which the defendant will admit in support of the guilty plea(s), are as follows:

**Counts One through Four: Failure to File Tax Return**

- 1) 1 year of imprisonment on each count;
- 2) a maximum \$100,000 fine on each count;
- 3) a \$25 mandatory special assessment on each count; and
- 4) one year supervised release.

## **2. Other Matters Affecting Sentence**

### **a. Conditions affecting the defendant's sentence**

The following conditions may also apply and affect the defendant's sentence:

1) pursuant to Comment 7 of U.S.S.G. § 5E1.2, the Court may impose an additional fine to pay the costs to the government of any imprisonment and supervised release term; 2) pursuant to 18 U.S.C. § 3612(f), unless otherwise ordered, if the Court imposes a fine of more than \$2,500, interest will be charged on the balance not paid within 15 days after the judgment date; 3) upon violating any condition of supervised release, a further term of imprisonment equal to the period of the supervised release may be imposed, with no credit for the time already spent on supervised release; 4) the Court may order the defendant to pay restitution pursuant to 18 U.S.C. § 3663 and U.S.S.G. § 5E1.1.

### **b. Payment of Special Assessment**

The defendant agrees to pay the entire special assessment in this case on the day the Court imposes the sentence. All payments will be by check or money order, and are to be delivered to the Clerk of Court, United States District Court, 222 W. 7th Ave. Box 4, Rm. 229, Anchorage, AK 99513-7564.

### **E. Forfeiture**

There is no agreement on Forfeiture in this case.

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**F. Restitution**

Defendant agrees to a judgment of restitution in the amount of \$600,064 to the Internal Revenue Service, which represents the tax due and owing for the years 2004 through 2012, exclusive of interest and penalties. Defendant agrees to restitution in excess of the amounts related to the counts of conviction pursuant to Title 18, United States Code, Section 3663(a)(3). Defendant understands that the Internal Revenue Service may seek interest and penalties in excess of this amount.

**III. ADVISORY UNITED STATES SENTENCING GUIDELINES;  
GUIDELINE APPLICATION AGREEMENTS; SENTENCING  
RECOMMENDATIONS**

**A. Advisory United States Sentencing Guidelines**

The Court must consult the advisory United States Sentencing Commission Guidelines [U.S.S.G.] as well as the factors set forth in 18 U.S.C. § 3553(a) when considering the sentence to impose. The U.S.S.G. do not establish the statutory maximum or minimum sentence applicable to the offenses to which the defendant is pleading guilty. The U.S.S.G. are not mandatory and the Court is not bound to impose a sentence recommended by the U.S.S.G.

**B. Guideline Application Agreements**

The parties have no agreements on any guideline applications unless set forth below in this section.

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### **1. Acceptance of responsibility**

If the United States concludes that the defendant has satisfied the criteria set out in U.S.S.G. § 3E1.1 and the applicable application notes, the United States agrees to recommend the defendant for a two level downward adjustment for acceptance of responsibility and, if U.S.S.G. § 3E1.1(b) applies, to move for the additional one level adjustment for acceptance of responsibility. If, at any time prior to imposition of the sentence, the United States concludes that the defendant has failed to fully satisfy the criteria set out in U.S.S.G. § 3E1.1, or has acted in a manner inconsistent with acceptance of responsibility, the United States will not make or, if already made, will withdraw this recommendation and motion.

### **2. Relevant Conduct**

The parties agree that the relevant conduct for sentencing purposes is \$600,064. USSG § 2T4.1(H)(Revised Nov. 1, 2015).

### **3. Specific Offense Characteristics**

The parties agree that the income that the defendant failed to report was legal source income, pursuant to USSC 2T1.1(b)(1), and that the offense did not involve sophisticated means, pursuant to USSG §2T1.1(b)(2).

### **C. Sentencing Recommendations**

The United States Probation Office will prepare the defendant's pre-sentence report in which it will include a recommended calculation of the defendant's sentence range under the U.S.S.G. Both the United States and the defendant will



have the opportunity to argue in support of or in opposition to the guideline sentence range calculation the U.S.P.O. recommends, as well as present evidence in support of their respective sentencing arguments. In this case, the United States agrees to recommend a sentence of not more than 24 months of imprisonment, which is anticipated to be the low end to the advisory USSG range. The Defendant agrees to recommend not less than eight months of imprisonment. These recommendations are not binding on the Court. Otherwise, the parties are free to recommend to the Court their respective positions on the appropriate sentence to be imposed in this case based on the stipulated facts set forth in Section II C, any additional facts established at the imposition of sentence hearing, the applicable statutory penalty sections, the advisory U.S.S.G., and the sentencing factors set forth in 18 U.S.C. § 3553.

#### **IV. WAIVER OF TRIAL, APPELLATE RIGHTS, AND COLLATERAL ATTACK RIGHTS**

##### **A. Trial Rights**

Being aware of the following, the defendant waives these trial rights:

- If pleading to an information, the right to have the charges presented to the grand jury prior to entering the guilty plea;
- The right to a speedy and public trial by jury on the factual issues establishing guilt or any fact affecting the mandatory minimum and

statutory penalties, and any issue affecting any interest in any assets subject to forfeiture;

- The right to object to the composition of the grand or trial jury;
- The right to plead not guilty or to persist in that plea if it has already been made;
- The right to be presumed innocent and not to suffer any criminal penalty unless and until the defendant's guilt is established beyond a reasonable doubt;
- The right to be represented by counsel at trial and if necessary to have a counsel appointed at public expense to represent the defendant at trial -- the defendant is not waiving the right to have counsel continue to represent the defendant during the sentencing phase of this case;
- The right to confront and cross examine witnesses against the defendant, and the right to subpoena witnesses to appear in the defendant's behalf;
- The right to remain silent at trial, with such silence not to be used against the defendant, and the right to testify in the defendant's own behalf;

//

- The right to contest the validity of any searches conducted on the defendant's property or person.

### **B. Appellate Rights**

The defendant waives the right to appeal the conviction(s) resulting from the entry of guilty plea(s) to the charges set forth in this agreement. The defendant further agrees that if the Court imposes a sentence that does not exceed the statutory maximum penalties – as set forth in Section II D above in this agreement, the defendant waives without exception the right to appeal on all grounds contained in 18 U.S.C. § 3742 the sentence the Court imposes– including forfeiture (if applicable) or terms or conditions of probation (if applicable) or supervised release, and any fines or restitution.

### **C. Collateral Attack Rights**

The defendant agrees to waive all rights to collaterally attack the resulting conviction(s) and/or sentence – including forfeiture (if applicable) or terms or conditions of probation (if applicable) or supervised release, and any fines or restitution – the Court imposes. The only exceptions to this collateral attack waiver are as follows: 1) any challenge to the conviction or sentence alleging ineffective assistance of counsel -- based on information not now known to the defendant and which, in the exercise of reasonable diligence, could not be known by the defendant at the time the Court imposes sentence; and 2) a challenge to the voluntariness of the defendant's guilty plea(s).

## **V. ADDITIONAL AGREEMENTS BY UNITED STATES**

In exchange for the defendant's guilty plea(s) and the Court's acceptance of the defendant's plea and the terms of this agreement, the United States agrees that it will not prosecute the defendant further for any other offense -- now known -- arising out of the subject of the investigation related to the charges brought in the Information in this case and the defendant's admissions set forth in Section II C. Provided, however, if the defendant's guilty plea(s) is/are rejected, withdrawn, vacated, reversed, or set aside, or if the defendant's conviction or sentence is vacated, reversed, set aside, or modified, at any time, in any proceeding, for any reason, the United States will be free to prosecute the defendant on all charges arising out of the investigation of this case including any charges dismissed pursuant to the terms of this agreement, which charges will be automatically reinstated as well as for perjury and false statements.

## **VI. ADEQUACY OF THE AGREEMENT**

Pursuant to Local Criminal Rule 11.2 (d)(7) and (8), this plea agreement is appropriate in that it conforms with the sentencing goals that would otherwise be applicable to the defendant's case if the defendant had gone to trial and had been convicted on all counts in the charging instrument.

//

## **VII. THE DEFENDANT'S ACCEPTANCE OF THE TERMS OF THIS PLEA AGREEMENT**

I, Daniel Henry, the defendant, affirm this document contains all of the agreements made between me – with the assistance of my attorney – and the United States regarding my plea(s). There are no other promises, assurances, or agreements the United States has made or entered into with me that have affected my decision to enter any plea of guilty or to enter into this agreement. If there are any additional promises, assurances, or agreements, I and the United States will jointly inform the Court in writing before I enter my guilty plea(s).

I understand that no one, including my attorney, can guarantee the outcome of my case or what sentence the Court may impose if I plead guilty. If anyone, including my attorney, has done or said anything other than what is contained in this agreement, I will inform the Court when I stand before it to enter my plea. If there were, I would so inform the Court.

I enter into this agreement understanding and agreeing that the conditions set forth herein are obligatory and material to this agreement and that any failure on my part to fulfill these obligations will constitute a material breach of this agreement. If I breach this agreement, I agree the United States, in its sole discretion, may withdraw from this agreement and may reinstate prosecution against me on any charges arising out of the investigation in this matter. If my compliance with the terms of this plea agreement becomes an issue, at an appropriate hearing, during

which I agree any of my disclosures will be admissible, the Court will determine whether or not I have violated the terms of this agreement. I understand the government's burden to prove a breach will be by a preponderance of the evidence.

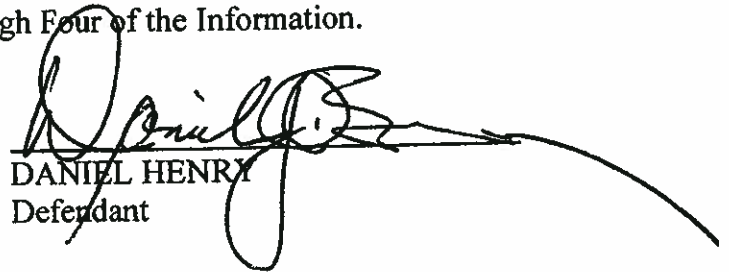
I understand the Court will ask me under an oath to answer questions about the offense(s) to which I am pleading guilty and my understanding of this plea agreement. I understand that I may be prosecuted if I make false statements or give false answers and may suffer other consequences set forth in this agreement.

I have read this plea agreement carefully and understand it thoroughly. I know of no reason why the Court should find me incompetent to enter into this agreement or to enter my plea(s). I enter into this agreement knowingly and voluntarily. I understand that anything that I discuss with my attorney is privileged and confidential, and cannot be revealed without my permission. Knowing this, I agree that this document will be filed with the Court.

I am fully satisfied with the representation given me by my attorney and am prepared to repeat this statement at the time I stand before the Court and enter my guilty plea(s). My attorney and I have discussed all possible defenses to the charges to which I am pleading guilty. My attorney has investigated my case and followed up on any information and issues I have raised to my satisfaction. My attorney has taken the time to fully explain the legal and factual issues involved in my case to my satisfaction. We have discussed the statutes applicable to my offense and sentence as well as the possible effect the U.S.S.G. may have on my sentence.

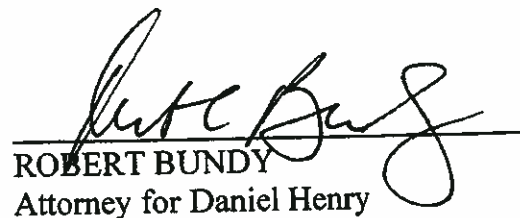
Based on my complete understanding of this plea agreement, I therefore wish to enter a plea of guilty to Counts One through Four of the Information.

DATED: 1/28/16

  
DANIEL HENRY  
Defendant

As counsel for the defendant, I have conveyed all formal plea offers. I have discussed with the terms of this plea agreement with the defendant, have fully explained the charge(s) to which the defendant is pleading guilty and the necessary elements, all possible defenses, and the consequences of a guilty plea to a misdemeanor. I have communicated all plea offers to my client. Based on these discussions, I have no reason to doubt that the defendant is knowingly and voluntarily entering into this agreement and entering a plea of guilty. I know of no reason to question the defendant's competency to make these decisions. If, prior to the imposition of sentence, I become aware of any reason to question the defendant's competency to enter into this plea agreement or to enter a plea of guilty, I will immediately inform the court.

DATED: 2/1/16


  
ROBERT BUNDY  
Attorney for Daniel Henry

//

On behalf of the United States, the following accept the defendant's offer to plead guilty under the terms of this plea agreement.


DATED:

February 1, 2016

  
\_\_\_\_\_  
JACK S. SCHMIDT  
United States of America  
Assistant U.S. Attorney

DATED:

February 1, 2016

  
\_\_\_\_\_  
KAREN L. LOEFFLER  
United States of America  
United States Attorney



# Skagway Assemblyman resigns months after federal tax charges conviction

Posted On Oct 21 2016 By : Emily Files Comment: 0

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Longtime Skagway Assemblyman Dan Henry resigned his seat this week, less than a month before he must report to prison. In February, Henry [pleaded guilty to federal tax charges](#).

Henry was absent from the last two assembly meetings, leaving the question of whether he planned to resign [up in the air](#). That question was finally answered at Thursday's meeting.

"We did receive a resignation from Assemblyman Henry," said Mayor Mark Schaefer.

Henry wasn't there, so Schaefer read the letter, which Henry addressed to Borough Clerk Emily Deach.

He wrote:

*Emily, Please inform the Mayor and Assembly that as of today, I am resigning from the Skagway City Assembly, and please relay to all that it has been my pleasure and most profound honor to serve on the Council and Assembly for the past 20 years. I believe Skagway to be in the best position financially in its existence and with a bright future ahead. I would like to feel that I may have aided in that evolution and hope for Skagway's continued growth and prosperity. Best Regards, Dan Henry.*

"And we wish him luck in what he's facing," Schaefer added.

What he's facing is [a year and a day](#) in federal prison and possible penalties from the Alaska Public Offices Commission.

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Henry's case came to light early this year when he was convicted of wilful failure to timely file federal income tax returns. He [pleaded guilty](#) to four misdemeanor charges after two years of plea deal negotiations.

Henry is the owner of the Skagway Fish Company restaurant. According to court documents, he failed to file his income taxes from 2004 to 2012. He also failed to disclose any annual income over a thousand dollars on years of financial disclosure reports to APOC.

Henry was ordered to pay more than \$600,000 in restitution to the IRS. In September, a judge sentenced him to a year and a day in prison. At that hearing, Henry gave an explanation for his behavior, saying he struggled with drinking and gambling that led to a number of financial losses.

There may be more repercussions on the way for Henry. An [APOC case](#) involving his incomplete filings is set to go before the commission at its regular meeting Tuesday. APOC staff recommended a fine of \$22,000 for the violations. The commission will make a final decision on the penalty Tuesday.

Henry never publicly addressed the situation [at assembly meetings](#), although he did write a letter to the editor in the local newspaper. As is the case for this story, Henry has not returned KHNS's requests for comment.

Although Henry didn't speak about the matter at assembly meetings, [some residents did](#). Several people called on him to step down from elected office. Bob Carlson spoke at a meeting in August.



Dan Henry (Photo courtesy of The Skagway News)

"I believe assembly members should be of the highest character and moral," Carlson said. "I just feel that you failed me, and our community too."

Carlson was one of a few residents who asked Henry to resign in time for his seat to be placed on the Oct. 4 municipal election ballot. But that did not happen.

Now, the mayor will appoint someone to the seat Henry vacated. There were four candidates who ran for two open assembly seats in the recent election. Some have asked for one of the two candidates who were not the top vote-getters to be appointed to the vacant seat. They are David Brena and write-in candidate Spencer Morgan.

Mayor Schaefer plans to address the appointment at the next assembly meeting. KHNS could not reach Schaefer for comment by air time.

Meanwhile, Schaefer appointed different assembly members to fill Henry's spot as vice mayor and chair of the assembly finance committee. Tim Cochran takes over as vice mayor and Steve Burnham Jr. as finance chair.

Henry has been ordered to report to a federal prison facility to serve out his sentence by Nov. 1.

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[Haines borough manager proposes changes to heliski map committee code](#)

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# THE SKAGWAY NEWS.

SERVING THE GATEWAY TO THE KLONDIKE SINCE 1897.

## Assemblyman Dan Henry pleads guilty to four counts of federal tax charges



**BY ELISE GIORDANO**

Assemblyman Dan Henry has pleaded guilty to four misdemeanor counts of federal tax charges for failing to file timely income tax returns for his business, The Skagway Fish Company. Henry agreed to pay \$600,064 in restitution to the Internal Revenue Service, not including penalties or interest. The agreement also recommended no more than 24 months of imprisonment and no less than eight.

According to the [plea agreement](#), which was signed last week and submitted to the federal court on Tuesday, Henry knowingly failed to file returns from 2004 to 2012. From at least 2008 to 2012, Henry and an immediate family member, who acted without criminal intent,

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conducted deposits and purchased bank checks between \$9,000 and \$9,900 for the purpose of evading the reporting requirements. From 2009 to 2012, the restaurant earned gross income between \$529,267 and \$665,820.

Henry also concealed his income on Alaska Public Offices Commission financial disclosure statements from 2010 to 2013, wherein he indicated that he had received no income over \$1,000 from self-employment. APOC did not respond for comment.



The plea agreement states that in failing to file his returns, Henry admits to intentionally violating the known legal duty to file a return, and not through ignorance, mistake, accident, or good faith belief that he was not required to file.

Henry submitted his plea to the courts in Juneau on Tuesday, with sentencing set to occur in May. But according to Assistant U.S. District Attorney Jack Schmidt, it will likely be held off until mid-summer, as Henry has a business to run.

Though the recommendations confine the U.S. Attorney's office and Henry to a sentence of no more than 24 months incarceration and no less than eight, final sentencing is up to U.S. District Court Judge Timothy Burgess, who could decide on a longer term or simply probation.

Sentencing largely depends on the defendant's previous criminal history, the nature of the offense, and his personal background.

Henry's attorney Robert Bundy said Henry was released without restrictions and was allowed to keep his passport, should he need to travel to Whitehorse, YT for supplies.

"It's a complete release," Bundy said.

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Henry has served on Skagway's assembly since 1998 and also serves as Finance Committee chair.

According to Skagway Municipal code, assembly members can be unseated for a variety of reasons, including conviction of a felony or of an offense involving a violation of the oath of office, as well as conviction of a felony or misdemeanor as described in the Election Offenses and Corrupt Practices, which states the election of a candidate to the state legislature or to municipal office who knowingly commits a corrupt practice or whose campaign treasurer or deputy campaign treasurer knowingly commits a corrupt practice is voidable under this section. According to municipal code, two-thirds of the members of the assembly must agree on the expulsion.

*"WHAT HE IS CHARGED WITH IS NOT A FELONY. IT'S NOTHING THAT PRECLUDES HIM FROM BEING ABLE TO SERVE," SCHAEFER SAID. "THIS IS NOT ANYTHING TO DO WITH THE MUNICIPALITY."*

Henry was reached by phone on Tuesday, but declined to make comment at the behest of his attorney.

The borough assembly was made aware of the charges immediately before its meeting on Feb. 4 when the story broke on KTUU, but the issue was not addressed. Mayor Mark Schaefer said assembly members barely had any time to discuss the news before the meeting was in session.

As for Henry's position at the table, the future remains uncertain.

"What he is charged with is not a felony. It's nothing that precludes him from being able to serve," Schaefer said. "This is not anything to do with the municipality."

Schaefer couldn't say much more and directed further questions to Skagway Borough Attorney Bob Blasco, who could not be reached for comment. Schaefer did say that he's not sure what the charges mean for Henry's future on the assembly.

"We'll just wait to see what happens, and then we'll take the next step," he said.

Henry has lived in Skagway since 1989 and purchased the Skagway Fish Co. in the late 90s and owned the Corner Café until it closed in the mid-2000s. He is a long-serving member of the Elks and is in charge of organizing events like Flag Day and the Veteran's Day dinner. While at the table, Henry has most recently been a negotiator for the municipality in regard to the Tidelands lease between the White Pass and Yukon Route railroad and MOS. His term expires in October 2017.

**Elise Giordano**

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