UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA	:	Criminal No.	
	:	Filed:	
v.			
	:	Violations:	18 U.S.C. § 371
JAMES M. WOODASON,			18 U.S.C. § 666(a)(1)(B)
	:		26 U.S.C. § 7201
Defendant.			

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PLEA AGREEMENT

The United States of America and the defendant, JAMES M. WOODASON ("WOODASON"), hereby enter into the following Plea Agreement ("Agreement") pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P.").

AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS

1. The defendant WOODASON will waive indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure and plead guilty in the United States District Court for the Southern District of New York to a four-count Information, in the form attached, in which he is charged with (a) one count of violating 18 U.S.C. § 371 in connection with a conspiracy to pay bribes in violation of 18 U.S.C. § 666(a)(1)(B) and commit wire fraud under 18 U.S.C. §§ 1343 and 1346 relating to a scheme to defraud Consolidated Edison ("Con Edison") of money and to deprive Con Edison of its right to the honest services of WOODASON, from approximately January 2009 to approximately August 2010, as described in the attached Information; (b) one count of violating 18 U.S.C. § 666(a)(1)(B) in connection with defendant Woodason's receipt of a bribe payment in August 2010, as described in the attached Information; (c) one count of violating

18 U.S.C. § 371 in connection with a conspiracy to pay bribes in violation of 18 U.S.C. § 666(a)(1)(B) and commit wire fraud under 18 U.S.C. §§ 1343 and 1346 relating to a scheme to defraud Con Edison of money and to deprive Con Edison of its right to the honest services of WOODASON, from approximately November 2003 until approximately August 2008, as described in the attached Information; and (d) one count of violating 26 U.S.C. § 7201 in connection with defendant WOODASON's evading and defeating a substantial part of the income tax due and owing by him to the United States by failing to report as income, and pay the correct tax due and owing on bribe payments that he received from a vendor to Con Edison on his U.S. Individual Income Tax Returns for the years 2004 through 2008.

GOVERNMENT'S AGREEMENT

2. Subject to WOODASON's full compliance with the understandings specified in this Agreement, and upon the Court's acceptance of the guilty plea called for by this Plea Agreement, the Antitrust Division of the United States Department of Justice agrees not to bring further criminal charges against WOODASON for crimes committed prior to the date of this Agreement arising from the following activity, as specified in the attached Information, and with respect to tax offenses committed prior to the date of this Agreement relating to the same following activity, WOODASON will not be further prosecuted by the Tax Division of the United States Department of Justice: (a) WOODASON's receipt of bribe payments from a supplier of industrial pipes, valves and fittings and other materials to Con Edison from approximately January 2009 to approximately August 2010; and (b) WOODASON's receipt of bribe payments from a supplier of industrial pipes, valves and fittings and other materials to Con Edison from approximately November 2003 until approximately August 2008. The nonprosecution terms of

this paragraph do not apply to civil matters of any kind, to any violation of the federal securities laws, or to any crime of violence.

3. It is understood that this Agreement does not bind any other federal agency or local prosecuting authority or administrative agency other than the Antitrust Division of the United States Department of Justice and, to the extent set forth above, the Tax Division of the United States Department of Justice.

POSSIBLE MAXIMUM PENALTIES

4. WOODASON understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of 18 U.S.C. § 371 is:

(a) a term of imprisonment of not more than five (5) years;

(b) a fine of not more than the greater of $250,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense; or

(c) both such sentences; and

(d) a term of supervised release of no more than three (3) years following any term of imprisonment pursuant to 18 U.S.C. § 3583(b)(2) and U.S.S.G. § 5D1.2(a)(2). Pursuant to 18 U.S.C. § 3583(e)(3), if the defendant violates any condition of supervised release, he could be imprisoned up to two (2) years.

5. WOODASON also understands that:

(a) the Court shall impose an order of restitution, pursuant to 18 U.S.C. § 3663A and U.S.S.G. § 5E1.1; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a $100.00 special assessment upon conviction for each charged crime.

6. WOODASON understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of 18 U.S.C. § 666(a)(1)(B) is:

(a) a term of imprisonment of not more than ten (10) years;

(b) a fine of not more than the greater of $250,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense; or

(c) both such sentences; and

(d) a term of supervised release of no more than three (3) years following any term of imprisonment pursuant to 18 U.S.C. § 3583(b)(2) and U.S.S.G. § 5D1.2(a)(2). Pursuant to 18 U.S.C. § 3583(e)(3), if the defendant violates any condition of supervised release, he could be imprisoned up to two (2) years.

7. WOODASON also understands that:

(a) the Court may impose an order of restitution, pursuant to 18 U.S.C. § 3663A(a)(3); and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a $100.00 special assessment upon conviction for the charged crime.

8. WOODASON also understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of 26 U.S.C. § 7201 is:

(a) a term of imprisonment of not more than five (5) years; or

(b) a fine of not more than $250,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense;

(c) or both such sentences; together with

(d) the costs of prosecution.

9. WOODASON also understands that:

(a) pursuant to U.S.S.G. §5E1.1 and 18 U.S.C. § 3663A(a)(1), the Court may impose an order of restitution to the Internal Revenue Service as agreed upon by the terms of this Plea Agreement pursuant to 18 U.S.C. § 3663(a)(3), or as a condition of probation or supervised release pursuant to 18 U.S.C. §§ 3563(b)(2) and 3583(d) and U.S.S.G. §5E1.1;

(b) the Court may also impose a term of supervised release of no more than three (3) years, pursuant to 18 U.S.C. § 3583(b)(2) and U.S.S.G. §5D1.2(a)(2). Pursuant to 18 U.S.C. § 3583(e)(3), if the defendant violates any condition of supervised release, he could be imprisoned up to two (2) years; and

(c) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a $100.00 special assessment upon conviction for the charged crime.

SENTENCING GUIDELINES

10. WOODASON understands that United States Sentencing Guidelines ("Sentencing Guidelines") are advisory, not mandatory, but that the Court must consider the Sentencing Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing a sentence. WOODASON understands that the Sentencing Guidelines determinations will be made by the Court by a preponderance of the evidence standard. WOODASON understands that although the Court is not ultimately bound to impose a sentence within the applicable Sentencing Guidelines range, its sentence must be reasonable based upon considerations of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

SENTENCING AGREEMENT

11. WOODASON stipulates and agrees that, from approximately January 2010 through approximately August 2010 in connection with the scheme to defraud charged in Count One, WOODASON received approximately $45,000 in bribe payments and expected to receive an additional $465,000 in bribe payments from Supplier-1, for a total bribe amount of $510,000, which shall be considered as the value of the bribe payment for sentencing purposes, pursuant to U.S.S.G. §§ 2C1.1(b)(2). Also, WOODASON stipulates and agrees that, as part of this scheme, he did not intend to pay taxes that would become due and owing on these bribe payments, and that therefore approximately $173,400 (in state and federal taxes that would be due and owing) shall be also considered as "intended loss" for sentencing purposes, pursuant to U.S.S.G. §§ 2B1.1(b)(1) and 2T1.1(a)(1). Additionally, WOODASON also stipulates and agrees that, from approximately November 2003 to approximately August 2008 in connection with the scheme to defraud charged in Count Three, he received and/or expected to receive approximately $297,000 in bribe payments from Supplier-2, which shall be considered as the value of the bribe payment for sentencing purposes, pursuant to U.S.S.G. §§ 2C1.1(b)(2), and that, as part of this scheme, he did not and would not pay taxes due and owing on these bribe payments, and that therefore approximately $104,666 (in unpaid state and federal taxes) shall be also considered as loss or "intended loss" for sentencing purposes, pursuant to U.S.S.G. §§ 2B1.1(b)(1) and 2T1.1(a)(1).

12. The United States and WOODASON agree and stipulate that the combined adjusted offense level applicable to the offenses charged in the attached Information is level 27 (70-87 months) ("Stipulated Guidelines Range"), which is derived from the following calculations:

(a) In accord with the directives of the Second Circuit in United States v. Fitzgerald, 232 F.3d 315 (2d Cir. 2000), and United States v. Petrillo, 237 F.3d 119 (2d Cir. 2000), U.S.S.G. §§3D1.2(d) and 3D1.3(b) require that the offenses charged in Counts One, Two, Three and Four (fraud and tax offenses) be grouped and the losses aggregated, and that the offense level for the combined fraud/tax group is the higher of the offense level determined from the instructions in Chapter 2, Part C (Offenses Involving Public Officials) or Chapter 2, Part T (Offenses Involving Taxation) and all appropriate adjustments;

(b) The combined loss from the fraud and tax offenses is approximately $1,085,066, which is the sum of (1) the value of the bribe payments from the fraud and bribery offense from approximately November 2003 to approximately August 2008 (approximately $297,000 in bribe payments received); (2) the value of the bribe payments from the fraud and bribery offense from approximately January 2009 to approximately August 2010 (approximately $510,000 in bribe payments received/to be received); (3) the actual tax loss from the fraud offenses relating to the tax years 2004 through 2008 (approximately $104,666 in unpaid federal and state income taxes, all of which have been calculated in accordance with U.S.S.G. §2T1.1(c)(1)(A) and are based, when available, on WOODASON's actual marginal tax rates)); and (4) the anticipated tax loss from the fraud offense from approximately January 2009 to approximately August 2010 (approximately $173,400 in unpaid federal and state income taxes, all of which have been calculated in accordance with U.S.S.G. §2T1.1(c)(1)(A) and are based on WOODASON's imputed tax rates).

(c) Pursuant to U.S.S.G. §3D1.3(b), the offense level for the fraud/tax group calculated according to the instructions in Chapter 2, Part C is level 30 (base level of 12, pursuant

to U.S.S.G. §2C1.1(a)(2); plus 2 levels pursuant to §2C1.1(b)(1) (more than one bribe); plus 16 levels pursuant to §2C1.1(b)(2) and §2B1.1(b)(1)(I)(more than $1,000,000, but less than $2,500,000));

(d) Pursuant to U.S.S.G. §3D1.3(b), the offense level for the fraud/tax group calculated according to the instructions in Chapter 2, Part T is level 26 (offense level of 22, pursuant to U.S.S.G. §§2T1.1(a)(1) and 2T4.1(I) (Tax Table) (more than $1,000,000, but less than $2,500,000); plus 2 levels, pursuant to U.S.S.G. §2T1.1(b)(1) (failure to report more than $10,000 from criminal activity); plus 2 levels, pursuant to U.S.S.G. §3B1.3 (abuse of a position of trust)); and

(e) Pursuant to U.S.S.G. §3E1.1, assuming WOODASON pleads guilty by November 19, 2010 and clearly demonstrates acceptance of responsibility through his allocution and subsequent conduct prior to the imposition of a sentence, a 2-level reduction will be warranted, pursuant to U.S.S.G. §3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional 1-level reduction is warranted, pursuant to U.S.S.G. §3E1.1(b), because the defendant gave timely notice of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

13. The United States and WOODASON agree and stipulate that the fine range for WOODASON for the offenses charged in the Information pursuant to U.S.S.G. §§5E1.2(b) and (c)(3) is from $12,500 to $125,000 (level 27).

14. Nothing in this agreement limits the right of the parties to (i) present to the Probation Department or the Court any facts relevant to sentencing; (ii) make any arguments regarding where within the Stipulated Guidelines Range (or such other range as the Court may

determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to 18 U.S.C. § 3553(a); and (iii) seek an appropriately adjusted Sentencing Guidelines Range if it is determined based upon new information that the defendant's criminal history category is other than Category I. Nothing in this agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, pursuant to U.S.S.G. §3E1.1, and/or imposition of an adjustment for obstruction of justice, pursuant to U.S.S.G. §3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the Antitrust Division of the Department of Justice at the time of the signing of this Agreement, that constitutes obstruction of justice, or (ii) committed another crime after signing this agreement.

15. It is understood that pursuant to Sentencing Guidelines §6B1.4(d), neither the Probation Department nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the Stipulated Guidelines Range, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

16. WOODASON understands that the sentence to be imposed on him is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. WOODASON acknowledges that his entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence.

The United States cannot, and does not, make any promise or representation as to what sentence WOODASON will receive. Moreover, WOODASON understands he will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Stipulated Guidelines Range set forth above.

17. The United States and WOODASON agree that (i) WOODASON will not appeal or otherwise litigate under 28 U.S.C. §§ 2255 and/or 2241 any sentence within or below the Stipulated Guidelines Range as set forth in this Agreement, and (ii) that the United States will not appeal any sentence within or above the Stipulated Guidelines Range as set forth above. This provision is binding on the parties even if the Court employs a Sentencing Guidelines analysis different from that set forth in this Agreement. Furthermore, it is agreed that any appeal regarding the sentence of WOODASON that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) this Agreement.

18. WOODASON agrees that 30 days prior to the date of sentencing he will pay, or will enter into an agreement to pay, past taxes due and owing by him to the Internal Revenue Service for the tax years 2005, 2006, 2007 and 2008, including interest and applicable civil fraud penalties, on such terms and conditions as will be agreed on by the Internal Revenue Service and him. WOODASON will cooperate fully, completely, and truthfully with the IRS in determining the accuracy and completeness of all such amended returns. WOODASON also agrees that, within two weeks of the execution of this Agreement, he will make a payment to the IRS in the amount of $10,000. This payment will be made pursuant to Rev. Proc. 84-58 and will be applied towards taxes, interest, and any penalties to be assessed against him.

19. WOODASON agrees that 30 days prior to the date of sentencing he will have $322,000 in liquid assets in an escrow account controlled by his attorney. The United States and WOODASON agree to recommend to the Court that the funds in the escrow account be used only to satisfy any fine or restitution that WOODASON is sentenced to pay. WOODASON acknowledges, however, that the Court may sentence him to pay fines and restitution in excess of the amount in the escrow account. The United States and WOODASON also agree that if the funds in the escrow account exceed the amount of fines and restitution WOODASON is sentenced to pay, they will seek the Court's permission to return the remainder to WOODASON. It is further understood that WOODASON agrees not to contest the forfeiture of $20,000 in cash found at his residence on August 5, 2010 as part of his proceeds of the conspiracy described in Count One of the attached Information (the "Property"), and agrees to execute all documentation necessary to effect the forfeiture of such Property and its transfer to the United States. It is further understood that WOODASON will not file or assist anyone in filing a petition for remission or mitigation with the Department of Justice concerning the Property.

20. WOODASON agrees to recommend to the Court that he be ordered to pay $322,000 in restitution to Con Edison, and that the Property be forfeited and transferred to the United States for payment to Con Edison, for a total of $342,000 in restitution payments to Con Edison.

21. WOODASON understands that this Agreement does not in any way affect or limit the right of the United States to respond to and take positions on post-sentencing motions or requests for information that relate to reduction or modification of sentence.

22. WOODASON agrees to waive any objection or defense he may have based on the United States joining in a single count the five distinct and separate instances of tax evasion charged in Count Four, or that venue lies outside the Southern District of New York as to any Count. WOODASON understands that these waivers are knowingly and voluntarily made after fully conferring with, and on the advice of, his counsel, and is made for his own benefit.

23. WOODASON understands and agrees that should the conviction following his plea of guilty pursuant to this Agreement be vacated for any reason, any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against him, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

REPRESENTATION BY COUNSEL

24. WOODASON has reviewed all legal and factual aspects of this case with his attorney and is fully satisfied with his attorney's legal representation. WOODASON has thoroughly reviewed this Agreement with his attorney, and has received satisfactory explanations from his attorney concerning each paragraph of this Agreement and alternatives available to WOODASON other than entering into this Agreement. After conferring with his attorney and considering all available alternatives, WOODASON has made a knowing and voluntary decision to enter into this Agreement.

VOLUNTARY PLEA

25. WOODASON hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, WOODASON waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the United States has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that have not already been produced as of the date of the signing of this Agreement.

26. WOODASON's decision to enter into this Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Agreement. The United States has made no promises or representations to WOODASON as to whether the Court will accept or reject the recommendations contained within this Agreement.

ENTIRETY OF AGREEMENT

27. This Agreement constitutes the entire agreement between the United States and the defendant WOODASON concerning the disposition of the charges contained in the attached Information. The United States has made no other promises to or agreements with WOODASON. This Agreement cannot be modified except in writing, signed by the United States and WOODASON.

28. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Agreement on behalf of the United States.

Dated: 11/19/10

JAMES M. WOODASON

ELIZABETH PREWITT

PATRICK V. PARROTTA, ESQ.
Counsel for James M. Woodason

HELEN CHRISTODOULOU
Attorneys, Department of Justice
Antitrust Division
26 Federal Plaza, Room 3630
New York, NY 10278
Phone: (212) 264-9319