

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	
Plaintiff,	:	CRIMINAL NO. 02-040 (RWR)
	:	
	:	
GAUTAM SENGUPTA,	:	Government's Motion for Reduction in
	:	Sentence Pursuant to U.S.S.G. 5K1.1
Defendant.	:	
_____	:	

Comes the United States by its Counsel, David A. Bybee, Fraud Section, United States Department of Justice, and hereby moves the court for a 3 level downward departure from the defendant's Sentencing Guideline level due to the defendant's substantial assistance to the United States as follows:

Rule of Law

United States Sentencing Guideline (USSG) 5K1.1 states that "[u]pon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court may depart from the guidelines." The factors the court may consider in determining an appropriate reduction are:

- (1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
- (2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;
- (5) the timeliness of the defendant's assistance.

Factual Summary of the Case

From 1983 to 2000, Mr. Sengupta was an employee of the World Bank, most recently as a Task Manager for the Africa region. Mr. Sengupta who is from India, was a good friend of Ramandra Basu, a fellow Indian who worked in the bank's Trust Fund Finance Office. In February 1997, Mr. Sengupta and Mr. Basu met with Claus Fjellner, a consultant from Sweden who was seeking work with the bank. Mr. Fjellner was the director of Nordic Trusts which provided administrative services to a number of companies including The O-Group from the Netherlands. It was suggested at this meeting that all parties, including Mr. Sengupta, could benefit by awarding contracts to The O-Group and other Nordic Trust companies. Mr. Sengupta understood this to mean that he would be paid for delivering contracts to Mr. Fjellner. When trust funds became available, Mr. Sengupta recommended that four contracts be awarded to The Nordic Trust Companies. In December 1997, Sengupta recommended that a \$210,000 contract be awarded to The O-Group for a building project in Ethiopia. Two other contracts in Ethiopia—one for \$35,000 and one for \$40,000 were also awarded to The O-Group in November 1997. In January 1998, Sengupta assisted another Nordic Trust Company (Swedish Urban Planner and Management) to undertake an assignment related to an urban transport project in Kenya. The contract was for \$99,800.00.

Sometime during the summer of 1997, after the meeting mentioned above, but before

the contracts were awarded, Mr. Basu told Mr. Sengupta that he would be paid by Mr. Fjellner in London. In exchange, Mr. Sengupta understood that he was to continue to request Mr. Fjellner's companies for World Bank projects. From April to October, 1998, Mr. Sengupta, on five separate occasions, traveled to London and was given cash by Mr. Fjellner totaling approximately \$127,000.

In the Spring of 1998, Sengupta was approached by Basu who suggested that his associate David Riper could be awarded a contract to perform work for a World Bank financed project in Kenya. Although Sengupta had no authority to hire Riper on behalf of the Kenyan government, Sengupta agreed to assist Riper in obtaining a contract. Accordingly, Sengupta introduced Riper to a Kenyan company known as Geomaps. Geomaps and Riper formed an alliance and bid on the project under the name of Geomaps. The Geomaps bid was selected by the Kenyan government and Sengupta, on behalf of The World Bank, did not object.

In January 1999, Sengupta received a telephone call from a Kenyan government official working on a project for which Mr. Sengupta had supervisory responsibility. The official requested \$50,000 as a down payment for a home purchase. Sengupta agreed to pass this request to Mr. Basu. Shortly thereafter, \$50,000 was wire-transferred from an account controlled by Claus Fjellner to an account in Kenya for the benefit of the Kenyan official.

The Defendant's Cooperation

The defendant pled guilty on February 13, 2002 and agreed to cooperate with the United States. Mr. Sengupta has been debriefed extensively by attorneys for the World Bank and by attorneys for the United States. He appeared for each scheduled debriefing and was, in the government's opinion, truthful. Although the debriefings did not lead to additional

prosecutions of World Bank employees, the information was sufficient to allow World Bank officials to debar certain individuals from bidding on future World Bank projects.

The plea agreement also required Mr. Sengupta to cooperate with the Government of Sweden. The United States agreed that Mr. Sengupta's assistance to the Government of Sweden would be taken into account in any decision on a motion for substantial assistance. The Government of Sweden charged Claus Fjellner and Eje Carlson, Swedish citizens, with bribery in connection with the kickbacks to Mr. Sengupta. Mr. Sengupta traveled to Sweden on two separate occasions to testify—once in the trial court and again before an appellate court which in Sweden may reconsider the facts by hearing testimony. The Swedish Prosecutor, Christer van der Kwast, reported that Sengupta's testimony was satisfactory, and in his opinion truthful, and both Fjellner and Carlson were convicted. The outcome of the second proceeding has not been resolved as of the date of this motion.

V. Justification for USSG 5K1 Reduction

The United States has evaluated the defendant's cooperation and has made the determination that it was substantial. In view of Mr. Sengupta's testimony in Sweden, a 3 level reduction is reasonable and appropriate. The revised PSI determined the defendant's guideline level to be 16. A 3 level departure to 13 with a criminal history category II calls for a sentence of 15-21 months. A sentence within this guideline range would punish Mr. Sengupta for his conduct, serve as a deterrent to others, and recognize his cooperation.

Dated: February 6, 2006

Respectfully submitted,

David A. Bybee

David A. Bybee, Trial Attorney
Fraud Section
U.S. Department of Justice
1400 New York Avenue, Suite 4408
Washington, D.C. 20530
Phone (202) 514-0946
Fax (202) 514-7021
E-mail David.Bybee2@usdoj.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she is an employee of the United States Department of Justice and that on the 6 of February, 2006, a true and complete copy of the attached Motion was served upon the defendant's attorney by e-mail and by facsimile (301) 952-1480 at the address listed below.

William Brennen, Esq.
5407 Water Street, Suite 105
Upper Marlboro, MD 20772
26442 Mimosa Way
Mission Viejo, CA 92691

David A. Bybee