



U.S. Department of Justice

United States Attorney
District of New Jersey

Health Care & Government Fraud Unit

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2010R01093

November 8, 2010

**Via Facsimile (973) 643-6500
and U.S. Mail To:**

Lawrence S. Horn, Esq.
Sills Cummis & Gross P.C.
One Riverfront Plaza
Newark, New Jersey 07102

Re: Plea Agreement with Vaibhav Dahake Cr 11-42-01 (FLW)

Dear Mr. Horn:

This letter sets forth the plea agreement between your client, Vaibhav Dahake, and the United States Attorney for the District of New Jersey as well as the United States Department of Justice, Tax Division ("the Offices").

Charge

Conditioned on the understandings specified below, the Offices will accept a guilty plea from Vaibhav Dahake to a one-count indictment, which charges conspiracy to defraud the United States for the purpose of impeding and impairing the lawful functions of the Internal Revenue Service ("the IRS"), in violation of 18 U.S.C. § 371. If Vaibhav Dahake enters a guilty plea and is sentenced on this charge, and otherwise fully complies with all of the terms of this agreement, the Offices will not initiate any further criminal charges against Vaibhav Dahake for tax crimes disclosed to the Offices relating to his undeclared offshore bank accounts from 2001 through 2009. However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, any charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by Vaibhav Dahake may be commenced against him, notwithstanding the expiration of the limitations period after Vaibhav Dahake signs the agreement.

Sentencing

The violation of 18 U.S.C. § 371, to which Vaibhav Dahake agrees to plead guilty, carries a statutory maximum prison sentence of five (5) years and a statutory maximum fine equal to the greater of: (1) \$250,000; (2) twice the gross amount of any pecuniary gain that any persons derived from the offense; or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense. Fines imposed by the sentencing judge may be subject to the payment of interest.

The sentence to be imposed upon Vaibhav Dahake is within the sole discretion of the sentencing judge, subject to the provisions of the Sentencing Reform Act, 18 U.S.C. §§ 3551-3742 and the sentencing judge's consideration of the United States Sentencing Guidelines. The United States Sentencing Guidelines are advisory, not mandatory. The sentencing judge may impose any reasonable sentence up to and including the statutory maximum term of imprisonment and the maximum statutory fine. The Offices cannot and do not make any representation or promise as to what guideline range may be found by the sentencing judge, or as to what sentence Vaibhav Dahake ultimately will receive.

Further, in addition to imposing any other penalty on Vaibhav Dahake, the sentencing judge: (1) will order Vaibhav Dahake to pay an assessment of \$100 pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) may order Vaibhav Dahake to pay restitution pursuant to 18 U.S.C. §§ 3663 *et seq.*; (3) may order Vaibhav Dahake, pursuant to 18 U.S.C. § 3555, to give notice to any victims of his offense; (4) may order Vaibhav Dahake to pay the costs of prosecution; and (5) pursuant to 18 U.S.C. § 3583, may require Vaibhav Dahake to serve a term of supervised release of not more than three (3) years, which will begin at the expiration of any term of imprisonment imposed. Should Vaibhav Dahake be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, Vaibhav Dahake may be sentenced to not more than two (2) years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

Rights of the Offices Regarding Sentencing

Except as otherwise provided in this agreement, the Offices reserve their right to take any position with respect to the appropriate sentence to be imposed on Vaibhav Dahake by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, the Offices may inform the sentencing judge and the United States Probation Office of: (1) this agreement; and (2) the full nature and extent of Vaibhav Dahake's activities and relevant conduct with respect to this case.

Stipulations

The Offices and Vaibhav Dahake agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. This agreement to stipulate, however, cannot and does not bind the sentencing judge, who may make independent factual findings and may reject any or all of the stipulations entered into by the parties. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate on the part of the Offices is based on the information and evidence that the Offices possess as of the date of this agreement. Thus, if the Offices obtain or receive additional evidence or information prior to sentencing that they determine to be credible and to be materially in conflict with any stipulation in the attached Schedule A, the Offices shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either the Offices or Vaibhav Dahake from any other portion of this agreement, including any other stipulation. If the sentencing court rejects a stipulation, both parties reserve the right to argue on appeal or at post-sentencing proceedings that the sentencing court was within its discretion and authority to do so. These stipulations do not restrict the Government's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

Waiver of Appeal and Post-Sentencing Rights

As set forth in Schedule A, the Offices and Vaibhav Dahake waive certain rights to file an appeal, collateral attack, writ or motion after sentencing, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255.

Immigration Consequences

The defendant understands that, if he is not a citizen of the United States, his guilty plea to the charged offense may result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. The defendant understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. The defendant wants and agrees to plead guilty to the charged offense regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. The defendant understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, the defendant waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and the Tax Division of the United States Department of Justice and cannot bind other federal, state, or local authorities. However, the Offices will bring this agreement to the attention of other prosecuting offices, if requested to do so.

This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against Vaibhav Dahake. This agreement does not prohibit the United States, any agency thereof, including the IRS, or any third party from initiating or prosecuting any civil proceeding against Vaibhav Dahake.

Prior to the date of sentencing, Vaibhav Dahake shall: (1) file accurate amended personal returns, or enter into a Form 870 Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment in lieu of filing returns or amended returns for calendar years 2004 through 2009; (2) provide all appropriate documentation to the IRS in support of such returns, upon request; (3) pay to the IRS all taxes and any penalties owed on those returns or, if unable to do so, make satisfactory repayment arrangements with the IRS; and (4) fully cooperate with the IRS and comply with the tax laws of the United States. Further, Vaibhav Dahake agrees to allow the contents of his IRS criminal file to be given to civil attorneys and support staff of the IRS to enable them to investigate any and all civil penalties that may be due and owing by Vaibhav Dahake. With respect to disclosure of the criminal file to the IRS, Vaibhav Dahake waives any rights under 26 U.S.C. § 7213 and Fed. R. Crim. P. 6(e), and any other right of privacy with respect to Vaibhav Dahake's tax returns and return information.

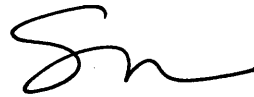
Vaibhav Dahake further agrees that in order to resolve his civil liability for failing to file Reports of Foreign Bank and Financial Accounts, Forms TD F 90-22.1, for tax years 2004 through 2009, he will pay a fifty percent penalty for the one year with the highest aggregate balance in the accounts located in India at the International Bank for calendar years 2004 through 2009.

No Other Promises

This agreement constitutes the plea agreement between Vaibhav Dahake and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

PAUL J. FISHMAN
United States Attorney



By: STACEY A. LEVINE
Assistant United States Attorney, and

JOHN E. SULLIVAN
KEVIN M. DOWNING
Senior Litigation Counsel
U.S. Department of Justice, Tax Division

APPROVED:



MAUREEN RUANE
Chief, Health Care & Government Fraud Unit
Criminal Division
U.S. Attorney's Office, District of New Jersey

I have received this letter from my attorney, Lawrence S. Horn, Esq. I have read this letter and I understand it fully. My attorney and I have discussed the letter and all of its provisions, including the provisions addressing the charge, sentencing, stipulations, waiver, and immigration consequences. I hereby accept the terms and conditions set forth in this letter and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

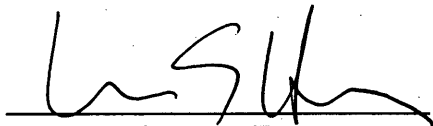
AGREED AND ACCEPTED:



Vaibhav Dahake

Date: 12/26/10

I have discussed with my client this letter and all of its provisions, including the provisions addressing the charge, sentencing, stipulations, waiver, and immigration consequences. My client understands the letter fully and wants to plead guilty pursuant to this plea agreement.



Lawrence S. Horn, Esq.

Date: 12/20/10

Plea Agreement With Vaibhav Dahake

Schedule A

1. The Offices and Vaibhav Dahake recognize that the United States Sentencing Guidelines are not binding upon the Court. The Offices and Vaibhav Dahake nevertheless agree to the stipulations set forth herein, and agree that the Court should sentence Vaibhav Dahake by applying the Guidelines range that results from the total Guidelines offense level set forth below.
2. The version of the United States Sentencing Guidelines effective on November 1, 2010 applies in this case. Pursuant to U.S.S.G. §2T1.9, the applicable guideline is U.S.S.G. § 2T1.1. This guideline carries a Base Offense Level of 14 based on the fact that the criminal tax loss associated with the conduct, including tax loss derived from interest, dividends and capital gains income earned on the assets contained in Vaibhav Dahake's undeclared financial accounts located in India at the International Bank for tax years 2004 through 2009, is greater than \$30,000 but less than \$80,000 (exclusive of interest and penalties on the taxes derived from such income).
3. Specific Offense Characteristic 2T1.1(b)(2) applies because the offense involved sophisticated means. This Specific Offense Characteristic results in an increase of 2 levels.
4. As of the date of this letter, Vaibhav Dahake has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for the offense charged. Therefore, a downward adjustment of 2 levels for acceptance of responsibility is appropriate if Vaibhav Dahake's acceptance of responsibility continues through the date of sentencing. See U.S.S.G. § 3E1.1(a).
5. As of the date of this letter, Vaibhav Dahake has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently. If Vaibhav Dahake enters a plea pursuant to this agreement and qualifies for a 2-point reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a), and if in addition Vaibhav Dahake's offense level under the Guidelines prior to the operation of § 3E1.1(a) is 16 or greater, Vaibhav Dahake will be entitled to a further 1-point reduction in his offense level pursuant to U.S.S.G. § 3E1.1(b).
6. In accordance with the above, the parties agree that the total Guidelines offense level applicable to Vaibhav Dahake is 13 (the "agreed total Guidelines offense level").

7. Vaibhav Dahake knows that he has and, except as noted below in this paragraph, voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the sentence imposed by the sentencing court if that sentence falls within or below the Guidelines range that results from the agreed total Guidelines offense level of 13. The Offices will not file any appeal, motion or writ which challenges the sentence imposed by the sentencing court if that sentence falls within or above the Guidelines range that results from the agreed total Guidelines offense level of 13. The parties reserve any right they may have under 18 U.S.C. § 3742 to appeal the sentencing court's determination of the criminal history category. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, if the sentencing court accepts a stipulation, both parties waive the right to file an appeal, collateral attack, writ, or motion claiming that the sentencing court erred in doing so.

8. Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion barred by the preceding paragraph and to file or to oppose any appeal, collateral attack, writ or motion not barred by the preceding paragraph.