



GOVT. EXT. 1 for id.  
10/13/09  
A. F. Eaton

U.S. Department of Justice

United States Attorney  
Southern District of New York

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

October 8, 2009

Jeffrey L. Bornstein, Esq.  
K&L Gates LLP  
Four Embarcadero Center  
Suite 1200  
San Francisco, CA 94111

Re: Richard Choo-Beng Lee

Dear Mr. Bornstein:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from Richard Choo-Beng Lee ("Lee" or the "defendant") to a two-count criminal information (the "Information").

Count One of the Information charges Lee with conspiracy to commit securities fraud and wire fraud, in violation of Title 18, United States Code, Section 371. This charge carries a maximum sentence of five years' imprisonment; a maximum term of three years' supervised release; a maximum fine, pursuant to Title 18, United States Code Section 3571, of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense; and a mandatory \$100 special assessment.

Count Two of the Information charges Lee with securities fraud, in violation of Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5; and Title 18, United States Code, Section 2. This charge carries a maximum sentence of twenty years' imprisonment; a maximum term of three years' supervised release; a maximum fine, pursuant to Title 18, United States Code Section 3571, of the greatest of \$5,000,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to a person other than the defendant as a result of the offense; and a mandatory \$100 special assessment.

The total maximum sentence of incarceration on both counts charged in the Information is 25 years' imprisonment.

It is further understood that Lee shall make restitution in an amount to be specified by the Court in accordance with 18 U.S.C. §§ 3663, 3663A, and 3664. This amount shall be paid according to a plan established by the Court.

The defendant furthermore admits the forfeiture allegations with respect to both counts charged in the Information and agrees to forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, a sum of money not to exceed \$10 million in satisfaction of the forfeiture obligation. In addition, the defendant agrees that he will not file a claim or a petition in any forfeiture proceeding and will not cause or assist anyone else in doing so. It is further understood that the defendant will not file or assist anyone in filing a petition for remission or mitigation with the Department of Justice. It is further understood that any forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon him in addition to forfeiture.

It is understood that Lee (a) shall truthfully and completely disclose all information with respect to the activities of himself and others concerning all matters about which this Office inquires of him, which information can be used for any purpose; (b) shall cooperate fully with this Office, the Federal Bureau of Investigation, and any other law enforcement agency designated by this Office; (c) shall attend all meetings at which this Office requests his presence; (d) shall provide to this Office, upon request, any document, record, or other tangible evidence relating to matters about which this Office or any designated law enforcement agency inquires of him; (e) shall truthfully testify before the grand jury and at any trial and other court proceeding with respect to any matters about which this Office may request his testimony; (f) shall bring to this Office's attention all crimes which he has committed, and all administrative, civil, or criminal proceedings, investigations, or prosecutions in which he has been or is a subject, target, party, or witness; and, (g) shall commit no further crimes whatsoever. Moreover, any assistance Lee may provide to federal criminal investigators shall be pursuant to the specific instructions and control of this Office and designated investigators.

It is understood that this Office cannot, and does not, agree not to prosecute Lee for criminal tax violations. However, if Lee fully complies with the understandings specified in this Agreement, no testimony or other information given by him (or any other information directly or indirectly derived therefrom) will be used against him in any criminal tax prosecution. Moreover, if Lee fully complies with the understandings specified in this Agreement, he will not be further prosecuted criminally by this Office for any crimes, except for criminal tax violations, related to his participation in the following, to the extent that he has disclosed such participation to this Office as of the date of this Agreement: (a) insider trading, and a conspiracy to commit the same, from in or about 2007 to in or about March 2009, as charged in Counts One and Two of the Information; (b) insider trading, and a conspiracy to commit the same, from in or about 2004 to in or about 2007, in connection with Lee's employment with a certain hedge fund located in New York, New York; and (c) insider trading, and a conspiracy to commit the same, from in or about 1999 to in or about 2004, in connection with Lee's employment with a certain hedge fund located in Connecticut, and its affiliate(s). Defendant agrees that the conduct described in subparagraphs (b) and (c) will be deemed relevant conduct for the purposes of sentencing. This Agreement does not provide any protection against prosecution for any crimes except as set forth above.

It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office. This Office will, however, bring the cooperation of Lee to the attention of other prosecuting offices, if requested by him.

It is understood that the sentence to be imposed upon Lee is within the sole discretion of the Court. This Office cannot, and does not, make any promise or representation as to what sentence Lee will receive, and will not recommend any specific sentence to the Court. However, this Office will inform the Probation Department and the Court of (a) this Agreement; (b) the nature and extent of Lee's activities with respect to this case and all other activities of Lee which this Office deems relevant to sentencing; and (c) the nature and extent of Lee's cooperation with this Office. In so doing, this Office may use any information it deems relevant, including information provided by Lee both prior to and subsequent to the signing of this Agreement. In addition, if this Office determines that Lee has provided substantial assistance in an investigation or prosecution, and if he has fully complied with the understandings specified in this Agreement, this Office will file a motion, pursuant to Section 5K1.1 of the Sentencing Guidelines, requesting the Court to sentence Lee in light of the factors set forth in Section 5K1.1(a)(1)-(5). It is understood that, even if such a motion is filed, the sentence to be imposed on Lee remains within the sole discretion of the Court. Moreover, nothing in this Agreement limits this Office's right to present any facts and make any arguments relevant to sentencing to the Probation Department and the Court, or to take any position on post-sentencing motions. Lee hereby consents to such adjournments of his sentence as may be requested by this Office.

It is understood that, should this Office determine either that Lee has not provided substantial assistance in an investigation or prosecution, or that Lee has violated any provision of this Agreement, such a determination will release this Office from any obligation to file a motion pursuant to Section 5K1.1 of the Sentencing Guidelines, but will not entitle Lee to withdraw his guilty plea once it has been entered.

It is understood that, should this Office determine, subsequent to the filing of a motion pursuant to Section 5K1.1 of the Sentencing Guidelines and/or 18 U.S.C. §3553(e), that Lee has violated any provision of this Agreement, this Office shall have the right to withdraw such motion.

It is understood that, should Lee commit any further crimes or should it be determined that he has given false, incomplete, or misleading testimony or information, or should he otherwise violate any provision of this Agreement, Lee shall thereafter be subject to prosecution for any federal criminal violation of which this Office has knowledge, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against Lee, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement 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.

It is understood that in the event that it is determined that Lee has committed any further crimes, given false, incomplete, or misleading testimony or information, or otherwise violated any provision of this Agreement, (a) all statements made by Lee to this Office or other designated law enforcement agents, and any testimony given by Lee before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony shall be admissible in evidence in any criminal proceeding brought against Lee; and (b) Lee shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed. It is the intent of this Agreement to waive all rights in the foregoing respects.

The defendant 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, the defendant 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 Government 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 has not already been produced as of the date of the signing of this Agreement.

By entering this plea of guilty, the defendant also waives any and all right the defendant may have, pursuant to 18 U.S.C. §3600, to require DNA testing of any physical evidence in the possession of the Government. The defendant fully understands that, as a result of this waiver, any physical evidence in this case will not be preserved by the Government and will therefore not be available for DNA testing in the future.

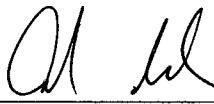
The defendant further waives any defense on the basis of venue with respect to both counts charged in the Information.

The defendant understands that he is bound by his guilty plea regardless of the immigration consequences of the plea and regardless of any advice the defendant has received from his counsel or others regarding those consequences. Accordingly, the defendant waives any and all challenges to his guilty plea and to his sentence based on those 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 the immigration consequences of his guilty plea, conviction and sentence.

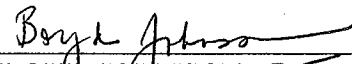

This Agreement supersedes any prior understandings, promises, or conditions between this Office and Lee. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

PREET BHARARA  
United States Attorney

By:   
ANDREW MICHAELSON  
Special Assistant United States Attorney  
JOSHUA KLEIN  
JONATHAN STREETER  
Assistant United States Attorneys  
(212) 637-2348/2397/2272

APPROVED:

  
BOYD JOHNSON   
Deputy United States Attorney

AGREED AND CONSENTED TO:

  
RICHARD CHOO-BENG LEE

10/13/09  
DATE

APPROVED:

  
JEFFREY L. BORNSTEIN, Esq.  
Attorney for Richard Choo-Beng Lee

10/13/09  
DATE