

NOV 26 2002

Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

LAWRENCE M. LAWYER

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§

Cr. No. H-02-705

COOPERATION AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the Department of Justice, by the Enron Task Force (the "Department") and Lawrence M. Lawyer ("Defendant") agree to the following:

1. Defendant will waive indictment and plead guilty in the Southern District of Texas to an information charging him with one count of willfully making and subscribing to a false tax return, in violation Title 26, United States Code, Section 7206(1). This charge carries the following statutory penalties:

- a. Maximum term of imprisonment: three years
(26 U.S.C. § 7206)
- b. Minimum term of imprisonment: zero years
(26 U.S.C. § 7206)
- c. Maximum supervised release term: one year, to follow any term of imprisonment; if a condition of release is violated, the defendant may be sentenced to up to one year additional imprisonment without credit for pre-release imprisonment or time previously served on post-release supervision (18 U.S.C. §§ 3559(a)(5), 3583 (b)(3) and (e)(3))
- d. Maximum fine: \$250,000 or twice the pecuniary gain. (26 U.S.C. § 7206 and 18 U.S.C. § 3571(b)(1) and (3) and (d)).
- e. \$100 special assessment
(18 U.S.C. § 3013).

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Acceptance of Responsibility

2. Defendant's sentence is governed by the United States Sentencing Guidelines. The Department will advise the Court and the Probation Department of information relevant to sentencing, including all criminal activity engaged in by Defendant, and such information may be used by the Court in determining Defendant's sentence. Based on information known to it now, the Department will not oppose a downward adjustment of two levels for acceptance of responsibility under U.S.S.G. § 3E1.1.

Defendant's Obligations

3. Defendant will provide truthful, complete and accurate information and will cooperate fully with the Department. This cooperation will include, but is not limited to, the following:

- a. Defendant agrees to be fully debriefed and to attend all meetings at which his presence is requested by the Department, concerning his participation in and knowledge of all criminal activities.
- b. Defendant waives all claims of attorney-client privilege and agrees to furnish to the Department all documents and other material that may be relevant to the investigation and that are in Defendant's possession or control, except privileged communications relating to the investigation by the Department.
- c. Defendant agrees not to reveal his cooperation, or any information derived therefrom to any third party without prior consent of the Department, and to instruct his attorneys to do the same.
- d. Defendant agrees to testify at any proceeding in the Southern District of Texas or elsewhere as requested by the Department.
- e. Defendant consents to adjournments of his sentence as requested by the Department and agrees that his obligations under this agreement continue until the Department determines that his cooperation is concluded.

- f. Defendant agrees to give up all rights that he would have if he chose to proceed to trial, including the rights to a jury trial with the assistance of an attorney; to confront and cross-examine government witnesses; to remain silent or testify; to move to suppress evidence or raise any other Fourth or Fifth Amendment claims; to any further discovery from the government; and to pursue any affirmative defenses and present evidence.
- g. Defendant agrees not to receive remuneration for any dissemination, directly or indirectly, by him of information concerning his work at Enron Corp., or any related or affiliated entity, including special purpose entities, including, but not limited to, books, articles, speeches, and interviews, but not including professional services performed by him in the course of any full-time employment.
- h. Defendant agrees to pay taxes owing to the Internal Revenue Service, plus applicable penalties and interest, for the tax years 1997 through 2000 and to file corrected returns for those years with the Internal Revenue Service, reflecting the unclaimed income payments set forth below in the Stipulated Factual Basis.
- i. Defendant agrees to voluntarily pay restitution in the amount of \$79,468.83 immediately to the Enron Ex-Employee Relief Fund Account, from which fund Lawyer agrees not to accept distributions in the future, and to consent to the entry of a Court order to effectuate such payment pursuant to 18 U.S.C. § 3663(a)(3). The United States shall not be considered a victim for the purpose of this paragraph.

The Department's Obligations

- 4. The Department agrees that:
 - a. Except as provided in this agreement, no criminal charges will be brought against Defendant for his heretofore disclosed participation in criminal activity; and
 - b. Except as provided in this agreement, no statements made by Defendant during the course of his cooperation will be used against him.

Availability for Debriefings

- 5. Defendant agrees that the Department may meet with and debrief him without the presence of counsel, unless Defendant specifically requests counsel's presence at

such debriefings and meetings. Upon request of Defendant, the Department will endeavor to provide advance notice to counsel of the place and time of meetings and debriefings, it being understood that the Department's ability to provide such notice will vary according to time constraints and other circumstances. The Department may accommodate requests to alter the time and place of such debriefings. It is understood, however, that any cancellation or rescheduling of debriefings or meetings requested by Defendant that hinder the Department's ability to prepare adequately for trials, hearings or other proceedings may adversely affect Defendant's ability to provide substantial assistance. Matters occurring at any meeting or debriefing may be considered by the Department in determining whether Defendant has provided substantial assistance or otherwise complied with this agreement and may be considered by the Court in imposing sentence regardless of whether counsel was present at the meeting or debriefing.

Motion for Downward Departure

6. If the Department determines that Defendant has cooperated fully, provided substantial assistance to law enforcement authorities and otherwise complied with the terms of this agreement, the Department will file a motion pursuant to U.S.S.G. § 5K1.1 and 18 U.S.C. § 3553(e) with the sentencing Court setting forth the nature and extent of his cooperation. Such a motion will permit the Court, in its discretion, to impose a sentence below the applicable Sentencing Guidelines range and also below any applicable mandatory minimum sentence. In this connection, it is understood that a good faith determination by the Department as to whether Defendant has cooperated fully and provided substantial assistance and has otherwise complied with the terms of this agreement, and the Department's good faith assessment of the value,

truthfulness, completeness and accuracy of the cooperation, shall be binding upon him.

Defendant agrees that, in making this determination, the Department may consider facts known to it at this time. The Department may or may not, in its discretion, recommend to the Court a specific sentence to be imposed. The Department cannot and does not make a promise or representation as to what sentence will be imposed by the Court.

Breach Of Agreement

7. Defendant must at all times give complete, truthful, and accurate information and testimony, and must not commit, or attempt to commit, any further crimes. Should it be judged by the Department that Defendant has failed to cooperate fully, has intentionally given false, misleading or incomplete information or testimony, has committed or attempted to commit any further crimes, or has otherwise violated any provision of this agreement, Defendant will not be released from his plea of guilty but the Department will be released from its obligations under this agreement, including (a) not to oppose a downward adjustment of two levels for acceptance of responsibility described in paragraph 2 above or (b) to file the motion described in paragraph 6 above. Moreover, the Department may withdraw the motion described in paragraph 6 above if such motion or recommendation has been filed prior to sentencing. Defendant will also be subject to prosecution for any federal criminal violation of which the Department has knowledge, including, but not limited to, the criminal activity described herein.

8. Any prosecution resulting from Defendant's failure to comply with the terms of this agreement may be premised upon: (a) any statements made by Defendant to the Department or to other law enforcement agents; (b) any testimony given by him before any grand

jury or other tribunal; and (c) any leads derived from such statements or testimony. Prosecutions that are not time-barred by the applicable statutes of limitation on the date this agreement is signed may be commenced against the defendant in accordance with this paragraph, notwithstanding the expiration of the statutes of limitation between the signing of this agreement and the commencement of any such prosecutions. Furthermore, Defendant waives all claims under the United States Constitution, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal statute or rule, that statements made by him, or any leads derived therefrom, should be suppressed.

Bankruptcy Waiver

9. Defendant agrees not to attempt to avoid paying any fine or restitution imposed by the Court through any proceeding pursuant to the United States Bankruptcy Code. Defendant waives all rights, if any, to obtain discharge or to delay payment of any fine or restitution obligation or alter the time for payment by filing a petition pursuant to the Bankruptcy Code. Defendant stipulates that enforcement of any fine or restitution obligation by the Department is not barred or affected by the automatic stay provisions of the United States Bankruptcy Code (Title 11, United States Code, Section 362), and that enforcement of any fine or restitution obligation by the Department is a valid exercise of its police or regulatory power within the meaning of Title 11, United States Code, Section 362(b). Defendant stipulates and agrees not to institute or participate in any proceeding to interfere with, alter, or bar enforcement of any fine or restitution obligation pursuant to the automatic stay or other provision of the Bankruptcy Code in any case filed by Defendant or his creditors. Upon request of the Department, Defendant will execute an order or stipulation granting the Department relief from

the automatic stay or other Bankruptcy Code provisions in order to enforce any fine or restitution obligation. Defendant stipulates that any fine or restitution obligation imposed by the Court is not dischargeable pursuant to Title 11 United States Code, Section 523 in any case commenced by Defendant or his creditors pursuant to the Bankruptcy Code. Defendant's waivers and stipulations or agreements set forth above are made in exchange for the Department's concessions set forth in this agreement.

Final Sentence

10. Defendant understands that the sentence to be imposed is within the sole discretion of the sentencing judge. If the Court should impose any sentence up to the maximum established by statute, Defendant cannot, for that reason alone, withdraw a guilty plea and will remain bound to fulfill all of the obligations under this agreement.

Stipulated Factual Basis for Guilty Plea

11. Defendant is pleading guilty because he is in fact guilty of the charges contained in the information. In pleading guilty, Defendant acknowledges that all of the facts stated below are true, and were the case to go to trial, the Department would be able to prove all of those facts beyond a reasonable doubt. However, the parties agree that this factual basis does not include all relevant conduct that may be considered by the Court for sentencing purposes.

The stipulated factual basis for the guilty plea is as follows:

LAWYER was employed at Enron Corp. ("Enron") during the years 1997 through 2001. In approximately May 1997, Enron had to divest itself of certain California wind farms for regulatory reasons. LAWYER was assigned to work on a transaction involving a special purpose entity known as RADR which was used to facilitate this divestiture. RADR was a limited partnership with a general partner and two limited partners who were individuals known by LAWYER to be friends of certain Enron executives.

is aware that Title 18, United States Code, Section 3742, affords a defendant the right to appeal the sentence imposed. Knowing that, Defendant waives the right to appeal his sentence or the manner in which it was determined on the grounds set forth in Title 18, United States Code, Section 3742, or any other grounds, except that Defendant may appeal a sentence imposed above the statutory maximum or an upward departure from the Sentencing Guidelines, other than a departure requested by the Department. This agreement does not affect the rights or obligations of the Department as set forth in Title 18, United States Code, Section 3742(b).

14. In agreeing to this waiver, Defendant is aware that a sentence has not yet been determined by the Court. Defendant is also aware that any estimate of the probable sentencing range under the sentencing guidelines that he may have received from his counsel, the Department or the Probation Office, is a prediction, not a promise, and is not binding on the Department, the Probation Office or the Court. The Department does not make any promise or representation concerning what sentence Defendant will receive. Realizing the uncertainty in estimating what sentence Defendant will ultimately receive, Defendant knowingly waives the right to appeal the sentence in exchange for the concessions made by the Department in this plea agreement.

Complete Agreement

15. No promises, agreements or conditions have been entered into other than those set forth in this agreement, and none will be entered into unless memorialized in writing and signed by all parties. This agreement supersedes any prior promises, agreements or conditions between the parties. To become effective, this agreement must be signed by all signatories listed below.

After the RADR transaction closed on May 30, 1997, LAWYER was offered and accepted, between August 1997 and April 2000, approximately \$79,468.83 as taxable income for his work on the RADR transaction. These payments were in the form of personal checks to LAWYER and his family members, and, in some instances, were from the limited partners in RADR.

By year, these payments break down as follows:

1997:	\$24,015.50
1998:	\$ 8,209.03
1999:	\$ 8,222.90
2000:	\$39,021.40

The payments described above were income to LAWYER that should have been reported to the Internal Revenue Service. LAWYER willfully failed to report these income payments, which were material, or to pay taxes thereon, on tax returns that he subscribed to and filed with the Internal Revenue Service, under penalties of perjury, during the years 1997, 1998, 1999 and 2000. As a result, LAWYER owes additional tax to the Internal Revenue Service for the following years in the following amounts:

1997:	\$ 6,868.37
1998:	\$ 3,169.15
1999:	\$ 3,321.22
<u>2000:</u>	<u>\$15,915.99</u>
Total:	\$29,274.73

Scope

12. This agreement does not bind any federal, state, or local prosecuting authority other than the Department, and does not prohibit the Department from initiating or prosecuting any civil or administrative proceedings directly or indirectly involving Defendant.

Waiver of Appeal

13. Defendant is aware that his sentence will be imposed in accordance with the United States Sentencing Commission's Guidelines Manual. Defendant nonetheless acknowledges and agrees that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense(s) to which Defendant pleads guilty. Defendant

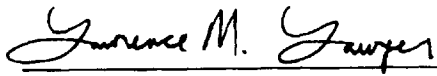
Dated: Houston, Texas
November 26, 2002

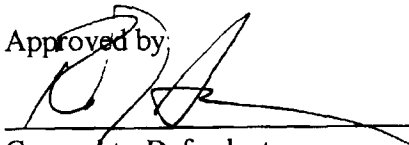
Respectfully submitted,

ENRON TASK FORCE
LESLIE CALDWELL
Director


THOMAS A. HANUSIK
Trial Attorney

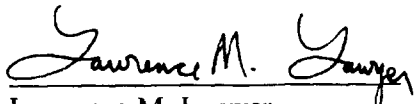
Agreed and consented to:


Defendant Lawrence M. Lawyer

Approved by:

Counsel to Defendant
Robert J. Sussman, Esq.

ADDENDUM FOR DEFENDANT LAWYER

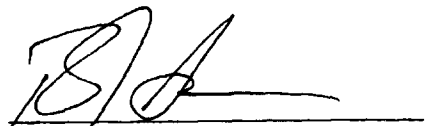
I have consulted with my attorney and fully understand all my rights with respect to the Information pending against me. I have consulted with my attorney and fully understand all my rights with respect to the provisions of the United States Sentencing Commission's Guidelines Manual which may apply in my case. I have read this cooperation agreement and carefully reviewed every part of it with my attorney. I understand this agreement and I voluntarily agree to it.


Lawrence M. Lawyer
Defendant

11/26/02
Date

ADDENDUM FOR DEFENSE COUNSEL

I have fully explained to Defendant LAWYER his rights with respect to the pending Information. I have reviewed the provisions of the United States Sentencing Commission's Guidelines Manual and I have fully explained to Defendant LAWYER the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this cooperation agreement with Defendant LAWYER. To my knowledge, Defendant LAWYER's decision to enter into this agreement is an informed and voluntary one.


Robert J. Sussman, Esq.
Attorney for Defendant LAWYER

11/26/02
Date