



U.S. Department of Justice

*United States Attorney
Southern District of New York*

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

November 20, 2008

Viet D. Dinh, Esq.
Bancroft Associates
1919 M Street, N.W.
Suite 470
Washington, D.C. 20036

Re: United States v. STANLEY S. TOLLMAN
Criminal Docket No.: S7 02-441 (LAP)

Dear Mr. Dinh:

This prosecution and the protection against prosecution, with respect to tax offenses, set forth below have been approved by the Tax Division, Department of Justice.

On the understandings specified below, pursuant to Fed. R. Crim. Proc. 11(c)(1)(C), the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from Stanley S. Tollman ("the defendant") to Count One of the above-referenced superseding Information. Count One charges the defendant with a tax evasion scheme between 1994 and 2000, in violation of Title 26, United States Code, § 7201, and carries a maximum sentence of 5 years' imprisonment, 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 the United States, a \$100 special assessment, supervised release of three years, and the costs of prosecution.

It is understood and agreed that the defendant shall pay as restitution past taxes due and owing to the Internal Revenue Service ("IRS") by him for calendar years 1994 through 1999, including applicable penalties and interest, in the amounts, and pursuant to the schedule, set forth below, and the defendant will execute Revenue Agent Reports with respect to each year setting forth the agreed-upon taxes, interest and penalties that together total the amount set forth below. Prior to April 30, 2009, or such other date as the parties to this Agreement subsequently agree in writing, the defendant shall file accurate and amended income tax returns, Forms 1040X, for the years 2000 through 2007, and promptly pay any and all amounts due and owing in connection with his accurate amended returns for the 2000-2007 tax years. The parties agree in good faith to share information necessary to effectuate the filings contemplated by this paragraph. The defendant further agrees

that, with respect to the amended returns required by this Agreement, neither he nor his wife, Beatrice Nina Tollman, will claim any net operating loss, or any deductions for payments made pursuant to this Agreement or fees paid for professional service related to the defense of this matter or associated proceedings. In addition, the defendant represents, through his attorneys, that he is not now aware of any unusual loss or deduction that he will claim with respect to the tax years 2000 through 2007, and he will provide to this Office the amended tax returns he files for the tax years 2000 through 2007 when they are filed.

It is further understood and agreed that, if the defendant and Beatrice Nina Tollman fully comply with the understandings specified in this Agreement, the defendant and Beatrice Nina Tollman will not be further prosecuted criminally by this Office and, with respect to tax offenses, the Tax Division, Department of Justice, in respect of (1) the charges contained in the Indictment styled *United States v. Monty Hundley, Stanley S. Tollman, et al.*, 02 Cr 441 (LAP) and prior indictments in this case, the Complaint styled *United States v. Gavin B. Tollman, et al.*, 04 MAG 2132, the Complaint styled *United States v. Beatrice Nina Tollman*, 03 MAG 139, and the Complaint styled *United States v. Brett G. Tollman*, 03 MAG 972, the Information styled *United States v. Brett G. Tollman*, S5 02 Cr. 441 (LAP), and the conduct related thereto; (2) the failure to report to the IRS any foreign accounts during the tax years 1994-2007, and (3) the defendant's and Beatrice Nina Tollman's filing of returns for 2000 through 2007 that contained insufficient information for the IRS to calculate their taxes. In addition, at the time of sentencing, the Government will move to dismiss with prejudice any open Counts and underlying indictments against Stanley S. Tollman, as well as the pending Complaint against Beatrice Nina Tollman. Moreover, the Office has no present intention, based on the information now available to the Office, to prosecute Antoinette Tollman, Victoria O'Hana Tollman or The Travel Corporation and related entities with respect to the schemes and conduct described in sections (1) and (2) of this paragraph. In addition, this Office has no present intention, based on the information now available to the Office, to prosecute the defendant or Beatrice Nina Tollman (beyond the Superseding Information referred to herein) for tax offenses during and regarding the tax years 1994-2007. This Agreement does not provide any protection against prosecution except as set forth above. The defendant agrees that with respect to any and all dismissed charges he is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law. Beatrice Nina Tollman also agrees that, with respect to any and all dismissed charges she is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

It is further understood and agreed that, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the Office and the defendant agree that a specific sentence of (1) one day's unsupervised probation, (2) a \$100 special assessment, (3) restitution to the IRS in the amount of \$60,381,691 plus interest accrued from the date of entry of the guilty plea to the date of payment, and (4) forfeiture of \$44,711,947 plus interest accrued from the date of the entry of the guilty plea to the date of payment in the civil forfeiture action styled *United States of America v. All Right, Title, and Interest In Any and All Shares of Bryanston Group, Inc. et al.*, 08 CV 4806 (LAP), is the appropriate disposition in this case. It is agreed that the \$60,381,691 restitution payment constitutes

a compromise of the outstanding tax liabilities for the years 1994 through 1999 including a 75% fraud penalty plus interest.

It is further understood and agreed that, in sentencing the defendant, the Court must consider the Guidelines promulgated by the United States Sentencing Commission, but that the Guidelines are advisory, not binding. No promises or understandings exist between this Office and the defendant with respect to the application of those Guidelines to this case, or to the propriety of an upward or downward departure from the sentencing range prescribed by the Guidelines. If requested by the Court, the parties will provide the Court with a good-faith estimate of the advisory Guidelines level applicable to the offense of conviction. To the extent the above-described agreed-upon sentence is above or below the Guidelines sentence, the defendant and the Office agree jointly to recommend a variance from that Guidelines sentence to the above-described agreed-upon sentence pursuant to 18 U.S.C. § 3553(a), and the Office will inform the Court at the time of sentencing, if asked, the bases on which the Office has concluded that such variance is justified.¹ Pursuant to Rule 11(c)(5)(B), if the Court rejects this Agreement, the defendant shall be afforded an opportunity to withdraw the plea.

It is further understood and agreed that the Office and the defendant agree to waive the preparation by the Probation Office of a presentence investigation report, and the Office and the defendant will request that the Court sentence the defendant on the day of his guilty plea. However, should the Court require the preparation by the Probation Office of a presentence investigation report, or choose to sentence the defendant on a day other than the day of his guilty plea, this Agreement shall nonetheless remain in full force and effect.

It is further understood and agreed that: (1) in connection with his plea of guilty, the defendant will, if agreed to by the Court, enter his plea from London, England, pursuant to a video-link between London and the United States District Court for the Southern District of New York; (2) payment of the defendant's restitution and forfeiture judgments (totaling \$105,093,638) shall be paid pursuant to the following schedule: (i) payment on date of acceptance of plea — \$25,000,000; (ii) payment on or before the 1st anniversary date of acceptance of plea — \$16,018,728 (plus accrued interest); (iii) payment on or before the 2nd anniversary date of acceptance of plea — \$16,018,728 (plus accrued interest); (iv) payment on or before the 3rd anniversary date of acceptance of plea — \$16,018,728 (plus accrued interest); (v) payment on or before the 4th anniversary date of acceptance of plea — \$16,018,728 (plus accrued interest); (vi) payment on or before the 5th anniversary date of acceptance of plea — \$16,018,728 (plus accrued interest); and (3) principal payments made pursuant to the forfeiture and restitution judgments shall be allocated first to the restitution judgment, up to \$60,381,691, with interest on the restitution judgment set pursuant to the provisions of the Internal Revenue Code and associated regulations, and interest on the forfeiture judgment set pursuant to Title 18, United States Code, Section 3612(f).

¹ The parties agree that no other variance pursuant to Title 18, United States Code, Section 3553(a), is warranted here.

It is further understood and agreed that payment of the defendant's restitution and forfeiture obligations shall be secured, on or before the date of the acceptance of the defendant's guilty plea, by (1) the posting of a letter of credit in the amount of \$25,000,000 made payable to the Clerk of the Court, United States District Court for the Southern District of New York, in favor of the United States Treasury, payable through J.P. Morgan Trust Bank, N.A. in New York, New York, which letter of credit shall be maintained in force and effect until the defendant's restitution and forfeiture obligations shall have been satisfied in full; (2) the agreement by Beatrice Nina Tollman and the defendant, which each of them hereby makes, to take effect in the event of a default under this Agreement that is not cured within ten (10) business days, that each of them consents to: (a) the use of summary process by the United States (i) to collect on the judgments entered pursuant to the guilty plea and forfeiture Order contemplated by this Agreement, and, (ii) in order to enforce the judgments, to take full right, title, interest and ownership with respect to the real and other property interests of Beatrice Tollman in 485 Park Avenue (11th Floor), New York, New York, The Farm, located in or about New Preston, Connecticut, and the residence located at Via Del Lago, in Palm Beach, Florida, and (b) the registration of the judgments entered pursuant to this Agreement in any and all jurisdictions in the United States and abroad where the United States seeks to execute on such judgments; (3) an agreement that the proceeds of the sale of any of the foregoing properties shall be held in escrow by the law firm of Proskauer Rose LLP (or held in another manner acceptable to the Office), to be paid to satisfy the defendant's restitution and forfeiture obligations (unless such obligations have been satisfied in full), with notification to the Office upon the receipt of any such proceeds together with true and correct copies of all closing documents pertaining to any such sales, it being understood that the proceeds of such sales shall be paid within five business days to satisfy the defendant's restitution and forfeiture obligations even if the defendant is current with respect to the payments required by the previous paragraph; and (4) with respect to the aforementioned Florida and Connecticut properties, delivery to the Office within 45 days of mortgages executed by Beatrice Nina Tollman in favor of the United States in the amounts of \$20 million and \$25 million, respectively, which mortgages will be recorded and filed by the defendant with the appropriate county or state agency, and with respect to the aforementioned 485 Park Avenue (11th Floor), New York, New York (a cooperative apartment), delivery to the Office of properly executed UCC-1s in the amount of \$10 million, filed with the Secretary of State of the State of New York, or such other form of security as is acceptable to the Office. The defendant will pay any costs, taxes or duties associated with the mortgages and UCC-1s described in the previous sentence. The defendant and Beatrice Nina Tollman agree to take all necessary steps to maintain the value of these properties until the defendant's restitution and forfeiture obligations are fully satisfied.² Should the defendant have paid amounts sufficient so that his remaining obligations pursuant to this Agreement, and the expected interest that will be added to such obligations during the term of this Agreement, are less than the \$25 million secured by the letter of credit referred to above, the Office shall release the mortgages or other forms of security referred to in (4) above.

²It is further agreed that this Office intends that there be sales at fair market value of the properties described in the paragraph to which this footnote is appended, and accordingly, the Office will cooperate in providing information requested to prospective purchasers of such properties.

In consideration of the payment of the forfeiture judgment in the amount of \$44,711,947, upon acceptance of the guilty plea described above, the United States will promptly take all necessary steps to (i) transfer to Beatrice Nina Tollman the 50% shareholder interest owned by the United States of America pursuant to a Final Order of Forfeiture filed on April 13, 2005 in the case of *United States v. Monty Hundley*, S3 02 Cr. 441 (LAP), in Bryanston, Inc. (“Bryanston”), a Georgia C-corporation (currently held 50% by the United States and 50% in the name of Beatrice N. Tollman); (ii) dismiss with prejudice the complaint styled *United States of America v. All Right, Title, and Interest in the Shares of Bryanston Group, et al.*, 08 Civ. 4806 (LAP), pursuant to a settlement agreement in which the defendant agrees to pay the aforementioned civil forfeiture judgment; (iii) seek the vacatur, and effect the release, of all notices of pendency and other process obtained by the United States as to defendants Stanley S. Tollman and Brett G. Tollman in *United States v. Monty Hundley, et al.*, 02 Cr. 441 (LAP), including, but not limited to, all lis pendens and other process filed on property listed as Substitute Assets of defendants Stanley S. Tollman and Brett G. Tollman in said Indictment; and (iv) seek the vacatur of, and effect the release of all notice of pendency and other process obtained in connection with, the following Court Orders entered in *United States v. Monty Hundley, et al.*, 02 Cr. 441 (LAP): the Post-Conviction Restraining Order filed September 24, 2004 restraining \$5,000,000 received by Bryanston from Empire Resorts, Inc.; the Order of Forfeiture of Substitute Assets as to Defendants Monty Hundley and Sanford Freedman filed October 25, 2007; the Amended Order of Forfeiture of Substitute Assets as to Defendants Monty Hundley and Sanford Freedman filed December 11, 2007; and the Order of Forfeiture of Substitute Assets as to Defendants Monty Hundley and Sanford Freedman filed February 7, 2008.

It is further understood and agreed that the defendant’s heirs, successors, and assigns shall be bound by his obligations pursuant to this Agreement, and the defendant agrees promptly to prepare, or cause the preparation of, and execute any and all documents required to ensure that such heirs, successors, and assigns are so bound. It is also understood and agreed that Beatrice Nina Tollman’s heirs, successors, and assigns shall be bound by her obligations pursuant to this Agreement, and she agrees promptly to prepare, or cause the preparation of, and execute any and all documents required to ensure that such heirs, successors, and assigns are so bound.

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 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), 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.

The defendant understands that, except as provided in Fed.R.Crim.P. 11(c)(5)(B), he is bound by his guilty plea regardless of the immigration consequences of the plea and regardless of any advice the defendant may have received from his counsel or others regarding such consequences. Accordingly, the defendant waives any and all challenges to his guilty plea and to his sentence based on such 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.

It is further agreed that should the conviction following the defendant's plea of guilty pursuant to this Agreement be vacated for any reason, then 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 the defendant, 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.

It is further understood and agreed that, except as provided in Fed.R.Crim.P. 11(c)(5)(B), the defendant is bound by his guilty plea even if the defendant or Beatrice Nina Tollman breaches his or her obligations under this Agreement, thereby permitting the Government to prosecute the defendant and Beatrice Nina Tollman for the crimes described in the fourth paragraph of this Agreement.

It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office and, to the extent set forth above, the Tax Division, Department of Justice.

This Agreement supersedes any prior understandings, promises, or conditions between this Office, the Tax Division, Department of Justice and Stanley S. Tollman or Beatrice Nina Tollman. 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,

MICHAEL J. GARCIA
United States Attorney

By: Stanley J. Okula, Jr.
Stanley J. Okula, Jr.
Assistant United States Attorney
(212) 637-1585

APPROVED:

Guy Petriflo
Guy Petriflo
Chief, Criminal Division

AGREED AND CONSENTED TO:

Stanley S. Tollman

DATE

AGREED AND CONSENTED TO (with respect to the portions that affect her):

Colin Passmore, Esq., on behalf of
Beatrice Nina Tollman

DATE

APPROVED:

Viet D. Dinh
Viet D. Dinh, Esq.
Attorney for Stanley S. Tollman

11/21/08
DATE

This Agreement supersedes any prior understandings, promises, or conditions between this Office, the Tax Division, Department of Justice and Stanley S. Tollman or Beatrice Nina Tollman. 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,

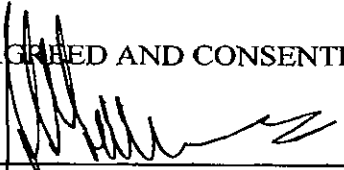
MICHAEL J. GARCIA
United States Attorney

By: _____
Stanley J. Okula, Jr.
Assistant United States Attorney
(212) 637-1585

APPROVED:

Guy Petrillo
Chief, Criminal Division

AGREED AND CONSENTED TO:




Stanley S. Tollman

11/21/2008

DATE

AGREED AND CONSENTED TO (with respect to the portions that affect her):

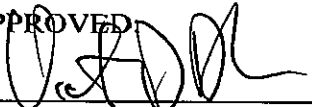


Colin Passmore, Esq., on behalf of
Beatrice Nina Tollman

21 November 2008

DATE

APPROVED:



Viet D. Dinh, Esq.
Attorney for Stanley S. Tollman

11/21/08

DATE