U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

June 2, 2010

VIA FAX at (619-231-7423) and EMAIL at PaulHcsgrr.com

G. Paul Howes, Esquire
Coughlin Stoia Rudman & Robbins LLP
655 West Broadway, Suite 1900
San Diego, California 92101

Dear Mr. Howes:

Re: United States v. Roberts S. Furst (Bayly et al), Docket No. H-03-363
United States v. Rex Shelby, Docket No. H-03-93

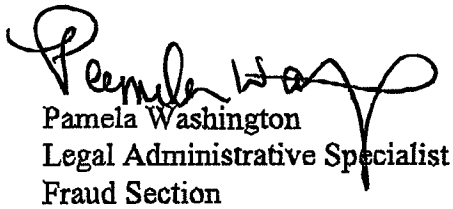
Pursuant to federal law, you and the members of the shareholders' class action lawsuit are entitled to be notified of the court proceedings in the above-captioned litigation. This is to inform you of the following:

On May 14, 2010, the Criminal Division of the Department of Justice entered into a 12-month deferred prosecution agreement (DPA) with Robert S. Furst, former Enron relationship manager for Merrill Lynch in its investment banking division. As part of the agreement, which was approved by the Court, the government agreed that if defendant Furst is in compliance with the agreement's requirements at the end of the twelve month period, including that he not violate federal, state, or local laws and that he not serve as a director or officer of a public company, it shall dismiss all of the charges in the filed Third Superceding Indictment against Furst.

In addition, a pre-trial conference for defendant Shelby has been set for Monday, June 14, 2010 at 9:30 a.m. before the Honorable Vanessa Gilmore. The proceeding will be held before Judge Gilmore in Courtroom 9-A, Ninth Floor, United States District Court for the Southern District of Texas, located at 515 Rusk Avenue, Houston, Texas 77002. Since it is quite possible that the pre-trial conference might be postponed, please check the Criminal Division's Victim webpage for updates on this case at: http://www.usdoj.gov/criminal/vns/index.html.

We appreciate your continued assistance in providing notice of case events to members of the shareholders' class action lawsuit captioned *Newby et al. v. Enron Corp., et* al., No. H-01-3624.

Sincerely,



Pamela Washington
Legal Administrative Specialist
Fraud Section

Enclosure - DPA Agreement - May 14, 2010

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED
MAY 14 2010
David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. H-03-363 (Werlein, J.)
	§	
ROBERT S. FURST	§	
	§	

DEFERRED PROSECUTION AGREEMENT

Defendant Robert S. Furst, by and through his attorney, Paul E. Coggins, Esq., and the United States, by undersigned counsel, enter into this Deferred Prosecution Agreement (the "Agreement").

1. Defendant Furst is charged in a Third Superseding Indictment with one count of conspiracy to commit wire fraud and to falsify books and records, in violation of 18 U.S.C. § 371, as well as with two counts of aiding and abetting wire fraud, in violation of 18 U.S.C. §§ 1343 and 2.

2. Defendant Furst has pleaded not guilty to the Third Superseding Indictment.

3. On November 3, 2004, a jury found Defendant Furst guilty of the counts set forth in paragraph 1 above.

4. On May 12, 2005, Defendant Furst was sentenced to 37 months' imprisonment.

5. Defendant Furst served approximately nine months of his sentence. However, on August 1, 2006, the United States Court of Appeals for the Fifth Circuit vacated Defendant Furst's convictions, and Defendant Furst was released from the custody of the Bureau of Prisons

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and returned to pretrial release.

6. Defendant Furst has been on pretrial supervision without incident since September 17, 2003.

7. Defendant Furst agrees to the following conditions:

a) He shall refrain from violation of any law (federal, state and local), excluding minor traffic offenses such as speeding. He shall immediately contact his supervising U.S. Pretrial Services Officer if arrested or questioned by a law-enforcement officer.

b) He shall associate only with law-abiding persons.

c) He shall notify his supervising U.S. Pretrial Services Officer prior to traveling outside the United States.

d) He shall notify his supervising U.S. Pretrial Services Officer immediately of any change in his place of residence.

e) He shall follow his supervising U.S. Pretrial Services Officer's instructions and advice.

f) He shall report to his supervising U.S. Pretrial Services Officer as directed.

g) He shall not serve as a director or officer of a public company for the duration of the deferral period specified herein.

9. The United States shall recommend to the Court, pursuant to 18 U.S.C. § 3151(h)(2), that prosecution of Defendant Furst in the above-captioned case be deferred for a period of twelve (12) months.

10. Defendant Furst shall consent to a motion, the content to be agreed by the parties,

to be filed by the United States with the Court promptly upon execution of this Agreement, pursuant to 18 U.S.C. § 3161(h)(2), in which the United States will present this Agreement to the Court and move for a continuance of all further criminal proceedings, including trial, for a period of twelve (12) months, for speedy trial exclusion in the interest of justice for all time covered by such a continuance, and for approval by the Court of this deferred prosecution.

11. Defendant Furst agrees to waive and does hereby expressly waive any and all rights to a speedy trial pursuant to the Sixth Amendment of the United States Constitution, Title 18, United States Code, Section 3161, Federal Rule of Criminal Procedure 48(b), and any applicable Local Rules of the United States District Court for the Southern District of Texas for the period that this Agreement is in effect.

12. The United States agrees that if, Defendant Furst is in compliance in all material aspects with all of his obligations under this Agreement, the United States, within five (5) days of the expiration of the time period set forth in Paragraph 9 above, shall seek dismissal with prejudice of the filed Third Superseding Indictment against Defendant Furst. However, should the United States provide notice in the final 30 days of the Agreement that Defendant Furst has committed a willful and material breach of any provision of this Agreement, as set forth in paragraph 14, the period of the deferred prosecution shall be extended for a period of 30 days to permit the parties to seek to resolve the alleged breach pursuant to the terms of paragraph 14.

13. Defendant Furst and the United States understand that the Agreement to defer prosecution of Defendant Furst must be approved by the Court, in accordance with 18 U.S.C. § 3161(h)(2). Should the Court decline to approve a deferred prosecution for any reason, both the United States and Defendant Furst are released from any obligation imposed upon them by this

Agreement and this Agreement shall be null and void.

14. Should the United States determine that Defendant Furst has committed a willful and material breach of any provision of this Agreement, the United States shall provide written notice to Defendant Furst of the alleged breach and provide Defendant Furst with a thirty day (30) period, or longer at the reasonable discretion of the Fraud Section, Criminal Division, United States Department of Justice ("Fraud Section"), in which to make a presentation to demonstrate that no breach has occurred or, to the extent applicable, that the breach is not willful or material or has been cured.

15. The parties hereto expressly understand and agree that should Defendant Furst fail to make a presentation within the time period, it shall be presumed that Defendant Furst is in willful and material breach of this Agreement. The parties further understand and agree that the Fraud Section's exercise of reasonable discretion under this paragraph is not subject to review in any court or tribunal outside of the Department of Justice.

16. Defendant Furst and the United States agree that, upon acceptance by the Court, this Agreement and an Order deferring prosecution shall be publicly filed in the United States District Court for the Southern District of Texas.

17. Defendant Furst, having reviewed this condition and discussed it with his counsel, knowingly and voluntarily agrees that he will not contend that he is a "prevailing party" within the meaning of the Hyde Amendment, Section 617, PL 105-119 (Nov. 26, 1997), and will not file any claim under that law.

18. This Agreement sets forth all the terms of the Deferred Prosecution Agreement between Defendant Furst and the United States. No promises, agreements, or conditions shall be

entered into and/or are binding upon Defendant Furst or the United States unless expressly set forth in writing, signed by the United States, Defendant Furst's attorneys, and Defendant Furst. This Agreement supersedes any prior promises, agreements or conditions between Defendant Furst and the United States.

Dated: May 14, 2010

Respectfully submitted,

PAUL E. PELLETIER
Principal Deputy Chief

Patrick F. Stokes
Deputy Chief
Albert B. Stieglitz, Jr.
Trial Attorney
Fraud Section
Criminal Division

Jeffrey A. Goldberg
Assistant U.S. Attorney
Eastern District of New York

Robert S. Furst
Defendant

Paul E. Coggins
Counsel for Defendant Furst

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