



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

DCP:JPM/JPL/GMM
F. #2012R01716

*271 Cadman Plaza East
Brooklyn, New York 11201*

November 3, 2020

By ECF and Hand Delivery

The Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Och-Ziff Capital Management Group LLC
Criminal Docket No. 16-516 (NGG)

Dear Judge Garaufis:

The government and the defendant Och-Ziff Capital Management Group LLC, which now operates under the name Sculptor Capital Management, respectfully submit this letter to advise the Court that the parties have agreed to voluntarily modify the term of the Deferred Prosecution Agreement (“DPA”) in the above-referenced matter. On January 23, 2020, the government and the defendant Och-Ziff Capital Management Group LLC entered into a First Amendment to the DPA. The parties now attach a Second Amendment to the DPA (the “Second Amendment”) which memorializes the parties’ agreement to revise the term of the DPA.

As the Court is aware, on September 29, 2016, the parties entered into the DPA. See ECF Dkt. No. 11, Court Exhibit 2: Deferred Prosecution Agreement dated Sept. 29, 2016. Concurrent with the filing of the DPA, the government filed a Criminal Information against the defendant. See ECF Dkt. No. 8. The government also commenced a related criminal case, United States v. OZ Africa Management GP, LLC, 16-CR-515 (NGG) (the “OZ Africa Matter”), against one of the defendant’s subsidiary companies.

Under the DPA, the defendant agreed to pay a criminal monetary penalty in the amount of \$213,055,689. The parties also agreed that if the Court imposed a fine as part of sentencing in the OZ Africa Matter, the amount of such a fine would be paid from the \$213,055,689 monetary penalty currently being held by the government in a suspense account. The DPA contemplates that the sentencing in the OZ Africa Matter would have occurred before the expiration of the DPA. The sentencing is scheduled for November 4, 2020.

The government and the defendant Och-Ziff Capital Management Group LLC are entering into the Second Amendment to the DPA in order to condition the expiration of the term of the DPA on the payment of restitution in the matter of OZ Africa Matter and the release of the monetary penalty from the suspense account. The Second Amendment provides that the term of the DPA shall end after the following conditions have been satisfied: (i) the Court enters final judgment, including an award of restitution to the identified victims (the “Restitution Award”), in the OZ Africa Matter; (ii) the defendant OZ Africa Management GP, LLC makes payment to the identified victims in full satisfaction of the Restitution Award; and (iii) the monetary penalty has been released from the suspense account to the United States Treasury within ten (10) days of the entry of the judgment in the matter of OZ Africa Matter.

The parties are available to supply any additional information the Court may require.

Respectfully submitted,

OCH-ZIFF CAPITAL MGMT.
Defendant

SETH D. DuCHARME
Acting United States Attorney

/s/
Charles Gilman
Anirudh Bansal
Cahill Gordon & Reindel LLP
Assistant U.S. Attorneys
(212) 701-3207

/s/
David C. Pitluck
James P. McDonald
Jonathan P. Lax
(718) 254-7000

DANIEL S. KAHN
Acting Chief, Fraud Section
U.S. Dept. of Justice, Criminal Division

/s/
Gerald M. Moody
Trial Attorney
(202) 616-4988

cc: Clerk of the Court (NGG) (by ECF)
All Counsel of Record (by ECF)

AES:DCP/JPM/JPL/GMM
F. #2012R01893

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

- against -

SECOND AMENDMENT TO THE
DEFERRED PROSECUTION
AGREEMENT

OCH-ZIFF CAPITAL MANAGEMENT GROUP
LLC,
also known as “Sculptor Capital
Management,”

Cr. No. 16-516 (NGG)

Defendant.

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The Defendant Och-Ziff Capital Management Group LLC, also known as Sculptor Capital Management (hereinafter, “Och-Ziff” or the “Company”), by its undersigned attorneys and representative, pursuant to authority granted to it by the Company’s Board of Directors, and the United States Attorney’s Office for the Eastern District of New York and the United States Department of Justice, Criminal Division, Fraud Section (collectively, the “Offices”) enter into this Second Amendment to the Deferred Prosecution Agreement dated and filed September 29, 2016 (the “DPA”). On January 23, 2020, the Company and the Offices entered into a First Amendment to the DPA. The Company and the Offices enter into this Second Amendment to the DPA in order to condition the expiration of the term of the DPA on the payment of restitution in the matter of United States v. OZ Africa Management GP LLC (Docket No. 16-CR-515 (NGG) (E.D.N.Y.)) and the release of the monetary penalty that has been held in a suspense account. The terms and conditions of this Second Amendment to the DPA are as follows:

1. Paragraph 3 of the DPA is amended to provide as follows:

This Agreement is effective for a period beginning on the date on which the Information is filed and ending immediately after all of the following conditions have been satisfied: (i) the Court enters final judgment, including an award of restitution to the identified victims (the "Restitution Award"), in the matter of United States v. OZ Africa Management GP LLC (Docket No. 16-CR-515 (NGG) (E.D.N.Y.)); (ii) the defendant OZ Africa Management GP, LLC makes payment to the identified victims in full satisfaction of the Restitution Award; and (iii) the monetary penalty has been released from the suspense account to the United States Treasury within ten (10) days of the entry of the judgment in the matter of United States v. OZ Africa Management GP LLC (Docket No. 16-CR-515 (NGG) (E.D.N.Y.)) (the "Term"). The Company agrees, however, that, in the event the Offices determine, in their sole discretion, that the Company has knowingly violated any provision of this Agreement, an extension or extensions of the term of the Agreement may be imposed by the Offices, in their sole discretion, for up to a total additional time period of one year, without prejudice to the Offices' right to proceed as provided in Paragraphs 16 through 19 below. Any extension of the Agreement extends all terms of this Agreement for an equivalent period.

2. In all other aspects, the DPA shall remain in full force and effect.

AGREED:

FOR OCH-ZIFF CAPITAL MANAGEMENT GROUP LLC:



David Levine, Esq.
Chief Legal Officer
Och-Ziff/Sculptor Capital Management



Anirudh Bansal, Esq.
Cahill Gordon & Reindel LLP
Counsel to the Defendant

Date: 11/3/20

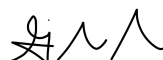
FOR THE U.S. DEPARTMENT OF JUSTICE:

SETH D. DuCHARME
Acting United States Attorney
Eastern District of New York



David C. Pitluck
James P. McDonald
Jonathan P. Lax
Assistant U.S. Attorneys

DANIEL S. KAHN
Acting Chief
Criminal Division, Fraud Section
U.S. Department of Justice



Gerald M. Moody, Jr.
Trial Attorney

Date: November 3, 2020