

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
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- v. -	:	16-CR-516 (NGG)
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OCH-ZIFF CAPITAL MANAGEMENT	:	
GROUP LLC,	:	
	:	
Defendant.	:	
	:	
-----X		

GOVERNMENT’S UNOPPOSED MOTION TO DISMISS INFORMATION

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States of America, by and through undersigned counsel, hereby moves to dismiss the Information filed in the above-captioned case against defendant Och-Ziff Capital Management Group LLC (hereinafter “Och-Ziff”). In support of this motion, the Government states as follows:

1. On September 29, 2016, the government filed a four-count criminal Information charging Och-Ziff with two counts of conspiracy to commit offenses against the United States in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 (“FCPA”), as amended, Title 15, United States Code, Section 78dd-1, one count of violating the books and records provisions of the FCPA, in violation of Title 15, United States Code, Sections 78m(b)(2)(A), (b)(4), (b)(5), and 78ff(a), and one count of violating the internal controls provision of the FCPA, in violation of Title 15, United States Code, Sections 78m(b)(2)(B), (b)(4), (b)(5) and 78ff(a). See ECF Dkt. No. 8, (the “Information”).

2. On September 29, 2016, the government also filed a deferred prosecution agreement (“DPA”) with Och-Ziff, in which the government deferred prosecution of Och-Ziff for

a period of three years. See ECF Dkt. No. 11, Court Exhibit 2: Deferred Prosecution Agreement dated Sept. 29, 2016. Among other obligations, the DPA required Och-Ziff to cooperate with the government's investigation, to implement an enhanced compliance program and to engage an independent compliance monitor for a period of at least three years. Och-Ziff was also required to pay a criminal monetary penalty of \$213,055,689.

3. The DPA provided that the government would not continue the criminal prosecution against Och-Ziff and would move to dismiss the Information within six months of the expiration of the DPA if Och-Ziff fully complied with all of its obligations, including its obligations to implement a compliance program reasonably designed and implemented to prevent and detect violations of the anti-corruption laws. See DPA ¶ 15.

4. On or about January 30, 2020, the independent compliance monitor certified, pursuant to paragraph 19 of Attachment D to the DPA, that Och-Ziff's compliance program, including its policies and procedures, is reasonably designed and implemented to prevent and detect violations of the anti-corruption laws.

5. On December 2, 2020, Och-Ziff's Chief Executive Officer and Chief Financial Officer certified to the government that Och-Ziff has met its disclosure obligations pursuant to paragraph 6 of the DPA.

6. The DPA expired on or about November 2, 2020.

7. Based on the information known to the Government, Och-Ziff has fully met the obligations under the DPA, including full cooperation with the Government, implementation of an enhanced compliance program and procedures, and satisfaction of the terms of the provisions regarding the independent compliance monitorship. In addition, Och-Ziff has made timely payment of the \$213,055,689 criminal monetary penalty on September 29, 2016.

