

Dear Counsel:

I am writing this request for assistance to draft a "Friend of the Court" brief in my case. The purpose of the brief is to convince the court to grant a 3-4 month extension of my sentencing hearing. The reason for the extension is to repay the full \$3.4m to all noteholders that served as basis for the underlying indictment. The effect of this pre-sentencing repayment is to radically offset, if not wholly negate, the full force and effect of the sentencing guidelines at the sentencing hearing. It is my heartfelt belief that a compelling "Friend of the Court" brief will overcome objections by government and convince the court to allow reasonably sufficient time for the funds to be generated in order to make the investors named in the underlying complaint whole.

A Brief History: Indicted in July 2013-Wind Plus; Wind Plus Holdings; Baseload Energy on wire and mail fraud. – Tried and convicted April 2015 – Case 3:13-CR-422-M- Northern District of Texas. Judge Barbara Lynn- Appellate Attorney – Clint Broden Dallas TX phone 214-720-9552

During my search for an appellate attorney, a highly unorthodox approach, uniquely configured for my situation became manifested: to repay the full \$3.4m reflected in the indictment, before being sentenced, the effect of which would be to obfuscate the implication of the full force and effect of the mandatory minimum aspects of the sentencing guidelines at the sentencing hearing. In effect, if the monetary damage of the government's case was paid off, then that element which carries a 27 year incarceration recommendation, would be negated.

After learning of this strategic approach in June 2015, I developed a comprehensive "contract aggregation strategy", where I could organize a series of valid, binding 10 year agreements into a Triple-A rated portfolio, which could then be purchased; the value of which would exceed by far the \$3.4m reflected in the government's complaint, and this could all be facilitated within a relatively short period of time.

The plan utilizes a core of 5 companies, and is designed to generate green power energy here in Texas, transport it to Mexico, and be used by a corporate end-user in MX. The contracts needed to make this work have already been negotiated and all of the prerequisite agreements (confidentiality, non-disclosure, non-compete, and letters of interest) have already been or are being executed by all of the parties involved. The underlying contracts will be in the "due diligence" phase of the closing process. No monies have been required for transaction.

The entities utilized in this plan includes: Montauk Energy, who owns the McKinney, Texas landfill facilities needed to generate the green electricity energy to be sold to the end user in Mexico. Montauk is a South African based company listed headquarters in Pennsylvania and has already signed a 10 year contract for its facilities to provide electricity energy exclusively to this project; Tenaska Power Systems, who will provide access to the Texas and Mexico power lines needed to transfer the energy generated to the collection point in Mexico. Tenaska is an Arlington Texas based company, and has signed a letter of intent to facilitate this deal and is in the final review phase of executing the 10 year contract for this project; Comision Federal Electricidad (CFE), Mexico's government utility company, who will accept the energy received from Tenaska, and allow the corporate end user to access that energy. Tenaska has a pre-existing long-term access portal to CFE, and the agreement for Tenaska to provide energy into the CFE collective for a 10 year period of time is routine; the final component of the portfolio consists of a consortium of 4 resorts located in Cancun. These 4 resorts are the end-users of the green energy

*used*

produced by Montauk, transferred by Tenaska, collected and transmitted by CFE to be sued by the Cancun resorts. This green energy deal has been demonstrated projected by the resorts to save them between 30%-45% on their electricity energy bills. The resorts have already signed LOIs and are in the final review process of executing an exclusive 10 year green energy provider agreements for this project.

The portfolio is made up of 4 company components, as set forth above. Each of the companies are "Triple A-rated". The sole exception of which being CFE, given that it is a Mexican government utility company. The company that compiled the portfolio and has presented it for sale is MX-TREP #1 LLC, who has secured a LOI from (verify the following) Diversified Financial Investment Group LLC to purchase the portfolio for \$6 m ? The purchasing entity will complete its preliminary **vetting?** Process prior to the execution of the LOI and has begun its comprehensive due diligence process in advance of executing a final purchase agreement. Upon execution of the final purchasing agreement, closing is anticipated to occur within 14 days of closing. Diversified is also a Triple A-rated company – all subject to holiday- Thanksgiving & Christmas schedules.

MX-TREP #1 LLC by and through its managing partner, Boone Nerren, has executed a "first-funds resolution" that irrevocably commits the first funds from the sale of the portfolio, up to, but not to exceed the amount of \$3.4m to be directed to an escrow account, and the proceeds collected to be used for the sole and exclusive purpose of repaying the noteholders identified in, and made basis of my underlying indictment.

The principle purpose of this entire endeavor, from its very conception back in June 2015, is to repay the investors identified in the government's complaint against me. The principle purpose of this letter is to demonstrate the viability of my plan to repay those investors in full, to do so within a reasonably short period of time, and to convince you, Counselor, to draft a "Friend of the Court" brief (or some legal equivalent thereto) to be submitted to the court which will overcome the objections from government, and effectively persuade the Judge to grant an extension of time for sentencing hearing to be held, such that this deal can be closed, the 2004 investors repaid before the sentencing hearing. If this is done, the theory could be established that, because all of the monies reflected in the indictment have been fully repaid prior to sentencing, then no monetary damages could be incorporated into the sentencing guidelines and if the guidelines are not invoked, then that would render the government's 27 year recommendation of incarceration moot, thereby constricting the court's punitive consideration down to the level of probation or community service.

This approach is a "win/win" proposition. The complaining investors win by recoupment of their initial investment (this is quite rare); the government wins by getting a conviction and making the victims whole; the defendant wins by making the victims whole and not spending 27 years in jail; the interests of justice is served in all of the foregoing.

Inasmuch as a 27 year sentence handed down upon a 62 year old man is tantamount to a death sentence, and a death sentence imposed upon a defendant charged with a 10 year old wire fraud allegation fails utterly to serve the interests of justice and where a full and complete resolution to the underlying allegations are a point of fiscal viability, and where the reasonable extension of a moderate amount of time would allow for such a resolution to occur, then the submission of a request for such extension seems warranted.

The time requested would only be such as needed for the due diligence process to be completed so the portfolio can be purchased. This process should be completed soon because all of the sub-agreements

have been or being executed. Generally, the nature, scope and size of a deal like this would /will warrant a diligence, closing and funding period of approximately 90-120 days. So, the 3-4 month extension to be requested of the court is not unreasonable. This particularly so, given the curative positive implications associated with the success of this deal.

Finally, time is of the essence in this matter. First, since we have no control over the due diligence process and the purpose of the endeavor lapses if not complete before sentencing, then getting the extension sooner rather than later is paramount. Additionally, the holidays of Thanksgiving and Christmas will have a slowing effect on closing, therefore 4 months is requested for a sentencing "hold".