



U.S. Department of Justice

Criminal Division

December 31, 2009

Leo Cunningham, Esq.
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304

Re: UTStarcom, Inc.

Dear Mr. Cunningham:

On the understandings specified below, the United States Department of Justice, Criminal Division, Fraud Section ("this Office") will not criminally prosecute UTStarcom, Inc., and its subsidiaries and affiliates (collectively, "UTSI") for any crimes (except for criminal tax violations, as to which this Office cannot and does not make any agreement) related to leisure trips that UTSI corruptly gave to employees of government-controlled telecommunications companies in the People's Republic of China ("China"), and which UTSI improperly accounted for as "training" trips, in order to assist UTSI in obtaining or retaining telecommunications contracts, as described in Appendix A hereto, which is incorporated by reference. This Office enters into this non-prosecution agreement based, in part, on the following factors: (a) UTSI's timely, voluntary, and complete disclosure of the facts described in Appendix A; (b) UTSI's thorough, real-time cooperation with this Office and the Securities and Exchange Commission; and (c) the extensive remedial efforts already undertaken and to be undertaken by UTSI.

It is understood that UTSI admits, accepts, and acknowledges responsibility for the conduct set forth in Appendix A and agrees not to make any public statement contradicting Appendix A.

If UTSI fully complies with the understandings specified in this non-prosecution agreement, including all appendices hereto (collectively referred to as the "Agreement"), no information given by or on behalf of UTSI voluntarily as of the date of this Agreement or at the request of this Office (or any other information directly or indirectly derived therefrom) will be used against UTSI in any criminal prosecution. This Agreement does not provide any protection against prosecution for any crimes except as set forth above, and applies only to UTSI and not to any other entities except as set forth in this Agreement or to any individuals. UTSI expressly understands that the protections provided to UTSI under this Agreement shall not apply to any acquirer or successor entities unless and until such acquirer or successor formally adopts and executes this Agreement.

This Agreement shall have a term of three years from the date of this Agreement, except as specifically provided in the following paragraph. It is understood that for the three-year term of this Agreement, UTSI shall: (a) commit no crimes whatsoever; (b) truthfully and completely disclose

non-privileged information with respect to the activities of UTSI, its officers and employees, and others concerning all matters about which this Office inquires of it, which information can be used for any purpose, except as otherwise limited in this Agreement; and (c) bring to this Office's attention all criminal conduct by, or criminal investigations of, UTSI or any of its senior managerial employees, that comes to the attention of UTSI or its senior management, as well as any administrative proceeding or civil action brought by any governmental authority that alleges fraud by or against UTSI.

Until the date upon which all investigations and prosecutions arising out of the conduct described in this Agreement are concluded, whether or not they are concluded within the three-year term specified in the preceding paragraph, UTSI shall: (a) cooperate fully with this Office, the Federal Bureau of Investigation, the Securities and Exchange Commission, and any other law enforcement agency designated by this Office; (b) assist this Office in any investigation or prosecution arising out of the conduct described in this Agreement by providing logistical and technical support for any meeting, interview, grand jury proceeding, or any trial or other court proceeding; (c) use its best efforts promptly to secure the attendance and truthful statements or testimony of any officer, agent, or employee at any meeting or interview or before the grand jury or at any trial or other court proceeding; and (d) provide this Office, upon request, all non-privileged information, documents, records, or other tangible evidence about which this Office or any designated law enforcement agency inquires.

It is understood that UTSI agrees to pay a monetary penalty of \$1,500,000. UTSI must pay this sum to the United States Treasury within ten days of executing this Agreement. UTSI acknowledges that no tax deduction may be sought in connection with this payment.

It is understood that UTSI will strengthen its compliance, bookkeeping, and internal controls standards and procedures, as set forth in Appendix B. It is further understood that UTSI will report periodically to this Office regarding its compliance with this Agreement, as set forth in Appendix C.

It is understood that, if this Office determines that UTSI has committed any crimes subsequent to the date of signing of this Agreement, or should it be determined that UTSI has given false, incomplete, or misleading testimony or information at any time, or should UTSI otherwise violate any provision of this Agreement, UTSI shall thereafter be subject to prosecution for any violation of federal law of which this Office has knowledge, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against UTSI, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the expiration of the term of this agreement plus one year. Thus, by signing this Agreement, UTSI agrees that the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed shall be tolled for the term of this Agreement plus one year.

It is understood that, if this Office determines that UTSI has committed any crime after signing this Agreement, or that UTSI has given false, incomplete, or misleading testimony or information, or has otherwise violated any provision of this Agreement: (a) all statements made by UTSI to this Office or other designated law enforcement agents, including Appendix A hereto, and any testimony given by UTSI before a grand jury or other tribunal, whether prior or subsequent to the signing of this Agreement, and any leads from such statements or testimony, shall be admissible in evidence in any criminal proceeding brought against UTSI; and (b) UTSI shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom are inadmissible or should be suppressed. By signing this Agreement, UTSI waives all rights in the foregoing respects.

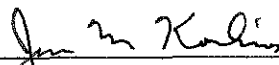
It is further understood that this Agreement does not bind any federal, state, local, or foreign prosecuting authority other than this Office. This Office will, however, bring the cooperation of UTSI to the attention of other prosecuting and investigative offices, if requested by UTSI.

It is further understood that UTSI and this Office may disclose this Agreement to the public.

With respect to this matter, from the date of execution of this Agreement forward, this Agreement supersedes all prior, if any, understandings, promises, and/or conditions between this Office and UTSI. No additional promises, agreements, 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.

Sincerely,

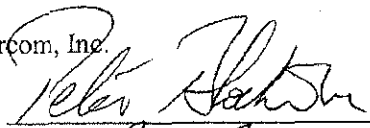
STEVEN A. TYRRELL
Chief, Fraud Section

By: 
James M. Koukios
Trial Attorney, Fraud Section

AGREED AND CONSENTED TO:

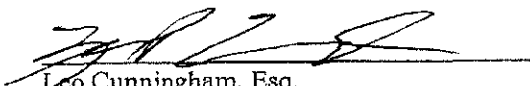
UTStarcom, Inc.

By:


NAME, PETER BLACKMORE
Title PRESIDENT + CEO

December 30, 2009
Date

By:


Leo Cunningham, Esq.
Wilson Sonsini Goodrich & Rosati
Attorney for UTStarcom, Inc.

12-31-2009
Date

APPENDIX A

STATEMENT OF FACTS

This Statement of Facts is incorporated by reference as part of the non-prosecution agreement, dated December 31, 2009, between the United States Department of Justice, Criminal Division, Fraud Section ("this Office"), and UTStarcom, Inc. and its subsidiaries and affiliates ("UTSI"). The United States and UTSI agree that the following facts are true and correct:

I. Background

1. UTSI is a Delaware corporation headquartered in Alameda, California. UTSI's common stock was registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") and traded on the NASDAQ Global Select Market. UTSI filed periodic reports with the Securities and Exchange Commission ("SEC") pursuant to Section 13 of the Exchange Act. Accordingly, UTSI was an "issuer" within the meaning of 15 U.S.C. § 78m(b)(2).

2. UTSI is a global telecommunications company that designs, manufactures and sells network equipment and handsets. Historically, the People's Republic of China ("China") has been UTSI's most important market. Between 1995 and 2004, more than 75% of UTSI's sales were to government-controlled municipal and provincial telecommunications companies in China. From 2004 to 2008, the company attempted several business ventures to expand outside of China. By 2008, however, China again became UTSI's largest market by sales. UTSI operated in China primarily through its wholly-owned subsidiary, UTStarcom China Co., Ltd. ("UTS-China").

II. The Improper Payments

3. UTSI grew rapidly until 2004 based on UTS-China's sales of wireless network equipment for large cities in China. The initial sales contracts for the networks were referred to as "systems contracts." "Executive A," UTS-China's CEO, approved all major business transactions entered into by UTS-China, including the systems contracts. Executive A is a United States citizen.

4. At least by 2002, UTS-China's standard practice was to include as part of each systems contract a provision for UTS-China to pay for some of the government-controlled municipal and provincial telecommunications companies' employees to attend purported "training" overseas at UTSI facilities after installation of the network.

5. After the network installation was complete, UTS-China instructed the customer to contact a particular travel agent to choose destinations for the trip and to provide the list of employees who would participate. UTS-China paid for the purported "training" trips through the travel agent and accounted for the entire cost as a training expense.

6. In fact, however, no training occurred on many of these purported "training" trips. Instead, the customer's employees visited popular tourist destinations where UTSI had no facilities. For example, UTS-China paid for customer employees to travel to Hawaii, Las Vegas and New York. UTS-China's senior management believed that providing these purported "training" trips was necessary in order to obtain and retain the systems contracts.

7. Between 2002 and 2007, UTSI spent nearly \$7 million on approximately 225 trips for customer employees pursuant to training provisions in systems contracts entered into between UTS-China and government-controlled municipal or provincial telecommunications companies. In connection with at least 10 of these systems contracts, UTS-China paid and improperly accounted for approximately \$670,000 as training expenses.

8. By accounting for these purported "training" trips as training expenses, UTS-China concealed the fact that the true purpose for these trips was to assist in obtaining and retaining the systems contracts.

9. As an issuer, UTSI was and is required, among other things, to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and

dispositions of the assets of the issuer. As noted above, UTS-China failed to properly account for the payments described above in their respective books, records, and accounts. Because UTS-China's financial results were a component of UTSP's consolidated financial statements, UTSP's books, records, and accounts also failed to reflect the true nature and purpose of the purported "training" trips.

APPENDIX B

CORPORATE COMPLIANCE PROGRAM

In order to address deficiencies in its internal controls, policies, and procedures regarding compliance with the Foreign Corrupt Practices Act ("FCPA"), 15 U.S.C. §§ 78dd-1, *et seq.*, and other applicable anti-corruption laws, UTStarcom, Inc. and its subsidiaries (collectively, "UTSI") agree to continue to conduct, in a manner consistent with all of its obligations under this Agreement, appropriate reviews of its existing internal controls, policies, and procedures.

Where appropriate, UTSI agrees to adopt new or to modify existing internal controls, policies, and procedures in order to ensure that it maintains: (a) a system of internal accounting controls designed to ensure that UTSI makes and keeps fair and accurate books, records, and accounts; and (b) a rigorous anti-corruption compliance code, standards, and procedures designed to detect and deter violations of the FCPA and other applicable anti-corruption laws. At a minimum, this should include, but not be limited to, the following elements:

1. A clearly articulated corporate policy against violations of the FCPA, including its anti-bribery, books and records, and internal controls provisions, and other applicable counterparts (collectively, the "anti-corruption laws");
2. Promulgation of compliance standards and procedures designed to reduce the prospect of violations of the anti-corruption laws and UTSI's compliance code. These standards and procedures shall apply to all directors, officers, and employees and, where necessary and appropriate, outside parties acting on behalf of UTSI in a foreign jurisdiction, including but not limited to, agents, consultants, representatives, distributors, teaming partners, and joint venture partners (collectively, "agents and business partners");

3. The assignment of responsibility to one or more senior corporate officials of UTSI for the implementation and oversight of compliance with policies, standards, and procedures regarding the anti-corruption laws. Such corporate official(s) shall have the authority to report matters directly to UTSI's Board of Directors or any appropriate committee of the Board of Directors;

4. Mechanisms designed to ensure that the policies, standards, and procedures of UTSI regarding the anti-corruption laws are effectively communicated to all directors, officers, employees, and, where appropriate, agents and business partners. These mechanisms shall include: (a) periodic training for all directors, officers, and employees, and, where necessary and appropriate, agents and business partners; and (b) annual certifications by all such directors, officers, and employees, and, where necessary and appropriate, agents, and business partners, certifying compliance with the training requirements;

5. An effective system for reporting suspected criminal conduct and/or violations of the compliance policies, standards, and procedures regarding the anti-corruption laws for directors, officers, employees, and, where necessary and appropriate, agents and business partners;

6. Appropriate disciplinary procedures to address, among other things, violations of the anti-corruption laws and UTSI's compliance code by UTSI's directors, officers, and employees;

7. Appropriate due diligence requirements pertaining to the retention and oversight of agents and business partners;

8. Standard provisions in agreements, contracts, and renewals thereof with all agents and business partners that are reasonably calculated to prevent violations of the anti-corruption laws, which may, depending upon the circumstances, include: (a) anti-corruption representations and undertakings relating to compliance with the anti-corruption laws; (b) rights to conduct audits of the

books and records of the agent or business partner to ensure compliance with the foregoing; and (c) rights to terminate an agent or business partner as a result of any breach of anti-corruption laws, and regulations or representations and undertakings related to such matters; and

9. Periodic testing of the compliance code, standards, and procedures designed to evaluate their effectiveness in detecting and reducing violations of anti-corruption laws and UTSP's compliance code.

APPENDIX C

CORPORATE COMPLIANCE REPORTING

1. UTStarcom, Inc. ("UTSI") agrees that it will report periodically, at no less than 12-month intervals, in accordance with the schedule described in Paragraph 3 below, during the three-year term of this Agreement, to the Fraud Section of the Department of Justice ("this Office") regarding remediation and implementation of the compliance program and internal controls, policies, and procedures described in Appendix B.

2. Should UTSI discover credible evidence, not already reported to this Office, that questionable or corrupt payments or questionable or corrupt transfers of property or interests may have been offered, promised, paid, or authorized by any UTSI entity or person, or any entity or person working directly for UTSI, or that related false books and records have been maintained, UTSI shall promptly report such conduct to the Department.

3. During the three-year term of this Agreement, UTSI shall: (1) conduct an initial review and prepare an initial report, and (2) conduct and prepare two follow-up reviews and reports, as described below:

a. By no later than May 1, 2010, UTSI shall issue a written report covering calendar year 2009 and setting forth a complete description of its remediation efforts to date, its proposals reasonably designed to improve the policies and procedures of UTSI for ensuring compliance with the FCPA and other applicable anticorruption laws, and the parameters of the subsequent reviews. The report shall be transmitted to Mark F. Mendelsohn (or his successor), Deputy Chief, Fraud Section, Criminal Division, U.S. Department of Justice, 10th and Constitution Ave., N.W., Bond Building, Fourth Floor, Washington, D.C., 20530. UTSI may extend the time period for issuance of the report with prior written approval of this Office.

b. UTSI shall undertake two follow-up reviews, incorporating any comments provided by this Office on its initial review and report, to further monitor and assess whether the policies and procedures of UTSI are reasonably designed to detect and prevent violations of the FCPA and other applicable anticorruption laws.

c. The first follow-up review and report shall be completed by no more than one-year after the initial review. The second follow-up review and report shall be completed by no more than one-year after the completion of the first follow-up review.

d. UTSI may extend the time period for submission of the follow-up reports with prior written approval of this Office.