

FILED

2008 DEC 17 PM 2:21

U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
SANTA ANA

BY 

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

11	UNITED STATES OF AMERICA,	)	SA CR No. <b>SACR08-00336</b>
12	Plaintiff,	)	<u>I N F O R M A T I O N</u>
13	v.	)	[18 U.S.C. § 371: Conspiracy]
14	MARIO COVINO,	)	
15	Defendant.	)	
16		)	
17		)	

The United States Attorney charges:

INTRODUCTION

At all times relevant to this Information:

1. The Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, Title 15, United States Code, Sections 78dd-1, et seq., was enacted by Congress for the purpose of making it unlawful, among other things, for certain United States persons and business entities to act corruptly in furtherance of an offer, promise, authorization, or payment of money or anything of value to a foreign government official (or to any person, while knowing that the money or thing of value will be offered, given or

1 promised to a foreign official), for the purpose of securing any  
2 improper advantage, or of assisting in obtaining or retaining  
3 business for and with, or directing business to, any person.

4 2. An unnamed co-conspirator company, hereinafter referred  
5 to as Company A, was a Delaware corporation headquartered in  
6 Rancho Santa Margarita ("RSM"), California, that designed and  
7 manufactured service control valves for use in the nuclear, oil  
8 and gas, and power generation industries worldwide. Company A  
9 sold its products to both state-owned enterprises and private  
10 companies in approximately thirty countries around the world.  
11 Because Company A was organized under the laws of a State of the  
12 United States and had its principal place of business in the  
13 United States, it was a "domestic concern" as that term is  
14 defined in the FCPA, Title 15, United States Code, Section 78dd-  
15 2(h)(1)(B).

16 3. Defendant MARIO COVINO ("COVINO") served as Company A's  
17 Director of Worldwide Factory Sales from in or around March 2003  
18 through in or around 2007. In this capacity, he was responsible  
19 for overseeing Company A's new construction projects and the  
20 replacement of existing valves made by other companies and  
21 installed at Company A's customer's plants. Defendant COVINO was  
22 a resident of the United States and thus was a "domestic concern"  
23 as that term is defined in the FCPA, Title 15, United States  
24 Code, Section 78dd-2(h)(1)(A).

25 4. Company A's state-owned customers included, but were  
26 not limited to, Petrobras (Brazil), Dingzhou Power (China),  
27 Datang Power (China), China Petroleum, China Resources Power,  
28 China National Offshore Oil Company, PetroChina, Maharashtra

1 State Electricity Board (India), Korea Hydro and Nuclear Power  
2 ("KHNP") (Korea), Petronas (Malaysia), Dolphin Energy (United  
3 Arab Emirates ("UAE")), and Abu Dhabi Company for Oil Operations  
4 (UAE). Each of these state-owned entities was a department,  
5 agency, and instrumentality of a foreign government, within the  
6 meaning of the FCPA, Title 15, United States Code, Section 78dd-  
7 2(h)(2)(A). The officers and employees of these entities,  
8 including their Vice-Presidents, Engineering Managers, General  
9 Managers, Procurement Managers, and Purchasing Officers, were  
10 "foreign officials" within the meaning of the FCPA, Title 15,  
11 United States Code, Section 78dd-2(h)(2)(A).

#### 12 THE CONSPIRACY

13 5. Beginning in or around March 2003, and continuing  
14 through in or around 2007, in the Central District of California,  
15 and elsewhere, defendant COVINO did unlawfully, willfully, and  
16 knowingly combine, conspire, confederate, and agree with others  
17 known and unknown to commit an offense against the United States,  
18 that is, being a domestic concern, to willfully make use of the  
19 mails and the means and instrumentalities of interstate commerce  
20 corruptly in furtherance of an offer, payment, promise to pay,  
21 and authorization of the payment of any offer, payment, promise  
22 to pay, and authorization of the payment of any money, offer,  
23 gift, promise to give, and authorization of the giving of  
24 anything of value to any foreign official, and to any person,  
25 while knowing that the money or thing of value will be offered,  
26 given, or promised to a foreign official, for purposes of: (i)  
27 influencing acts and decisions of such foreign official in his  
28 official capacity; (ii) inducing such foreign official to do and

1 omit to do acts in violation of the lawful duty of such official;  
2 (iii) securing an improper advantage; and (iv) inducing such  
3 foreign official to use his influence with a foreign government  
4 and instrumentalities thereof to affect and influence acts and  
5 decisions of such government and instrumentalities, in order to  
6 assist defendant COVINO, Company A, and others known and unknown  
7 in obtaining and retaining business for and with, and directing  
8 business to, Company A and others, in violation of Title 15,  
9 United States Code, Section 78dd-2(a).

10 PURPOSE OF THE CONSPIRACY

11 6. The purpose of the conspiracy was to make corrupt  
12 payments to foreign officials of state-owned enterprises in order  
13 to assist in obtaining and retaining business for and with, and  
14 directing business to, Company A.

15 THE MANNER AND MEANS OF THE CONSPIRACY

16 7. Defendant COVINO and his co-conspirators employed  
17 various manner and means to carry out the conspiracy, including  
18 but not limited to the following:

19 a. Defendant COVINO and other Company A senior  
20 executives would and did implement a sales approach which  
21 encouraged Company A salespeople to cultivate "friends-in-camp"  
22 ("FICs") at Company A's customers. Numerous FICs were employees  
23 of Company A's state-owned customers and had the authority either  
24 to award contracts or to influence the technical specifications  
25 of an order in a manner that would favor Company A. As part of  
26 the cultivation of FICs at Company A's customers, defendant  
27 COVINO and his co-conspirators often made payments to the FICs in  
28 order to assist in obtaining and retaining business. Company A

1 personnel often referred to these payments as "flowers."

2 b. Defendant COVINO and his co-conspirators would and  
3 did authorize and approve payments to FICs for the purpose of  
4 obtaining and retaining business.

5 c. Defendant COVINO and his co-conspirators would and  
6 did cause the Company A Finance Department to arrange for payment  
7 of the predetermined commission payments to the FICs either  
8 directly or through Company A's agents and salespeople. Such  
9 payment would usually occur after Company A had received payment  
10 from the customer for the parts or service Company A was  
11 providing.

12 d. Defendant COVINO would and did cause Company A  
13 employees and agents to make corrupt payments totaling  
14 approximately \$1 million to foreign officials employed at state-  
15 owned entities in order to obtain and retain business for Company  
16 A, and Company A would and did earn approximately \$5 million in  
17 profits from the contracts that it obtained as a result of these  
18 corrupt payments. The corrupt payments were made to foreign  
19 officials at state-owned entities including, but not limited to,  
20 Petrobras (Brazil), Dingzhou Power (China), Datang Power (China),  
21 China Petroleum, China Resources Power, China National Offshore  
22 Oil Company, PetroChina, Maharashtra State Electricity Board  
23 (India), KHNP (Korea), Petronas (Malaysia), Dolphin Energy (UAE),  
24 and Abu Dhabi Company for Oil Operations (UAE).

25 OVERT ACTS

26 8. In furtherance of the conspiracy and to achieve its  
27 purpose and object, defendant COVINO and his co-conspirators  
28 committed the following overt acts in the Central District of

1 California, and elsewhere, among others:

2 a. On or about March 24, 2004, defendant COVINO  
3 approved the payment of \$15,000 from Company A to an official of  
4 PetroChina, a Chinese state-owned oil and gas company, for the  
5 purpose of obtaining PetroChina's business.

6 b. On or about April 13, 2004, defendant COVINO  
7 caused Company A to wire a commission payment of \$15,000 from its  
8 bank account in California to an account at the Bank of China for  
9 the purpose of making a corrupt payment to a PetroChina official.

10 c. In or about August 2004, during an internal audit  
11 of Company A's commission payments, defendant COVINO falsely  
12 denied knowing that improper payments had been made to officials  
13 of state-owned companies and provided false and misleading  
14 responses to the internal auditors.

15 ///  
16 ///  
17 ///  
18 ///  
19 ///  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1 d. In or about August 2004, defendant COVINO deleted  
2 e-mails and instructed others to delete e-mails that referred to  
3 corrupt payments, for the purpose of obstructing the internal  
4 audit into Company A's commission payments.

5  
6 THOMAS P. O'BRIEN  
United States Attorney

7 CHRISTINE C. EWELL  
8 Assistant United States Attorney  
Chief, Criminal Division

9  
10 

11 ROBB C. ADKINS  
12 Assistant United States Attorney  
Chief, Santa Ana Office

13 DOUGLAS F. McCORMICK  
14 Assistant United States Attorney  
Deputy Chief, Santa Ana Office

15 STEVEN A. TYRRELL  
16 Chief, Fraud Section, Criminal Division  
United States Department of Justice

17  
18   
19 HANK BOND WALTHER  
Assistant Chief, Fraud Section, Criminal Division  
United States Department of Justice

20 ANDREW GENTIN  
21 Trial Attorney

22  
23  
24  
25  
26  
27  
28