

United States Courts
Southern District of Texas
FILED

JUN 19 2008

Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff,	§	CRIMINAL NO. H-07-452(s)
v.	§	
	§	Violation
ALI HOZHABRI,	§	18 U.S.C. § 371 (Conspiracy)
Defendant.	§	

CRIMINAL SUPERSEDING INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

COUNT ONE
Conspiracy
(18 U.S.C. § 371)

Introduction

1. ABB, Ltd. was a corporation headquartered and incorporated in Switzerland. ABB, Inc. was a subsidiary of ABB, Ltd. and was incorporated under the laws of the State of Delaware. One unit of ABB, Inc. did business as ABB Network Management (“ABB NM”) and had its principal place of business in Sugar Land, Texas. The primary business of ABB NM was to provide products and services to electrical utilities for network management in power generation, transmission, distribution, and consumption. Many of ABB NM’s clients were foreign governmental utilities.

2. Defendant ALI HOZHABRI (HOZHABRI) was a U.S. citizen residing in Houston, Texas. During the period relevant to this Superseding Information, defendant HOZHABRI was employed as a project manager for ABB NM.

3. During the period relevant to this Superseding Information, Co-conspirator A was ABB NM's General Manager, was one of defendant HOZHABRI's supervisors, and oversaw all of ABB NM's operations in Sugar Land, Texas.

4. ITAIPU Binacional (ITAIPU) was a joint governmental entity formed by Brazil and Paraguay that operated a hydroelectric dam. ABB NM had a contract with ITAIPU to provide a Supervisory Control and Data Acquisition/ Energy Management System ("SCADA/EMS System"), including hardware, software, and services. In general, a SCADA/EMS System provides real time process control for electric utilities for the generation and transmission of power. HOZHABRI was the project manager for ABB NM on the ITAIPU project.

5. ABB NM submitted invoices to ITAIPU periodically for work performed on the ITAIPU contract. Clause 22 of the ITAIPU contract allowed ABB NM to readjust previously submitted invoices to account for inflation according to a formula specified in the contract.

6. Abu Dhabi Company for Onshore Oil Operations (ADCO) was a division of the Abu Dhabi National Oil Company that, among other operations, engaged in

electrical power generation and transmission in the United Arab Emirates (UAE). In or around April 2000, ABB NM was assigned responsibilities on an ADCO contract, as well as several variation orders and modifications, to provide hardware, software, and services for SCADA/EMS Systems and Remote Terminal Units (RTUs) for ADCO. ABB NM received payment from ADCO for its work through ABB, Ltd.'s local subsidiary in the UAE, ABB Abu Dhabi. HOZHABRI was the project manager for ABB NM on the ADCO project.

The Conspiracy

10. From in or about October 2001, through in or about March 2004, in the Southern District of Texas, and elsewhere, defendant

ALI HOZHABRI

did knowingly and willfully conspire and agree with another person, Co-conspirator A, ABB NM's General Manager and HOZHABRI's supervisor, to commit an offense against the United States, that is to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and to transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of

executing such scheme and artifice, contrary to Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

11. It was a purpose of the conspiracy for the conspirators to surreptitiously enrich themselves by defrauding their employer, ABB NM.

Manner and Means of the Conspiracy

12. Defendant HOZHABRI and Co-conspirator A, used the following manner and means, among others, to accomplish the objects and purpose of the conspiracy:

a. The conspirators would obtain cash and checks from ABB NM, purportedly to pay for “local works,” “subcontractor fees,” “local field support,” “consulting resources,” and “commissions” for the ITAIPU project in Brazil and the ADCO project in the UAE, but would, in fact, keep the funds for their own personal benefit.

b. With respect to the ADCO project, ABB NM would obtain funds from ADCO through ABB Abu Dhabi through debit notes for work done on for the ADCO contract, variation orders, and modifications. The defendant HOZHABRI and Co-conspirator A agreed to fraudulently obtain some of the funds from two of the ADCO payments.

c. With respect to the ITAIPU project, the defendant HOZHABRI and Conspirator A agreed to fraudulently obtain funds owed to ABB NM under the readjustment clause of the ITAIPU contract. The defendant bypassed the usual invoicing process at ABB NM, created the readjustment invoices himself, and sent them to ITAIPU directly.

d. To reduce the number of individuals who would know of the incoming ITAIPU funds, defendant HOZHABRI, at the direction of Co-conspirator A, would direct ITAIPU to wire the funds requested in the readjustment invoices to a different ABB NM bank account than the usual ABB NM account to which ITAIPU funds were wired.

e. The conspirators would then create false email messages about the funds to obtain cash and checks and conceal the conspirators' personal enrichment. The conspirators in the false emails would claim that defendant HOZHABRI needed cash and checks to take with him to Brazil and the UAE for vague purposes like "local works associated with ITAIPU" or "subcontractor fees associated with the ASAB modifications for the ADCO project." Co-conspirator A would authorize the ABB NM Controller (Controller) to approve these requests and provide defendant HOZHABRI with the checks and cash.

f. To increase the credibility of the co-conspirators' requests for funds to take to Brazil, the co-conspirators' purposefully timed their false email messages to coincide with trips that defendant HOZHABRI, in fact, took to Brazil and the UAE.

g. To further the scheme, the co-conspirators would use ABB NM's manual check process rather than the normal accounts payable system to generate checks and cash for defendant HOZHABRI.

h. Defendant HOZHABRI would then divide the funds roughly equally between himself and Co-conspirator A at Co-conspirator A's direction.

Consequently, defendant HOZHABRI kept approximately \$234,357.14 of the \$468,714.28 embezzled from ABB NM.

13. In furtherance of the conspiracy and to achieve its objects and purpose, at least one of the following overt acts was committed by a conspirator in the Southern District of Texas and elsewhere:

Overt Acts

a. On or about November 26, 2001, Co-conspirator A sent an email to the Controller of ABB NM, copying defendant HOZHABRI, advising that "Ali is required, by Itaipu, to go back and adjust some Itaipu invoices (positively above

the project value) and once we receive those funds we need to pay some outside consulting resources.”

b. On or about the following dates, defendant HOZHABRI and Co-conspirator A falsely documented the purported use of the funds in emails to the ABB NM Controller as follows:

	Date	To	From	CC:	False Assertions
i.	4/10/02	Controller	Co-conspirator A	HOZHABRI	“\$30K” for “the local works and commissions associated with Itaipu”
ii.	4/15/02	Controller	HOZHABRI	Co-conspirator A	“45,800.00” to “cover subcontractor fees associated with the ASAB modifications for the ADCO project”
iii.	6/5/02	Controller	HOZHABRI	Co-conspirator A	“\$40K” for “the local works associated with ITAIPU”
iv.	7/2/02	Controller	HOZHABRI	Co-conspirator A	“\$40K” for “the local works associated with ITAIPU”
v.	9/20/02	Controller	HOZHABRI	Co-conspirator A	“\$40K” for “the local works associated with ITAIPU”
vi.	11/1/02	Controller	HOZHABRI	Co-conspirator A	“\$20,336.00” for “the local works associated with ITAIPU”

vii.	4/7/03	Controller	HOZHABRI	Co-conspirator A	"a check in the amount of US\$50,568.00 and US\$40,000.00 in cash" for "paying off the local filed [sic] support and the consultants fees associated with the last variation order"
viii.	9/11/02	Controller	HOZHABRI	Co-conspirator A	"60,000" for "the local works associated with ITAIPU"
ix.	11/9/03	Controller	HOZHABRI	Co-conspirator A	"60,000" for "the local works associated with ITAIPU."
x.	2/26/04	Controller	HOZHABRI	Co-conspirator A	"39,310.28" for "the local works associated with ITAIPU"

c. On or about the following dates, defendant HOZHABRI caused the following funds to be paid from ABB NM's office in Sugar Land, Texas, in the Southern District of Texas, all of which were retained by defendant HOZHABRI and Co-conspirator A:

	Date	Cash	Checks	Purported Purpose Listed on Manual Check Request Form	Receiver of the Funds
i.	4/11/02	\$30,000	none	"Commissions ITAIPU"	HOZHABRI
ii.	4/16/02	\$48,500	none	"Commissions for ADCO"	HOZHABRI
iii.	6/7/02	\$40,000	none	"ITAIPU Expenses"	HOZHABRI
iv.	7/8/02	\$40,000	none	"subcontractors Itaipu"	HOZHABRI
v.	9/23/02	\$40,000	none	"Commission on Itaipu"	HOZHABRI
vi.	11/4/02	\$20,336	none	"Commission for ITAIPU (last payment)"	HOZHABRI

vii.	4/8/03	\$40,000	\$50,568	"ADCO expenses"	HOZHABRI
viii.	9/12/03	\$30,000	\$30,000	"ITAIPU expenses"	HOZHABRI
ix.	11/10/03	none	\$60,000	"ITAIPU field services"	HOZHABRI
x.	2/27/04	none	\$39,310	"ITAIPU expenses"	HOZHABRI

FORFEITURE ALLEGATION
(18 U.S.C. § 982(a)(1)(C) and 28 U.S.C. § 2461)

3. Pursuant to Title 18, United States Code, Section 982 and Title 28, United States Code, Section 2461, upon conviction of the defendant HOZHABRI for the offense charged in Count One of this Superseding Information, the defendant shall forfeit to the United States any property, real or personal, which are proceeds of the conspiracy and all property traceable to such property, including but not limited to the following:

a. A sum of money equal to \$468,714.28 in United States currency, in that such sum in aggregate is property which was involved in the offense charged in Count One or is traceable to such property, for which the defendant is jointly and severally liable.

Substitute Assets Provision

4. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (i) cannot be located upon the exercise of due diligence;
- (ii) has been transferred or sold to, or deposited with, a third party;
- (iii) has been placed beyond the jurisdiction of the court;
- (iv) has been substantially diminished in value; or

(v) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above, including but not limited to the following:

(i) Any and all right, title, and interest in the funds (in the approximate amount of \$199,878.28 taken into custody from defendant HOZHABRI by the Federal Bureau of Investigation on February 12, 2008.

(ii) Any and all right, title, and interest in the funds located in Washington Mutual Bank Account No. 394-013218-1;

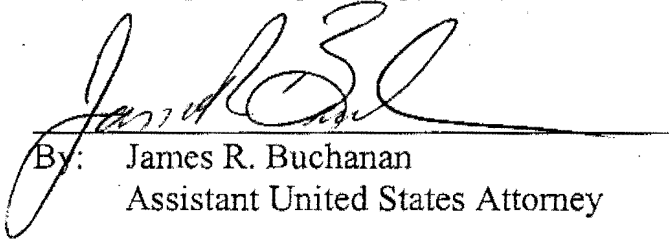
(iii) Any and all right, title, and interest in the funds located in Washington Mutual Bank Account No. 696-019317-5; and

(iv) Any and all right, title, and interest in the funds escheated to the state from any monetary instrument issued by Washington Mutual Bank from Account No. 394-013218-1 or Washington Mutual Bank Account No. 696-019317-5.

(v) Any and all right, title, and interest in the funds located in TD Waterhouse Account No. 432-39360-1-5.

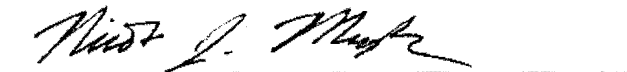
(v) Any and all right, title, and interest in the funds located in
Janus Account 202113925; and
All in violation of Title 18, United States Code, Section 982(a)(1)(C) and Title 28,
United States Code, Section 2461.

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