

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)
)
 v.) **No. 1:07-CR-00253-RJL**
)
 YORK INTERNATIONAL)
 CORPORATION,)
)
 Defendant.)
 _____)

**GOVERNMENT’S DISMISSAL
OF CRIMINAL INFORMATION**

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of Court endorsed hereon, the United States of America, by and through undersigned counsel, hereby dismisses the criminal information filed in the above-captioned case against the defendant, York International Corporation (“York”). As grounds therefore, the government states as follows:

1. On or about October 1, 2007, the United States filed a criminal information charging York with: (a) conspiring to commit wire fraud and to violate the books and records provisions of the Foreign Corrupt Practices Act (“FCPA”), in violation of Title 18, United States Code, Section 371 (Count One); (b) wire fraud, in violation of Title 18, United States Code, Section 1343 (Count Two); and (c) violating the books and records provisions of the FCPA, in violation of Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5), and 78ff(a) (Count Three). Dkt. Entry No. 1.

2. On the same date, the United States and York entered into a three-year deferred prosecution agreement (“DPA”), which was filed with the Court on October 15, 2007. Dkt. Entry No. 5. The DPA required, among other things, that York acknowledge responsibility for the actions of two of its subsidiaries, whose employees and agents (a) paid kickbacks to the Iraqi

government in order to obtain contracts with Iraqi ministries, and (b) paid kickbacks and bribes in connection with other government contract work in Bahrain, Egypt, India, Turkey, and the United Arab Emirates. *Id.* at 4, 45-55. As part of the DPA, York also agreed to pay a \$10 million penalty, continue to cooperate with the United States, and have its compliance program and procedures reviewed by an independent monitor during the three-year term of the DPA. *Id.* at 4-22.

3. York paid the \$10 million penalty on or about October 11, 2007. York also met fully its obligation of cooperating with the United States.

4. With regard to having its compliance program reviewed by an independent monitor, on February 28, 2008, York retained an independent monitor and compliance consultant (“Monitor”) for a period of three years. On July 18, 2008, the Monitor issued his initial report, that is, Phase One Report, setting forth the results of his initial review and making recommendations as to how the compliance policies and procedures of Johnson Controls, Inc. (“Johnson Controls”), which had acquired York, as applied to legacy York operations, might be improved to ensure compliance with the FCPA and other applicable anti-corruption laws. On October 8, 2009, the Monitor issued his second report, that is, Phase Two Report, which assessed the design and implementation of the compliance policies and procedures that Johnson Controls adopted in response to the Monitor’s Phase One recommendations. On September 20, 2010, the Monitor completed his third report, that is, Phase Three Report, which evaluated Johnson Controls’ progress in implementing the Monitor’s recommendations in Phase One and Phase Two, assessed the effectiveness of that implementation, and determined whether Johnson Controls’ compliance policies and procedures, as applied to legacy York operations, were appropriately designed and implemented to ensure sustained compliance with the FCPA and other applicable anti-corruption laws.

5. In the Phase Three Report, the Monitor concluded that since the issuance of the Phase Two Report, Johnson Controls “has made significant improvements in its compliance policies and procedures and has taken steps to ensure the sustainability of its compliance program.” The Monitor identified a number of these steps, including: (a) the design and implementation of a compliance monitoring and testing program; (b) enhanced training for finance and sales personnel and other employees in compliance-sensitive functions; (c) increased compliance staffing and the creation of a compliance management team, a compliance council, and regional compliance councils, with centralized oversight and responsibility for monitoring the legacy York compliance program; (d) the adoption of a standard compliance investigation protocol and related disciplinary guidelines; (e) implementation of comprehensive policies for vetting third-party business partners and high-risk vendors; and (f) continued reinforcement of a strong and clear compliance message from management.

6. The Monitor certified, in accordance with the requirements of the DPA, that the anti-bribery compliance program of Johnson Controls, as applied to the legacy York operations, “is appropriately designed and implemented to ensure compliance with the FCPA and other applicable anti-corruption laws.”

7. Pursuant to the DPA, if York fully complied with all of its obligations under the DPA, including its obligations to adopt the recommendations of the Monitor, the United States would not continue the criminal prosecution against York and would move to dismiss the criminal information. Dkt. Entry No. 5 at 18.

8. Given that York has paid a \$10 million penalty, fully cooperated with the United States, met its obligations regarding improving its compliance policies and procedures to ensure compliance with the FCPA and other applicable anti-corruption laws, as certified by the Monitor,

and has not otherwise breached the DPA, the United States believes that dismissal is appropriate under the circumstances and pursuant to the agreement of the United States and York contained in the Deferred Prosecution Agreement.

WHEREFORE, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of Court endorsed hereon, the United States hereby dismisses the criminal information filed in the instant case.

Respectfully submitted,

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CHIEF, FRAUD SECTION
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DATED: October 1, 2010
Washington, D.C.

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Leave of Court is granted for the filing of the foregoing Dismissal.

DATE: October ____, 2010

RICHARD J. LEON
UNITED STATES DISTRICT COURT

cc: United States Marshals Service
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