

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	Criminal No. 1:07CR209
	)	
v.	)	Sentencing: November 13, 2009
	)	Time: 2:30 p.m.
WILLIAM J. JEFFERSON,	)	Courtroom 900
	)	
Defendant.	)	The Honorable T.S. Ellis, III

**GOVERNMENT’S RESPONSE TO THE  
DEFENDANT’S SENTENCING MEMORANDUM**

The United States of America, by and through its undersigned counsel, respectfully responds to the defendant’s sentencing memorandum. The defendant argues that the Sentencing Guidelines range as calculated by the United States Probation Office would be unprecedented, while deliberately ignoring that *his own corrupt conduct is equally unprecedented*. The evidence at trial showed that the defendant conspired with numerous business people over many years and through various schemes to perform official acts in exchange for cash, stock, and other equity interests through which the defendant and his family stood to gain *more than a half a billion dollars*. By mis-characterizing the evidence and making false comparisons to dissimilar sentences for other convicted Members of Congress, the defendant invites this Court to ignore the facts of this case and to impose a sentence that does not reflect the breadth and seriousness of the offenses for which the defendant now stands convicted. The Court should decline this invitation and impose a sentence within the Sentencing Guidelines range, which is entirely consistent with the factors contained in 18 U.S.C. § 3553(a)(2).

Indeed, the defendant goes so far as to point to the sentences of Vernon Jackson and Brett Pfeffer as justifying his request for a sentence of less than 100 months. Def. Mem. at 31. As an

initial matter, Jackson and Pfeffer immediately accepted responsibility and pleaded guilty early on in the investigation. Even more importantly, Jackson and Pfeffer were involved in only a fraction of the criminal conduct for which the defendant now stands convicted. Not to mention, in his rush to compare himself to Jackson and Pfeffer, the defendant ignores another telling fact: the Court imposed sentences upon both Jackson and Pfeffer that were *within the Sentencing Guidelines range* in accordance with the 2005 Guidelines Manual. Said differently, the defendant believes that the Sentencing Guidelines are reasonable for two co-conspirator defendants who (1) immediately accepted responsibility and pleaded guilty, (2) were convicted of far less criminal conduct than the defendant, and (3) were not high-ranking public officials. But Congressman Jefferson does not believe that those same Sentencing Guidelines are reasonable when applied to a defendant who (1) has never accepted responsibility, (2) was convicted of no fewer than eleven bribe schemes involving more than a half billion dollars, and (3) was one of the most powerful public officials in our country. In short, Congressman Jefferson is asking for special treatment -- again. The Court should reject this request. Instead, the Court should treat the defendant just as it did his co-conspirator defendants by sentencing him within the applicable Sentencing Guidelines range and in accordance with the Guidelines Manual in place at the time of sentencing and, in doing so, assure the public that all persons, even those from the Nation's highest corridors of power, stand equal before the law.

### **DISCUSSION**

The defendant's sentencing memorandum paints a portrait of a man with an intellect, talent, and ability only few people are blessed enough to possess. From humble beginnings, the defendant describes how he entered "the nation's finest educational institutions and its highest

corridors of power.” *Id.* at 2. Such achievements would be commendable had the defendant not later sought to sell the high public office he had attained in exchange for a handsome payday for himself and his family. Somewhere along the way, the defendant betrayed the public trust in pursuit of his own greed. Indeed, the vast majority of the defendant’s sentencing memorandum merely underscores the fact that the defendant comes before the Court having had many advantages in his life through his own hard work and ability -- power, access, connections, and a first-class education -- yet he still chose to cheat, steal, and lie. Accordingly, nothing in the defendant’s personal story has the type of mitigating impact suggested by the defendant.

In fact, certain portions of his recitation of his background and character are hypocritical in light of the evidence admitted during trial and in light of the jury’s verdict. *See, e.g.*, Def. Mem. at 4 (“first glimpse and first impressions of sacrificial public service,” being “inspired to serve others”), 5 (“We did not want to see the girls saddled with college debt, so as to limit their chances to pursue careers in public service if they desired.”), 10 (“Mr. Jefferson’s passion on the subject of Africa”). Other character references in the sentencing memorandum ring hollow as well, such as those from Stephanie Butler, who formed some of the shell companies that were used during the bribe schemes and who apparently forged the defendant’s accountant’s signature on some of the formation documents, and Norbert Simmons, who profited handsomely from a bridge loan to iGate care of the defendant and then funneled money to the defendant’s daughters to help them buy their homes.

In terms of the defendant’s characterization of the evidence at trial, the defendant’s version is repeatedly self-serving and factually inaccurate, and it minimizes his role and involvement in the many corrupt schemes he organized and led. Def. Mem. at 15-22.

Identifying each and every inaccuracy and misstatement is not warranted as the Court heard and saw the evidence during the lengthy trial. Nevertheless, citing some examples of the defendant's misstatements reinforces the fact that Congressman Jefferson has still not accepted responsibility for his own criminal conduct. As an initial matter, the defendant tries to minimize the number of schemes and the number of co-conspirators claiming that "[f]or the most part, this case was about iGate." Def. Mem. at 16. One need look no further than Count 16 to recognize that there were twelve different predicate racketeering acts charged, only two of which involved bribes from iGate, and the jury found that the government had proven eight of those other racketeering acts beyond a reasonable doubt. Dkt. Entry No. 549.

The defendant also claims that the government's evidence at trial showed merely "some contacts with U.S. government agencies" and that he never asked for any "special" treatment. Def. Mem. at 16-17. In light of the overwhelming evidence admitted at trial, the defendant's representations in his sentencing memorandum are audacious. Time after time, inquiries from the defendant or meetings arranged by his staff resulted in the attention and participation of high-ranking officials from government departments and agencies. Indeed, the defendant had high-ranking military officers come to his congressional office to talk about iGate, one of whom traveled from New Jersey with a specially-made PowerPoint presentation to answer the defendant's questions.

Incredibly, the defendant makes a similar claim with regard to his interactions with the U.S. Trade and Development Agency (USTDA), claiming that "no agency representative testified that Mr. Jefferson made demands or did anything more than gather information or inquire into the status of pending requests." Def. Mem. at 20. This statement ignores the testimony of

Thomas Hardy, who testified that he was called up to Capitol Hill to meet with Congressman Jefferson about the USTDA's feasibility study grant and explain what was taking so long. Congressman Jefferson did not need to do much talking, because the way the defendant had arranged for the meeting it was Hardy who had the explaining to do. Indeed, Hardy testified that but for the defendant's involvement, the agency most likely would not have re-issued the feasibility grant. That is the power that a Member of Congress can have, and it illustrates perfectly the impact corruption can have on our government.

The defendant's repeated mis-characterizations, omissions, and incessant minimization of his corrupt intent and integral role in these corrupt schemes serves to highlight that the defendant has still not accepted responsibility and still rationalizes his own unethical, illegal, and immoral conduct.

**I. There Are No *Ex Post Facto* Considerations in This Case**

U.S.S.G. §1B1.11(a) provides that the "court shall use the Guidelines Manual in effect on the date of sentencing." However, the *ex post facto* Clause of the Constitution precludes application of a sentencing guidelines amendment unfavorable to the defendant between the date of the offense conduct and sentencing. *See United States v. Morrow*, 925 F.2d 779, 782-83 (4th Cir. 1991).<sup>1</sup> In this case, use of the Sentencing Guidelines in place at the time of sentencing would not implicate any *ex post facto* concerns because each count on which Congressman Jefferson was convicted included conduct that occurred after the November 1, 2004

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<sup>1</sup> "The Clause seeks to ensure 'that legislative Acts give fair warning of their effect and permit individuals to rely on their meaning until explicitly changed[.]'" *United States v. Lewis*, 235 F.3d 215, 218 (4th Cir. 2000) (quoting *Weaver v. Graham*, 450 U.S. 24, 28 (1981)).

amendments.<sup>2</sup> The Sentencing Guidelines relevant to this case have not changed between the time of the conduct (2005) and the guidelines in place at the time of sentencing.<sup>3</sup> This fact alone renders Congressman Jefferson's *ex post facto* claims without merit.

Count 1 of the Indictment addresses Congressman Jefferson's bribe solicitations of iGate, NDTV, the companies controlled by Lori Mody (W2-IBBS (Nigeria) and IBBS (Ghana)), and the defendant's bribe agreement with the Vice President of Nigeria. At trial, the government played over 100 clips of recordings and admitted a multitude of exhibits involving the defendant's corrupt acts that took place between March and August 2005.

In addition, Count 2, upon which the defendant places the most emphasis for making his *ex post facto* claims, charges, among other things, that:

141. Beginning in or about *August 2000 through in or about March 2005*, within the Eastern District of Virginia and elsewhere, the defendant, WILLIAM J. JEFFERSON, did knowingly combine, conspire, confederate, and agree, together with others, known and unknown to the grand jury, to commit the following offenses against the United States . . . .

Indictment ¶ 141 (emphasis added). At trial, the government proved that conduct in furtherance of the conspiracy in Count 2 occurred during the time frame charged in paragraph 141 of the Indictment, including acts that were committed well after November 1, 2004.

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<sup>2</sup> The jury returned guilty verdicts on the following counts with the last date of charged conduct designated in parentheses: Count 1, Ind. ¶40 (August 2005); Count 2, Ind. ¶141 (March 2005); Counts 3 and 4, Ind. ¶¶ 207, 209 (August 2005); Count 6, Ind. ¶212 (May 2005); Count 7, Ind. ¶212 (June 2005); Count 10, Ind. ¶212 (July 2005); Count 12, Ind. ¶216 (June 2005); Count 13, Ind. ¶216 (June 2005); Count 14, Ind. ¶216 (July 2005); and Count 16, Ind. ¶222 (August 2005).

<sup>3</sup> As is discussed in more detail *infra*, two of Congressman Jefferson's co-conspirators, Brett Pfeffer and Vernon Jackson, were sentenced using the 2005 Guidelines Manual. Each received a sentence of imprisonment within the guidelines range.

Specifically, the government proved that the bribe scheme involving John Melton's (TDC's) agreement to pay the bribes solicited by Congressman Jefferson in return for his performance of official acts to promote various projects, including a fertilizer plant and marginal oil fields in Nigeria, involved conduct that carried into 2005. With regard to the fertilizer complex, the USTDA did not terminate the grant that Congressman Jefferson assisted TDC in acquiring until March 2005. *See* February 8, 2005 letters from USTDA to John Melton and Andy Inyang, Akwa Ibom Investment and Industrial Promotion Council, attached hereto as Exhibit A. Further, David Gibbs testified at trial that he had written a letter to John Melton on July 25, 2005 indicating his resignation from his position with TDC.<sup>4</sup> *See* Gov. Exh. 6-84. At trial, Gibbs testified that he considered this letter a means of withdrawing from this matter altogether.

In addition, the defendant's scheme to solicit bribes from Arkel Sugar and Arkel International in return for his official efforts to further Arkel's interest in obtaining a \$150 million sugar plant construction contract in Jigawa State Nigeria continued through at least December 2004. As was established by the testimony of Deborah Haggard of Arkel Sugar, in late 2004, the governor of Jigawa State expressed renewed interest in the project. An additional payment was made from Jigawa State to Arkel on December 22, 2004. While Mose Jefferson was not paid a percentage of that check, Haggard testified that the Jigawa Sugar project was not

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<sup>4</sup> Mr. Gibbs is a petroleum engineer by profession. He testified that John Melton and Ramon Jarrell frequently consulted him about the value of the marginal oil fields available for bidding at the time in Nigeria. Gibbs testified that he provided advice to Melton and Jarrell about which of the oil fields offered in Nigeria held the most promise and what would be a fiscally workable payment plan for Mose Jefferson. Gibbs acknowledged on the witness stand his understanding that the payments to Mose Jefferson were in return for the assistance of his brother, Congressman Jefferson.

closed until after December 2004. The wire transfer record dated December 22, 2004 is attached hereto as Exhibit B. Finally, Congressman Jefferson's use of his office to promote the sale of a waste recycling system called the "Biosphere" included conduct that occurred through at least December 2004. By email dated December 7, 2004, co-conspirator Noreen Wilson asked Dr. McCormack of Life Energy & Technology Holdings, Inc. about contacts Congressman Jefferson was expected to make to governors located in Nigeria. The email is attached hereto as Exhibit C.

Not surprisingly, the defendant only recites the dates of overt acts contained in Count 2 for purposes of his *ex post facto* claim. Def. Mem. at 29. However, it is well-settled that when an indictment charges overt acts taken in furtherance of a conspiracy, the government is not confined to proving only those overt acts specifically alleged. *United States v. Vega Figueroa*, 234 F.3d 744 (1st Cir. 2000); *United States v. Prescott*, 33 F.3d 922 (8th Cir. 1994) *United States v. Fisher*, 3 F.3d 456 (1st Cir. 1993.). The government is free to prove "uncharged" overt acts at trial and is not required to charge or make reference in the indictment to every overt act for which it may have evidence. *United States v. Prevatte*, 16 F.3d 767 (7th Cir. 1994); *United States v. Atisha*, 804 F.2d 920 (6th Cir. 1986). As discussed above, the government did not confine itself to proving only the overt acts alleged in the Indictment and proved that the various schemes charged included conduct that occurred after November 2004. Since all of the counts in the Indictment for which Congressman Jefferson was convicted involved conduct that continued after the November 2004 guidelines amendments, Congressman Jefferson's *ex post facto* claims fail.

Even if Count 2 involved criminal conduct that did not continue past the November 2004 effective date of the guidelines amendment, the *ex post facto* clause would not bar use of the later

Sentencing Guidelines Manual at sentencing because all of the remaining counts in the Indictment involved conduct that occurred past the November 2004 amendment. As the government noted in its Sentencing Memorandum, the “one book rule” would dictate that the later Manual should be used by the Court. *See* Gov. Mem. at 9. “If a defendant is convicted of two offenses occurring both before and after a revised version of Guidelines became effective, § 1B1.11(b)(3) provides that the revised version of the Guidelines is to be applied to both offenses.” *United States v. Duane*, 533 F.3d 441, 447 (6th Cir. 2008). *See also United States v. Foote*, 413 F.3d 1240, 1249, n.5 (10th Cir. 2005); *United States v. Anderson*, 570 F.3d 1025, 1033-34 (8th Cir. 2009); *United States v. Lewis*, 235 F.3d 215, 218 (4th Cir. 2000). For the same reasons discussed above, application of the enhancement contained in U.S.S.G. § 2C1.1(b)(4) (facilitating entry into the United States by a public official) would not violate the *ex post facto* Clause.

## **II. The Court Should Apply a Two-Point Enhancement for Facilitating Entry into the United States**

In order to avoid the consequences for facilitating the entry of foreign nationals into the United States as part of the various bribe schemes, the defendant claims that a two-level enhancement under U.S.S.G. § 2C1.1(b)(4) does not apply because that provision was merely meant to combat terrorism. Def. Mem at 25. But the enhancement is located in a section of the guidelines that applies to public corruption (Part C) and not those sections applicable to Immigration or Naturalization (Part L) or National Defense, Treason, Sabotage, or Espionage (Part M). Moreover, neither the wording of the enhancement contained in U.S.S.G. § 2C1.1(b)(4) itself nor the relevant Commentary or Application Notes contain any limitation on

the use of this enhancement to terrorism related offenses.<sup>5</sup> The defendant cites to the “Reason for Amendment” section available only at the time the enhancement was added to make the argument that this is a “national security measure” that should only apply to a public official responsible for the security of the borders. Def. Mem. at 25. But the plain language of Section 2C1.1(b)(4) has no such limitation.

Furthermore, the Reason for Amendment provides, in pertinent part, that the specific offense characteristic applies when “the offender is a public official whose position involves . . . the integrity of the process for generating documents related to . . . legal entry . . . or other government identification documents.” U.S.S.G. §2C1.1, comment. (backg’d.). The defendant wrote several letters trying to facilitate the entry into the United States of persons affiliated with bribe-paying companies. His actions impacted the integrity of the process for generating visas in that he vouched for such persons and sought expedited treatment in his capacity as a Member of the United States House of Representatives. As a result, the Probation Officer properly assessed a two-level enhancement to the defendant’s guidelines calculations pursuant to Section 2C1.1(b)(4).

### **III. Application of a Guidelines Sentence for the Defendant Would Not Result in Unwarranted Sentencing Disparities**

Congressman Jefferson dedicates much of his Sentencing Memorandum to comparing the guidelines sentencing range calculated by the Probation Officer in his case to the sentences

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<sup>5</sup> The specific offense characteristic is satisfied if the defendant “facilitated” a person’s entry into the United States or that person’s obtaining a document relating to legal entry. *Id.* The word “facilitate” means to “make easier or less difficult; free more or less completely from obstruction from obstruction or hindrance.” Black’s Law Dictionary 531 (5th ed. 1979). Clearly, Congressman Jefferson’s letters facilitated those persons’ entry into the United States.

received by other Members of Congress who have been convicted of various crimes, some of which are unrelated to bribery. Def. Mem. at 31-39. Although the defendant's purpose in making these comparisons is to seek a sentence far less than the sentencing range generated by applying the Sentencing Guidelines, these comparisons, in fact, have the opposite effect. In other words, these comparisons provide the sharp relief between the gravity, breadth, and pervasiveness of the defendant's criminal conduct and that of other Members of Congress previously convicted for corruption.

Put simply, the conduct in those cases that do involve bribery simply pale in comparison to conduct for which the defendant stands convicted.<sup>6</sup> In the instant case, the jury found beyond a reasonable doubt that the defendant converted his congressional office into a criminal racketeering enterprise in which he repeatedly sold his office to business people willing to pay cash, stock, and equity interests through which the defendant and his family stood to gain more than \$500 million. Even the most egregious of the cases cited by the defendant do not involve the potential for payoffs of hundreds of millions of dollars. Moreover, none of these other cases involved another Member of Congress conspiring to bribe a high-ranking government official of a foreign country; the defendant stands alone in history with that dubious distinction.

Two of the more recent convictions underscore the fact that when it comes to corruption Congressman Jefferson is in a league all his own. First, even though former Congressman James Traficant's conviction was for conduct such as demanding thousands (not tens of thousands or millions) of dollars, seeking kickbacks from staffers and having his staffers "bale hay, repair

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<sup>6</sup> Several of the other examples cited by Congressman Jefferson simply did not involve any bribery charges at all and thus no similarities can be drawn justifying a similar sentence. *See* Def. Mem. at 35, 38. (*e.g.*, Representatives Kim and Swindall, and Senator Stevens).

plumbing, and reinforce barns at his show-horse farm,” he still received an 8-year sentence.

*United States v. Traficant*, 368 F.3d 646, 649 (6th Cir. 2004). Although this corrupt conduct was illegal and merited punishment, the conduct for which the defendant now stands convicted -- involving multiple bribe schemes worth hundreds of millions of dollars -- clearly merits a sentence far in excess of that imposed on Traficant.

Second, Congressman Randall “Duke” Cunningham’s sentence also demonstrates that the defendant’s conduct in the instant case merits a much more significant sentence. Unlike the defendant here, Cunningham pleaded guilty to an information before he was even indicted. Moreover, Cunningham’s guilty plea capped his maximum statutory exposure to ten years. Furthermore, Cunningham cooperated with the government and was the beneficiary of a government motion pursuant to U.S.S.G. § 5K1.1 for his substantial assistance. *United States v. Cunningham*, Criminal No. 3:05cr2137-LAB, Dkt. Entry No. 29. None of these sentencing aspects are present here. Indeed, even though Cunningham may have received more actual cash bribes and other benefits, even the total amount of bribes received by Cunningham pales in comparison to the potential illicit proceeds the defendant and his family stood to receive via stock and other equity interests from the bribe schemes for which he was convicted.<sup>7</sup> Again, even when compared to Cunningham, Congressman Jefferson is truly in his own league of corrupt officials – and sentencing the defendant within the Sentencing Guideline range will reflect as much.

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<sup>7</sup> The defendant also makes much of the brazen nature of Cunningham’s conduct, which included a “coded bribery price list.” Def. Mem. at 16 n.4. But the defendant forgets that the government’s evidence in this case also included a bribe menu seized from the defendant’s Washington, D.C., residence in which he delineated the various things of value he expected in exchange for assisting Netlink Digital Television. *See* Gov. Ex. 20-8.

Referring to the sentences handed down for co-conspirators Brett Pfeffer and Vernon Jackson, Congressman Jefferson also asks this Court to “consider the sentences that have been imposed in this case, for convictions arising out of the same set of facts and circumstances.” Def. Mem. at 39. The government joins the defendant in that request. For both Pfeffer and Jackson, the Court applied the 2005 Guidelines Manual in calculating their sentencing ranges, which, after a 3-level reduction for acceptance of responsibility, came to a level 29 (87 to 108 months). Applying the same Guidelines Manual to Congressman Jefferson would necessarily take into account the vast differences between the conduct of Congressman Jefferson and that of the co-conspirators he directed, namely:

- (1) a two-level enhancement accounting for Congressman Jefferson’s status as a public official (U.S.S.G. § 2C1.1(a));
- (2) a two-level enhancement for his facilitation of persons’ entry into the U.S. (U.S.S.G. § 2C1.1(b)(4));
- (3) a four-level increase for his status as a leader and organizer of criminal activity (U.S.S.G. § 3B1.1);
- (4) a one-level enhancement to account for his §1957 money laundering conviction (U.S.S.G. § 2S1.1(b)(2)(A)); and
- (5) no three-level reduction because of his failure to accept responsibility (U.S.S.G. § 3E1.1).

Accordingly, were the Court to apply the same 2005 Guidelines Manual that was used to calculate sentences for Pfeffer and Jackson, Congressman Jefferson’s total offense level would be 41, resulting in a guideline range of 324 to 405 months of imprisonment. Like those guidelines, the 2008 Guidelines Manual that the Probation Office has correctly used to calculate the defendant’s applicable guidelines range properly accounts for Congressman Jefferson’s



/s/

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# EXHIBIT “A”



U . S . T R A D E A N D D E V E L O P M E N T A G E N C Y

February 8, 2005

Mr. John Melton  
President  
TDC Overseas Limited, LLC  
650 Poydras Street  
New Orleans, Louisiana 70130

Via Facsimile: (504) 262-0652

RE: Nigeria: Akwa Ibom State Fertilizer Complex  
USTDA No. 2002-10061B

Dear Mr. Melton:

On July 31, 2004, USTDA sent a letter expressing our concern for the lack of resolution to the issues concerning the terms and conditions of the contract between yourself and TDC Overseas Limited LLC (TDC). At the conclusion of the letter USTDA stated that if a resolution has not been reached in a reasonable time, then USTDA must move to terminate the grant agreement. To date, USTDA has not received a finalized and signed contract amendment between Akwa Ibom Investment and Industrial Promotion Council and TDC for our review. USTDA is closing out the Grant Agreement between the Akwa Ibom Investment and Industrial Promotion Council ("Grantee") and USTDA, dated August 21, 2002 for the Project.

USTDA has provided the Grantee with notice that the availability of funds pursuant to this Grant Agreement will be terminated, effective March 8, 2005. With the termination of this Grant Agreement, USTDA also releases TDC from the Success Fee and Cost Share Agreement signed September 8, 2003. If you have any questions, please do not hesitate to contact us. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Leocadia I. Zak".

Leocadia I. Zak  
General Counsel

CC: Mr. Andy M. Inyang, Director-General and CEO, Akwa Ibom Investment and Industrial Promotion Council, Via Fax: +234-85-203-410

**TDA 00468**



U . S . T R A D E A N D D E V E L O P M E N T A G E N C Y

February 8, 2005

Mr. Andy M. Inyang  
Director-General and CEO  
Akwa Ibom Investment and Industrial Promotion Council  
Plot 3, Unit D  
P.M.B. 1208  
Uyo, Akwa Ibom State

Via Facsimile: 234-85-203-410

Subject: Termination Notice – Nigeria: Akwa Ibom State Fertilizer Complex  
USTDA No. 2002-10061B

Dear Mr. Inyang:

On July 31, 2004, USTDA sent a letter expressing our concern for the lack of resolution of the issues concerning the terms and conditions of the contract between yourself and TDC Overseas Limited LLC (TDC). At the conclusion of the letter USTDA stated that if a resolution has not been reached in a reasonable time, then USTDA must move to terminate the grant agreement. To date, USTDA has not received a finalized and signed contract amendment between Akwa Ibom Investment and Industrial Promotion Council and TDC. USTDA believes more than adequate time has passed, therefore I am writing this letter to notify you that USTDA is terminating the Grant Agreement between Akwa Ibom Investment and Industrial Promotion Council (AIIPC) and the Government of the United States, acting through the U.S. Trade and Development Agency dated August 21, 2002 (the "Grant Agreement").

Pursuant to Clause 18 of the Grant Agreement, the terminating party must give the other party thirty days written notice prior to termination. Therefore, the effective date of the termination will be March 8, 2005. At that time, the funds for the Project will be de-obligated and will no longer be available for the Project.

If you have questions concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Leocadia I. Zak".

Leocadia I. Zak  
General Counsel

**TDA 00467**

# EXHIBIT “B”

HIBERNIA NA BANK

FUNDS TRANSFER NOTIFICATION

12-22-200

INCOMING FUNDS TRANSFER

DATE: 2004-12-22

*Signature*  
*114,000.00*

AR KEL SUGAR INC  
P O BOX 4621

BATON ROUGE , LA 70821-4621

*1167-01*

To: AR KEL SUGAR INC

Your Hibernia Bank Account Number [REDACTED] 431 has been credited  
on 2004-12-22, for an Incoming Wire Transfer as follows.

Beneficiary: AR KEL SUGAR INC  
Beneficiary Account: [REDACTED] 7431  
Amount: \$113400.00  
Fee: \$10.00

Sender Information:

By Order Of: CARLA LTANYA BOBO  
Sender Bank: BRANCH BKG WILSON  
Sender ABA #: [REDACTED] 1121  
Intermediary Bank:  
Beneficiary Bank:  
Beneficiary Bank ABA:  
Senders Reference #: [REDACTED] 4589  
Fed Reference #: [REDACTED] 5FT01

Additional Information (if applicable):

Reference:  
Org to Bnf Information:

Bank to Bank Info:

AS 01666

550

ARKSUG01662

# EXHIBIT “C”

**Noreen Wilson**

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**From:** Dr CA McCormack [drca@eircom.net]  
**Sent:** Tuesday, December 07, 2004 4:08 AM  
**To:** Noreen Wilson  
**Subject:** FW:



LETTER TO THE  
RESIDENT OF EQU.

Am I sending this from here ...I though that Jeff was sending them?

-----Original Message-----

**From:** noreen@gdadvisors.com [mailto:noreen@gdadvisors.com]  
**Sent:** 07 December 2004 02:25  
**To:** drca@eircom.net  
**Subject:**

I thought this had gone out this morning.

send the letter of invitation to Phillip Jones and then do one to  
Congressman Jefferson and ask him if he wants to ask the governor of Kano  
state and the governor and SLOK of Nigeria

Noreen

NW 00066