

The evidence would show that Ruston was in business of manufacture and sales of turbine compression equipment. The compression systems sought to be acquired by Pemex consisted primarily of turbines and process equipment. Ruston manufactured turbines but not process equipment. CEI manufactured neither process equipment nor turbines.

The evidence would show that C.E. Miller Corporation (hereinafter "CEMCO"), a California corporation, was in the business of designing and fabricating compression systems for the petroleum industry. During the mid 1970's, CEMCO had performed process fabrication subcontract work for Solar on sales of its turbine compression equipment to Pemex, and beginning in July 1977, performed process fabrication subcontract work for CEI on sales to Pemex.

The evidence would show that in late June 1977 the president of CEI, Donald G. Crawford, (hereinafter "Crawford") and CEI had agreed and promised, through Mario Gonzalez, the brother-in-law of Nacho DeLeon, to pay Jesse Chavarria and Nacho DeLeon, officials of Pemex in charge of production and purchasing, five percent (5%) of the purchase order value of any compression equipment contracts awarded by Pemex in which CEI was involved. At that time Crawford coined a code word, "folks", to conceal the identities of these Pemex officials. Crawford announced to various CEI employees that henceforth Chavarria and DeLeon, the Pemex officials, would be referred to as the "folks".

During the fall of 1977, Crawford established a relationship with Ricardo Garcia Beltran who established Grupo Industrial

Delta, S.A. (hereinafter "Grupo Delta"). Grupo Delta was to hold itself out as CEI's sales representative in Mexico while actually acting as the conduit for the bribe payments to the "folks", Chavarria and DeLeon.

In 1977 and 1978, Al Lee Eyster (hereinafter "Eyster") was the president and James R. Smith (hereinafter "Smith") was the vice president of Ruston. In October, 1977, Eyster and Smith were initially contacted by Crawford and Gary D. Bateman of CEI regarding the possibility of CEI and Ruston working together to sell turbine compression systems to Pemex.

In various conversations and meetings during October, November, and December, 1977 between Ruston officers Eyster and Smith and CEI officers, it was agreed that Ruston would participate in and assist CEI in an initial bid of turbine compression systems and on future turbine compression system sales to Pemex. Ruston would provide the turbine equipment and would utilize CEMCO as the process fabrication subcontractor on bids made to Pemex. CEI would forward to Ruston the CEMCO bids for the process fabrication as part of a bottom line figure which included prices set by Ruston for its turbine equipment. This procedure was followed in connection with Ruston's next bid to Pemex.

In various conversations and meetings during October, November and December 1977, Ruston officers Eyster and Smith were informed (and believed and expected) that

- (1) the price of the CEI designated process equipment included an amount equal to approximately 5% of the

combined compression system bid price which was to be paid to the "folks";

(2) the "folks" were Chavarria and DeLeon;

(3) the price of the process equipment also included an amount to be paid to Grupo Delta to be split by Ricardo Beltran, Mario Gonzalez and Andrea Garcia and an amount for Crawford and Bateman;

(4) when Ruston paid CEMCO for the process equipment, CEMCO would pay a portion of the money received to CEI;

(5) from the money received by CEI from CEMCO, CEI would pay the amount destined for Crawford and Bateman to Crawford and Bateman, and would pay the amounts destined for the "folks", Ricardo Beltran, Mario Gonzalez and Andres Garcia to Grupo Delta;

(6) from the money received by Grupo Delta from CEI, Grupo Delta would pay to Ricardo Beltran, Mario Gonzalez and Andres Garcia the amounts agreed and would pay to the "folks" their 5%;

(7) CEI's agreement to pay the specified 5% to the "folks" would result in Pemex accepting Ruston's bid of compression systems since such systems included CEI designated process equipment.

On or about January 9, 1978, Ruston submitted to Pemex a bid of \$8,241,558 for compression systems consisting of Ruston turbines and CEI designated process equipment. Ruston's bid of

\$8,241,558 included the amount specified by CEI for the process equipment bid which amount included 5% plus a \$200,000 sweetener for the "folks".

On January 8, 1978, Smith travelled from Houston, Texas to Mexico City, Mexico by commercial airline in connection with the submission to Pemex on January 9, 1978 of Ruston's bid. It is this use of an interstate instrumentality which forms the basis for the violation of the Foreign Corrupt Practices Act charged in the Information.

On or about January 9, 1978, Miller and others met with Chavarria to convince him that the Ruston equipment was technologically capable and would satisfactorily perform the required function. Chavarria advised them that Pemex would buy the equipment from Ruston. On January 25, 1978, Pemex issued Purchase Order #800-11-8-80049 valued at \$8,241,558 to Ruston.

Included in the price of this contract was approximately \$517,382 for the "folks" comprised of approximately 5% of the contract price or \$317,382 plus the \$200,000 sweetener. Although CEMCO was eventually replaced by another subcontractor on this contract, the payment of this money to Grupo Delta was accomplished as planned. In May 1978 a portion passed through CEI to Grupo Delta for delivery to the "folks".