

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

x

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- v. -

x

x

Criminal No. 17-686

SBM OFFSHORE N.V.,

x

x

Defendant.

x

**GOVERNMENT’S UNOPPOSED MOTION TO
DISMISS THE CRIMINAL INFORMATION**

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States of America, by and through undersigned counsel, hereby moves to dismiss the Information filed in the above-captioned case against defendant SBM Offshore N.V. (hereinafter “SBM”). In support of this motion, the Government states as follows:

1. On November 21, 2017, the Government filed an Information charging SBM with conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 (“FCPA”), 15 U.S.C. §§ 78dd-1 et seq., in violation of 18 U.S.C. § 371. Dkt. #1.

2. On November 29, 2017, the Government also entered into a deferred prosecution agreement (“DPA”) with SBM, in which the Government deferred prosecution of SBM for a period of three years. Dkt. #15. Among other obligations, the DPA required SBM to cooperate with the Government’s investigation and to implement an enhanced compliance program. SBM was also required to pay a criminal monetary penalty of \$238,000,000.

3. In addition, SBM Offshore USA, Inc., a wholly owned subsidiary of SBM, pleaded guilty on November 29, 2017, to an information charging it with conspiracy to violate the anti-bribery provisions of the FCPA. *See United States v. SBM Offshore USA, Inc.*, 17-cr-685 Dkt. No. #18

4. The DPA provided that the Government would not continue the criminal prosecution against SBM and would move to dismiss the Information within six months of the expiration of the DPA if SBM fully complied with all of its obligations, including its obligations to implement a compliance program designed to prevent and detect violations of the FCPA and other applicable anti-corruption laws. Dkt. #15, DPA ¶ 12.

4. On October 30, 2020, SBM's Chief Executive Officer and Chief Financial Officer certified to the Government that SBM has met its disclosure obligations under paragraph 6 pursuant to paragraph 17 of the DPA.

5. The DPA expired on or about November 29, 2020.

6. Based on the information known to the Government, SBM has fully met the obligations under the DPA, including full cooperation with the Government and implementation of an enhanced compliance program and procedures. In addition, SBM has made timely payment of the \$238,000,000 criminal monetary penalty.

7. Because SBM has fully complied with all its obligations under the DPA, the Government has determined that dismissal of the Information with prejudice is appropriate. *See* Dkt. #15, DPA ¶ 12. The Government has conferred with counsel for SBM, who concurs that dismissal is appropriate at this time.

For the foregoing reasons, the Government requests that this Motion to Dismiss Information be granted.

Respectfully submitted,

DANIEL S. KAHN
Acting Chief
Fraud Section

/s/ David M. Fuhr
David M. Fuhr
Assistant Chief
Fraud Section, Criminal Division

JENNIFER LOWERY
Acting United States Attorney
Southern District of Texas

/s/ Suzanne Elmilady
Suzanne Elmilady
Assistant U.S. Attorney
1000 Louisiana, Suite 2300
Houston, Texas 77002

CERTIFICATE OF CONFERENCE

I hereby certify that on May 27, 2021, I conferred with the attorney of record, Robert Luskin, and he is unopposed to the Government's Motion to Dismiss the Criminal Information.

/s/
Suzanne Elmilady
David M. Fuhr

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Government's Motion to Dismiss the Criminal Information was filed via ECF on May 28, 2021, and emailed to the attorney of record, Robert Luskin.

/s/
Suzanne Elmilady
David M. Fuhr

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ORDER

This cause came before the Court on the United States' unopposed Motion to Dismiss the Criminal Information. Having considered the Motion and being fully advised, it is hereby

ORDERED AND ADJUDGED that the Motion is **GRANTED**. The Information in this case is hereby dismissed with prejudice.

SO ORDERED.

Date: May ___, 2021

DAVID HITTNER
United States District Judge

cc: All counsel of record