

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

UNITED STATES OF AMERICA

Case No. _____

v.

JUDGE

ANDREAS KOHLER,

2 : 17 cr 113

Defendant.

UNDER SEAL

Judge Sargus

INFORMATION

THE UNITED STATES CHARGES:

COUNT 1

(18 U.S.C. § 371 – Conspiracy to Commit Violations
of the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2)

At all times relevant to this Bill of Information:

1. The Foreign Corrupt Practices Act of 1977 (“FCPA”), as amended, Title 15, United States Code, Section 78dd-1 *et seq.*, was enacted by Congress for the purpose of, among other things, making it unlawful to act corruptly in furtherance of an offer, promise, authorization, or payment of money or anything of value, directly or indirectly, to a foreign official for the purpose of obtaining or retaining business for, or directing business to, any person.

2. Rolls-Royce Energy Systems, Inc. (“RRESI”), was a United States company headquartered in the Southern District of Ohio, and thus was a “domestic concern” within the meaning of the FCPA. RRESI was an indirect subsidiary of Rolls-Royce plc (“Rolls-Royce”), a publicly traded company in the United Kingdom, which was a holding company with major business operations in the civil, aerospace, defense, marine, and energy sectors worldwide. RRESI produced and supplied pipeline and barrel centrifugal compressors and power turbines and aftermarket services for oil and gas and power generation projects in a number of countries

worldwide.

3. Asia Gas Pipeline, LLC (“AGP”) was a state-owned joint venture between Kazakh and Chinese state-owned entities, which they created to build and connect a gas pipeline between Kazakhstan and China. AGP was controlled by the Kazakh and Chinese governments and performed government functions for Kazakhstan and China, and thus was an “instrumentality” within the meaning of the FCPA.

4. The defendant **ANDREAS KOHLER** (“defendant **KOHLER**”) was an Austrian national and employee of the Munich, Germany office of “Technical Advisor,” a company whose identity is known to **KOHLER** and the United States. Technical Advisor was an international engineering and consulting firm with offices worldwide, which purported to provide independent engineering advice and project management in a number of business sectors, such as national infrastructure, oil and gas, and energy. Technical Advisor served as an independent engineering consultant to AGP.

5. Co-Conspirator 1, an individual whose identity is known to defendant **KOHLER** and the United States, was a United Kingdom national and senior executive of Rolls-Royce plc with responsibility over the Rolls-Royce sales division, including the sales of equipment manufactured and assembled by RRESI.

6. Co-Conspirator 2, an individual whose identity is known to defendant **KOHLER** and the United States, was a Greek national and resident of Istanbul, Turkey. Co-Conspirator 2 was the head of “Intermediary,” a company whose identity is known to defendant **KOHLER** and the United States. Intermediary was a U.K.-based company, which contracted to serve as a commercial advisor for RRESI to help RRESI win a contract supplying gas turbines to AGP.

7. Co-Conspirator 3, an individual whose identity is known to defendant **KOHLER**

and the United States, was a U.S. national and employee of RRESI with responsibility as a sales director for the sales of equipment manufactured and assembled by RRESI.

8. Co-Conspirator 4, an individual whose identity is known to defendant **KOHLER** and the United States, was a Dutch national and an employee of a Dutch subsidiary of Rolls-Royce plc, with responsibility for selling equipment manufactured or assembled by RRESI.

9. Co-Conspirator 5, an individual whose identity is known to defendant **KOHLER** and the United States, was a Russian national and employee of the Almaty, Kazakhstan office of Technical Advisor.

10. Co-Conspirator 6, an individual whose identity is known to defendant **KOHLER** and the United States, was an Armenian national and employee of the Beijing, China office of Technical Advisor.

11. "Foreign Official," an individual whose identity is known to defendant **KOHLER** and the United States, was a high-ranking Kazakh official of a Kazakh state-owned entity that had authority over AGP and was a "foreign official" within the meaning of the FCPA. Foreign Official had the authority to exert official influence over purchasing decisions at AGP.

The Conspiracy

12. From in or around 2008 through in or around 2012, within the Southern District of Ohio and elsewhere, the defendant,

ANDREAS KOHLER

did knowingly and willfully, that is, with the intent to further the objects of the conspiracy, combine, conspire, confederate, and agree with others known and unknown, including, among others, Co-Conspirator 1, Co-Conspirator 2, Co-Conspirator 3, Co-Conspirator 4, Co-Conspirator 5, and Co-Conspirator 6, to commit offenses against the United States, namely, to willfully make

use of the mails and means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of any money, offer, gift, promise to give, and authorization of the giving of anything of value, to a foreign official and to any person, while knowing that all, or a portion of such money and things of value would be and had been offered, given, and promised to a foreign official, for purposes of (i) influencing acts and decisions of such foreign official in his or her official capacity; (ii) inducing such foreign official to do and omit to do acts in violation of the lawful duty of such official; (iii) securing any improper advantage; and (iv) inducing such foreign official to use his or her influence with a foreign government and agencies and instrumentalities thereof, to affect and influence acts and decisions of such government and agencies and instrumentalities, in order to assist RRESI and others known and unknown, in obtaining and retaining business for and with, and directing business to, Rolls-Royce, RRESI, and others, in violation of Title 15, United States Code, Section 78dd-2.

Manner and Means of the Conspiracy

13. The manner and means by which defendant **KOHLER** and his coconspirators sought to accomplish the objects of the conspiracy included, among other things, the following:

14. It was part of the conspiracy that defendant **KOHLER** and others, including Co-Conspirator 2 and Co-Conspirator 5, discussed in person, and through, among other means, electronic mail ("email"), advancing the scheme to cause RRESI to make bribe payments to Foreign Official, through Intermediary, in order to secure an improper advantage and obtain and retain business for RRESI and Rolls-Royce.

15. It was further part of the conspiracy that defendant **KOHLER** and others, including Co-Conspirator 2 and Co-Conspirator 5, sought to arrange meetings between Co-Conspirator 1 and Foreign Official to discuss the bribery scheme and solidify Foreign Official's influence in

support of RRESI's attempts to obtain business from AGP.

16. It was further part of the conspiracy that defendant **KOHLER** and others, including Co-Conspirator 2, Co-Conspirator 5, and Co-Conspirator 6, worked to provide confidential, non-public information from AGP and Technical Advisor to Co-Conspirator 1, Co-Conspirator 3, and Co-Conspirator 4 in support of RRESI's attempt to obtain business with AGP.

17. It was further part of the conspiracy that defendant **KOHLER** and others, including Co-Conspirator 1, Co-Conspirator 2, Co-Conspirator 3, Co-Conspirator 4, Co-Conspirator 5 and Co-Conspirator 6, took steps to conceal the bribery scheme, including by (a) deleting incriminating documents and emails, and (b) concealing the bribe payments to Foreign Official within RRESI's commission payments to Intermediary.

18. It was further part of the conspiracy that defendant **KOHLER** and others, including Co-Conspirator 1, Co-Conspirator 2, Co-Conspirator 3, Co-Conspirator 4, Co-Conspirator 5 and Co-Conspirator 6, caused corrupt commission payments to be made from RRESI's bank account, located in the Southern District of Ohio, to the bank account of Intermediary, knowing that such commission payments, or portions thereof, would be used to bribe Foreign Official, to help secure an improper advantage and obtain and retain business for RRESI and Rolls-Royce.

Overt Acts

19. In furtherance of the conspiracy and to achieve the objects thereof, at least one of the coconspirators committed, or caused to be committed, in the Southern District of Ohio and elsewhere, at least one of the following overt acts, among others:

20. On or about December 3, 2008, defendant **KOHLER** met in London with Co-Conspirator 1, Co-Conspirator 2, Foreign Official and others. On or about December 4, 2008, Co-Conspirator 2 emailed Co-Conspirator 1, copying defendant **KOHLER**, recounting the December

3, 2008 meeting and writing: “[Foreign Official] authorized [defendant KOHLER] to let you benefit from receiving information when and if it is being produced in order to give you more time to prepare. This is also an indication that he wanted you to know that he is the ‘Master of the game’.”

21. On or about December 27, 2008, Co-Conspirator 1 sent an email to Co-Conspirator 2 with an initial engagement letter for Intermediary to be a commercial advisor for RRESI.

22. On or about December 28, 2008, Co-Conspirator 2 sent Co-Conspirator 5 and defendant KOHLER an e-mail detailing how RRESI’s commission payments to Intermediary would be divided amongst themselves and Foreign Official, and requesting Co-Conspirator 5 and defendant KOHLER negotiate with FOREIGN OFFICIAL for a bigger percentage of the split.

23. In or around November 2009, RRESI won a contract to supply 11 gas turbine units to AGP for approximately \$145 million.

24. On or about the following dates, defendant KOHLER and others caused Energy Company to make the following corrupt commission payments from Energy Company’s bank accounts in Mount Vernon, Ohio, located in the Southern District of Ohio, to Intermediary’s bank accounts in the United Kingdom, with the knowledge that Co-Conspirator 2 would use the commission payments, or portions thereof, to make bribery payments to Foreign Official in furtherance of the corrupt bribery scheme:

Overt Act	Date	Amount
25.a.	April 21, 2010	\$732,877.21
25.b.	October 1, 2010	\$177,683.30
25.c.	December 13, 2010	\$355,366.59
25.d.	February 23, 2011	\$133,218.23

25.e.	April 18, 2011	\$177,683.30
25.f.	September 20, 2011	\$133,218.23
25.g.	March 7, 2012	\$236,975.71


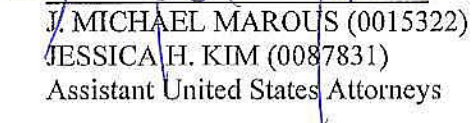
All in violation of Title 18, United States Code, Section 371.

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