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ANGELINE J. MURPHY  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF  
OHIO  
WESTERN DIVISION

**CR - 3 - 99 - 008**

UNITED STATES OF AMERICA

:

CASE NO.

v.

:

INFORMATION

**WALTER HERBERT RICE**

INTERNATIONAL MATERIALS  
SOLUTIONS CORPORATION, AND  
THOMAS K. QAULEY

:

18 U.S.C. § 371

:

15 U.S.C. § 78dd-2

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THE UNITED STATES ATTORNEY CHARGES THAT:

GENERAL ALLEGATIONS

1. The Foreign Corrupt Practices Act of 1977 (FCPA), as amended, 15 U.S.C. §§ 78dd-1, *et seq.*, was enacted by the Congress for the purpose of making it unlawful for United States persons, businesses, and residents to make payments to foreign government officials for the purpose of obtaining or retaining business or directing business to any person.

2. At all times material herein, the defendant **INTERNATIONAL MATERIALS SOLUTIONS CORPORATION (IMS)**, was an Ohio corporation having its principal place of business at Beavercreek, Ohio, in the Southern District of Ohio, which was engaged in the purchase, repair, and resale of surplus military equipment. At all

times material herein, defendant **IMS** was a "domestic concern" as that term is defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(1)(B).

3. At all times material herein, Defendant **THOMAS K. QUALEY** was President and Shareholder of **IMS**. Qualey was, therefore, a "domestic concern" as that term is defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(1)(A).

4. From December 1993 through February 1996, a Brazilian Air Force Lt. Colonel Z (BAF/Lt. Col. Z) was the Foreign Liaison Officer for the Air Force of the Republic of Brazil and was stationed at Wright Patterson Air Force Base in the Southern District of Ohio. BAF/Lt. Col. Z was a "foreign official" as that term is defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(2). BAF/Lt. Col. Z was authorized to make purchases of military equipment on behalf of the Brazilian Aeronautical Commission (BAC), the purchasing agent of the Brazilian Air Force. The Brazilian Aeronautical Commission was an "instrumentality" of the Government of Brazil, as that term is used in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(a)(1)(B).

**COUNT ONE**

**18 U.S.C. § 371 (Conspiracy)**

5. The United States Attorney incorporates by reference the allegations set forth in paragraphs 1-4 above, and charges that:

6. From on or about October 1995, and continuing to February 1996, in the Southern District of Ohio and elsewhere, defendants herein **IMS** and **THOMAS K.**

**QUALEY**, together with others known and unknown to the United States Attorney, did knowingly, intentionally and unlawfully combine, conspire, and agree with each other to commit an offense against the United States, to wit, to use the mails and other means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and the authorization of the payment of money to a foreign official, to wit: BAF/Lt. Col. Z, for the purpose of influencing the acts and decisions of said foreign official in his official capacity, inducing said foreign official to do or omit to do acts in violation of his lawful duty, and inducing said foreign official to use his influence with an instrumentality of a foreign government, to wit: the Brazilian Aeronautical Commission, in obtaining and retaining business for, and directing business to, the defendants and others in violation of the Foreign Corrupt Practices Act, 15 U.S.C. §78dd-2.

**A. Manner and Means**

7. It was part of the conspiracy that, in or about 1995, defendant **THOMAS K. QUALEY**, as President of defendant **IMS**, met with BAF/Lt. Col. Z and agreed that **IMS** would purchase and repair, and resell to the Brazilian Aeronautical Commission, an instrumentality of the Government of the Republic of Brazil, certain equipment, namely fork lift trucks.

8. It was further a part of the conspiracy that defendant **THOMAS K. QUALEY**, as President of **IMS**, agreed that **IMS** would thereafter purchase the fork lift trucks, recondition them, and resell the same to the BAC. According to their agreement, BAF/Lt. Col. Z would approve the BAC's purchases from **IMS** in exchange for payments of money.

9. It was further a part of the conspiracy that, in the fall of 1995, defendant **THOMAS K. QUALEY**, submitted two (2) bids to the BAC through BAF/Lt. Col. Z. Thereafter, defendant **THOMAS K. QUALEY**, on behalf of defendant **IMS**, paid BAF/Lt. Col. Z two bribes, disguised as "sales commissions," for each bid accepted by BAF/Lt. Col Z on behalf of the BAC.

10. It was further a part of the conspiracy that between 1995 and 1996 defendant **THOMAS K. QUALEY** arranged two (2) purchases of fork lift trucks for repair and resale to the BAC. These fork lift trucks were purchased through commercial sources by **IMS**, repaired, and then sold to the BAC. In both cases, after each purchase was effected, BAF/Lt. Col Z was paid by defendant **IMS** for his approval of the transaction.

11. It was further a part of the conspiracy that in December 1995 defendant **THOMAS K. QUALEY** caused **IMS** to pay a total of \$67,563 to BAF/Lt. Col. Z.

**B. Overt Acts**

12. In furtherance of the conspiracy, defendants **THOMAS K. QUALEY** and **IMS**, together with others known and unknown to the United States Attorney, committed the following overt acts in the Southern District of Ohio and elsewhere:

13. On or about November 2, 1995, **IMS** provided a quotation to BAF/Lt. Col. Z for the acquisition and repair of ten fork lift trucks for a total cost of \$229,000.00.

14. On or about November 10, 1995, **IMS** issued invoice #JO511001IN in the amount of \$229,000.00 to BAC for the acquisition and repair of ten fork lift trucks.

15. On or about November 2, 1995, **IMS** provided a quotation to BAF/Lt. Col. Z for the acquisition and repair of nine fork lift trucks for a total cost of \$163,250.00.

16. On or about November 10, 1995, **IMS** issued invoice #JO511011IN in the amount of \$163,250.00 to BAC for the acquisition and repair of nine fork lift trucks.

17. On or about December 12, 1995, **IMS** paid BAF/Lt. Col. Z \$42,950.00, by a check drawn on **IMS**'s account at Huntington National Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by **IMS** for the acquisition and repair of ten fork lift trucks.

18. On or about December 12, 1995, IMS paid BAF/Lt. Col. Z \$24,613.00, by a check drawn on IMS's account at Huntington National Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by IMS for the acquisition and repair of nine fork lift trucks.

19. On or about December 13, 1995, BAC issued a wire transfer to IMS for \$229,000.00 to cover invoice #JO511001IN.

20. On or about January 10, 1996, BAC issued a wire transfer to IMS for \$163,250.00 to cover invoice #JO511011IN.

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

**COUNT TWO**

15 U.S.C. § 78dd-2

(Foreign Corrupt Practices Act)

21. The United States Attorney incorporates by reference the allegations set forth in paragraphs 1- 4 and 7-20 above, and further charges that:

22. On or about December 13, 1995, in the Southern District of Ohio and elsewhere, defendants herein, **THOMAS K. QUALEY** and **INTERNATIONAL MATERIALS SOLUTIONS CORPORATION (IMS)**, did use and cause to be used the U.S. mails and interstate telephone lines, instrumentalities of interstate commerce, corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of money to a foreign official, to wit, a Lieutenant Colonel in the Air Force of the Republic of Brazil, for the purpose of influencing the acts and decisions of said

foreign official in his official capacity, inducing said foreign official to do or omit to do acts in violation of his lawful duty, and inducing said foreign official to use his influence with an instrumentality of a foreign government, to wit, the Brazilian Aeronautical Commission, to obtain business for and directing business to defendant **IMS**, to wit, the sale of ten fork lift trucks.

(All in violation of Title 15, United States Code, Section 78dd-2(a)(1))

**SHARON J. ZEALEY**  
United States Attorney

A handwritten signature in black ink, appearing to read 'SALVADOR A. DOMINGUEZ', is written over a horizontal line. The signature is stylized with a large loop on the left side.

**SALVADOR A. DOMINGUEZ**  
First Assistant U.S. Attorney