

## **STATEMENT OF FACTS**

Had this matter proceeded to trial, the United States would have proven, by admissible evidence, the following facts beyond a reasonable doubt:

1. The defendant knowingly entered into a conspiracy to violate the Foreign Corrupt Practices Act, 15 U.S.C. 78dd-2, which affected interstate commerce, and in so doing also violated the substantive provisions of that Act.

2. The defendant, THOMAS K. QUALEY, is President of co-defendant INTERNATIONAL MATERIALS SOLUTIONS CORPORATION, an Ohio corporation in the business of buying and repairing equipment for resale.<sup>1</sup> From approximately December 1993 to approximately February 1996, a Brazilian Air Force Lt. Colonel ("BAF/Lt. Col. Z") was the Foreign Liaison Officer for the Brazilian Air Force stationed at Wright Patterson Air Force Base.<sup>2</sup> BAF/Lt. Col. Z was authorized to make purchases of military equipment on behalf of the Government of Brazil. Beginning in or about October 1995, and continuing thereafter up to and including in or about February 1996, the defendants, THOMAS K. QUALEY and INTERNATIONAL MATERIALS SOLUTIONS CORPORATION, agreed with BAF/Lt. Col. Z to make payments to BAF/Lt. Col. Z for the purpose of inducing him to use his official position and influence with

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<sup>1</sup> Defendants THOMAS K. QUALEY and INTERNATIONAL MATERIALS SOLUTIONS CORP. are "domestic concerns" as defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(1).

<sup>2</sup> BAF/Lt. Col. Z is a "foreign official" as defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(2).

Government of Brazil to obtain business for the defendants.

3. Beginning in the fall of 1995, after consulting with BAF/Lt. Col. Z, defendant QUALEY prepared and submitted bids to BAF/Lt. Col. Z to provide services and to sell equipment to the Brazilian Air Force. This equipment consisted of 19 fork lifts. These bids were accepted by the Government of Brazil, and defendants QUALEY and IMS performed work on the resulting contracts. Defendants QUALEY and IMS received approximately \$392,250.00 as a result of the contracts received from the Government of Brazil. At BAF/Lt. Col. Z's suggestion, defendants QUALEY and IMS paid BAF/Lt. Col. Z two bribes, designated as sales commissions, to ensure that the contract payments would be given to the defendants. Defendant QUALEY paid BAF/Lt. Col. Z with IMS checks and required BAF/Lt. Col. Z to sign a Foreign Sales Representative Agreement. On December 12, 1995, defendant QUALEY made two such payments to BAF/Lt. Col. Z, one for \$42,950.00 and one for \$24,613.00 (totaling \$67,563.00). These payments were made in Beavercreek, Ohio, where defendant QUALEY issued BAF/Lt. Col. Z IMS check #1029 and check #1030, which were drawn on IMS's account at Huntington National Bank.

4. Throughout the course of dealings between defendants QUALEY and IMS and BAF/Lt. Col. Z, the mails were extensively used to transmit in interstate commerce documents needed to effectuate the contracts given by the Government of Brazil to the defendants. Additionally, interstate telephone calls were made and the bribe payments were made with checks drawn on a bank that operates in interstate commerce. On December 13, 1995, a wire transfer of \$229,000.00 was sent by the Government of Brazil from an account maintained with a financial

institution in New York, New York to an account maintained by IMS at a financial Institution in Dayton, Ohio.