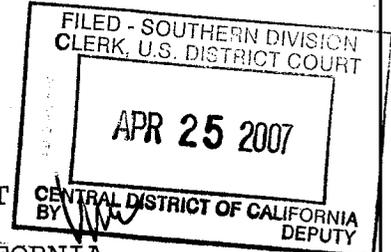


ORIGINAL



UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

October 2006 Grand Jury

SACR 07-0069

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.)
14 LEO WINSTON SMITH,)
15 a/k/a Lee Smith,)
16 Defendant.)
17)
18)
19)
20)

SA CR 07-)
I N D I C T M E N T
[18 U.S.C. § 371: Conspiracy;
15 U.S.C. § 78dd-2: Foreign
Corrupt Practices Act;
18 U.S.C. § 1956(h):
Conspiracy; 18 U.S.C.
§ 1956(a)(2)(A): International
Money Laundering;
26 U.S.C. § 7206(1): False
Statement in Tax Return]

21 The Grand Jury charges:

22 INTRODUCTORY ALLEGATIONS

23 At all times relevant to this Indictment:

24 1. The Foreign Corrupt Practices Act of 1977 ("FCPA"), as
25 amended, Title 15, United States Code, Sections 78dd-1, et seq.,
26 was enacted by Congress for the purpose of, among other things,
27 making it unlawful for certain classes of persons and entities to
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1 act corruptly in furtherance of an offer, promise, authorization,
2 or payment of money or anything of value to a foreign government
3 official for the purpose of securing any improper advantage, or
4 of obtaining or retaining business for, or directing business to,
5 any person.

6 I. Relevant Entities and Individuals

7 2. Pacific Consolidated Industries, LP ("PCI"),
8 headquartered in Santa Ana, California, was a company engaged in
9 the manufacture of Air Separation Units ("ASUs") and Nitrogen
10 Concentration Trolleys ("NCTs") for defense departments
11 throughout the world. ASUs and NCTs generate oxygen and nitrogen
12 in remote, extreme, and confined locations for aircraft support
13 and on-site military hospitals.

14 3. Defendant LEO WINSTON SMITH, also known as Lee Smith
15 ("SMITH"), was a citizen of the United States and thus was a
16 "domestic concern" as that term is defined in the FCPA.
17 Defendant SMITH was Executive Vice President and Director of
18 Sales and Marketing at PCI. Defendant SMITH's main
19 responsibility at PCI was to obtain business from and negotiate
20 contracts with various domestic and international clients.

21 4. The "Executive" was a citizen of the United States and
22 a senior executive at PCI. The Executive had supervisory
23 authority over defendant SMITH and was a signatory for PCI
24 agreements and bank accounts.

25 5. The United Kingdom Ministry of Defense ("UK-MOD"),
26 Defense Logistics Organization, Royal Air Force ("RAF") Base
27 Wyton in Cambridgeshire, England was a customer of PCI. UK-MOD,
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1 including its Defense Logistics Organization, was a department,
2 agency, and instrumentality of the United Kingdom.

3 6. The "Project Manager" was a civil servant and an
4 employee of UK-MOD. As an employee of UK-MOD, the Project
5 Manager was a "foreign official" as that term is defined in the
6 FCPA. The Project Manager was involved in the procurement of
7 certain equipment for UK-MOD and took part in the review of the
8 requests for proposals otherwise known as "tenders" for UK-MOD
9 contracts. As a result of his position at UK-MOD, the Project
10 Manager was able to influence the awarding of UK-MOD contracts
11 for services and equipment (the "UK-MOD Contracts").

12 7. "Design Smith, Inc.," "DSI," and "DSI International,"
13 were shell entities created by defendant SMITH to facilitate the
14 payment of bribes to and for the benefit of the Project Manager
15 and to conceal income from the Internal Revenue Service.

16 8. The "Relative" was a relative of the Project Manager
17 residing in the United Kingdom. The Relative was listed as a
18 party to bogus marketing agreements with PCI designed to disguise
19 bribery payments as commissions on the UK-MOD Contracts allegedly
20 brokered by the Relative.

21 9. The "Relative's Bank Account," is one of the Relative's
22 bank accounts, located at Lloyds Bank in England.

23 II. Overview of Payments

24 10. Beginning in or about 1999, and continuing to in or
25 about July 2003, defendant SMITH paid bribes and authorized the
26 payment of bribes to and for the benefit of the Project Manager
27 in order to obtain and retain lucrative UK-MOD contracts for PCI.

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1 11. Beginning in or about 1999, and continuing to in or
2 about April 2002, defendant SMITH caused approximately \$71,350 in
3 payments from PCI to be sent via international wire transfer to
4 the Relative's Bank Account in England for the benefit of the
5 Project Manager. Defendant SMITH caused these payments to be
6 made to the Project Manager in return for the award to PCI of UK-
7 MOD Contracts for ASUs and ASU spare parts (the "ASU Contracts")
8 valued at approximately \$5,100,000.

9 12. Beginning in or about 2002, and continuing to in or
10 about July 2003, defendant SMITH caused payments of approximately
11 \$275,000 to be made on behalf of the Project Manager for the
12 purchase of a villa in Allicante, Spain. Defendant SMITH caused
13 these payments to be made for the benefit of the Project Manager
14 in return for the award to PCI of a UK-MOD Contract for NCTs (the
15 "NCT Contract") valued at approximately \$6,000,000.

16 13. PCI paid defendant SMITH approximately \$500,000 in
17 commissions in 2003 relating to the NCT Contract. Defendant
18 SMITH did not report these payments on his 2003 U.S. Individual
19 Income Tax Return.

20 14. Beginning in or about 1999, and continuing to in or
21 about 2004, PCI received more than \$11,000,000 in UK-MOD
22 Contracts, which defendant SMITH obtained through the payment of
23 more than \$300,000 to and for the benefit of the Project Manager.

COUNT ONE

[18 U.S.C. § 371]

15. The allegations of paragraphs 1 through 14 of this Indictment are realleged and incorporated by reference as though set forth in full.

16. Beginning at least in or around 1999, and continuing through in or around 2004, in the Central District of California, and elsewhere, defendant LEO WINSTON SMITH, also known as Lee Smith, did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree with the Executive, and others known and unknown to the Grand Jury, to commit an offense against the United States, that is, being a citizen of the United States and a domestic concern within the meaning of the FCPA, to willfully make use of means and instrumentalities of interstate and international 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 any foreign official for purposes of: (i) influencing acts and decisions of such foreign official in his 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 an improper advantage; and (iv) inducing such foreign official to use his influence with a foreign government and instrumentalities thereof to affect and influence acts and decisions of such government and instrumentalities, in order to assist defendant SMITH, the Executive, and others known

1 and unknown to the Grand Jury, in obtaining and retaining
2 business for and with, and directing business to, PCI, in
3 violation of Title 15, United States Code, Section 78dd-2(a).

4 I. OBJECT OF THE CONSPIRACY

5 17. The object of the conspiracy was to make corrupt
6 payments to a foreign official in the United Kingdom in order to
7 obtain and retain business for PCI from the UK-MOD.

8 II. MEANS BY WHICH THE OBJECT OF THE CONSPIRACY WAS TO BE
9 ACCOMPLISHED

10 18. The means by which defendant SMITH and his co-
11 conspirators sought to accomplish the purpose and object of the
12 conspiracy, included, but were not limited to the following:

13 19. Defendant SMITH and the Executive obtained the
14 lucrative ASU Contracts and the NCT Contract for PCI through the
15 use of two different bribery schemes.

16 20. In connection with the ASU Contracts, defendant SMITH
17 and the Executive caused PCI to enter into bogus marketing
18 agreements with the Relative.

19 21. Defendant Smith and the Executive then caused bribery
20 payments, disguised as consulting services fees and commissions
21 from the bogus marketing agreements, to be paid into the
22 Relative's Bank Account for the benefit of the Project Manager.

23 22. In connection with the NCT Contract, defendant Smith
24 and the Executive, caused PCI to enter into bogus marketing and
25 royalty agreements with DSI and DSI International so that DSI and
26 DSI International received defendant SMITH's commissions for the
27 NCT Contract.

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1 23. Defendant SMITH and the Executive ensured that DSI and
2 DSI International, on behalf of defendant SMITH, were paid large
3 commissions by PCI on the NCT Contract.

4 24. From the large commissions paid to DSI and DSI
5 International, SMITH caused DSI and DSI International to make
6 corrupt payments on behalf of the Project Manager to purchase a
7 villa in Spain.

8 25. In return for the various payments received from both
9 bribery schemes, the Project Manager assisted defendant Smith and
10 the Executive in obtaining and retaining the lucrative UK-MOD
11 Contracts.

12 III. OVERT ACTS

13 26. In furtherance of the conspiracy and to achieve its
14 purpose and object, at least one of the co-conspirators committed
15 or caused to be committed, in the Central District of California,
16 and elsewhere, the following overt acts, among others:

17 27. On or about October 21, 1999, the Executive executed,
18 on behalf of PCI, a bogus marketing agreement between PCI and the
19 Relative for consulting/marketing services to customers in Europe
20 at a rate of \$5,000 for two quarters.

21 28. On or about November 12, 1999, defendant SMITH caused a
22 wire transfer of \$5,000 from PCI's Wells Fargo account in Santa
23 Ana, California, to the Relative's Bank Account at Lloyds Bank,
24 England.

25 29. On or about March 14, 2000, defendant SMITH caused a
26 wire transfer of \$5,000 from PCI's Wells Fargo account in Santa
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1 Ana, California, to the Relative's Bank Account at Lloyds Bank,
2 England.

3 30. On or about January 22, 2001, defendant SMITH executed,
4 on behalf of PCI, a second bogus marketing agreement between PCI
5 and the Relative for consulting/marketing services to customers
6 in Europe on a commission basis.

7 31. On or about June 11, 2001, defendant SMITH caused
8 a wire transfer of \$8,517.32 from PCI's Comerica account in Costa
9 Mesa, California, to the Relative's Bank Account at Lloyds Bank,
10 England.

11 32. On or about April 23, 2002, defendant SMITH caused
12 a wire transfer of \$14,280.18 from PCI's Comerica account in
13 Costa Mesa, California, to the Relative's Bank Account at Lloyds
14 Bank, England.

15 33. On or about January 22, 2002, defendant SMITH caused
16 DSI International to enter into a marketing agreement with PCI
17 providing for payments to DSI International for
18 consulting/marketing services to customers in Europe on a
19 commission basis.

20 34. On or about October 31, 2002, defendant SMITH, on
21 behalf of DSI, and the Executive, on behalf of PCI, executed a
22 royalty agreement providing for payments to DSI for royalties on
23 self-generating nitrogen and oxygen equipment.

24 35. On or about February 19, 2003, PCI, through DSI
25 International, paid defendant Smith \$140,000 as an advance of
26 commissions relating to the NCT Contract.

1 36. On or about February 24, 2003, the Project Manager and
2 others from UK-MOD traveled to PCI's offices in Santa Ana,
3 California, to inspect and approve the NCTs.

4 37. On or about February 26, 2003, defendant SMITH, through
5 a fax sent from PCI's offices in Santa Ana, California, to a
6 Raymond James Financial Services representative in Folsom,
7 California, caused a wire transfer on February 28, 2003, of
8 \$122,941 from DSI's Raymond James Financial Services account in
9 the United States to an Atlas International Client Account at
10 Banco Bilbao Vizcaya, Spain, for payment towards the purchase of
11 the Spanish villa for the Project Manager.

12 38. On or about July 7, 2003, defendant SMITH, through a
13 fax sent from PCI's offices in Santa Ana, California, to a
14 Raymond James Financial Services representative in Folsom,
15 California, caused a wire transfer on July 8, 2003, of \$153,676
16 from DSI International's Raymond James Financial Services account
17 in the United States to an Atlas International Client Account at
18 Banco Bilbao Vizcaya, Spain, for payment towards the purchase of
19 the Spanish villa for the Project Manager.

20 39. On or about February 19, 2004, defendant SMITH directed
21 the PCI Contracts Administrator to remove the Relative as the
22 recipient of commissions relating to UK-MOD Contracts and replace
23 him with a PCI sales representative who covered the territory of
24 Brazil.

COUNTS TWO THROUGH FIVE

[15 U.S.C. § 78dd-2, 18 U.S.C. § 2]

40. The allegations of paragraphs 1 through 39 of this Indictment are realleged and incorporated by reference as though set forth in full.

41. On or about the dates set forth below, in the Central District of California, and elsewhere, defendant LEO WINSTON SMITH, also known as Lee Smith, a citizen of the United States and a domestic concern within the meaning of the FCPA, willfully made use of means and instrumentalities of interstate and international 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 any foreign official for purposes of: (i) influencing acts and decisions of such foreign official in his 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 an improper advantage; and (iv) inducing such foreign official to use his influence with foreign governments and instrumentalities thereof to affect and influence acts and decisions of such governments and instrumentalities in order to assist defendant SMITH, the Executive, and others, known and unknown to the Grand Jury, in obtaining and retaining business for and with, and directing business to, PCI as described below:

<u>COUNT</u>	<u>DATE</u>	<u>WIRE TRANSFERS</u>
TWO	4/23/02	Wire transfer of \$14,280.18 from PCI's Comerica account in Costa Mesa,

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California, to the Relative's Bank Account at Lloyds Bank, England.

THREE 5/17/02

Wire transfer of \$27,552.48 from PCI's Comerica account in Costa Mesa, California, to the Relative's Bank Account at Lloyds Bank, England.

FOUR 2/27/03

Wire transfer of \$122,941 from DSI's Raymond James Financial Services account in the United States to an Atlas International Client Account at Banco Bilbao Vizcaya, Spain.

FIVE 7/8/03

Wire transfer of \$153,676 from DSI International's Raymond James Financial Services account in the United States to an Atlas International Client Account at Banco Bilbao Vizcaya, Spain.

COUNT SIX

[18 U.S.C. § 1956(h)]

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3 42. The allegations of paragraphs 1 through 39 of this
4 Indictment are realleged and incorporated by reference as though
5 set forth in full.

6 43. Beginning in or around November 1999, and continuing
7 through in or around July 2003, in the Central District of
8 California, and elsewhere, defendant LEO WINSTON SMITH, also
9 known as Lee Smith, the Executive, and the Project Manager, did
10 knowingly, combine, conspire, confederate and agree with others,
11 known and unknown to the Grand Jury, to violate Title 18, United
12 States Code, Section 1956, that is, to knowingly transport,
13 transmit, and transfer a monetary instrument and funds from a
14 place in the United States to and through a place outside the
15 United States with the intent to promote the carrying on of
16 specified unlawful activity, that is violations of the Foreign
17 Corrupt Practices Act, in violation of Title 18, United States
18 Code, Section 1956(a)(2)(A).

COUNTS SEVEN THROUGH TEN

[18 U.S.C. § 1956(a)(2)(A)]

44. The allegations of paragraphs 1 through 39 of this Indictment are realleged and incorporated by reference as though set forth in full.

45. On or about the dates set forth below, in the Central District of California, and elsewhere, defendant LEO WINSTON SMITH, also known as Lee Smith, did knowingly transfer or cause others to transfer funds, from a place in the United States, to a place outside the United States, with the intent to promote the carrying on of specified unlawful activity, that is violations of the Foreign Corrupt Practices Act:

<u>COUNT</u>	<u>DATE</u>	<u>WIRE TRANSFER</u>
SEVEN	4/23/02	Wire transfer of \$14,280.18 from PCI's Comerica account in Costa Mesa, California, to the Relative's Bank Account at Lloyds Bank, England.
EIGHT	5/17/02	Wire transfer of \$27,552.48 from PCI's Comerica account in Costa Mesa, California, to the Relative's Bank Account at Lloyds Bank, England.
NINE	2/27/03	Wire transfer of \$122,941 from DSI's Raymond James Financial Services account in the United States to an Atlas International Client Account at Banco Bilbao Vizcaya, Spain.
TEN	7/8/03	Wire transfer of \$153,676 from DSI International's Raymond James Financial Services account in the United States to an Atlas International Client Account at Banco Bilbao Vizcaya, Spain.

COUNT ELEVEN

[26 U.S.C. § 7206(1)]

46. On or about April 15, 2004, in Orange County, within the Central District of California, defendant LEO WINSTON SMITH, also known as Lee Smith, did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calender year 2003, which was verified under the penalty of perjury and electronically filed with the Internal Revenue Service, which defendant SMITH did not believe said return to be true and correct as to every material matter in that said return reported \$122,626 on Line 22, Total Income, whereas, defendant SMITH then and there well knew and believed, that figure was a false and understated amount.

A TRUE BILL

Foreperson

GEORGE S. CARDONA
Acting United States Attorney

THOMAS P. O'BRIEN
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WAYNE R. GROSS
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