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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA

BY 

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.)
)
LEO WINSTON SMITH,)
a/k/a Lee Smith,)
)
Defendant.)

SA CR 07-69(A) -AG

F I R S T
S U P E R S E D I N G
I N F O R M A T I O N

[18 U.S.C. § 371: Conspiracy;
26 U.S.C. § 7212(a): Corrupt
Attempt to Impede Due
Administration of the Internal
Revenue Code]

The United States Attorney charges:

COUNT ONE

[18 U.S.C. § 371]

I. INTRODUCTORY ALLEGATIONS

At all times relevant to this Information:

1. The Foreign Corrupt Practices Act of 1977 (FCPA), as amended, Title 15, United States Code, Sections 78dd-1, et seq., was enacted by Congress for the purpose of, among other things, making it unlawful for certain classes of persons and entities to

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

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

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

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

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

10 7. The Relative was a relative of the Project Manager
11 residing in the United Kingdom. The Relative was listed as a
12 party to spurious marketing agreements with PCI designed to
13 disguise bribery payments as commissions on the ASU contracts
14 awarded to PCI that were allegedly brokered by the Relative.

15 8. The Relative's Bank Account, is one of the Relative's
16 bank accounts, located at Lloyds Bank in England.

17 9. Beginning at least in or around 1999, and continuing
18 through an unknown date, in the Central District of California,
19 and elsewhere, defendant did willfully, that is, with the intent
20 to further the object of the conspiracy, and knowingly combine,
21 conspire, confederate and agree with the Executive, and others
22 known and unknown, to commit an offense against the United
23 States, that is, being a citizen of the United States and a
24 domestic concern within the meaning of the FCPA, to willfully
25 make use of means and instrumentalities of interstate and
26 international commerce, corruptly in furtherance of an offer,
27 payment, promise to pay, and authorization of the payment of any
28 money, offer, gift, promise to give, and authorization of the

1 giving of anything of value to any foreign official for purposes
2 of: (i) influencing acts and decisions of such foreign official
3 in his official capacity; (ii) inducing such foreign official to
4 do and omit to do acts in violation of the lawful duty of such
5 official; (iii) securing an improper advantage; and (iv) inducing
6 such foreign official to use his influence with a foreign
7 government and instrumentalities thereof to affect and influence
8 acts and decisions of such government and instrumentalities, in
9 order to assist defendant, the Executive, and others known and
10 unknown, in obtaining and retaining business for and with, and
11 directing business to, PCI, in violation of Title 15, United
12 States Code, Section 78dd-2(a).

13 II. OBJECT OF THE CONSPIRACY

14 10. The object of the conspiracy was to make corrupt
15 payments to a foreign official with the UK-MOD in the United
16 Kingdom in order to obtain and retain business for PCI from the
17 UK-MOD.

18 III. MEANS BY WHICH THE OBJECT OF THE CONSPIRACY WAS TO BE
19 ACCOMPLISHED

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

23 12. Defendant and the Executive obtained the lucrative
24 UK-MOD Contracts for PCI.

25 13. Defendant and the Executive caused bribe payments to be
26 sent to the Project Manager.

27 14. In return for the bribe payments, the Project Manager
28 assisted defendant and the Executive in obtaining and retaining
the lucrative UK-MOD Contracts.

1 IV. OVERT ACT

2 15. In furtherance of the conspiracy and to achieve its
3 purpose and object, at least one of the co-conspirators committed
4 or caused to be committed, in the Central District of California,
5 and elsewhere, the following overt act, among others:

6 Overt Act: On or about October 21, 1999, the Executive
7 executed, on behalf of PCI, a spurious marketing agreement
8 between PCI and the Relative for consulting/marketing services to
9 customers at a rate of \$5,000 for two quarters.

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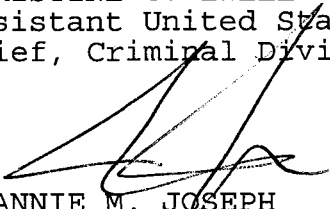
COUNT TWO

[26 U.S.C. § 7212(a)]

16. Beginning in or around 1999, and continuing through on or about April 15, 2004, in Orange County, within the Central District of California, and elsewhere, defendant LEO WINSTON SMITH, also known as Lee Smith, corruptly endeavored to obstruct and impede the due administration of the Internal Revenue laws by, among other things, under-reporting income on his 2003 tax return and failing to file a 2003 tax return for Design Smith, Inc., a Nevada corporation.

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