

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA     )  
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KENNY INTERNATIONAL CORP.     )  
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Criminal No. 79-00372 ✓

**FILED**

AUG 2 1979

OFFER OF PROOF           JAMES F. DAVEY, Clerk

The evidence would show that Kenny International Corp. ("Kenny International") is a corporation organized and existing under the laws of the State of New York. Finbar B. Kenny ("Kenny"), a resident of New York, New York and Los Angeles, California, is Chairman of the Board, President and majority shareholder of Kenny International Corp. Kenny and Kenny International control Cook Islands Development Co., Ltd., a Cook Islands corporation, which does business in Rarotonga in the Cook Islands as the Cook Islands Philatelic Bureau ("Philatelic Bureau"). The Cook Islands is an independent South Pacific nation of 18,000 persons freely associated with New Zealand for purposes of external affairs and defense. Sir Albert Henry, the Leader of the Cook Islands Party, a political party in the Cook Islands, was, until he was removed from office in July 1978, the Premier of the Cook Islands.

Beginning in December 1965, Kenny entered into an agreement with the Government of the Cook Islands, which agreement was renewed in 1972 for a ten-year period, whereby Kenny obtained the exclusive rights to the promotion, distribution and sale of Cook Islands postage stamps outside the Cook Islands. In exchange for promotional and distribution services, Kenny was

authorized to promote and sell unlimited quantities of each issue or series of Cook Islands stamps provided the Government of the Cook Islands received 50 percent of the proceeds of all stamps sold outside the Cook Islands. Gross proceeds of approximately \$1.5 million were reported to the Government of the Cook Islands for the year ending December 31, 1978. The Government's share of these proceeds represented over 20 percent of its total revenues for the corresponding period.

In January 1978, Sir Albert Henry, as the Leader of the Cook Islands Party, then the majority party in the Cook Islands Legislative Assembly, determined to schedule a general election in the Cook Islands for March 1978. If Sir Albert Henry were to remain as Premier for the four-year term beginning after March 30, 1978, it was essential that the Cook Islands Party win a majority of seats in the Legislative Assembly in said general election. The stamp distribution agreement between Kenny and the Government of the Cook Islands was subject to renewal during the next Premier's term of office beginning after the general election of March 30, 1978. Kenny and Kenny International could only be assured of renewal of the stamp distribution agreement by the continuation of the Cook Islands Party's control of the Legislative Assembly and the retention of Sir Albert Henry as Premier. Anticipating that the election would be closely contested, Sir Albert Henry and his fellow party officials determined that to guarantee their party's continued control in the Legislative Assembly it would be necessary to transport by air from New Zealand, a distance of approximately 1,800 miles, Cook Islands Party supporters to vote for them in the forthcoming election.

On January 23, 1978, at a meeting in Honolulu, Hawaii, a personal representative of Sir Albert Henry and the Cook Islands Party solicited the financial assistance of Kenny and Kenny International in connection the election. It was requested of Kenny and Kenny International that they subsidize the air transportation costs of the Cook Islands Party supporters. Such a voter subsidy was illegal under Cook Islands law. Kenny, on behalf of Kenny International, desiring the retention of Sir Albert Henry as Premier in order to insure the renewal of the stamp distribution agreement, agreed to provide the requested financial assistance upon the condition that Sir Albert Henry and the Cook Islands Party keep secret the source of the funds.

On January 24, 1978, at a meeting in Honolulu, Hawaii, Kenny, on behalf of Kenny International, in order to achieve maximum secrecy in communications regarding the financial assistance to be rendered to Sir Albert Henry and the Cook Islands Party, devised with Kenny International's representative from the Cook Islands a code to be used in all future communications. Thereafter, during February and March 1978, Kenny, on behalf of Kenny International, in the United States transmitted and received numerous coded telex messages to and from the Cook Islands in furtherance of the agreement to render such financial assistance.

On February 17, 1978, Kenny, on behalf of Kenny International, traveled by commercial aircraft from Los Angeles, California to Honolulu, Hawaii to meet Sir Albert Henry and to make final arrangements for the payment for the air transportation from New Zealand of Cook Islands Party supporters.

On February 18, 1978, Sir Albert Henry and Kenny, on behalf of Kenny International, agreed that payment for the air transportation of Cook Islands Party supporters would come from funds held in the name of the Philatelic Bureau, which funds were part of the proceeds from postage stamp sales under the stamp distribution agreement. It was further agreed by them that the full amount of the payment to the Cook Islands Party for the air transportation of its supporters would be deducted from the Government's share of the proceeds from postage stamp sales. Finally, Sir Albert Henry and Kenny, on behalf of Kenny International, agreed that shell corporations would be created specifically for the purpose of clandestinely transferring the funds to the Cook Islands Party.

The evidence would further show that, pursuant to their arrangement with Sir Albert Henry, Kenny and Kenny International, on March 14, 1978 caused funds in the amount of \$NZ337,000. (having an approximate equivalent value in United States dollars) to be transferred to the Cook Islands Party through Sir Albert Henry.

In the general election held in the Cook Islands in March 1978 the Cook Islands Party, as a direct result of the votes cast by its supporters whose travel was paid for by Kenny International, won a majority of seats in the Legislative Assembly and Sir Albert Henry remained in office as Premier. However, in July 1978, in proceedings contesting the election, the Honorable Chief Justice Donne of the High Court of the Cook Islands disallowed the votes of the Cook Islands Party supporters whose travel had been subsidized as "unlawful votes

tainted by bribery". As a consequence, the Cook Islands Party lost its control of the Legislative Assembly to the opposition party and Sir Albert Henry was removed from office.

Finally, the evidence would show that notwithstanding repeated demands by the new Government, Kenny and Kenny International have willfully refused to pay the Government of the Cook Islands \$NZ337,000. which is part of the Government's share of the gross proceeds of postage stamp sales.