

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA )  
 )  
 v. ) Criminal No. H 82-244  
 )  
 INTERNATIONAL HARVESTER COMPANY, )  
 )  
 DEFENDANT )  
 \_\_\_\_\_ )

OFFER OF PROOF

The evidence would show that Petroleos Mexicanos (hereinafter "Pemex") decided in early 1977, to embark on a major equipment acquisition program designed to end the vast flaring, and therefore loss, of natural gas and, instead, capture and move it to various markets. Large quantities of turbine compression equipment systems, consisting of a turbine power source, a compressor and various process equipment, were needed. To aid the financing of these purchases, Pemex arranged a \$1.2 billion line of credit with the Export Import Bank of the United States, of which \$600 million was dedicated for purchases related to a planned natural gas pipeline, and \$600 million was dedicated to purchase other necessary equipment. The Solar Turbine Division of International Harvester Company (hereinafter "Solar"), Ruston Gas Turbines, Inc. (hereinafter "Ruston"), Crawford Enterprises, Inc. (hereinafter "CEI") and other companies were interested in obtaining the purchase orders for the turbine compression systems from Pemex.

The evidence would show that C.E. Miller Corporation (hereinafter "CEMCO"), a California corporation, was in the business of designing and fabricating compression systems for the petroleum industry. During the mid 1970's CEMCO, had performed process fabrication subcontract work for Solar on sales of its turbine compression equipment to Pemex, and beginning in July 1977, performed process fabrication subcontract work for CEI on sales to Pemex.

The evidence would show that in late June 1977, CEI's president, Donald G. Crawford, and CEI had agreed and promised, through Mario Gonzalez the brother-in-law of a foreign official, to pay the two foreign officials, both officials of Pemex, five percent (5%) of the purchase order value of any compression equipment contracts awarded to CEI by Pemex. At that time, Crawford coined a code word, "folks", to conceal the identities of these Pemex officials. Crawford announced to various CEI employees that henceforth the two Subdirectors from Pemex would be referred to as the "folks".

During the fall of 1977, Crawford established a relationship with Ricardo Garcia Beltran, who established Grupo Industrial Delta, S.A. (hereinafter "Grupo Delta"). Grupo Delta was to hold itself out as CEI's sales representative in Mexico while actually acting as the conduit for the bribe payments to the "folks".

The evidence would show that Solar was in the business of the manufacture and sale of turbine compression equipment and had sold such equipment to Pemex during the mid 1970's. Dyna Vulkano S.A., a Mexican company, was Solar's Mexican sales representative and had been such since approximately 1970. In 1977, 1978 and 1979, George S. McLean (hereafter "McLean") was the vice president, and Luis A. Uriarte (hereinafter "Uriarte") was the Latin American Regional Manager of Solar.

The evidence would show that Solar initially did business with CEI and Crawford in June 1977 with the sale of six turbine compression units to Pemex and also performed a second contract selling three turbine units in late 1977. CEMCO performed the process fabrication subcontract on both of these contracts. During this period, Solar employees resisted CEI's sales efforts concerning Solar equipment to Pemex, stating a preference to sell to Pemex directly as prime contractor through Dyna Vulkano.

Throughout the fall of 1977 and into early January 1978, CEI, Crawford, and other CEI employees, were advising Solar personnel including McLean, Uriarte and other Solar employees, that CEI was the "power" in Mexico and if Solar wanted a share of the Pemex business, Solar would have to deal with CEI. McLean, Uriarte and other Solar employees, were informed that this power was based upon CEI's connection with the "folks", that the "folks" were two foreign officials, both officials of Pemex, and that a percentage was included in the contracts to be paid to the "folks".

Solar personnel were told in late 1977 that as a further demonstration of CEI's power, the next Pemex purchase order for turbine compression systems would go to Ruston. On or about January 10, 1978 Dyna Vulkano personnel learned and informed Solar that Ruston would receive the next purchase order.

Solar personnel thereafter determined to cooperate and participate with CEI and Crawford on the sale of turbine compression systems to Pemex. In exchange for receiving CEI's subcontracts for the purchase of turbine compression equipment on CEI sales to Pemex, and for receiving directly from Pemex contracts for such equipment, Solar agreed to cooperate and participate with CEI. Solar would provide CEI with the Solar turbine equipment price for a particular Pemex project. CEI would obtain from CEMCO the process fabrication price. CEI would then add to these component prices 5% for the "folks", a percentage for Grupo Delta and other profits and commissions. CEI would then provide Solar with a total turbine compression system bid price, which Solar would bid to Pemex. It was agreed that on various contracts, each to be determined by Crawford, Solar would receive the purchase order directly from Pemex although CEI would most often receive the purchase order from Pemex. Solar personnel also knew that the bids submitted by CEI to Pemex which included Solar turbine compression equipment also included a markup for the "folks".

Solar personnel knew that CEI would include the 5% for the "folks" in the payments to Grupo Delta, expecting Grupo Delta to deliver these bribe payments to the "folks". Whenever Solar was to receive the Pemex purchase order, Solar knew the monies for

"folks" would be hidden in the CEMCO process fabrication subcontract price. On these occasions the money would pass from Solar to CEMCO to CEI for payment to Grupo Delta and delivery to the "folks".

From January 26 through 29, 1978, Crawford, and other CEI personnel, Miller, and other CEMCO personnel and Solar personnel participated in the preparation of prices for CEI and Solar bids for five separate projects to be submitted to Pemex on January 31, 1978. On January 30th Crawford conveyed these total bid prices to Solar. On January 31, 1978, knowing the bids contained 5% for the "folks", Solar bid these total prices to Pemex. Throughout the spring of 1978 Pemex issued purchase orders to CEI and Solar on the basis of these bids.

The foregoing pricing pattern was followed from January 1978 to March 1979. During this time period, Solar obtained from Pemex and CEI through various purchase orders and changes, approximately \$112,000,000 in contracts. In each of these contracts, 5% was included for the "folks", and was forwarded to Grupo Delta for payment to the "folks".

Since 1961, International Harvester Company has maintained a Policy on Conflicts of Interest and Ethical Business Conduct which prohibits its employees from offering or making direct or indirect payments or gifts to any foreign or domestic individual or organization for the purpose of obtaining contracts or business concessions. After Solar had agreed to participate and to cooperate with CEI, and pursuant to the 1977 enactment of the Foreign Corrupt Practices Act, the Policy was revised and supplemented to affirm that improper payments prohibited by the

Act were also prohibited as a matter of company policy. In 1977, 1978, 1979 and 1980, through an annual audit process, each International Harvester managerial employee was required to certify his or her compliance and to report any action that might conflict with company policy for review by the Office of the General Counsel and corrective action, if warranted.

During those years, Uriarte and McLean each reported in the annual audit process that he was aware of International Harvester policy and had taken no action in violation thereof. Insofar as each of them participated in the conspiracy described herein, he accordingly concealed from International Harvester his participation and the participation of the Solar Turbine Division. Neither Solar employee held a position which required him to report to International Harvester management. There has been no evidence that any officers, directors or management of International Harvester knew of or participated in the conspiracy charged in the Information.