

FILED

AUG 19 1998

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KENNETH J. MURPHY, Clerk
DAYTON, OHIO

CR - 3 - 98 - 073

WALTER HERBERT RICE
INFORMATION

UNITED STATES OF AMERICA :

CASE NO.

v. :

INFORMATION

CONTROL SYSTEMS SPECIALIST,
INC., AND DARROLD RICHARD
CRITES

18 U.S.C. § 371
15 U.S.C. § 78dd-2
18 U.S.C. § 201(c) (1) (A)

THE UNITED STATES ATTORNEY CHARGES THAT:

GENERAL ALLEGATIONS

1. The Foreign Corrupt Practices Act of 1977 (FCPA), as amended, 15 U.S.C. §§ 78dd-1, et seq., was enacted by the Congress for the purpose of making it unlawful for United States persons, businesses, and residents to make payment to foreign government officials for the purpose of obtaining or retaining business or directing business to any person.

2. At all times material herein, the defendant DARROLD RICHARD CRITES was President of the defendant CONTROL SYSTEMS SPECIALIST, INC. (CSS), an Ohio corporation having its principal place of business at Fairborn, Ohio, in the Southern District of Ohio, which was engaged in the purchase, repair, and resale of surplus military equipment. Defendant DARROLD RICHARD CRITES was

a "domestic concern" as that term is defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(1)(A).

3. At all time material herein, defendant CSS was a domestic concern as that term is defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(1)(B).

4. Businessman X was President of Company Y, an Ohio corporation, having its principal place of business in Dayton, is engaged in the purchase, repair, and resale of surplus military equipment. Defendant DARROLD RICHARD CRITES was Secretary of Company Y. Businessman X and Company Y were domestic concerns as that term is defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(1).

5. From December 1993 through February 1996, a Brazilian Air Force Lt. Colonel (BAF/Lt. Col. Z) was the Foreign Liaison Officer for the Air Force of the Republic of Brazil and was stationed at Wright Patterson Air Force Base in the Southern District of Ohio. BAF/Lt. Col. Z was a "foreign official" as that term is defined in the Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-2(h)(2). BAF/LT. Col. Z was authorized to make purchases of military equipment on behalf of the Brazilian Aeronautical Commission (BAC), the purchasing agent of the Brazilian Air Force. The Brazilian Aeronautical Commission was

an "instrumentality" of the Government of Brazil, as that term is used in the Foreign Corrupt Practices Act, 15 U.S.C. §78dd-2(a)(1)(B).

6. From the fall of 1993 through December 1995, a civilian employee of the United States Air Force, who is a citizen of the United States, worked at Wright Patterson Air Force Base as the Command Country Manager ("Country Manager") for Brazil. As such, he was responsible for representing the United States Air Force in dealings with BAF/Lt. Col. Z.

COUNT ONE

18 U.S.C. § 371 (Conspiracy)

7. The United States Attorney incorporates by reference the allegations set forth in paragraphs 1- 6 above, and charges that:

8. From on or about October 1995, and continuing to February 1996, in the Southern District of Ohio and elsewhere, defendants herein DARROLD RICHARD CRITES, a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and an officer and shareholder of a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(B), to wit CONTROL SYSTEMS SPECIALIST, INC., and CONTROL SYSTEMS SPECIALIST, INC., a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-

2(h)(1)(B), together with others known and unknown to the United States Attorney, did knowingly, intentionally and unlawfully combine, conspire, and agree with each other to commit an offense against the United States, to wit, to use the mails and means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and the authorization of the payment of money to a foreign official for the purpose of influencing the acts and decisions of said foreign official in his official capacity, inducing said foreign official to do or omit to do acts in violation of his lawful duty, and inducing said foreign official to use his influence with an instrumentality of a foreign government in obtaining and retaining business for, and directing business to, the defendants and others in violation of the Foreign Corrupt Practices Act, 15 U.S.C. §78dd-2.

A. Manner and Means

9. It was part of the conspiracy that, in or about 1994, defendant DARROLD RICHARD CRITES met with the Country Manager and with BAF/Lt. Col. Z and agreed that the Country Manager would locate surplus military equipment for purchase, repair, and resale by CSS to the Brazilian Aeronautical Commission, an instrumentality of the Government of the Republic of Brazil.

10. It was further a part of the conspiracy that, the Country Manager agreed to provide defendant DARROLD RICHARD CRITES with surplus part numbers, model numbers, and U.S. military sources of surplus parts in exchange for the promise of payments of money, using information he would obtain through his position as a civilian employee of the United States Air Force.

11. It was further a part of the conspiracy that defendant DARROLD RICHARD CRITES would thereafter purchase the surplus equipment identified by the Country Manager, recondition it, and resell the same to the BAC. According to their agreement, BAF/Lt. Col. Z would approve the BAC's purchases from CSS in exchange for payments of money.

12. It was further a part of the conspiracy that, in the fall of 1994, defendant DARROLD RICHARD CRITES, after consulting with the Country Manager, started to prepare and submit bids to the BAC through BAF/Lt. Col. Z. Thereafter, defendant DARROLD RICHARD CRITES paid BAF/Lt. Col. Z a series of bribes, disguised as "consultant fees," for each bid accepted by BAF/Lt. Col. Z on behalf of the BAC.

13. It was further a part of the conspiracy that defendant DARROLD RICHARD CRITES, with the assistance of an unindicted co-

conspirator, Businessman X, formed Company Y in September, 1995. Thereafter, Company Y paid bribes to BAF/Lt. Col. Z in exchange for his approval of Company Y's bids to sell surplus U.S. military equipment to the BAC.

14. It was further a part of the conspiracy that between 1994 and 1996 defendant DARROLD RICHARD CRITES, as president of defendant CSS, and defendant DARROLD RICHARD CRITES and an unindicted co-conspirator, Businessman X, as officers of Company Y, arranged not less than forty-four purchases of surplus U.S. military equipment for repair and resale to the BAC. Some of the surplus equipment was obtained by the BAC through the Defense Reutilization and Marketing Service (DRMS) under the Foreign Military Sales (FMS) Program and then provided to defendant CSS or Company Y for repair. Other equipment was purchased directly by CSS or Company Y, repaired, and then sold to the BAC. In all cases, after each purchase was effected, BAF/Lt. Col. Z was paid for his approval of the transaction.

15. It was further a part of the conspiracy that between 1994 and 1996 defendants DARROLD RICHARD CRITES and CSS and others paid a total of \$ 99,000 to the Country Manager and a total of \$ 257,139 to BAF/Lt. Col. Z.

22. On or about November 13, 1995, CSS issued an invoice in the amount of \$26,950.00 to BAC for the supply of two reconditioned Generator Sets.

23. On or about November 13, 1995, CSS issued an invoice in the amount of \$73,850 to BAC for the repair of a Test Stand.

24. On or about November 15, 1995, CSS paid BAF/Lt. Col. Z \$18,000, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to recondition two gas turbine power units for BAC.

25. On or about November 15, 1995, CSS paid BAF/Lt. Col. Z \$6,000, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to sell BAC the reconditioned Trailer Mounted De-Icer.

26. On or about November 16, 1995, CSS paid BAF/Lt. Col. Z \$30,000, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to repair the Test Stand for BAC.

27. On or about November 17, 1995, CSS paid BAF/Lt. Col. Z \$11,500, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to sell BAC two reconditioned Generator Sets.

28. On or about November 15, 1995, CSS paid BAF/Lt. Col. Z

\$10,000, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to sell BAC two Test Stands.

29. On or about November 19, 1995, CSS paid BAF/Lt. Col. Z an additional \$5,050, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to sell BAC two Test Stands.

30. On or about December 11, 1995, BAC issued a check to CSS for \$264,285.00 to cover the foregoing contracts.

(All in violation of Title 18, United States Code, Section 371)

COUNT TWO

15 U.S.C. § 78dd-2
(Foreign Corrupt Practices Act)

31. The United States Attorney incorporates by reference the allegations set forth in paragraphs 1- 6 and 9-17 above, and further charges that:

32. On or about November 11, 1995, in the Southern District of Ohio and elsewhere, defendants herein, DARROLD RICHARD CRITES, a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and an officer and shareholder of a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(B), to wit CONTROL SYSTEMS SPECIALIST, INC., and CONTROL SYSTEMS SPECIALIST,

B. Overt Acts

16. In furtherance of the conspiracy, defendants DARROLD RICHARD CRITES and CSS, together with others known and unknown to the United States Attorney, committed the following overt acts in the Southern District of Ohio and elsewhere:

17. On or about October 11, 1995, in Fairborn, Ohio, defendant DARROLD RICHARD CRITES paid BAF/Lt. Col. Z \$40,000, by a check drawn on defendant CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to sell equipment to BAC.

18. On or about October 17, 1995, CSS provided a quotation to BAF/Lt. Col. Z for the reconditioning of two gas turbine power units for a total cost of \$71,290.00.

19. On or about October 20, 1995, CSS issued an invoice in the amount of \$71,290.00 to BAC for the reconditioning of two gas turbine power units.

20. On or about October 20, 1995, CSS issued an invoice in the amount of \$25,475.00 to BAC for the supply of a reconditioned Trailer Mounted De-Icer.

21. On October 20, 1995, CSS issued an invoice in the amount of \$50,550 to BAC for the supply of two Test Stands.

22. On or about November 13, 1995, CSS issued an invoice in the amount of \$26,950.00 to BAC for the supply of two reconditioned Generator Sets.

23. On or about November 13, 1995, CSS issued an invoice in the amount of \$73,850 to BAC for the repair of a Test Stand.

24. On or about November 15, 1995, CSS paid BAF/Lt. Col. Z \$18,000, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to recondition two gas turbine power units for BAC.

25. On or about November 15, 1995, CSS paid BAF/Lt. Col. Z \$6,000, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to sell BAC the reconditioned Trailer Mounted De-Icer.

26. On or about November 16, 1995, CSS paid BAF/Lt. Col. Z \$30,000, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to repair the Test Stand for BAC.

27. On or about November 17, 1995, CSS paid BAF/Lt. Col. Z \$11,500, by a check drawn on CSS's account at Star Bank, as a payment for the approval by BAF/Lt. Col. Z of a bid by CSS to sell BAC two reconditioned Generator Sets.

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30. On or about December 11, 1995, BAC issued a check to CSS for \$264,285.00 to cover the foregoing contracts.

(All in violation of Title 18, United States Code, Section 371)

COUNT TWO

15 U.S.C. § 78dd-2

(Foreign Corrupt Practices Act)

31. The United States Attorney incorporates by reference the allegations set forth in paragraphs 1- 6 and 9-17 above, and further charges that:

32. On or about November 11, 1995, in the Southern District of Ohio and elsewhere, defendants herein, DARROLD RICHARD CRITES, a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and an officer and shareholder of a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(B), to wit CONTROL SYSTEMS SPECIALIST, INC., and CONTROL SYSTEMS SPECIALIST,

INC., a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(B), did use and cause to be used an instrumentalities of interstate commerce, to wit, the U.S. mails and interstate telephone lines, corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of money to a foreign official, to wit, a Lieutenant Colonel in the Air Force of the Republic of Brazil, for the purpose of influencing the acts and decisions of said foreign official in his official capacity, inducing said foreign official to do or omit to do acts in violation of his lawful duty, and inducing said foreign official to use his influence with an instrumentality of a foreign government, to wit, the Brazilian Aeronautical Commission, to obtain business for and directing business to defendant CSS, to wit, the sale of two gas turbine power units.

(All in violation of Title 15, United States Code, Section 78dd-2(a)(1))

COUNT THREE

18 U.S.C. § 201(c)(1)(A)
(Bribery of a U.S. Public Official)

33. The United States Attorney incorporates by reference

the allegations set forth in paragraphs 1- 6 and 9-17 above, and further charges that

34. Between December 1994 and June 1996, in the Southern District of Ohio, defendants herein, DARROLD RICHARD CRITES and CONTROL SYSTEMS SPECIALIST, INC., did, otherwise than as provided for the law for the proper discharge of official duties, directly and indirectly give, offer, and promise something of value to a public official, to wit, a civilian employee of the United States Air Force, for and because of an official act performed or to be performed by such public official, to wit, his assistance in the sale of surplus U.S. military equipment to an instrumentality of the Government of the Republic of Brazil, to wit, the Brazilian Aeronautical Commission.

(All in violation of Title 18, United States Code, Section 201(c) (1) (A))

SHARON J. ZEALEY
United States Attorney



SALVADOR A. DOMINGUEZ
First Assistant U.S. Attorney