THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	
	:	**Cr. No.** 08-368-RJL
Plaintiff	:	
v.	:	**(Conspiracy, 18 U.S.C. § 371)**
	:	
SIEMENS S.A. (ARGENTINA),	:	
	:	
Defendant	:	

FILED
DEC 15 2008
Clerk, U.S. District and Bankruptcy Courts

STATEMENT OF OFFENSE

The United States and Defendant SIEMENS S.A. (ARGENTINA) ("SIEMENS ARGENTINA") agree that the following facts are true and correct:

SIEMENS ARGENTINA AND OTHER RELEVANT ENTITIES AND INDIVIDUALS

1. Defendant SIEMENS S.A. (ARGENTINA) ("SIEMENS ARGENTINA"), headquartered in Buenos Aires, Argentina, was a controlled subsidiary of Siemens Aktiengesellschaft ("Siemens"), a corporation organized under the laws of Germany with its principal offices in Berlin and Munich, Germany. Through its operating groups, subsidiaries, officers, directors, employees, and agents, Siemens was engaged in a variety of business activities for, among others, national, state, and municipal governments. This included, among other things, developing, constructing, selling, and servicing telecommunications equipment and systems; power generation, transmission, and distribution equipment and systems; transportation equipment and systems; medical equipment and systems; and industrial and traffic equipment and systems. SIEMENS ARGENTINA was a regional company that contracted for and managed projects relating to all Siemens operating groups. From the 1980s to the present, SIEMENS

ARGENTINA has been involved in several government infrastructure projects in Argentina, including a national identity card project (the "national identity card project") in the 1990s. SIEMENS ARGENTINA was a "person other than an issuer or a domestic concern" within the meaning of the FCPA. 15 U.S.C. § 78dd-3.

2. As of March 12, 2001, Siemens was listed on the New York Stock Exchange ("NYSE") and, together with its subsidiaries, was an "issuer" as that term is used in the FCPA. 15 U.S.C. § 78dd-1(a). By virtue of its status as an issuer, Siemens was required to comply with the provisions of the FCPA, including the requirement to maintain accurate books, records, and accounts.

3. Siemens Business Services GmbH & Co. OHG ("SBS"), headquartered in Munich, Germany, was a Siemens operating group and affiliate that provided information technology consulting, systems integration, and management services. SBS provided technical expertise and management on the national identity card project.

4. Siemens' Power Transmission and Distribution operating group ("PTD"), headquartered in Erlangen, Germany and with subsidiary offices in Wendell, North Carolina, was responsible for the design, manufacture, sale, and service of power generation equipment, software, and network control equipment.

5. Lincas GmbH ("Lincas"), a Hamburg, Germany-based export service provider, was the source of funds for certain improperly recorded corrupt payments to Argentine government officials in connection with the national identity card project for SIEMENS ARGENTINA. Lincas was consolidated into Siemens in March 2003.

6. Siemens Corporate Legal Department, based in Munich, Germany, handled general in-house legal matters for Siemens. Siemens Corporate Legal Department reviewed and provided

advice in response to requests from SIEMENS ARGENTINA in connection with the national identity card project.

7. "Officer A," a German citizen, was chairperson of the Board of SIEMENS ARGENTINA from in or about December 20, 2000 to in or about October 1, 2002, and a senior executive of Siemens from in or about October 2000 to in or about 2007. From in or about October 2000 to in or about 2007, Officer A had oversight responsibilities for both PTD and the Americas, including SIEMENS ARGENTINA, and was involved in the national identity card project.

8. "Officer B," a German citizen, was a senior executive of SIEMENS ARGENTINA from in or about 1983 to in or about 1989 and again in 1991, and was a senior executive of Siemens from in or about 1996 to in or about 2003. After his move to Siemens, Officer B remained involved in SIEMENS ARGENTINA business, including the national identity card project.

THE CO-CONSPIRATORS

9. "Argentina Executive A," a non-United States citizen, who is named as a co-conspirator but not as a defendant herein, was a senior executive of SIEMENS ARGENTINA from in or about 1996 to in or about 2002 and was chiefly responsible for the day-to-day management of the national identity card project.

10. "Consulting Firm A," a Uruguayan company, which is named as a co-conspirator but not as a defendant herein, was controlled by Argentina Executive A and acted as a conduit for improperly recorded corrupt payments from SIEMENS ARGENTINA to Argentine government officials in connection with the Argentine national identity card project.

11. "Argentina Executive B," a German citizen, who is named as a co-conspirator but not as a defendant herein, was an employee of SIEMENS ARGENTINA from 1986 to in or about 1991 and a senior executive of SIEMENS ARGENTINA from in or about May 2002 to in or about

July 2008. Argentina Executive B facilitated some of the improperly recorded corrupt payments made in connection with the national identity card project.

12. "Agent A," an Argentine citizen, who is named as a co-conspirator but not as a defendant herein, was a former board member of SIEMENS ARGENTINA. Agent A had ties to various high-level Argentine government officials and acted as a purported business consultant to SIEMENS ARGENTINA and its affiliates on the Argentine national identity card project.

13. The "Argentine Consulting Group," a group of entities headquartered in Central and South America, which is named as a co-conspirator but not as a defendant herein, was controlled by Agent A. The Argentine Consulting Group received improperly recorded corrupt payments from SIEMENS ARGENTINA and its affiliates in connection with the national identity card project, and passed along some portion of those payments to Argentine officials in exchange for improper advantages for SIEMENS ARGENTINA and/or its affiliates.

14. "Agent B," a German citizen, who is named as a co-conspirator but not as a defendant herein, was a former Siemens PTD employee and controlled a purported business consulting entity, Consulting Firm B, used by SIEMENS ARGENTINA to make improperly recorded corrupt payments to Argentine government officials in connection with the Argentine national identity card project.

15. "Consulting Firm B," a Dubai-based entity, which is named as a co-conspirator but not as a defendant herein, was controlled by Agent B and acted as a conduit for funds from PTD that were used in whole or in part to make or to fund improperly recorded corrupt payments to Argentine government officials in connection with the Argentine national identity card project.

16. "Consulting Firm C," a Bahamian entity, which is named as a co-conspirator but not as a defendant herein, was a conduit for improperly recorded corrupt payments from

SIEMENS ARGENTINA to Argentine government officials in connection with the Argentine national identity card project.

17. "Consulting Firm D," a Bahamian entity, which is named as a co-conspirator but not as a defendant herein, was a conduit for improperly recorded corrupt payments from SIEMENS ARGENTINA to Argentine government officials in connection with the Argentine national identity card project.

18. "Former Official A," an Argentine citizen, who is named as a co-conspirator but not as a defendant herein, was an official in the Argentine government until in or about 1999, and then became a member of the Argentine Congress until in or about 2007. SIEMENS ARGENTINA authorized corrupt payments to Former Official A in connection with the national identity card project.

19. "Former Minister A," an Argentine citizen, who is named as a co-conspirator but not as a defendant herein, was a former minister in the Argentine government with close ties to other Argentine officials. Former Minister A was engaged by Siemens to prevent the national identity card project from being terminated. A SIEMENS ARGENTINA employee drafted a memorandum stating that Former Minister A had "large influence" and that up to $1,000,000 in payments would be necessary," though "the use of the money (end recipient) [was] unknown." SIEMENS ARGENTINA authorized improperly recorded corrupt payments to Former Minister A from SIEMENS ARGENTINA with the expectation that he would pass along some portion of those payments to a senior officer of the Argentine Sindicatura General, the national audit board, in an attempt to retain for SIEMENS ARGENTINA the contract for the national identity card project.

20. In or about 1994, the Argentine government issued a tender for bids to replace the then existing manually-created national identity booklets with state of the art national identity cards. The total estimated value of the national identity card project was approximately $1 billion.

21. On or about February 10, 1998, SIEMENS ARGENTINA and its affiliates were awarded the national identity card project contract by the Argentine Ministry of the Interior.

22. In or about September 1998, SIEMENS ARGENTINA began making and causing to be made significant payments to various accounts held by the Argentine Consulting Group in connection with the national identity card project, despite the fact that the Argentine Consulting Group provided no legitimate services on the project. SIEMENS ARGENTINA employees understood these payments to be, at least in part, corrupt payments for the high-level Argentine government officials responsible for awarding SIEMENS ARGENTINA and its affiliates the national identity card project.

23. In or about August 1999, in the midst of the campaign for the Argentine presidential election, the Argentine government put the national identity card project on hold. The then-President's party lost the election, and shortly thereafter, the new Argentine government notified SIEMENS ARGENTINA that the $1 billion contract would be terminated if SIEMENS ARGENTINA did not renegotiate the terms. SIEMENS ARGENTINA and its affiliates ultimately agreed to certain price concessions, and a top-level executive branch official agreed to issue a national decree mandating the purchase of new identity cards for all citizens. In exchange for the decree, SIEMENS ARGENTINA agreed to pay $6,000,000 to $10,000,000 to the top level executive branch official. Nevertheless, such a decree was never issued, and on or about May 18, 2001, the Argentine government cancelled the national identity card project.

24. From in or about 1997 to January 2007, SIEMENS ARGENTINA paid or caused to be paid at least $15,725,000 directly to entities controlled by members of the Argentine government, at least $35,150,000 directly to the Argentine Consulting Group, and at least $54,908,000 to other entities. Furthermore, SIEMENS ARGENTINA caused SBS to enter into agreements with the Argentine Consulting Group. Employees of SIEMENS ARGENTINA understood that some or all of those funds would be passed along to Argentine officials for the corrupt purpose of obtaining, retaining, or reinstating for SIEMENS ARGENTINA the national identity card project.

25. Cancellation of the project in 2001 led to disputes between SIEMENS ARGENTINA and its affiliates and the government of Argentina as well as the Argentine Consulting Group. During a conversation relating to payments demanded by the Argentine Consulting Group from SIEMENS ARGENTINA in 2002 or 2003, Agent A provided a summary to Officer A of outstanding payment obligations. The summary stated that "strong commitments were made to the new government." The last page of the summary described outstanding payments to government officials or their family members, listed by the amount owed and by the initials of the intended recipients.

26. Unpaid claims of the Argentine Consulting Group led to an arbitration between the Argentine Consulting Group and SBS in 2005. During the arbitration, testimony and documents strongly suggested that the Argentine Consulting Group had paid bribes on SIEMENS ARGENTINA's behalf to Argentine government officials.

27. The cancelled national identity card project also triggered separate arbitration between Siemens and the Argentine government. On or about February 6, 2007, Siemens was awarded $217,000,000 in connection with an International Center for Settlement of Investment Disputes ("ICSID") arbitration against the Argentine government. Notably, ICSID does not have jurisdiction to adjudicate claims based on contracts obtained through corruption, and Siemens did not assert or imply during the arbitration that the project was tainted by corruption, despite the confidential record to the contrary in the Argentine Consulting Group arbitration.

THE CONSPIRACY AND ITS OBJECTS

28. From on or about March 12, 2001 to in or about 2007, within the territory of the United States and elsewhere, SIEMENS ARGENTINA, Argentina Executive A, Argentina Executive B, Agent A, the Argentine Consulting Group, Consulting Firm A, Agent B, Consulting Firm B, Consulting Firm C, Consulting Firm D, Former Minister A, and others known and unknown, did unlawfully and knowingly combine, conspire, confederate, and agree together to: knowingly falsify and cause to be falsified books, records, and accounts required to, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of an issuer of U.S. securities, to wit, Siemens and its subsidiaries, contrary to Title 15, United States Code, Sections 78m(b)(2)(A), 78m(b)(5), and 78ff(a).

PURPOSE OF THE CONSPIRACY

29. The primary purpose of the conspiracy was to conceal on the books and records of Siemens that SIEMENS ARGENTINA and its affiliates were seeking to obtain or retain business with the Argentine government through corrupt payments, made both directly and indirectly, to high-level government officials responsible for awarding the national identity card project to SIEMENS ARGENTINA and its affiliates.

MANNER AND MEANS OF THE CONSPIRACY

30. To achieve the objects of the conspiracy, SIEMENS ARGENTINA and others used the following manner and means, among others:

a. It was a part of the conspiracy that from in or about July 2002 to in or about January 2007, SIEMENS ARGENTINA and its affiliates made or caused to be made approximately $31,263,000 in improperly recorded purported consulting payments to the Argentine Consulting Group and other entities and individuals, when, in fact, some or all of the payments were intended as corrupt payments for Argentine government officials.

b. It was a further part of the conspiracy that SIEMENS ARGENTINA failed to properly account for the purported consulting payments to the Argentine Consulting Group and others, and failed, or caused the failure, to describe accurately the transactions in its and Siemens' books and records. Instead, SIEMENS ARGENTINA improperly characterized the payments as legitimate payments for, among other things, "commissions" and "business consulting fees."

c. It was a further part of the conspiracy that in order to conceal the true purpose of and improperly characterize the purported consulting payments to the Argentine Consulting Group and others, SIEMENS ARGENTINA created or caused to be created sham invoices, backdated or caused to be backdated payment authorization memoranda, and caused certain corrupt payments to be recorded as legitimate expenses relating to operating groups and regional companies other than SIEMENS ARGENTINA.

OVERT ACTS

31. In furtherance of the conspiracy and to accomplish its unlawful objects, at least one of the co-conspirators committed or caused to be committed, within the territory of the United States and elsewhere, the following overt acts, among others:

a. In or about March 2001, SIEMENS ARGENTINA engaged Former Minister A to use his influence to prevent the national identity card project from being terminated. Former Minister A was known by SIEMENS ARGENTINA to be a close friend of a senior officer of the national audit board, which was reviewing the national identity card project's viability. SIEMENS ARGENTINA caused Former Minister A to be paid $660,000 for purported legal services, notwithstanding that the former minister performed little substantive work.

b. In or about March 2001, several Argentine ministers resigned, including two who were proponents of the national identity card project. According to a later SIEMENS ARGENTINA memorandum, this "Government crisis" meant that "[SIEMENS ARGENTINA's] existing negotiation partners ha[d] 'disappeared.'"

c. In or about April 2001, SIEMENS ARGENTINA caused SBS to enter into a purported business consulting agreement with one of the Argentine Consulting Group entities for $7,500,000, and to backdate the agreement to April 29, 1999.

d. On or about May 18, 2001, the Argentine government cancelled the national identity card project. Between in or about December 1999 and in or about May 2000, Officer B met in Berlin with Former Official A and an Argentine minister, both of whom requested payments that had been promised to them by SIEMENS ARGENTINA previously. Officer B told them that if they had agreements with a former officer of SIEMENS ARGENTINA, they would be honored.

e. In or about June 2001, Officer A, Officer B, and Argentina Executive A formed a "crisis team" to address mounting payment demands from the Argentine Consulting Group.

f. On or about July 6, 2001, Argentina Executive A and an SBS manager met with the Argentine Consulting Group in Miami, Florida, to discuss a possible settlement regarding the money SIEMENS ARGENTINA owed to the Argentine Consulting Group under various purported consulting agreements. The parties preliminarily agreed to settle all claims related to the identity card project for $27,000,000, but after the meeting, Argentina Executive A and the SBS manager could not obtain higher level authorization to formalize that settlement.

g. In or about July 2001, Siemens Corporate Legal Department was briefed on the proposed settlement arising from the meeting in Miami.

h. On or about July 12, 2001, Officer A and another Siemens executive sent a demand letter to the then Argentine President to continue the national identity card project. The demand letter not only represented Siemens' and SIEMENS ARGENTINA's legitimate hope that the project could be salvaged, but also triggered the mandatory waiting period under the German-Argentine bilateral investment treaty before Siemens could initiate an international arbitration against the Government of Argentina.

i. Beginning in or about July 2001, Siemens Corporate Legal Department took the position that payments to the Argentine Consulting Group were problematic and that no *voluntary* payments should be made. SIEMENS ARGENTINA employees understood this to mean that payments to the Argentine Consulting Group would be approved by Siemens Corporate Legal Department only if there were legal obligations imposed by a court or an arbitration panel.

j. On or about August 3, 2001, a Siemens Corporate Legal Department attorney drafted a memorandum for a supervisor, recommending against payments to the Argentine Consulting Group and implying that the payments might be illegal.

k. On or about September 24, 2001, the Argentine government issued a decree ratifying the termination of the national identity card contract.

l. On or about December 25, 2001, Argentina Executive A sent a letter to a Siemens Corporate Legal Department attorney regarding the Argentine Consulting Group's demands for payment. In the letter, Argentina Executive A wrote, "I know that in your opinion we have a very good chance at court in this procedure. As this contract affects the [national identity card] project in Argentina, we would advise not letting it go too far."

m. On or about February 11, 2002, Argentina Executive A sent a letter to an SBS executive regarding the Argentine Consulting Group's demands for payment. Argentina Executive A wrote that he had met with representatives of the Argentina Consulting Group and negotiated a compromise of $18,000,000, which he noted was a $9,000,000 reduction in their claim of $27,000,000 at the July 6, 2001 Miami meeting. Argentina Executive A wrote: "Moreover the [Argentine Consulting Group] representatives have promised their support in the search for a solution to the [national identity card project] matter with the Argentine government. As already mentioned in my letter of 24.12.01, in my opinion it would not exactly be helpful if, now a solution of the [national identity card project] matter is in sight, we took court action against one of our suppliers for contractual non-performance." The letter represented SIEMENS ARGENTINA's continued hope for some financial benefit in connection with the national identity card project.

n. On or about May 23, 2002, Siemens filed a claim with ICSID against Argentina under the German-Argentine bilateral investment treaty to recover its investment in the national identity card project.

o. In or about late July 2002, SIEMENS ARGENTINA directed $5,213,000 to the Uruguayan bank account controlled by Argentine Executive A based on false and backdated invoices for purported consulting services in Chile and Uruguay, which were never actually provided. The invoices specified that payments should be made in United States dollars via a particular bank in New York, New York. As support for the payment authorization, Argentina Executive A created a memorandum, backdated to September 26, 2000, describing the need for $5,000,000 in consulting payments on projects in Chile and Uruguay. There were no projects with consultant payment needs in Chile or Uruguay during the relevant time period. A temporary closure of the Uruguayan banks resulted in the funds being held by the United States correspondent bank in New York, New York, for several business days before the transfer occurred.

p. In or about August 2002, SIEMENS ARGENTINA caused to be paid $3,050,000 to an account controlled by the Argentine Consulting Group.

q. In or about November 2002, outside counsel for the Argentine Consulting Group sent a draft arbitration claim to Officer A for breach of contract and demanding $27,160,000. That total was composed of the $27,000,000 agreed upon at the meeting in Miami, Florida, plus a portion of the $7,500,000 promised in the backdated April 29, 1999 agreement, less the $3,050,000 paid in or about August 2002. One of the key arguments in the draft claim was that the partial payment of $3,050,000 in or about August 2002 was sufficient to establish a valid contract with the Argentine Consulting Group.

r. In or about December 2002 and in or about January 2003, Siemens Corporate Legal Department attorneys drafted memoranda setting forth the position that no legal basis existed upon which to make payments to the Argentine Consulting Group because no

legitimate services were provided. This position was communicated to Argentina Executive A, Officer A, and the Argentine Consulting Group.

s. In or about 2002 and in or about 2003, Officer A met on two occasions with Agent A in Munich, Germany, to discuss the Argentine Consulting Group's demands for payments from SIEMENS ARGENTINA. During one of those meetings, Agent A provided a summary of the payments SIEMENS ARGENTINA had promised to the Argentine Consulting Group.

t. On or about January 16, 2003, Officer A met with Agent A in New York, New York, to further discuss the Argentine Consulting Group's demands for payments from SIEMENS ARGENTINA. During the meeting, Officer A indicated to Agent A that SIEMENS ARGENTINA and its affiliates would make the requested payments to the Argentine Consulting Group to satisfy Agent A's demands.

u. In or about May 2003, at the direction of Officer A, PTD agreed to cooperate to provide funds for the payments to the Argentine Consulting Group through an audit-obscured channel, despite the fact that PTD had no business role in connection with the national identity card project.

v. On or about April 2, 2003, Agent B sent an email to senior employees of Lincas, an entity frequently used by Siemens entities as a conduit for improperly recorded payments, stating that PTD had determined it was "necessary to transfer an agreement for US$ 7 million to South America." Agent B's email indicated that with Officer A's approval, Agent B developed a two-part "solution" for raising the funds: (1) Agent B's corporate entity, Consulting Firm B, would increase its commission by 4-5% on an unrelated PTD project outside of Argentina; and (2) Lincas would increase the "service fee" that it owed to Consulting Firm B on the project.

w. In or about late April 2003, Agent B, at the direction of Argentina Executive A, deposited $7,000,000 in four installments into an account in Nassau, Bahamas, in the name of Consulting Firm C. Agent B divided the payments into installments to minimize potential compliance red flags.

x. In or about May 2003, a PTD accounting and controlling employee wrote in an email that according to "discussions with [Officer A]," PTD would receive €7,100,000 in credits. These funds were intended to reimburse PTD for fronting the money used for the Argentina payments.

y. In or about July 2003, after Agent B received a call from a PTD senior manager asking for an additional $2,500,000 for the Argentina project, Agent B deposited $2,500,000 in three installments into an account in Nassau, Bahamas, in the name of Consulting Firm D. Agent B again divided the payments into installments to minimize potential compliance red flags. Ultimately, PTD received credits from SBS totaling €9.6 million for these transactions.

z. On or about October 7, 2003, Agent B signed an agreement between Consulting Firm B and PTD for purported "troubleshooting" tasks on the unrelated PTD project outside of Argentina. The agreement contained neither a detailed explanation of services to be provided, nor a set amount to be paid. Agent B received approximately €4,300,000 under this agreement as part of his reimbursement for the $9,500,000 he had paid to the Nassau, Bahamas accounts in April and July 2003.

aa. In or about March 2005, the Argentine Consulting Group filed notice of an international arbitration against SBS in Zurich. Officer A testified at the arbitration hearings for SIEMENS ARGENTINA and its affiliates.

bb. On or about November 9, 2006, SBS entered into a settlement with the Argentine Consulting Group for $8,800,000 to dispose of the arbitration claims. The parties specifically agreed as part of the settlement not to release any information regarding the claims or the evidence to the public.

cc. In or about January 2007, SBS caused to be paid $8,800,000 to the Argentine Consulting Group pursuant to the settlement.

dd. From in or about March 2001 to in or about January 2007, SIEMENS ARGENTINA and the co-conspirators caused the payments to Former Minister A, Consulting Firm C, Consulting Firm D, and the Argentine Consulting Group to be improperly characterized in its books and records as legitimate payments for "consulting fees" or "legal fees." At the end of Siemens' fiscal years 2001 through 2007, the books and records of SIEMENS ARGENTINA, including those containing false characterizations of the payments, were incorporated into the books and records of Siemens for purposes of preparing Siemens' year-end financial statements.

STEVEN A. TYRRELL
Chief
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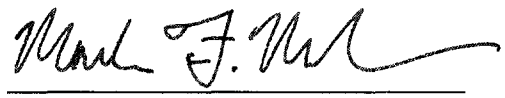
By: 

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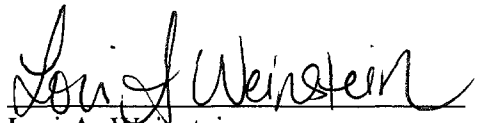
By: 

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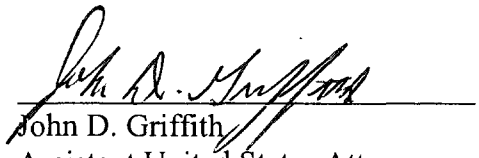
By: 

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DEFENDANT'S ACCEPTANCE

I have read this Statement of Offense. Pursuant to Fed. R. Crim. P. 11, and on behalf of Siemens S.A. (Argentina), I accept and acknowledge responsibility for the acts of Siemens S.A. (Argentina)'s officers and employees and I admit that the evidence supporting the Statement of Offense establishes that Siemens S.A. (Argentina) is guilty of the crime to which it is pleading guilty.

Date: 12-15-08

FOR SIEMENS S.A. (ARGENTINA)