

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

AUG 2 1979

JAMES F. DAVEY, Clerk

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 79-00372
)	
)	Violation: 15 U.S.C. 78dd-2(a)(2)
KENNY INTERNATIONAL CORP.)	
_____)	

NOTICE OF PLEA AGREEMENT
AND PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, notice is respectfully given to the Court that the attorneys for the Government and the attorneys for Finbar B. Kenny, for Kenny International Corp., and for Cook Islands Development Co. Ltd. have engaged in discussions pursuant to said rule and agree

1. Kenny International Corp. shall:

- (a) waive venue and indictment and plead guilty in the United States District Court for the District of Columbia to the one count of an Information attached hereto as Exhibit A which charges a criminal violation of the Foreign Corrupt Practices Act of 1977 [15 U.S.C. 78dd-2(a)(2)], and;
- (b) on the same day as the entry of the plea of guilty described in sub-paragraph (a), above, consent in the United States District Court for the District of Columbia, to the entry against it of a final judgment of permanent injunction in the form attached hereto as Exhibit B.

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2. Pursuant to the provisions of Rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure, Kenny International Corp. will pay a criminal fine in the amount of fifty thousand dollars (\$50,000.) for said violation, as alleged in Exhibit A, and such amount shall be paid in full within five days of the entry of the plea herein.

3. Finbar B. Kenny:

(a) on or before August 13, 1979, or at such later date as may be agreed upon by the Cook Islands or New Zealand prosecutors and the High Court of the Cook Islands:

(1) in lieu of extradition, shall voluntarily appear in the High Court of the Cook Islands; and

(2) shall enter a plea of guilty in his individual capacity to a criminal charge in Case No. 711/78, now pending in the High Court of the Cook Islands, in which he is charged as a defendant with participating in a scheme whereby money payable to Her Majesty the Queen was fraudulently used for private purposes, namely to finance the charter of aircraft; and

(b) shall, on the same day as the entry of the plea of guilty described in paragraph 1 above, consent in the United States District Court for the District of Columbia to the entry against him in his individual capacity of a final judgment of

permanent injunction, the form of which consent and injunction are attached hereto as Exhibit C; and

- (c) shall, whenever requested to do so, either by the Government of the Cook Islands or any Cook Islands or New Zealand prosecutor, promptly travel, at his own expense, to the Cook Islands to truthfully testify and give evidence, in any criminal or civil proceeding relating to any payments made in connection with the election held in the Cook Islands in March 1978; and
- (d) guarantees that, on or before August 10, 1979, restitution in the amount of \$NZ337,000. will be paid to the Government of the Cook Islands.

4. On or before August 13, 1979, or at such later date as may be agreed upon by the Cook Islands or New Zealand prosecutors and the High Court of the Cook Islands, Cook Islands Development Co., Ltd. without admitting or denying that it is a domestic concern as that term is defined in Section 104(d)(1) of the Foreign Corrupt Practices Act of 1977 [15 U.S.C. 78dd-2(d)(1)], shall voluntarily appear and plead guilty to all criminal charges in Criminal Case Nos. 706/78 and 710/78, now pending in the High Court of the Cook Islands, in which it is charged as a defendant with participating in a scheme whereby money payable to Her Majesty the Queen was fraudulently used for private purposes, namely to finance the charter of aircraft.

5. If the Court accepts the plea of guilty described and referred to in paragraph 1 above, and imposes the sentence described and referenced in paragraph 2 above; and if Kenny

International, Finbar B. Kenny and the Cook Islands Development Co., Ltd. comply with the provisions of paragraphs 1(b), 3 and 4 above, respectively, by the prescribed dates, the United States agrees that no further criminal charges will be brought against Kenny International Corp. or Cook Islands Development Co., Ltd. or their present or past subsidiaries or affiliates, as well as their past and present directors, employees, officers, or agents, including Finbar B. Kenny, which charges are related to any payments made prior to March 31, 1978 to Sir Albert Henry or the Cook Islands Party in connection with the election held in Cook Islands in March 1978.

6. It is agreed that if the Court, pursuant to Rule 11(e)(4) of the Federal Rules of Criminal Procedure, rejects any part of this plea agreement or refuses to accept the guilty plea, all parties to this plea agreement will be relieved of any obligations pursuant to paragraphs 1 through 5 above. It is further agreed that if the Court rejects this plea agreement, the Government may move to dismiss the charges without prejudice and none of the parties to this agreement shall have any objection to such a dismissal nor any objection on the basis of such dismissal of the charges, to the continuation of the Grand Jury's investigation.

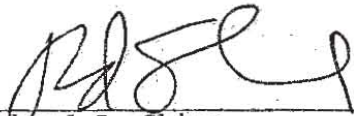
7. It is expressly understood and agreed that the provisions of paragraph 5 in no way preclude the United States from:

- (a) prosecuting Finbar B. Kenny, Kenny International Corp., or Cook Islands Development Co., Ltd. or others for any civil or criminal violation of Title 26 of the United States Code, whether or not arising out of the payments referred to in paragraph 5 above, or

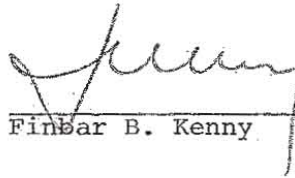
(b) prosecuting for perjury, false statement or obstruction of justice any person or entity in connection with the investigation of payments referred to in paragraph 5 above.

8. This plea agreement confirms the entire agreement between Finbar B. Kenny, Kenny International Corp., and Cook Islands Development Co., Ltd. and the United States with respect to the aforesaid guilty plea, and no other promises, representations or inducements have been made to Finbar B. Kenny, Kenny International Corp. or Cook Islands Development Co., Ltd. or their attorneys with regard to such guilty plea.

DATED this 2nd day of August, 1979



Richard S. Shine
Chief
Multinational Fraud Branch



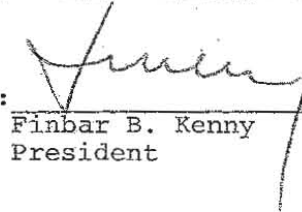
Finbar B. Kenny

KENNY INTERNATIONAL CORP.



George J. Mendelson
Deputy Chief
Multinational Fraud Branch

By:



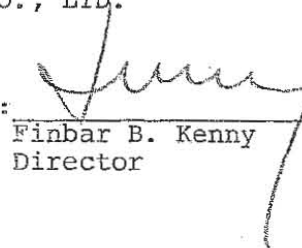
Finbar B. Kenny
President

COOK ISLANDS DEVELOPMENT
CO., LTD.



Peter B. Clark
Trial Attorney
Multinational Fraud Branch
Criminal Division
Department of Justice

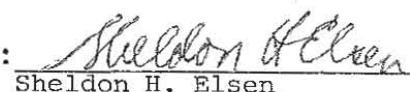
By:



Finbar B. Kenny
Director

Orans, Elsen, Polstein & Naftal:
One Rockefeller Plaza
New York, New York 10020

By:



Sheldon H. Elsen

CERTIFIED COPY OF RESOLUTIONS

Authorization Re: Execution of)
Plea Agreement by Kenny)
International Corp.)

Upon motion duly made by Director Finbar B. Kenny, seconded by Director Marianne Kenny, and unanimously carried by the affirmative vote of all of the Directors present, the following resolutions were adopted:

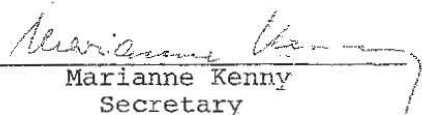
RESOLVED, that this Corporation, expecting to be named as a defendant in a civil action brought by the United States of America in the United States District Court for the District of Columbia, agrees to a settlement of that action and agrees to execute a Plea Agreement on behalf of Kenny International Corp., in substantially the form reviewed by this Board of Directors at this meeting; and

RESOLVED FURTHER, that Finbar B. Kenny, President of this Corporation, be, and he hereby is, authorized to execute such Plea Agreement on behalf of this Corporation substantially in such form as reviewed by this Board of Directors at this meeting and to enter a plea of guilty.

C E R T I F I C A T I O N

I, Marianne Kenny, hereby certify that I am the duly elected Secretary of Kenny International Corp.; that the foregoing is a full, true and correct copy of resolutions duly adopted by the Board of Directors of said Corporation, at a meeting thereof duly held at the office of the Corporation, in New York, New York, on *Wednesday*, the *1st* day of August, 1979; that the said resolutions have not been rescinded or revoked; and that the foregoing resolutions are not contrary to any provision in the Articles of Incorporation or By-Laws of Kenny International Corp.

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary and affixed the Seal of said Corporation this *2nd* day of August, 1979.


Marianne Kenny
Secretary