

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
AUG 10 11 29 AM '08

UNITED STATES OF AMERICA)
)
v.)
)
SAYBOLT NORTH AMERICA INC.)
and SAYBOLT INC.,)
)
defendants.)

CRIMINAL NO.)
18 U.S.C. §371 (Conspiracy))
15 U.S.C. §78dd-2(a)(3))
(Foreign Corrupt Practices Act))

98CR10266 WGY

INFORMATION

The United States Attorney for the District of Massachusetts and the United States Attorney for the District of New Jersey charge that:

GENERAL ALLEGATIONS

1. At all times material to this Information, the Foreign Corrupt Practices Act of 1977 [FCPA], as amended, 15 U.S.C. §§78dd-1, *et seq.*, was enacted by Congress for the purpose of, among other things, making it unlawful for United States persons, businesses and residents to use the United States mails, or any means or instrumentality of interstate or foreign commerce in furtherance of an offer, promise, authorization, or payment of money or anything of value to a foreign government official for the purpose of obtaining or retaining business for, or directing business to, any person.

2. At all times material to this Information, The Travel Act, 18 U.S.C. §1952, was enacted by Congress for the purpose of making it unlawful for any person to travel or cause others to travel across state or foreign boundaries, or to use facilities in interstate or foreign commerce, with the purpose of thereafter engaging in certain violations of state criminal laws, including commercial bribery.

THE DEFENDANT CORPORATIONS AND RELATED ENTITIES

3. At all times material to this Information:

a. Defendant SAYBOLT NORTH AMERICA INC. was a business incorporated under the laws of the State of Delaware, and having its principal place of business in Parsippany, New Jersey. Along with other Saybolt entities described below, SAYBOLT NORTH AMERICA INC. was a holding company that was, itself, wholly owned by a holding company incorporated in The Netherlands, Saybolt International B.V. ("Saybolt International"). SAYBOLT NORTH AMERICA INC. was a "domestic concern" as that term is defined in 15 U.S.C. §78dd-2(h)(1)(B).

b. Defendant SAYBOLT INC. was a business incorporated under the laws of the State of Delaware, with its principal place of business in Parsippany, New Jersey. SAYBOLT INC. was a subsidiary of defendant SAYBOLT NORTH AMERICA INC. SAYBOLT INC. was a "domestic concern" as that term is defined in 15 U.S.C. §78dd-2(h)(1)(B).

c. Saybolt Western Hemisphere was an unincorporated association comprised of various affiliated Saybolt corporations and entities located in the United States, Canada, Mexico, and various nations of the Caribbean, Central America and South America. The principal place of business of Saybolt Western Hemisphere was in Parsippany, New Jersey. The officers, directors, employees, and agents of Saybolt Western Hemisphere were also the officers, directors, employees and agents of SAYBOLT NORTH AMERICA INC. and SAYBOLT INC. Saybolt Western Hemisphere was a "domestic concern" as that term is defined in 15 U.S.C. §78dd-2(h)(1)(B).

d. Saybolt de Panama, S.A. [Saybolt de Panama] was a business entity, owned by Saybolt International, and incorporated under the laws of the Republic of Panama, with its principal place of business in Panama City, Panama.

e. Saybolt International, and the unincorporated association described above known as Saybolt Western Hemisphere, owned, controlled and operated various companies, including entities located in the United States and Central America. These included SAYBOLT INC. and SAYBOLT NORTH AMERICA INC., as well as Saybolt de Panama. Saybolt International exercised its ownership, management and operational control over these entities, including SAYBOLT NORTH AMERICA INC., SAYBOLT INC. and Saybolt de Panama, through its unincorporated association, Saybolt Western Hemisphere.

f. SAYBOLT INC. provided executive management, financial management and administrative services to Saybolt-related companies in the western hemisphere, including Saybolt de Panama. Certain officers and employees of SAYBOLT INC. were responsible for managing, overseeing and directing the operations of Saybolt-related companies located outside the United States, including Saybolt de Panama, and operated at various times from offices in Parsippany, New Jersey and Miami, Florida.

g. SAYBOLT INC. and SAYBOLT NORTH AMERICA INC., as well as Saybolt Western Hemisphere and Saybolt de Panama, by and through their subsidiaries and affiliates, engaged in the business of performing quantitative and qualitative testing of bulk commodities, such as oil, gasoline, and other petrochemicals, as well as grains, vegetable oils and other commodities.

h. A portion of the revenues earned by the Saybolt companies' Latin American subsidiaries and affiliates, including Saybolt de Panama, was billed and collected by SAYBOLT

INC. in the District of New Jersey and elsewhere. SAYBOLT INC., in turn, provided operating and other funds from accounts maintained in the United States to its Latin American affiliates, including Saybolt de Panama.

THE INDIVIDUALS

4. At all times material to this Information David H. Mead ("Mead") was a citizen of the United Kingdom, and a resident of the United States, who held the following positions: (1) President and Chief Executive Officer of SAYBOLT INC.; (2) Executive Vice-President and Chief Executive of SAYBOLT NORTH AMERICA INC.; (3) Chief Executive Officer of Saybolt Western Hemisphere; and (4) Executive Vice-President of Saybolt International. Mead was also a shareholder of Saybolt International.

5. At all times material to this Information, Frerik Pluimers ("Pluimers") was a national and resident of The Netherlands who held the following positions: (1) Chairman of the Board of Directors of SAYBOLT INC.; (2) President and Chairman of the Board of Directors of SAYBOLT NORTH AMERICA INC.; and (3) President and Chief Executive Officer of Saybolt International. Pluimers was also a shareholder of Saybolt International.

6. At all times material to this Information, "Employee A" was a United States citizen, who was an employee of SAYBOLT INC. and was the general manager of the Saybolt companies' Latin American operations, with responsibility for supervising the operations of Saybolt de Panama.

COUNT ONE

CONSPIRACY (18 U.S.C. §371)

7. The United States Attorneys incorporate by reference the allegations set forth in paragraphs 1-6 above and further charge that:

8. From in or about December 1994 to on or about December 22, 1995, at Parsippany in the District of New Jersey and elsewhere, defendants herein,

SAYBOLT NORTH AMERICA INC. and

SAYBOLT INC.

being "domestic concerns" 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 Attorneys, including Saybolt International, B.V., Saybolt Western Hemisphere, Mead, Plumers and Employee A, did conspire and agree to commit offenses against the United States, to wit:

- a. 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, that is, \$50,000, to certain individuals, while knowing that all or a portion of such money would be offered, given and promised, directly and indirectly, to officials of the government of the Republic of Panama, who were foreign officials as that term is defined in 15 U.S.C. §78dd-2(h)(2), for the purpose of influencing the acts and decisions of said foreign officials in their official capacities; inducing said foreign officials to do or omit to do acts in violation of their lawful duty; and inducing said foreign officials to use their influence with the Government of the Republic of Panama, in order to assist the

defendants SAYBOLT NORTH AMERICA INC. and SAYBOLT INC. and Saybolt Western Hemisphere in obtaining and retaining business for, and directing business to, Saybolt de Panama, S.A., SAYBOLT NORTH AMERICA INC., SAYBOLT INC. and Saybolt Western Hemisphere, in violation of Title 15, United States Code, Section 78dd-2(a)(3); and

- b. to travel and cause others to travel in interstate and foreign commerce and to use facilities in interstate and foreign commerce with intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment and carrying on of an unlawful activity, namely, bribery in violation of the laws of the State of New Jersey, specifically, New Jersey Statutes Annotated §2C:21-10, and thereafter to perform and attempt to perform such promotion, management, establishment, carrying on and facilitation of the promotion, management, establishment and carrying on of such unlawful activity, in violation of Title 18, United States Code, Section 1952(a)(3)(A).

OBJECTIVES OF THE CONSPIRACY

9. The purposes and objectives of the conspiracy were:
 - a. To obtain contracts for Saybolt de Panama and its affiliates to perform import control and inventory inspections for an agency of the Government of the Republic of Panama;
 - b. To obtain and to expedite tax benefits for Saybolt de Panama and its affiliates from the Government of the Republic of Panama, including exemptions from import taxes on materials and equipment and reductions in annual profit taxes;

c. To obtain from an agency of the Government of the Republic of Panama a secure and commercially attractive operating location for an inspection facility in Panama; and

d. To "lock out" Saybolt's competitors by retaining possession and control of Saybolt de Panama's existing location in Panama.

MANNER AND MEANS OF THE CONSPIRACY

10. It was part of the conspiracy that Mead, Pluimers and Employee A and others known to the United States Attorneys, acting on their own behalf and as agents of SAYBOLT INC. and SAYBOLT NORTH AMERICA INC., agreed to pay and authorized the payment of \$50,000 to an intermediary for officials of the Government of the Republic of Panama, in order to obtain a land concession and various tax and other benefits.

11. It was part of the conspiracy that Mead and Pluimers authorized and approved the issuance of \$50,000 from funds controlled by Saybolt International in The Netherlands, for purposes of funding the payment of that sum to an intermediary for officials of the Government of the Republic of Panama.

12. It was part of the conspiracy that Employee A would travel to Panama to arrange and supervise the delivery of the \$50,000 payment, through intermediaries to officials of the Government of the Republic of Panama.

13. It was part of the conspiracy that Pluimers would cause \$50,000 to be wire transferred from The Netherlands to Panama, in connection with funding the payment to an official of the Government of the Republic of Panama.

OVERT ACTS

14. In furtherance of the conspiracy, SAYBOLT NORTH AMERICA INC. and SAYBOLT INC., defendants herein, together with others known and unknown to the United States Attorneys, committed the following overt acts in the District of New Jersey and elsewhere:

15. In or about December 1994, in Panama, Employee A met with two individuals who were officials of the Government of the Republic of Panama.

16. In or about December 1994, in Panama, an employee of Saybolt de Panama sent an interoffice message to Employee A outlining an opportunity for Saybolt de Panama to provide services as "Hydrocarbons Independent Controllers" in the Republic of Panama, which would enable Saybolt de Panama to move into a commercially favorable "Free Zone" location, with a reduction in the "Rental Tax" rate paid by Saybolt de Panama. The message noted, "As I felt that these offers were so much, I thought it could be, as normal in our Countries, that they wanted *Something* under the table."

17. On or about January 6, 1995, Employee A sent an electronic mail message ("e-mail") to Mead outlining the discussion between the employee of Saybolt de Panama and the Panamanian officials and advising Mead that, "we desperately need a facility we can call our own as our present situation is very tenuous."

18. On or about June 2, 1995, Employee A sent an e-mail to Mead stating that the employee had scheduled a trip to Panama to meet with officials of the National Port Authority of Panama. The purpose of the trip, was to "find out exactly what it is they are offering — and what it is they want (for themselves, read \$\$\$)."

19. On or about October 17, 1995, Employee A sent a memorandum by telefax from the Miami, Florida office of SAYBOLT INC. to Mead at the headquarters of SAYBOLT INC. in

Parsippany, New Jersey. The memorandum detailed the progress of negotiations in Panama and outlined the anticipated benefits from the proposed arrangement with Panamanian authorities. Among other things, the memorandum stated Employee A's belief that "this is the best opportunity to ever present itself to Saybolt in Panama. We are dealing with very high levels of the Panamanian government and we are obviously poised to gain a lot from this project." The memorandum also stated, "the 'fee' for all of this being accomplished is \$50,000 (!) . . . We simply submit our paperwork and the cash — if we pay, all is ours. If we don't, we get nothing. Welcome to the Third World!"

20. On or about October 23, 1995, Mead sent an e-mail to Employee A responding to Employee A's fax of October 17, 1995. Mead's e-mail asked, "How will the \$50K 'fee' be justified in writing?" and further instructed the employee to "ensure that the costs and capex [which Mead and Employee A understood to mean capital expenditure costs] involved in Panama are as controlled as we can make them, even allowing for the manner in which business is done south of the Florida Keys."

21. On or about October 25, 1995, Employee A sent an e-mail to Mead in Parsippany, New Jersey. Responding to Mead's request for justification for the "\$50K 'fee,'" the e-mail stated, "I do not know exactly how one justifies a cash 'gift' (payoff)." Employee A further advised Mead that, "no receipts will be given."

22. On or about November 9, 1995, Mead and Pluimers, as well as others known and unknown to the Grand Jury, attended a meeting of the Board of Directors of SAYBOLT NORTH AMERICA INC., held at the SAYBOLT INC. headquarters in Parsippany, New Jersey. At that meeting, Mead, Pluimers, Employee A and others known and unknown to the Grand Jury discussed the \$50,000 payment demanded by the Panamanian officials.

23. On or about December 17, 1995, Employee A traveled by commercial airline from New Jersey to Panama.

24. On or about December 17, 1995, after Employee A arrived in Panama, he learned that the funds needed to pay the \$50,000 bribe had not been received from The Netherlands as he had anticipated.

25. On or about the morning of December 18, 1995, Employee A made a telephone call from Panama City, Panama to Mead in New Jersey and informed him that the funds for the bribe payment had not arrived in Panama.

26. On or about the morning of December 18, 1995, Mead sent an e-mail to Employee A at Saybolt de Panama's office. The e-mail stated:

Per telcon undersigned and capo grande Holanda the back-up software can be supplied from The Netherlands. As previously agreed, you to detail directly to NL attn FP [Pluimers].

27. On or about the morning of December 18, 1995, Mead sent an e-mail to a senior financial official of SAYBOLT INC. The e-mail stated:

After various telcons with [Employee A] and [another individual] I have spoken to FP re his supplying back-up software from NL to make up for software package which we will transfer to the Panamanians. FP confirms he will facilitate same when [Employee A] advises details to Rdam from Panama.

28. On or about the morning of December 18, 1995, at the direction of Mead, Employee A caused another employee of SAYBOLT INC. in the United States to send to Panama, by e-mail, account information for wiring funds from The Netherlands to Panama.

29. On or about the morning of December 18, 1995, Employee A caused a telefax to be sent from Saybolt de Panama's office in Panama City, Panama to Saybolt International's offices in The Netherlands, addressed to the attention of Pluimers. The telefax stated:

As a follow up to recent activities well known to you, we hereby request Funding in the amount previously discussed for finalization of this important project.

Please arrange to transfer the amount discussed to our account as soon as possible.

The telefax listed the necessary account numbers and noted:

Wire Transfer must be made to Citybank, N.A. (New York) for further credit to Saybolt de Panama S.A. account, Citybank, Panama.

30. On or about December 21, 1995, Pluimers caused \$50,000 to be wired from The Netherlands to Citibank, New York, New York, for credit to the account of Saybolt de Panama at Citibank in Panama.

31. On or about December 21, 1995, in Panama City, Panama, Employee A caused a check in the amount of \$50,000 to be drawn on the Citibank account maintained by Saybolt de Panama.

32. On or about December 21, 1995, in Panama, Employee A directed an agent of Saybolt de Panama to deliver \$50,000 to an individual who Employee A believed was acting as an intermediary for officials of the Government of the Republic of Panama.

33. On or about December 21, 1995, Employee A traveled by commercial airline from Panama to New Jersey.

34. On or about December 22, 1995, in the District of New Jersey, Employee A reported to Mead about the previous days' events in Panama.

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

COUNT TWO

FOREIGN CORRUPT PRACTICES ACT (15 U.S.C. §78dd-2(a)(3))

35. The United States Attorneys incorporate by reference the allegations set forth in paragraphs 1-35 above and further charge that:

36. In or about December 1995, at Parsippany in the District of New Jersey and elsewhere, defendants herein,

SAYBOLT NORTH AMERICA INC. and

SAYBOLT INC.,

being "domestic concerns," as that term is defined in 15 U.S.C. §78dd-2(h)(1)(B), did use and cause to be used an instrumentality of interstate and foreign commerce, to wit, a commercial aircraft traveling from New Jersey to Panama, corruptly in furtherance of an offer, payment, promise to pay and authorization of the payment of money to a person, while knowing that all or a portion of such money would be offered, given and promised, directly and indirectly to foreign officials, to wit, officials of the Government of the Republic of Panama, for purposes of influencing acts and decisions of such foreign officials in their official capacities, and inducing such foreign officials to do and omit to do acts in violation of their lawful duty, and inducing such foreign officials to use their influence with a foreign government and instrumentality thereof to affect and influence acts and decisions of such government and instrumentality, in order to assist SAYBOLT NORTH AMERICA INC. and SAYBOLT INC. in obtaining and retaining business

for, and directing business to, Saybolt de Panama S.A., SAYBOLT NORTH AMERICA INC.,
SAYBOLT INC. and Saybolt Western Hemisphere.

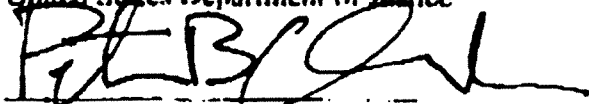
All in violation of Title 15, United States Code, Sections 78dd-2(a)(3), and Title 18,
United States Code, Section 2.

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