AES:JN
F. #2020R00270

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

- against -

PETER WEINZIERL and
ALEXANDER WALDSTEIN,

Defendants.

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INDICTMENT

Cr. No. 1:20-cr-00383(AMD)(JO)

(T. 18, U.S.C., §§ 982(a)(1), 982(b)(1), 1956(a)(2)(A), 1956(h), 1957, 2 and 3551 et seq.; T. 21, U.S.C., § 853(p))

THE GRAND JURY CHARGES:

At all times relevant to this Indictment, unless otherwise stated:

I. Background

A. The Defendants

1. The defendant PETER WEINZIERL, a citizen of Austria, was the chief executive officer and a member of the managing board of Foreign Bank 1, as defined below. In or about and between 2010 and 2016, WEINZIERL served as a member of the board of directors of Foreign Bank 2, as defined below.

2. The defendant ALEXANDER WALDSTEIN, a citizen of Austria, was an officer of Foreign Bank 1 until in or about 2014. In or about and between 2010 and 2013, WALDSTEIN served as a member of the board of directors of Foreign Bank 2.

B. Relevant Entities and Individuals

3. Odebrecht S.A. was a Brazilian holding company that, through its subsidiaries and companies in which it was a majority shareholder (collectively "Odebrecht" or

the "Company"), conducted business in multiple industries, including engineering, construction, infrastructure, energy, chemicals, utilities and real estate. Odebrecht had its headquarters in Salvador, state of Bahia, Brazil, and operated in at least 27 other countries, including the United States.

4. The Division of Structured Operations ("DSO") was a secret, stand-alone department created within Odebrecht to allow the Company to make payments that were unrecorded on the Company's books and records, many of which took the form of bribe payments to government officials, political parties and politicians in Brazil and other countries.

5. OSEL-Odebrecht Serviços no Exterior Ltd. ("OSEL") was a subsidiary of Odebrecht incorporated in the Cayman Islands. OSEL maintained bank accounts in the United States, including at New York Bank 1, as defined below.

6. Odebrecht Overseas Ltd ("OOL") was a subsidiary of Odebrecht incorporated in the Bahamas. OOL maintained bank accounts in the United States, including at New York Bank 1, as defined below.

7. Foreign Bank 1, the identity of which is known to the Grand Jury, was a bank located in Austria. Foreign Bank 1 provided corporate banking services, asset management and other banking and investment services.

8. Foreign Bank 2, the identity of which is known to the Grand Jury, was a bank located in Antigua and Barbuda ("Antigua") that was owned and controlled by Foreign Bank 1. In or about 2010, Foreign Bank 1 sold its majority interest in Foreign Bank 2 to the DSO and its agents.

9. Foreign Bank 3, the identity of which is known to the Grand Jury, was a bank located in Portugal.

10. Foreign Banks 4, 5, 6 and 8, the identities of which are known to the Grand Jury, were banks located in Switzerland.

11. Foreign Bank 7, the identity of which is known to the Grand Jury, was a bank located in Liechtenstein.

12. New York Banks 1, 2 and 3, the identities of which are known to the Grand Jury, were banks that maintained accounts and processed correspondent transactions in New York, New York.

13. Financial Institution, the identity of which is known to the Grand Jury, was an independent wealth management services company located in the United States.

14. Foreign Insurance Company, the identity of which is known to the Grand Jury, was an insurance company located in Mozambique.

15. Odebrecht Shell Companies 1 and 2, the identities of which are known to the Grand Jury, were corporations in the British Virgin Islands.

16. Odebrecht Shell Companies 3 and 4, the identities of which are known to the Grand Jury, were corporations in Antigua.

17. Odebrecht Shell Company 5, the identity of which is known to the Grand Jury, was a corporation in Scotland.

18. Odebrecht Shell Company 6, the identity of which is known to the Grand Jury, was a corporation in Panama.

19. Receita Federal do Brasil ("RFB") was the federal revenue service of Brazil and a bureau of Brazil's Ministry of Finance. Among other responsibilities, the RFB was charged with collecting income taxes in Brazil.

20. Co-Conspirator 1, a Brazilian citizen whose identity is known to the Grand Jury, was a resident of Brazil and the United States. Co-Conspirator 1 was an employee of Odebrecht who worked in the DSO in or about and between 2006 and 2016.

21. Co-Conspirator 2, a Brazilian citizen whose identity is known to the Grand Jury, was an employee of Odebrecht who was in charge of Odebrecht's efforts to evade taxes owed to Brazil and the RFB, as described in more detail below, and generate off-books slush funds in or about and between 2010 and 2015.

22. Co-Conspirator 3, a Brazilian citizen whose identity is known to the Grand Jury, was an employee of Odebrecht and assisted Co-Conspirator 2 in Odebrecht's efforts to evade taxes owed to Brazil and generate off-books slush funds in or about and between 2010 and 2013.

23. Co-Conspirator 4, a Brazilian citizen whose identity is known to the Grand Jury, was a resident of Brazil and the United States. Co-Conspirator 4 was an employee of Odebrecht who worked in the DSO in or about and between 2008 and 2015.

24. Co-Conspirator 5, a Brazilian citizen whose identity is known to the Grand Jury, was a resident of Brazil and the United States. Co-Conspirator 5 was an agent of the DSO who established and operated bank accounts used to make bribe payments and launder illegal proceeds in or about and between 2006 and 2016. Co-Conspirator 5 managed the bank accounts of Odebrecht Shell Companies 3, 4, 5 and 6, among others, at Foreign Bank 2.

25. Co-Conspirator 6, a United States citizen whose identity is known to the Grand Jury, was a resident of the United States. Co-Conspirator 6 was an agent of the DSO who assisted Odebrecht by, among other things, purchasing offshore shell companies for Odebrecht and establishing offshore bank accounts in the names of those offshore shell companies, which

were used to make bribe payments and launder illegal proceeds in or about and between 2006 and 2016.

26. Co-Conspirator 7, a Brazilian citizen whose identity is known to the Grand Jury, was a resident of Brazil. Co-Conspirator 7 was a director of Foreign Bank 2 who assisted other members of the conspiracy to establish and operate bank accounts at Foreign Bank 2, which were used to make bribe payments and launder illegal proceeds in or about and between 2010 and 2016.

27. Co-Conspirator 8, a Brazilian citizen whose identity is known to the Grand Jury, was a resident of Brazil. Co-Conspirator 8 was a director of Foreign Bank 2 who assisted other members of the conspiracy in establishing and operating bank accounts at Foreign Bank 2, which were used to make bribe payments and launder illegal proceeds in or about and between 2010 and 2016.

28. Co-Conspirator 9, a Brazilian citizen whose identity is known to the Grand Jury, was a resident of Brazil. Co-Conspirator 9 was a director of Foreign Bank 2 who assisted other members of the conspiracy in establishing and operating bank accounts at Foreign Bank 2, which were used to make bribe payments and launder illegal proceeds in or about and between 2010 and 2016.

29. The Panama Government Official, an individual whose identity is known to the Grand Jury, was a high-ranking government official in Panama in or about and between 2009 and 2014. The Panama Government Official was a "public servant" as that term is defined in the Penal Code of the Republic of Panama ("Panama's Penal Code").

30. Offshore Company 1, the identity of which is known to the Grand Jury, was a corporation based in the British Virgin Islands. In or about August 2009, a bank account

was opened at Foreign Bank 4 in the name of Offshore Company 1. The Offshore Company 1 account at Foreign Bank 4 was used to receive wire transfer payments from Odebrecht for the benefit of the Panama Government Official.

31. Offshore Company 2, the identity of which is known to the Grand Jury, was a corporation based in the British Virgin Islands. In or about September 2009, a bank account was opened at Foreign Bank 5 in the name of Offshore Company 2. The Offshore Company 2 account at Foreign Bank 5 was used to receive wire transfer payments from Odebrecht for the benefit of the Panama Government Official.

32. Offshore Company 3, the identity of which is known to the Grand Jury, was a corporation based in the British Virgin Islands. In or about October 2010, a bank account was opened at Foreign Bank 6 in the name of Offshore Company 3. The Offshore Company 3 account at Foreign Bank 6 was used to receive wire transfer payments from Odebrecht for the benefit of the Panama Government Official.

33. The Mexico Government Official, an individual whose identity is known to the Grand Jury, was a high-level executive of Petróleos Mexicanos – Pemex ("Pemex"), a Mexican state-owned and state-controlled oil and gas company headquartered in Mexico City, Mexico. The Mexico Government Official was a "public servant" as that term is defined in the Federal Penal Code of the United States of Mexico ("Mexico's Penal Code").

34. Offshore Company 4, the identity of which is known to the Grand Jury, was a corporation based in the British Virgin Islands. In or about February 2012, a bank account in the name of Offshore Company 4 was opened at Foreign Bank 7. The Offshore Company 4 account at Foreign Bank 7 was used to receive wire transfer payments from Odebrecht for the benefit of the Mexico Government Official.

35. The Brazil Government Official, an individual whose identity is known to the Grand Jury, was a high-level executive and director at Petróleo Brasileiro S.A. - Petrobras ("Petrobras"), a Brazilian state-owned and state-controlled oil company headquartered in Rio de Janeiro, Brazil. The Brazil Government Official was a "public official" as that term is defined in the Penal Code of Brazil ("Brazil's Penal Code").

36. Offshore Company 5, the identity of which is known to the Grand Jury, was a corporation based in Panama. In or about 2010, a bank account in the name of Offshore Company 5 was opened at Foreign Bank 8. The Offshore Company 5 account at Foreign Bank 8 was used to receive wire transfer payments from Odebrecht for the benefit of the Brazil Government Official.

C. Relevant Foreign Bribery Laws

37. Article 347 of Panama's Penal Code made it a criminal offense to bribe a public servant. Article 347 of Panama's Penal Code read, in relevant part: "Whoever, by any means, offers, promises or delivers to a public servant a donation, promise, money or any other benefit or advantage to perform, delay or omit any act proper to his position or employment or in violation of his obligations, will be punished with imprisonment of three to six years."

38. Article 222 of Mexico's Penal Code made it a criminal offense to bribe a public servant. Article 222 of Mexico's Penal Code prohibited anyone from, "giv[ing], promis[ing], or deliver[ing] any benefit to a public servant ... money or any other benefit" in order for the public servant, "to do or refrain from doing any just or unjust act in relation to the public servant's function."

39. Article 333 of Brazil's Penal Code made it a criminal offense to bribe a public official. Article 333 of Brazil's Penal Code defined the crime of "Active Corruption" as

follows: "To offer or promise an undue advantage to a public official, in order to induce him to commit, omit, or delay an official act."

III. The Criminal Scheme

A. Overview of the Criminal Scheme

40. Between in or about 2001 and 2016, Odebrecht, through certain of its officers, employees and agents, and together with other co-conspirators, engaged in a massive fraud, bribery and money laundering scheme to, among other things, defraud the government of Brazil by falsely and fraudulently misrepresenting and overstating expenses of its foreign subsidiaries in order to deprive the government of Brazil of more than $100 million in taxes, and to pay hundreds of millions of dollars in bribes to, and for the benefit of, public servants, public officials, political parties, political party officials, political candidates and others in order to corruptly obtain and retain business and to gain advantages and benefits in various countries around the world, including in Panama, Mexico and Brazil.

41. In furtherance of the scheme, the conspirators developed and operated a secret financial structure for moving money around the world. By in or about 2006, the secret financial structure had evolved such that the DSO was more formally established. The DSO effectively functioned as a stand-alone bribe department within Odebrecht. The DSO received funds from various sources and then funneled those funds to the ultimate bribe recipients. To conceal the origin of the funds, and distance Odebrecht from the final beneficiaries, transactions executed by the DSO were layered through multiple levels of offshore entities and bank accounts throughout the world.

42. Beginning in or about 2006 and continuing through at least in or about 2016, Odebrecht and its co-conspirators, including members of the DSO, relied upon the

defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, along with other co-conspirators, to assist with laundering hundreds of millions of dollars in connection with the scheme to defraud the government of Brazil and to pay bribes to foreign officials. WEINZIERL, WALDSTEIN and other co-conspirators advanced the scheme, by, among other things: (a) causing hundreds of millions of dollars to be sent from Odebrecht's bank accounts located in New York, New York and elsewhere to Foreign Bank 1, a bank WEINZIERL and WALDSTEIN controlled, pursuant to sham transactions and fraudulent contracts; (b) causing tens of millions of dollars to be sent through correspondent bank accounts located in New York, New York and elsewhere in the United States, pursuant to sham transactions and fraudulent contracts, including contracts executed by WEINZIERL and WALDSTEIN; (c) causing slush funds generated by, and derived from, the sham transactions ultimately to be sent to Foreign Bank 2, a bank WEINZIERL, WALDSTEIN and other co-conspirators controlled; and (d) causing the slush funds and bank fees derived therefrom at Foreign Bank 2 to be sent to the Financial Institution in the United States through correspondent bank accounts located in New York, New York. WEINZIERL and WALDSTEIN obtained millions of dollars in fees for Foreign Bank 1 and tens of millions of dollars in slush fund deposits and fees for Foreign Bank 2 as a result of their participation in the scheme.

43. Specifically, as part of the scheme, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN executed sham transactions pursuant to fraudulent contracts for services that were never performed and were never intended to be performed. These transactions falsely and fraudulently increased the expenses Odebrecht recorded on its books and records and were intended to help Odebrecht and its co-conspirators with executing, advancing and promoting the scheme to defraud the government of Brazil and to pay bribes to foreign

officials. After charging a substantial fee, Foreign Bank 1, through WEINZIERL, WALDSTEIN and their co-conspirators, secretly sent the funds back to Odebrecht by wire transfers, often through correspondent bank accounts located in New York, New York and elsewhere in the United States, to Odebrecht shell company bank accounts used to conceal Odebrecht's ownership and control of the funds. Some of the shell company bank accounts involved in the scheme, and that were used to pay bribes to foreign officials, were held at Foreign Bank 2, a bank that WEINZIERL, WALDSTEIN and their co-conspirators collectively controlled and used to promote, advance and execute the objectives of the money laundering conspiracy.

44. By creating the perception that Odebrecht was paying a fee to Foreign Bank 1, Odebrecht, with the help of the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, was able to fraudulently increase Odebrecht's expenses and correspondingly reduce its taxable income, thereby defrauding the Brazilian government of tens of millions of dollars in taxes Odebrecht should have paid. In addition, by creating off-book slush funds that concealed Odebrecht's ownership of the funds, Odebrecht, with the help of WEINZIERL and WALDSTEIN, was able to secretly pay bribes to foreign officials to advance its business.

45. In addition, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, along with their co-conspirators, caused millions of dollars in criminal proceeds to be transferred from Foreign Bank 2 to a brokerage account located in the United States, and further caused those criminal proceeds to be used to purchase U.S. Treasury securities and corporate stocks and bonds on U.S. exchanges.

B. Details of the Criminal Scheme

i. Sham Transactions between Odebrecht and Foreign Bank 1

46. In or about and between 2006 and 2016, Odebrecht owed income taxes to the RFB on its worldwide profits. Odebrecht reported its taxable income, which represented its worldwide profits, to the RFB in annual filings and made tax payments to the RFB each year for the amounts represented as due in these filings.

47. Profits generated by Odebrecht's subsidiaries, including OSEL and OOL, were subject to income tax in Brazil as a part of Odebrecht's overall worldwide taxable income, and such profits were included in Odebrecht's total taxable income reports to the RFB. In calculating and reporting its profits for tax purposes, Odebrecht was entitled to reduce the amount of its taxable income by claiming various legitimate business expenses, such as actual purchases of building materials and payments for professional services utilized in its construction projects around the world. The more expenses that Odebrecht claimed in its accounting records, the less profit it recorded and reported to the RFB, and the less Odebrecht was required to pay to the RFB in taxes.

48. By at least in or about 2006, Odebrecht and its co-conspirators had devised, and were executing, a scheme to fraudulently increase Odebrecht's expenses in order to reduce its taxable income and defraud the government of Brazil, while at the same time enabling Odebrecht and its co-conspirators to transfer money into off-book slush fund accounts (the "Odebrecht Shell Company Accounts") for the purpose of concealing Odebrecht's ownership and control over the funds and furthering and promoting the payment of bribes to foreign officials.

49. To promote and further these illegal objectives, Odebrecht and its co-conspirators sought and obtained the assistance of complicit third parties, including the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, who controlled Foreign Bank 1.

50. In or about 2006 or 2007, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN agreed with certain of their co-conspirators to assist Odebrecht with opening the Odebrecht Shell Company Accounts at Foreign Bank 1, which would allow the co-conspirators to move funds out of Odebrecht's official bank accounts and off of Odebrecht's official books and records. Neither the corporate formation documents nor the bank account opening documents for the Odebrecht Shell Company Accounts at Foreign Bank 1 reflected that the shell companies or the bank accounts had any relationship to Odebrecht. This was intentionally designed to conceal Odebrecht's affiliation with the accounts. WEINZIERL and WALDSTEIN learned from their co-conspirators at the outset that the Odebrecht Shell Company Accounts were required for "tax planning" purposes.

51. In addition to the Odebrecht Shell Company Accounts at Foreign Bank 1, Co-Conspirator 1, Co-Conspirator 2 and Co-Conspirator 4 also set up and operated Odebrecht Shell Company Accounts in Switzerland, Portugal, Austria, Antigua, Panama and other jurisdictions. Odebrecht also paid third parties, including Co-Conspirator 5 and Co-Conspirator 6, to act as the beneficial owners of the Odebrecht Shell Company Accounts and to sign wire transfer instructions and other documents required by banks to operate the accounts.

52. The defendants PETER WEINZIERL and ALEXANDER WALDSTEIN understood that the newly-opened Odebrecht Shell Company Accounts at Foreign Bank 1 would be used to receive funds from Odebrecht's subsidiaries worldwide through escrow accounts also

held at Foreign Bank 1 (the "Escrow Transactions"). WEINZIERL and WALDSTEIN also knew that the funds that went into the Odebrecht Shell Company Accounts at Foreign Bank 1, as well as the offshore entities that nominally held these accounts, were owned and controlled by Odebrecht and its agents.

53. In exchange for their agreement to allow Odebrecht to use the newly-opened Odebrecht Shell Company Accounts held at Foreign Bank 1 to receive funds through the Escrow Transactions, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN required that Odebrecht pay a fee to Foreign Bank 1 for each of the Escrow Transactions. In or about and between 2007 and 2010, Co-Conspirator 1 and other co-conspirators, with the assistance of WEINZIERL and WALDSTEIN, conducted the Escrow Transactions through Foreign Bank 1.

54. Beginning in or about 2010, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, along with their co-conspirators, including Co-Conspirator 1 and Co-Conspirator 2, devised a sham "back-to-back" transaction to replace the Escrow Transactions as a method of moving funds off of Odebrecht's books and into the Odebrecht Shell Company Accounts at Foreign Bank 1. As an initial step for each sham back-to-back transaction, WEINZIERL, WALDSTEIN and their co-conspirators caused Odebrecht to send millions of dollars by international wire transfer from the U.S. operating account of an Odebrecht subsidiary in New York, New York to Foreign Bank 1 pursuant to a sham agreement.

55. Thereafter, within a short period of time and after Foreign Bank 1 obtained a substantial fee, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN and their co-conspirators caused Foreign Bank 1 to secretly send the remaining funds by international wire to an Odebrecht Shell Company Account, often through

correspondent bank accounts located in New York, New York and elsewhere in the United States, pursuant to a separate sham agreement. These successive sham back-to-back transactions allowed the co-conspirators, including WEINZIERL and WALDSTEIN, to conceal and disguise the fact that Foreign Bank 1 was acting solely as a pass-through for the funds that Odebrecht moved off of its books and into the Odebrecht Shell Company Accounts.

56. For example, certain of the sham back-to-back transactions devised by members of the conspiracy and executed by the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN included the use of a sham "Guarantee Agreement" between Foreign Bank 1 and a particular Odebrecht subsidiary, which falsely stated that Foreign Bank 1 would provide a purported financial service to that Odebrecht subsidiary. These purported financial services included credit facilities, options to buy and sell assets and political risk guarantees related to Odebrecht's work on large-scale foreign government projects in jurisdictions such as Argentina, Angola and Russia. As payment for the purported financial services under the sham Guarantee Agreements, the co-conspirators wire transferred funds to Foreign Bank 1 from an Odebrecht subsidiary bank account held at New York Bank 1. Within a short period of time, Foreign Bank 1 and the Odebrecht subsidiary in question would execute a "Transfer Certificate," transferring the obligation to provide the purported financial services specified in the Guarantee Agreement and the majority of the funds related to the payment to Foreign Bank 1 for the financial services, to a purportedly unrelated third party. In fact, the third parties receiving the transferred funds were Odebrecht Shell Company Accounts controlled by Odebrecht and its agents.

57. The purpose of these sham back-to-back transactions was to advance and promote the fraud on the government of Brazil, while at the same time enabling Odebrecht and

its co-conspirators to transfer money into off-book slush fund accounts to conceal Odebrecht's ownership of the funds and to advance and promote the payment of bribes to foreign officials.

58. The defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, along with their co-conspirators, understood that the sham back-to-back transactions, including the Guarantee Agreements, were fake and fraudulent, and that Foreign Bank 1 would not be providing, and ultimately did not provide, the services or guarantees represented in the agreements. WEINZIERL and WALDSTEIN also understood that the sham back-to-back transactions merely created the illusion of legitimate, arm's length transactions between unrelated third parties, when in reality, those transactions were designed to conceal and disguise the movement of millions of dollars in funds off of Odebrecht's books and into slush funds maintained in the Odebrecht Shell Company Accounts operated by the DSO.

59. In or about and between May 2010 and October 2014, Odebrecht moved over $170 million off the books of its subsidiaries, including OSEL and OOL, out of bank accounts in New York, New York and elsewhere, through Foreign Bank 1, utilizing the sham back-to-back transactions. The defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, knowing that the sham back-to-back transactions were intended to lower Odebrecht's tax obligations in Brazil and to further conceal Odebrecht's ownership of these funds, approved the sham back-to-back transactions, and personally executed certain of the fraudulent Guarantee Agreements and Transfer Certificates.

60. In exchange for processing the sham back-to-back transactions, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN collected substantial fees for Foreign Bank 1, which generally constituted 4.5 percent of the original transfer from the Odebrecht subsidiary accounts in New York, New York to Foreign Bank 1. The remaining 95.5

percent of the transferred funds were subsequently wired from Foreign Bank 1 to an agreed-upon Odebrecht Shell Company Account to generate off-books slush funds. The millions of dollars in fees earned by Foreign Bank 1, many of which were negotiated by WEINZIERL and WALDSTEIN, compensated WEINZIERL, WALDSTEIN and Foreign Bank 1 for the high risk involved in laundering over $170 million through the sham back-to-back transactions.

61. For example, on or about April 8, 2011, OSEL and Foreign Bank 1 entered into a Guarantee Agreement (the "April 2011 Guarantee Agreement") whereby Foreign Bank 1 purportedly provided OSEL with a "guarantee" of $230 million related to projects Odebrecht had in Angola. The defendant ALEXANDER WALDSTEIN signed the April 2011 Guarantee Agreement on behalf of Foreign Bank 1. On or about May 20, 2011, OSEL wire transferred approximately $23,166,111.11, the premium associated with the April 2011 Guarantee Agreement, from OSEL's bank account at New York Bank 1 to Foreign Bank 1 in Austria. OSEL recorded the approximately $23,166,111.11 wire transfer to Foreign Bank 1 as a purportedly legitimate business expense, to evade paying millions of dollars in taxes owed to the RFB.

62. Subsequently, on or about June 1, 2011, OSEL, Foreign Bank 1 and Odebrecht Shell Company 1 signed a transfer certificate (the "June 2011 Transfer Certificate") which transferred the purported obligations under the April 2011 Guarantee Agreement from Foreign Bank 1 to Odebrecht Shell Company 1. The June 2011 Transfer Certificate was signed by the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN on behalf of Foreign Bank 1. On or about June 1, 2011, $22,095,629.61 was wire transferred from Foreign Bank 1, through correspondent banks in New York, New York, to the Odebrecht Shell Company 1 account held at Foreign Bank 3. The funds represented the purported premium being transferred

to Odebrecht Shell Company 1 in connection with the April 2011 Guarantee Agreement less the $1,070,481.50 fee charged by Foreign Bank 1 for participating in and facilitating the transaction. The purpose of the funds transfer to Odebrecht Shell Company 1 was to complete the sham back-to-back transaction, which resulted in disguising the true ownership of the funds by moving funds off of OSEL's books and generating slush funds in the Odebrecht Shell Company 1 account.

63. In addition to Foreign Bank 1, Odebrecht and the co-conspirators used other banks and insurance companies to conduct sham back-to-back transactions to transfer funds to the Odebrecht Shell Company Accounts as part of the scheme, including Foreign Insurance Company and others.

64. As a result, Odebrecht and its co-conspirators were able to fraudulently reduce Odebrecht's total reported taxable income to the RFB by hundreds of millions of dollars and deprived the government of Brazil of tens of millions of dollars in taxes.

ii. Transfers of Slush Funds to Foreign Bank 2

65. In or about 2010, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN agreed to sell 51 percent of Foreign Bank 2, which at that time was owned by Foreign Bank 1, to a group including Co-Conspirator 1, Co-Conspirator 5, Co-Conspirator 7, Co-Conspirator 8 and Co-Conspirator 9. WEINZIERL and WALDSTEIN understood that Odebrecht and its conspirators wanted to acquire Foreign Bank 2 to continue to make off-book, unrecorded payments to third parties.

66. As part of the scheme, virtually all of the funds flowing through Foreign Bank 2 were Odebrecht off-book slush funds generated by the sham back-to-back transactions, including those conducted through and with Foreign Bank 1. The defendants PETER

WEINZIERL and ALEXANDER WALDSTEIN agreed with other members of the conspiracy that funds generated from the sham back-to-back transactions with financial institutions other than Foreign Bank 1 would also flow through Foreign Bank 2. Through this agreement, Foreign Bank 2 obtained fees from transfers of the off-book slush funds generated by the scheme to and within Foreign Bank 2, and further obtained ownership of the slush funds deposited at Foreign Bank 2, which Foreign Bank 2 then invested to make additional profits. WEINZIERL and WALDSTEIN also agreed with their co-conspirators that Odebrecht's name would not appear on any paperwork related to the accounts maintained at Foreign Bank 2.

67. After the sale was complete, Foreign Bank 1 retained the remaining 49 percent share of Foreign Bank 2, and the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN served as Foreign Bank 1's representatives on Foreign Bank 2's board of directors. Co-Conspirator 7, Co-Conspirator 8 and Co-Conspirator 9 ran Foreign Bank 2's day-to-day operations. As a condition of the sale of Foreign Bank 2, WEINZIERL and WALDSTEIN insisted, and Co-Conspirator 1, Co-Conspirator 5, Co-Conspirator 7, Co-Conspirator 8 and Co-Conspirator 9 agreed, that Foreign Bank 1 would serve as a correspondent bank for Foreign Bank 2.

68. Foreign Bank 1 maintained U.S. dollar correspondent accounts at different banks. In order to operate as Foreign Bank 2's correspondent bank, Foreign Bank 1 held an internal U.S. dollar account for Foreign Bank 2 to use for all international U.S. dollar transactions, and then permitted Foreign Bank 2 to use Foreign Bank 1's U.S. correspondent accounts to send and receive U.S. dollar transactions.

69. From in or about and between 2010 and 2014, Odebrecht and its co-conspirators caused numerous wire transfers consisting of funds generated by the sham back-to-

back transactions to be sent from certain of the Odebrecht Shell Company Accounts, including those held at Foreign Bank 3, to other Odebrecht Shell Company Accounts held at Foreign Bank 2. These funds, which were wired through U.S. correspondent bank accounts located in New York, New York and elsewhere, were transferred to Foreign Bank 2 for the purposes of concealing the funds generated by the sham back-to-back transactions and enabling Odebrecht to make off-book, unrecorded payments to third parties as part of its bribery scheme. The defendants PETER WEINZIERL and ALEXANDER WALDSTEIN approved these transfers, knowing that the transfers were being sent from Odebrecht Shell Company Accounts, including those at Foreign Bank 3, to other Odebrecht Shell Company Accounts at Foreign Bank 2.

70. For example, on or about June 6, 2011, four wire transfers totaling approximately $15,142,353 were made from the Odebrecht Shell Company 1 account held at Foreign Bank 3, through correspondent banks in the United States, to Odebrecht Shell Company Accounts held at Foreign Bank 2, including accounts for Odebrecht Shell Companies 3 and 4. The funds from Odebrecht Shell Company 3 originated in part from sham back-to-back transactions related to the April 2011 Guarantee Agreement and the June 2011 Transfer Certificate, described above.

iii. Bribe Payments from Foreign Bank 2

71. Odebrecht Shell Company Accounts held at Foreign Bank 2, including the bank accounts for Odebrecht Shell Companies 3, 4, 5 and 6, were used to make bribe payments to foreign officials.

72. The bribe payments made from the Odebrecht Shell Company Accounts held at Foreign Bank 2 were often sent from those accounts using international wire transfers

through Foreign Bank 1 and correspondent accounts held in the United States, including at New York Bank 1, to other bank accounts for the benefit of foreign officials.

73. The following are examples of bribe payments that were made for the benefit of foreign officials from Odebrecht Shell Company Accounts at Foreign Bank 2.

1. Payments to Benefit the Panama Government Official

74. The following bribe payments were made from accounts held at Foreign Bank 2 for the benefit of the Panama Government Official, in promotion of a violation of Panama's Penal Code, contrary to Title 18, United States Code, Section 1956(a)(2)(A):

(a) On or about and between November 8, 2010 and August 26, 2011, payments totaling approximately $5,229,960 were made from the Odebrecht Shell Company 3 account held at Foreign Bank 2, through Foreign Bank 1 and New York Bank 1, to the Offshore Company 2 account at Foreign Bank 5;

(b) On or about and between November 29, 2010 and December 23, 2010, payments totaling approximately $1,400,000 were made from the Odebrecht Shell Company 4 account held at Foreign Bank 2, through Foreign Bank 1 and New York Bank 1, to the Offshore Company 1 account at Foreign Bank 4;

(c) On or about and between December 23, 2010 and February 28, 2011, payments totaling approximately $2,750,000 were made from the Odebrecht Shell Company 4 account held at Foreign Bank 2, through Foreign Bank 1 and correspondent accounts in the United States, to the Offshore Company 3 account held at Foreign Bank 6; and

(d) On or about and between April 7, 2011 and August 5, 2011, payments totaling approximately $600,000 were made from the Odebrecht Shell Company 4

account held at Foreign Bank 2, through Foreign Bank 1 and New York Bank 1, to the Offshore Company 2 account at Foreign Bank 5.

2. Payments to Benefit the Mexico Government Official

75. Bribe payments were made from accounts held at Foreign Bank 2 for the benefit of the Mexico Government Official, in promotion of a violation of Mexico's Penal Code, contrary to Title 18, United States Code, Section 1956(a)(2)(A), as follows: on or about and between December 5, 2013 and March 19, 2014, payments totaling approximately $5,000,000 were made from the Odebrecht Shell Company 5 account at Foreign Bank 2, through Foreign Bank 1 and New York Bank 1, to the Offshore Company 4 account at Foreign Bank 7.

3. Payments to Benefit the Brazil Government Official

76. Bribe payments were made from accounts held at Foreign Bank 2 for the benefit of the Brazil Government Official, in promotion of a violation of Brazil's Penal Code, contrary to Title 18, United States Code, Section 1956(a)(2)(A), as follows: on or about and between August 26, 2011 and September 15, 2011, payments totaling approximately $3,005,800 were made from the Odebrecht Shell Company 4 account at Foreign Bank 2, through Foreign Bank 1 and New York Bank 1, to the Offshore Company 5 account at Foreign Bank 8.

iv. Transfers of Illegal Proceeds to U.S. Brokerage Account

77. In or about December 2010, Foreign Bank 2 established a brokerage account at the Financial Institution (the "Brokerage Account") in the United States to enable it to invest funds directly in U.S. securities markets. Foreign Bank 2 used the Brokerage Account primarily to invest its own available funds for the benefit of the owners of Foreign Bank 2. Foreign Bank 2's available funds included the aggregate balances of Odebrecht Shell Company Accounts over and above its reserve requirements, as well as funds owned directly by the bank.

Foreign Bank 2 sent these funds to the Brokerage Account in the United States from its U.S. dollar correspondent account at Foreign Bank 1 through New York, New York correspondent banks.

78. From in or about and between December 2010 and May 2016, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, along with their co-conspirators, approved tens of millions of dollars' worth of wire transfers from Foreign Bank 2 to the Brokerage Account to purchase U.S. Treasury securities and corporate stocks and bonds on U.S. exchanges. WEINZIERL and WALDSTEIN approved these transfers knowing that the majority of the available funds at Foreign Bank 2 were slush funds generated by Odebrecht's sham back-to-back transactions and bank fees, including those conducted through Foreign Bank 1.

79. For example, on or about December 15, 2014, the Foreign Insurance Company sent three wire transfers to Odebrecht Shell Company 6 at Foreign Bank 2 totaling approximately $8,400,000 related to sham risk guarantees for Odebrecht. To execute the transactions, Foreign Bank 1 credited the incoming funds to its internal correspondent account for Foreign Bank 2, and Foreign Bank 2 in turn credited the deposits to an internal client account in the name of Odebrecht Shell Company 6. Although within Foreign Bank 2 the funds were credited to a client account, the funds also remained available in Foreign Bank 2's correspondent account at Foreign Bank 1 for possible investment.

80. On or about December 22, 2014, approximately $8,000,000 was transferred from the Foreign Bank 2 correspondent account at Foreign Bank 1, to and through New York Bank 3, and from New York Bank 3 to the Brokerage Account at the Financial Institution.

COUNT ONE
(Conspiracy to Commit Money Laundering)

81. The allegations contained in paragraphs one through 80 are realleged and incorporated as if fully set forth in this paragraph.

82. In or about and between 2006 and 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, together with others, did knowingly and intentionally conspire to commit offenses under Title 18, United States Code, Sections 1956 and 1957, to wit:

(a) to transport, transmit, and transfer, and attempt to transport, transmit and transfer monetary instruments and funds from a place in the United States to and through a place outside the United States and to a place in the United States from and through a place outside the United States with the intent to promote the carrying on of one or more specified unlawful activities, to wit: (i) wire fraud, in violation of Title 18, United States Code, Section 1343; (ii) an offense against a foreign nation involving bribery of a public official, in violation of Panama's Penal Code; (iii) an offense against a foreign nation involving bribery of a public official, in violation of Mexico's Penal Code; and (iv) an offense against a foreign nation involving bribery of a public official, in violation of Brazil's Penal Code, contrary to Title 18, United States Code, Section 1956(a)(2)(A);

(b) to conduct and attempt to conduct financial transactions involving the proceeds of one or more specified unlawful activities, to wit: (i) wire fraud, in violation of Title 18, United States Code, Section 1343; and (ii) international promotional money laundering, in violation of Title 18, United States Code, Section 1956(a)(2)(A), knowing that the property involved represented proceeds of some form of unlawful activity, and knowing that the

transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of the specified unlawful activity; contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i); and

(c) to engage and attempt to engage in one or more monetary transactions in criminally derived property of a value greater than $10,000 and derived from one or more specified unlawful activities, to wit: (i) wire fraud, in violation of Title 18, United States Code, Section 1343; and (ii) international promotional money laundering, in violation of Title 18, United States Code, Section 1956(a)(2)(A), contrary to Title 18, United States Code, Section 1957.

(Title 18, United States Code, Sections 1956(h) and 3551 et seq.)

COUNTS TWO AND THREE
(International Promotional Money Laundering)

83. The allegations contained in paragraphs one through 80 are realleged and incorporated as if fully set forth in this paragraph.

84. On or about the dates set forth below, within the Eastern District of New York and elsewhere, the defendants PETER WEINZIERL and ALEXANDER WALDSTEIN, together with others, did knowingly and intentionally transport, transmit and transfer, and attempt to transport, transmit and transfer monetary instruments and funds from a place in the United States to and through a place outside the United States with the intent to promote the carrying on of one or more specified unlawful activities, to wit: wire fraud, in violation of Title 18, United States Code, Section 1343, as follows:

Count	Date	Wire
2	April 22, 2013	Wire of $24,050,833.33 from OSEL account at New York Bank 1 to Foreign Bank 1
3	May 6, 2013	Wire of $17,194,166.67 from OSEL account at New York Bank 1 to Foreign Bank 1

(Title 18, United States Code, Sections 1956(a)(2)(A), 2 and 3551 et seq.)

COUNT FOUR
(Money Laundering Spending)

85. The allegations contained in paragraphs one through 80 are realleged and incorporated as if fully set forth in this paragraph.

86. On or about December 22, 2014, within the Eastern District of New York and elsewhere, the defendant PETER WEINZIERL, together with others, did knowingly and intentionally engage and attempt to engage in a monetary transaction in criminally derived property of a value greater than $10,000, to wit: a transfer of approximately $8,000,000 from Foreign Bank 2, to and through New York Bank 3, to the Brokerage Account at the Financial Institution, such property having been derived from one or more specified unlawful activities, to wit: (i) wire fraud, in violation of Title 18, United States Code, Section 1343; and (ii) international promotional money laundering in violation of Title 18, United States Code, Section 1956(a)(2)(A).

(Title 18, United States Code, Sections 1957, 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS ONE THROUGH FOUR

87. The United States hereby gives notice to the defendants that, upon their conviction of any of the offenses charged in Counts One through Four of this Indictment, the government will seek forfeiture in accordance with Title 18, United States Code, Section

982(a)(1), which requires any person convicted of such offenses to forfeit any property, real or personal, involved in such offenses, or any property traceable to such property.

88. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code,

Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(1) and 982(b)(1); Title 21, United States Code, Section 853(p))

A TRUE BILL

[redacted]

FOREPERSON

[redacted]

SETH D. DUCHARME
Acting United States Attorney
Eastern District of New York

[redacted]

Recovery Section
U.S. Department of Justice

Daniel S. Kahn

DANIEL S. KAHN
Acting Chief, Fraud Section
Criminal Division
U.S. Department of Justice

F.#:2020R00270
FORM DBD-34
JUN. 85

No.

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

PETER WEINZIERL AND ALEXANDER WALDSTEIN,

Defendants.

INDICTMENT

(T. 18, U.S.C., §§ 982(a)(1), 982(b)(1), 1956(a)(1)(B)(i), 1956(a)(2)(A), 1956(h), 1957, 2 and 3551 et seq.; T. 21, U.S.C., § 853(p))

[redacted]

Foreperson

Filed in open court this _____ *day,*

of _____ *A.D. 20* _____

_____

Clerk

Bail, $ _____

_____

Julia Nestor, Assistant U.S. Attorney (718) 254-254-6297