

DKS/DK: USAO 2012R00274

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

ASEM M. ELGAWHARY,

Defendant

CRIMINAL NO. **DKC14 CR 0068**

(Mail Fraud, 18 U.S.C. § 1341; Wire
Fraud, 18 U.S.C. § 1343; Conspiracy to
Launder Money, 18 U.S.C. § 1956(h);
Interfering with Administration of
Internal Revenue Laws, 26 U.S.C.
§ 7212; Aiding and Abetting, 18 U.S.C.
§ 2; Forfeiture, 18 U.S.C.
§§ 981(a)(1)(C) and 982, 28 U.S.C.
§ 2461(c))

INDICTMENT

COUNTS ONE THROUGH FOUR
(Mail Fraud)

The Grand Jury for the District of Maryland charges:

Introduction

At all times relevant to this Indictment:

1. From in or around 2003 to in or around 2011, defendant **ASEM M. ELGAWHARY** ("ELGAWHARY") used his position and authority as the General Manager of a power generation company to solicit and obtain millions of dollars of kickbacks for his personal benefit from U.S. and foreign power companies that were attempting to secure lucrative contracts to perform power-related services. In exchange for the kickbacks paid by these companies, **ELGAWHARY** assisted them in obtaining the contracts by giving the companies a competitive and unfair advantage over other companies attempting to secure the same contracts.

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CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY
DEPUTY

2. In order to disguise the kickback payments, **ELGAWHARY** received the kickback payments through third-party consultants who represented the bribe-paying power companies, rather than from the companies directly. Moreover, **ELGAWHARY** instructed that the kickbacks be paid into offshore bank accounts he controlled in Switzerland and Saudi Arabia. During the fraudulent scheme, **ELGAWHARY** did not report the bribe money on his U.S. individual income tax returns and falsely claimed that he did not control any foreign bank accounts.

3. In 2011, **ELGAWHARY** used a portion of the bribe money to purchase a roughly \$1.78 million home for two close family members but, in order to further conceal the fact that the money was derived from a bribe scheme, **ELGAWHARY** made it appear that the money used to purchase the house was actually an unsecured loan from a Saudi company owned and operated by another of **ELGAWHARY**'s close relatives.

4. In total, **ELGAWHARY** received more than \$5 million in kickbacks to help secure more than \$2 billion in contracts for the kickback-paying companies, all of which he concealed from his employer, from bidding companies that did not pay kickbacks and from the U.S. Internal Revenue Service.

Relevant Individuals and Entities

The Defendant's Employers

5. Bechtel Corporation ("Bechtel"), headquartered in San Francisco, California, with offices in Maryland, was a global corporation engaged in engineering, construction and project management. Bechtel performed services around the world including in Egypt, where it had a joint venture with the Egyptian government's electricity company, Egyptian Electricity Holding

Company ("EEHC").

6. EEHC was the state-owned and state-controlled electricity company in Egypt. EEHC was created by Egypt's Ministry of Public Enterprises and was under the jurisdiction of the Ministry of Electricity and Energy. Although EEHC subcontracted with private companies to perform services on its behalf, in most instances, EEHC did not handle the subcontracting process itself. Rather, the bidding process for such subcontracts was handled primarily by a joint venture between Bechtel, EEHC and an international bank. This joint venture was called Power Generation Engineering and Services Company ("PGESCO").

7. PGESCO, located in Egypt, was created in 1993. PGESCO provided technical and management assistance in the engineering, design and construction of power projects, including for EEHC. PGESCO assisted EEHC in identifying possible subcontractors, soliciting bids and awarding contracts to perform work for EEHC.

The Defendant

8. **ELGAWHARY** was a dual U.S. and Egyptian citizen. From in or around 1973 to in or around 2011, **ELGAWHARY** was employed at Bechtel, holding a number of executive-level positions, including Principal Vice President. From in or around 1996 to in or around 2011, **ELGAWHARY** was assigned by Bechtel to be the General Manager at PGESCO. During that time, **ELGAWHARY** was employed by both Bechtel and PGESCO. **ELGAWHARY's** responsibilities at PGESCO included overseeing the competitive bidding process and assisting in selecting companies to perform subcontracting work for EEHC. As General Manager of PGESCO, **ELGAWHARY** had access to certain confidential information about all of the bidding companies and the bidding process for particular projects. That confidential information, if

provided to one of the bidding companies, would provide the recipient company with a competitive and unfair advantage. **ELGAWHARY** also had access to and influence with key decision-makers at EEHC who had the final responsibility for selecting the companies that performed services for EEHC.

9. At various times, **ELGAWHARY** maintained control over bank accounts at Credit Suisse Bank in Geneva, Switzerland (“the **ELGEWHARY** Credit Suisse account”), at Bank Julius Baer, a private bank, in Geneva, Switzerland (“the **ELGEWHARY** Julius Baer account”), and at Alahli Bank in Saudi Arabia (the “Alahli bank account”).

The Defendant’s Relatives

10. Relative 1 resided in Saudi Arabia and was a close family member of **ELGAWHARY**’s wife. At various times relevant to this Indictment, Relative 1 was employed by a Saudi marketing company (“Marketing Company A”) owned and operated by her husband.

11. Relative 2 resided in Maryland and was a close family member of **ELGAWHARY**.

The Kickback-Paying Companies and Consultants

12. Power Company A was a French company engaged in the business of providing power generation and transportation-related services around the world, including in Egypt. Power Company A had subsidiaries in various countries, including a subsidiary in Connecticut. Beginning in at least 2003, Power Company A and its subsidiaries, including its subsidiary in Connecticut, bid on and secured several contracts through PGESCo to perform work for EEHC.

13. Power Company B was a Japanese company engaged in power-related services around the world. Beginning in at least 2007, Power Company B bid on and secured through

PGESCo several contracts to perform work for EEHC.

14. Power Company C was a Kuwaiti company engaged in power-related services in the Middle East. In or around 2010, Power Company C secured three projects to perform power-related services for EEHC.

15. Consultant A was a consultant who represented various power companies that bid on projects with PGESCo and EEHC. Beginning in at least 2003, Consultant A represented Power Company A in connection with its attempts to secure projects with EEHC through PGESCo. In connection with Consultant A's representation of Power Company A, Consultant A made a number of kickback payments into the **ELGEWHARY** Credit Suisse account, the **ELGEWHARY** Julius Baer account, and several other accounts for the benefit of **ELGAWHARY**.

16. Consultant B was a consultant who represented various power companies that bid on projects with PGESCo and EEHC. Beginning in at least 2007, Consultant B represented Power Company B in connection with its attempts to secure projects with EEHC through PGESCo. In connection with Consultant B's representation of Power Company B, Consultant B made at least one kickback payment into the **ELGEWHARY** Julius Baer account.

17. Consultant C-1 was a British Virgin Isles corporation, located in the United Arab Emirates, that purportedly performed oil-and-gas-related consulting services. In or around 2010, Power Company C entered into a consultancy agreement with Consultant C-1 in connection with three projects Power Company C had secured. In entering into this agreement, Power Company C knew that, in fact, Consultant C-1 was a front company for **ELGAWHARY** and his co-conspirators.

18. Consultant C-2 was an individual working for an Italian company that purportedly performed oil-and-gas-related consulting services. In or around 2010, Consultant C-2 purportedly acted as a representative of Consultant C-1 in connection with the negotiation of the consultancy agreement between Power Company C and Consultant C-1. In reality, Consultant C-2 negotiated kickbacks from Power Company C for and on behalf of **ELGAWHARY**.

Duty of Honest Services

19. Bechtel maintained a Code of Business Ethics that imposed on its employees certain standards and duties, including:

- a. That employees not misrepresent themselves to anyone;
- b. That employees not misuse proprietary, confidential or private information of Bechtel, its customers and suppliers;
- c. That employees never give, solicit or accept a gift if that gift may create a payback obligation; and,
- d. That employees not have a financial interest in an actual or potential supplier, competitor, customer or any other organization that could cause a conflict of interest.

20. In addition, Bechtel maintained an Ethics and Compliance Policy requiring its employees to fully disclose through a conflict of interest review process any activity or transaction that might give rise to a conflict of interest.

21. During the course of his tenure at Bechtel, **ELGAWHARY** acknowledged Bechtel's policies and agreed to comply with them. In or around 2001, in connection with his continued assignment as General Manager at PGESCo, **ELGAWHARY** signed a "Recital of International Employment Conditions" that required **ELGAWHARY** to comply with published

Bechtel personnel policies and stated that Bechtel could discharge **ELGAWHARY** for violations of law, conduct that discredited Bechtel, theft and breach of Bechtel policy.

22. PGESCO similarly maintained standards of conduct that imposed on its employees certain standards and duties, including:

a. That employees reject any plan, transaction or arrangement involving unlawful or unethical conduct;

b. That employees avoid any arrangement, agreement, investment, employment, relationship, act or interest that was contrary to the best interest of PGESCO or its clients or in any way might impair the performance of duties or the exercise of independent judgment or action with respect to PGESCO or its clients;

c. That employees maintain security of confidential information relating to PGESCO or any of its activities, including information furnished by PGESCO's clients, suppliers, subcontractors or others under conditions of confidentiality; and,

d. That employees avoid seeking or accepting, directly or indirectly, from a client, contractor or subcontractor who is doing or might do business with PGESCO or a PGESCO client, any commission, fee or compensation of any kind.

23. **ELGAWHARY** was subject to the standards and duties set forth in Paragraphs 19-22 above.

24. In his capacity as an executive at Bechtel assigned to manage Bechtel's joint venture with EEHC, and in his capacity as General Manager of PGESCO, **ELGAWHARY** owed a duty of loyalty to Bechtel and PGESCO.

25. In keeping with that duty, Bechtel and PGESCo expected, and were entitled to receive, **ELGAWHARY**'s honest services in his fulfillment of his employment responsibilities. It was a violation of **ELGAWHARY**'s duty, and of his employers' rights to his honest services, for **ELGAWHARY** to accept kickback payments from subcontractors whose contracts **ELGAWHARY** participated in awarding.

The Scheme to Defraud

26. Between in or around 2003 and in or around 2011, in the District of Maryland and elsewhere, the defendant,

ASEM M. ELGAWHARY,

devised and intended to devise, and executed and attempted to execute, a scheme and artifice to defraud Bechtel and PGESCo by depriving Bechtel and PGESCo of their intangible right to the defendant's honest services through a scheme to obtain kickbacks from various bidding companies in exchange for assisting those companies in obtaining contracts by giving them a competitive and unfair advantage over other companies attempting to secure the same contracts and assisting those companies after the award of the contracts, and to conceal **ELGAWHARY**'s secret financial interests from Bechtel and PGESCo's Board of Directors ("the scheme to defraud").

Manner and Means of the Scheme to Defraud

27. It was part of the scheme to defraud that **ELGAWHARY** accepted kickbacks from power companies, including Power Company A, Power Company B, and Power Company C, that were attempting to secure contracts with EEHC in exchange for preferential treatment

from **ELGAWHARY** in connection with the bidding and awarding of the contracts and assistance from **ELGAWHARY** after the award of the contracts.

a. This preferential treatment included providing to the power companies that agreed to pay kickbacks confidential non-public information about competing companies and the bidding process.

b. This preferential treatment also included influencing the timing of the bidding process to favor the power companies that agreed to pay kickbacks.

c. This preferential treatment also included helping to resolve payment issues so that the power companies that agreed to pay kickbacks would receive payments from the customer earlier than they otherwise would have.

28. It was further part of the scheme to defraud that **ELGAWHARY** received the kickbacks from consultants working for the power companies, including Consultant A and Consultant B, instead of receiving the kickbacks directly from the power companies.

29. It was further part of the scheme to defraud that the power companies and their consultants, including Power Company C, Consultant A, and Consultant B, paid the kickbacks into the **ELGAWHARY** Credit Suisse account, the **ELGAWHARY** Julius Baer account, and the Alahli bank account.

a. The kickbacks received in connection with the projects secured by Power Company A and Power Company B were paid by Consultant A and Consultant B, respectively, into the **ELGEWHARY** Julius Baer account and the **ELGAWHARY** Credit Suisse account.

b. The kickbacks received in connection with the projects secured by Power Company C were paid into the Alahli bank account that was under the control of

ELGAWHARY and that Relative 1 helped **ELGAWHARY** open.

30. It was further part of the scheme to defraud that **ELGAWHARY**, Power Company C, and Consultant C-2 attempted to conceal the kickbacks by creating a consultancy agreement between Power Company C and Consultant C-1, purportedly to perform consulting services in order to make the kickbacks appear as though they were legitimate consultancy fees.

31. It was further part of the scheme to defraud that **ELGAWHARY**, Power Company C, and Consultant C-2 attempted to further conceal the kickbacks by utilizing Consultant C-2, who purportedly acted as a representative of Consultant C-1, but in reality negotiated kickback payments from Power Company C on behalf of **ELGAWHARY**.

32. It was further part of the scheme to defraud that **ELGAWHARY** concealed material facts from executives at Bechtel and members of the PGESCo board of directors.

a. During the scheme to defraud, **ELGAWHARY** provided to executives at Bechtel and members of the PGESCo board of directors materials in preparation for upcoming board meetings that included: (1) financial details and updates on power projects while omitting and concealing the material fact that he received kickbacks in connection with those power projects; and, (2) audit reports stating that PGESCo's books and records were in compliance with the law and with its own policies, which omitted and concealed the material fact that **ELGAWHARY**'s actions caused PGESCo's books and records to not be in compliance with the law and its own policies.

b. During the scheme to defraud, **ELGAWHARY** further provided to executives at Bechtel annual "Representation Letters" containing representations regarding PGESCo for the previous calendar year that **ELGAWHARY** knew to be false, including that:

(1) there were no material transactions, agreements or other activities that were improperly recorded in the accounting records of PGESCo; (2) **ELGAWHARY** had no knowledge of any fraud or suspected fraud at PGESCo involving management, employees who had significant roles in internal controls, or others where fraud could have had a material effect on the financial statements; and, (3) there were no violations or possible violations of law or regulations whose effects were material and should have been considered for disclosure in PGESCo's financial statements.

33. It was further part of the scheme to defraud that **ELGAWHARY** concealed and misrepresented material facts to counsel for Bechtel during an interview of **ELGAWHARY** in or around April 2011, including by making the following false statements:

a. **ELGAWHARY** claimed that he never received money from power companies or their consultants.

b. **ELGAWHARY** denied maintaining control over any foreign bank accounts.

c. **ELGAWHARY** denied knowing or having contact with Consultant C-1 or Consultant C-2.

34. It was further part of the scheme to defraud that **ELGAWHARY**, with the help of employees at PGESCo, caused evidence about the kickback scheme, including evidence on **ELGAWHARY**'s computer at PGESCo, to be deleted and destroyed.

35. It was further part of the scheme to defraud that **ELGAWHARY** concealed the origin of money that he used to purchase a roughly \$1.78 million home in Maryland for two close family members, including Relative 2. Specifically, **ELGAWHARY** made it appear that

the money used to purchase the house was an unsecured loan from Marketing Company A, a company owned and operated by the husband of Relative 1, rather than money from the **ELGEWHARY** Julius Baer account.

Execution of the Scheme to Defraud

36. On or about the dates listed below, in the District of Maryland and elsewhere, the defendant,

ASEM M. ELGAWHARY,

for the purpose of executing and attempting to execute the scheme and artifice to defraud, knowingly caused the items described below to be sent and delivered by a commercial interstate carrier, according to the direction thereon:

COUNT	DATE	DELIVERY
1	March 5, 2009	Envelope containing PGESCO board materials for the March 28, 2009, board meeting from PGESCO's offices in Egypt to executives in Frederick, Maryland, which included: (a) financial details and updates on power projects while omitting and concealing the material fact that ELGEWHARY received kickbacks in connection with those power projects; and, (b) audit reports stating that PGESCO's books and records were in compliance with the law and with its own policies, which omitted and concealed the material fact that ELGAWHARY 's actions caused PGESCO's books and records not to be in compliance with the law and its own policies.
2	March 6, 2010	Envelope containing PGESCO board materials for the March 27, 2010, board meeting from PGESCO's offices in Egypt to

		executives in Frederick, Maryland, which included: (a) financial details and updates on power projects while omitting and concealing the material fact that ELGEWHARY received kickbacks in connection with those power projects; and, (b) audit reports stating that PGESCO's books and records were in compliance with the law and with its own policies, which omitted and concealed the material fact that ELGAWHARY 's actions caused PGESCO's books and records not to be in compliance with the law and its own policies.
3	October 7, 2010	Envelope containing PGESCO board materials for the October 30, 2010, board meeting from PGESCO's offices in Egypt to executives in Frederick, Maryland, which included: (a) financial details and updates on power projects while omitting and concealing the material fact that ELGEWHARY received kickbacks in connection with those power projects; and, (b) audit reports stating that PGESCO's books and records were in compliance with the law and with its own policies, which omitted and concealed the material fact that ELGAWHARY 's actions caused PGESCO's books and records not to be in compliance with the law and its own policies.
4	March 15, 2011	Envelope containing PGESCO board materials for the April 2, 2011, board meeting from PGESCO's offices in Egypt to executives in Frederick, Maryland, which included: (a) financial details and updates on power projects while omitting and concealing the material fact that ELGEWHARY received kickbacks in connection with those power projects; and, (b) audit reports stating that PGESCO's books and records were in compliance with the law and with its own policies, which omitted and concealed the

		material fact that ELGAWHARY 's actions caused PGESCo's books and records not to be in compliance with the law and its own policies.
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18 U.S.C. §§ 1341 and 1346

18 U.S.C. § 2

COUNTS FIVE AND SIX
(Wire Fraud)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 35 of Counts One through Four are incorporated here.
2. On or about the dates listed below, in the District of Maryland and elsewhere, the defendant,

ASEM M. ELGAWHARY,

for the purpose of executing the scheme to defraud, did transmit and cause to be transmitted by means of wire communication in interstate commerce, certain writings, signs, signals, and sounds, as listed below:

COUNT	DATE	TRANSMISSION
5	January 23, 2009 3:10 PM GMT	An e-mail from ELGAWHARY in Egypt to executives at Bechtel in Maryland, attaching a Representation Letter signed by ELGAWHARY that included the following false representations: (a) there were no material transactions, agreements or other activities that were improperly recorded in the accounting records of PGESCo; (b) ELGAWHARY had no knowledge of any fraud or suspected fraud at PGESCo involving management, employees who had significant roles in internal controls, or others where fraud could have had a material effect on the financial statements; and, (c) there were no violations or possible violations of law or regulations whose effects were material and should have been considered for disclosure in PGESCo's financial statements.

6	February 1, 2011 7:28 AM GMT	An e-mail from ELGAWHARY in Egypt to executives at Bechtel in Maryland, attaching a Representation Letter signed by ELGAWHARY that included the following false representations: (a) there were no material transactions, agreements or other activities that were improperly recorded in the accounting records of PGESCO; (b) ELGAWHARY had no knowledge of any fraud or suspected fraud at PGESCO involving management, employees who had significant roles in internal controls, or others where fraud could have had a material effect on the financial statements; and, (c) there were no violations or possible violations of law or regulations whose effects were material and should have been considered for disclosure in PGESCO's financial statements.
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18 U.S.C. §§ 1343 and 1346

18 U.S.C. § 2

COUNT SEVEN
(Conspiracy to Launder Money)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 35 of Counts One through Four are incorporated here.
2. Between in or around 2003 and in or around 2011, in the District of Maryland and elsewhere, the defendant,

ASEM M. ELGAWHARY,

willfully, and knowingly did combine, conspire, confederate and agree together and with others known and unknown to the Grand Jury, to engage in a monetary transaction by, through and to a financial institution, in and affecting interstate and international commerce, in criminally derived property that was of a value greater than \$10,000, that is, the deposit, withdrawal, transfer and exchange of United States currency, funds and monetary instruments, such property having been derived from specified unlawful activity, namely, violations of the mail and wire fraud statutes, Title 18, United States Code, Sections 1341, 1343 and 1346, in violation of Title 18, United States Code, Section 1957.

18 U.S.C. § 1956(h)

COUNT EIGHT
(Interfering with Administration of Internal Revenue Laws)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 35 of Counts One through Four are incorporated here.
2. Beginning in or around 2008, and continuing thereafter up to in or around 2011, in the District of Maryland and elsewhere, the defendant,

ASEM M. ELGAWHARY,

did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by sending to employees of the Internal Revenue Service and others statements that he knew to be false, including an Offshore Voluntary Disclosures Letter on August 26, 2011, and U.S. Individual Income Tax Returns, Forms 1040, for the calendar years 2008, 2009, 2010, and 2011, which were verified by a written declaration that they were made under the penalties of perjury and which he did not believe to be true and correct as to every material matter, which reported that he controlled only one foreign bank account, the **ELGAWHARY** Julius Baer bank account, that he had no additional income to report because the source of the funds in the **ELGAWHARY** Julius Baer bank account “were collected from extended foreign family members living outside of the United States,” and that “[n]one of the funds placed into the account were secretly hidden from taxing authorities,” whereas, as he then and there knew and believed, he had additional income that was not collected from extended foreign family members and which was secretly hidden from taxing authorities, and he controlled at least two other foreign bank accounts.

FORFEITURE ALLEGATION

The Grand Jury for the District of Maryland further finds that:

1. Pursuant to Fed. R. Crim. P. 32.2, notice is hereby given to the defendant that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Sections 981(a)(1)(C) and 982, and Title 28, United States Code, Section 2461(c), in the event of the defendant's convictions under Counts One through Seven of this Indictment.

Mail and Wire Fraud and Money Laundering Forfeiture

2. As a result of the offenses charged in Counts One through Seven, the defendant, **ASEM M. ELGAWHARY**, shall forfeit to the United States (1) any and all property obtained directly or indirectly as a result of any such violation, (2) any and all property used, or intended to be used, in any manner or part to commit and to facilitate the commission of any such violation charged in this Indictment; and any property, real or personal, which was involved in such an offense or was traceable to such an offense.

3. Such property includes but is not limited to the property located at 1040 Shepherds Crook Court, Potomac, MD 20854.

Substitute Assets

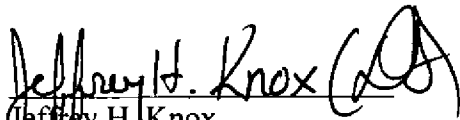
4. If any of the property described above in paragraphs 2 and 3 as being subject to forfeiture, as a result of any act or omission of any defendant --

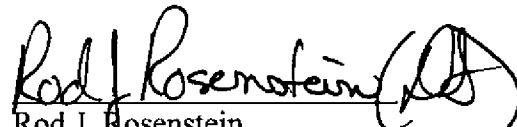
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;

- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States of America, pursuant to Title 18, United States Code, Section 982(b) and Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853, to seek forfeiture of any other property of said defendant, including the property located at 1040 Shepherds Crook Court, Potomac, MD 20854, up to the value of the forfeitable property.

18 U.S.C. § 981(a)(1)(C)
18 U.S.C. § 982
28 U.S.C. § 2461(c)


Jeffrey H. Knox
Chief, Fraud Section
Criminal Division
Department of Justice


Rod J. Rosenstein
United States Attorney
District of Maryland

A TRUE BILL:

SIGNATURE REDACTED


Forfeiture person

Date: February 10, 2014