

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

HALLIBURTON COMPANY

and

KBR, INC.,

Defendants.

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§ Civil Action No.: 4:09-399
§ COMPLAINT
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SUMMARY

2. In September 1998, Halliburton Company (“Halliburton”) acquired Dresser Industries, Inc. (“Dresser”), including Dresser’s subsidiary, The M.W. Kellogg Company (“Kellogg”). After the acquisition, Kellogg was combined with Halliburton’s subsidiary, Brown & Root, Inc., to form Kellogg, Brown & Root, Inc., which later became Kellogg, Brown & Root, LLC, now a wholly-owned subsidiary of KBR, Inc. KBR, Inc., its subsidiaries and predecessor entities, including Kellogg, will be referred to as “KBR” throughout this Complaint.

3. Between at least 1995 and 2004, senior executives at KBR and others, devised and implemented a scheme to bribe Nigerian government officials to assist in obtaining multiple contracts worth over \$6 billion to build liquefied natural gas (“LNG”) production facilities on Bonny Island, Nigeria. A four-company joint venture, of which KBR was a member, won the contracts. To conceal the illicit payments, KBR and others, through the joint venture, entered into sham “consulting” or “services” agreements with intermediaries who would then funnel their purportedly legitimate fees to Nigerian officials. Specifically, KBR and others, through the joint venture, implemented this scheme by using a Gibraltar shell company controlled by a solicitor based in the United Kingdom (“the UK Agent”) and a Japanese trading company (“the Japanese Agent”) as conduits for the bribes.

4. After its acquisition of Dresser, Halliburton, KBR’s parent corporation, failed to devise adequate internal controls relating to foreign sales agents and the FCPA, and failed to maintain and enforce those internal controls it had. Halliburton therefore failed to detect, deter or prevent KBR’s violations. As a result of the scheme, numerous books and records of Halliburton and KBR contained false information relating to, among other things, the UK Agent and the Japanese Agent, and the payments made to them.

5. The Commission brings this action against the Defendants seeking permanent injunctive relief to prevent future violations of the federal securities laws, and seeking their ill-gotten gains.

JURISDICTION

6. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e) and 27 of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

7. Halliburton and KBR, directly and indirectly, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the acts, practices and courses of business described in this Complaint.

DEFENDANTS

8. Halliburton is a Delaware energy services corporation, headquartered in Houston, Texas and Dubai, United Arab Emirates. Its common stock is registered under Section 12(b) of the Exchange Act and trades on the New York Stock Exchange. Before Halliburton acquired Dresser in 1998, Dresser’s common stock was registered under Section 12(b) of the Exchange Act.

9. KBR, Inc. is a Delaware engineering, construction and government services corporation headquartered in Houston, Texas. KBR, Inc. was formed in March 2006 and was a wholly-owned subsidiary of Halliburton until November 2006, when it became a separate publicly-traded company. KBR, Inc.’s common stock is registered under Section 12(b) of the Exchange Act and trades on the New York Stock Exchange.

FACTUAL ALLEGATIONS

KBR and Others Agree to Pay Bribes to Obtain Nigeria LNG Contract

10. In the late 1980s, the Nigerian government created Nigeria LNG, Ltd. (“Nigeria LNG”) to capture and sell the natural gas associated with oil production in Nigeria. Nigeria LNG is an entity and instrumentality of the Nigerian government. At

all relevant times, the Nigerian government owned 49% or more of Nigeria LNG and, through the directors that it appointed to the Board of Directors of Nigeria LNG, the Nigerian government exercised control over the company. Three multinational companies own the remainder of Nigeria LNG. Nigerian employees of Nigeria LNG are detailed from the Nigerian Ministry of Petroleum Resources or the government-owned Nigerian National Petroleum Corp. ("NNPC"). In the early 1990s, Nigeria LNG invited bids to construct two LNG "trains" on Bonny Island, Nigeria, estimated to be worth \$1.8 billion. An LNG train is a facility to convert raw natural gas into pure LNG, ready for delivery to a tanker.

11. In 1991, in order to pursue LNG projects in Nigeria, KBR predecessor Kellogg formed a joint venture with three other multinational engineering and construction companies. The joint venture began to pursue bidding on a construction contract for Nigeria LNG to build two LNG trains in Nigeria.

12. Officers and employees at the highest level of KBR, including its former CEO, Albert Jackson Stanley ("Stanley"), were closely involved in the joint venture and its business in Nigeria from the joint venture's inception. Each member of the joint venture had one or more representatives on a steering committee that ran the joint venture. Stanley was a member of that steering committee at all relevant times. Other high ranking personnel of KBR were also closely involved in the joint venture; these included sales, legal and operational personnel.

13. From the inception of the joint venture, the sales officials and other senior personnel of the four joint venture members believed that it was necessary to pay bribes to Nigerian government officials to assist in obtaining the LNG construction contracts. In

conjunction with the Japanese Agent, the sales officials of the joint venture formed what they called the “cultural committee” to consider how to implement, but hide, the scheme to pay bribes. The committee members discussed: (i) entering into sham consulting contracts with various individuals or shell corporations; (ii) “downloading” or “offloading” the payments through subcontractors or vendors; and (iii) entering into phony “services” contracts with the Japanese Agent. Ostensibly, the consultants or vendors would be retained and paid to perform legitimate services. In actuality, the consultants or vendors would use the money in whole or in part to make corrupt payments to Nigerian government officials on behalf of the joint venture.

14. Eventually, the joint venture decided to funnel the payments through two entities, using the UK Agent to pay high-ranking Nigerian officials, and using the Japanese Agent to pay lower-level Nigerian officials. These agents were sometimes referred to as “Cultural Advisors.” The joint venture steering committee approved the use of the two agents, and the steering committee approved the contracts eventually entered into between the joint venture and the two agents.

15. In pursuing the bidding with Nigeria LNG, in holding meetings of the steering committee and the cultural committee, in carrying out the construction contracts, and in all related matters, KBR and the other members of the joint venture routinely made use of the U.S. mails, and of U.S. common carriers, and of other instrumentalities of U.S. interstate commerce. Payments made by the joint venture to the bank accounts of the UK Agent were routed through banks in New York, New York.

The UK Agent

Trains One and Two

16. Prior to joining the joint venture, KBR predecessor Kellogg had used the UK Agent on government construction projects in Nigeria. On its recommendation, the joint venture decided to use the UK Agent for Trains One and Two. Before the joint venture entered into a written contract with the UK Agent, Stanley met with high-ranking Nigerian government officials in November 1994 to discuss the possible use of the UK Agent. The officials assured Stanley that the UK Agent was the right conduit. Thereafter, in March 1995, the joint venture entered into an agreement to pay the UK Agent \$60 million, with the understanding that a substantial portion of this money would be funneled to Nigerian officials as bribes.

17. In December 1995, Nigeria LNG awarded the joint venture the contract to build the first two LNG Trains, for \$2.2 billion. The joint venture began construction in 1996 and finished in 2000. As the joint venture received payments for the construction from Nigeria LNG, it paid the UK Agent. The joint venture sent a total of \$60 million to the UK Agent's Swiss bank account between December 1995 and March 2000 for use in making corrupt payments to Nigerian government officials.

18. As the UK Agent received these payments, the UK Agent made systematic and substantial transfers of money to accounts owned or controlled by one or more high-ranking Nigerian government officials.

Train Three

19. In 1996, the joint venture began pursuing a contract with Nigeria LNG to build Train Three on Bonny Island, Nigeria. In May 1997, Stanley and others in the joint venture traveled to Nigeria to meet with high-ranking Nigerian government officials to confirm that the UK Agent was still the correct intermediary to use to pay bribes.

20. In February 1999, following a change in government, Stanley and others in the joint venture again traveled to Nigeria to meet a high-ranking Nigerian government official who confirmed that the UK Agent was the correct intermediary. The Nigerian official also appointed his own representative to negotiate the bribe amount. In March 1999, Stanley and others in the joint venture met with the Nigerian official's representative in London to negotiate the amount of the bribes to be paid in connection with the award of the Train Three LNG contract. Stanley and others agreed to pay \$32.5 million through the UK Agent.

21. Days after the London meeting, Nigeria LNG awarded the Train Three contract to the joint venture for \$1.2 billion. The joint venture then entered into a new agreement with the UK Agent for the \$32.5 million negotiated at the London meeting. Between March 1999 and May 2003, the joint venture paid the UK Agent, directing the payments to the UK Agent's bank accounts in Switzerland and Monaco. After receiving the money, the UK Agent made substantial payments to accounts controlled by one or more high-ranking Nigerian government officials.

Trains Four and Five

22. In approximately 2001, the joint venture discussed the award of the next series of LNG Trains. In November 2001, Stanley and others in the joint venture again

traveled to Nigeria to meet a high-ranking government official, who confirmed that the UK Agent was still acceptable to serve as a conduit for the payments and who appointed his own representative to negotiate the bribe amount.

23. In December 2001, the joint venture entered into another agreement with the UK Agent in connection with Trains Four and Five for \$51 million. In March 2002, Nigeria LNG awarded the joint venture a \$1.6 billion contract to build Trains Four and Five. Between March 2002 and January 2004, the joint venture paid the UK Agent \$40 million under the sham consulting agreement. After receiving the money, the UK Agent made substantial transfers of money to one or more high-ranking Nigerian government officials.

24. In one instance, the UK Agent used a subcontractor on the Nigeria LNG project (the "Subcontractor") to transfer \$5 million to a Nigerian government official for the benefit of a Nigerian political party. The Subcontractor official, the UK Agent and the Nigerian government official met in London in June 2002 to discuss the terms of the transfer.

25. Beginning in August 2002, the UK Agent wire transferred \$5 million from money received from the joint venture to a bank account of the Subcontractor in the U.K. The Subcontractor then transferred this money to a bank account in Nigeria. Thereafter, as the money came in, the Subcontractor withdrew cash in U.S. dollars or in local currency and delivered the money to the Nigerian official.

26. On several occasions, the Subcontractor personally hand-delivered \$1 million in U.S. currency in a brief case to the Nigerian official in a hotel room in Abuja, Nigeria. The Subcontractor delivered the remainder of the \$5 million to the

Nigerian official in local Nigerian currency, the Naira. Because the Naira was too bulky to deliver by hand, the Subcontractor loaded the cash into vehicles, which were delivered to the Nigerian official.

The Japanese Agent

27. As alleged above, Stanley and others in the joint venture agreed to use the Japanese Agent to make corrupt payments to lower-level Nigerian government officials in connection with the Bonny Island LNG Trains.

28. Between 1996 and 2002, the joint venture entered into three “services” agreements with the Japanese Agent. Stanley and others authorized and directed the joint venture to enter into each of the agreements with the Japanese Agent intending and expecting that the Japanese Agent would use money it received under these agreements to offer and make corrupt payments to lower-level Nigerian officials to assist in obtaining the LNG contracts to build Trains One through Five.

29. Between 1996 and June 2004, when the payments ended, the joint venture paid the Japanese Agent more than \$50 million.

Halliburton’s Internal Controls Failed to Detect, Deter or Prevent Bribery

30. Halliburton exercised control and supervision over its business units, including, after its acquisition of Dresser, KBR. During the relevant period, KBR’s board of directors consisted solely of senior Halliburton officials. Halliburton senior officers hired and replaced KBR’s senior officials, determined salaries and set performance goals. After its acquisition of Dresser, Halliburton consolidated KBR’s financial statements into its own, and all of KBR’s profits flowed directly to Halliburton and were reported to investors as Halliburton’s profits. Stanley discussed the Nigeria

LNG project with Halliburton's senior officials, who were aware of the joint venture's use of the UK Agent on the Nigeria LNG project. Stanley and others did not tell the Halliburton officials that the UK Agent would use the money to pay bribes. Stanley received approval from Halliburton to proceed with the Train Three project.

31. After it acquired Dresser in September 1998 and formed KBR, Halliburton's policies and procedures governed KBR's use of agents. Halliburton's Legal Department conducted a due diligence investigation of the UK Agent prior to the award by Nigeria LNG of the contract for Train Three. Halliburton's policies required that the investigation be "reasonable under the circumstances," and required that a number of factors be considered, including the "reasonableness of the fees" and the "business and cultural environment" in which the agent would be operating. The policies did not require, however, any specific description of the agent's duties, or that the agent agree to any accounting or audit of fees received, nor did the policies specify what steps needed to be taken in conducting the investigation.

32. The KBR and Halliburton attorneys who conducted the due diligence investigation in 1998 learned that the shares of the Gibraltar shell company were held by entities called "Tower Nominees Ltd." and "T&T Nominees, Ltd." The attorneys never learned the identity of the beneficial owner[s] of the shares. The attorneys did learn that the only active official of the Gibraltar shell company was the solicitor based in the United Kingdom. The attorneys did not seek to determine how the UK Agent would or could carry out his duties under the consulting contract from the United Kingdom, or how he was carrying out his duties under the existing \$60 million contract for Trains One and

Two. In addition, the attorneys did not check all of the references provided by the UK Agent, some of which were in fact false.

33. A now-retired Senior Halliburton legal officer reviewed the due diligence conducted by the Halliburton attorneys and knew that the investigation had failed to learn significant information. Nevertheless, Halliburton approved the use of the UK Agent.

34. Halliburton also failed to conduct appropriate due diligence when the joint venture entered into new contracts with the UK Agent. Instead of following its policies, Halliburton conducted minimal follow-up due diligence as to the UK Agent before the joint venture entered into the contract for Trains Four and Five.

35. At the time that Nigeria LNG awarded the contract for Trains Four and Five, Halliburton required that a form called "B-2 Agent Approval Request" be prepared for any agent contract. This document needed to be signed by senior Halliburton officials before the agent contract was entered into. Senior KBR officials prepared a form B-2 for the proposed UK Agent contract. The document contained false statements as to, among other things, the UK Agent's place of business (falsely stated to be Monaco) and number of employees (falsely stated to be four). The document was signed for approval by senior Halliburton officials for finance and administration, as well as senior KBR officials. None of the senior Halliburton or KBR officials who signed the document undertook any independent review or asked any questions concerning the UK Agent.

36. Halliburton conducted no due diligence as to the Japanese Agent. By characterizing the relationship between the joint venture and the Japanese Agent as a "services" contract, senior KBR officials, acting through the joint venture, effectively hid the true nature of the relationship. Halliburton's policies, procedures and internal

controls had no mechanism by which to test the characterization of contracts entered into by its business units or by joint ventures in which it participated.

Documents at KBR and Halliburton Contained False Information

37. In numerous KBR, Dresser and Halliburton company records, the payments to the UK Agent and the Japanese Agent were falsely characterized as legitimate “consulting” or “services” fees when, in fact, they were bribes. KBR’s books and records containing the false information were incorporated and reflected in Halliburton’s corporate books and records. For example, the contracts with the UK Agent and the Japanese Agent falsely described the purpose of the contracts in order to make it appear that the agents would perform legitimate services. Internal company bid documents for the LNG Trains mischaracterized the bribe payments as legitimate expenses. In addition, certain false information was used in the companies’ due diligence process for approving use of the UK Agent.

FIRST CLAIM FOR RELIEF

**KBR Violated Section 30A of the Exchange Act
(Anti-Bribery Provisions of the Foreign Corrupt Practices Act)**

38. Paragraphs 1 through 37 are realleged and incorporated herein by reference.

39. As described above, KBR, an agent of Halliburton, a U.S. issuer, acting on Halliburton’s behalf, made use of the mails or other means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value, to foreign officials for the purposes of influencing their acts

or decisions, securing an improper advantage, or inducing them to use their influence, to assist the issuer in obtaining or retaining business.

40. In addition, KBR at all relevant times was a U.S. person as that term is defined in Section 30A(g)(2) of the Exchange Act, and was an agent of a U.S. issuer acting on behalf of the issuer. KBR corruptly committed acts outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value, to foreign officials for the purposes of influencing their acts or decisions, securing an improper advantage, or inducing them to use their influence, to assist the issuer in obtaining or retaining business.

41. By reason of the foregoing, KBR violated, and unless restrained and enjoined will continue to violate, Section 30A of the Exchange Act [15 U.S.C. § 78dd-1].

SECOND CLAIM FOR RELIEF

Halliburton Violated Sections 13(b)(2)(A) & 13(b)(2)(B) of the Exchange Act (Company Records and Internal Controls)

42. Paragraphs 1 through 41 above are realleged and incorporated by reference herein.

43. Section 13(b)(2)(A) of the Exchange Act requires companies to keep accurate books, records and accounts which reflect fairly the transactions entered into by companies and the disposition of its assets.

44. Section 13(b)(2)(B) requires companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with

generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for such assets.

45. By reason of the foregoing, Halliburton violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A) & (B)].

THIRD CLAIM FOR RELIEF

KBR Aided and Abetted Halliburton's Violations of Sections 13(b)(2)(A) & 13(b)(2)(B) of the Exchange Act (Company Records and Internal Controls)

46. Paragraphs 1 through 45 above are realleged and incorporated by reference herein.

47. Section 13(b)(2)(A) of the Exchange Act requires companies to keep accurate books, records and accounts which reflect fairly the transactions entered into by companies and the disposition of its assets. KBR knowingly or recklessly substantially assisted Halliburton's violations of Section 13(b)(2)(A) of the Exchange Act.

48. Section 13(b)(2)(B) requires companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for such assets. KBR knowingly or recklessly substantially assisted Halliburton's violations of Section 13(b)(2)(B) of the Exchange Act.

49. By reason of the foregoing, KBR aided and abetted Halliburton's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A) & (B)].

FOURTH CLAIM FOR RELIEF

KBR Violated of Section 13(b)(5) of the Exchange Act and Rule 13b2-1 (Company Records and Internal Controls)

50. Paragraphs 1 through 49 above are realleged and incorporated by reference herein.

51. As described above, during the relevant period KBR knowingly falsified, and directly or indirectly, caused to be falsified books, records, or accounts of Halliburton, a U.S. issuer, subject to Section 13(b)(2) of the Exchange Act [15 U.S.C. § 78m(b)(2)]. As a result of KBR's conduct, the books and records of Halliburton falsely reflected the payments to the UK Agent and the Japanese Agent as legitimate business expenses instead of bribes. By falsifying documents and authorizing the sham agent contracts, KBR also knowingly circumvented certain internal accounting controls of Halliburton.

52. By reason of the foregoing, KBR violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

(1) Enter a final judgment permanently enjoining KBR from violating Sections 30A and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78dd-1 and 78m(b)(5)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1], and from violating or aiding and abetting violations of Sections 13(b)(2)(A) & (B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) & (B)];

(2) Enter a final judgment permanently enjoining Halliburton from violating Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) & (B)];

(3) Enter a final judgment ordering Defendants Halliburton and KBR, jointly and severally, to disgorge ill-gotten gains wrongfully obtained as a result of their illegal conduct;

(4) Enter a final judgment appointing an independent consultant to review the policies and procedures of Halliburton as they relate to compliance with the FCPA;

(5) Enter a final judgment appointing an independent monitor to review the policies and procedures of KBR to prevent future violations of the FCPA; and

(6) Grant the Commission such other and further relief as is just and appropriate.

Dated: February 11, 2009

Respectfully submitted,

s/Mark A. Adler

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