

United States v. Jeffery Tesler and Wojciech J. Chodan (S.D. Tex. 2009)

Nature of the Business.

Engineering, procurement, and construction (“EPC”) contracts to build liquefied natural gas (“LNG”) facilities on Bonny Island, Nigeria as part of a four-company joint venture. During most of the time of the conduct, which occurred between 1994 and 2004, one of the joint venture partners, M.W. Kellogg Ltd., was a subsidiary of Halliburton Company and is now a wholly-owned subsidiary of KBR, Inc. Jeffery Tesler, a U.K. solicitor with a Gibraltar-based company called Tri-Star, acted as an agent for the joint venture. Wojciech J. Chodan, a former employee of M.W. Kellogg who worked on the EPC contracts, is also a U.K. citizen.

Influence to be Obtained.

M.W. Kellogg, and later its successor company, Kellogg, Brown & Root, Inc., was part of a four-company joint venture seeking to obtain contracts to build LNG facilities on Bonny Island, Nigeria. The joint venture ultimately obtained four contracts worth \$6 billion.

From 1988 until June 16, 2004, Chodan was a sales vice president and then a consultant for M.W. Kellogg, which was 55% owned by KBR. Chodan reported to Albert “Jack” Stanley, the former CEO of KBR, and assisted KBR in winning four Bonny Island contracts. Beginning in 1999, Chodan served on the board of managers of a Portugal-based company owned by the joint venture partners (“Madeira Company 3”) that allegedly entered into contracts with consultants for the purpose of bribing Nigerian government officials.

The joint venture allegedly hired Tesler, a U.K. solicitor with a shell company (Tri-Star) located in Gibraltar and bank accounts in Switzerland and Monaco, to bribe Nigerian government officials to obtain contracts from the Nigerian National Petroleum Corporation. The consulting contract between Madeira Company 3 and Tri-Star allegedly indicated that Tri-Star would be paid for marketing and advisory services when in fact the primary purpose was to facilitate bribes. Between 1995 and 2004, the joint venture allegedly paid Tesler over \$130 million for use in bribing Nigerian government officials.

Through Madeira Company 3, the joint venture also allegedly hired a consulting company headquartered in Japan to assist it in obtaining business, including by offering and paying bribes to government officials. Between 1996 and 2004, the joint venture allegedly paid the company \$50 million.

Enforcement.

The DOJ filed an eleven-count indictment under seal against Tesler and Chodan on February 17, 2009. The indictment, which was unsealed on March 5, 2009, alleged one count of conspiring to violate the anti-bribery provisions of the FCPA and ten substantive counts of violating the anti-bribery provisions of the FCPA. The indictment also contained forfeiture allegations seeking \$132 million from Tesler and Chodan if convicted of one or more of the counts. At the request of U.S. authorities, the British police arrested Tesler on March 5, 2009.

On December 6, 2010, Chodan pleaded guilty to the conspiracy charge. The plea agreement states that Chodan agrees to forfeit \$726,885 to the United States and to cooperate fully with the DOJ. On February 22, 2012, Chodan was sentenced to one year of unsupervised probation and was ordered to pay a \$20,000 penalty.

On March 11, 2011, Tesler also pleaded guilty to conspiracy to violate the FCPA and a substantive FCPA count following his extradition to the United States from the United Kingdom. Tesler additionally agreed to forfeit \$148,964,568.67 – the largest FCPA-related forfeiture by an individual to date. On February 23, 2012, Tesler was sentenced to 21 months in prison followed by two years of supervised release and a \$25,000 penalty.

Key Facts

Citation. *United States v. Tesler, et al.*, No. 4:09-cr-00098 (S.D. Tex. 2009).

Date Filed. February 17, 2009.

Country. Nigeria.

Date of Conduct. 1994 – 2004.

Amount of the Value. Approximately \$180 million.

Amount of Business Related to the Payment. Approximately \$6 billion.

Intermediary. Agent.

Foreign Official. Officials of Nigeria’s executive branch; employees of Nigerian National Petroleum Company, the government-owned company responsible for developing and regulating Nigeria’s oil and gas industry; and employees of Nigeria LNG Limited, a government-controlled company formed to develop the Bonny Island Project.

FCPA Statutory Provision.

- **Jeffrey Tesler.** Conspiracy (Anti-Bribery); Anti-Bribery.
- **Wojciech Chodan.** Conspiracy (Anti-Bribery).

Other Statutory Provision. None

Disposition.

- **Jeffrey Tesler.** Plea Agreement.
- **Wojciech Chodan.** Plea Agreement.

Defendant Jurisdictional Basis.

- **Jeffrey Tesler.** Agent of Issuer; Agent of Domestic Concern; Agent of “Other Person.”
- **Wojciech Chodan.** Agent of Domestic Concern.

Defendant’s Citizenship.

- **Jeffrey Tesler.** United Kingdom.
- **Wojciech Chodan.** United Kingdom.

Total Sanction.

- **Jeffrey Tesler.** 21-Months Imprisonment; \$25,000 Criminal Fine; \$148,964,568.67 in Forfeiture.
- **Wojciech Chodan.** 1-Year Probation;

In March 2009, a Nigerian paper reported that Nigerian authorities intended to prosecute Tesler and Chodan in the International Criminal Court; however, it does not appear that any charges were filed.

In September 2008, Stanley pleaded guilty to conspiring to violate the FCPA, admitting that he participated in a scheme to bribe Nigerian government officials, and was sentenced on February 23, 2012. On February 11, 2009, KBR and Halliburton settled related DOJ and SEC actions.

\$20,000 Criminal Fine.

Related Enforcement Actions. *United States v. Kellogg Brown & Root LLC; United States v. Stanley; United States v. ENI, S.p.A.; United States v. Technip S.A.; United States v. JCG Corp.*