

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA :

SEALED
INFORMATION

- v. - :

22 Cr. ()

VIKAS SAGAR, :

CRIM 710

Defendant. :

- - - - - x

COUNT ONE

(Conspiracy to Violate the Foreign Corrupt Practices Act)

The United States charges:

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

Relevant Entities and Individuals

1. Company-1, the identity of which is known to the United States, was an international consulting firm, headquartered in New York, New York, that operated worldwide as a single global partnership, with an office in Johannesburg, South Africa. Company-1 was a "domestic concern" as that term is used in the Foreign Corrupt Practices Act ("FCPA"), Title 15, United States Code, Section 78dd-2(h)(1)(B).

2. VIKAS SAGAR, the defendant, was a citizen of India, a lawful permanent resident of the United States, a resident of South Africa, and a stockholder, employee, and agent of Company-1. SAGAR was a "domestic concern" and an employee, agent, and stockholder of a "domestic concern," as those terms are used in the FCPA, Title 15, United States Code, Section 78dd-2(a).

3. Company-2, the identity of which is known to the United States, was a consulting firm incorporated in South Africa, with its principal place of business in South Africa. Company-2 and its officers, directors, and employees were agents of a domestic concern, Company-1, as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(a).

4. Company-3, the identity of which is known to the United States, was a consulting firm incorporated in South Africa, with its principal place of business in South Africa. Company-3 and its officers, directors, and employees were agents of a domestic concern, Company-1, as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(a).

5. Transnet SOC Ltd. ("Transnet"), was a South African state-owned and state-controlled company headquartered in Johannesburg, South Africa, that operated as the custodian of

South Africa's ports, rails, and pipelines. Transnet was controlled by South Africa and performed government functions. Transnet was an "instrumentality" of the South African government and Transnet's officers and employees were "foreign officials," as those terms are used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(2)(A).

6. Foreign Official-1, an individual whose identity is known to the United States, was an official at Transnet with responsibility over procurement and contracting during the relevant time. Foreign Official-1 was a "foreign official" as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(2).

7. Eskom Holdings SOC Ltd. ("Eskom"), was a South African state-owned and state-controlled company headquartered in Sandton, South Africa, that operated as South Africa's public power utility. Eskom was controlled by South Africa and performed government functions. Eskom was an "instrumentality" of the South African government and Eskom's officers and employees were "foreign officials," as those terms are used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(2)(A).

8. Foreign Official-2, an individual whose identity is known to the United States, was an official at Eskom with responsibility over procurement and contracting during the relevant time. Foreign Official-2 was a "foreign official" as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(2).

9. Co-conspirator-1 ("CC-1"), an individual whose identity is known to the United States, was a South African national and business-person who worked in South Africa.

10. Co-conspirator-2 ("CC-2"), an individual whose identity is known to the United States, was a South African national and business-person who worked in South Africa at Company-2 and Company-3.

Overview of the Bribery Scheme

11. VIKAS SAGAR, the defendant, while acting within the course of his employment with Company-1, and as an agent and stockholder thereof, with the intent, at least in part, to benefit Company-1, agreed with others to bribe foreign officials in South Africa to steer business and award consulting contracts to Company-1 and its partner firms, Company-2 and Company-3. In furtherance of the scheme, SAGAR and his co-conspirators, among other things: (a) obtained confidential and non-public

information from Transnet and Eskom through CC-1, CC-2, and others, regarding the award of consulting contracts;

(b) submitted proposals for multi-million-dollar consulting contracts to Transnet and Eskom on behalf of Company-1 and its partner firms, Company-2, and Company-3, knowing that a portion of the proposed consulting fees from the contracts would be used to pay bribes to Foreign Official-1 and Foreign Official-2;

(c) drafted portions of Transnet's and Eskom's requests for consulting bids and internal memoranda justifying the non-use of public tenders in an effort to exclude Company-1's competitors and improperly influence the award of contracts to Company-1 and its partner firms; and (d) deleted emails and files to destroy evidence of the scheme.

Statutory Allegations

12. From at least in or around 2012, up to and including in or around 2016, in the Southern District of New York and elsewhere, VIKAS SAGAR, the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to commit an offense against the United States, to wit, to violate the FCPA, Title 15, United States Code, Section 78dd-2.

13. It was a part and an object of the conspiracy that VIKAS SAGAR, the defendant, being a domestic concern and an employee and agent of a domestic concern, and a stockholder thereof acting on behalf of such domestic concern, would and did willfully and corruptly make use of the mails and a means and instrumentality of interstate commerce in furtherance of an offer, payment, promise to pay, and authorization of the payment of any money, offer, gift, promise to give, and authorization of the giving of a thing of value to a foreign official, and to a person, while knowing that all and a portion of such money and thing of value would be and had been offered, given, and promised, directly and indirectly, to a foreign official, for purposes of: (A) (i) influencing an act and decision of such foreign official in that foreign official's official capacity; (ii) inducing such foreign official to do and omit to do an act in violation of the lawful duty of such foreign official; and (iii) securing an improper advantage; and (B) inducing such foreign official to use that foreign official's influence with a foreign government and agencies and instrumentalities thereof to affect and influence an act and decision of such government and agencies and instrumentalities, in order to assist SAGAR, Company-1, and others in obtaining and retaining business for

and with, and directing business to, a person, in violation of Title 15, United States Code, Section 78dd-2, to wit, SAGAR, and others known and unknown, agreed to pay and offer money and other things of value to foreign officials in South Africa, and elsewhere, to assist SAGAR, Company-1 and others in obtaining and retaining business for, and directing business to, SAGAR, Company-1, Company-2, Company-3, and others.

Overt Acts

14. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about 2014, VIKAS SAGAR, the defendant, and Company-1 submitted and caused to be submitted proposals for multi-million dollar consulting contracts relating to Transnet's management of coal, manganese, iron ore, and a new multi-product pipeline, on behalf of Company-1 and its partner firm, Company-2, to Transnet, understanding that a portion of the consulting fees from the contracts would be used for the purpose of paying bribes to a foreign official.

b. On or about February 10, 2014, SAGAR sent an email to CC-1, attaching an internal Company-1 document related

to the proposed split of Transnet consulting fees between Company-1 and Company-2.

c. On or about November 18, 2015, SAGAR sent an email to CC-1 and a business associate of CC-2, attaching an internal Company-1 document related to the proposed split of Eskom consulting fees between Company-1 and Company-2.

d. In or about February 2016, SAGAR and other employees of Company-1 discussed concerns related to a potential impending audit of Company-1's contracts with Transnet and Eskom and the risk that the audit would reveal Company-1's practice of drafting portions of Transnet's and Eskom's requests for consulting bids and internal memoranda. SAGAR and Company-1 personnel discussed, in substance and part, the need to delete documents in advance of the audit. In response, between in or about May 2016 and in or about July 2016, SAGAR deleted emails and files on his Company-1 computer.

e. On or about October 5, 2016, SAGAR met in New York, New York with others, including an employee of Company-1 and an employee of Eskom, to discuss the performance of a contract that Company-1 had obtained through the payment of bribes to a South African official.

(Title 18, United States Code, Section 371.)

FORFEITURE ALLEGATIONS

15. As a result of committing the offense alleged in Count One of this Information, VIKAS SAGAR, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all property, real and personal, which constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

Substitute Assets Provision

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

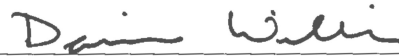
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)



GLENN S. LEON
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DAMIAN WILLIAMS
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