



Feds Demand Convicted Con Man Serve 30 Years

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:11 AM April 30, 2012

ABC News on April 30, 2012 released the following:

“By PAUL ELIAS Associated Press Federal prosecutors are demanding that a man they call a “congenital liar and serial fraudster” serve 30 years in prison and pay a \$60 million fine after a jury convicted him of defrauding actors Danny Glover, Harry Belafonte and others out of more than \$35 million.

If U.S. District Judge Charles Breyer agrees to the sentence on Monday, it would represent one of the harshest penalties ever meted out in a white collar case. Not even Jeff Skilling, the architect of Enron Corp.’s criminal collapse, was sentenced to that much prison time. Skilling is currently serving a 24-year, four-month sentence.

Assistant U.S. attorneys W. Douglas Sprague and Hallie Mitchell argue in court papers that the harsh sentence is warranted because of the financial and emotional toll the fraud had on the victims, the extent Samuel “Mouli” Cohen went to cover up his scam and his refusal to accept responsibility.

“This unrepentant con man with a militant lack of responsibility has blamed everyone—the victims, the Court, his attorneys, the government, the Probation Officer, and the Court reporter—for his actions and their consequences except the person responsible for it,” prosecutors write in a court filing.

Most notably, Cohen’s fraud caused the collapse of the Vanguard Public Foundation, a nonprofit launched in 1972 that awarded grants to a vast array of social causes. Many of Cohen’s victims, including Glover and Belafonte, were associated with the foundation, which supported anti-war causes, environmental groups and other politically liberal issues. Prosecutors said Cohen even preyed on

his father-in-law, looting his retirement account.

A federal jury in November convicted Cohen of 15 counts of wire fraud, 11 counts of money laundering and three counts of tax evasion after a three week trial in San Francisco federal court. His lawyer said Cohen will appeal the conviction.

Cohen, 53, is a son of Russian immigrants who was raised in Jerusalem. He moved to the United States in 1987 and became a United States citizen, though prosecutors allege he falsely told victims that the first President Bush personally granted him citizenship.

Cohen was convicted of falsely telling investors beginning in 2002 that a company he launched called Ecast that made electronic jukeboxes for bars was about to be acquired by Microsoft Corp. Prosecutors said Cohen kept the scheme going by soliciting more money from victims with complaints that U.S. and then European regulators were holding up the deal, which required additional investments to pay nonexistent fees and bonds needed to push the deal to approval.

Prosecutors say none of that was true. Instead, they said Cohen used the millions to fund an “absurd lifestyle” that included helping his wife publish a cookbook called “The Kosher Billionaire’s Secret Recipe.”

Prosecutors allege that he jetted around the country in a rented private jet that he to claim to have owned, giving rides to the likes of singer Elton John and actress Jennifer Lopez, neither of which are included on the victims list.

Prosecutors say that Cohen rented a mansion in the wealthy enclave of Belvedere just north of San Francisco and decorated the house with copies of famous paintings from Picasso, Miro and Matisse and other noted artists. But prosecutors said he solicited investments during parties at his house, which he told victims

he owned while showing them the artwork he deemed were originals. Prosecutors said that was all part of a ruse to portray himself as a wealthy and savvy businessman.

Cohen’s attorney is asking for a sentence of less than nine years.

“A 30 year sentence is excessive for a 53-year old first-time offender, who has a long history of selfless acts and entrepreneurial innovation,” Cohen’s attorney Marcus S. Topel wrote in a court filing, pointing out that his client has donated at least \$2 million to charity.”

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The author of this blog is Douglas C. McNabb. Please feel free to contact him directly at mcnabb@mcnabbassociates.com or at one of the offices listed above.

President of Costa Rican Company Convicted in Half a Billion Dollar Fraud Scheme with Thousands of Victims Worldwide

(USDOJ: Justice News)

Submitted at 6:37 PM April 30, 2012

The president of a Costa Rican company that sold reinsurance bonds to life

settlement companies was found guilty by a federal jury in Richmond, Va., today for carrying out a half-billion-dollar fraud scheme that affected more than 2,000

victims throughout the United States and abroad.



Bribes Without Jail Time

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:33 AM April 30, 2012

The New York Times on April 27, 2012 released the following:

“By JAMES B. STEWART

As reported in a front-page article in The New York Times this week, the Wal-Mart Mexican bribery scheme has all the makings of a gripping criminal prosecution: millions of dollars in illegal payoffs to Mexican government officials and evidence of a cover-up scheme that went all the way to Wal-Mart headquarters in Bentonville, Ark.

And the Foreign Corrupt Practices Act, which outlaws the bribery of foreign officials by American executives, carries stiff penalties for those convicted: fines of up to \$5 million and up to 20 years in prison.

So who’s likely to go to jail?

No one, if past precedent is any guide.

Exhibit A for any lawyer representing potential Wal-Mart defendants would probably be last year’s bribery case against the huge poultry, pork and beef producer Tyson Foods. Like Wal-Mart, Tyson employees bribed Mexican officials. When Tyson officials learned about the scheme, they covered it up. Even worse, they tried to keep the bribes going by changing the nature of the illegal payments. The scheme ultimately reached into Tyson’s executive suite in Springdale, Ark., with the company’s president of international operations and its chief administrative officer among those involved.

Last year, the Justice Department charged Tyson with conspiracy and with violating the Foreign Corrupt Practices Act. Tyson didn’t contest the facts, agreed to resolve the charges with a deferred prosecution and paid a \$4 million criminal penalty. The company paid an additional \$1.2 million and settled related regulatory complaints that it had maintained false books and records and lacked the controls to prevent payments to phantom employees and government officials.

It’s axiomatic that people, not corporations, commit crimes. So what happened to the Tyson executives involved? Not only did the Justice Department and the Securities and Exchange Commission take no action against them, but the executives involved weren’t even named.

As I reported in a column last year, the highest-ranking Tyson executive involved was Greg Lee, then its chief administrative officer. Tyson announced in April 2007, the same month it disclosed its conduct to the government, that Mr. Lee would retire early. There was no

mention of any bribery investigation. John Tyson, the company’s chairman, praised his “dedicated service to the company over the last three decades,” and the company paid Mr. Lee nearly \$1 million and awarded him a 10-year consulting contract worth an additional \$3.6 million. Mr. Lee was entitled to be reimbursed for his country club dues, to the use of a car and to “personal use of the company-owned aircraft for up to 100 hours per year,” according to his employment agreement. (Mr. Lee didn’t respond to my messages seeking comment.)

Wal-Mart’s Mexican bribery scandal, and the question of what to do about it, reached company headquarters in September 2005, according to the account by David Barstow of The Times. This was little more than a year after Tyson executives covered up their scandal. Given the subsequent outcome of the Tyson case, is it any wonder that Wal-Mart executives’ first reaction would have been to sweep the matter under the rug? Only after Mr. Barstow started asking questions did the company turn itself in to the Justice Department, no doubt hoping for something like the resolution its Arkansas neighbor received.

Neither the Justice Department nor the S.E.C. would comment on the Tyson case, now closed, or the continuing Wal-Mart investigation.

Both agencies have stepped up their investigations and prosecutions of Foreign Corrupt Practices Act violations in recent years, and they now have units dedicated to foreign bribery cases. Last year, the S.E.C. brought cases against 14 companies and 12 people. Major companies caught up in recent bribery investigations include Johnson & Johnson, Halliburton and Siemens. Just this week, the former Morgan Stanley executive Garth Peterson pleaded guilty to violating the act while based in Shanghai. Morgan Stanley wasn’t charged, and it appears to have been a model corporate citizen. It fired Mr. Peterson and didn’t mince words. It turned over evidence to the government and disclosed the inquiry in an S.E.C. filing.

Despite this laudable effort, an outcome like that in the Tyson case — in which a company admits the facts and pays a fine but no individuals are charged — hardly seems isolated. According to research by Qi Chen, working with Prof. Andrew Spalding at the Chicago-Kent College of Law at the Illinois Institute of Technology, 37 of the 57 companies involved in bribery enforcement actions from 2005 to 2010 settled bribery accusations and had no related individuals charged.

One of the most vocal critics of the failure to charge individuals has been the former Republican-turned-Democratic Senator Arlen Specter, who held hearings on the issue in 2010 while chairman of the Senate Judiciary Committee. “Criminal fines are added to the costs of doing business,” Mr. Specter said then. “Going to jail is what works to deter crime.”

This week he told me: “I’ve been speaking out on this issue everywhere I can. The Justice Department takes the view that deferred prosecutions are sufficient to deter bribery. But it obviously hasn’t worked. Maybe the Wal-Mart case will finally impel them to take a different view.”

That is not to say that no one has gone to jail for violating the Foreign Corrupt Practices Act. Albert J. Stanley, former chairman and chief executive of KBR, the global contracting concern that was once a subsidiary of Halliburton, was sentenced in February to 30 months in prison for a scheme to bribe Nigerian authorities in return for contracts to build liquefied natural gas facilities. Frederic Bourke, co-founder of the handbag maker Dooney & Bourke, was sentenced to one year and a day for his involvement in a scheme to bribe officials in Azerbaijan in a failed effort to take over the state-owned oil company. Last year, eight former executives of the German technology giant Siemens were charged with bribing Argentine officials in what the Justice Department characterized as “a stunning level of deception and corruption.” But the defendants live abroad and may never be successfully prosecuted in the United States.

I couldn’t find a case of an executive at a major American-based, publicly traded company who was successfully prosecuted and sent to jail. A majority of individual prosecutions appear to involve people of relatively limited means who are in smaller or privately held companies or who are officials in foreign companies based outside the United States, where there is little likelihood of a conviction. A typical case seems more like that of Gerald and Patricia Green, two Hollywood producers who were convicted of bribing the head of the Bangkok film festival. The couple was sentenced to six months in prison followed by six months of home confinement in 2010. At the time, Mr. Green was 83 years old and suffered from emphysema.

“It does appear that executives from U.S. public companies are not being pursued with the same vigor as individuals at private companies or who work on their



BRIBES

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own,” said Richard L. Cassin, founder of the firm CassinLaw and author of “Bribery Abroad” and “Bribery Everywhere.” “There are still a lot of enforcement actions against corporations where there are no indictments against individuals. The percentage of criminal cases against individuals is still very tiny.”

He suggests this may be partly because corporate executives, especially those with prominent lawyers whose fees are paid by their employers, are less likely to settle. And the Justice Department has suffered some embarrassing setbacks in a few recent litigated cases against individual defendants.

Asked for comment, the department provided this statement: “Prosecuting individuals who violate the law is an important part of our F.C.P.A. enforcement efforts. Since 2009, the Justice Department has secured convictions against 36 individuals for F.C.P.A.-related offenses. In all cases, we thoroughly review the facts and the law to determine whether criminal charges against individuals can be brought.”

An S.E.C. spokeswoman said: “We’re committed to holding individuals accountable. Where we have the evidence to bring cases against individuals, we do so, and we view that as a high priority.”

According to both the Justice Department and the commission, an important aspect of assessing a company’s cooperation is how it disciplines any executives found to be involved in a bribery scheme. Wal-Mart issued a statement this week saying: “We will not tolerate noncompliance with F.C.P.A. anywhere or at any level of the company. We are confident we are conducting a comprehensive investigation,

Justice Department Reaches Settlement with Nation’s Largest Mortgage Insurance Provider to Resolve Allegations of Discrimination Against Women on Maternity Leave

(USDOJ: Justice News)

Submitted at 4:50 PM April 30, 2012

The Department of Justice announced today that it has settled its lawsuit against the Mortgage Guaranty Insurance Corporation (MGIC) for discriminating against women on maternity leave in violation of the Fair Housing Act. This settlement is the department’s first involving discrimination against women and families in mortgage insurance.

and if violations of our policies occurred, we will take appropriate action.”

I asked Wal-Mart who, if anyone, involved in the bribery allegations had been disciplined, but I didn’t get a response. Eduardo Castro-Wright, who was described in The Times’s article as the driving force in the bribery conspiracy, is the former head of the company’s Mexican operations and remains at Wal-Mart, where he became vice chairman in 2008. Wal-Mart announced last September that Mr. Castro-Wright would retire on July 1, and he has since emphasized that his decision to retire had nothing to do with any bribery allegations.

In a send-off that echoes Tyson’s praise for Mr. Lee, Wal-Mart’s chief executive, Mike Duke, said: “Eduardo has made many contributions at Wal-Mart, beginning in Mexico and continuing until today. He has been a strong advocate for our customers and in every assignment has brought passion and commitment to the job.”

Mr. Castro-Wright isn’t a member of Wal-Mart’s board, but this week he resigned from the board of the insurer MetLife. “I now must focus my energy in spending personal time with my family and in protecting my good name,” he said, and confidently predicted that “these outside distractions will be resolved favorably within the next several months.”

But Wal-Mart may not turn out to be another Tyson. Professor Spalding told me “a lot has happened” since 2010, which is when he compiled the statistics on individual prosecutions. “The Department of Justice is making a strong push to hold individuals liable,” he said.

Hitachi-LG Data Storage Inc. Executive Agrees to Plead Guilty for Participating in Bid-Rigging Conspiracies Involving Optical Disk Drives

(USDOJ: Justice News)

Submitted at 1:59 PM April 30, 2012

An executive of Korean-based Hitachi-LG Data Storage Inc. (HLDS) has agreed to plead guilty and to serve time in a U.S. prison for his participation in a series of conspiracies to rig bids for the sale of optical disk drives.

Arizona Man Sentenced to Seven Years in Prison for Participating in International Child Pornography Ring

(USDOJ: Justice News)

Submitted at 6:56 PM April 30, 2012

Joseph Hines of Tempe, Ariz., was sentenced by U.S. District Judge Virginia

“Despite some recent embarrassing losses, the department must be looking for some high-profile prosecutions. Wal-Mart is about as high profile as you can get. This case could turn out to be a poster child for individual liability.””

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National Express and Petermann to Sell Off School Bus Contracts in Texas and Washington to Resolve Antitrust Concerns

(USDOJ: Justice News)

Submitted at 6:05 PM April 30, 2012

National Express Corporation and Petermann Partners Inc. will divest several school bus contracts and associated assets in the states of Washington and Texas in order to proceed with their proposed merger.

A. Phillips. In December 2010, Hines, 24, pleaded guilty to one count of conspiracy to solicit child pornography.



Michael Steinbach Named Special Agent in Charge of FBI Jacksonville Division

fbi (Current)

Submitted at 6:00 AM April 30, 2012

— Washington, D.C.

U.S. Marshals Task Force on a Roll in Akron

(U.S. Marshals Service News)

Submitted at 12:00 PM April 30, 2012

April 27, 2012 - The U.S. Marshals Northern Ohio Violent Fugitive Task Force (NOVFTF) Akron Division hit the streets hard yesterday arresting two violent fugitives. The Springfield Township Police Department requested the assistance of the NOVFTF to locate

and apprehend Larry W. Johnson. Johnson was wanted for rape, gross sexual imposition and importuning out of Springfield Township, OH. The NOVFTF also apprehended Steven Young, a known gang member who was being sought for aggravated burglary and aggravated robbery.