

International Materials Solutions Corporation / Thomas K. Qualey

Case ID:

ST-218

Case Cluster :

International Materials Solutions Corporation

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Department of Justice

Jurisdiction of Foreign Public Official(s) :

Brazil

Year of Settlement:

1999

Month/Day of Settlement (or Notes):

02/10

Other Jurisdictions of Settlement:

Unknown

Settlement with Individual or Legal Person?:

Individual

Type of Settlement:

Criminal

Legal Form of Settlement:

Guilty Plea

Monetary Sanctions (Types):

Criminal Fine

Total Monetary Sanctions (US\$):

\$5,000.00

Criminal Fine/Penalty (US\$) :

\$5,000

Monetary Sanctions Returned / Ordered Returned (US\$):

\$0

UNCAC Articles(s) Implicated:

Art.16

Art.26

OECD Anti-Bribery Convention Articles Implicated:

Art. 1, Art. 2

Offenses - Alleged:

Conspiracy to bribe foreign officials, Bribery of foreign officials

Offenses - Settled:

Conspiracy to bribe foreign officials, Bribery of foreign officials

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the US Report to the Organisation for Economic Co-operation and Development,

"Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," (June 2011): "On February 8, 1999, the Department of Justice filed a two-count information in the Southern District of Ohio, charging International Materials Solutions Corporation (IMSC) and Thomas K. Qualey, IMSC's President, with one count of conspiring to violate the anti-bribery provisions of the FCPA and one count of bribing a foreign official. According to court documents, in 1995 and 1996, Qualey prepared and submitted bids on behalf of International Materials Solutions Corporation (IMSC) to sell forklifts to the Brazilian Air Force (BAF) and to service them. In order to secure these contracts, which were worth approximately \$400,000, IMSC agreed to pay \$67,000 in bribes to a Lieutenant Colonel in the BAF, who was stationed as a Foreign Liaison Officer in the United States. / Criminal Disposition: On February 10, 1999, Qualey pleaded guilty and was sentenced to four months home confinement and a \$5,000 fine. IMSC also pleaded guilty on this date and was later sentenced to pay a \$1,000 criminal fine." (Source: International Materials Solutions Corporation. Case at 133.) According to the Judgment Order in US v. International Materials Solutions, the fine was below guidelines because of the inability of the company to pay. (Source: US v. International Materials Solutions, Case No. 3:99-cr-008-WHR (S.D. Ohio), Judgment Order filed October 4, 1999.) According to the Judgment in Mr. Qualey's case, "The sentence departs from the guideline range: [due to] Criminal history over represents [sic] seriousness of past criminal conduct and likelihood of recidivism. Substantial assistance to foreign government." (Source: US v. Thomas K. Qualey, Case No. 3:99-cr-008-WHR (S.D. Ohio), Judgment Order filed October 4, 1999.)

Sources :

US Report to the Organisation for Economic Co-operation and Development, "Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions," Information as of May 31, 2011, International Materials Solutions Corporation. Case at 133, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US v. International Materials Solutions Corporation, Case No. 3:99-cr-008-WHR (S.D. Ohio), Information filed on February 8, 1999, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/intl-materials/02-08-99imsc-info.pdf>; Plea Agreement filed February 10, 1999, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/intl-materials/02-11-99imsc-plea-agree.pdf>; Statement of Facts, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/intl-materials/02-10-99imsc-state-facts.pdf>; Judgment Order filed October 4, 1999, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/intl-materials/09-1-99imsc-judgment.pdf>; Thomas K. Quagley Plea Agreement filed on February 10, 1999, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/intl-materials/02-10-99qualey-plea-agree.pdf> and Judgment (October 4, 1999), accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/intl-materials/09-01-99qualey-judgment.pdf>