

Kazakh Oil Mining / J. Bryan Williams

Case ID:

ST-245

Case Cluster :

Kazakh Oil Mining

Jurisdiction of Settlement:

United States

Jurisdiction of Settlement / Enforcement Agency:

Department of Justice; United States Attorney for the Southern District of New York

Jurisdiction of Foreign Public Official(s) :

Kazakhstan

Year of Settlement:

2003

Month/Day of Settlement (or Notes):

09/18

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, Criminal Restitution

Total Monetary Sanctions (US\$):

\$8,025,000.00

Criminal Fine/Penalty (US\$) :

\$25,000

Criminal Restitution / Reparation (US\$):

\$8

000

000

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

\$0

UNCAC Articles(s) Implicated:

Art.16

OECD Anti-Bribery Convention Articles Implicated:

Art. 1

Offenses - Alleged:

Subscribing to False Tax Returns, Tax Evasion

Offenses - Settled:

Subscribing to False Tax Returns, Tax Evasion

Public Procurement Contract / SOE Involved?:

Yes

Summary:

According to the June 2011 United States Report to the OECD, "On April 2, 2003, James H. Giffen, the Chairman of The Mercator Corporation (Mercator), a merchant bank with offices in New York and the Republic of Kazakhstan, was indicted in the Southern District of New York on charges that he made a series of illegal payments to senior Kazakh officials in connection with numerous oil deals in that country. According to court documents, Giffen allegedly made corrupt payments to senior Kazakh officials in connection with the following transactions in which Giffen represented the Republic of Kazakhstan: 1) Mobil Oil's 1996 purchase of a 25% share in the Tengiz oil field; (2) Mobil Oil's 1995 agreement to finance the processing and sale of gas condensate from the Karachaganak oil and gas field; (3) Amoco's 1997 purchase of a share in the Caspian Pipeline Consortium; (4) Texaco and other oil companies' purchase of a share in the Karachaganak oil and gas field in 1998; (5) Mobil and other oil companies' 1998 purchase of exploration rights in the Kazakh portion of the Caspian Sea, and; (6) Phillips Petroleum's 1998 purchase of Caspian Sea exploration rights. [] According to the original indictment, Giffen and Mercator were advisors to the Kazakh government on strategic planning, development of foreign investment and the negotiation of priority investment projects relating to the exploration, development, production, transportation, and processing of oil and gas. During this period, Giffen had held the title of counselor to the President of Kazakhstan. According to the charges, Mobil oil agreed to pay the success fees owed by Kazakhstan to Giffen and Mercator, and out of those fees, Giffen made unlawful payments of \$22 million dollars to secret Swiss accounts beneficially owned by two high level Kazakh officials. In addition, according to the Indictment, between 1995 and 2000, Giffen caused approximately \$70 million paid by various oil companies into escrow accounts in Switzerland in connection with the purchase of oil and gas rights in Kazakhstan to be diverted into secret Swiss bank accounts under his control. Giffen then used this money to make additional unlawful payments of approximately \$55 million to the two senior officials of the Kazakh Government. Also on April 2, 2003, J. Bryan Williams a senior executive at Mobil Oil, was charged in connection with a kickback and tax evasion scheme involving a related oil deal in Kazakhstan. According to court documents, Williams was sent by Mobil's Chairman to finalize the negotiations with Kazakhstan regarding Mobil's purchase for approximately \$1 billion of a 25% interest in the Tengiz oil field in 1996. After the Tengiz deal closed, Mobil paid \$41 million to a New York merchant bank that represented the Republic of Kazakhstan in the transaction. The merchant bank's Chairman kicked back \$2 million of that payment to Williams, by transferring money through a secret Swiss bank account." (Source: 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, The Mercator Corporation Case Summary at 104-106.) According to the Press Release by the United States Attorney for the Southern District of New York, Swiss authorities provided "outstanding cooperation" in the case. (Source: United States Attorney for the Southern District of New York, "Former Mobil Executive Sentenced on Tax Evasion Charges in Connection with Kazakhstan Oil Transactions," September 18, 2003.) According to the Court Docket Report in the case, the ordered restitution was to be paid to the US Internal Revenue Services. (Source: US v. Williams, Case No. 03-cr-406 (SDNY), Court Docket Report retrieved January 15, 2012, via Pacer.)

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, The Mercator Corporation Case Summary at 104-106, accessed at <http://www.oecd.org/dataoecd/18/8/42103833.pdf>. US v. Williams, Case No. 03-cr-406-HB

(SDNY), Superseding Indictment filed April 14, 2003, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/williamsjb/04-14-03williams-supersed-indict.pdf>; Superseding Information filed June 12, 2003, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/williamsjb/06-12-03williams-supersed-info.pdf>; Amended Judgment filed October 22, 2003, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/williamsjb/04-02-03williams-judgment.pdf>; Court Docket Report retrieved January 15, 2012, via Pacer. United States Attorney for the Southern District of New York, "Former Mobil Executive Sentenced on Tax Evasion Charges in Connection with Kazakhstan Oil Transactions," September 18, 2003, accessed at <http://www.justice.gov/criminal/fraud/fcpa/cases/williamsjb/09-18-03williams-pressrelease.pdf>.