

United States Courts
Southern District of Texas
FILED

AUG 24 2017

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

17 CR 515

UNITED STATES OF AMERICA §
v. § CRIMINAL NO.
FERNANDO ARDILA-RUEDA, §
Defendant. §

INFORMATION

THE UNITED STATES CHARGES:

COUNT ONE
(Conspiracy – 18 U.S.C. § 371)

Introduction

At all times material to this Information:

1. Petroleos de Venezuela S.A. (“PDVSA”) was the Venezuelan state-owned and state-controlled oil company. PDVSA and its subsidiaries were responsible for the exploration, production, refining, transportation, and trade in energy resources in Venezuela and provided funding for other operations of the Venezuelan government. Bariven S.A. (“Bariven”) was the PDVSA procurement subsidiary responsible for equipment purchases. PDVSA and its wholly owned subsidiaries, including Bariven, were “instrumentalities” of the Venezuelan government as that term is used in the Foreign Corrupt Practices Act (“FCPA”), Title 15, United States Code, Section 78dd-2(h)(2)(A). PDVSA officers and

employees were “foreign officials” as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(2)(A).

2. At all relevant times, Abraham Jose SHIERA BASTIDAS (“SHIERA”), who has been charged separately, was the owner of a number of other U.S.-based energy companies that supplied equipment and services to PDVSA, and a resident of the United States, and thus a “domestic concern” and an officer, director, employee, agent, and shareholder of a “domestic concern” as those terms are used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1).

3. At all relevant times, Roberto Enrique RINCON FERNANDEZ (“RINCON”), who has been charged separately, was the owner of a number of U.S.-based energy companies, including several companies based in the Southern District of Texas, that supplied equipment and services to PDVSA, and a resident of Texas, and thus a “domestic concern” and an officer, director, employee, agent, and shareholder of a “domestic concern” as those terms are used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1). RINCON and SHIERA worked together on a number of PDVSA contracts and contract bids.

4. Defendant **FERNANDO ARDILA RUEDA** (“Defendant **ARDILA**”), a resident of Miami-Dade County, Florida, worked as a business partner of SHIERA and a minority owner of SHIERA’s companies, including a

company headquartered in the Southern District of Texas. Among other things, Defendant **ARDILA**'s responsibilities included serving as sales director or manager for certain of the companies, including generating business for these companies with PDVSA by approaching and developing relationships with PDVSA officials. Defendant **ARDILA** was thus a "domestic concern" and an officer, director, employee, agent, and shareholder of a "domestic concern" as those terms are used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1).

5. "Official H," an individual whose identity is known to the United States, was at all relevant times employed by PDVSA or a wholly owned subsidiary thereof, including as a planning and engineering supervisor. Official H's job responsibilities included helping to select or recommend vendors for specific PDVSA projects. Official H was a "foreign official" as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(2)(A).

6. "Accountant 1," an individual whose identity is known to the United States, worked as an accountant for SHIERA's companies.

7. "Accountant 2," an individual whose identity is known to the United States, worked as an accountant for SHIERA's companies.

The Conspiracy

8. Beginning in at least 2008 and continuing through at least 2014, in the Southern District of Texas, and elsewhere, the defendant,

FERNANDO ARDILA RUEDA,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly conspire, confederate, and agree with SHIERA, RINCON, and others known and unknown, to commit offenses against the United States, that is: being a domestic concern and an officer, director, employee, agent, and shareholder of a domestic concern, and together with a domestic concern, to willfully make use of the mails and means and instrumentalities of interstate commerce corruptly 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 anything of value to a foreign official and to a person, while knowing that all or a portion of such money and thing of value would be and had been offered, given, and promised to a foreign official, for purposes of: (i) influencing acts and decisions of such foreign official in his official capacity; (ii) inducing such foreign official to do and omit to do acts in violation of the lawful duty of such official; (iii) securing any improper advantage; and (iv) inducing such foreign official to use his influence with a foreign government and agencies and instrumentalities thereof to affect and influence acts and decisions of such government and agencies

and instrumentalities, in order to assist Defendant **ARDILA**, **SHIERA**, **RINCON**, their companies, and others in obtaining and retaining business for and with, and directing business to, **SHIERA**'s and **RINCON**'s companies, in violation of the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2(a).

Purpose of the Conspiracy

9. The purpose of the conspiracy was for Defendant **ARDILA**, **SHIERA**, **RINCON**, and their co-conspirators, to enrich themselves by obtaining and retaining lucrative energy contracts with PDVSA through corrupt and fraudulent means, including by paying bribes to PDVSA officials, including, but not limited to, Official H.

Manner and Means of the Conspiracy

10. The manner and means by which Defendant **ARDILA** and his co-conspirators sought to accomplish the purpose of the conspiracy included, among other things, the following, while in the Southern District of Texas and elsewhere:

11. In order to obtain and retain business for and on behalf of **SHIERA**'s and **RINCON**'s companies, Defendant **ARDILA**, together with others, including **SHIERA** and **RINCON**, would and did discuss:

- a. the need to provide things of value to PDVSA officials;
- b. the identity of the PDVSA officials whom they would target;
- c. the particular things of value to provide to those officials; and

d. the manner and means by which things of value would be provided.

12. Defendant **ARDILA**, together with others, including SHIERA and RINCON, would and did solicit and agree with PDVSA officials, on behalf of SHIERA's and RINCON's companies, that those companies would pay bribes based on a percentage of any contracts the PDVSA officials helped to award to SHIERA's and RINCON's companies.

13. Defendant **ARDILA**, together with others, including SHIERA and RINCON, caused bribe payments to be wired from the bank accounts of SHIERA's companies to the bank accounts of PDVSA officials, their relatives, or other individuals or entities designated by the PDVSA officials who received the bribes, including to bank accounts in the Southern District of Texas.

14. Defendant **ARDILA**, together with others, including SHIERA, would and did provide to PDVSA officials things of value, including meals and entertainment, in order to obtain and retain business on behalf of SHIERA's and RINCON's companies.

15. Defendant **ARDILA**, together with others, including SHIERA, would and did attempt to conceal the bribery scheme by creating and using private e-mail accounts to communicate about the scheme.

Overt Acts

16. In furtherance of the conspiracy and to achieve the objects thereof, at least one of the co-conspirators committed or caused to be committed, in the Southern District of Texas and elsewhere, at least one of the following overt acts, among others:

17. On or about November 10, 2008, Defendant **ARDILA** sent an e-mail to Accountant 1 stating, as translated into English, “We need to make a payment of US\$74,753.00 to this ally.” The co-conspirators frequently referred to the PDVSA officials to whom they were paying bribes as “aliados,” or, as translated into English, “allies” or “allieds.” For the purpose of concealing the identities of the PDVSA officials when discussing bribe payments related to the scheme, Defendant **ARDILA** and his co-conspirators assigned each official an “aliado number.”

18. On or about July 13, 2010, Defendant **ARDILA** sent an e-mail to Accountant 1 and SHIERA stating, as translated into English, “Attached, please find what we have to pay urgently out of the pending amount to the allies.”

19. On or about September 29, 2011, Defendant **ARDILA** sent an e-mail to Accountant 2 stating, as translated into English, “We need to make a transfer of US\$ 100K to AL_100[the “aliado number” for Official H]. Please confirm. Note that I am going to going to give you 2 accounts for you to divide the transfer amount into 60 and 40%.” Defendant **ARDILA** then set forth the account

information for an account in the United States in the name of a relative of Official H.

20. On or about October 19, 2011, one of SHIERA's companies transferred \$40,000 from its account in Panama to the account in the name of Official H's relative described in Paragraph 19 above.

21. On or about June 4, 2012, Defendant **ARDILA** wrote to Accountant 1 and SHIERA, stating, as translated into English, "I'm attaching the coordinates for the first 50K\$ to be wired to [Official H]...you can make several transfers with amounts lower than 50K\$."

22. Defendant **ARDILA** frequently circulated among his co-conspirators a series of spreadsheets that tracked the bribe payments that were owed to various PDVSA officials, who were identified on the spreadsheets by nicknames and "aliado numbers." Defendant **ARDILA** generally referred to this spreadsheet as "Schindler's List." On or about September 9, 2013, Defendant **ARDILA** sent an e-mail to Accountant 2 attaching such a spreadsheet and stating, as translated into English, "Please find the requested indicators and the updated Schindler list. Be very careful with this information and do not make any transfer to anyone who does not have an identifier."

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

(Foreign Corrupt Practices Act – 15 U.S.C. § 78dd-2; 18 U.S.C. § 2)

23. Paragraphs 1 through 7 and 9 through 22 are realleged and incorporated by reference as though fully set forth herein.

24. On or about the dates set forth below, in the Southern District of Texas and elsewhere, the defendant,

FERNANDO ARDILA RUEDA,

being a domestic concern and an officer, director, employee, agent, and shareholder of a domestic concern, and by aiding and abetting a domestic concern, did willfully use and cause to be used the mails and means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of money, offer, gift, promise to give, and authorization of the giving of anything 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 to a foreign official, for purposes of: (i) influencing acts and decisions of such foreign official in his or her official capacity; (ii) inducing such foreign official to do and omit to do acts in violation of the lawful duty of such official; (iii) securing any improper advantage; and (iv) inducing such foreign official to use his or her influence with a foreign government and agencies and instrumentalities thereof to affect and influence acts

and decisions of such government and agencies and instrumentalities, in order to assist Defendant **ARDILA**, SHIERA, and SHIERA's companies, in obtaining and retaining business for and with, and directing business to SHIERA's companies, to wit: On or about September 29, 2011, Defendant caused \$40,000 to be transferred from one of SHIERA's companies into a bank account in the United States in the name of a relative of Official H in exchange for Official H's assistance in selecting SHIERA's companies for PDVSA projects.

All in violation of Title 15, United States Code, Section 78dd-2, and Title 18, United States Code, Section 2.

NOTICE OF CRIMINAL FORFEITURE
(28 U.S.C. § 2461(c); 18 U.S.C. § 981(a)(1)(C))

25. Pursuant to Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(C), the United States gives notice to the defendant,

FERNANDO ARDILA RUEDA,

that in the event of his conviction of any of the offenses charged in Counts 1 and 2 of this Information, the United States intends to seek forfeiture of all property, real

or personal, which constitutes or is derived from proceeds traceable to such offenses.

Money Judgment

26. Defendant is notified that upon conviction, a money judgment may be imposed equal to the total value of all property subject to forfeiture.

Substitute Asset Provision

27. Defendant is notified that in the event that property subject to forfeiture, as a result of any act or omission of defendant or his co-conspirators,

- 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 to seek forfeiture of any other property of the defendants up to the total value of such property pursuant to Title 21, United States Code, Section 853(p), incorporated by reference in Title 28, United States Code, Section 2461(c).

ABE MARTINEZ
ACTING UNITED STATES
ATTORNEY

SANDRA MOSER
ACTING CHIEF
FRAUD SECTION
CRIMINAL DIVISION
DEPARTMENT OF JUSTICE

BY:



JOHN P. PEARSON
DEPUTY CHIEF
ROBERT S. JOHNSON
ASSISTANT UNITED STATES
ATTORNEY

BY:



AISLING O'SHEA
JEREMY R. SANDERS
TRIAL ATTORNEYS

AO 455 (Rev. 1/09) Waiver of an Indictment

UNITED STATES DISTRICT COURT

for the

Southern

DISTRICT OF

Texas

United States of America

v.

FERNANDO ARDILA-RUEDA

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Case No: H-17-515

WAIVER OF INDICTMENT

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: _____

Defendant's signature

Signature of defendant's attorney

Printed name of defendant's attorney

Judge's signature

Judge's printed name and title