

**U.S. Department of Justice**



*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

February 28, 2020

**REQUEST TO FILE UNDER SEAL<sup>1</sup>**

**VIA EMAIL**

Honorable Denise L. Cote  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

**Re: *United States v. Eberhard Reichert*, 11 Cr. 1056 (DLC)**

Dear Judge Cote:

The Government respectfully submits this letter in connection with the sentencing of the defendant, Eberhard Reichert (“Reichert” or the “defendant”), which is scheduled for March 13, 2020, at 11 a.m.

**Preliminary Statement**

On March 15, 2018, Reichert appeared before the Court and pleaded guilty to Count One of the Indictment. Count One of the Indictment charged the defendant with conspiracy to commit offenses against the United States, in violation of Title 18, United States Code, Section 371. The objects of the conspiracy to which Reichert pleaded guilty were violations of the Foreign Corrupt Practices Act (FCPA), Title 15, United States Code, Sections 78dd-1(a), 78dd-3(a), 78m(b)(2)(A), 78m(b)(2)(B), 78m(b)(5), and 78ff(a), and the wire fraud statute, Title 18, United States Code, Section 1343.

Reichert entered his guilty plea pursuant to a cooperation agreement with the Government. The Government respectfully submits this letter to advise the Court of the pertinent facts concerning the substantial assistance that Reichert has rendered in the

Government will file a redacted version on the public docket.

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investigation and prosecution of others. In light of these facts, and assuming that Reichert continues to comply with the terms of his cooperation agreement, commits no additional crimes before sentencing, and appears for his sentencing as scheduled, the Government intends to move at sentencing, pursuant to Section 5K1.1 of the United States Sentencing Guidelines, that the Court sentence Reichert in light of the factors set forth in Section 5K1.1(a) of the Guidelines.

### **Background**

Reichert was indicted on or about December 12, 2011, for his involvement in a decade-long scheme by Siemens Aktiengesellschaft (“Siemens AG” or “Siemens”), and its executives and agents, to bribe senior Argentine government officials to secure, implement, and enforce a \$1 billion contract with the Argentine government to create and produce state-of-the-art national identity cards (the “DNI Project”). Reichert was indicted along with seven other former executives and agents of Siemens AG.

From in or about 1996 up to and including on or about August 12, 2009, the defendants engaged in a conspiracy to obtain the lucrative proceeds of the DNI Project, and to foster future business, by means of bribery, fraud, and other forms of corruption. Specifically, during the bidding and implementation phases of the DNI Project, the defendants caused Siemens to commit to paying nearly \$100 million in bribes to sitting officials of the Argentine government, members of the opposition party, and candidates for office who were likely to come to power during the performance of the contract.

In May 1999, the Argentine government suspended the DNI Project. In the hopes of getting the DNI Project resumed, Reichert and his co-conspirators committed Siemens to pay additional bribes to newly elected officials and to satisfy bribe obligations to officials who were leaving office.

In May 2001, the Argentine government terminated the DNI Project, and Reichert and his co-conspirators responded with a multi-faceted strategy to overcome the termination. Reichert’s role included providing false and misleading testimony in a Swiss arbitration proceeding brought to enforce a sham contract created to facilitate bribe payments.

On or about December 12, 2011, a grand jury sitting in this District returned a three-count Indictment charging Reichert and seven co-conspirators with conspiracy to violate the FCPA, in violation of Title 18, United States Code, Section 371, conspiracy to commit international money laundering, in violation of Title 18, United States Code, Section 1956(h), and wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2. On the same day, a federal warrant was issued for Reichert’s arrest.

On or about September 2, 2017, Reichert was arrested in Croatia.<sup>2</sup> Reichert consented to expedited extradition to the United States and was extradited to the United States on or about

December 21, 2017. On December 22, 2017, Reichert was arraigned on the Indictment and released on an agreed-upon bail package. [REDACTED], Reichert pleaded guilty to Count One of the Indictment. [REDACTED]

### **Personal History and Offense Conduct<sup>3</sup>**

#### **1. Background**

Reichert was born in 1939 in Germany [REDACTED]. In 1964, Reichert earned a graduate degree in economics from the University of Munich. In October 1964, Reichert began his career working for Siemens. Reichert first worked for Siemens in a technical department working with communication technology. Reichert learned computer science on the job, and was able to develop a program for inventory optimization. Reichert was promoted to various positions within Siemens over the years and in 1990 was named Executive Director for foreign data processing.

Siemens Business Services GmbH & Company (SBS) was a subsidiary of Siemens. In addition to his role as Executive Director, Reichert worked for Major Projects, a division of SBS, as its Technical Manager. SBS's Major Projects was in charge of foreign business.

In 1996, Reichert, along with others, was informed about a potential opportunity in Argentina to produce national identity cards (*i.e.*, the DNI Project). Siemens planned to bid and Reichert's role was to manage the technical side of the project. Co-defendant Ulrich Bock would be responsible for the commercial side of the deal. Reichert traveled to Argentina, along with Bock, to review the scope of the project and determine whether Siemens was capable of performing on the contract.

In February 1998, the DNI Project was initially awarded to Siemens. At this time, Reichert was serving in his role as Technical Manager of SBS's Major Projects division, and Bock was serving as its Commercial Manager.

#### **2. Initial Bribe Commitments and Payments**

In order to secure the DNI Project, certain co-conspirators committed Siemens to paying nearly \$100 million in bribes to government officials in Argentina.

After Siemens secured the DNI Project, Reichert began to receive invoices from Bock, who was serving as the Commercial Manager for the DNI Project, for payment. At first, Reichert thought the invoices looked suspicious, as the companies on the invoices did not appear to be legitimate companies. Reichert also was not aware of these companies having anything to

do with the DNI Project and the quantity and amount of the invoices was high. Over time, Reichert's suspicion grew and he came to understand that these invoices were to support bribe payments related to the DNI Project. In spite of this realization, Reichert continued to approve the invoices.

Between 1998 and 1999, Reichert and his co-conspirators caused Siemens to make millions of dollars of bribe payments through shell companies and third-party agents, including through co-defendant Carlos Sergi. Reichert did so by approving the false invoices for payment.

### **3. Consolidation of Prior Bribe Commitments**

In 1999, Reichert and other co-conspirators learned that the government of Argentina suspended the DNI Project. In an effort to re-start the project, Reichert and other co-conspirators met with Sergi and the other intermediaries, reaffirmed the existing bribe obligations, and agreed to pay additional bribes to senior government officials in the administration of Argentina's new President. The conspirators agreed to consolidate a portion of the bribe obligations into a sham \$27 million contract ("Mfast Contract") between SBS and a conduit entity called Mfast Consulting AG (Mfast), controlled by the intermediaries. In January 2001, Reichert co-signed the sham Mfast Contract with Bock on behalf of SBS, understanding that the Mfast Contract was false, that the service contemplated in the contract were never intended to be provided, and that the purpose was to facilitate the payment of the bribes owed to government officials through Sergi.

In spite of efforts by Reichert and others to re-start the project, the DNI Project was cancelled in May 2001.

In or about November 2001, Reichert retired from Siemens.

### **4. False Testimony at Swiss Arbitration**

In March 2005, Mfast, the sham entity created to funnel \$27 million in bribes to the Argentine officials, initiated a private arbitration in Switzerland against Siemens to recover amounts owed on the fraudulent Mfast Contract. Reichert agreed to testify in the proceeding even though he knew that none of the services in the contract were performed and that it was a sham contract used to disguise illegal bribe payments.

Prior to testifying in the proceeding, Reichert traveled to Uruguay to meet with co-defendants Andres Truppel, Sergi, and Miguel Czysch, among others. At this meeting, Reichert and the others agreed that they would provide testimony at the Swiss arbitration that Sergi was owed \$27 million by SBS for his performance on the Mfast Contract. At this meeting, Reichert also signed a document that falsely stated that the Mfast Contract was a legitimate agreement.

Subsequently, in 2006, Reichert testified at the Swiss arbitration that Siemens should pay Mfast for services it performed pursuant to the Mfast Contract without revealing that the Mfast Contract and its associated invoices were false and that the purpose of those documents was to paper over bribe payments related to the DNI Project. Siemens ultimately settled the Mfast

claim for \$8.8 million.

**Substantial Assistance**





**Conclusion**



In light of the facts set forth above, and assuming that Reichert continues to comply with the terms of his cooperation agreement, commits no additional crimes before sentencing, and appears for his sentencing as scheduled, the Government intends to request at sentencing, pursuant to Section 5K1.1 of the Sentencing Guidelines, that the Court sentence Reichert in light of the factors set forth in Section 5K1.1(a) of the Guidelines.

Respectfully submitted,

GEOFRREY S. BERMAN  
United States Attorney

ROBERT ZINK  
Chief, Fraud Section, Criminal Division  
U.S. Department of Justice

By: 

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Olga Zverovich  
Assistant United States Attorney  
Tel.: (212) 637-2514

Michael Culhane Harper  
Trial Attorney, FCPA Unit  
Fraud Section, Criminal Division  
Tel.: (202) 616-5224

cc: Gabrielle S. Friedman, Esq. (by e-mail)  
U.S. Johnny Kim (by e-mail)