

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

CRIM NO. 3:19CR181 (JBA)

v.

EDWARD THIESSEN

March 11, 2020

**GOVERNMENT’S MEMORANDUM IN SUPPORT OF  
MOTION FOR DOWNWARD DEPARTURE AND IN AID OF SENTENCING**

The United States has filed a “substantial assistance” motion in this case pursuant to Section 5K1.1 of the United States Sentencing Guidelines. The motion requests that the Court impose a sentence below defendant Edward Thiessen’s applicable Guidelines range because he provided substantial assistance to the Government in the investigation of other people who committed criminal offenses. The nature, extent, and significance of the defendant’s cooperation is detailed in this memorandum. Moreover, the Government agrees with the defendant that the 18 U.S.C. § 3553(a) factors also suggest leniency here, and the Court should sentence the defendant to far less than separately charged defendant Lawrence Hoskins.

**I. Introduction and Background**

**A. Procedural History**

The procedural and factual background of this case is documented in the PSR, which includes the Government’s version of offense conduct, and is incorporated by reference here. On July 10, 2019, the defendant appeared before the Court, waived indictment, and pleaded guilty to a one-count information charging conspiracy to violate the Foreign Corrupt Practices Act (“FCPA”), in violation of 18 U.S.C. § 371. The defendant’s guilty plea was entered pursuant to a plea agreement that was originally executed by the Government and defendant on April 10, 2015.

Among other things, the plea agreement included a Sentencing Guidelines stipulation in which the parties agreed that the defendant's range exceeded the statutory maximum, and therefore the applicable Guidelines sentence was five years' imprisonment. The defendant also waived appeal so long as his sentence does not exceed five years' imprisonment, 3 years' supervised release, a \$100 special assessment, and a \$250,000 fine. The defendant was released on a \$500,000 bond secured by \$50,000 cash. The defendant is a Canadian citizen who has spent most of his pre-trial release in Canada, except for periods where he was required to be available by the Government or Court.

### **B. Thiessen's Meetings With the Government**

In mid-2014, following production by Alstom of documents related to Thiessen's conduct, the Government sought, through Alstom, to interview Thiessen. Thiessen was living in Indonesia at the time. This message was relayed to Thiessen, who was provided counsel for this purpose. Shortly afterwards, Thiessen's counsel and the Government began discussions regarding Thiessen, which culminated in arranging a videoconference proffer—the first of several meetings, as described below.

1. September 24, 2014: Thiessen, in the company of his defense counsel and while in the U.S. Embassy in Indonesia, sat for a videoconference for several hours with prosecutors and agents in Washington and Connecticut. He signed a proffer agreement that would dictate the terms for this and subsequent proffers until the time of his plea and cooperation agreements. In this meeting, Thiessen generally discussed, among other things: his personal, educational and work background, including his history of employment at Alstom; the organizational structure of Alstom, including its compliance function; the role of Lawrence Hoskins within the organization and, in particular, with third party agents and compliance issues; Thiessen's various interactions

with Hoskins; several other Alstom employees, including Bruno Kaelin, Roger Byer, and Etienne De; Thiessen's work in Indonesia on behalf of Alstom, including the Muara Tawar projects; several emails concerning the hiring of consultants for Muara Tawar, including explicit communications regarding bribery of Indonesian officials (in particular, the so-called "friend analysis").

2. December 17, 2014: Thiessen, in the company of his defense counsel, met under proffer protection in Washington, DC with agents and prosecutors. Over several hours, Thiessen reviewed a number of emails concerning activities on the Muara Tawar projects and other projects in Indonesia in which Alstom was interested, including Tarahan. Thiessen discussed the efforts at bribery on those projects, including his own conduct and that of Hoskins and other co-conspirators.

3. April 22, 2015: Thiessen, in the company of his defense counsel, met under proffer protection in Washington, DC with agents and prosecutors over several hours. Thiessen explained that he went to Hoskins with all agent-related issues. Thiessen and his counsel had put together a binder of documents for review with the Government, principally drawn from material that Thiessen had maintained from his time at Alstom, and went over the binder. As before, Thiessen discussed Alstom's bribery efforts in Indonesia and Hoskins's role in those efforts. Thiessen recalled the late September 2003 meetings at the Dharmawangsa Hotel in Jakarta, let by Hoskins, with Sharafi and then Aulia. Thiessen also discussed a number of pages of his own notes, taken contemporaneously to events at Alstom and turned over to the Government as part of his cooperation.

4. Thiessen met with investigators and prosecutors on several occasions to prepare for trial in *Hoskins*, although in several instances the trial was ultimately continued. Those meetings occurred on May 21, 2015 (New Haven), September 9, 2015 (Washington), December 7, 2015

(Washington), July 10, 2019 (New Haven), August 29 and 30, 2019 (New Haven), September 24, 2019 (New Haven), October 7, 2019 (Washington), and October 22, 2019 (New Haven). In some of those meetings new documents and matters were discussed, although most consisted of preparation for testimony with no additional information.

### **C. Testimony at Trial**

Thiessen testified at the trial against his former supervisor and colleague, Lawrence Hoskins. His testimony began on October 29, 2019 and concluded on October 31, 2019. His testimony principally covered his own and Hoskins's involvement in bribery schemes in Indonesia, including on Muara Tawar and Tarahan.

### **D. Other Related Defendants**

There are several other individuals who have been charged and/or pleaded guilty in this matter, and entities that have either pleaded guilty or signed deferred prosecution agreements. Thiessen's cooperation was not public prior to any of the individual guilty pleas. However, Alstom was likely aware that Thiessen was engaged in discussions with the Government prior to their resolution. In December 2014, Alstom SA pleaded guilty to FCPA books and records and internal controls violations, and agreed to pay a \$772 million fine. Alstom Prom pleaded guilty to an FCPA conspiracy, and Alstom Power and Alstom Transmission and Distribution entered into deferred prosecution agreements. These resolutions came after several years of Alstom providing documents and information regarding its violations of the FCPA to the Department of Justice, pre-dating Mr. Thiessen's cooperation.

**II. Defendant Should Receive a Downward Departure Under U.S.S.G. § 5K1.1**

Notwithstanding the seriousness of his conduct, Thiessen has provided the Government with substantial assistance, and has met the obligations of his cooperation agreement. Thus a sentence below the applicable Guidelines range is appropriate here.

Section 5K1.1 of the Sentencing Guidelines permits the Court to impose a sentence below a defendant's applicable Sentencing Guideline range "[u]pon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense . . . ." U.S.S.G. § 5K1.1. *United States v. Sloley*, 464 F.3d 355, 360 (2d Cir. 2006); *United States v. Garcia*, 926 F.2d 125, 128 (2d Cir. 1990) (quoting *United States v. Rexach*, 896 F.2d 710, 714 (2d Cir. 1990)); *United States v. Huerta*, 878 F.2d 89 (2d Cir. 1989).

Sentencing Guideline Section 5K1.1(a) provides that the Court shall determine the appropriate reduction based upon, but not limited to, the following considerations:

- (1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
- (2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;
- (3) the nature and extent of the defendant's assistance;
- (4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance; and
- (5) the timeliness of the defendant's assistance.

These criteria are addressed in turn below.

**A. Nature and Extent of the Defendant's Assistance**

Thiessen's cooperation in this case involved (1) numerous proffer sessions with the Government, during which he laid out the nature of the offense and the conduct of his co-conspirators, summarized more fully above and in FBI-302 reports; (2) providing the Government with documents that Thiessen had gathered from his time at Alstom, including emails and his own handwritten notes; and (3) testifying as a Government witness at Mr. Hoskins's trial over three days.

**B. Significance and Usefulness of the Defendant's Assistance**

Thiessen's testimony was a critical part of the Government's case in the prosecution of Mr. Hoskins. He testified extensively regarding Hoskins's knowing involvement in bribery on Indonesian power projects; explained myriad documents involving himself and Hoskins in which bribery on Muara Tawar, Tarahan, and/or other projects was explicitly discussed; and placed Hoskins at a critical September 2003 meeting in which Hoskins, on behalf of Alstom Power Inc., reduced one consultant's commission and hired another to bribe PLN officials for Tarahan. Although Thiessen's experience on Tarahan was limited, as the PSR explains, he was the sole witness at trial who had frequent and direct contact with Hoskins, and thus was extremely valuable to the Government's case, especially on the issue of intent. As a sometime member of International Network, he was also useful to explain the role of this organization, and Hoskins's place in it.

In addition to his testimony at trial, Thiessen's lengthy proffers with the Government were also valuable in the investigation and preparation of the case against Hoskins. Thiessen's information aided the Government's understanding of these documents, particularly where there were no other witnesses to the emails other than Thiessen and Hoskins.

Of note, in his initial proffer with the Government via videoconference, Thiessen provided information regarding an e-mail in September 2003 from Thiessen to Junji Kusunoki and Eko Sulianto that attached the “friend analysis” spreadsheet, comparing the relationships between two consultants and various influential Indonesian officials. In addition to explaining the email, Thiessen stated that he believed he forwarded the friend analysis to Hoskins. While the Government had already received the “friend analysis” as sent to Kusunoki, it did not yet have a version that was forwarded to Hoskins. The Government sought that document from Alstom, who produced it on or about October 15, 2014, or less than a month after Thiessen’s proffer. Alstom produced along with that email several other explicit bribery-related emails involving Hoskins and Thiessen.

**C. Truthfulness, Completeness, and Reliability of the Defendant’s Information**

Thiessen’s testimony at trial was truthful, complete, and largely consistent with the other evidence at trial and uncovered during the course of the investigation, including the testimony and other statements of witnesses and the myriad documents provided by Alstom. The Government has no reason to doubt its reliability. To the extent there are inconsistencies with other evidence, the Government has no reason to believe that they are a function of anything other than differing memories of events more than ten years ago.

**D. Timeliness of the Defendant’s Assistance**

Thiessen’s cooperation began within several months after he was first contacted by law enforcement. The intervening time was a result of discussions between the Government and counsel for Thiessen concerning, among other things, the logistics of proffering Mr. Thiessen while he was still living in Indonesia, and then ultimately arranging for his return to North

America. Once his cooperation began, it was fulsome, honest, and timely, and Thiessen has not wavered from his commitment to cooperation.

**E. Injury to the Defendant Resulting from His Assistance**

Thiessen has not been injured as a result of his assistance. Because he testified at trial, his assistance is a matter of public record. Thus it is possible that Thiessen may face safety concerns if incarcerated in this matter.

**III. Response to the Defendant's Sentencing Memorandum**

The defendant's conduct here in supporting a vast bribery scheme was clearly serious and otherwise deserving of punishment, as the Government has explained in the sentencing of Mr. Hoskins. However, as suggested by the defendant in his memorandum, a full assessment of the § 3553(a) factors augurs for leniency. The Government does not quarrel with the basic premise of the defendant's sentencing memorandum, that is, in addition to consideration for the defendant's acceptance of responsibility and substantial assistance to the Government, his personal history and characteristics should be weighed by the Court in arriving at the appropriate sentence here. While the Government cannot speak to the defendant's description of his personal history, his acceptance of responsibility and accountability for his own actions seems in line with the person described in the defendant's memorandum.

Moreover, since the defendant's filing of his own memorandum, the Court sentenced Mr. Hoskins to 15 months' imprisonment. Though the Government strongly disagrees with the Court's sentence in that matter, it is clear that this defendant's own sentence should be far less than that of Mr. Hoskins. While Thiessen has owned up to his offense and cooperated, Hoskins provided no assistance and continues to deny any real responsibility; Thiessen's role in this offense was minimal, and paled in comparison to that of Hoskins, who regularly engaged in Tarahan bribery-



related discussions; Thiessen was a sales representative for an Alstom subsidiary, while Hoskins participated in several Alstom bribery schemes despite being a senior corporate executive responsible for monitoring compliance with Alstom's anti-bribery policies in Indonesia; and Thiessen reported to Hoskins for some of the relevant period and in several instances engaged in corrupt activity at the direction of Hoskins, including in his initial trip to Indonesia in December 2002 to check on the status of Muara Tawar.

**IV. Conclusion**

The Government believes that the nature and extent of the assistance provided by the defendant warrants a downward departure from the applicable guideline range, and that, considering all of the § 3553(a) factors, the Court should sentence the defendant far more leniently than Lawrence Hoskins.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

This is to certify that on March 11, 2020, a copy of the foregoing Memorandum was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail on anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/

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