

No. 82-02

Date: February 18, 1982

Review Procedure Releases

The Department of Justice has received a joint review request from Ransom F. Shoup & Company ("Shoup, Inc."), a closely held Pennsylvania corporation in the business of selling, repairing and designing voting machines, and Mr. Frederick I. Ogirri ("Ogirri"), a citizen of Nigeria and temporary employee in the United States of the Consulate of Nigeria.

Shoup, Inc. has a contract with the Federal Election Commission of Nigeria ("Fedeco"), an independent commission of the government of Nigeria, to design and sell voting machines. Shoup, Inc. also has a contract with Mr. Ogirri to pay a 1% fee, characterized as a finder's fee. The parties seek review of the contractual relationship in light of Mr. Ogirri's employment status and the Foreign Corrupt Practices Act.

Shoup, Inc. and Mr. Ogirri have made the following representations, among others, with respect to Mr. Ogirri's employment status and contractual relationship.

1. Mr. Ogirri will be paid 1% of the aggregate amount to be paid to Shoup, Inc. by Nigeria and other specified West African countries for the next ten years.
2. Mr. Ogirri has represented that he has not used his influence, either directly or indirectly, with any official of the Nigerian government to assist Shoup, Inc. in obtaining the contract. Indeed, Mr. Ogirri has represented that he has no influence with the Nigerian government.
3. This fee is a consideration solely for Mr. Ogirri's advising Shoup, Inc. in the marketability of his machines in Nigeria, the customs, protocol and business practices of Nigeria and introducing Shoup, Inc. to an identified business agent/representative in Nigeria. None of these activities are in any way related to Mr. Ogirri's duties as a temporary employee of the Nigerian Consulate.
4. Mr. Ogirri is a clerk in the Information Section of the Nigerian Consulate and is paid at a rate of \$300 every two weeks.
5. Mr. Ogirri's duties are ministerial or clerical in nature involving collecting newspaper articles, maintaining a library and the like.
6. Mr. Ogirri has no business, familial, or employment relationship with Fedeco, its commissioners or employees or any other official in the Government of Nigeria.
7. Mr. Ogirri has represented that he is not considered a civil servant or a member of the staff of the Federal Ministry of External Affairs under the law of Nigeria and that his relationship with Shoup, Inc. would not violate the conflict of interest law or other laws of Nigeria. Legal opinions in this regard were submitted by the requestors.
8. Mr. Ogirri and Shoup, Inc. represent in their contract and in this request that no payments have been or will be made to government officials, tracing the language of the Foreign Corrupt Practices Act; the payments to Mr. Ogirri will be made in the United States; each will certify every six months that no violations of the FCPA have occurred; each will make relevant records available to audit compliance with the Act; the contract is void if the Act is violated; and disclosure of the relationship and the amount of the fee will, in any case, be made to Fedeco.

Based on all of the facts and circumstances as represented by the requestor, the Department does not presently intend to take any enforcement action with respect to the facts and circumstances of Mr.

Ogirri's position at the consulate and the payment of a fee in connection with his efforts as described in this request.

The FCPA Letter and this Release have no binding application to any party which did not join in the request and can be relied upon by the requesting parties only to the extent that the disclosure of facts and circumstances in the request is accurate and complete and continues to accurately and completely reflect such facts and circumstances.