

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

CRIMINAL NO. 314 CR 52 JBA

v.

VIOLATION:

MARUBENI CORPORATION

18 U.S.C. § 371 (Conspiracy)
15 U.S.C. § 78dd-3 (Foreign Corrupt Practices Act)

INFORMATION

The United States charges:

COUNT ONE
(Conspiracy)

At all times relevant, unless otherwise specified:

1. The Foreign Corrupt Practices Act of 1977, as amended, Title 15, United States Code, Sections 78dd-1, *et seq.* ("FCPA"), was enacted by Congress for the purpose of, among other things, making it unlawful for certain classes of persons and entities to act corruptly in furtherance of an offer, promise, authorization, or payment of money or anything of value to a foreign government official for the purpose of assisting in obtaining or retaining business for, or directing business to, any person.

2. MARUBENI was a trading company headquartered in Japan that did business all over the world, including Indonesia. MARUBENI and its subsidiaries and joint ventures had trading transactions of roughly \$74 billion annually and roughly 24,000 employees in over 70 countries. In conducting its business, MARUBENI received assistance from its subsidiaries and joint ventures, including Marubeni Power Systems Corporation ("MPSC"), a wholly owned subsidiary of MARUBENI that shared its offices with MARUBENI and acted as MARUBENI's

agent. Reflecting the close relationship between them, MARUBENI and its subsidiaries and joint ventures, including MPSC, were often referred to simply as “Marubeni” without distinction.

3. “Power Company,” a company whose identity is known to the United States, was headquartered in France. Power Company was in the business of providing power generation and transportation related services around the world, including Indonesia. Power Company had sales of roughly €17 billion annually and roughly 75,000 employees in over seventy countries. Shares of Power Company’s stock were listed on the New York Stock Exchange until August 2004. Accordingly, until August 2004, Power Company was an “issuer” as that term is used in the FCPA, Title 15, United States Code, Section 78dd-1(a). Power Company had direct and indirect subsidiaries in various countries around the world. Reflecting the close relationship between them, Power Company and its subsidiaries were often referred to simply as “Power Company” without distinction. Through its subsidiaries, Power Company bid on projects to secure contracts to perform power-related and transportation-related services, including for state-owned entities.

4. The Tarahan Project (sometimes referred to simply as “Tarahan”) was a project to provide power-related services to the citizens of Indonesia that was bid and contracted through Indonesia’s state-owned and state-controlled electricity company, Perusahaan Listrik Negara (“PLN”), valued at roughly \$118 million. PLN was an “agency” and “instrumentality” of a foreign government, as those terms are used in the FCPA, Title 15, United States Code, Sections 78dd-1(f)(1), 78dd-2(h)(2), and 78dd-3(f)(2). PLN was responsible for sourcing the Tarahan Project.

5. MARUBENI and its subsidiaries, including MPSC, partnered with Power Company and its subsidiaries, including Power Company Connecticut, Power Company

Switzerland, and Power Company Indonesia, in the bidding and carrying out of the Tarahan Project in Indonesia. Power Company and its subsidiaries were to provide boiler-related services in connection with the Tarahan Project while MARUBENI was to manage all works, including auxiliary equipment and civil building and installation work.

6. MARUBENI, Power Company, and Power Company's subsidiaries retained two consultants, described in more detail below as "Consultant A" and "Consultant B," to assist them in obtaining the Tarahan Project contract. The consultants' primary purpose was not to provide legitimate consulting services to MARUBENI, Power Company, and Power Company's subsidiaries but was instead to pay bribes to Indonesian officials who had the ability to influence the award of the Tarahan Project contract.

7. MARUBENI, Power Company, and Power Company's subsidiaries first retained Consultant A in connection with the Tarahan Project in or around late 2002. MARUBENI, Power Company, and Power Company's subsidiaries agreed to pay Consultant A a commission based on the overall value that MARUBENI, Power Company, and Power Company's subsidiaries would receive from the Tarahan Project contract, and Consultant A, in turn, agreed to use a portion of that commission to pay bribes to Indonesian officials. However, through the course of 2003, executives and employees of MARUBENI, Power Company, and Power Company's subsidiaries came to the conclusion that Consultant A was not effectively bribing key Indonesian officials. Accordingly, in or around September or October 2003, executives and employees of MARUBENI, Power Company, and Power Company's subsidiaries informed Consultant A that Consultant A would be responsible only for paying bribes to Official 1, a Member of the Indonesian Parliament described in more detail below, and that MARUBENI, Power Company, and Power Company's subsidiaries would retain another consultant to pay

bribes to PLN officials. Shortly thereafter, MARUBENI, Power Company, and Power Company's subsidiaries sent Consultant A amended consulting agreements, reducing the amount of Consultant A's commission to reflect Consultant A's reduced responsibilities, and retained Consultant B to bribe PLN officials.

8. MARUBENI, Power Company, and Power Company's subsidiaries were ultimately awarded the Tarahan Project contract and made payments to the aforementioned "consultants," including payments to Consultant A, who then used a portion of these commission payments to pay bribes to Official 1.

The Defendant and Its Co-Conspirators

9. Power Company and several of its subsidiaries were involved in the bidding and carrying out of the Tarahan Project in Indonesia. The subsidiaries included "Power Company Connecticut," a company whose identity is known to the United States, which was headquartered in Windsor, Connecticut and incorporated in Delaware, and thus constituted a "domestic concern," as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1)(B); "Power Company Switzerland," a company whose identity is known to the United States, which was headquartered in Switzerland; and "Power Company Indonesia," a company whose identity is known to the United States, which was headquartered in Indonesia. Power Company Connecticut and Power Company Switzerland were in the business of providing power generation related services around the world. Power Company Indonesia was in the business of providing power generation related services in Indonesia.

10. MARUBENI acted as the partner of Power Company, Power Company Connecticut, Power Company Switzerland, and Power Company Indonesia in the bidding and carrying out of the Tarahan Project in Indonesia. MARUBENI, through its employees, made

payments to Consultant A's bank account in Maryland, knowing that a portion of the payments to Consultant A was intended for Indonesian officials in exchange for their influence and assistance in awarding the Tarahan Project contract to MARUBENI, Power Company, and Power Company's subsidiaries. In addition, MARUBENI, through its employees and agents, attended meetings in Windsor, Connecticut, in connection with the Tarahan Project. Thus, MARUBENI was a "person," as that term is used in the FCPA, Title 15, United States Code, Section 78dd-3(f)(1).

11. Lawrence Hoskins ("Hoskins") was a Senior Vice President for the Asia region at Power Company. Hoskins' responsibilities at Power Company included oversight of Power Company's and Power Company's subsidiaries' efforts to obtain contracts with new customers and to retain contracts with existing customers in Asia, including the Tarahan Project in Indonesia. Hoskins was responsible for retaining consultants in connection with Power Company's and Power Company's subsidiaries' efforts to obtain and retain contracts in Asia, including Consultant A and Consultant B for the Tarahan Project, knowing that a portion of the payments to Consultants A and B was intended for Indonesian officials in exchange for their influence and assistance in awarding the Tarahan Project contract to Power Company and its subsidiaries.

12. Frederic Pierucci ("Pierucci") held executive level positions at Power Company, including Vice President of Boiler Global Sales. While working at Power Company Connecticut, Pierucci was a resident of the United States. Thus, Pierucci was a domestic concern and an employee and agent of a domestic concern, as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1). Pierucci's responsibilities at Power Company Connecticut included oversight of Power Company Connecticut's efforts to obtain contracts with

new customers and to retain contracts with existing customers around the world, including obtaining and retaining the contract for the Tarahan Project from PLN in Indonesia. Pierucci was one of the people responsible for approving the selection of, and authorizing payments to, Consultants A and B, knowing that a portion of the payments to Consultants A and B was intended for Indonesian officials in exchange for their influence and assistance in awarding the Tarahan Project contract to Power Company and its subsidiaries.

13. William Pomponi ("Pomponi") was a Vice President of Regional Sales at Power Company Connecticut and a U.S. citizen. Thus, Pomponi was a domestic concern and an employee and agent of a domestic concern, as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1). Pomponi's responsibilities at Power Company Connecticut included obtaining contracts with new customers and retaining contracts with existing customers in various countries, including obtaining and retaining the contract for the Tarahan Project from PLN in Indonesia. Pomponi was one of the people responsible for approving the actions of, and authorizing payments to, Consultants A and B, knowing that a portion of the payments to Consultants A and B was intended for Indonesian officials in exchange for their influence and assistance in awarding the Tarahan Project contract to Power Company and its subsidiaries.

14. David Rothschild ("Rothschild") was a Vice President of Regional Sales at Power Company Connecticut and a U.S. citizen. Thus, Rothschild was a domestic concern and an employee and agent of a domestic concern, as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1). Rothschild's responsibilities at Power Company Connecticut included obtaining contracts with new customers and retaining contracts with existing customers in various countries, including obtaining the contract for the Tarahan Project from PLN in Indonesia. Rothschild was one of the people responsible for retaining and approving the actions

of Consultant A, knowing that a portion of the payments to Consultant A was intended for Indonesian officials in exchange for their influence and assistance in awarding the Tarahan Project contract to Power Company and its subsidiaries.

15. "Power Company Employee A," an individual whose identity is known to the United States, was the General Manager at Power Company Indonesia. Power Company Employee A's responsibilities at Power Company Indonesia included obtaining contracts with new customers and retaining contracts with existing customers in Indonesia, including obtaining and retaining the contract for the Tarahan Project from PLN in Indonesia. Power Company Employee A was one of the people responsible for retaining Consultants A and B, knowing that a portion of the payments to Consultants A and B was intended for Indonesian officials in exchange for their influence and assistance in awarding the Tarahan Project contract to Power Company and its subsidiaries.

16. "Power Company Employee B," an individual whose identity is known to the United States, was a director of sales at Power Company Indonesia. Power Company Employee B's responsibilities at Power Company Indonesia included obtaining contracts with new customers and retaining contracts with existing customers in Indonesia, including obtaining and retaining the contract for the Tarahan Project from PLN in Indonesia. Power Company Employee B was one of the people responsible for retaining Consultants A and B, knowing that a portion of the payments to Consultants A and B was intended for Indonesian officials in exchange for their influence and assistance in awarding the Tarahan Project contract to Power Company and its subsidiaries.

17. "Consultant A," an individual whose identity is known to the United States, was a consultant who purportedly provided consulting related services on behalf of MARUBENI,

Power Company, Power Company Connecticut, Power Company Switzerland, and Power Company Indonesia in connection with the Tarahan Project in Indonesia. In reality, Consultant A was retained for the purpose of paying bribes to Indonesian government officials, including Official 1 and Official 2, described more fully below. Consultant A was a U.S. citizen and, thus, a domestic concern and an agent of a domestic concern, as that term is used in the FCPA, Title 15, United States Code, Section 78dd-2(h)(1).

18. “Consultant B,” an individual whose identity is known to the United States, was a consultant who purportedly provided consulting related services on behalf of MARUBENI, Power Company, Power Company Connecticut, Power Company Switzerland, and Power Company Indonesia in connection with the Tarahan Project in Indonesia. In reality, Consultant B was retained for the purpose of paying bribes to officials at PLN, including Official 2 and Official 3, described more fully below.

The Foreign Officials

19. “Official 1,” an individual whose identity is known to the United States, was a Member of Parliament in Indonesia and had influence over the award of contracts by PLN, including on the Tarahan Project.

20. “Official 2,” an individual whose identity is known to the United States, was a high-ranking official at PLN and had broad decision-making authority and influence over the award of contracts by PLN, including on the Tarahan Project.

21. “Official 3,” an individual whose identity is known to the United States, was an official at PLN and a high-ranking member of the evaluation committee for the Tarahan Project. Official 3 had broad decision-making authority and influence over the award of the Tarahan contract.

22. Official 1, Official 2, and Official 3 were each a “foreign official,” as that term is used in the FCPA, Title 15, United States Code, Sections 78dd-1(f)(1), 78dd-2(h)(2), and 78dd-3(f)(2).

The Conspiracy

23. From in or around 2002, and continuing through in or around 2009, in the District of Connecticut, and elsewhere, MARUBENI, through its employees, did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly conspire, confederate and agree with its employees, Power Company, Power Company Connecticut, Power Company Switzerland, Power Company Indonesia, Hoskins, Pierucci, Pomponi, Rothschild, Power Company Employee A, Power Company Employee B, Consultant A, Consultant B, and others known and unknown, to commit offenses against the United States, that is, while in the territory of the United States, corruptly make use of the mails and means and instrumentalities of interstate commerce and to do any other act 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 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 an 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 MARUBENI, its employees, Power Company, Power Company Connecticut, Power Company Switzerland, Power Company Indonesia,

Hoskins, Pierucci, Pomponi, Rothschild, Power Company Employee A, Power Company Employee B, Consultant A, Consultant B, and others in obtaining and retaining business for and with, and directing business to, MARUBENI, Power Company, Power Company Connecticut, Power Company Switzerland, Power Company Indonesia, and others.

Purpose of the Conspiracy

24. The purpose of the conspiracy was to make corrupt payments to a Member of Parliament in Indonesia, officials at PLN, and other foreign officials in order to obtain and retain business related to the Tarahan Project.

Manner and Means of the Conspiracy

25. The manner and means by which MARUBENI and its co-conspirators sought to accomplish the purpose of the conspiracy included, among other things, the following:

26. MARUBENI, through its employees, together with others, while in the District of Connecticut and elsewhere, discussed in person, via telephone, and via electronic mail ("e-mail") the need to obtain the contract to perform power-related services on the Tarahan Project.

27. MARUBENI, through its employees, together with others, while in the District of Connecticut and elsewhere, discussed in person, via telephone, and via e-mail making bribe payments to government officials in Indonesia, including Official 1, Official 2, and Official 3, among others, in order to obtain the Tarahan Project contract.

28. MARUBENI, through its employees, together with others, while in the District of Connecticut and elsewhere, offered to pay, promised to pay, and authorized the payment of bribes, directly and indirectly, to and for the benefit of government officials in Indonesia, including Official 1, Official 2, and Official 3, among others, in order to obtain the Tarahan Project contract.

29. MARUBENI, through its employees, together with others, while in the District of Connecticut and elsewhere, discussed in person, via telephone, and via e-mail the manner and means by which the bribe payments were to be paid.

30. MARUBENI, through its employees, together with others, while in the District of Connecticut and elsewhere, attempted to conceal the true nature of the payments by entering into consulting agreements with Consultant A and Consultant B in order to disguise the bribe payments to the government officials in Indonesia, including Official 1, Official 2, and Official 3, among others.

31. MARUBENI, through its employees, together with others, while in the District of Connecticut and elsewhere, caused payments to be wired from the bank accounts of MARUBENI, Power Company Connecticut, and Power Company Switzerland to the bank accounts of Consultant A and Consultant B for the purpose of making payments to government officials in Indonesia, including Official 1, Official 2, and Official 3, among others, in exchange for the officials' assistance in securing the Tarahan Project contract.

Overt Acts

32. 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 District of Connecticut and elsewhere, at least one of the following overt acts, among others:

Consultant A is Retained to Pay Bribes to Indonesian Officials

33. On February 27, 2002, Power Company Employee B sent an e-mail to Rothschild, stating, "Approaching [Official 1] still in the stages to motivate him be [sic] in our loop, if he was able to meet [Official 2] last week end [sic] just matter of introducing of himself that he will be as our sponsor. We will identify when he will be seriously [sic] to meet [Official 2] to

specific discussion for Tarahan, before it happen we should provide him more detail info regarding [a competitor of Power Company].”

34. On or about June 14, 2002, Rothschild sent an e-mail to Power Company Employee B, copying Power Company Employee A, with the subject line reading the first name of Official 1, and stating, “Pls start the paper work for using [Official 1’s] representative company to assist in the BD [business development] effort. If you need help with this let me know soon.”

35. In or around July 2002, employees of MARUBENI traveled to Connecticut to attend meetings with employees of Power Company Connecticut in connection with the Tarahan Project.

36. On or about August 8, 2002, Power Company Employee B sent an e-mail to Rothschild, to which he attached a document explaining, among other things, that Official 1 was a “[k]ey legislator” and “Vice chairman of [the] Parliament commission 8 dedicated for Power & Energy” who had “[e]asy direct access personally to PLN Board” and who could exert “direct influence to PLN ([Official 2] and [another official])” and “utiliz[e] his comission [sic] 8 forum to influence PLN Board” and Ministries.

37. On or about August 22, 2002, Power Company Employee A sent an e-mail to Hoskins, Pierucci, and Rothschild, stating, “Referring to our discussion of 8-August-2002, it is now 2 weeks away from the tender submission date. Your position concerning the representation is urgently needed. Currently, we are working with [Official 2] and [Official 3] in PLN on our ‘competition’, nevertheless, we would need a stronger push now. Appreciate your decision a.s.a.p.”

38. On or about August 26, 2002, Rothschild sent an e-mail to a MARUBENI employee discussing that Pomponi would be replacing Rothschild on the Tarahan Project, in which Rothschild stated, "Please rest assured that [Power Company] still considers this project most important and is pursuing it most aggressively....I have briefed [sic] [Pomponi] on the specific Tarahan issues, the bidding history, arrangement with Marubeni and [Power Company Indonesia], and also the arrangement with [Official 1]. Please feel confident in discussing these with Bill [POMPONI]."

39. On or about August 26, 2002, Rothschild forwarded to Pomponi and another employee of Power Company Connecticut the e-mail referenced in Paragraph 38 above.

40. On or about August 28, 2002, Pierucci responded to the e-mail from Power Company Employee A referenced in Paragraph 37 above, and stated, "Please go ahead and finalise the consultancy agreement. Please send me the key data so that I can approve it officially."

41. On or about August 28, 2002, Rothschild sent an e-mail to Power Company Employee A, copying Pierucci, Pomponi, and Power Company Employee B, in response to Pierucci's e-mail referenced in Paragraph 40 above, and stated, "Regarding [Pierucci's] below message, Pls do not finalize anything yet with the Rep. I spoke with Fred [Pierucci] right after he sent the note and we have concerns about 1) politician vs. businessman, 2) upfront expenses, 3) right person vs. another choice. Part of this comes from discussions from Marubeni....We would like to discuss with you on Friday evening Jkt time."

42. On or about September 4, 2002, Power Company Employee A sent an e-mail to Rothschild, copying Pierucci, in which Power Company Employee A stated, "we have met

[Official 1] to confirm whether he is comfortable with your suggested approach on Representation issue (through [Consultant A]).”

43. In or around late 2002, MARUBENI, Power Company, Power Company Connecticut, Power Company Switzerland, and Power Company Indonesia retained Consultant A, agreeing to pay Consultant A three percent of the Tarahan Project contract value as a commission.

44. On or about December 3, 2002, Power Company Employee A sent an e-mail to Hoskins discussing the Tarahan Project and another project with PLN, including whether to retain Consultant A in connection with the other project, stating, “[Official 1] is a member of INDONESIA Parliament, precisely he is the Vice Chairman of Commission VIII, a commission in charge of handling Power Issues....Besides his function in the Parliament, he has long well established relationship with [Official 2] (PLN President Director). As a Vice Chairman of Commission VIII he certainly have [sic] an influence in PLN. He is not an agent but one of the players....[L]ooking in to [Consultant A’s] performance in Tarahan, we need to think twice prior taking him into consideration [for the other PLN project]....As the [Tarahan] project proceed, it shown that [Consultant A] has been unable to fulfil [sic] his tasks and our expectation, he has no grip on PLN Tender team at all. Basically, his function is more or less similar to cashier which I feel we pay too much.”

45. On or about December 19, 2002, Pomponi sent an e-mail to Pierucci and other employees of Power Company with the subject, “Tarahan status,” stating, “[m]et our friends on the evaluation team and they will still be helping us combat FW [a competitor of Power Company]. We nneed [sic] to feed some more info and I’ll discuss at home. Upper echelon covered as well.”

46. On or about January 6, 2003, a MARUBENI employee sent an e-mail to Pomponi, Rothschild, Power Company Employee B, another employee of Power Company Connecticut, copying five other MARUBENI employees, and stated "I do hope our collaboration for 2003 to be very constructive and successful. Regarding our project, we would like to clarify as follows...Any feed back from [Consultant A]."

47. On or about January 29, 2003, a MARUBENI employee sent an e-mail to Pomponi and two other employees of Power Company Connecticut, copying four other MARUBENI employees, and Rothschild, and stated, "We would like to ask [Consultant A] to force PLN to issue below clarification for further discount."

48. On or about April 16, 2003, Consultant A sent an e-mail to two MARUBENI employees, blind copying Rothschild, and stated, "I would greatly appreciate the opportunity to meet with you prior to my departure at the end of next week."

Consultant B is Retained to Pay Bribes to PLN Officials

49. In or about August 2003, Consultant A had a meeting with Pomponi in which Consultant A told Pomponi that members of the PLN evaluation committee were unhappy with the amount of money they were receiving and that Consultant A needed to pay additional money to members of the evaluation committee.

50. On or about August 12, 2003, Consultant A sent an e-mail to Pierucci about another upcoming project at PLN, stating, "PLN people are upset with us that we told them we only need marginal support from them and now putting everything on them. They are comparing the success fee for Tarahan and [the other project] and asking why they are so much different."

51. On or about September 16, 2003, a MARUBENI employee sent an e-mail to Pierucci and Pomponi, copying five other MARUBENI employees, Power Company Employee

A, Power Company Employee B, and other employees of Power Company Connecticut, stating that the PLN evaluation team had provided negative feedback and that, "Yesterday, before Mr. Pomponi's leaving, we had wrap up meeting among [MARUBENI, Power Company Connecticut, Power Company Indonesia] and our agent. Most of attendee except MC [MARUBENI], had considered the current movements are under well controllable. There were no actual clear evidence to prove our advantageous or our controllable situation at all."

52. On or about September 16, 2003, Pierucci forwarded the e-mail referenced in Paragraph 51 above to Pomponi and Consultant A, copying Power Company Employee A, Power Company Employee B, and other employees of Power Company, and stated, "When we spoke on Friday , [sic] you both told me that everything was under control in the evaluation Now, if the infos below are correct, we are not only evaluated number 2 but by a huge margin (almost \$40M!!!!!!!!!!!!!!!!!!!!) HOW CAN THAT BE?? I thought we were controlling what was happening in Palembang?????? Please check asap if teh [sic] below infos are correct and give me by tomorrow a plan to recover this. WE CAN NOT LOOSE [sic] THIS PROJECT!"

53. On or about September 18, 2003, a MARUBENI employee sent an e-mail to Pierucci, copying five other MARUBENI employees, stating, "I tried to re-confirm today's meeting with [Official 2's] secretary, finally as a result the meeting has postponed to sometime in tonight at Palembang. So, I have booked same flight of [Official 2] to Plembang [sic] at 5 PM ETD Jakarta and stay at same Hotel....[Another employee] of Marubeni will meet some persons incharge [sic] from PLN[] tonight, so please let us rearrange the time of telephone conference tonight..."

54. On or about September 18, 2003, an employee at Power Company Indonesia sent an e-mail to Power Company Employee B and another Power Company employee regarding a

meeting with employees of Power Company and MARUBENI and members of PLN, stating, “PLN has expressed their concerns over our ‘agent’. They did not like the approach made by the agent. More importantly, they concern [sic] whether they can count on the agent or not in regards to ‘rewards’ issue. They concern [sic] that if we have won the job, whether their rewards will still be satisfactory or this agent only give them pocket money and disappear. Nothing has been shown by the agent that the agent is willing to spend money. This issue they brought up to me (in fact, they mentioned this two times) since they knew that AP appointed the agent. As things still changes [sic] (until the contract signed), if we are not careful, PLN personnel can take negative actions against us to secure their ‘personal interest’. During the discussion, [MARUBENI] questioned why we knew many things when the issues were already on the table, not when they were still preliminary. I also see that our friends are not interested to give details, I think we need to establish other contacts.” (Emphasis in original).

55. On or about September 18, 2003, Power Company Employee A forwarded the e-mail referenced in Paragraph 54 above to Pierucci, blind copying Power Company Employee B and another employee of Power Company Connecticut, stating, “Following is [an employee of Power Company Indonesia’s] report from the meeting last night with [two MARUBENI employees] (marubeni) and [two officials from PLN] (PLN). Since the report contains sensitive information please handle accordingly.”

56. On or about September 25, 2003, an employee of Power Company Connecticut sent an e-mail to Pierucci and Pomponi, copying Hoskins and another Power Company employee, and blind copying Power Company Employee A, stating, “Last evening 9/24/03, [three of] Marubeni’s [employees] asked to alert with [Power Company Employee A, Power Company Employee B, and an employee of Power Company Connecticut]. The subject of

discussion was the increasingly negative direction of the project's evaluation...coupled with the recent information that the key ([Official 2]) to the project's success is not pleased with our agent's commitment and actions taken this [sic] far. Marubeni made clear their position that the consortium should take immediate measures to terminate our agreement with [Consultant A], negotiate and settlement and engage a new representative to turn the situation around. Marubeni pressed [Power Company Employee A and the employee of Power Company Connecticut] to convince [Power Company Connecticut], particularly Fred Pierucci to agree to take this immediate action....Suffice to say, our consortium partner is very anxiously awaiting confirmation of Jakarta arrival of Fred [Pierucci], Lawrence [Hoskins] and Bill Pomponi and a plan of action including clear instructions and deliverables of [Consultant A]."

57. On or about September 25, 2003, a MARUBENI employee sent an e-mail to Pierucci, Pomponi, Power Company Employee A, Power Company Employee B, and another Power Company employee, copying five other MARUBENI employees, stating, "As you can understand, unfortunately our agent almost did not execute his function at all, so far. In case we don't take immediate action now now [sic], we don't have any chance to get this project forever. We shall not wait for coming of decision maker any more. Please direct your opinion to your Representative today."

58. In or around September or October 2003, MARUBENI employees, Hoskins, Pierucci, and other employees of Power Company told Consultant A at a meeting in Indonesia that: (i) they were going to retain another consultant to pay bribes to officials at PLN in connection with the Tarahan Project; (ii) Consultant A needed to pay bribes only to Official 1; and (iii) Consultant A's commission, therefore, would be cut from three percent of the total value of the contract to one percent.

59. On or about September 30, 2003, Power Company Employee A sent an e-mail to Hoskins, stating, “[T]here has been discussion between Fred [Pierucci], Marubeni and [Consultant A] yesterday where [Consultant A] committed to convince [Official 1] that ‘one’ is enough. Looking to the above development I would recommend to firm [MARUBENI and Power Company] commitment to [Consultant B] by letter awaiting for the final agreement.”

60. On or about October 1, 2003, a MARUBENI employee, on behalf of MARUBENI, sent a letter to Consultant B regarding the Tarahan Project, and stated, “With reference to our discussion regarding the captioned project, we are pleased to confirm the agreement between us. In the event that we are successful, we confirm that we will pay a total of two percent (2%) of the contract price (not including VAT) for our scope of work to you for the various services you are providing. The details of this agreement will be formalized in a Service Agreement.”

61. In or around October 2003, Power Company, Power Company Connecticut, Power Company Switzerland, and Power Company Indonesia sent an amended consulting agreement to Consultant A in connection with the Tarahan Project reflecting the reduced commission rate of one percent.

62. On or about October 8, 2003, Consultant A sent an e-mail to Pierucci stating, “The contract is basically fine. [Official 1] is trying to verify that in case he has to do horse trading with [another official], the expenses are not coming from my contract but he has not managed to talk to [Official 2] directly, in part because he does not want to address the issue directly. I have one minor comment though. Could you fix the payment dates for the 30% and 70%? First [sic] portion at the activation of the contract, when it is signed and the down payment is made and the second one four months or six months thereafter. Given the nature of

my involvement (or lack of) with PLN under the new scheme, my friend and I do not want to be involved in the PLN performance and payment issues. Finally, I have not been able to get a contract out of Marubeni even though they keep saying there is no problem. They also told [Official 2] that they do not have a firm commitment to me yet and that has not sat well with [Official 1]. So please give them a nudge [sic]. Hopefully we can sign both contracts at the same time.”

63. On or about October 20, 2003, Consultant A sent an e-mail to Pomponi, stating, “I heard over the weekend that there was a management political battle going on at PLN last week between [Official 2] and the President Commissioner. One had to be changed and [Official 1] made sure that [Official 2] stayed and President Commission (Chairman of the Board) got changed. Also since [Official 2] asked him to talk to [two other Indonesian officials], [Official 1] is complaining [sic] that he is doing all the work and he deserves more than PLN. But I think he would be OK. I got a message from Fred [Pierucci] to sign the revised agreement. I have instructions from [Official 1] not to sign until I have Marubeni’s contract signed....As I told you in Jakarta, I have no problem with the changes but I have to follow [Official 1’s] instructions so I do not get blamed for it later in case Marubeni plays game.”

64. On or about October 30, 2003, Power Company Employee B sent an e-mail to Pomponi stating, “No telephone call from Fred [Pierucci] to [Power Company Employee A] till to day [sic], and I have no patient [sic] to wait until one of the other to call. I propose to make simple, [Power Company Indonesia] will make invoice 5K either to you or Fred [Pierucci] with subject, obtain the coal and lime stone sample for Tarahan 3/4. Then you only convince [sic] Fred [Pierucci] and to ask his approval for those mechanism....[Consultant B] every day expedite me [sic], and I promise him to fulfil [sic] [Power Company] part by early next week.

MC [MARUBENI] already provided to day [sic] the half, based on my request direct to [Consultant B,] because [Consultant B] already promised to [an official at PLN] to return his part by tomorrow.”

65. On or about November 2, 2003, Pomponi sent an e-mail to two MARUBENI employees, copying Pierucci, Power Company Employee A, Power Company Employee B, and another Power Company Connecticut employee, stating, “I spoke with [Consultant B] today to receive any updates...He indicated he did not foresee any problems at this point with his contacts.”

66. On or about December 9, 2003, MARUBENI and Consultant A entered into a consulting agreement in connection with the Tarahan Project reflecting a commission rate of one percent.

67. On or about February 23, 2004, Pomponi sent an e-mail to a MARUBENI employee, Power Company Employee B, and another Power Company employee, copying Power Company Employee A, stating, “Understand that Mitsubishi has retained some lobbyist from the government (higher/more powerful than [another Indonesian official’s] position) to support their efforts on [the Tarahan Project]. Pls urgently check this out and have [Consultant B] re-evaluate our support to PLN.”

68. On or about March 3, 2004, Power Company Employee A sent an e-mail to Hoskins, stating, “Last Monday we sent Tarahan CA [consultancy agreement] to [Consultant B], he immediately feel [sic] cornered after reading the ToP [terms of payment] which said ‘prorata’. When I talked to him on the phone I said that I will look at it and I thought it should not be that bad. I then looked into Tarahan ToP (see attached) and realise that the project payment is spread over 3.5 year! You would understand why he is worry [sic], he is willing to pre-finance his

scope, fulfilling his commitment up-front (prior he get paid) to get the right 'influence', but certainly not waiting 2 to 3 years to get paid while most of his scope completed in the beginning.”

69. On or about March 10, 2004, Pomponi sent an e-mail to Hoskins, Pierucci, and others, stating, “I have [Power Company Employee A] out in Indonesia negotiating the CA Terms with [Consultant B]. As you know, the Tarahan estimate can not [sic] tolerate such advance payments and I’m not sure how we can accommodate this.”

70. On or about March 18, 2004, Hoskins responded to the e-mail from Pomponi referenced in Paragraph 69 above, stating, “Not sure where we are with this but for your info [Consultant B] is also requesting tougher terms on other projects at the moment. I cannot comment on your cash flow but my advice in this instance is to go with latest recommendation . . . [Consultant B] has a lot of work to do to support us in negotiation and he (and others) are slightly negative at the moment on [Power Company] support.”

71. On or about March 19, 2004, Consultant A sent an e-mail to Pierucci, blind copying Pomponi, stating, “I am back from Indonesia. I have mentioned the following to Bill [Pomponi]. But it is important that you also are aware of it. We need a very strong support from [Official 2] to counter Mitsubishi’s lobbying [sic] against us. I am not convinced that he is happy enough with us to provide the support. [Official 1] is also unhappy because he thinks [Power Company] has not firmly indicated its support to [Official 2]. Please verify that we have talked to [Official 2]...Please talk to Bill [Pomponi] about the detail.”

72. On or about March 20, 2004, Pierucci forwarded to Hoskins and Power Company Employee A, copying Pomponi, the e-mail from Consultant A referenced in Paragraph 71 above, and stated, “See attached. Please check this again urgently with [Consultant B].”

73. On or about March 22, 2004, Pomponi sent an e-mail to a MARUBENI employee, copying another MARUBENI employee and Pierucci, stating, "I am trying to get agreement with [Consultant B] but he's objecting strongly and asking for 'front-end' payments which affect our cash flow. I consider both you and I as having similar payment schemes for [Consultant B], therefore pls share with me your proposal and idea. Do you have agreement yet with [Consultant B] for your portion?? Pls consider this as an urgent request and respond at your most earliest convenience."

74. On or about March 23, 2004, a MARUBENI employee responded to the e-mail referenced in Paragraph 73 above, stating, "Regarding payment terms and conditions for [Consultant B], I have not yet discussed in detail with [Consultant B] during your absence from Indonesia...I think some consistency of response to [Consultant B] shall be necessary to get their compromise and to finalize the issues."

75. On or about March 30, 2004, Hoskins sent an e-mail to Pierucci and Pomponi, addressed to Pomponi, stating, "To clear up any confusion. You proposed an 18 month schedule but it will not fly in Indonesia at this time. In my discussion with Fred [Pierucci] and mails as per attached I recommended that we go with the latest proposal: 40/35/20/5. Marubeni wait [sic] for us and will follow suit. We are all agreed the terms are lousy but there is no choice. [Power Company Employee A] sees [Official 2] tomorrow and needs to confirm this position. Can you give him the all clear today?"

76. On or about March 30, 2004, Pomponi sent an e-mail in response to Hoskins' e-mail referenced in Paragraph 75 above, stating, "Approval has just come regarding the terms (40/35/20/5). Yes, I agree they are lousy but as you and I talked last week, we both believe we have no choice. I will send a separate message to [Power Company Employee A, Power

Company Employee B, and two MARUBENI employees] regarding the T/P to insure we get [Consultant B's] signature and follow-up action with our friends. A note from you as well to [the two MARUBENI employees] would be helpful given MC's [MARUBENI's] thus far objections to such 'front-end' loading of payments."

77. On or about March 30, 2004, Pomponi sent an e-mail to a MARUBENI employee, copying another MARUBENI employee, Hoskins, Pierucci, and Power Company Employee A, stating, "As we discussed last week by telephone, [Consultant B] is requiring 95% payment within the first 12 months of the contract. I stated that this was a problem for [Power Company] however after speaking with [Power Company Employee A] and Lawrence Hoskins, I am now convinced that this mode of payment is necessary for the continuation of [Consultant B's] effectiveness....As mentioned by you last week, MC [MARUBENI] confirmed to follow [Power Company's] actions and conclusions for the [Consultant B] Agreement."

78. On or about March 30, 2004, a MARUBENI employee responded to the e-mail from Pomponi referenced in Paragraph 77 above, stating, "I understand. We follow you. I will try to finalize the agreement at earliest possible time."

79. On or about March 30, 2004, Pomponi sent an e-mail to Hoskins, Pierucci, and Power Company Employee A, stating, "Approval...has finally been received this morning authorizing the requested Terms of Payment. Pls proceed with this ASAP to obtain the CA signing by [Consultant B] in order for [Consultant B's] effectiveness to continue."

80. On or about March 31, 2004, Power Company Employee A responded to the e-mail from Pomponi referenced in Paragraph 79 above, stating, "I will mentioned [sic] our position to [Official 2] and [Consultant B] this afternoon. Furthermore I would suggest you to contact [the employee at Power Company Switzerland responsible for consultancy agreements]

with a request to make the necessary CA changes (ToP) and ask her to send me the revised CA asap. Once the revised agreement arrived I will obtain [Consultant B's] signature. Mean while [sic] I will give [Official 2]/[Consultant B] my word.”

81. In or around October 2004, employees of MARUBENI traveled to Connecticut to attend meetings with employees of Power Company Connecticut in connection with the Tarahan Project.

82. On or about May 22, 2005, after MARUBENI, Power Company, and Power Company's subsidiaries were awarded the Tarahan Project contract, Consultant A sent an e-mail to Pomponi, stating, “I will call you this week and find out the amount of invoice I need to submit to you, as the contract amount you sent me is for the entire contract.”

83. On or about December 8, 2005, Consultant A sent an e-mail to Pomponi, stating, “Good morning from Jakarta. [An official from PLN] keep contacting me and asking for ...support. He has not been contacted by you or your local team. Could you please give him a call and let him know I have nothing to do with him. It is really important.” (Ellipses in original).

84. On or about December 9, 2005, Pomponi forwarded to Power Company Employee A and Power Company Employee B, copying Pierucci, the e-mail from Consultant A referenced in Paragraph 83, and stated, “This has gone on way too long. Please take care of this. Please advise when this is completed and settled. As you are fully aware, [Consultant A] has nothing to do with PLN. There was a complete and clear division of responsibility.”

Payments from Power Company to Consultant A to Bribe Official 1

85. On or about November 16, 2005, Power Company Connecticut caused a wire transfer in the amount of \$200,064 from the company's bank account in New York to Consultant A's bank account in Maryland for the purpose of paying bribes to Official 1.

86. On or about January 4, 2006, Power Company Connecticut caused a wire transfer in the amount of \$200,064 from the company's bank account in New York to Consultant A's bank account in Maryland for the purpose of paying bribes to Official 1.

87. On or about March 7, 2007, Power Company Connecticut caused a wire transfer in the amount of \$200,064 from the company's bank account in New York to Consultant A's bank account in Maryland for the purpose of paying bribes to Official 1.

88. On or about October 5, 2009, Power Company Connecticut caused a wire transfer in the amount of \$66,688 from the company's bank account in New York to Consultant A's bank account in Maryland for the purpose of paying bribes to Official 1.

Payments from Power Company to Consultant B to Bribe Officials at PLN

89. On or about July 20, 2005, Power Company Connecticut caused a wire transfer in the amount of \$418,906 from the company's bank account in New York to Power Company Switzerland's bank account in Zurich, Switzerland, which amount was transferred by Power Company Switzerland to Consultant B's bank account in Singapore for the purpose of paying bribes to officials at PLN.

90. On or about July 26, 2005, Power Company Connecticut caused a wire transfer in the amount of \$114,598 from the company's bank account in New York to Power Company Switzerland's bank account in Zurich, Switzerland, which amount was transferred by Power

Company Switzerland to Consultant B's bank account in Singapore for the purpose of paying bribes to officials at PLN.

91. On or about March 28, 2006, Power Company Connecticut caused a wire transfer in the amount of \$466,816 from the company's bank account in New York to Power Company Switzerland's bank account in Zurich, Switzerland, which amount was transferred by Power Company Switzerland to Consultant B's bank account in Singapore for the purpose of paying bribes to officials at PLN.

92. On or about December 6, 2006, Power Company Connecticut caused a wire transfer in the amount of \$266,752 from the company's bank account in New York to Power Company Switzerland's bank account in Zurich, Switzerland, which amount was transferred by Power Company Switzerland to Consultant B's bank account in Singapore for the purpose of paying bribes to officials at PLN.

Payments from MARUBENI to Consultant A to Bribe Official 1

93. On or about June 30, 2005, MARUBENI caused a wire transfer in the amount of \$151,781.70 from a bank account in New York to Consultant A's bank account in Maryland for the purpose of paying bribes to Official 1.

94. On or about December 28, 2005, MARUBENI caused a wire transfer in the amount of \$154,462.30 from a bank account in New York to Consultant A's bank account in Maryland for the purpose of paying bribes to Official 1.

95. On or about November 14, 2008, MARUBENI caused a wire transfer in the amount of \$51,549.79 from a bank account in New York to Consultant A's bank account in Maryland for the purpose of paying bribes to Official 1.

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

COUNTS TWO THROUGH EIGHT
(Foreign Corrupt Practices Act)

96. Paragraphs 1 through 23 and 25 through 95 are realleged and incorporated by reference as though fully set forth herein.

97. On or about the dates set forth below, in the District of Connecticut and elsewhere, MARUBENI, through its employees and agents, while in the territory of the United States, did corruptly make use of the mails and means and instrumentalities of interstate commerce 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 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 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 an 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 MARUBENI, its employees, Parent Company, Power Company Connecticut, Power Company Switzerland, Power Company Indonesia, Hoskins, Pierucci, Pomponi, Rothschild, Power Company Employee A, Power Company Employee B, Consultant A, Consultant B, and others in obtaining and retaining business for and with, and directing business to, MARUBENI, Power Company Connecticut, Power Company Switzerland, Power Company Indonesia, Parent Company, and others, as follows:

| COUNT | DATE | MEANS AND INSTRUMENTALITIES OF INTERSTATE AND INTERNATIONAL COMMERCE |
|-------|------------|--|
| Two | 12/28/2005 | Employees of MARUBENI caused a wire transfer in the amount of \$154,462.30 from MARUBENI's bank account in New York to Consultant A's bank account in Maryland. |
| Three | 1/4/2006 | Employees of Power Company Connecticut, while in Connecticut, caused a wire transfer in the amount of \$200,064 from the company's bank account in New York to Consultant A's bank account in Maryland. |
| Four | 3/28/2006 | Employees of Power Company Connecticut, while in Connecticut, caused a wire transfer in the amount of \$466,816 from the company's bank account in New York to Power Company Switzerland's bank account in Zurich, Switzerland, which amount was transferred by Power Company Switzerland to Consultant B's bank account in Singapore. |
| Five | 12/6/2006 | Employees of Power Company Connecticut, while in Connecticut, caused a wire transfer in the amount of \$266,752 from the company's bank account in New York to Power Company Switzerland's bank account in Zurich, Switzerland, which amount was transferred by Power Company Switzerland to Consultant B's bank account in Singapore. |
| Six | 3/7/2007 | Employees of Power Company Connecticut, while in Connecticut, caused a wire transfer in the amount of \$200,064 from the company's bank account in New York to Consultant A's bank account in Maryland. |
| Seven | 11/14/2008 | Employees of MARUBENI caused a wire transfer in the amount of \$51,549.79 from MARUBENI's bank account in New York to Consultant A's bank account in Maryland |
| Eight | 10/5/2009 | Employees of Power Company Connecticut, while in Connecticut, caused a wire transfer in the amount of \$66,688 from the company's bank account in New York to Consultant A's bank account in Maryland. |

All in violation of Title 15, United States Code, Section 78dd-3, and Title 18, United States Code, Section 2.

UNITED STATES OF AMERICA



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