

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA	§	
	§	
V.	§	CASE NO. 4:16-CR-0147
	§	
SHAWN THOMAS POTTS	§	
ROBERT STANLEY CORBITT	§	

CHEVRON CORPORATION’S VICTIM IMPACT STATEMENT

Non-party Chevron Corporation provides herein a summary of the fraudulent kickback scheme orchestrated by the defendant Shawn Potts, and the resulting harmful impact on the Company and its employees.¹

I. INTRODUCTION

Over a four-year period and across two continents, Shawn Potts (“Potts”) misappropriated millions of dollars from Chevron, including its subsidiaries (collectively, “Chevron” or the “Company”). He did so by abusing the very trust that Chevron and his fellow co-workers placed in him as an oil trader for Chevron. With the help of multiple co-conspirators, including co-defendant Robert Corbitt (“Corbitt”), Potts secretly steered Chevron business to certain counterparties, pocketing millions of dollars in kickbacks and depriving the Company of the benefits of honest services. In 2016, Potts was indicted for his role in the kickback scheme, and ultimately pled guilty to willfully filing a false tax return as part of his effort to hide the scheme from Chevron and the Government.² For sentencing purposes, Chevron requests that the Court

¹ Chevron files this Statement as a pleading in light of its status in the case as a non-party Movant with filing privileges. Defendant Potts unilaterally brought Chevron into the case by filing its Motion and Amended Motion for Issuance of Rule 17(c) Subpoena Duces Tecum to the Complaining Witness, Chevron Corporation (Dkt. Nos. 50, 83).

² Dkt. No. 133 (Plea Agreement), at 6-7, ¶ 13; Dkt. No. 129 (Superseding Information); Dkt. No. 69 (Superseding Indictment), at 5, ¶ 23.

consider the entirety of the fraud committed by Potts against his former employer and fellow co-workers on both sides of the Atlantic, as well as his continued failure to accept any responsibility for such fraud.

II. POTTS' EMPLOYMENT AT CHEVRON

Potts was an oil trader for Chevron from approximately 2004 through 2012, first at Chevron's refinery in Perth Amboy, New Jersey, and then by virtue of a temporary assignment, at its Chevron Products United Kingdom (CPUK) subsidiary in London. In that role, Potts traded crude oil and related petroleum products, including naphtha, vacuum gas oil ("VGO") and fuel oil. He enjoyed significant discretion and trust in how he structured and justified these trades for Chevron.³ Furthermore, during his time in the United Kingdom ("UK"), Potts applied for and received the designation of an "approved person" from the UK's Financial Conduct Authority,⁴ thereby obtaining authorization to carry out a controlled function for Chevron Global Trading Limited. "Approved persons" are required to meet regulatory requirements in the performance of their function and satisfy a "fit and proper" test, as their role has regulatory significance for the regulated business.

From 2006 through at least 2010, Potts secretly steered Chevron business to various co-conspirators who were willing to pay him millions in illegal kickbacks (on which he paid no taxes). These actions harmed Chevron by preventing it from receiving honest services and fair prices that would have been set in a free and competitive market, causing financial losses at least equivalent to the amount of the kickbacks.⁵ In addition to being plainly illegal, the actions were a betrayal of

³ Dkt. No. 112 (Government's Trial Brief and Motions in Limine), at 8.

⁴ Formerly known as the Financial Services Authority. The Financial Conduct Authority is the UK conduct regulator for 58,000 financial services firms and financial markets in the UK and the prudential regulator for over 18,000 of those firms.

⁵ Dkt. No. 112, at 2.

the considerable trust placed in Potts by Chevron and his co-workers to act in Chevron's best interests. He had confirmed his understanding of this obligation in writing, had received training on Chevron's prohibition of kickbacks and conflicts of interest, and had signed acknowledgements that he had received such training.⁶ The contract steering and kickbacks also were flagrantly in breach of the regulatory standards he agreed to uphold when he applied to be an "approved person" under the regime of the UK's Financial Conduct Authority.

Nonetheless, Potts abused Chevron's trust again and again with his kickback scheme, and went to great lengths to conceal the scheme from Chevron. Indeed, Chevron became aware of Potts' fraudulent scheme only after being informed by the Government. Potts was invited to answer questions concerning his transactions in the presence of Chevron employees and the U.S. Postal Inspector who had investigated Potts' fraud. After Potts refused to answer any questions, Chevron suspended Potts with full-pay and benefits pending the outcome of its own investigation. Chevron subsequently ended his UK assignment and repatriated Potts to the U.S. After efforts to reach Potts were unsuccessful, Chevron fired him. Chevron subsequently learned from the UK Border Agency that Potts fled the UK after he was suspended, returned to the U.S., voluntarily relinquished his passport without notifying Chevron of his whereabouts and asserted that he was no longer employed by Chevron.

III. POTTS' KICKBACK SCHEMES

As detailed below, Potts executed his fraudulent kickback scheme in at least three phases over the course of more than four years. Chevron only became aware of Potts' scheme following the Government's investigation and disclosure to the Company that it had been victimized. The

⁶ Dkt. No. 69, at 1-2, ¶ 3; Dkt. No. 112, at 8.

evidence of Potts' scheme as cited herein was obtained by and is in the custody of the Government.⁷

A. The Dunhill Kickback Scheme

The first phase of Potts' kickback scheme involved Dunhill Products, L.P. ("Dunhill"), a former purchaser of Chevron naphtha. In approximately 2004, Chevron removed Dunhill from its list of approved trading counterparties, thereby barring Dunhill from any further naphtha purchases. In response and unbeknownst to Chevron, Dunhill circumvented this ban by purchasing Chevron naphtha through an intermediary known as Global Products. When Potts learned that Dunhill was still buying the Chevron naphtha, he agreed to allow the sales to continue and not notify Chevron management. In return for his silence, Potts demanded that Dunhill pay him kickbacks. Dunhill did so, making payments to Potts at his various Cayman Islands and Swiss bank accounts. Over a four-month period in 2006 (during which he was a salaried employee at Chevron), Potts secretly billed Dunhill \$940,000 for engineering work he supposedly had performed.⁸ Additionally, as further compensation to Potts for his silence, Dunhill placed Potts' mother on salary even though she performed no work for Dunhill.⁹

B. The CAMAC/SAOC Kickback Scheme

The second phase of Potts' kickback scheme began in August 2006. In return for steering Chevron contracts to a company called CAMAC International Corp. and its subsidiary South African Oil Company (SAOC), Potts received kickbacks paid to his Cayman Islands bank account.¹⁰ These payments were facilitated by Corbitt and two co-conspirators – Bernard Langley ("Langley") and Clyde Meltzer ("Meltzer"). Pursuant to this scheme, Langley and Meltzer paid

⁷ Dkt. No. 112, at 2.

⁸ *Id.*, at 10.

⁹ *Id.*, at 9.

¹⁰ *Id.*, at 3.

Corbitt, who then passed a portion of the money along to Potts using shell companies. Approximately \$1.2 million was transferred to Potts' Cayman Islands account from these CAMAC/SAOC deals. Again, these are funds that should have inured to the benefit of Chevron, instead of personally enriching Potts.¹¹

C. The Tuscan Kickback Scheme

The third phase of Potts' kickback scheme began in 2009, after he transferred to CPUK in London. By that time, Meltzer and Langley had formed yet another counterparty - Tuscan Petroleum ("Tuscan") to procure VGO from Cameroon in West Africa. Under this new scheme, Potts would notify Tuscan of the price Chevron would pay for the VGO, thereby enabling Tuscan to purchase the Cameroon VGO from a third party and then sell it to Chevron for a profit. In return for disclosing this confidential Chevron pricing information, Potts received kickbacks of roughly half of the profits on the transactions.¹²

Tuscan later conducted similar deals with Potts for VGO from Belarus and Russia. In all cases, Tuscan paid Potts kickbacks in return for Potts' guarantee that Chevron would buy VGO at a predetermined price – thereby enabling Tuscan to proceed without risk and with a guaranteed profit.¹³

IV. EVIDENCE OF KICKBACK SCHEME

The facts stated herein are supported by evidence obtained from the Government through its investigation and prosecution of this case. Much of the evidence is summarized in the Government's Trial Brief (Dkt. No. 112) and is summarized below to assist the Court in its determination of an appropriate sentence for Potts.

¹¹ *Id.*, at 11-12.

¹² *Id.*, at 13-14.

¹³ *Id.*, at 15-16.

A. Langley's Kickback Ledger

As part of its initial investigation of co-conspirator Langley, investigators seized a thumb drive from Langley's briefcase that contained a spreadsheet documenting payments made to "Stan Corbitt," and multiple pages of spreadsheets documenting payments made to a third individual, listed as "Pat Danaher." Langley and Meltzer eventually both cooperated with the Government's investigation, and both confirmed that they had paid bribes to Potts. Langley explained that "Pat Danaher" was a cover name for Potts, and that the payments listed in the spreadsheet were made to third party vendors who sold Potts vintage cars and car parts or refurbished cars Potts had purchased.

The ledger includes descriptive detail of each transaction, including the quantity and type of petroleum product, the name of the seller, or the name of the ship carrying the product, all of which link the transactions to Potts through Chevron's documentation of the deals. The ledger also includes descriptions of the recipients of the kickbacks funds, which for Potts was usually the name of a car seller or a type of car. When the Government subpoenaed the records of the car sellers and refurbishers referenced in Langley's ledger, their records indicated that it was Shawn Potts with whom they were dealing, usually through Potts' email address: stp69mach1@hotmail.com.

B. Statements of Potts and his Co-Conspirators

The Government obtained a number of oral and written admissions from defendants Potts and Corbitt. These include conversations with each other, Chevron employees, employees of the relevant counterparties (Dunhill, CAMAC/SAOC, and Tuscan) and third parties. The Government also obtained emails sent and received by Potts, both from his Chevron email address (SHTP@chevron.com) and the private email address he used to correspond with luxury car dealers

who received the kickbacks. The Government also obtained numerous business records created by Potts or bearing his signature, such as emails, faxes, and internal Chevron business records. For example, Potts often completed a deal sheet summarizing an upcoming trade. These deal sheets, along with the resulting Chevron letter contracts, are consistent with the detailed descriptions of transactions from Langley's ledger.¹⁴

C. Bank Records

The Government also obtained Potts' bank account records, including the foreign bank accounts he used to hide the kickbacks from Chevron and the IRS. Additionally, the Government obtained numerous bank wire authorizations sent to Potts by Langley and Meltzer. These faxed, one-page documents authorized the relevant banks to send international wires for the benefit of Potts, either to his foreign bank accounts or to third parties on his behalf. The foreign records include bank records documenting the opening and activity of Potts' Cayman Islands and Swiss bank accounts, Corbitt's bank accounts, and Langley and Meltzer's numerous foreign accounts.¹⁵

D. Corporate records

The Government obtained numerous corporate records relating to the relevant trading contracts and the corresponding concealed kickbacks received by Potts. These include business records provided by the relevant corporate entities, including Chevron, Tuscan, Dunhill, CAMAC/SAOC, and Potts' accountants. The Government has records of the relevant trades, the letters between parties to the trade confirming the terms, the invoices for delivery of the oil or oil products, and the records confirming payment.¹⁶

¹⁴ *Id.*, at 19-21.

¹⁵ *Id.*, at 21-23.

¹⁶ *Id.*, at 22-23.

V. POTTS' KICKBACK SCHEME MAY BE CONSIDERED AS RELEVANT CONDUCT FOR SENTENCING PURPOSES

Although Potts ultimately pleaded guilty to a tax violation, the violation directly relates to his fraudulent conduct at Chevron. Specifically, as part of his effort to hide the kickback scheme, Potts failed to declare the illegal kickback income on his returns and failed to report his interest in the foreign bank accounts he used to facilitate the fraudulent scheme. As previously described, this kickback income represents funds that should have inured to benefit of Chevron.

Potts' kickback scheme thus represents "relevant conduct" for purposes of his upcoming sentencing. Relevant conduct includes all acts and omissions that were either part of a common scheme or plan or part of the same course of conduct as the offense of conviction. *See* U.S.S.G. § 1B1.3(a) cmt.5(B). Conduct is part of a common scheme or plan if it is "substantially connected to [the offense of conviction] by at least one common factor, such as common victims, common accomplices, common purpose, or similar modus operandi." *Id.* In effect, this allows the Court to hold Potts accountable for the crimes he committed as part of his fraudulent scheme, even if the Government could not or chose not to prove those crimes beyond a reasonable doubt.

VI. POTTS' CONTINUED FAILURE TO ACCEPT RESPONSIBILITY

Since first learning of Potts' fraudulent scheme, Chevron and its employees have fully supported the Government's investigation, including but not limited to producing thousands of documents, making available numerous employees for interviews and testimony at trial and delaying its own pursuit of civil remedies against Potts so as not to impede the investigation and prosecution.¹⁷

¹⁷ Chevron's purposeful delay in pursuing its own civil remedies ultimately was to its detriment, in light of applicable U.S. statutes of limitations.

These efforts by Chevron stand in stark contrast to Potts' own efforts to thwart the Government's investigation and manipulate the judicial system for his own ends, notwithstanding the harmful impact such actions may have on the reputation of others. Apparently not content with the significant harm caused by his fraudulent kickback scheme, Potts repeatedly has attempted to justify his own crimes with malicious and false allegations of misconduct by Chevron – including allegations of misleading earnings reports, accounting violations, treaty violations, market manipulation and possible FCPA violations. Aside from the fact that these allegations are patently false, Chevron and its employees – the victims of Potts' fraud – have nonetheless had to devote still more resources to respond to the spurious allegations.¹⁸

Perhaps the best example of Potts refusing to take responsibility for his illegal conduct is his recent misrepresentation to a UK tribunal where he is inexplicably pursuing claims against Chevron for wrongful termination. Specifically, Potts (through his UK counsel) recently stated in writing that “all of the charges against [Potts] which relate to his employment [at Chevron] have been dropped.” As this Court is aware (and as previously described herein), Potts pleaded guilty to a tax violation that directly relates to his efforts to conceal his fraudulent conduct at Chevron. Specifically, as part of his effort to hide the fraudulent kickback scheme conducted against Chevron, Potts failed to declare the illegal kickback income on his tax returns and failed to report his interest in the foreign bank accounts he used to facilitate the fraudulent scheme. Again, this kickback income that Potts failed to report (and for which he has pleaded guilty) represents funds that should have inured to benefit of Chevron. Likewise, the foreign bank accounts that Potts failed to report represent the accounts used to facilitate his fraudulent scheme against Chevron.

¹⁸ Without exception, Potts' allegations have never been – because they cannot be – substantiated, and certainly no action was taken by the relevant U.S. authorities against Chevron.

Potts' complete disregard of the harmful effects that his fraudulent scheme had (and continues to have) on Chevron and its employees is further evidenced by his willingness to assert in the UK proceeding the same false and malicious allegations of Chevron misconduct that he attempted to use in the U.S. to avoid accepting responsibility for his criminal actions. Indeed, in the UK proceeding, he brazenly and falsely has characterized the communications by him (and his attorney) with the Government in this case (relating to his fraudulent kickback scheme) as protected disclosures made in good faith that warrant whistleblower protection under UK laws.

In sum, Potts' actions since his fraudulent scheme was exposed represent an abject failure to accept responsibility for his crimes. His actions are particularly troubling in light of his written promise to the Government and this Court to fully cooperate and provide "all information relating to any criminal activity known to Defendant."¹⁹ As victims of Potts' criminal activity, Chevron and its employees expect Potts to acknowledge at sentencing his efforts to falsify his tax returns to hide his participation in the fraudulent scheme that led to his dismissal from the Company. Any failure to do so before this Court would be wholly inconsistent with his promise to "provide truthful, complete and accurate information" to this Court. Should he nonetheless fail to confirm his illegal conduct, Chevron and its employees can at least take comfort in the Government's pledge that "any false statements by [Potts] . . . at any court proceeding (criminal or civil), . . . can and will be prosecuted under the appropriate perjury, false statement, or obstruction statutes.; . . ."²⁰

VII. CONCLUSION

Chevron respectfully requests that the Court consider Potts' fraudulent kickback scheme, its harmful impact on Chevron and its employees, and Potts' continued failure to accept

¹⁹ Dkt. No. 133 (Plea Agreement), at 3.

²⁰ *Id.*

responsibility for the scheme and its impact in determining the appropriate sentence for Potts.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed with the Court by hand delivery and served on all counsel of record via electronic mail this 24th day of July 2018.

/s/ John Kinchen
John Kinchen