



# Army Procurement Fraud Branch

## Procurement Fraud Advisor's Update

Photo by Sgt, 1st Class Clinton Wood

Sgt Anthony Smith, from the 1st Brigade Combat Team, 34th Infantry Division

Prepares for a convoy escort mission from Logistical Support Area Anaconda, Iraq

This photo appeared on [www.army.mil](http://www.army.mil)

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# UNITED STATES ARMY LEGAL SERVICES AGENCY



## ARMY PROCUREMENT FRAUD ADVISOR'S UPDATE

ARMY PROCUREMENT FRAUD BRANCH  
CONTRACT & FISCAL LAW DIVISION

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### MESSAGE FROM THE CHIEF, PROCUREMENT FRAUD BRANCH

FY 07 was a busy year for the Army Procurement Fraud Program. The year ended with a record-breaking number of cases, over 800, and a record-breaking number of suspensions, proposed debarments, and debarments, 328 in all. A significant number of those actions were completed on cases arising out of Southwest Asia (SWA), including 36 suspensions, 30 proposed debarments, 18 debarments, and one Compliance Agreement. The majority of the SWA cases were referred to the Army Procurement Fraud Branch (PFB) by the Army Criminal Investigation Command Division (CID), Major Procurement Fraud Unit (MPFU). Through the efforts of Mr. Wesley Kilgore, Director, MPFU, Mr. James Podolak, Deputy Director Operations, and their CID staff of nearly 100 CID agents worldwide, PFB was able to obtain information promptly on cases involving fraud, waste and abuse. Hooah to Mr. Kilgore and Mr. Podolak and his staff for their outstanding efforts in theatre!

The flow of information between Army commands and PFB substantially improved over the past year. In response to our reminder to over 250 Procurement Fraud Advisors (PFAs) and Procurement Fraud and Irregularities Coordinators (PFICs) throughout

the Army to promptly report new cases, we are receiving more "flash reports." With reports of new cases, we expect the commands to refer cases reported via flash reports to CID at the same time PFB is notified. We now also routinely notify PFAs by a short email of each new case we receive from CID. In response to numerous inquiries for training materials from field activities, we compiled and distributed a comprehensive deskbook to all PFAs (and PFICs) in August 2007. The desk book includes training materials on *qui tam* litigation and a "fraud awareness" slide presentation for use by PFAs at their commands. Most PFAs have since reviewed the desk book and completed a survey regarding their training needs. Based on the input we receive, we are in the process of formulating the next Army PFA course in May 2008 at The Judge Advocate General's Legal Center and School.

We recommend that PFAs who have not yet attended the Army PF Course attend the 28-30 May 2008 course. Those who have attended the course, and would benefit by advanced training, should attend the DOD Procurement Fraud Working Group Annual Meeting on 1-4 April 2008 in Daytona, Florida, sponsored

### MISSION

*The Procurement Fraud Branch (PFB) is part of the Contract and Fiscal Law Division, U.S. Army Legal Services Agency. PFB is the Army's single centralized organization with the mission to coordinate and monitor the status of all criminal, civil, contractual, and administrative remedies in cases of fraud or corruption relating to Army procurements. The Procurement Fraud Advisor's Newsletter has been published since September of 1989 on a quarterly basis to advise Army Procurement Fraud Advisors (PFAs) on the latest developments in procurement fraud and remedies coordination. The Update is also distributed electronically to other Government fraud counsel at their request.*

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by the Air Force this year. The DOD reports are due on 1 January Working Group Procurement Fraud 2008.

Annual Meeting is open to lawyers, acquisition professionals, investigators, and auditors to provide a forum for discussion of common issues in fighting procurement fraud. Registration for the Army PF Course is through the Army Training Requirements and Resources System (ATRRS) coordinators at local commands. For questions about either course, contact Greg Campbell at [Gregory.Campbell@hqda.army.mil](mailto:Gregory.Campbell@hqda.army.mil).

Reminder to PFICS: Semi-annual

PFB welcomes Major Pamoline McDonald, an Army reservist assigned to PFB for the next year under the Global War on Terror program. Major McDonald will be followed by two additional civilian attorneys expected to arrive at PFB in the near future, to complete our attorney staff which includes our two senior fraud counsels, Angelines McCaffrey and Brian Persico. (Mrs. Christine S.

THE ONLY THING WE  
HAVE TO FEAR IS FEAR,  
NAMELESS, UNREASONING,  
UNJUSTIFIED TERROR  
WHICH PARALYZES NEEDED  
EFFORTS TO  
CONVERT RETREAT INTO  
ADVANCE.  
Franklin D. Roosevelt

## FRAUD COUNSEL'S CORNER



### Honor the Seal

By Major Art Coulter, KFLD-PF, DOJ

31 U.S.C. § 3730(b)(2) requires a private person seeking to file suit under the False Claims Act's (FCA) *qui tam* provisions to file both the complaint and a written disclosure statement *in camera* and under seal. The FCA also requires that the seal remain in effect for at least 60 days while the Government investigates and makes its intervention decision.

As the legislative history reflects, Congress adopted the seal provisions because "the Committee

feels that sealing the initial private false claims complaint protects both the Government and the defendant's interests" S.Rep.No.345, 99th Cong., 2d Sess.24 at 5289-90.

The Court's seal must be respected by relator's counsel, DOJ, and agency counsel. Case law has held that if a relator breaches the seal prior to service, the case will be dismissed. There is no case law on what happens if the Government breaches the seal, but, as the congressional intent was to protect the defendant's interests, it would not be a large jurisdictional step to dismiss the case against the Government as well if this breach occurred.

Although the FCA indicates that the Government will only need 60 days to make the intervention decision, in actuality that decision takes longer. Agency counsel must remain vigilant and assume that all *qui tams* directed to their

command are under seal. To that end, please ensure that adequate steps are taken to maintain the confidentiality of the complaint, the identity of the relator, and the nature of the Government's investigation. No one outside of agency legal channels needs to know what is under the seal unless directed by the Department of Justice. Direct all media inquiries to Army Procurement Fraud Branch.

PFAs should not disclose the existence of *qui tam* law suits to Government employees outside of the legal office. Protecting the seal is important to a proper resolution of the case.



## FRAUD COUNSEL'S CORNER<sup>(CONT'D FROM PAGE 3)</sup>

### Fact-Based Suspensions – The Case of Lee Dynamics International

By Brian Persico, KFLD-PFB

On July 9, 2007, The Army Suspension and Debarment Official suspended Lee Dynamics International (“LDI”), a Kuwait based firm that since 2004 has provided logistics, training, information technology, vehicle maintenance support and other services to Government and civilian customers. In addition to LDI, George H. Lee and Justin W. Lee, the owner of LDI and his son, Oai Lee, spouse of George Lee, and Lee Defense Services Corporation (“LDSC”), an affiliated company located in Huntsville, Alabama were suspended as part of this action. See *Justin W. Lee et. al. v. Robert N. Kittel*, No. 5:07-cv-1455-UWC (N.D. Ala. Aug. 31, 2007). In the period of time since its formation, LDI had aggressively sought Government contracts and was in the process of preparing or submitting bids for additional work in Iraq and Kuwait. Previously, on July 5, the Army Procurement Fraud Branch had received information from an investigator alleging that the company had provided gratuities to at least two Army contracting officials in return for favorable treatment in the award and administration of previously awarded contracts. Unusually, the decision to take action was based on an uncorroborated written declaration made by the investigator and without an indictment by the Department of Justice.

In response to the 9 July 2007 suspensions, a civil complaint was filed in the United States District

Court for the Northern District of Alabama on August 8, 2007 on behalf of LDI, LDSC and the Lees. Included with this complaint was a motion for the imposition of a temporary restraining order against the Army for alleging that the declaration of the investigator used as a basis for the suspension action was inadequate to meet the adequate evidence standard definition found in FAR 2.101. After reviewing the materials considered by the Suspension and Debarment Official in reaching the determination that a fact-based suspension was appropriate in this case, the court cited the case of *Kirkpatrick v. White*, 351 F.Supp 2d 1261 (N.D. Ala. 2004) (discussing *Horne Brothers, Inc. v. Laird*, 463 F.d2, 1268, 1271 (D.C. Cir. 1972)) to state that:

“the adequate evidence showing need not be the kind necessary for a successful criminal prosecution or a formal debarment. The matter may be likened to the probable cause necessary for an arrest, a search warrant, or a preliminary hearing. This is less than must be shown at trial, but it must be more than uncorroborated suspicion or accusation”

*Kirkpatrick* at 1288, *Justin W. Lee*

*et. al. v. Robert W. Kittel*, No. 5:07-cv-1455-UWC, slip op. at 4. In addition, the court stated that in this particular case, the declaration from the investigating agent “far exceeds the normal burden imposed by law,” resulting in the denial of the plaintiff’s request for a temporary restraining order against the Army *Id.*, at 5.

Another important aspect of the decision in *Justin W. Lee* is the fact that there is a factual error in the declaration which formed the basis for the SDO’s action. Specifically, when referring to a date of a statement alleging that the plaintiffs made illegal payments to an Army contracting officer, the date cited was 11 days after the contracting officer had passed away in Iraq. This fact was seized upon by the plaintiffs in their description of the declaration as “inadequate, uncorroborated, and undermined by a fatal error.” *Id.* at 7. Upon review by the court, however, this inaccuracy was discounted because of its belief that “upon administrative review, this argument will be viewed less as an example of shrewd detective work and more as an example of a picayune slight of hand” *Id.* It went on to describe the declaration as “corroborated and compelling evidence” as to allegations against the plaintiffs. *Id.*

Suspension of an individual or company without the presence of an indictment is an atypical remedy in Army Procurement Fraud cases. Statistically, of all the suspension actions by the Army during FY 2007, only the five individuals and companies related to the LDI case

## FRAUD COUNSEL'S CORNER (CONT'D FROM PAGE 4)

were fact-based (i.e. taken without the presence of an indictment or filing of a criminal information). The reason for this disparity is the fact that in accordance with the guidelines set forth in the Federal Acquisition Regulations (FAR) Section 9.407, suspension is intended is a temporary procedure pending the completion of an investigation and any ensuing legal proceedings. According to the FAR, suspension may not exceed twelve months, unless a legal proceeding has been initiated, or the term has been extended for six months upon the written request of an Assistant Attorney General. FAR 9.407-4 (b). Debarment, in contrast, is a prohibition from contracting with the Government for a fixed period of time determined "after the completion of an investigation or legal proceedings against a contractor" *Frequency Elecs. v. United States Dep't of the Air Force*, 1998 U.S. App. LEXIS 14888 (1998). Developing a fact-based suspension action instead of a fact-based debarment action is therefore only useful in circumstances where there is an immediate need for protection of the Government and a criminal investigation is incomplete or, due to Rule 6(e) of the Federal Rules of Criminal Procedure protecting Grand Jury materials, unavailable. Absent these considerations, a fact-based proposed debarment achieves the same result, namely, immediate protection of the Government, with the added feature of moving the individual or contractor towards the final solution of debarment. The determining factor is the presence of an incomplete or unavailable investigation.

Once a decision is made to use the fact-based suspension rem-

edy, meeting the required standard of evidence is also an important consideration, especially due to the fact that the investigation may be incomplete or unavailable. Suspension requires only that "adequate evidence," of wrongdoing be presented to the Suspension and Debarment Official (SDO), as opposed to the "preponderance of evidence" a standard requiring the fact finder to conclude "that the existence of a fact is more probable than its non-existence." *In re Winship*, 397 U.S. 358, 371 (1970) (Harlan, J. concurring). Adequate evidence, as described at FAR 2.101, consists of "information sufficient to support the reasonable belief that a particular act or omission has occurred." More often than not, this burden is met by the accusations contained in an indictment or criminal information in accordance with FAR 9.407-2(b) and 9.403. Fact-based suspensions, by definition, lack this documentation and the completed investigations that are the basis of the accusations found in them. Meeting the adequate evidence burden, however, may be accomplished in several ways, especially in light of the LDI suspensions.

The case of LDI, George H. Lee and Justin W. Lee, Oai Lee and LDSC, constitutes an important precedent in the use of fact-based suspensions against contractors under investigation. In this action the Army received information from an investigator regarding wrongdoing by a contractor who was actively seeking

additional work with the Government. In addition, much of the information gathered over the course of this investigation was not made available to the SDO for his review. The resulting fact-based suspension action, using only an investigator's declaration describing the allegations against the contractors, was deemed on review to meet standards required by FAR 9.407-1(b), despite a potentially fatal flaw in the date of a key witness's statement. In addition, this case also illustrates the flexibility and responsiveness of the suspension process by showing how administrative remedies can be used in situations where there is an immediate threat to the integrity of the procurement system without waiting for a final judgment in a criminal or civil case. It also shows that information of a general nature, backed up with minimal facts, akin to those used in a search warrant or other similar preliminary document, may be combined with FAR 2.101's "adequate evidence" standard to successfully suspend individuals or contractors alleged to

WHENEVER  
ANY TYPE OF GOVERNMENT  
BECOMES DESTRUCTIVE TO  
THESE ENDS, LIFE LIBERTY,  
AND THE PURSUIT OF  
HAPPINESS, IT IS THE RIGHT  
OF THE PEOPLE TO ALTER  
OR ABOLISH IT AND  
INSTITUTE A NEW  
GOVERNMENT.  
Thomas Jefferson

## SIGNIFICANT ACTIONS

### Suspensions

(1) Conspiracy to Defraud (Kuwait). On 9 July 2007, the Army Suspension and Debarment Official (SDO) suspended George H. Lee, Oai Lee, and Justin W. Lee on the basis of an investigation into procurement contracts awarded in Kuwait and Iraq. The investigation, conducted by CID, DCIS, IRS-CID, SIGIR, ICE, and the FBI, in conjunction with DoJ Anti-trust and Criminal Divisions, obtained information provided by informants alleging that George H. Lee, Oai Lee, and Justin W. Lee conspired to defraud the Government by providing money and other consideration to various public officials in return for the performance of official acts, and paid that money in a manner intended to obscure its source and to propagate and promote the criminal activity. Lee Dynamics International and Lee Defense Services Corporation were also suspended from contracting with the Government as affiliates of George H. Lee, Oai Lee, and Justin W. Lee. (Mr. Persico.)

(2) Kickbacks, (AMC/IRAQ). On 19 July 2007, the Army SDO suspended Anthony J. Martin (Mr. Martin) from contracting with the Government. On 16 May 2007, a criminal information was filed against Mr. Anthony charging him with entering into a kickback agreement and incorporating the amount of the kickback into the price of a subcontract paid by the Government. As the prime contractor under LOGCAP III, Kellogg Brown and Root Services, Inc. (KBR), was to provide property and services to the United States military at various locations around the world,

as set forth by tasks orders issued by the U.S. Army. To fulfill a given task order, KBR routinely used subcontractors, who would invoice KBR for their work and KBR, in turn, would invoice the Government for the cost of the work the subcontractors completed. Mr. Martin managed the subcontracts for KBR in Kuwait and, in this capacity, awarded a subcontract to a Kuwaiti company, Company A, after agreeing with its managing partner that he was going to receive \$50,240 for the award of the contract. (Ms. McCaffrey)

(3) False Statements/Kickbacks (Army Field Support Command/Rock Island). On 8 August 2007, the Army SDO suspended Kevin Andre Smoot (Mr. Smoot) from contracting with the Government on the basis of his plea of guilty to a two-count criminal information filed on 19 July 2007 in the United States District Court, Central District of Illinois. The information charged him with making a false statement and violating the Anti-Kickback Act. On 14 December 2001, the United States Army Field Support Command, headquartered at Rock Island Arsenal, Rock Island, Illinois, awarded the Logistics Civil Augmentation Program III prime contract, DAAA09-02-D-0007 (LOGCAP III), to the company known as Kellogg Brown & Root Services, Inc (KBR). As the prime contractor under LOGCAP III, KBR was to provide property and services to the United States

Army at various locations around the world, including Iraq. KBR utilized subcontractors to provide the necessary property and services, as required by the task orders issued under the contract. The subcontractors invoiced KBR for their work and were paid by KBR. KBR, in turn, sent public vouchers to the United States Army for the cost of the work performed by the subcontractors, plus KBR's allowable fees under the LOGCAP III prime contract. The United States Army then paid the vouchers. One of the services KBR provided was transportation. KBR transported U.S. military equipment by subcontracting with Eagle Global Logistics (EGL), a publicly-traded U.S. corporation, for air-freight forwarding services. Mr. Smoot was employed by EGL as its Managing Director at its headquarters office in Houston, Texas. EGL had established offices, warehouses, and other facilities at Dubai in the United Arab Emirates. Its flights into Baghdad originated in Dubai, and were made by an aircraft operated by a Middle Eastern air charter company referred to herein as "Company A." On 3 March 2005, Special Agents of Defense Criminal Investigative Agency, DCIS, and the Federal Bureau of Investigation, questioned Mr. Smoot concerning the legitimacy of approximately \$1,141,097 in war risk surcharges billed by EGL to KBR, (and ultimately billed to and paid by the Government) for the transportation of military equipment and supplies to Baghdad, Iraq under the U.S. Army

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LOGCAP III prime contract. Mr. Smoot falsely stated that the charges were legitimate when he knew these war risk surcharges were false, and that EGL had not been billed for these charges by "Company A." (Ms. McCaffrey)

(4) Conspiracy to Defraud and Money Laundering (Iraq). On 10 August 2007, the Army SDO suspended Major John Allen Rivard, USAR, from contracting with the Government based on the filing of a criminal information on 26 June 2007 in the US District Court for the Western District of Texas, Austin Division, alleging that Rivard took part in a conspiracy to defraud the Government by accepting money and other items of value in exchange for official acts, namely, the award of logistics contracts at LSA Anaconda, Iraq. Between April 2004 and February 2005, Major Rivard served as Acting Chief of Contracting and Deputy Chief of Contracting for LSA Anaconda. During his deployment, Major Rivard was responsible for the award and administration of 52 contracts at LSA Anaconda, worth approximately \$36.8 million. Major Rivard is accused of fraudulently awarding \$20 million in contracts for tractor trailers, electronic feeders and stackable living containers to contractors owned by an unnamed individual residing in Dubai, United Arab Emirates. In return for these awards, Major Rivard is accused of receiving at least \$271,400.00 in cash, and an unknown amount of Iraqi Dinars. (Mr. Persico.)

(5) Wire Fraud and Bribery (National Ground Intelligence Center, VA). On 10 August 2007, the Army SDO suspended Brent R. Wilkes, Kyle D. Foggo, John T. Michael, and 21 affiliated companies from contracting with the Government. This action was taken as a result of the 13 February 2007 indictments of Mr. Wilkes, Mr. Foggo, and Mr. Michael in the U.S. District Court for the Southern District of California on charges that they conspired with Mitchell J. Wade and former Congressman Randall "Duke" Cunningham to commit the offenses of wire fraud, bribery of a public official, money laundering, and engaging in monetary transactions in property derived from specified unlawful activity. Further, Mr. Michael is alleged to have obstructed justice by providing false information to a grand jury investigating these allegations. Mr. Wilkes, Mr. Foggo, and Mr. Michael were suspended. Coastal Capital Corporation; ADCS, Inc.; Wilkes Corporation; Al Dust Properties Inc.; WBR Equities, LLC.; Group W Advisors Inc.; Group W Events; Group W Holdings, Inc.; Group W Media Productions, Inc.; Group W Transportation, Inc.; Group W Outfitters; ADCS International; ADCS, Inc; Wilkes PAC; Archer Defense; Perfect Wave Technologies; MailSafe, Inc.; Pure Aqua Technologies; Mirror Labs, Inc and The Wilkes Foundation and Wilkes Technology Group were suspended as affiliates of Mr. Wilkes, Mr. Foggo, and Mr. Mi-

chael. (Mr. Persico and Ms. Swandal)

(6) Larceny (MEDCOM, Fort Sam Houston). On 16 August 2007, the Army SDO suspended Allen V. Barbauta (Mr. Barbauta). On 18 April 2007, Mr. Barbauta was indicted in the United States District Court for the Western District of Texas, San Antonio Division, on one count of larceny of Government funds. The indictment alleges that Mr. Barbauta fraudulently charged Army Voyager Fleet Cards for services that were never rendered by his business, Executive Mobile Detailing. It details that between on or about 31 May 2006 and on or about 22 November 2006, Mr. Barbauta fraudulently charged the Army for over 1200 transactions ranging from car wash detailing to oil changes, using credit card numbers he had received from Army personnel. On 6 December 2006, Mr. Barbauta was questioned by agents from GSA-OIG. During this interview, he made a sworn statement to investigators that, of the 1200 charges, only about 20 were actually legitimate. Mr. Barbauta was subsequently arrested on 24 April 2007 in Wichita Falls, Texas, pursuant to a warrant of arrest. Mr. Barbauta's business, Executive Mobile Detailing, was also suspended as an affiliate of Mr. Barbauta. (Mr. Persico)

(7) Bribery (Baghdad, Iraq). On 27 August 2007, the

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Army SDO suspended CPT Austin Key, USA, deployed to the International Zone, Baghdad, Iraq, with 1st CD, 2nd BCT, Special Troops BN, and on loan to JCC-I/A as a Field Ordering Officer and a Contracting Officer's Representative. On 22 August 07, the U.S. Attorney for the Southern District of N.Y., the FBI, CID, and DCIS, announced the unsealing of charges against CPT Key for accepting a \$50,000 payment. The allegations in the complaint state that, in July 2007, CPT Key approached a U.S. citizen who owns a business entity in Baghdad, Iraq, and demanded \$125,000 in order to protect the company's ability to obtain future Army contracts. During a subsequent meeting on 11 August 2007, CPT Key stated that in exchange for \$50,000, he would provide confidential information on contracts to assist the company in successfully bidding on Army contracts. On 15 August 2007, CPT Key was given \$50,000 in cash and was arrested as he left the meeting. (Mr. Persico)

(8) Illegal Export of Military Property (Tinker Air Force Base, Oklahoma). On 13 September 2007, the Army SDO suspended Cherokee Advanced Systems, Inc., and Beth Latifi as affiliates of Axion Corporation and its owner, Alexander Latifi. Axion and Mr. Latifi had previously been suspended on 19 April 2007 due to their indictment on charges of illegally exporting sensitive military technology overseas, fraud involving aircraft parts, and submitting false documents to the Government.

On 22 March 2007, Cherokee entered into contract number FA8103-07-C-0082, with the Tinker Air Force Base, Air Logistics Center Central Contracting Office. Mr. Latifi was named as the point of contact for Cherokee for the contract, and signed the document using the title of "President" of the company. Mr. Latifi had also previously submitted a bid dated 13 February 2007, from the e-mail address "cherokee@cherokeeinc.org" using the title of "President, Cherokee Advanced Systems." A review of Central Contractor Registry showed the names Alex Latifi and Beth Latifi as company points of contact for Axion and Cherokee. Cherokee was suspended as an affiliate and imputee of Mr. Latifi, and Beth Latifi was suspended as an affiliate of Mr. Latifi. (Mr. Persico.)

(9) Acts Affecting a Financial Interest (USACE, New Orleans). On 14 September 2007, the Army SDO suspended Raul Jorge Miranda (Mr. Miranda) from contracting with the Government. On 23 August 2007, a criminal information was filed against Mr. Miranda in the United States District Court, Eastern District of Louisiana, charging him with committing acts which affect his financial interests. According to the criminal information, Mr. Miranda was employed by the U.S. Army Corps of Engineers (USACE) as a contractor consultant and assigned to the New Orleans, USACE headquarters office

in the Orleans Parish. He was responsible for the scheduling and sequencing of construction contracts. In August 2006, the USACE, which was taking part in the reconstruction of the New Orleans levee system, solicited bids for the reconstruction and enlargement of the Lake Cataouatche levee, south of New Orleans, Louisiana, Solicitation No. W912P8-06-R0194, valued in excess of \$15 million dollars. From about 1 August 2006 through 25 October 2006, before the award of the contract for the reconstruction of the Lake Cataouatche levee, Mr. Miranda met with a sand and gravel subcontractor, "Subcontractor A," and disclosed confidential and source selection information. In return, he agreed to accept 25 cents per cubic yard of sand and gravel sold under the contract. Since the contract required approximately 1,197,500 cubic yards, the amount Mr. Miranda was to receive amounted to \$299,375 for the first phase of the levee reconstruction project. (Ms. McCaffrey.)

(10) Acts Affecting a Personal Financial Interest (National Guard Bureau, Washington). On 14 September 2007, the Army SDO suspended Richard O'Connor and his affiliated companies, 4MF LLC, Information Technologies Associates, and Craig Tribal Solutions, as a result of a criminal indictment filed against Mr. O'Connor in the United States District Court for the Western District of Washington on 12



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March 2007. This indictment alleges that Mr. O'Connor, while employed by the Washington National Guard, actively sought employment for himself and his company, Information Technologies Associates, as well as commission payments for obtaining contracts, from companies seeking the award of contracts which he oversaw as a Government employee. In addition, Mr. O'Connor's businesses, Information Technologies Associates, 4MF LLC, and Craig Tribal Solutions LLC, were suspended as affiliates of Mr. O'Connor. (Mr. Persico)

### Proposed Debarments

(1) Bribery (Al-Hillah, Iraq). On 2 July 2007, the Army SDO proposed Mr. Robert J. Stein, Jr. (Mr. Stein), for debarment from contracting with the Government. On 1 March 2007, in the United States District Court, District of Columbia, Mr. Stein pled guilty to conspiracy, bribery, money laundering, possession of a firearm, possession of a machine gun, aiding and abetting and causing the possession of a machine gun. Mr. Stein was sentenced to imprisonment for 46 months, to serve two years of supervised release thereafter, to pay \$3,600.00 in restitution (to be paid jointly and severally with his co-conspirators), and to pay a special assessment of \$300. Between October 2003 and June 2004, Mr. Stein was employed as the Comptroller and Funding Officer for the CPA – South Central Region, in Al-Hillah, Iraq. On 14 November 2005, Mr. Stein was arrested in Fayetteville, North Carolina, in connection with a bribery and fraud scheme involving multiple contracts awarded to co-conspirators by CPA-SC between January and June 2004. Mr. Stein received payment for fraudulently awarding contracts and authorizing cash payments despite defective or non-performance of contract terms. Mr. Stein has also admitted to, or been implicated in, the theft of bulk cash totaling \$120,000 from CPA-SC, theft of approximately \$70,000 worth of weapons from an armory at Fort Bragg, North Carolina, as well as aiding multiple co-conspirators in other fraudulent acts and theft. On 2 December 2005, Mr. Stein was suspended from contracting with the Government. (Mr. Persico)

(2) Conspiracy to Commit Wire Fraud (AMC). On 13 July 2007, the Army SDO proposed Mr. Eric S. Drimmer and Capital Research Bureau, LLC, for debarment. Eric S. Drimmer operated a company called Capital Research Bureau. Between July 2001 and June 2005, Mr. Drimmer and the company fraudulently gathered information from Government contractors, namely lists of vendors and subcontractors. Capital Research Bureau then sold those lists to marketing organizations for business development purposes. Mr. Drimmer and other Capital Research Bureau employees contacted Government contractors, falsely identified themselves as

Government contracting officers or other contracting office personnel, asked the contractors for their vendor and subcontractor lists, and then sold that information to marketing companies. Mr. Drimmer's fraudulent scheme garnered over \$400,000 in income. On 21 August 2006, the U.S. District Court for the District of New Jersey convicted Eric S. Drimmer, pursuant his plea, of one count of conspiracy to commit wire fraud. Mr. Drimmer was sentenced to six months home confinement, one year probation, and fined \$125,000.00. The same court convicted Capital Research Bureau, pursuant to its plea, of one count of Wire Fraud. Capital Research Bureau was sentenced to one year probation and fined \$550,000.00. (Mr. Persico)

(3) Soliciting Gratuities (USACE, Sacramento, CA). On 19 July 2007, the Army SDO proposed Mr. Balraj S. Sandhu for debarment from contracting with the Government. Mr. Sandhu was removed from his position as a GS-12 project manager with the USACE (Sacramento) in October 2005. Mr. Sandhu was removed based on his misconduct in soliciting gratuities from a contractor. Mr. Sandhu appealed his removal to the Merit Systems Protection Board, which upheld the removal on 21 December 2006. (Mrs. McCommas)

(4) Bribery (INSCOM). On 31 July 2007, the Army SDO

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proposed Kenneth N. Harvey, Michael G. Kronstein, Karla R. Kronstein, and Program Contract Services, Inc., for debarment based on the convictions of K. Harvey, M. Kronstein and K. Kronstein in the USDC for the Western District of Virginia, resulting from a scheme to fraudulently obtain INSCOM contracts. Between Nov 98 and May 01, K. Harvey, in exchange for approximately \$35,000 and a promise of future employment, caused \$4.7 mil in INSCOM contracts to be awarded to Program Contract Services. K. Harvey was employed by INSCOM as Chief of Acquisition, Logistics and Field Support, at the time he participated in this fraudulent scheme. On 6 Mar 07, K. Harvey was sentenced to 70 months confinement, and M. Kronstein was sentenced to 72 months imprisonment after pleading guilty to 2 counts of wire fraud and 1 count of bribery. Both were sentenced to serve 3 years supervised release and ordered to pay \$383,621 in restitution to the Army. On 20 February 2007, K. Kronstein pleaded guilty and was sentenced to 3 years probation for aiding and abetting the supplementation of a Government employee's salary. All were previously suspended by the Army on 2 June 2006. (Mr. Persico)

(5) Conflict of Interest (Iraq, Afghanistan). On 10 August 2007, the Army SDO proposed Robert A. Raggio and his company, Reviewer Management International Limited (RMI), for debarment in a fact-based case referred to Army PFB by the Special Inspector General for

Iraq Reconstruction. Information received as part of this referral indicated that Mr. Raggio, while employed by the Iraq Project and Contracting Office and Joint Contracting Command, Iraq/Afghanistan, as a financial analyst, wrote a statement of work for a contract for audit services valued at approximately \$1 million. Mr. Raggio, using his influence at JCC-I/A, arranged for this contract to be awarded to RMI. Mr. Raggio resigned from Government service four days after the contract was awarded to his company. RMI's only employee is Mr. Raggio. These allegations constitute a violation of restrictions on post-Government employment, and restrictions prohibiting personal financial gain from his official duties as a Government employee. RMI was proposed for debarment as an affiliate and imputee of Mr. Raggio. (Mr. Persico.)

(6) Receipt of Illegal Gratuities (SOCEUR, Germany). On 15 August 2007, the Army SDO proposed Steven M. Merkes for debarment as a result of his plea of guilty on 1 June 2007, in the United States District Court for the District of Columbia, to committing acts affecting a personal financial interest and receiving illegal gratuities. Mr. Merkes, a former Army civilian employee assigned to Headquarters, SOCEUR, Stuttgart, Germany, was accused of accepting a salaried position with Global Business Group S.R.L., a construction and management consulting services

company headquartered in Bucharest, Romania, in exchange for the provision of information on obtaining Government contracts related to the support of special operations exercises in Eastern Europe. Mr. Merkes was sentenced on 8 June 2007 to serve 12 months and one day of imprisonment, one year of supervised release ; and ordered to pay a special assessment of \$100.00. In addition, the court ordered Mr. Merkes to forfeit the sum of \$24,000 to the U.S. Treasury. (Mr. Persico.)

(7) Theft of Government Property (Fort Stewart). On 14 September 2007, the Army SDO proposed Richard Patrick, Sr., for debarment for embezzling over \$200,000 by unauthorized use of a Government Purchase Card (GPC). Mr. Patrick was a civilian Army employee who worked at Hunter Army Air Field, Savannah, Georgia. On 9 February 2006, the United States District Court for the Southern District of Georgia convicted Mr. Patrick of a violation of 18 U.S.C. §641 and sentenced him to 60 months imprisonment, three years supervised release, and \$223,305.99 in restitution. (CPT Nelson)

(8) Procurement Integrity Act Violation (Iraq). On 14 September 2007, the Army SDO proposed Eric W. Barton (Mr. Barton) for debarment from contracting with the Government. This action was based on evidence developed during the course of a

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CID investigation into the award of convoy security contracts issued by JCC-I/A, which established that Mr. Barton, while Deputy County Manager in Iraq for EOD Technologies, for the period from 15 December 2005 to 31 March 2006, received procurement-sensitive information regarding the prospective award of contracts and delivery orders from a Government official. Mr. Barton, by his own admission, became involved in a romantic affair with Capt Sherrie L. Remington, USAF, during the period of 15 December 2005 and 5 March 2006. Mr. Barton is alleged to have used this relationship to gain an unfair advantage on behalf of EODT in the award of convoy security delivery orders valued at \$2,555,332.50. (Mr. Persico.)

(9) Wire Fraud (CECOM, New Jersey). On 27 September 2007, the Army SDO proposed Patrick M. Hale for debarment based on his plea of guilty on 15 March 2007, in the United States District Court for the District of Connecticut, to one count of wire fraud and one count of failure to file an income tax return. Mr. Hale is a former employee of Stran Technologies, who provided false testing information to the Government under a CECOM contract. (Mr. Persico)

**Debarments**

(1) Conspiracy to Steal Government Property (Washington). On 31 July 2007, the Army SDO debarred Mykel Denny Loftus from contracting with the Government. On 14 July 2006, Mr. Loftus entered a sealed plea agreement with the United States Attorney for the

Western District of Washington to secure Mr. Loftus' cooperation in the investigations of active duty Army personnel at Ft. Lewis who sold Mr. Loftus Government property. Additionally, Mr. Loftus pleaded guilty to one count of conspiracy to possess stolen Government property. In exchange, the U.S. Attorney dismissed additional charges pending against Mr. Loftus. Mr. Loftus' scheme to purchase Government property from military personnel resulted in the court-martial of 11 soldiers at Ft. Lewis during 2006, on charges of theft and unlawful conversion of Government property. On 5 January 2007, Mr. Loftus was sentenced to six months confinement, followed by three years supervised probation, a \$7,500.00 fine, and \$100.00 special assessment. (Mr. Persico.)

(2) False Certificates/ False Statements (TACOM/St. Louis). On 8 August 2007, the Army SDO debarred Environmental Technologies Group, Inc. (ETG), and its President and owner, David William Lukasik (Mr. Lukasik). Mr. Lukasik pled guilty in the United States District Court, Western District of Michigan, to a criminal information charging him with causing the delivery of a false certificate. On 15 December 2006, Mr. Lukasik was sentenced and ordered to pay an assessment of \$25, and criminal restitution in amount of \$50,000 to the Department of the Army. On 16 January 2007, ETG, through its principle, Mr. Lukasik, pled guilty in the

United States District Court, Western District of Michigan, to a criminal information charging it with making a false statement, and was ordered to pay an assessment of \$400 and a suspended fine of \$100. On 8 March 1998, the U.S. Army Aviation and Troop Command (ATCOM) awarded RCM-II contract, DA-AK01-96-D-0023, for the manufacture of shipping containers approved for marine use. When ATCOM in St. Louis closed, the administration of this contract was transferred to the U.S. Army Tank-Automotive and Armaments Command (TACOM). A novation agreement was executed in 1998, incorporating the contract for shipping containers, all of its delivery orders and modifications, and recognizing ETG as the contractor. ETG operating through its principles and employees, falsely told Government employees it was not assembling shipping containers at its new facility in Muskegon Heights. ETG concealed this false statement by leasing shipping containers, intermingling them with its own, and representing that it had manufactured the leased containers. In addition, it represented to the Government that the containers were CSC-approved when, in fact, they had not been approved. Mr. Lukasik assisted in making and delivering certificates which he knew to be false, specifically that shipping containers conformed to the terms of the contract when they did not. (Ms. McCaffrey and Ms. Fentress)

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(3) Bribery and Money Laundering (Iraq). On 8 August 2007, the Army SDO debarred Mr. Philip H. Bloom and his company, Global Business Group S.R.L. (GBG), from contracting with the Government. GBG is a construction and management consulting services company headquartered in Bucharest, Romania, which entered into several contracts with the CPA and other Government entities in Europe and the Middle East between 2003 and 2005. On 13 November 2005, Mr. Bloom was arrested in Newark, New Jersey, on charges of conspiring to commit money laundering and wire fraud in connection with a bribery and fraud scheme involving several contracts awarded to GBG by the CPA between January and June 2004 for work in the Al Hillah region of Iraq. As part of this scheme, Mr. Bloom, directly, or through GBG, fraudulently received payment for CPA-SC contracts, and distributed funds to contracting officers who conspired with him to award contracts to companies under his control. On 1 March 2007, in the United States District Court for the District of Columbia, Mr. Bloom pled guilty to one count each of conspiracy, bribery and money laundering. Mr. Bloom was subsequently sentenced to 46 months confinement, two years supervised release, and ordered to pay \$3.6 million in restitution, jointly and severally, with his co-conspirators. (Mr. Persico)

(4) Bribery and Fraud (Fort Bragg, North Carolina). On 15 August 2007, the Army SDO debarred Mr. Robert J. Stein (Mr. Stein) from contracting with the Government. Between October 2003 and June 2004, Mr. Stein was employed as the Comptroller and Funding Officer for the CPA – South Central Region, in Al-Hillah, Iraq. On 14 November 2005, Mr. Stein was arrested in Fayetteville, North Carolina, in connection with a bribery and fraud scheme involving multiple contracts awarded to co-conspirators by CPA-SC between January 2003 and June 2004. Mr. Stein received payment for fraudulently awarding contracts and authorizing cash payments despite defective or non-performance of contract terms. Mr. Stein has also admitted to, or been implicated in the theft of bulk cash totaling \$120,000 from CPA-SC, theft of approximately \$70,000 worth of weapons from an armory at Fort Bragg, North Carolina, as well as aiding multiple co-conspirators in other fraudulent acts and theft. On 1 March 2007, in the United States District Court, District of Columbia, Mr. Stein pled guilty to one count each of conspiracy, bribery, money laundering, felon in possession of a firearm and possession of a machine gun, and aiding, abetting and causing the possession of a machine gun. Mr. Stein was sentenced to 46 months of imprisonment, two years of supervised release, and ordered to pay \$3.6 million in criminal restitution (to be paid jointly and se-

verely with his co-conspirators LTC Bruce D. Hopfengardner, USAR, and Philip H. Bloom), and ordered to pay a \$300 special assessment. (Mr. Persico)

(5) Wire Fraud (ITA, Virginia). On 14 September 2007, the Army Suspension and Debarment Official debarred Mr. Robert E. Johnson (Mr. Johnson) from contracting with the Government. Mr. Johnson was employed by the Department of the Army (DA) as the Chief, Quality Assurance, Contracting Officer's Technical Representative (COTR), and assigned to the Information Technology Agency in Rosslyn, Virginia. Mr. Johnson was responsible for overseeing information technology (IT) services provided to the DA through General Services Administration (GSA) contracts. Mr. Johnson used his official position to unlawfully obtain more than \$150,000 when he directed prime contractors to subcontract with two companies in which he secretly held a financial interest, and when he falsely certified that the prime contractors and subcontractors had provided services to the DA when, in fact, those services had not been provided. On 29 September 2006, Mr. Johnson was sentenced in the United States District Court, Eastern District of Virginia, after he pled guilty on 27 June 2006 to one-count criminal information charging him with depriving another of wire fraud/honest services. Mr. Johnson was sentenced to serve a 24-month term of imprisonment, three years of supervised release thereafter, or-

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inal restitution to the United States Department of the Treasury in the amount of \$150,049.42. Mr. Johnson is debarred from contracting with the Government until 20 October 2012.

(6) Wire Fraud (AMC, Fort Monmouth). On 14 September 2007, the Army SDO debarred Eric S. Drimmer, and his company, Capital Research Bureau, LLC, as a result of the entry of guilty pleas on 7 April 2006 in the U.S. District Court for the District of New Jersey to one count of conspiracy to commit wire fraud on the part of Mr. Drimmer, and one count of wire fraud on the part of Capital Research Bureau. Specifically, between July 2001 and June 2005, Mr. Drimmer and Capital Research Bureau fraudulently gathered information from Government contractors (namely, lists of vendors and subcontractors), and then sold those lists to marketing organizations, resulting in \$400,000 in income for Mr. Drimmer and the company. On 21 August 2006, Mr. Drimmer was sentenced to six months home-confinement, one year probation, and fined \$125,000.00. The same court sentenced Capital Research Bureau to one year probation, and fined it \$550,000.00. Both Mr. Drimmer and Capital Research Bureau were debarred for a period of three years, ending on 28 September 2009.

(7) Receipt of Illegal Gratuities (SOCEUR, Germany). On 27 September 2007, the Army SDO debarred Steven M. Merkes a former Army civilian employee as-

signed to Headquarters, SOCEUR Stuttgart, Germany, until 24 January 2011. The debarment was based on the entry of his plea of guilty to receiving illegal gratuities, on 1 June 2007 in the United States District Court for the District of Columbia. As part of his guilty plea, Mr. Merkes admitted to receiving two payments of \$24,000.00, and accepting an offer of employment with Global Business Group S.R.L. (GBG), a construction and management consulting services company headquartered in Bucharest, Romania, while employed by the Army in a position responsible for planning, coordinating, and executing special operations exercises in Eastern Europe. In return for these payments, Mr. Merkes provided GBG documents related to a USAREUR contract solicitation. Mr. Merkes was sentenced on 8 June 07 to 12 months and one day of imprisonment, one year of supervised release, and payment of a \$100.00 special assessment. In addition, the court ordered Mr. Merkes to forfeit the sum of \$24,000 to the U.S. Treasury. (Mr. Persico.)

#### Administrative Hearings/ Compliance Agreements

(1) Lee Dynamics. On 20 August 2007, the Army SDO met with attorneys representing Mr. George H. Lee, Oai Lee, and Justin W. Lee, suspended by the Army SDO on 9 July 2007, on the basis of an investigation into procurement contracts awarded in

Kuwait and Iraq. The investigation, conducted by CID, DCIS, IRS-CID, SIGIR, ICE, and the FBI, in conjunction with DoJ Antitrust and Criminal Divisions, obtained information provided by informants alleging that George H. Lee, Oai Lee, and Justin W. Lee conspired to defraud the Government by providing money and other consideration to various public officials in return for the performance of official acts, and paid that money in a manner intended to obscure its source and to propagate and promote the criminal activity. Lee Dynamics International and Lee Defense Services Corporation were also suspended from contracting with the Government as affiliates of George H. Lee, Oai Lee, and Justin W. Lee. The Army SDO denied the request to terminate the suspensions. (Mr. Persico.)

(2) IBM. On 24 August 2007, the Army SDO and Chief, PFB met with attorneys representing IBM. IBM had been named as a defendant in a *qui tam* complaints filed in the U.S. District Court, Arkansas, in 2004. Counsel briefed the SDO and the Chief, PFB on the settlement IBM signed with DOJ for approximately \$3 million. Counsel described the steps that IBM has taken to prevent similar complaints. The primary allegation was that IBM and other companies entered into alliances with one another as a form of "alliance benefit" in return for recommending or implementing

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fits were paid, the relators alleged that they constituted kickbacks. As a result of the meeting, the Army SDO signed a letter to IBM indicating no further action would be taken in view of the company's corrective measures. (Ms. McCaffrey)

(3) COMTek. On 30 August 2007, counsel for COMTek (Communication Technologies, Inc.), and the company president, met with the Army SDO and the Chief, PFB regarding a show cause letter signed by the Chief, PFB, seeking an explanation for the fact that a former manager, Eva Ware, was criminally prosecuted for Social Security Disability benefits fraud. Although never on the COMTek payroll, Ms. Ware was paid a monthly salary, which was deposited into another employee's account. Although the company explained that it was unaware of Ms. Ware's actions and that none of her compensation was tied to Government contracts, the Army questioned the manner in which Ms. Ware was paid by COMTek. The company agreed to take remedial actions to assure its present responsibility. On 25 September 2007, the Army SDO entered into an Administrative Compliance Agreement (ACA) with COMTek. The company currently contracts with the Northern Region, ACA, and other federal agencies, providing telecommunications support, information security, and training and development. Mr. Roger Neds, Chief Counsel, Northern Region, ACA, represented the Army at the administrative proceeding before the Army SDO and negotiated the ACA. (Mr. Neds/Mrs. McCommas)

(4) Rotair. On 7 September, after telephone conferences with counsel for Rotair and the Army Ombudsman, Mr. Peter Vint, the Army SDO entered into an addendum to the Rotair Administrative Compliance Agreement (ACA), extending the ACA until 29 July 2009. The ACA was set to expire on 9 September 2007. The company probation officer and judge requested an extension to coincide with the end of the probation term. (Mrs. McCommas)

### Civil Settlements

(1) AKAL Security, Inc. (IMCOM/ACA). On 13 July 2007, AKAL Security, Inc., entered into a civil settlement agreement with the DOJ for \$18 million to resolve a *qui tam* complaint filed in the United States District Court, Topeka, KS by former AKAL security guards at Fort Riley, who were allegedly terminated by the company when they raised questions about improper and inadequate training that was required by the contract. AKAL was awarded contracts at a number of Army installations, in 2003. Allegations concerning inadequacy of training surfaced at other Army installations including Fort Lewis, Fort Hood, Fort Campbell, Fort Stewart, Blue Grass Army Depot, Anniston Army Depot, and Cherry Point Munitions Depot. Those allegations were also investigated by DOJ and included in the settlement. (Mrs. McCommas)

(2) Northrup Grumman (CECOM). On 18 July 2007, the Department of Justice announced that Northrop Grumman agreed to pay the United States \$8,000,000 to resolve allegations that it did not properly test tubes used by the U.S. military in night vision goggles and night vision scopes. Half of the settlement (single damages), \$4 million, will be returned to CECOM. These tubes were procured by the Army's Communications and Electronics Command (CECOM). The investigation originated when Northrop Grumman disclosed this matter under the Department of Defense Inspector General's Voluntary Disclosure Program. The disclosure and subsequent Government investigation uncovered lax management reviews of testing requirements by Northrop and Northrop's predecessor, Litton Industries Inc., at its Tempe, Arizona, facility from January 2000 - June 2002. The affected military programs found no safety impact caused by these deficient testing protocols. The litigation and settlement of the case were conducted by the Justice Department's Civil Division and the U.S. Attorney's Office for the District of Arizona. (MAJ Art Coulter)

### Court Decisions

Lee Dynamics. On 8 August 2007, a petition for a temporary restraining order was filed in the Northern District of Alabama, Northeastern Division, Huntsville, AL, in response to the 9 July suspension of Lee Dynamics International, its owners George

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H. Lee and Justin W. Lee, Oai Lee, and Lee Defense Services Corporation by the Army SDO. This petition alleged that the SDO's decision failed to meet the requirement of "adequate evidence" under the APA, in that the action was based on allegations of bribery and conspiracy found in an uncorroborated declaration of a CID agent. The plaintiffs also stated that, based on the fact that the Army has no appellate level of review for SDO actions, further participation in the administrative process was "futile," resulting in the need for a restraining order to prevent injury to the businesses and individuals involved. A hearing was held on the morning of 9 August 2007, and an order was issued by the court DENYING THE MOTION for the Temporary Restraining Order based on the plaintiffs' failure to establish the merits of their claims and their failure to exhaust administrative remedies available to them. *Justin W. Lee, et al v. Robert W. Kittel (CA: 5:07-cv-1455-UWC), USDC ND AL*. The suspension is based on a criminal investigation into contracts awarded by the ACA office at Camp Arifjan, Kuwait. Information provided to PFB alleges that George H. Lee, Oai Lee, and Justin W. Lee conspired to provide at least \$275,000.00 to two Army officers in exchange for the award of at least \$25 million in contracts for the operation of MNSTC-I warehouses used for the supply of Iraqi police and military units. One of the officers involved, MAJ Gloria Davis, USA, committed suicide in Baghdad, Iraq, in December 2006, after providing information to investiga-

tors regarding her acceptance of these payments. On 9 September 2007, the court dismissed the lawsuit. (Mr. Persico)

**Show Cause Letters**

(1) COMTek. On 17 August 2007, the Chief, PFB issued a show cause letter to COMTek. (Communication Technologies, Inc.), a U.S. Army Contracting Agency, Northern Region, contractor, seeking an explanation for the fact that a former manager was criminally prosecuted for Social Security Disability benefits fraud. Although never on the COMTek payroll, the "employee" was paid a monthly salary, which was deposited into another employee's account. Although the company explained that it was unaware of the individual's actions and that none of her compensation was tied to Government contracts, the Army questioned the manner in which the individual was paid by COMTek. The company agreed to meet with the Army SDO to discuss the matter. (Mrs. McCommas/Mr. Neds)

(2) EOD Technologies. On 14 September 2007, the Army SDO signed a show cause letter based on allegations that a company manager (Eric Barton) received procurement-sensitive information in violation of 41 U.S.C. § 423 (b) and that the company benefited from Mr. Barton's use of that information. Mr. Barton was proposed for debar-

ment by the Army SDO based on those allegations on 14 September 2007. This action was based on evidence developed during the course of a CID investigation into the award of convoy security contracts issued by JCC-I/A, which established that Mr. Barton, while Deputy County Manager in Iraq for EOD Technologies, for the period from 15 December 2005 to 31 March 2006, received procurement-sensitive information regarding the prospective award of contracts and delivery orders from a Government official. Mr. Barton, by his own admission, became involved in a romantic affair with Capt Sherrie L. Remington, USAF, during the period of 15 December 2005 and 5 March 2006. Mr. Barton is alleged to have used this relationship to gain an unfair advantage on behalf of EODT in the award of convoy security delivery orders valued at \$2,555,332.50. (Mr. Persico)

(3) TelePresence LLC and ABSI Corporation. On 19 September 2007, PFB sent show cause letters to TelePresence LLC and ABSI Corporation regarding their relationship with Richard O'Connor, a former employee of the Washington National Guard indicted on 12 March 2007 in the United States District Court for the Western District of Washington. Mr. O'Connor actively sought employment for himself, and his company, Information Technologies Associates, as well as commission payments for obtaining contracts, with companies

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seeking the award of contracts which he oversaw as a Government employee, in violation of 18 U.S.C. §§ 208 and 216(a)(2). Mr. O'Connor and several affiliated companies were suspended on 14 September 2007 by the Army SDO. Both TelePresence LLC and ABSI Corporation employed Mr. O'Connor on a commission basis for the purpose of obtaining Government contracts, resulting in the purchase of computer software by the Washington National Guard. (Mr. Persico)

### Briefings

(1) AMC-DOJ-KFLD Meets on KBR Cases. A meeting was held on 7 September 2007 at Main Justice Civil Division, Washington, DC, at the request of the Chief Counsel, Rock Island Army Field Support Command (Ms. Kathi Szymanski). Also in attendance were the Army SDO, and PFB and AMC attorneys. Representing DoJ was Ms. Joyce Branda, Director, Civil Litigation Division, and other DOJ attorneys. The meeting addressed ways to enhance coordination between the Army and multiple DOJ attorneys, regarding the exchange of information for the civil *qui tam* litigation involving LOG-CAP contractor KBR. (Mrs. McCommas/Ms. McCaffrey)

(2) AAA Follow-up Audit of the Army Criminal and Civil Recovery Process. PFB hosted a workshop to improve the civil recoveries process, in response to an

AAA follow-up audit completed 24 July 2007. The workshop took place at USALSA on 12 September 2007. The attendees were Mr. Chuck Brownfield, AAA; Ms. Jo Spielvogel, AAA; Mr. Paul Slappo, DOJ Office of Debt Management; Mr. Andrew Durewicz, DFAS (Finance Office); and Mr. Ron Jones, (ASA)FM&C (Army Comptroller's Office). The Army Audit Agency's (AAA) final report recommended that PFB host a second workshop for the purpose of reengineering the current fraud recovery process. The Chief, PFB met with representatives from DFAS, AAA, DOJ and ASA (FM&C) and discussed the roles held by each in the Army fraud recovery process. Milestones were discussed aimed at reaching a determination concerning which organization is in the best position to track contract funding and determine the amount of non-expired recovered funds that could be returned to Army activities, and the expected cost-effectiveness of the effort. Army Comptroller is considering a Lean Six Sigma Study of the Process. (Ms. McCaffrey)

(3) PFB Reach-outs to CID and DCIS. On 28 August, Mrs. McCommas and PFB attorneys Brian Persico, Angelines McCaffrey, and MAJ Art Coulter briefed CID Major Procurement Fraud Unit (MPFU) leaders at Fort Belvoir on the Army Procurement Fraud Program. On 21 September 2007, Mrs. McCommas and PFB attorneys briefed the Assistant Deputy Director for

Economic Crime Programs, Investigative Operations Directorate, HQ DCIS (Mr. Craig Rupert), and various program managers at DCIS. On 26 September 2007 Mrs. McCommas briefed the Deputy Commander, CID, Dan Quinn, and his staff. In addition to PFB attorneys, the Army SDO attended the second CID brief. The reach-out by PFB is part of a PFB initiative to enhance the flow of information between investigative organizations and address common issues in fighting fraud.

### Regulatory Developments

(Mrs. McCommas)

(1) FAR Case 2006-011: Representations and Certifications Regarding Tax Delinquency. The FAR principals tasked the FAR Acquisition Legal Team to review public comments and draft a final rule resulting from a proposed rule published in the Federal Register on 30 March 2007 (72 FR 15093). The proposed rule added an additional provision to FAR Part 9.4 (Suspension and Debarment), and a certification regarding notification by contractors to the Government regarding tax delinquency. The purpose of the proposed rule is to ensure that contractors doing business with the Government have paid their taxes. The case resulted from a Congressional inquiry sparked by a GAO study in April 2007 regarding abuse of the federal tax system, particularly payroll taxes, by contractors. The FAR Acquisition Legal Team report was finalized on 18 September 2007.



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representatives to the team. (Mrs. McCommas)

(2) FAR Cases 2006-0007 and 2007-0006: Contractor Code of Ethics and Business Conduct. The FAR principals tasked the FAR Acquisition Legal Team to review public comments and draft a final rule resulting from a proposed rule published in the Federal Register on 16 February 2007 (72 FR 7588). The proposed rule, sparked by Congressional interest in additional contractor integrity provisions in the FAR, adds addition provisions to Part 3 of the FAR and requires contractors to implement ethics and compliance programs, and display agency hotline posters, before performing contracts over \$5 million. The Department of Justice submitted comments and changes to the proposed rule as well (FAR Case 2007-006). The FAR Acquisition Legal Team reports were finalized on 7 August. Mrs. McCommas participated as the Army legal representative to the team. (Mrs. McCommas)

### Training

(1) Procurement Fraud Advisor Deskbook and Survey. On 31 August 2007, the new Procurement Fraud Deskbook was distributed to over 250 Procurement Fraud Advisors and Coordinators (PFAs and PFICs) throughout the Army. PFAs and PFICs were asked to read the deskbook and complete a survey regarding their experiences working procurement fraud cases and their need for training. The information

provided will be used to plan the May 2008 Army Procurement Fraud Course at The Judge Advocate General's Legal Center and School in Charlottesville, VA. This initiative is part of a PFB reach-out to PFAs and PFICs to improve the fraud awareness skills of PFAs, and to increase their involvement in cases as a result of the recent significant increase in procurement fraud cases. (Mrs. McCommas)

(2) KFLD Attorneys Briefed on Procurement Fraud. On 6 September 2007, 10 KFLD attorneys new to USALSA were provided copies of the new deskbook and briefed on the process of fighting fraud. Each new attorney will be assigned three procurement fraud cases while at KFLD to familiarize themselves with the issues involved in fighting fraud, and to prepare them for future assignments where fraud awareness skills are needed. (Mrs. McCommas)

## DID YOU KNOW?



A Stryker vehicle with 4th Squadron, 14th Cavalry Regiment, provides security while other soldiers conduct an area reconnaissance mission through the town of Rawah, in the Al Anbar Province, Iraq, March 16, 2006, during Operation Iraqi Freedom. U.S. Marine Corps photo by Lance Cpl. Andrew D. Young

The **Stryker** is a family of eight-wheeled all-wheel-drive armored combat vehicles, produced by General Dynamics Combat System, in use by the United States Army. Based on the Canadian LAV III light-armored vehicle, which in turn is based on the Swiss Mowag Piranha, the Stryker is the U.S. Army's first new vehicle since the M2 Bradley was introduced in the 1980's.

The vehicle is named for two American servicemen who posthumously received the Medal of Honor: Pfc Stuart S. Stryker, who died in World War II; and Spc Robert F. Stryker, who died in the Vietnam War.

The Stryker family of vehicles

fills a role in the U.S. Army that is neither heavy nor light, but rather an attempt to create a force that can move infantry to the battlefield quickly and in relative security. Brigades that have been converted to Strykers have been light, or, in the case of the 2nd Cavalry Regiment, unarmored HMMWV-based cavalry scouts. For these units, the addition of Strykers has increased combat power by providing armor protection, and a vehicle-borne weapon system to support each dismounted squad (a PROTECTOR M151 Remote Weapon Station with .50cal. or Mk-19), and the speed and range to conduct missions far from the operating base.

Stryker variants include the

Infantry Carrier Vehicle (ICV) and the Mobile Gun System (MGS). There are eight configurations of the ICV, including Nuclear, Biological, Chemical Reconnaissance Vehicle (NBC RV); Anti-Tank Guided Missile (ATGM); Medical Evacuation Vehicle (MEV); Mortar Carrier (MC); Engineer Squad Vehicle (ESV); Command Vehicle (CV); Fire Support Vehicle (FSV); and the Reconnaissance Vehicle (RV). They have parts commonality and self-recovery abilities, and are equipped with a central tire inflation system

The armor provides integral all-round 14.5mm protection against machine gun rounds, and mortar and artillery fragments. In Iraq, in January 2004, Stryker vehicles were outfitted with a "cage" of slat armor, which encircles the vehicle about 18 in from the main body, as protection against Rocket-Propelled Grenades (RPGs).

Stryker units seem to be especially effective in urban areas, where vehicles can establish initial security positions near a building and dismount squads on the doorstep.

Similar to a UH-60 Black Hawk, the Stryker relies on its speed for the majority of its defense against heavy weapon systems. It is not capable of engaging heavily-armored units, and relies on other units to control threats outside of its classification.

However, at the National Training Center (Fort Irwin, Cali-

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fornia) 3rd Brigade 2nd ID proved that through the use of unconventional tactics, and small dismounted teams armed with anti-armor weaponry, a Stryker unit could hold its own against a conventional armored unit should the need arise. This situation is something that commanders would most likely avoid due to a higher casualty rate.

Brigades equipped with the Stryker are intended to be strategically mobile (i.e. capable of being rapidly deployed over long distances). As such, the Stryker was intentionally designed with a lower level of protection compared to tracked vehicles like the M2 Bradley, but with much lower logistic requirements.

### Command, Control, and Targeting Features

- Extensive computer support helps soldiers fight the enemy while reducing friendly fire incidents. Each vehicle can track friendly vehicles in the field as well as detected enemies.
- A day-night thermal imaging camera allows the vehicle commander to see what the driver sees.
- Soldiers can practice training with the vehicles from computer training modules inside the vehicle.
- The driver and the gunner have periscopes that allow them to see outside the vehicle without exposing themselves to outside dangers. The gunner has an almost 360-degree field of vision; the driver, a little more than 90 degrees.
- The armor suite has been made lighter and stronger than the MOWAG design, to stop 14.5mm armor-piercing machine-gun rounds and 152mm artillery fragments.

- The automatic fire extinguishing system has sensors in the engine and troop compartments that activate one or more fire bottles, which can also be activated by the driver.
- "Catchers' mask"-style deflectors, known as slat armor, are designed to disable the high-explosive anti-tank warhead of a rocket-propelled grenade by squeezing the angled sides of the metal nose cone and shorting the conductors between the detonator at the tip and the explosive charge at the back. This type of armor was first used in WW2 and is



cheaper and lighter than spaced appliqué-plate or reactive armor.

- The fuel tanks are externally mounted and designed to blow away from the hull in the event of explosion.

### Mobility Features

- The vehicle can alter the pressure in all eight tires to suit terrain conditions: highway; cross-country; mud/sand/snow; and emergency. The system warns the driver if the vehicle exceeds the recommended speed for its tire pressure, then automatically in-

flates the tires to the next higher pressure setting. The system can also warn the driver of a flat tire, although the Stryker is equipped with run-flat tire inserts that also serve as bead-locks, allowing the vehicle to move several miles before the tire completely deteriorates.

### Post-invasion Iraq, 2003-2005:

The first Stryker brigades were deployed to Iraq in October 2003. 3rd Brigade, 2nd Infantry Division, from Fort Lewis, was the first to field and deploy the Stryker vehicle to combat in Iraq from November 2003 to November 2004.

- 3rd Brigade was relieved by 1st Brigade, 25th Infantry Division (SBCT). 1st Brigade served in Iraq from October 2004 to October 2005. Units from this Brigade participated in the Battle of Mosul (2004), and were responsible for the first successful elections in January 2005. The Brigade was awarded the Valorous Unit Award for its tour in Iraq.
- The 172nd Stryker Brigade Combat Team, from Fairbanks, Alaska's, Fort Wainwright, began its initial deployment in August 2005 to Summer 2006. Its stay was subsequently extended for up to four months, as it was re-assigned to Baghdad.
- The 3rd Brigade, 2nd Infantry Division re-deployed to Iraq in late Spring of 2006.
- The 1st Brigade, 25th Infantry Division is stationed in Vilseck, Germany, after reflagging to the

## DID YOU KNOW? (CONT'D FROM PAGE 19)



05/13/05 - A U.S. Army Soldier with B Company, 2-1 Infantry Battalion (INF), guides a Stryker vehicle back to the road outside the town of "Wadi-Al-Tarif" during a training exercise at the Joint Readiness Training Center at Fort Polk, La., on May 13, 2005. B Company, 2-1 INF is currently training for their deployment in support of Operation Iraqi Freedom. (U.S. Army photo by Pfc. Leslie Angulo)

U.S. 2nd Stryker Cavalry Regiment, to have a European presence and be able to deploy quickly to that part of the world. In this process, the existing 2nd Cavalry Regiment was reflagged to 4th brigade, 2nd Infantry Division. The 172nd SBCT has returned from Iraq, and has been reflagged as the 1st Brigade, 25th Infantry Division.

- In May 2007, the 4th Brigade 2nd Infantry Division deployed in Iraq as part of "the surge". This deployment marked the first time the Stryker Mobile Gun System was deployed in Iraq. Also, the 4th Brigade, 2nd Infantry Division, deployed Land Warrior for the first time in combat.

- In August 2007, the 2nd Stryker Cavalry Regiment deployed to Baghdad for a 15-month tour, relieving 3rd BDE, 2ID.

### Criticism

The Stryker has come under intense scrutiny since its introduction in the U.S. Army. A report to a congressman initially blasted various points concerning the vehicle, only to have soldiers in the field seemingly exonerate its performance in a report by the US Army. Some criticism of the Stryker continues a decades-long ongoing debate concerning whether tracked or wheeled vehicles are more effective. Other criticism is specific to the Stryker, with complaints concerning various Stryker features. Much of the controversy centers around the Stryker's not being an Infantry fighting vehicle (IFV) in the mode of the M2 Bradley. The Stryker lacks heavy armor protec-

tion, and its wheels provide less off-road mobility than tracks. Weight creep and heavy-lift transport also come up as issues. The inability of the Stryker to be air transportable by C130 transport aircraft is one of the problems cited.

Rollover is a greater risk with the Stryker, relative to other transport vehicles, due to the Stryker's higher center of gravity. The high center of gravity was a deliberate design choice as an anti-mine/IED measure. The Canadian LAV III has had this problem, which, on that vehicle, was aggravated by the turret installed in the LAV III (which raises the center of gravity yet higher), and crumbling road shoulders.

The U.S. Army argues that the comparison with armored tanks is inappropriate, since Strykers have been primarily deployed in foot infantry units, which had previously relied on unarmored trucks and Humvees for mobility. From this perspective, Strykers should be seen as an enhancement to the protection of unarmored formations and not the reverse.



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PARTING SHOTS: ANOTHER DAY OF DOING GOOD



Photo by SPC Shejal Pulivarti, 1st BCT, 1st Cav. Div.  
November 15, 2007

SFC Edward Anderson, from Bristle Conn., greets the children lined up to get checked out by the doctors during a combined medical effort in Horse Village, Iraq, Nov. 7. The top noncommissioned officer of Troop K, Fires "Hells" Squadron, 2nd Stryker Cavalry Regiment, attached to 1st brigade Combat Team, 1st Cavalry Division, shook hands and conversed with the children while they waited.



Photo by SFC Kap Kim, 2nd BCT, 1st Cav. Div. Public Affairs October 26, 2007

Bolivat Tenn., native Captain Donald Cherry, commander of Battery A, 3rd Battalion, 82nd Field Artillery Regiment, gives backpack to a student during the Al Hamza Elementary School re-opening in central Baghdad's Quadisiyah neighborhood on October 22.

These photos appeared on [www.army.mil](http://www.army.mil).