



## ARMY PROCUREMENT FRAUD ADVISOR'S UPDATE



Patrolling Baghdad

Photo by Spc. Jeffery Sandstrum

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

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# ARMY PROCUREMENT FRAUD ADVISOR'S UPDATE

ARMY PROCUREMENT FRAUD BRANCH  
CONTRACT & FISCAL LAW DIVISION

ISSUE 69 (2ND QUARTER)  
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## MESSAGE FROM THE CHIEF, PROCUREMENT FRAUD



### DOD Initiatives/Federal Training Opportunities Abundant this Spring.

By Mrs. Christine McCommas, Chief, PFB

#### DOD Initiatives

During the past year, DOD organizations made significant progress in analyzing the causes for fraud, waste, and abuse in DOD acquisition programs and proposing solutions. The DOD Contracting Integrity Panel, established in February 2007 submitted the first of three reports to Congress recommending 21 actions for implementation in 2008, including reinforcing functional independence of contracting personnel, promptly filling senior positions, providing additional training to the contracting workforce, and improving planning for contingency environments. The Army's Gansler Commission: "Commission on Army Acquisition and Program Management in Expeditionary Opera-

tions" issued a final report on 31 October 2007. It reviewed lessons learned in past contingency operations and made recommendations to improve efficiency of future operations. The Commission recommended an increase in contracting personnel, restructured organizations, an increase in training, and various legislative and regulatory changes. Copies of both reports may be found at [www.acq.osd.mil/dpap](http://www.acq.osd.mil/dpap).

As a result of the Gansler report's recommendations, on 13 March 2008, the Army Materiel Command activated the Army Contracting Command, which includes an expeditionary contracting command. This command will include 171 contingency contracting teams who will be able to rapidly deploy into combat zones. The teams will be backed up by support teams providing oversight and policy guidance.

On 26 April 2008, the Defense Federal Acquisition Regulations (DFARS) were amended at Part 203.170 to provide for additional rules governing improper business practices and personal conflicts of interest. 72 Federal Register 20757. The new DOD rules prevent DOD senior leaders from performing multiple roles in the source selection of major weapons or services acquisition.

#### 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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**MESSAGE FROM CHIEF, PROCUREMENT FRAUD BRANCH** (CONT'D FROM PAGE 2)**Training**

This spring has afforded an unusual number of valuable opportunities to train and network with other Federal fraud fighters. In March, the Interagency Suspension and Debarment Committee (ISDC) sponsored a conference, hosted by the Environmental Protection Agency, in Charleston, South Carolina, with over 100 attendees, to discuss best practices. I participated in two three-hour workshops, one on developing fact-based cases and the other on compliance agreements. Each working group was tasked with compiling a list of recommendations and initiatives. The lists will be published by ISDC in the future and will provide additional opportunities to improve the fraud fighting process. The conference provided a unique opportunity to learn how civilian agencies and inspector general offices handle fraud investigations and suspension and debarment cases. Through attending the conference, I gained an appreciation for the manner in which the DOD fraud fighting community has been able to work closely to investigate fraud and coordinate pursuit of criminal, civil, and administrative remedies against fraudulent contractors.

In early April, the DOD Procurement Fraud Working Group held its annual training seminar in Daytona, Florida. The seminar was attended by over 150 investigators, attorneys, and acquisition personnel throughout DOD. Mr. Jim Comey, former Deputy Attorney General, now General Counsel of Lockheed Martin, presented the keynote address. The following presentations were given by PFB attorneys: Year in Review Regulatory Develop-

ments (Mrs. McCommas); Money Back to the Government (Ms. McCaffrey), Update on Southwest Asia and Fact-Based Suspensions and Debarments Panel (Mr. Persico). Ms. McCaffrey will provide an additional report on the training seminar in this issue of the Update.

**The 8<sup>th</sup> Procurement Fraud Course**

The course will be held at The Judge Advocate General's Legal Center and School (TJAGLCS) in Charlottesville, Virginia from 28-30 May. The course is offered only once every two years. A copy of the agenda is attached to this newsletter. Over 120 persons have registered to attend the course which will provide basic fraud instruction for investigators and attorneys. For the first time, the course will be taped and provided to Government attorneys and investigators who are unable to attend. We will provide more information about the tape's availability to train Procurement Fraud Advisors throughout the Army in our next newsletter. There are still a few spaces available. If you are interested in attending the course and have not yet registered, email me at [Christine.McCommas@hqda.army.mil](mailto:Christine.McCommas@hqda.army.mil).

**Welcome to USALSA**

KFLD welcomes COL Anthony M. Helm, the new Army Chief Trial Attorney to USALSA. COL Helm arrives at USALSA by way of the Joint Contracting Command-Iraq/Afghanistan, where he was the Command Judge Advocate from July 2007 to March 2008. We also welcome two new civilian at-

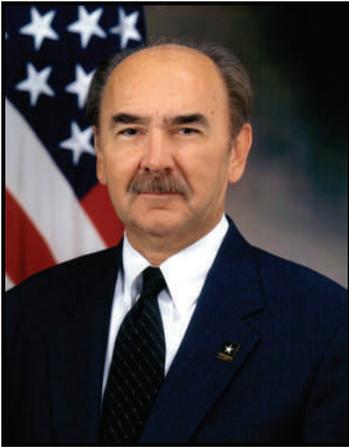
torneys to the PFB staff, Mr. Trevor B. Nelson, formerly assigned to the Government Appellate Division at USALSA, and Mr. Jeffrey R. Csokmay, formerly assigned to the National Guard Bureau.

**Recent Significant Articles**

The CID Command published an informative article in the Journal of Public Inquiry (Fall-Winter 2007-8), Procurement Fraud Investigations During Military Operations in Southwest Asia by Colonel Joe Ethridge, Curtis Greenway and Wesley Kilgore, 701st Military Police Group. The article describes efforts of CID and several other federal agencies to investigate fraud in contracts supporting the Army's operations in Afghanistan, Kuwait and Iraq, including lessons learned. The article is online at [www.ignet.gov/randp/fw07jpi.pdf](http://www.ignet.gov/randp/fw07jpi.pdf).

Mike Davidson, former PFD alum, now an attorney with Homeland Security, wrote a thoughtful article Published in the Public Contract Law Journal's Winter 2008 Issue: Combating Small-Dollar Fraud through a Reinvigorated Program Fraud Civil Remedies Act 37 Pub. Cont. L.J. 213 (Winter 2008). Mike takes a look at the "PFCRA" and makes some suggestions about possible legislative reforms. During the coming year, a DOD Procurement Fraud Working Group subcommittee chaired by PFB's Brian Persico will take a look at the Program Fraud Civil Remedies Act (PFCRA) to determine whether proposed legislative reforms could be initiated to make the process viable for small dollar fraud cases.

## MESSAGE FROM SUSPENSION AND DEBARMENT OFFICIAL



By Mr. Robert N. Kittel, SDO

It is obvious to all of us that a great deal of attention is being directed to the suspension and debarment process by both the media and Congress. Various legislative initiatives will have an impact on the suspension and debarment process and the outcome relating to new legislation remains to be seen. On the regulatory front, last year saw the FAR modified to make mandatory (except for contracts performed

totally overseas – and we have heard a lot about this exception) certain ethics rules for federal contractors. This action builds from the earlier non-mandatory DFARS section (Subpart 203-70 – Contractor Standards of Conduct) which states that “Contractors should have standards of conduct and internal control systems...”

Of particular note on the regulatory front is the recent action of the Civilian Agency Acquisition Council and the DAR Council agreeing on 4 April 2008 to a final rule (to be effective 22 May 2008) regarding violations of federal tax laws and delinquent federal taxes. The new rule modifies the causes for debarment, specifically 9.406-2, Causes for Debarment, by adding a new cause at 9.406-2(b)(1)(v), Delinquent Federal taxes in an amount that exceeds \$3000.

The change goes on to explain in more detail when federal taxes are delinquent. A similar change is made to the causes for suspension at 9.407-2(a)(7). In addition, FAR section 9.408 is removed, and 9.409 is modified, to include the language contained in the new contractor certification requirement replacing the one at FAR 52.209-5 to deal with federal taxes. These changes have implications not only for the suspension and debarment process, but also affect the actions of the contracting officer.

The hectic pace of change is expected to continue. However, that does not mean that the suspension and debarment process is “broken”. To the contrary, I think it evidences a recognition of the importance of the process and the desire (whether or not we agree with all of the proposed changes) to make it more effective.

## FRAUD COUNSEL’S CORNER

By Ms. Angelines McCaffrey, Attorney  
Fraud Advisor

The 2008 DOD Procurement Fraud Working Group Training Seminar, sponsored by the DOD Procurement Fraud Steering Committee chaired by Russ Geoffrey, DCMA, was held on 1-3 April 2008 at Daytona, Florida. It was widely-attended by DOD personnel including attorneys, investigators, accountants, and contract personnel. The topics discussed were: Fraud

Year in Review, National Procurement Fraud Task Force Update, Parallel Proceedings, Army in Southwest Asia; Asset Forfeiture, Contractors on the Battlefield, Fraud As an Acquisition Speedbump, Bid Rigging Prosecutions, and Contractor Compliance. Two breakout sessions offered attendees the option of attending their choice of other training sessions covering the following topics: Breakout Session 1 (Developing Working Relationships, Product Substitution, and Presenting a

Case To a AUSA); Breakout Session 2 (Getting Money Back to the Agency, Sharing Information On Counterfeit Parts, and Foreign Evidence Gathering).

While this annual training seminar is always replete with useful information on specific areas of the procurement fraud practice, there were two areas in the 2008 Training Seminar which left a significant impression on me. First, I found the breakout sessions to be an extraordinary train-

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

ing tool for those already proficient in handling procurement fraud cases. These sessions allowed attendees to hone in on areas about which they were most interested in learning, and provided them with the opportunity to discuss the topic in depth. Second, **Asset Forfeiture**, a topic discussed in the main portion of the seminar, and presented by DCIS and NASA, proved to be the most educational and insightful of the entire seminar. Agencies may recover part of the assets seized through asset forfeiture.

### **Asset Forfeiture**

Mr. Craig Rupert, Assistant Deputy Director of Economic Crime Programs, Investigative Operations, DCIS, presented an overview of the program. By way of background, in August 2007, the Defense Criminal Investigative Service (DCIS), the criminal investigative arm of the DOD Office of Inspector General, became a full participant in the Department of Justice's Asset Forfeiture Program (AFP). DCIS joined 11 other Federal law enforcement agencies in a program that allows participating agencies to seize property related to certain violations of law and to process them through the judicial system for forfeiture to the DOJ AFP fund.

The Attorney General's guidelines note three primary goals of asset forfeiture: (1) to punish and deter criminal activity by depriving criminals of property used or acquired through illegal activi-

ties; (2) to enhance cooperation among foreign, federal, state, and local law enforcement agencies through the equitable sharing of assets recovered through this program; and (3) to produce revenues to strengthen law enforcement. Crimes subject to asset forfeiture include mail fraud, wire fraud, bribery, theft from interstate commerce, money laundering, and conspiracy to commit those crimes. In addition to DCIS, other agencies in the DOJ AFP include: the Federal Bureau of Investigation; the Drug Enforcement Administration; the U.S. Marshals Service; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Attorneys Offices, the DOJ Asset Forfeiture Management Staff, the DOJ Asset Forfeiture and Money Laundering Section; the U.S. Postal Inspection Service; the Food and Drug Administration - Office of Criminal Investigations; the U.S. Department of Agriculture - Office of the Inspector General; and the Department of State - Bureau of Diplomatic Security. Asset forfeiture provides a significant deterrent to wrongdoers. Criminal investigators have found that depriving criminals of the fruits of their misconduct is more painful than incarceration. Now that DCIS has access to this program, DOD Fraud fighters can expect the agency to use it effectively in DOD fraud prosecutions.

The DCIS presentation was followed by a presentation by NASA attorney, Ms. Monica Acquino, who provided an example

of a NASA case where attorneys were able to recover money for the agency through the program. Ms. Acquino explained how the victim agency may file a petition with the court to recover part of the assets forfeited. For further details about agency recoveries through the program, contact Ms. Acquino at [monica.acquino@nasa.gov](mailto:monica.acquino@nasa.gov). (Ms. McCaffrey)

## SIGNIFICANT ACTIONS

### Significant Actions (January 2008-March 2008)

#### Suspensions

(1) Gratuities (Tobyhanna Army Depot). On 15 January 2008, the Army Suspension and Debarment Official (SDO) suspended Richard Feola, Michael Cleary, Thruput, Inc., Sierra Computer Products, Newman Computer Products, and Graphix Factory based on the 25 July 2007 indictment of Mr. Feola and Mr. Cleary, filed in the United States District Court for the Middle District of Pennsylvania. The indictment charged them with receipt of unlawful gratuities and laundering of money instruments as part of a scheme to fraudulently award Government contracts at Tobyhanna Army Depot to Thruput, Inc. Mr. Feola, a former Army civilian employee, is alleged to have received payments totaling \$83,332.00 from Mr. Cleary on or about 22 December 2000 and on or about 15 September 2006. (Mr. Persico)

(2) Accepting an Unlawful Gratuity (Fort Lewis). On 31 January 2008, the Army SDO suspended Paul J. Shorb from contracting with the Government on the basis of the criminal information filed against him on 30 November 2007 in the U.S. District Court in the Western District of Washington, charging him with accepting an illegal gratuity. In his capacity as Chief of Plans and Programs for the DOIM at Fort Lewis,

Washington, Mr. Shorb was involved in the contracting process on the ACS Systems and Engineering contracts. It is alleged that in 2001, Mr. Shorb became aware that ACS was going to be replacing its truck fleet. He asked an employee of ACS to advise the president that he wanted one of the trucks. He was subsequently offered and received a 1997 Ford truck from ACS. (MAJ McDonald)

(3) Conspiracy (Tobyhanna Army Depot). On 7 March 2008, the Army SDO suspended Kafu Chung, Mark Cooper, Charles Marsala, Hieu Tran, and Ludwig Mangiello from contracting with the Government on the basis of the criminal information filed against them in the U.S. District Court in the Middle District of Pennsylvania, charging them with conspiracy to violate the laws of the United States, including bribery of public officials, mail and wire fraud, and theft of property of the United States. Between February 2001 and November 2005, Computer Giants was paid approximately \$7,829,559.80 in Government funds for supplies and services allegedly provided to Tobyhanna Army Depot based on contracts negotiated by Mr. Chung, as Salesman and General Manager for Computer Giants. The conspiracy included among other things, circumventing the competitive bid process to influence and steer the award of lucrative Government contracts to Computer Giants for computers and

electronics in return for Mr. Chung's payment of cash and merchandise and other valuable consideration to public officials Mark Cooper, Charles Marsala, Hieu Tran, and Ludwig Mangiello. (MAJ McDonald)

(4) False Statements (Camp Victory, Iraq). On 13 March 2008, the Army SDO suspended Harith "Harry" Naji Al Jabawi, Monther "Mike" Majeed Naji, Phoenix Construction, and Joshua Construction as a result of allegations that Mr. Al Jabawi and Mr. Naji made false statements by knowingly and willingly submitting false DD Form 1172-2s for the purpose of fraudulently obtaining Common Access Cards. Mr. Al Jabawi, an employee of Joshua Construction, and Mr. Naji, an employee of Phoenix Construction, subsequently used these cards to gain access to Coalition installations at Camp Victory, Iraq, and elsewhere. Both Mr. Al Jabawi and Mr. Naji were suspended pursuant to FAR 9.407-2(c). Phoenix Construction and Joshua Construction were suspended as affiliates of Mr. Jabawi and Mr. Naji and imputees of their actions. (Mr. Persico)

(5) Three Stars Scarl and Delta Overseas (USAREUR, Germany). On 19 March 2008, the USAREUR SDO suspended Three Stars Scarl and Delta Overseas (USAREUR's personal property moving contractors) on the basis of an indictment. The USAREUR moving contract was awarded by USACCE, RCO-

**SIGNIFICANT ACTIONS** (CONT'D FROM PAGE 6)

Bavaria to Delta Overseas (Delta) on 1 October 2007. Delta then sub-contracted with Three Stars, which is under investigation in Belgium and Italy for labor and social security taxation violations. The Belgian Labor Prosecutor issued an indictment in March 2008. The suspensions were terminated by the USAREUR SDO on 1 April 2008 after a hearing. (MAJ Meketen)

(6) Wire Fraud and False Documents (DCMA, Springfield, New Jersey). On 27 March 2008, the Army SDO suspended Mr. Lawrence Norman based on an 8 August 2007 two-count criminal information, filed against Norman in the United States District Court for the District of New Jersey, for making and using a false document and concealing material facts from the Department of Defense, in violation of 18 U.S.C. §§ 1001 and 2, and one count of conspiracy to commit wire fraud in violation of 18 U.S.C. § 371. Mr. Norman was a Quality Assurance Representative (QAR) for the Defense Contract Management Agency (DCMA) Springfield, New Jersey, assigned to contractor Parmatic Filter Corporation (suspended 2 June 2006). Mr. Norman along with company officials falsified manufacturing and quality assurance records they certified to the DOD to be true and accurate. On 8 August 2007, Norman pled guilty to Count One of the information. (Mr. Nelson).

(7) Conspiracy (Tobyhanna Army Depot). On 28 March 2008, the Army SDO suspended Derrick Jackson and Leo J. Yesvets from

contracting with the Government on the basis of the criminal indictment filed against them in the U.S. District Court in the Middle District of Pennsylvania. Mr. Jackson and Mr. Yesvets were indicted on 18 March 2008. They were charged with numerous counts of conspiracy, bribery, wire fraud, and theft from the Government. Between February 2001 and November 2005, Computer Giants was paid approximately \$7,829,559.80 in Government funds for supplies and services allegedly provided to Tobyhanna Army Depot based on contracts negotiated by Kafu Chung, Salesman and General Manager for Computer Giants. The conspiracy included among other things, circumventing the competitive bid process to influence and steer the award of lucrative Government contracts to Computer Giants for computers and electronics in return for Mr. Chung's payment of cash and merchandise and other valuable consideration to Mr. Jackson, Mr. Yesvets, and other named and unnamed co-conspirators. (MAJ McDonald)

**Proposed Debarments**

(1) Wire Fraud (SMDC/Huntsville, Alabama). On 2 January 2008, the Army SDO proposed Nikol Frances Kokochak (Ms. Kokochak) and William Dennis Miller, Jr. (Mr. Miller) for debarment. On 5 February 2007, Ms. Kokochak and Mr. Miller were convicted of wire fraud in the United States District Court,

Northern District of Alabama. The Court sentenced Ms. Kokochak to serve three months of home detention and 30 months of probation thereafter. Mr. Miller was ordered to serve six months of home detention and 30 months of probation. After a thorough investigation, it was determined that Ms. Kokochak and Mr. Miller had conspired to establish two fictitious companies; one was Impact Supply (IMPACT) and the other WM Products (WMP). In her capacity as a purchasing agent for Radiance Technologies, Ms. Kokochak prepared excessively priced purchase orders, and sent them to IMPACT and WMP requesting a variety of materials. The requested materials were never delivered, but Ms. Kokochak processed the false purchase orders and mailed the payments directly to IMPACT and WMP. The cost of the purchase orders was passed to the Government by way of the contract Radiance had with the Space Missile Defense Command. Radiance Technologies reported the fraud. (Ms. McCaffrey)

(2) Trafficking in Counterfeit Goods and Services (Kuwait). On 18 January 2008, the Army SDO proposed the Al-Sawari General Trading and Contracting Company, a Kuwait-based wholesale trading company, for debarment based on allegations that it supplied 571 counterfeit Nokia cellular phones to the U.S. Army, Camp Arifjan, Kuwait, on or about 6 November 2007. A preponderance of evi-

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dence showed that the company was aware that it was not purchasing genuine Nokia phones, as specified by the contracts, resulting in trafficking in counterfeit goods and services. Furthermore, the phones were delivered late and failed to meet contract specifications. (Mr. Persico)

(3) Bribery (Kuwait). On 4 March 2008, the Army SDO proposed Peleti Peleti, Jr., a/k/a Pete Peleti, for debarment from contracting with any agency in the executive branch of the Government. On 20 February 2007, Mr. Peleti was convicted in the United States District Court for the Central District of Illinois, on the basis of the criminal information filed against him on 12 January 2007. The information charged Mr. Peleti with receiving a bribe and bulk cash smuggling. On 9 February 2008, Mr. Peleti pled guilty as charged, and, on 20 February 2008, was sentenced to be imprisoned for 28 months on each of counts one and two, to run concurrently; thereafter to serve two years on supervised release on each of counts one and two, to run concurrently; and to pay a fine of \$7,500 and a special assessment of \$200. (Ms. McCaffrey)

(4) False Statements and Kickbacks (U.S. Army Sustainment Command/Iraq). On 10 March 2008, the Army SDO proposed Kevin Andre Smoot (Mr. Smoot) for debarment from contracting with the Government. On 23 July 2007, Mr. Smoot pled guilty in the U.S. District Court, Central District of Illinois to a criminal information

charging him with making a false statement and violating the Anti-Kickback Act. On 18 December 2007, Mr. Smoot was sentenced to serve 14 months imprisonment, two years of supervised release thereafter, and ordered to pay a fine of \$6,000, an assessment of \$200 and criminal restitution in the amount of \$17,964 to HQ U.S. Army Sustainment Command, Rock Island Arsenal. KBR utilized subcontractors to provide necessary property and services required by task orders issued under the LOGCAP III contract. 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 also 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. On 3 March 2005, Special Agents of Defense Criminal Investigative Service, (DCIS), and the Federal Bureau of Investigation, (FBI), 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 for by the Government) for the transportation of military equipment and supplies to Baghdad, Iraq, under the LOGCAP III contract. Mr. Smoot falsely stated that the

charges were legitimate, when he knew they were false, and that EGL had not been billed for these charges. In addition, from 24 January 2002 through 29 April 2005, Mr. Smoot provided items of value to five KBR contractor employees who worked in its transportation department, for the purpose of improperly obtaining or rewarding favorable treatment in connection with transportation subcontracts under the LOGCAP III contract. (Ms. McCaffrey)

(5) False Issuance of Official Certificates or Writings (USACE). On 28 January 2008, the Army SDO proposed Earl Jerry Sparks for debarment based on his plea of guilty on 24 October 2007, to the false issuance of official certificates or writings, in the U.S. District Court in the Eastern District Court of Kentucky. In his capacity as a Project Manager and Team Leader for USACE, Mr. Sparks was responsible for evaluating and processing applications from mining companies seeking approval to discharge dredge and fill material into the navigable waters of the United States under Nationwide Permit 21. In 2004, Mr. Sparks provided a falsified document to B&W Resources, which indicated that it was approved for certain mining related activities. Mr. Sparks was sentenced on 24 October 2007 to three years' probation and fined \$5,000. (MAJ McDonald)

(6) Conspiracy to Defraud the Department of Defense. On 5

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March 2008, the Army SDO proposed William Baum, Gerardo Sanz, and Gary Romstedt for debarment based on their guilty pleas to conspiracy to defraud the United States in the U.S. District Court for the Eastern District of Virginia. These individuals were previously suspended by the Army SDO on 4 January 2007. They are former executives of Baum Romstedt Technology Research Corporation (BRTRC). They owned two vacation properties that BRTRC leased. However, BRTRC did not use the property for any business purpose. The properties were used predominantly as vacation spots by the three men and their families. The former executives agreed to falsely record the cost of the vacation properties on BRTRC's accounting books as a legitimate business expense, and filed the accompanying corporate tax returns. The executives also filed their personal income tax returns omitting the value of the vacation properties. They were subsequently indicted for filing false income tax returns. Baum was sentenced to one year in prison, probation, and fines; Sanz received five months in prison, probation, and fines; and Romstedt received six months home confinement, probation, and fines. (MAJ McDonald)

(7) Theft of Public Funds (1<sup>st</sup> Brigade, 100<sup>th</sup> Division, Corbin, Kentucky). On 27 March 2008, the Army SDO proposed William C. Polly, an Army Reserve Sergeant First Class assigned to the 3-397 Calvary, 1<sup>st</sup> Brigade, 100<sup>th</sup> Division, Corbin, Kentucky, for debarment based on his guilty plea in the

United States District Court of the Eastern District of Kentucky, to Theft of Public Funds pursuant to 18 U.S.C. § 641. Mr. Polly deserted the Army for approximately 18 months, and, without proper authority, continued to receive and use military pay and allowances in the amount of \$86,696.41. On 3 March 2008, Mr. Polly was sentenced to 10 months confinement, 3 years supervised release, and \$86,696.41 in criminal restitution. (Mr. Nelson)

(8) Mail Fraud (Ft. Carson, CO). On 27 March 2008, the Army SDO proposed Brandon Bennett Swenson for debarment. On 5 December 2007, Mr. Swenson pled guilty to one count of mail fraud. He formerly worked for the Army as a unit supply specialist, and was responsible for ordering items from the GSA Schedule for his unit. After leaving the Army, Mr. Swenson set up accounts in the name of Jack Roach and used pass codes he received on active duty to order items from the GSA Schedule. He had these items delivered to his personal residence. Mr. Swenson admitted ordering items valued at more than \$60,000. He was indicted by a Grand Jury on six counts of mail fraud, in violation of 18 USC 1341. The other five counts were dismissed, and he was sentenced to six months home detention, three years probation, \$5,000 in restitution and an assessment of \$100. (MAJ McDonald)

**Debarments**

(1) Bribery and Conspiring to Launder Money (Camp Anaconda, Iraq). On 8 January 2008, the Army SDO debarred MAJ John Allen Rivard, USAR (Retired), from contracting with the Government as a result of his 30 July 2007 guilty plea in the United States District Court for the Western District of Texas to conspiring to defraud the United States, bribery, and conspiring to launder money. MAJ Rivard was subsequently sentenced on 29 Oct 2007 to a total of 120 months imprisonment, three years supervised release, a \$5,000 fine, and a \$300 special assessment. MAJ Rivard, while Acting Chief of Contracting and Deputy Chief of Contracting for LSA Anaconda, Iraq, fraudulently awarded approximately \$20 million in contracts for tractor trailers, electronic feeders, and stackable living containers in return for at least \$271,400 in cash, and an unknown amount of Iraqi Dinars. MAJ Rivard was debarred for a period of 13 years, ending on 10 August 2020. This period of debarment takes into account the periods of suspension and proposed debarment, as well as the 120-month period of confinement during which MAJ Rivard's present responsibility cannot be evaluated. (Mr. Persico)

(2) Wire Fraud (CECOM). On 8 January 2008, the Army SDO debarred Patrick M. Hale from contracting with the Government as a result of his 15

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March 2007 guilty plea to committing wire fraud and failing to file a federal income tax return, in the United States District Court for the District of Connecticut. Mr. Hale had previously been indicted based on allegations that, while employed by Stran Technologies, Inc., he had fabricated test reports and displayed inoperable testing equipment to CECOM inspectors in June 1999. On August 12, 1999, as part of these misrepresentations, Mr. Hale transmitted by means of wire communication in interstate commerce, an e-mail, requesting that CECOM issue a letter qualifying Stran as a source of supply of TFOCA I connectors. He also failed to pay his federal income taxes for the calendar year 2002. On 15 March 2007, Mr. Hale was sentenced to two years probation, ordered to pay a \$125 special assessment, and was debarred until 27 September 2010. (Mr. Persico)

(3) Theft of Public Funds (INSCOM). On 4 March 2008, the Army SDO debarred John Willie Taylor, a former INSCOM civilian employee at Camp Zama, Japan, based on his 2 March 2007 plea of guilty to Theft of Public Funds. As part of this plea, Mr. Taylor admitted that on at least 20 occasions between January 2003 and January 2006, he falsified accounting vouchers resulting in the conversion of \$106,556.00 from INSCOM accounts to his personal use. On 19 June 2007, Mr. Taylor was sentenced to 12 months and one day of imprisonment; 36 months supervised release, ordered to pay \$106,556.00 in criminal restitution to the U.S. Treasury, and a \$100

special assessment. Mr. Taylor was debarred until 3 December 2011. (Mr. Persico)

**Termination of Proposed Debarments**

(1) Robert Raggio and Reviewer Management International (RMI). On 31 January 2008, after an administrative hearing, the Army SDO notified Mr. Raggio and RMI that he determined the company to be a presently responsible Government contractor, thereby terminating a 10 August 2007 proposal for debarment of Mr. Raggio and his company. The Army SDO made this determination based on written and oral presentations by Mr. Raggio concerning the circumstances surrounding the award of a contract for audit services in Iraq and regarding remedial actions he had taken in response to accusations of misconduct against both him and Reviewer Management International. (Mr. Persico)

(2) Sharon Baum, Laura Romstedt, Kimberly Sanz, 9 Cotton Patch Hills, LLC and Sanz, Romstedt & Baum Commercial Properties Management. On 4 March 2008, the Army SDO notified these individuals and companies that their proposed debarments entered on 9 January 2007 were terminated. The Army SDO made this determination based on written and oral presentations that demonstrated their lack of involvement in, or knowledge of, BRTRC and its management defrauding the United States by

leasing vacation properties from their companies, and falsely reporting the cost of those properties as a legitimate business expense. (MAJ McDonald)

**Administrative Hearings/ Compliance Agreements**

(1) Robert Raggio, Reviewer Management International. On 8 January 2008, the Army SDO met with Robert Raggio regarding a 10 August 2007 proposal for debarment of Mr. Raggio and his company, Reviewer Management International, regarding allegations that Mr. Raggio had been improperly awarded a contract for audit services in Iraq. Mr. Raggio presented materials in support of his claim that both he and his company are presently responsible contractors, and had taken steps to correct the circumstances which led to the recommendation that they be proposed for debarment. (Mr. Persico)

(2) Yuksel Insaat A. S. On 6 February 2008, the USAREUR SDO entered into an administrative compliance agreement with Yuksel Insaat A. S. (Yuksel). Yuksel is a Turkish construction contractor doing business in Iraq. Yuksel was awarded a \$19.8 million contract to construct barracks in Iraq (Contract # W912GB-05-C-0043). The contract was terminated for convenience on February 2006. In April 2006, Yuksel submitted a \$2,598,941 termination cost claim, \$2,497,440 of

## SIGNIFICANT ACTIONS (CONT'D FROM PAGE 10)

which was determined to be false by a Defense Contract Audit Agency (DCAA) audit. Joint Contracting Command Iraq opined that debarring Yuksel would not adversely affect OIF operations. The USAREUR SDO proposed Yuksel and two of its managers for debarment on 6 November 2007. On 30 November 2007, the Army SDO granted KBR a waiver to use Yuksel as a subcontractor for a power generation plant in Mosul. On 5 December 2007, Air Force Central Command contacted KFLD to inform it that it would like to award Yuksel a contract to complete an aircraft parking area in Bagram. (MAJ Meketen)

(3) Al Qabandi United Company, WLL, Camp Arifjan, Kuwait. On 20 February 2008, the Army SDO met with representatives of Al Qabandi United Company, WLL, regarding a 31 December 2007 Show Cause Letter regarding allegations that the company failed to adequately perform gravel deliveries to construction sites at Camp Arifjan, Kuwait, during a seven-month period in 2007. Al Qabandi United Company presented materials in support of its claim that it is a presently responsible contractor, and had taken steps to correct the circumstances which led to the Show Cause Letter. On 12 March 2008, the Army PFB notified the company that it did not intend to recommend suspension or debarment action against the company following a review of materials submitted in response to a 31 December 2007 Show Cause Letter. Specifically, it was determined that

a preponderance of evidence did not exist to substantiate allegations that the company failed to deliver proper amounts of conforming gravel/getch and 3/4 inch gravel for construction projects at Camp Arifjan, Kuwait, as required by two contracts during 2007. (Mr. Persico)

### **Show Cause Letters/ Requests for Information**

(1) U.S. Door & Hardware (USACE/Beale AFB). On 22 February 2008, the Army PFB issued a Show Cause Letter to U.S. Door & Hardware based on allegations that it knowingly installed the wrong contractually specified card-reader door locks at Beale AFB. Upon discovery by Beale AFB that the installed locks were not compatible, Beale AFB requested that the locks be replaced with the contractually specified locks. U.S. Door & Hardware then attempted to pass the additional cost to replace and install the appropriate locks to the USACE. (MAJ McDonald)

(2) ACS Systems & Engineering (Fort Lewis, Washington). On 14 March 2008, the Army PFB issued a Show Cause Letter to ACS Systems & Engineering based on the filing of a criminal information, and the guilty plea of Paul J. Shorb for accepting an illegal gratuity, in the U.S. District Court, in the Western District of Washington. In his capacity as Chief of Plans and Programs for the DOIM at Ft. Lewis, Washington, Mr. Shorb

was involved in the contracting process on ACS contracts. It is alleged that in 2001, Mr. Shorb became aware that ACS was going to be replacing its truck fleet. He asked an employee of ACS to advise the company's president that he wanted one of the trucks. He was subsequently offered and received a 1997 Ford truck from ACS. (MAJ McDonald)

(3) Computer Giants (Tobyhanna Army Depot). On 7 March 2008, the Army Procurement Fraud Branch issued a Show Cause Letter to Computer Giants, Inc., based on the filing of a criminal information, and guilty plea of Kafu Stephen Chung to conspiracy to violate the laws of the United States, including bribery of public officials, mail and wire fraud, and theft of Government in the U.S. District Court, Middle District of Pennsylvania. Between February 2001 and November 2005, Computer Giants was paid approximately \$7,829,559.80 in Government funds for supplies and services allegedly provided to Tobyhanna Army Depot based on contracts negotiated by Mr. Chung on behalf of Computer Giants. In his capacity as a Salesman and General Manager for Computer Giants, Mr. Chung conspired with numerous public officials by directly and indirectly giving things of value to them acting in their official capacity in consideration for their decisions to purchase supplies and services from Computer Giants. (MAJ McDonald)

## SIGNIFICANT ACTIONS (CONT'D FROM PAGE 11)

(4) Securitas GmbH Werkschutz (USAREUR, Germany): The USAREUR SDO sent a Show Cause Letter dated 5 March 2008 to Securitas GmbH Werkschutz (Securitas), citing the DOJ litigation and the contract in dispute. The USACIDC investigation of allegations of overcharging the Government for guard services in Germany continues. The company admits to overcharging from approximately October 2004 through July 2005, with an estimated loss to the Government of over 2.3 million €. The Contracting Officer issued a final decision on 16 March 2007, demanding the total amount of the overbilling. Securitas responded 15 April 2007, disputing the final decision, proposing a specific reimbursement schedule, and reserving the right to file a claim in the future. Monthly offsets of 400,000 € began with the March 2007 invoice. Securitas has filed three lawsuits in the U.S. Court of Federal Claims (1) seeking to overturn the Contracting Officer's final decision above, (2) claiming approximately 1.8 million € for severance costs as a result of ordered force reductions in 2005 and 2006, and (3) claiming approximately 230,000 € for expenses for acquiring four patrol dogs and four dog handlers. These lawsuits (now consolidated into one lawsuit) are being handled by the U.S. Department of Justice (DOJ), with assistance from OT-JAG Litigation Division (LitDiv) and attorneys at the Wiesbaden Contracting Center. DOJ has counterclaimed. Securitas answered the counterclaim on 15 February 2008, denying all allegations. In addition, the Defense Contract Audit Agency (DCAA) audited Securitas invoicing from January 2002 through December 2006. On 18 July 2007, DCAA reported its

findings, which estimate that Securitas overbilled the Government by approximately 10.5 million €. (MAJ Meketen)

(5) Supply & Service Team (SST) GmbH (USAREUR, Germany): The USAREUR SDO sent SST and the former COR a Show Cause Letter, dated 6 March 2008, based on the findings that SST did, in fact, bill the Government for services not rendered. DCAA initiated an audit, based on allegations that the contractor was submitting, and COR was certifying, false invoices on a contract (# W912PB-06-D-0011) for battle-field role-playing services at JMRC, Hohenfels. Auditors found that SST had in fact billed the Government fraudulently, with estimated losses set at \$790,000. (MAJ Meketen)

(6) Gosselin Group (USAREUR, Germany): The USAREUR SDO sent Gosselin Group a Show Cause Letter on 20 March 2008 requiring Gosselin, an international personal property moving contractor, to address the recent EU ruling that a cartel of European moving companies, including Gosselin, had fixed moving prices over the course of almost two decades. (MAJ Meketen)

### Settlements

National Air Cargo (NAC). On 8 March 2008, NAC agreed to pay the United States \$28 million to settle both criminal and civil allegations that it defrauded the Department of Defense. As part of the global settlement filed in the Western District of New York,

NAC pleaded guilty to one count of knowingly making a material misstatement to the United States. This global settlement resolves allegations that NAC submitted fraudulent claims for payment to the United States Transportation Command for the shipment of freight. The Government alleged that between January 1999 and April 2005, NAC engaged in a pattern and practice of knowingly submitting false claims for payment by transporting freight wholly by surface transportation, rather than by air, as required by Department of Defense regulations, and by misrepresenting the actual delivery dates of the freight. NAC will pay criminal restitution of \$4.4 million, a criminal penalty of \$8.8 million, and forfeit assets in the amount of \$3.05 million. NAC will also pay \$11.75 million to resolve allegations that it violated the False Claims Act. This matter was prosecuted by the United States Attorney's Office for the Western District of New York and the National Procurement Fraud Task Force, from both the Criminal and Civil Divisions of DOJ. The settlement was coordinated through the Air Force Office of Contractor Responsibility, the Army's PFB, and the Navy's Office of Acquisition Integrity. This case was investigated by DCIS, CID-MPFU, and DCAA. (MAJ Art Coulter)

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PARTING SHOTS: JUST ANOTHER DAY IN THE LIFE OF A SOLDIER



Mountaintop Duty  
Photo by Capt. Nicholas Melin  
January 25, 2008 Sgt. Carlos Bell nails the wall for a bunker.



Operation Patriot Strike Nets AQI Suspects  
Photo by Sgt. Ben Brody  
January 2, 2008  
Capt. George Morris, commander of Co. B, 2-502 Infantry, and his soldiers hit the ground running in the opening salvo of Operation Patriot Strike in Ubaydi.  
December 29, 2007

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

**7<sup>th</sup> PROCUREMENT FRAUD COURSE**  
**The Judge Advocate General's School and Legal Center**  
**Charlottesville, VA**

Wednesday 28 May 2008	Thursday 29 May 2008	Friday 30 May 2008
0800-0840 <b>COMMANDANT'S WELCOME AND INPROCESSING</b> Commandant, LTC Ralph Tremaglio, Mrs. Christine McCommas, Chief, PFB	0800-0850 <b>CONTRACTOR ETHICS AND COMPLIANCE AGREEMENTS</b> Mrs. Christine McCommas	0800-0850 <b>SUSPENSION AND DEBARMENT IN SWA: UPDATE</b> Mr. Brian Persico
0850-0950 <b>PROCUREMENT FRAUD OVERVIEW</b> LTC Ralph Tremaglio, Chair, Contract and Fiscal Law Department	0900-0950 <b>INVESTIGATOR PERSPECTIVE</b> Mr. Craig Rupert, DCIS	0900-1030 <b>THE CONTRACTOR'S VIEWPOINT</b> Mr. Richard Bednar (Crowell and Moring) Mr. Scott MacKay (Lockheed) Mr. James Gallatin (Reed Smith)
1010-1100 <b>DOJ PERSPECTIVE: CIVIL REMEDIES</b> Ms. Michal Tingle and MAJ Art Coulter, DOJ Civil Fraud	1010-1100 <b>FRAUD INDICATORS</b> Mr. Bill Stakes, CID	Mrs. Christine McCommas (Chief, PFB) Mr. Robert Kittel (Moderator)
1110-1200 Continued	1110-1200 <b>RETURNING MONEY TO COMMANDS: LEAN SIX SIGMA STUDY</b> Mr. Ron Jones Ms. Angelines McCaffrey	1040-1150 <b>SUSPENSION AND DEBARMENT OFFICIALS PANEL</b> Mr. Robert Kittel Mr. Steve Shaw Mr. Mark Willkof
1200-1330 <b>LUNCH</b>	1200-1330 <b>LUNCH</b>	1150-1200 <b>CLOSING REMARKS</b> LTC Ralph Tremaglio
1330-1420 <b>ADMINISTRATIVE REMEDIES</b> Mr. Dick Pelletier	1330-1420 <b>AUSA/DOJ CRIMINAL POINT OF VIEW: BID RIGGING PROSECUTIONS</b> Mr. Brent Snyder, Anti-Trust/Criminal Division, DOJ	
1430-1520 Continued	1430-1520 <b>DEVELOPING AN INDICTMENT-BASED CASE</b> Ms. Angelines McCaffrey	
1530-1620 <b>CONTRACTUAL REMEDIES</b> Mr. Rod Grandon	1530-1620 <b>DEVELOPING A FACT-BASED CASE</b> Mr. Brian Persico	
1800-1900 <b>ICEBREAKER</b> Location TBD	1630-1800 <b>AGENCY BREAKOUTS (Optional)</b>	