

CHIQUITA BRANDS

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CBI-V1-001-003709

(b)(7)(C)

Page 121

Page 123

1 is not around every day, probably raised after the fact, but
2 I would suspect that it was raised and I would be surprised
3 if it hadn't been.

4 Q Okay. I just wanted to make sure I drew a
5 distinction between who knows now as a result of certain
6 events and who knew before.

7 A: Right.

8 Q Okay. In a general sense, we have talked about
9 these payments throughout the day. I want to talk now
10 specifically in terms of a hypothetical payment and I want to
11 talk about it from two perspectives. Number one is how the
12 demand for payment comes to you and how that person gets paid
13 and on the other end specific pieces of paper that get
14 generated and what they say, all the way. So to the extent
15 each disappears, the books and records disappear, it gets
16 consolidated, the payment disappears in that it is off to
17 where you do not know where it is any more. Can we do that?

18 We can try.

19 (b)(7)(C) You mean a guerilla payment?

20 (b)(7)(C) Yes.

21 THE WITNESS: Where does the request -- how does
22 the request communicated? It could come in a variety of
23 forms. The request could come as a phone call, an anonymous
24 phone call. The request could come through an employee who
25 has a contact who says I have this message. That's probably

1 you know --

2 (b)(7)(C) We will defer it, then.

3 (b)(7)(C) Yes. That would be a more

4 appropriate place because sometimes these things get buried
5 in the middle and I would like it to be right there.

6 THE WITNESS: I would like it to be right there,
7 too.

8 (b)(7)(C) Okay.

9 THE WITNESS: All right. So --

10 BY (b)(7)(C)

11 Q Could I just stop you for a moment?

12 A Sure.

13 Q Understanding that every case by case it is going
14 to be different, but is there an expectation or an
15 understanding that the approach or the demand for payment is
16 made to (b)(7)(C) Is he the one with the contacts and the
17 one that -- a large percentage of the time?

18 A Not necessarily.

19 Q Okay.

20 A The approach could be made, as I say, from a low
21 level employee, a farm laborer could tell the manager of a
22 farm who in turn tells somebody else and it works its way up
23 the ladder. It could come with an anonymous telephone call.
24 There's a lot of smoke and mirrors and hocus-pocus in all of
25 this sort of stuff and it comes and then there's a period of

Page 122

Page 124

1 about as rich examples as I can give you because I don't tend
2 to know each and every detail, but it would come from -- you
3 know, in a street smart way.

4 The request would be evaluated for its legitimacy.
5 Now, I can tell you that in the past, and I actually don't
6 know about our current guy, but (b)(7)(C) had contacts who had
7 contacts with the guerilla groups often through third
8 parties. There was a guy by the name of (b)(7)(C)
9 (b)(7)(C) One or two other guys.

10 (b)(7)(C) I would just like to make sure that
11 we communicate how sensitive this information is in terms of
12 security of people that he is identifying.

13 THE WITNESS: Well, I was planning on making a
14 little speech about that, but actually you raise a very good
15 point.

16 Allow me the indulgence to ask, this record is not
17 going to be made public?

18 (b)(7)(C) See, you can not say it that way.

19 What you can say is that there are restrictions on getting
20 it. There is a process for getting it, but --

21 THE WITNESS: Well --

22 (b)(7)(C) And it is understood -- here is what
23 I would like to do is that I would not want this to be buried
24 in the center of a transcript, it actually is better for it
25 to be on the last page, clear that, you know, to say that,

1 sort of evaluation.

2 We have in the past had an ability on occasion, not
3 always, but on occasion, to go back to these groups and send
4 messages back to them to, one, start a negotiating process
5 or, two, in fact inquire as to whether or not this is coming
6 from them.

7 We've had the very unpleasant experience of going
8 back in one instance and saying why in the world did you kill
9 this guy if we've been paying you and you have promised us
10 and you promised to behave and they came back very
11 apologetically and said that it had been a case of mistaken
12 identity. Well, that was a great consolation to the guy's
13 wife and kids.

14 But there is an attempt to go back and get some
15 level of comfort that this is legitimate. And then we decide
16 in our wisdom or (b)(7)(C) basically decides, talks it over
17 with (b)(7)(C) they decide in their wisdom to make the payment.

18 My understanding is -- I have never walked through
19 this step-by-step or tried to -- I mean, people won't do that
20 with you. It's so sensitive, they just won't do that with
21 you.

22 For the most part, money would be given to
23 (b)(7)(C) in turn would give it to a third party go
24 between like this guy (b)(7)(C) in cash.

25 Q In cash?

(b)(7)(C)

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CHIQUITA BRANDS

Page 125

Page 127

1 A In cash. End of story. Now, does it get
 2 distributed to the people that it should be? Does it get
 3 distributed -- you know, there's a commission for this guy
 4 (b)(7)(C) Does he take half of it and put it in his pocket?
 5 How do you tell? There's no way of determining that.
 6 There are some tipoffs, however. The tipoffs can
 7 be that you make the payment and they burn down the packing
 8 station anyway. And then you say why the hell did you burn
 9 down my packing station and they say, well, we never got the
 10 payment. You know, that kind of thing. I mean, there's sort
 11 of follow up in the very uncomfortable natural course of
 12 events or they burn down the other guy's packing station and
 13 not yours.
 14 So it's a very difficult, unsatisfactory, not able
 15 to be tightly controlled process and in terms of paper we've
 16 gone through very thoroughly, I think, in the previous
 17 testimony what belt and suspender approaches we can have with
 18 this and that we do have with this. Other than that, there
 19 is no paper. I mean, as I said, the FARC isn't going to sign
 20 received, (b)(7)(C) doesn't bring back a piece of paper, so --
 21 Q And there is a danger to you all having broadly
 22 available explanations on your books and records.
 23 A Absolutely. But let me say this, that one of
 24 the -- at least -- it's not said here and maybe it wasn't
 25 designed with that purpose in mind, but I have always assumed

1 know, anything dramatic up or down in the budget next year
 2 for sensitive payments, no, it's approximately the same, end
 3 of subject. Nothing beyond that.
 4 Q And who would be asking that question?
 5 A (b)(7)(C)
 6 Q Okay. And is anybody asking you that question?
 7 A Certainly not in a rigorous procedural --
 8 Q But I mean in a very specific sense asking you what
 9 is the budgeting for sensitive payment accounts in Colombia
 10 this year.
 11 A Again, just to repeat, not in a rigorous fashion.
 12 Nobody's got that on their checklist. I mean, it might occur
 13 to somebody, you know, this year, to say, by the way,
 14 anything going on, or it might not. I mean, it's not
 15 procedurally rigorous.
 16 Q But to use your terminology, it is on your
 17 checklist for (b)(7)(C)
 18 A It's on my checklist for (b)(7)(C) If I were to tell
 19 you that it is procedurally rigorous, at the top of my
 20 checklist or that indeed I even have a checklist, that would
 21 be an overstatement. It would be the kind of thing that in
 22 the natural course of reviewing an audit I would tend to do.
 23 I wouldn't keep a record of it.
 24 I couldn't swear to you that I've done it each and
 25 every year, but I would tend to view a budget in a

Page 126

Page 128

1 that one of the sort of books and records issues, if you
 2 will, is that by channelling these kind of payments through,
 3 you know, one or two designated accounts that it, one,
 4 enables people in Cincinnati (b)(7)(C) group or what
 5 have you, to re-class those expenses to satisfy the books and
 6 records issues if it's material enough, if it needs to be
 7 done. Frankly, I doubt if it's material enough to need to be
 8 done, but that's not my area of expertise.
 9 And it concentrates it all right there so that that
 10 lends itself to this kind of procedure that we've been
 11 talking about, imperfectly working, but nevertheless it's
 12 there. Imagine how impossible it would be if it were just,
 13 you know, all over the place.
 14 Q I want to move on to the budgeting process for
 15 these general manager's expense fund accounts. What is the
 16 budgeting process for these accounts?
 17 A Extremely cursory. I don't want to make it a big
 18 deal. The amounts of money in Colombia that are involved
 19 have typically been somewhere around maybe 100 to 200,000 a
 20 year and, as I said before, you know, fairly early in the
 21 game, when this was just beginning, I was tracking that
 22 fairly carefully.
 23 It gave us something to benchmark off of for
 24 budgeting purposes in subsequent years and today the
 25 budgeting process, it wouldn't go beyond a question -- you

1 comparative fashion, so that if there were some major blip in
 2 one direction or another, it would be the kind of thing that
 3 would tend to pop out.
 4 Q Okay. I think I understood that, but I did not
 5 want it to get away from us on the record, that when you say
 6 not a rigorous fashion from your point of view, it is so long
 7 as you do not perceive there to be a major increase or
 8 decrease.
 9 A Right. That's correct.
 10 Q In reviewing it, which you do do, you would see
 11 that it went up five times --
 12 A Absolutely.
 13 (Pause.)
 14 Q I am handing you what been marked as Exhibit 25.
 15 I will give (b)(7)(C) had opportunity to look at that.
 16 I will describe it for the record. Exhibit 25 is a
 17 one-page document, Bates stamped 1CHQ17-000052. The date of
 18 the document is September 19, 1996. And after nombre, it
 19 says CI Hanaalex S.A.
 20 Have you seen this document before?
 21 A No.
 22 Q Do you know what this document is?
 23 A Yes.
 24 Q What is this document?
 25 A This is an accounting document for payment. In

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