

have had about a dozen cases. If you look at the State of California—which has a very tough protection not dissimilar from what we are talking about, but also has accountability—they have no cases to date. None, zero. This has been a surprise to the industry and to other health observers in California. There have been 200 appeals out there. Mr. President, 65 percent of those appeals have been decided in favor of the HMO, but they still have not had those cases brought to court. But what you do have is guarantees to patients, such as the ones we have outlined here in this particular list. That has been true.

Finally, we have about 50 million Americans through their own contract—State and county workers—who have the opportunity to sue the HMOs under that particular contract.

We don't find the kind of abuses the naysayers will talk about in terms of this legislation, and we find their premiums are very much along the lines of the others.

We are looking forward to this debate tomorrow. I welcome the opportunity to finally bring this bill up. I am grateful to the leadership of Senator DASCHLE who has urged us to move on this in a timely way. In the past, we haven't been able to bring this up in the way we will tomorrow—as a free and open debate. We have had to bring it up in other circumstances, at other times, using the rules of the Senate to insist that the Senate address it. Now we will have the chance for a free and open debate. We want progress on this legislation. It is necessary.

In the last week, we were able to work out—with the administration and others—a very solid result for education reform. I am still not satisfied it will benefit all the children it should because although the authorization will ensure that all children will benefit, we are going to have to make an issue on those questions. I wish we had that same opportunity on health care as well because this protection is of such enormous importance to families across the Nation.

I look forward to the debate. I hope we can get to this bill in a timely way. We had a full opportunity to examine and look at the various provisions. We already debated and acted on most of these provisions 2½ years ago. This is a substantive matter with which Members should be familiar. The need is paramount.

I look forward to working with our colleagues on all sides of the aisle. I look forward to, hopefully, working with the administration so we can enact legislation that will make sure that when doctors make a decision with a family, it will be a decision that will stand. Doctors need that kind of protection. Health professionals need that protection. Importantly, patients need that protection.

That is what this legislation is really all about. We look forward to working with our colleagues to make sure we get the job done.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to deliver my remarks at my seat.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

SETTING THE RECORD STRAIGHT ABOUT J.A. JONES CO.

Mr. HELMS. Mr. President, the distinguished Senator from Virginia (Mr. ALLEN) last week emphatically called the hands of various media for having inaccurately reported the Senator's position on the World War II Memorial and the American firm (and its German parent company) selected to build the memorial.

I feel obliged to comment as well, not only to commend the able Senator from Virginia for speaking out, but to emphasize that the lead contractor for the World War II Memorial is a distinguished North Carolina company.

J.A. Jones Construction Company is a 112-year-old Charlotte enterprise which deserves better than to have bitter fringe groups try to impugn the integrity and historic citizenship of such a well-established firm.

Business is business, and it's understandable that losing bidders on any project will be disappointed. But for such a prestigious U.S. company as J.A. Jones to be unjustifiably criticized certainly is an inappropriate exercise on the part of the losing bidders.

For the purpose of rejecting the activities by fringe groups, I feel it appropriate that the CONGRESSIONAL RECORD reflect the specific role that J.A. Jones Construction Company has played in supporting the United States and its national defense during the 112 years that J.A. Jones Company has been in business.

While this is not a complete list, it is sufficiently detailed for me to make clear the kind of corporate citizen J.A. Jones Construction Company has been:

The construction of nine American military bases that trained U.S. troops for World War II;

The construction and operation of the Navy Shipyard in Panama City, FL, and the operation of the Navy Shipyard at Brunswick, GA. Between the two facilities, J.A. Jones employees built more than 200 *Liberty* Class warships during World War II;

Selection as one of the first American companies to work in a war zone, constructing air bases and other facilities in and around Saigon during the Vietnam war;

Construction of the Washington Mall Reflecting Pool, the West Wing of the White House, the East Wing of the National Gallery of Art, the East and West Fronts of the Capitol, the Smithsonian Air and Space Museum, the National Museum of History addition and

renovation, and the National Gallery of Art Sculpture;

The continued involvement in building and maintaining military bases and facilities across the country; and

The current reconstruction of the two U.S. Embassies in Africa destroyed by terrorist bombings.

Considering the circumstances, I feel it only fair that a statement issued by the president of J.A. Jones Construction Company be made a part of the RECORD at this point. President John D. Bond III identified significant aspects of his company's service to America.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN D. BOND III

J.A. Jones' 112-year history is an important and classic case study in corporate patriotism and dedication to a free world. In the military buildup in the 1930s before the U.S.'s involvement in World War II, J.A. Jones built nine military bases, from the ground up, in Alabama, Georgia, Mississippi, North Carolina and South Carolina. These bases provided everything our troops needed to prepare for their crucial role in saving the world.

During the war, J.A. Jones built and then operated the Navy Shipyard in Panama City, Fla., and took over operations of the Navy Shipyard at Brunswick, Ga. At these two crucial locations, J.A. Jones employees built more than 200 *Liberty* Class warships at an incredible rate of 12 per month. In 1943 and 1944, workers donated their time on Christmas Day to continue working and get the ships to the Allied and U.S. Armed Forces who so desperately needed them to win the war.

Scores of J.A. Jones employees served in the war, including Edwin Jones, Jr., who would later become chairman of the company after serving with the Marines and taking part in the deadly fighting at Iwo Jima.

J.A. Jones' commitment to our nation and its men and women in uniform has continued over the years. In Vietnam, J.A. Jones was one of the first American companies to actually work in a war zone when it built air bases and other facilities in and around Saigon. J.A. Jones' close ties with the U.S. military remain just as strong today as our employees continue to build and manage bases and facilities around the world.

In discussing the relationship between Philipp Holzmann and J.A. Jones, it also is important to look at history. The two companies first worked together in the mid-1970s on U.S. Army Corps of Engineers projects in Saudi Arabia. J.A. Jones was looking to expand its global presence, and Philipp Holzmann saw potential in the U.S. Philipp Holzmann bought J.A. Jones in 1979. Edwin Jones Jr., the World War II veteran who fought at Iwo Jima, was chairman of J.A. Jones at the time of the sale.

We are in fact a global economy. The very fact that Germany has become a free capitalistic country and trusted American ally is testament to the United States' and post-World War II Allied commitments to rebuilding the free world. Unfortunately, in the discussions of where the World War II Memorial will be built and who will build it, we have lost sight of the true purpose of this project: to honor the veterans who saved the world. I believe the history of J.A. Jones Construction and its people makes it the ideal choice for the historic project.

I am extremely proud that J.A. Jones will play an important role in the building of the World War II Memorial. When we break ground this summer, I will be there with my father, who was paratrooper in World War II, and my son, whose generation must recognize and understand the sacrifices that America's Greatest Generation made for freedom. I could not look either of them in the eye if I had any question about J.A. Jones' commitment to American and a free world.

Today, I can say unequivocally that no company is more committed than J.A. Jones to the principles that have made America the leader of the free world.

Mr. HELMS. I yield the floor.

The PRESIDING OFFICER (Mr. HATCH). The Senator from Virginia.

Mr. WARNER. Mr. President, it is just by accident that I happened to be on the floor to listen to my distinguished friend and colleague recount the history of this really remarkable construction firm. But I must say I have some concerns about the problem. I have not reached any determination. I don't know if there is anything that this one Senator or other Senators can do to try to clarify what I perceive as a legitimate concern not only held by this Senator but many across the United States for these reasons.

My dear friend and colleague from North Carolina has recounted the history of J.A. Jones. I don't question for a minute the distinguished patriotic service this firm has rendered to the United States, as the Senator has recounted very clearly, from World War II to date.

It also brought up the Charles Tompkins firm here in Washington, DC. I had some knowledge of that firm, and that firm also had an impeccable record, so far as I know, of patriotic service and built many structures here in Washington.

Indeed, if I may indulge, at one time I was a young sort of engineer of types. After my last year of college before going to law school, I worked in the construction business here in the Nation's Capital as the supervisor of heavy concrete and steel construction. And all of us knew about the Charles H. Tompkins Building Firm.

But I think it is important for the RECORD to show that these two firms were then bought out—Tompkins was first bought by the Jones Company, if I understand it, and then the Jones Company, the controlling interest, was bought out by a German firm. Am I correct on that, I ask my distinguished colleague?

Mr. HELMS. That is correct. But the presidency resides in the United States.

Mr. WARNER. Yes. But what year, to refresh my recollection? I have read it, but I simply don't have my papers here. But how many years ago was it when the German firm bought this—

Mr. HELMS. I don't recall.

Mr. WARNER. I will place that in today's RECORD. But I think it is important. I feel a duty to put in the RECORD also that this parent firm in Germany has just recently concluded a resolu-

tion of what appears to be a long-standing dispute about its record during World War II as it related to certain persons in the European area and the use of them as forced labor during the war, which, unfortunately, was prevalent with a lot of German firms that have survived to this day.

Then just several hours ago I got a report that some evidence is coming to the forefront—I will have to try to put this in the RECORD; I am sorry I don't have my papers, but I think it is important—that the firm just paid a penalty to the U.S. Government for some settlement, again, of a claim between the U.S. Government and this firm.

But I say to my distinguished friend—and I have no better friend in the Senate. Both of us served in World War II in the U.S. Navy. My service was very modest, but I do remember that period of time very well as a young 17-year-old sailor. I think it is important that at least the RECORD state the facts. Then the people of the United States, particularly those who served in World War II, and their families—because this memorial is as much a tribute to the families as it is to those who served, particularly the families who lost their loved ones in that conflict.

As the Senator knows, there were over several hundred thousand who lost their lives. There were many, many more hundred thousands who suffered wounds. Then, of course, the Senator remembers the tremendous unity here at home during that entire period between all citizens who served their Nation in many ways.

But I just point this out. I think this RECORD should be complete. I feel an obligation to do it. I do it out of respect for my colleague. But I will put into the RECORD today additional facts relating to your statement, Senator, because I think the RECORD should be complete, and then the citizens simply have to make up their own mind on this. I do not know that there is any action that can be taken or should be taken, but the RECORD, in my judgment, should be complete.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. WARNER. Yes, of course.

Mr. HELMS. I think the RECORD should be clear as to the German firm. I don't know anything about that. But the allegations were made about J.A. Jones Construction Company, and it is that North Carolina firm that I came to defend this afternoon.

I welcome anything that the distinguished Senator from Virginia, who has been my friend for a long time, can add about the German firm. But I want the RECORD to be clear about J.A. Jones Construction Company. That is the reason I came to the Senate Chamber this afternoon.

Mr. WARNER. Mr. President, I think it is important that you undertook this because you do so not only out of loyalty to your State and to your constituents, but, indeed, by your distin-

guished record in World War II, having served in the Navy, and by your strong support throughout your entire Senate career for all those who participated in military conflict, and their families, and particularly for your support for this memorial.

I thank the Senator for the opportunity to engage in a colloquy with him.

Mr. President, I ask unanimous consent that I may have printed in the RECORD certain additional material that could be pertinent.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. WARNER. I say to my good friend, so we will all know, our beloved colleague, and former majority leader, Robert Dole, who has an extraordinary record of heroism in World War II, was, indeed, instrumental in the building of this memorial; that is, raising the funds and putting the infrastructure in place financially for this memorial to go through. There are some hundred thousand dollars that have been raised—almost all of it in the private sector. I was pleased, as a member of the Armed Services Committee, to bring to the Senate an amendment of some \$6 million of taxpayers funds which was incorporated into last year's authorization bill and appropriated to add to the many hundreds of thousands of gifts contributed towards the building of this memorial so as to raise the final total to the \$100 million to allow construction to go forward.

So I say to my good friend from North Carolina, again, I feel an obligation, having instituted that funding requirement, and asking colleagues to support—indeed, the Congress as a whole—I feel I have an obligation to put in the RECORD such facts as I know about this case. And I will include a communication I have just received from Senator Dole which in many ways recites the history of the distinguished firm to which you refer.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. WARNER. Yes.

Mr. HELMS. I say to the Senator, I commend you for the position you have taken. And I join you in making clear all of the relevant facts about this matter, specifically those involving the German firm.

Mr. WARNER. Yes.

Mr. HELMS. But I want to separate the J.A. Jones Construction Company from that. Incidentally, I talked to Senator Dole right here on the floor of the Senate last week about it. And it was he who called me to look into the matter and to come here today.

Mr. WARNER. Fine.

Mr. President, I thank our distinguished colleague, and I appreciate the forbearance of our distinguished colleague from Pennsylvania, who has been patiently waiting.

EXHIBIT No. 1

Washington, DC, June 13, 2001.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR JOHN: Enclosed are press statements relating to the companies who were awarded the contract to construct the National World War II Memorial. The General Services Administration acting as the agent for the American Battle Monuments Commission awarded the contract and the selection was under the GSA Construction Excellence program.

Best wishes.

BOB DOLE.

Enclosure.

[Press Release From the U.S. Agency for International Development, Aug. 18, 2000]

WASHINGTON, D.C.—Philipp Holzmann AG, a German construction company, has pled guilty to participating in a criminal conspiracy to rig bids on a USAID-funded construction contract in the Arab Republic of Egypt, Everett L. Mosley, Acting Inspector General, U.S. Agency for International Development, announced today.

As part of its plea agreement with the Department of Justice, Antitrust Division, Holzmann agreed to pay a criminal fine in the amount of \$30 million.

The one-count felony judgment was entered in the U.S. District Court in Birmingham, Alabama. It charged Holzmann and other unnamed co-conspirators with participating in a conspiracy to suppress and eliminate competition on the U.S. Agency for International Development (USAID) contract in violation of the Sherman Antitrust Act.

Today's action is the first charge to arise out of an on-going grand jury investigation in the Northern District of Alabama conducted by the Justice Department's Antitrust Division, Atlanta Field Office, working in concert with the USAID Office of the Inspector General.

"This plea agreement is the first step in the unraveling of a wide-ranging conspiracy involving several multi-national corporations, which had targeted the USAID program for exploitation," Mosley said. "This investigation is part of our continuing law enforcement effort to combat fraud in the foreign assistance programs. Program integrity is essential to maintain public support for the foreign assistance program of the United States."

Holzmann participated in rigging the bids so that its American subsidiary, J.A. Jones Construction Co., which had submitted a bid as part of a joint venture, would be awarded the lucrative USAID contract for construction of a waste-water treatment project at a highly inflated price.

The investigation is continuing until each co-conspirator is identified and prosecuted.

This investigation was conducted by USAID's Office of Inspector General.

The case was prosecuted by the Justice Department's Antitrust Division, Atlanta Field Office.

[Media Advisory From the U.S. General Services Administration, June 13, 2001]

GSA STATEMENT ON SELECTION OF CONTRACTOR FOR WWII MEMORIAL

The General Services Administration (GSA), acting as agent on behalf of the American Battle Monuments Commission (ABMC), awarded a contract to Tompkins Builders and Grunley-Walsh Construction to construct the National World War II Memorial on the Mall in Washington, D.C. The joint venture of these American firms submitted the highest quality proposal and the

lowest price, thus providing the best overall value to the Government.

GSA management is sensitive to the issues raised in news stories. The agency reiterates that Tompkins and Grunley-Walsh are responsible firms.

Tompkins Builders, a U.S. company established in the District of Columbia in 1911, and the third largest general contractor in the Washington D.C. Metropolitan area, has a reputation for quality construction. It is owned by J.A. Jones Construction Company, founded in 1890 in Charlotte, N.C., a subsidiary of J.A. Jones, Inc. Since 1979, the Philipp Holzmann Company, a German construction firm, has owned J.A. Jones, Inc.

Both Tompkins Builders and Grunley-Walsh have extensive working relationships with GSA and other Federal agencies. They have participated in many construction and renovation projects in the Washington, DC area, including the: Washington Monument; Jefferson Memorial; Franklin D. Roosevelt Memorial; U.S. Capitol; National Air and Space Museum; Food and Drug Administration's Center for Food Safety and Applied Nutrition in College Park, MD, and Alexandria Federal Courthouse in Alexandria, VA.

J.A. JONES REAFFIRMS LONG HISTORY OF SUPPORTING U.S. MILITARY

CHARLOTTE, NC, June 12, 2001.—J.A. Jones Construction Co., whose subsidiary Tompkins Builders was chosen last week as lead contractor for the prestigious World War II Memorial in Washington, today reiterated its crucial role in supporting the U.S. military and government during the company's 112-year history.

Key contributions include:

The construction of nine American military bases that trained U.S. troops for World War II.

The construction and operation of the Navy Shipyard in Panama City, Fla., and the operation of the Navy Shipyard at Brunswick, Ga. Between the two facilities, J.A. Jones employees built more than 200 Liberty Class warships during World War II.

Selection as one of the first American companies to work in a war zone, constructing air bases and other facilities in and around Saigon during the Vietnam War.

Construction of the Washington Mall Reflecting Pool, the West Wing of the White House, the East Wing of the National Gallery of Art, the East and West Fronts of the Capitol, the Smithsonian Air and Space Museum, the Natural Museum of History addition and renovation, and the National Gallery of Art Sculpture.

The continued involvement in building and maintaining military bases and facilities across the country.

The current reconstruction of the two U.S. Embassies in Africa destroyed by terrorist bombings.

The following is a statement from John D. Bond III, president of J.A. Jones Construction:

Let me make this as clear as I can make it: Anyone who questions the patriotism of J.A. Jones Construction Co., its employees, and our historical commitment to a free world, is misguided and misinformed.

J.A. Jones' 112-year history is an important and classic case study in corporate patriotism and dedication to a free world. In the military buildup in the 1930s before the U.S.'s involvement in World War II, J.A. Jones built nine military bases, from the ground up, in Alabama, Georgia, Mississippi, North Carolina and South Carolina. These bases provided everything our troops needed to prepare for their crucial role in saving the world.

During the war, J.A. Jones built and then operated the Navy Shipyard in Panama City,

Fla., and took over operations of the Navy Shipyard at Brunswick, Ga. At these two crucial locations, J.A. Jones employees build more than 200 Liberty Class warships at an incredible rate of 12 per month. In 1943 and 1944, workers donated their time on Christmas Day to continue working and get the ships to the Allied and U.S. Armed Forces who so desperately needed them to win the war.

Scores of J.A. Jones employees served in the war, including Edwin Jones Jr., who would later become chairman of the company after serving with the Marines and taking part in the deadly fighting at Iwo Jima.

J.A. Jones' commitment to our nation and its men and women in uniform has continued over the years. In Vietnam, J.A. Jones was one of the first American companies to actually work in a war zone when it built air bases and other facilities in and around Saigon. J.A. Jones' close ties with the U.S. military remain just as strong today as our employees continue to build and manage bases and facilities around the world.

In discussing the relationship between Philipp Holzmann and J.A. Jones, it also is important to look at history. The two companies first worked together in the mid-1970s on U.S. Army Corps of Engineers projects in Saudi Arabia. J.A. Jones was looking to expand its global presence, and Philipp Holzmann saw potential in the U.S. Philipp Holzmann bought J.A. Jones in 1979. Edwin Jones Jr., the World War II veteran who fought at Iwo Jima, was chairman of J.A. Jones at the time of the sale.

We are in fact a global economy. The very fact that Germany has become a free capitalistic country and trusted American ally is testament to the United States' and post-World War II Allied commitment to rebuilding the free world. Unfortunately, in the discussions of where the World War II Memorial will be built and who will build it, we have lost sight of the true purpose of this project: to honor the veterans who saved the world. I believe the history of J.A. Jones Construction and its people makes it the ideal choice for the historic project.

I am extremely proud that J.A. Jones will play an important role in the building of the World War II Memorial. When we break ground this summer, I will be there with my father, who was paratrooper in World War II, and my son, whose generation must recognize and understand the sacrifices that America's Greatest Generation made for freedom. I could not look either of them in the eye if I had any question about J.A. Jones' commitment to America and a free world.

Today, I can say unequivocally that no company is more committed than J.A. Jones to the principles that have made America the leader of the free world.

STATEMENT OF THE AMERICAN BATTLE MONUMENTS COMMISSION REGARDING THE CONSTRUCTION CONTRACT FOR THE NATIONAL WWII MEMORIAL, JUNE 11, 2001

The joint venture of Tompkins Builders and Grunley-Walsh Construction was awarded a \$56 million contract last week to build the National World War II Memorial on the Mall in Washington, D.C.

The award was made by the General Services Administration (GSA), acting as agent for the American Battle Monuments Commission (ABMC). The agency conducted the general contractor procurement and selection under the GSA Construction Excellence program.

The selection was based on price, experience on comparable projects, and past performance. The evaluation of all these factors allowed the government to select the offer

representing the overall "best value" in terms of risk. While price was not the sole factor considered, the joint venture of Tompkins/Grunley-Walsh did submit the lowest price.

Tompkins Builders, an American company established in the District of Columbia in 1911, is the third largest general contractor in the Washington Metropolitan area. The company has earned a reputation for quality construction.

Tompkins is owned by J.A. Jones Construction Company, a subsidiary of J.A. Jones, Inc., which is an American company founded in 1890 in Charlotte, North Carolina.

J.A. Jones, Inc., in turn, is owned by the Philipp Holzmann Company, a large German construction firm. In today's global economy, international ownership relationships are common. Three of the five largest construction companies in America are foreign-owned.

Neither ABMC nor GSA has the authority to discriminate against American firms based upon the nationality of parent or grandparent corporations. Moreover, such discrimination would be inconsistent with the principles for which the WWII generation sacrificed.

[From the New York Times, Apr. 13, 2001]
GLOBAL CONSPIRACY ON CONSTRUCTION BIDS
DEFRAUDED U.S.

(By Kurt Eichenwald)

A group of international construction companies defrauded the American government out of tens of millions of dollars earmarked for Egyptian water projects undertaken as part of the Camp David peace accords, according to government officials and court documents.

One participant in the wide-ranging conspiracy, a unit of ABB Ltd., the Swiss engineering giant, pleaded guilty yesterday to its role in the scheme, agreeing to pay \$63 million in fines and restitution.

The conspiracy, which lasted more than seven years, involved the rigging of contract bids submitted in the late 1980's and early 1990's to the United States Agency for International Development, which was financing Egyptian water projects that resulted from the Middle East peace accords reached during the Carter administration.

Contracts were supposed to be awarded through competitive bidding. But the construction companies subverted the process through payments of bribes and kickbacks to other possible bidders, fraudulent billing to the government and the laundering of cash through Swiss bank accounts, court records in related cases show.

The conspirators included at least six international construction companies, which collectively referred to themselves as the Frankfurt Group, according to people briefed on the case. At the time of the bidding, the companies were either American or American subsidiaries of European concerns. The name of the group came from the fact that some of the largest companies were based in Frankfurt.

The investigation of the conspiracy began almost six years ago, after a top financial officer at one company noticed a series of improper wire transfers and other transactions. That executive then brought those matters to the attention of the Justice Department, which has been investigating ever since.

According to court records, companies involved in the conspiracy were able to obtain profits of as much as 60 percent on the Egyptian water projects—a return that would be almost certainly impossible to obtain under competitive bidding. Indeed, some of the companies went to great lengths to hide their profits, charging fictitious expenses

from related companies to decrease the returns shown on their books.

All told, about a dozen contracts have been awarded under the program, totaling more than \$1 billion. To date, three contracts have been found to involve fraud, and the others remain under investigation.

The investigation has already resulted in two other guilty pleas, entered last fall by other construction companies. But until yesterday the full scope and implications of the criminal investigation were not publicly known.

In the plea entered yesterday in Federal District Court in Birmingham, Ala., ABB Middle East and Africa Participations A.G., a Milan-based subsidiary of the engineering company, admitted to taking part in a conspiracy to rig the bid for a project known as Contract 29. The original participant in the conspiracy was SAE Sadelmi USA, another ABB subsidiary, which was based in North Brunswick, N.J., and later became part of the Milan subsidiary.

Under the terms of the illegal agreement, the ABB unit met with other potential bidders on Contract 29 and agreed to pay them \$3.4 million to submit inflated bids for the project. The ABB unit was then able to inflate its own bid on the project, knowing the offer would still beat other submissions. The value of the awarded contract, which was to pay for building a wastewater treatment plant in Abu Rawash, Egypt, was about \$135 million.

"Although the construction work that is the subject of this case was performed on foreign shores, the U.S. government paid the bill and the U.S. taxpayers were the victims of the scheme," John M. Nannes, acting assistant attorney general in charge of the Justice Department's Antitrust Division, said in a statement.

An ABB spokesman, William Kelly, said the company had been cooperating with investigators since 1996, and first learned that it was a target of the inquiry last fall. He said the crimes were conducted by a small group of employees, all of whom have since left the company for reasons unrelated to the case.

"We deplore and deeply regret the behavior that led to these charges," Mr. Kelly said. "It stands in sharp contrast to the high standard of business ethics practiced by the great majority of ABB employees." He added that in the year since the bid rigging occurred, ABB has expanded internal compliance programs "to let employees at all levels know that ABB has zero tolerance for illegal or unethical business behavior."

According to court records in related civil cases, the \$3.4 million payment was made to an unincorporated joint venture formed by Bill Harbert International Construction, based in Birmingham, and the J.A. Jones Construction Company, a Charlotte, N.C., subsidiary of Philipp Holzman A.G. of Frankfurt.

Phillipp Holzman pleaded guilty to a criminal complaint filed under seal last August. A spokesman for Harbert did not return a telephone call.

According to court filings by the government in related cases, the Jones-Harbert venture was at the center of other bid-rigging efforts involving the Egyptian water projects. For example, American International Contractors Inc., a construction company based in Arlington, Va., and owned by the Archirodon Group of Geneva, pleaded guilty last September to accepting payments in exchange for a commitment not to bid on a project known as Contract 20A. That contract was awarded to the Jones-Harbert joint venture, court records show.

Indeed, irregularities in Contract 20A led to the discovery of the broader bid-rigging

scheme. The irregularities were first discovered by Richard F. Miller, who worked first as a controller and then as treasurer of Jones from 1986 through 1996.

During the course of his work, Mr. Miller discovered a series of improper transactions involving the joint venture with Harbert, and pieced together that a bid-rigging scheme had been used in Contract 20A, a \$107 million sewer project in Cairo.

Among the evidence eventually discovered by Mr. Miller, according to court records from a federal whistle-blower suit he filed, were wire transfers for \$3.35 million from the joint venture to a related company for fictitious "preconstruction costs."

The most complex transaction, according to the court records, was a bogus "sale-lease-back" arrangement involving a Jones-related company called Sabbia. Under the terms of the deal, Sabbia was to purchase the construction equipment for the project, then lease it back to the joint venture.

Yet while \$14.4 million in lease payments were sent to Sabbia, the \$4 million to purchase the equipment was never paid by that company. Instead, according to court records and lawyers involved in the case, that money remained in a Swiss bank account and was used as a fund to disburse payments to other co-conspirators.

"This was an example of a transaction that was done to reduce the apparent profitability of Contract 20A," said Robert Bell, a lawyer from Wilmer, Cutler & Pickering who is representing Mr. Miller in his whistle-blower suit. "If you skim almost \$15 million off the top, it's easier to make it look like the joint venture wasn't making all that much money."

The PRESIDING OFFICER. The Senator from Pennsylvania.

THE PATIENTS' BILL OF RIGHTS

Mr. SPECTER. Mr. President, I have sought recognition to comment about the legislation which is due to come to this Chamber tomorrow. I thought it might be useful to focus on a Dear Colleague letter which I sent out last week, which reads as follows:

A key point of controversy on legislation now pending in the Senate is whether patients will be permitted to collect damages from insurance companies without a statutory limitation. Under more than 200 years of common law precedents, a harmed plaintiff has been able to recover compensation as set by a jury for economic losses and pain and suffering when a defendant is negligent and punitive damages for gross, malicious or intentional misconduct.

The McCain-Edwards-Kennedy Bill, of which I am a co-sponsor, provides for Federal court jurisdiction on the issue of whether a claim is covered by the contractual provisions of a health care plan and for state court jurisdiction on medical malpractice claims.

Serious concerns have been raised to that bill because of a history of very high verdicts in state courts on personal injury claims which could significantly raise the cost of health care in the United States. There is substantial experience that Federal court trials result in a more reasoned and judicious result in malpractice cases.

I intend to offer a compromise amendment which would maintain Federal court jurisdiction under McCain-Edwards-Kennedy for coverage claims (which have also been referred to as quantity or eligibility decisions) and extend Federal court jurisdiction, excluding state court jurisdiction, on medical