

U.S. Contractor Found Guilty of \$3 Million Fraud in Iraq

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Correction Appended

In the first corporate whistle-blower case to emerge from Iraq, a federal jury in Virginia yesterday found a contractor, Custer Battles L.L.C., guilty of defrauding the United States by filing grossly inflated invoices for work in the chaotic year after the Iraqi invasion.

The civil case is expected to be the first of dozens under the Federal False Claims Act, which allows company insiders to bring suit on behalf of the government and share in damages awarded.

Two former associates accused Custer Battles of faking invoices from shell companies to overcharge the coalition authority, then governing Iraq, by tens of millions of dollars. But the current trial concerned billing of just \$3 million under one of several contracts the company garnered in the post-invasion scramble.

After a three-week trial, the jury found that the entire \$3 million was gained by fraud. According to the law, the company, which is based in McLean, Va., and its two owners and a former executive must now repay the government triple damages and also pay fines for 37 fraudulent acts.

Of more than \$10 million in damages and penalties, most will go to the federal treasury while the whistle-blowers will receive from 25 percent to 30 percent.

"This reward won't make or break my life, but I'm pretty pleased," said one of the former associates, Robert J. Isakson, a construction subcontractor who brought the suit with William D. Baldwin, a former manager in Iraq for Custer Battles.

"I went to the trouble because these guys are crooks," he said. "They defrauded the U.S. government and did it blatantly."

Mr. Baldwin was also awarded \$230,000 in damages because he was forced out of his job when he complained of illegal activity.

In one of many examples described at the trial, the company filed a fake invoice saying it had spent \$176,000 to build a helipad when it had actually spent \$96,000.

Lawyers for Scott Custer and Michael Battles, co-owners of the company, argued that any billing mistakes reflected the duress of war and that the company had billed fairly. The defense lawyers did not respond late yesterday to requests for comment.

Alan Grayson, lead attorney for the plaintiffs, argued that the company had billed the coalition authority for \$15 million under the disputed contract when it had actually spent only \$7 million. Under the contract, to provide logistical support for the distribution of new currency in Iraq, the company was supposed to be reimbursed for actual costs plus a fee of 25 percent.

The judge in the case, Judge T. S. Ellis III, of the Federal District Court in Alexandria, Va., had previously ruled that the False Claims Act applied only to bills paid directly from the American treasury. As a result, most of the payments to Custer Battles, from Iraqi funds, were not considered.

Mr. Grayson said he was pleased that the jury found the case to be "airtight." But he said he was disturbed that the

Justice Department had chosen not to join in the false claims case and that many other similar cases remained under seal.

"It fell upon whistle-blowers not only to bring this case to light but to recover money for taxpayers," Mr. Grayson said in a telephone interview.

The widely reported allegations against Custer Battles have come to symbolize the poorly monitored reconstruction spending in Iraq. In early 2003, Mr. Custer and Mr. Battles, two former Army Rangers in their 30's with limited experience, showed up in Baghdad and soon won a series of security and logistics contracts worth more than \$100 million.

Hugh B. Tant, a retired brigadier general who directed the currency exchange project for the coalition authority, said at the trial that Custer Battles' work was "the worst I've ever seen in over 30 years of my time in the Army." At one point, he said, 34 of 36 trucks the company had provided were inoperable.

When he confronted Mr. Battles with his concern over the trucks, General Tant testified, Mr. Battles responded defiantly, "You asked for trucks and we complied with our contract."

Among the most telling evidence presented was a spreadsheet that a Custer Battles official accidentally left behind after a meeting with contract officials in Baghdad. The document listed the company's actual expenses, the higher expenses it was reporting to the coalition and the secret, elevated profit margins for several tasks, including the building of the helipad.

Sharing liability along with Mr. Custer, Mr. Battles and their company are Joseph Morris, a former executive, and several other companies that Mr. Custer and Mr. Battles incorporated to mask as suppliers and provide sham invoices.

THE STRUGGLE FOR IRAQ: RECONSTRUCTION Correction: March 11, 2006, Saturday A subheading in an article yesterday about a guilty verdict in the first corporate whistle-blower case to emerge from Iraq misstated the origin of the Federal False Claims Act, under which the conviction was obtained. The law is not new, but dates back to the Civil War and was amended in 1986.