

## Execs Owe Island Nation \$32M In Bid Scheme, Fla. Jury Finds

By **David Minsky**

*Law360, Miami (March 29, 2023, 11:48 PM EDT)* -- A Miami jury on Wednesday found that a trio of businessmen conspired to defraud the Republic of Trinidad and Tobago out of more than \$32 million in a bid-rigging scheme that involved the government awarding hyperinflated airport construction contracts, concluding a case that has spanned nearly 20 years.

The jury came down with its verdict following a roughly four-week trial in Miami's Eleventh Judicial Circuit Court, finding that businessman Steve Ferguson conspired with Raul Gutierrez Jr. and Brian Kuei Tung to rig bids that got the Trinidad and Tobago government to award several overpriced contracts to build the Piarco International Airport starting in the late 1990s.

"We're grateful that after 19 years of litigation that the Republic of Trinidad and Tobago has had its day in court and that their position has been vindicated," said Raoul Cantero of White & Case LLP, representing the Caribbean island nation, told Law360 on Wednesday.

In its verdict, the jury found Ferguson liable for two counts of Florida racketeering violations, common law fraud and conspiracy to commit fraud. Al-Rawi added that the case was a "joint and several liability" case in which one or all of the defendants are liable for all amounts. Because the allegations involved civil racketeering conspiracy, damages will be tripled, according to Faris Al-Rawi, the country's minister of rural development and local government.

Michael Garcia Petit of the Law Office of Michael Garcia Petit PA, representing Gutierrez, told Law360 that the defendants faced an "uphill battle" given that several records important to the case went missing.

Trinidad and Tobago initiated its lawsuit against Ferguson, Gutierrez and Tung in 2004 although the case — which also involved a parallel criminal case — stalled after getting tied up in the appellate process for years, according Al-Rawi, who described the scheme as a "long-running fraud." Al-Rawi added that the trial was to determine liability and damages for Ferguson while only damages were to be determined for Gutierrez and Tung

In its complaint, Trinidad and Tobago said a "cohesive group of individuals and corporate entities" involving the defendants operated to unlawfully divert millions of dollars through the airport's construction. The complaint stated that Ferguson and Tung are residents of Trinidad and Tobago while Gutierrez is a resident of Miami-Dade County, Florida.

The Trinidad and Tobago government stated in its complaint that the defendants conspired to rig the bid process in order to receive two construction contracts and a maintenance contract that were overpriced, in total, by about \$32.4 million. Officials said Ferguson ensured that Orlando-based Birk Hillman Consultants Inc. was retained by the government to manage the airport project and then demand a \$1 million kickback from the consulting firm, according to the complaint, adding that Birk Hillman proceeded to "engineer bidding processes that favored its co-conspirators."

Jim Robinson of White & Case, representing Trinidad and Tobago, said what resulted was a contract awarded to a company not qualified to build an airport — which had no bathrooms, a control tower only accessible by a staircase and elevators that "barely fit two people," among other problems.

"All Birk Hillman did was betray them ... right from the get go," Robinson said. "The crime here was pretty awful, ripping off this county of \$32 million, but the cover-up was extensive, far-reaching and coordinated by one person — Mr. Ferguson."

Steve Binhak of the Law Office of Stephen James Binhak PLLC, representing Ferguson, said Birk Hillman was chosen "properly" and "for the correct reasons."

He added that the political winds had shifted in the country and that the government's complaint is a "political hit job designed to damage Ferguson and get a refund on the airport." In addition, he said, the statute of limitations had run out, and it wasn't the government of Trinidad and Tobago itself that should be suing his client, but rather the Airports Authority of Trinidad and Tobago, which was charged by the republic to develop and construct the new airport.

"The only person who can sue is the person who has the claim," Binhak said. "The only way you can let the person bring the claim is through a written assignment, which there is none."

Al-Rawi, however, said the AATT was created by the Trinidad and Tobago government.

"The people of Trinidad and Tobago express their gratitude for the judicial system of the United States and to Judge Reemberto Diaz in this complex and thick litigation," Al-Rawi told Law360 following the verdict.

The Republic of Trinidad and Tobago is represented by Jim Robinson and Raoul Cantero of White & Case LLP.

Ferguson is represented by Steve Binhak of Law Office of Stephen James Binhak PLLC and Scott B. Cosgrove of León Cosgrove Jiménez LLP.

Gutierrez is represented by Michael Garcia Petit of the Law Office of Michael Garcia Petit PA.

The case is Republic of Trinidad and Tobago ex rel. John Jeremie v. Birk Hillman Consultants Inc. et al., case number 2004-011813-CA, in the Eleventh Judicial Circuit Court of the State of Florida

--Editing by Kristen Becker.