

News articles - Lesotho

Canadian Business.com September 15/2003

Another watershed for Acres by Matthew McClearn

As corporate defenestrations go, the bribery case against Acres International Ltd. has been among the more spectacular in recent memory. This landmark legal battle, which saw the Oakville-based engineering consulting firm convicted on two counts of bribery last fall, surrounded allegations that Acres used an agent to bribe the head of a giant water and hydroelectric development in the southern African nation of Lesotho. According to a Lesotho court, the Canadian company paid bribes to Lesotho Highlands Water Project (LHWP) chief executive Masupha Sole through agent Zalisiwonga Bam to win contracts. On Aug. 15, Lesotho's Court of Appeal tossed out one bribery count for lack of evidence and reduced Acres' fine by nearly one-third to 15 million maloti (about \$2.8 million). In confirming the second, more serious graft conviction, the court pulled no punches: Acres' "cynical exploitation" of the LHWP, "motivated as it was by greed, is the more reprehensible," Judge Jan Steyn wrote in his judgment. The company's reputation, he predicted, "will be sullied by the conviction and it will live in the shadow of the taint of corruption." (Acres did not respond to interview requests.)

Will that shadow also descend over the First World? The World Bank, which last year ruled it had insufficient evidence to ban Acres from future projects, says it's examining new material from the Lesotho trials to determine whether to revisit the case. Unlike most of the companies it has sanctioned before, however, Acres and other implicated firms are large corporations with acknowledged industry knowledge and expertise. The LHWP scandal could prove a real test of anticorruption policies at the Bank, which provided more than US\$100 million toward the project.

The Canadian government is another wild card. Federal involvement in the case goes well beyond the fact that Bam happened to be Canada's honorary consul in Lesotho. The Feds say they sought to ensure that Acres received "fair and equitable" treatment from the World Bank and Lesotho's courts, in keeping with consular duties. Fair enough. However, non-governmental organization **Probe International** recently obtained internal government documents using the federal Access to Information Act, which Canadian

Business reviewed. The paper trail suggests officials at the Department of Foreign Affairs and International Trade (DFAIT) were sympathetic to Acres' plight. "Let us hope that the legal process which has been initiated will be speedily concluded," one official wrote to the company in 1999, "so that Acres can return to pursuing the many business opportunities which the African market offers." In another letter that year, Acres president Oskar Sigvaldason wrote that his firm was "most appreciative of the very thoughtful and balanced decision taken [by DFAIT] in defending our Company against unsubstantiated statements and allegations of wrongdoing."

Unless Acres did not receive a fair trial – something neither the Canadian government nor Acres' own lawyers have publicly claimed – some of those allegations now seem quite substantiated. So far, however, the government has been reluctant to lay a hand on Acres. Export Development Canada, which has provided contract insurance and bonding services to Acres during the past three decades, "has determined, based on the actions which Acres has taken subsequent to the Lesotho conviction, that EDC would be prepared to support Acres notwithstanding the dismissal of their appeal," says spokesman Rod Giles. The Canadian International Development Agency – which provided \$160,000 toward Acres' work with the LHWP – says it's reviewing the court evidence. DFAIT is doing likewise and says it will soon meet with the company "to learn more about anticorruption measures that Acres has instituted."

Policies and procedures are a start. But in the case of Acres, which claims to have had anti-bribery measures in place since 1978, they're clearly not enough. If Canada is unwilling to take serious, measured action against domestic companies that pay graft, then our country's own reputation abroad is very much in jeopardy.

<http://www.odiousdebts.org/odiousdebts/index.cfm?DSP=content&ContentID=8310q>