

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	
v.	:	
	:	
HITACHI, LTD.,	:	
	:	
Defendant.	:	

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) alleges:

SUMMARY

1. This action arises from violations of the books and records and internal accounting controls provisions of the Foreign Corrupt Practices Act (“FCPA”) [15 U.S.C. § 78m(b)(2)(A)-(B)] by defendant Hitachi, Ltd. (“Hitachi”).

2. In 2005, Hitachi created a subsidiary in South Africa for the purpose of establishing a local presence in that country to pursue lucrative public and private contracts, including government contracts to build two new major power stations.

3. Hitachi sold 25% of the stock in the newly created subsidiary to Chancellor House Holdings (Pty) Ltd. (“Chancellor”), a local South African company that was a front for the African National Congress (“ANC”), South Africa’s ruling political party. Hitachi’s arrangement gave Chancellor – and by proxy the ANC – the ability to share in the profits from any power station

contracts secured by Hitachi. Hitachi also entered into an undisclosed “success fee” arrangement with Chancellor, wherein Chancellor would be entitled to “success fees” in the event that the contract awards were “substantially as a result” of Chancellor’s efforts.

4. During the bidding process, Hitachi was aware that Chancellor was a funding vehicle for the ANC. Hitachi nevertheless continued to partner with Chancellor and encourage Chancellor’s use of its political influence to help obtain the government contracts.

5. As a result, Hitachi was awarded power station contracts in South Africa worth approximately \$5.6 billion.¹ In April and July 2008, Hitachi paid the ANC – through Chancellor – “success fees” totaling approximately \$1 million.

6. Hitachi’s South African subsidiary inaccurately recorded its “success fee” payments to Chancellor as “consulting fees” in its books and records for the year ended December 31, 2008. The inaccurate books and records of Hitachi’s subsidiary were consolidated into Hitachi’s financial statements for the fiscal year ended March 31, 2009, which were filed with the Commission.

7. In 2010, Hitachi’s South African subsidiary also inaccurately recorded a dividend worth over a million dollars to be paid to Chancellor, its 25% shareholder. The journal entry recorded this dividend as “Dividends Declared” in the subsidiary’s books and records for the year ended December 31, 2010. The books and records did not reflect that the dividend was, in fact, an amount due for payment to a foreign political party in exchange for its political influence in assisting Hitachi land two government contracts. The subsidiary’s inaccurate books and records

¹ Where contract amounts, success fees, dividend declarations, and other figures were in South African rand, those figures have been converted to U.S. dollars at the exchange rate prevailing at the relevant time.

were consolidated into Hitachi's financial statements for the fiscal year ended March 31, 2011, which were filed with the Commission.

8. Hitachi has violated, and unless enjoined will again violate, Section 13(b)(2)(A) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78m(b)(2)(A)] by failing to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of the assets of Hitachi. Hitachi also has violated, and unless enjoined will again violate, Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] by failing to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions were recorded in accordance with management's general or specific authorization; that transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets; that access to assets was permitted only in accordance with management's general or specific authorization; and that the recorded accountability for assets was compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), & 78aa].

10. Venue in the District of Columbia is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] because acts or transactions constituting federal securities law violations occurred in this district and, at the time of the violations, Hitachi transacted business in this district.

The Commission is headquartered in the District of Columbia and filings with the Commission occur in this district.

DEFENDANT

11. Hitachi, Ltd. is a multinational conglomerate that, among other things, designs and constructs power stations. The company is headquartered in Tokyo, Japan and, including its subsidiaries, has more than 320,000 employees worldwide.

12. At the time of the violations, and from at least January 1, 2005 until April 26, 2012, Hitachi's American Depositary Shares ("ADSs") – representing shares of common stock – were registered with the Commission under Section 12(b) of the Exchange Act [15 U.S.C. § 78l] and were listed and traded on the New York Stock Exchange. Hitachi was an issuer of securities in the United States and filed reports on Form 20-F with the Commission pursuant to Section 13(a) of the Exchange Act [15 U.S.C. § 78m]. On April 16, 2012, Hitachi filed a Form 25 with the Commission voluntarily withdrawing its ADSs from listing and registration. The delisting was effective ten days later, on April 26, 2012, and Hitachi's duty to file reports under Section 13(a) of the Exchange Act was automatically suspended at the same time as the delisting. On April 27, 2012, Hitachi filed a Form 15F with the Commission voluntarily terminating its registration under Section 12(g) of the Exchange Act and terminating its duty to file reports pursuant to Section 15(d) of the Exchange Act. Termination of Hitachi's registration and duty to file reports with the Commission became effective on July 26, 2012. Hitachi's ADSs continue to be traded on the U.S. over-the-counter market. If Hitachi were to file a new registration statement registering an offering of its securities pursuant to the Securities Act of 1933 [15 U.S.C. §§ 77a, *et seq.*], or a new Exchange Act registration statement registering a class of its securities under Section 12 of the

Exchange Act, it would once again become subject to reporting obligations under Section 13(a) or 15(d) of the Exchange Act.

OTHER RELEVANT ENTITIES

13. Hitachi Power Europe GmbH (“HPE”) was an international supplier of boilers for power stations. Before 2006, HPE was known as Babcock Hitachi Europe GmbH.² At all relevant times, HPE was a wholly-owned subsidiary of Hitachi based in Germany. In 2014, HPE’s projects and personnel were transferred to a joint venture formed between Hitachi and another Japanese conglomerate.

14. Hitachi Power Africa (Pty) Ltd. (“HPA”) executed power station orders in South Africa. HPA was established in 2005 and, at all relevant times, was a majority-owned subsidiary of HPE based in South Africa. In 2014, HPA’s projects and personnel were transferred to the joint venture above.

15. The African National Congress has been the ruling political party of the Government of South Africa since 1994.

16. Eskom Holdings SOC Ltd. (“Eskom”) is a government-owned and government-run public utility established by the Government of South Africa. Eskom supplies approximately 95% of all electricity in South Africa and the Government of South Africa is Eskom’s sole shareholder. Thus, Eskom is an instrumentality of a foreign government. From 2006 to at least 2008, Eskom’s chairman simultaneously served as a member of the ANC’s National Executive Committee.

17. Chancellor House Holdings (Pty) Ltd. is a South African investment firm created by the ANC as a funding vehicle. Chancellor was named after a building in downtown

² HPE and its predecessor entity, Babcock Hitachi Europe GmbH, are collectively referred to herein as “HPE.”

Johannesburg that in the 1950s housed the law firm of Nelson Mandela and Oliver Tambo, two future ANC presidents. From 2005 to at least 2008, Chancellor's parent organization, Chancellor House Trust, was administered by a member of the ANC National Executive Committee and a director of Eskom Enterprises, an Eskom subsidiary.

FACTUAL ALLEGATIONS

Background of Hitachi's Effort to Enter the South African Power Market

18. In 2003, Hitachi began looking to enter the South African power market. At the time, Eskom, the largest government-owned and government-run public utility in South Africa, was planning to build new power stations in South Africa. Through its subsidiary in Europe, Hitachi hired an expert in the South African power industry as a consultant to explore the potential business opportunity. HPE's consultant met with public and private power producers, including Eskom, and learned of Eskom's plans to build two new power stations, the Medupi power station and the Kusile power station.

19. HPE's consultant – who was later appointed as an executive at HPA – never received training from Hitachi regarding compliance with the FCPA. In fact, neither HPE nor HPA conducted any FCPA-specific compliance training for any HPE or HPA officers or employees between January 2005 and December 2008.

20. In April 2005, HPE held meetings in South Africa with senior Hitachi executives to discuss the business opportunities in that country. Hitachi decided to form a subsidiary in South Africa – the entity that would become known as HPA – for the purpose of establishing a local presence to help Hitachi pursue contracts with public and private entities in South Africa, including the Eskom power station contracts.

21. The attendees of the April 2005 meetings also agreed that, in establishing a local presence in South Africa, Hitachi would seek to identify a local black-owned entity or entities with whom HPA could partner in connection with its submission of bids, or “tenders,” for government business. By partnering with a local black-owned entity, HPA would seek to qualify under the requirements of South Africa’s Black Economic Empowerment Act of 2003 (“BEE”), which promoted participation in the South African economy by companies that were at least 25% owned by black South Africans or black-owned South African entities. In general, companies that qualified under the terms of the BEE enjoyed preferential status in government procurements.

Before Submitting Tenders to Win the Eskom Contracts, Hitachi Enters into a Relationship with Chancellor

Hitachi Identifies Chancellor for a 25% Equity Stake in HPA

22. In seeking local BEE partners, HPE prioritized a prospective partner’s ability to exert political influence over engineering or operational capacity. Consistent with this criterion, Hitachi identified Chancellor as a potential partner. Hitachi understood, and it was commonly known, that both Chancellor and its parent organization, Chancellor House Trust, had extensive political connections within the Government of South Africa, with the ANC, and with Eskom. For example, Hitachi knew or could have learned:

- An administrator of Chancellor House Trust was a member of the ANC National Executive Committee from 2002 to 2007;
- The chairman of Eskom’s board of directors, who also was a member of the ANC National Executive Committee, co-owned a separate investment company with the chairman of Chancellor House Trust;

- An administrator of Chancellor House Trust also was a director of Eskom Enterprises, an Eskom subsidiary; and
- Chancellor's chairman was married to a family member of Eskom's chief executive officer.

23. While its political connections were extensive, Chancellor lacked any engineering or operational capabilities that could assist Hitachi with contract performance should it secure the Eskom contracts. Chancellor differed in this respect from at least one other local South African entity that Hitachi initially considered for partnership with HPA.

24. Hitachi was fully aware of Chancellor's operational shortcomings, and sought a partnership with Chancellor precisely because Chancellor would *not* provide it operational support. From an internal profile of Chancellor prepared in 2005, HPE's senior management was advised that Chancellor "has a lean HQ staff and it does not get involved in the operational business of the companies in which it invests. Support for invested companies is provided via networking at board level." The internal profile also specifically highlighted Chancellor's "good connections within Eskom."

25. Another 2005 Hitachi document identified Chancellor as a "potentially suitable" BEE partner that was "politically preferred." In the document's margin next to the discussion of Chancellor are handwritten notes of an HPE executive that include the words "recommendation by Escom [sic]" and "ANC treasury."

26. In a 2010 email, a Hitachi executive who also had served as an alternative director of HPA in South Africa in 2005 and 2006 wrote to senior Hitachi officials in Japan: "When we adopted [Chancellor] at the time of HPA establishment, we took ANC influence into consideration and still we believed it was a right decision."

27. In October 2005, HPE conducted Hitachi's due diligence of Chancellor. This due diligence work lasted only a few days' time and was not conducted in accordance with any existing Hitachi procedures. During the course of the Commission's investigation, Hitachi was unable to locate its report reflecting the due diligence conducted of Chancellor.

28. On November 24, 2005, HPE formally entered into a shareholders' agreement with Chancellor. Pursuant to this agreement, Hitachi – through HPE – sold Chancellor a 25% equity stake in the newly formed HPA. Hitachi also sold a 5% equity stake in HPA to another local entity – a small five-person women's group – with HPE maintaining the remaining 70% of the equity in HPA. In February 2006, a public launch ceremony was held, at which HPA and its BEE shareholders were introduced to the public.

29. The shareholders' agreement expressly provided that Chancellor's "contribution" to HPA would include, among other things, "lobbying the public and the private sector in the Republic for new business and to promote [HPA's] expansion initiatives and to enhance and/or protect [HPA's] existing and future business interests within the Republic" and "assistance in the identification, preparation, processing, monitoring, support and procuring of tenders from central, provincial and local government, parastatals and the private sector."

30. Hitachi charged Chancellor only approximately \$190,819 for its 25% equity stake in HPA. In addition, as part of the transaction, Chancellor obtained a seat on HPA's board, with Chancellor's chairman becoming a director of HPA.

31. In an email dated April 20, 2010, an HPE executive stated, "After [an HPA executive] evaluated each company, he chose ANC-related CH[ancellor] (25%) and a lady-group (5%) (5 members then), which included the lady ... who had a good relationship with the Mbeki Administration, to achieve 30%."

The Undisclosed “Success Fee” Arrangement

32. An October 2005 draft of the shareholders’ agreement for HPA included a specific provision pursuant to which Chancellor would be financially rewarded in the event that its efforts substantially resulted in Hitachi winning a government contract.

33. In a November 1, 2005 email, an HPA executive circulated a revised draft of the shareholders’ agreement in which the “success fee” provision had been removed from the attached revised draft. In the transmittal email, HPA stated that HPE “supports the principle of rewarding success” but that such an arrangement “will be dealt with in a separate document.”

34. HPA removed the “success fee” arrangement from the shareholders’ agreement at the direction of HPE. As HPA explained in the November 1, 2005 email, “HPA will be required to disclose the shareholders[’] agreement when BEE audits are conducted by customers, and it is felt that such a clause could be interpreted in a way in which it is not intended.”

35. Thereafter, Hitachi memorialized its promise to pay Chancellor for its exertion of influence during the Eskom tender process in a separate, unsigned side-arrangement. The arrangement was memorialized in a document entitled, *Proposal for payment of success fees to HPA [s] Empowerment Shareholders* (the “Success Fee Arrangement”), which stated, in part:

[HPE] and HPA believe in rewarding success where it is due. ... Entitlement to payment of a success fee will be dependent upon the active involvement and support provided to HPA during the tender / adjudication phase of a project, and the award of an order to HPA must be substantially as a result of [Chancellor’s] efforts within [its] responsible sphere of influence.

36. In August 2006, an HPE executive reported to HPE’s board of directors that HPE and HPA had agreed to a “success fee” arrangement with its BEE partners “as an incentive to them to help the Company win orders.”

After Entering into a Success Fee Arrangement with Chancellor, Hitachi Submits Tenders for Work on Two Power Stations

37. In May 2006, Eskom invited Hitachi and other contractors to tender for work involved in building the Medupi power station. The project included both the boiler and turbine components of the power station. In November 2006, Hitachi – through HPE and HPA bidding in consortium – formally tendered for work on both the boiler and turbine components. Shortly thereafter, Hitachi withdrew its tender for the turbines for capacity reasons and proceeded with just its tender to build the boiler works.

38. Later, in the summer of 2007, Eskom also initiated a non-tender process for the Kusile power station and invited Hitachi to submit an offer for work on the boiler component. Hitachi – again, through HPE and HPA bidding in consortium – then submitted its initial offer for work on the boiler component of the Kusile power station.

39. Hitachi considered its entry into the South African power market a high corporate priority, and HPA’s tenders for the Eskom contracts had the personal attention of Hitachi’s senior management in Japan. On July 20, 2007, a high-level Hitachi executive wrote to the Minister of South Africa’s Department of Public Enterprises, the ministry with oversight responsibility for Eskom, that he and Hitachi “fully support” HPA’s power station tenders, and that “I am continuously monitoring the development of the [Medupi] project.”

During the Pendency of the Eskom Tenders, the ANC Confirms that Chancellor Is an ANC Funding Vehicle

40. While Hitachi was preparing and submitting its first tender for the Medupi power station, the South African press publicly exposed Chancellor – with whom Hitachi had entered into both a shareholders’ agreement and an undisclosed “success fee” arrangement – as an *alter ego* of the ANC.

41. In August 2006, an HPA director received a telephone call from a reporter with the *Mail & Guardian*, a South African weekly newspaper that focuses on political analysis, investigative reporting, and South African news and culture. The reporter asked HPA to comment on whether there was a link between HPA's 25% shareholder, Chancellor, and the ANC. HPA declined to comment.

42. On November 10, 2006, the same day that Hitachi submitted its bid for the Medupi power station contract, the *Mail & Guardian* published an article entitled, The ANC's New Funding Front. The article exposed Chancellor as a business front set up by the ANC "to seek profit on its behalf," generally by acquiring "empowerment" stakes in businesses seeking state procurements. "This means," the *Mail & Guardian* stated, "the ANC, as ruling party, has been both player and referee."

43. Both HPA and HPE were aware of the *Mail & Guardian's* reporting on Chancellor's relationship to the ANC. On November 13, 2006, an HPA director forwarded two HPE executives a copy of The ANC's New Funding Front. The same HPA director reported to the HPE executives that he had spoken to Chancellor's chairman, who had denied the allegations in the newspaper.

44. In January 2007, both the *Mail & Guardian* and a separate South African newspaper, the *Financial Mail*, published articles that confirmed Chancellor was a funding vehicle for the ANC. In Financing the ANC, published on January 19, 2007, the *Financial Mail* quoted the ANC Secretary General and organizational head of the ANC's operations as admitting that Chancellor was an "ANC vehicle" that existed for the sole purpose of funding the ANC. The *Mail & Guardian* reported this same admission by the ANC Secretary General a week later, in an article entitled, ANC Admits It Used BEE Funding Front.

45. After the ANC Secretary General acknowledged publicly that Chancellor was an ANC funding “vehicle,” an HPA director spoke to Chancellor’s chairman, who admitted this fact.

Hitachi Continues to Encourage Chancellor to Exert Its Political Influence to Assist in Winning the Eskom Contracts

46. Notwithstanding confirmation in the press that Chancellor was an ANC *alter ego*, and thus a foreign political party, Hitachi maintained its relationship with Chancellor. As pressure from Hitachi executives in Japan mounted, HPE and HPA continued to encourage Chancellor to exert its political influence to win the Eskom contracts.

47. As specified in the shareholders’ agreement, Chancellor networked to help schedule meetings with government officials and lobbied on behalf of the HPE and HPA consortium bid.

48. On May 22, 2007, an executive at Hitachi, Ltd. Power Systems, an internal division of Hitachi, emailed the management team of HPE that, “[g]iven the potential of the South African market and its importance for Hitachi group, HPE together with Hitachi Power Systems Group shall devote every effort to winning [the Medupi boiler contract].” A second email sent a week later relayed that Hitachi in Japan was “worr[ied] about the current situation.”

49. In a May 30, 2007 email, an HPE executive emailed other Hitachi executives that, even though HPE and HPA “had not been successful in receiving any update [from Eskom],” Chancellor and HPA’s 5% shareholder were doing “their very best” to bring Hitachi’s offer for the Eskom contracts “in first place.”

50. In August 2007, Eskom issued a letter of award for the boiler and turbine components of the Medupi power station to the only bidder competing with Hitachi, a consortium led by a large French multinational company.

51. In mid-September 2007, HPE learned that there were difficulties in the negotiations between Eskom and the French consortium for the Medupi boiler works. HPE directed Chancellor to help Hitachi win reconsideration of the boiler component of the Medupi power station contract.

52. On October 8, 2007, HPE executives executed a code of conduct for HPE that, among other things, specifically prohibited contributions to political parties and required compliance with all laws. Despite this code of conduct, HPE continued in its relationship with Chancellor to win government contracts from Eskom.

53. On October 15, 2007, an HPE executive emailed an internal Hitachi memorandum on the status of the Eskom negotiations to another HPE executive. Under the headings “Decision Criteria” and “Main influencing criteria,” the memorandum expressed confidence that Eskom’s ANC-led board would favor Hitachi: “Balance of political power in board (ANC driven currently in our favour).”

54. This prediction proved correct. On October 30, 2007, Eskom and Hitachi – through HPE and HPA – executed the first of two contracts: a \$2.91 billion contract to build the boiler works for the Medupi power station.

55. In December 2007, the *Financial Mail* published another article about Hitachi’s relationship with Chancellor. The *Financial Mail* quoted an HPE executive as saying that there was “no proof” that Chancellor was an ANC front company and if Chancellor was indeed a front for the ANC, “this would contradict our own governance rules.” In fact, as Hitachi knew well before December 2007, and as the ANC’s Secretary General had confirmed publicly eleven months earlier, Chancellor was an *alter ego* of the ANC.

56. A week after the publication of the *Financial Mail* article, on December 14, 2007, Eskom and Hitachi – through HPE and HPA – executed the second of two contracts: a \$2.71 billion contract to build the boiler works for the Kusile power station.

57. The Medupi and Kusile power station contracts together accounted for approximately \$5.6 billion in business being awarded to Hitachi by Eskom, among the largest government contracts ever awarded in South African history.

HPA Pays Chancellor, an ANC Front, Over \$1.1 Million in Success Fees, Declares Substantial Dividends to Chancellor, and Inaccurately Records these Transactions in Its Books and Records

58. On April 14, 2008, HPA held its annual shareholders meeting. As reflected in the meeting minutes, HPA agreed to pay a success fee to Chancellor to reward Chancellor for its assistance in helping Hitachi secure the Eskom power station contracts.

59. Subsequently, Chancellor submitted two invoices to HPA for success fees, which Chancellor called “tender support” fees. On April 30, 2008, HPA paid Chancellor a success fee of approximately \$965,222, based on the Medupi and Kusile power station contracts. On July 2, 2008, HPA paid Chancellor a second success fee of approximately \$158,160, based on Eskom’s acceptance of an option to expand the Kusile power station contract by another two boilers. Overall, HPA paid success fees to Chancellor totaling approximately \$1,123,382.

60. HPA recorded the success fees in its “consulting fees” expense account. The “consulting fees” account was included in the profit and loss line item “Administrative and other expenses” in HPA’s Annual Financial Statements for the year ended December 31, 2008. Those financial statements were consolidated into Hitachi’s financial statements and filed with the Commission on Hitachi’s Form 20-F for the fiscal year ended March 31, 2009 (filed July 27, 2009).

61. HPE and HPA knew that its “success fee” payments were in fact payments to the ANC, a foreign political party. While suggesting that Hitachi was contractually committed to make these payments, an HPA executive further explained in an August 2012 recorded interview:

One also has to be sensitive to a foreign company operating in [South Africa] where you have been alerted to the fact that now in fact, you actually have a political party shareholder who is in government. It’s difficult; we were caught between a rock and a hard place. If we treat them really badly, who knows what can happen? We are dealing with a state-owned enterprise where the bosses are appointed by the ANC.

62. On October 15, 2008, HPA executives executed a code of conduct for HPA. Like the code of conduct executed by executives at HPE a year earlier, the HPA code of conduct, among other things, specifically prohibited contributions to political parties and required compliance with all laws.

63. As a result of Hitachi winning the Eskom power station contracts, Chancellor, as a 25% shareholder in HPA, was entitled to receive a 25% share of future profits derived from the contracts in the form of HPA dividends. In 2010 and 2011, HPA declared and recorded a liability in its books and records for dividends to be paid to Chancellor. HPA’s journal entries for these transactions did not reflect that the dividends were, in fact, amounts due for payment to a foreign political party for its assistance in securing government contracts.

64. On March 18, 2010, HPA declared a dividend of approximately \$7,032,680 for all shareholders based on 2009 profits, of which Chancellor was due a dividend of approximately \$1,758,170.

65. On April 30, 2010, HPA recorded a journal entry for “Dividends Declared 18 March 2010” as a liability, with a corresponding reduction of equity in HPA’s books and records for the year ended December 31, 2010. This dividend declaration reflected on the books and

records of HPA was consolidated into Hitachi's financial statements, and filed with the Commission on Hitachi's Form 20-F for the fiscal year ended March 31, 2011 (filed June 24, 2011).

66. The following year, in March 2011, HPA declared a dividend of approximately \$13,073,300 for all shareholders based on 2010 profits, of which Chancellor was due a dividend of approximately \$3,268,325. On March 25, 2011, HPA recorded a journal entry for "Dividend Declaration based on 2010 results" as a liability, with a corresponding reduction of equity in HPA's books and records for the year ended December 31, 2011. This dividend declaration reflected on the books and records of HPA was consolidated into Hitachi's financial statements for the year ended March 31, 2012.

67. Hitachi, however, temporarily withheld payment of the 2010 and 2011 dividends to Chancellor. In an addendum to the shareholders' agreement that HPE and Chancellor executed in late May 2012, Chancellor provided its assurance that it would not pass on dividend payments from Hitachi to any political party or official. Then, on or about June 29, 2012, Hitachi paid Chancellor approximately \$5,027,170 in what Hitachi deemed dividends and interest on such dividends.

68. Approximately nineteen months later, in February 2014, HPE repurchased Chancellor's shares in HPA – shares that Chancellor had purchased in 2005 for only approximately \$190,819 – for approximately \$4.4 million.

69. Thus, in total, Chancellor – the ANC's funding vehicle – received approximately \$10.5 million from Hitachi, a return of over 5,000% on its investment in HPA.

70. During the time it was registered with the Commission, Hitachi failed to devise and maintain an adequate system of internal accounting controls. HPE and HPA were able to enter into

a shareholders' agreement and an undisclosed "success fee" arrangement with Chancellor – a front for the ANC – to pay that entity for exerting its political influence. Although HPE had a code of conduct in place before the success fees were paid that specifically prohibited contributions to political parties, HPA paid Chancellor more than \$1.1 million pursuant to this side-arrangement. HPA was able to do so despite a stream of reporting in the South African media that publicized the fact that HPA's 25% shareholder was a funding vehicle for the ANC.

71. HPA also was able to record Chancellor's invoices for success fee payments as "consulting" expenses, which they were not, without proper documentation or reasonable detail. Hitachi's internal accounting controls failed again when Hitachi declared and recorded as dividends to be paid to Chancellor transactions that, in fact, would instead be payments to a foreign political party for its assistance in securing government contracts. Among other further internal accounting controls deficiencies, Hitachi failed to conduct adequate due diligence of Chancellor, a potential agent and a potential shareholder of HPA, and to keep records of such due diligence, even though Hitachi intended for Chancellor to use its political influence to help obtain government contracts.

72. Hitachi's internal accounting controls, or lack thereof, also were inadequate to provide reasonable assurances that Hitachi would not violate its own codes of conduct and compliance policies, the FCPA, or South African law. For example, Hitachi failed to adequately supervise and ensure compliance with its policies and procedures, and neither HPE nor HPA conducted any FCPA-specific compliance training during the time period in which Hitachi – through HPE and HPA – was seeking lucrative contracts with an instrumentality of a foreign government and authorizing the payments of "success fees" to a foreign political party.

FIRST CLAIM FOR RELIEF

Hitachi Violated Section 13(b)(2)(A) of the Exchange Act

73. Paragraphs 1 through 72 are re-alleged and incorporated herein by reference.

74. Section 13(b)(2)(A) of the Exchange Act requires issuers to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of their assets.

75. As described above, Hitachi failed to make and keep books, records, and accounts as required by Section 13(b)(2)(A) of the Exchange Act.

76. By reason of the foregoing, Hitachi violated, and unless enjoined will again violate, Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

SECOND CLAIM FOR RELIEF

Hitachi Violated Section 13(b)(2)(B) of the Exchange Act

77. Paragraphs 1 through 76 are re-alleged and incorporated herein by reference.

78. Section 13(b)(2)(B) of the Exchange Act requires issuers to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded in accordance with management's general or specific authorization; that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets; that access to assets is permitted only in accordance with management's general or specific authorization; and that the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

79. As described above, Hitachi failed to devise and maintain a system of internal accounting controls as required by Section 13(b)(2)(B) of the Exchange Act.

80. By reason of the foregoing, Hitachi violated, and unless enjoined will again violate, Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a judgment:

A. Permanently restraining and enjoining Hitachi, and its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it who receive actual notice of this injunction by personal service or otherwise, from violating Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) & 78m(b)(2)(B)];

B. Ordering Hitachi to disgorge all ill-gotten gains, illegal losses avoided, and unjust enrichment wrongfully obtained as a result of its illegal conduct, plus prejudgment interest thereon;

C. Ordering Hitachi to pay civil penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and

D. Granting such other and further relief as the Court deems just and appropriate, including such equitable relief as may be appropriate or necessary for the benefit of investors pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)].

Dated: September 28, 2015

Respectfully submitted,



David S. Johnson, D.C. Bar No. 477298
Matthew P. Cohen, D.C. Bar No. 469629
Jon B. Jordan, D.C. Bar No. 453344
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
Telephone: (202) 551-2218 (Johnson)
(202) 551-7276 (Cohen)
Facsimile: (202) 772-9282
Email: johnsonds@sec.gov
cohenma@sec.gov

Of Counsel:

Thierry Olivier Desmet
Securities and Exchange Commission
801 Brickell Avenue, Suite 1800
Miami, Florida 33131

CIVIL COVER SHEET

JS-44 (Rev. 7/13 DC)

<p>I. (a) PLAINTIFFS Securities and Exchange Commission</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) David S. Johnson, Matthew P. Cohen, and Jon B. Jordan, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549, (202) 551-6000</p>	<p>DEFENDANTS Hitachi, Ltd.</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>99999</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> <p>ATTORNEYS (IF KNOWN) Linda Chatman Thomsen, Daniel A. Spitzer, and Stefani L. Johnson, Davis Polk & Wardwell LLP, 901 15th Street, N.W., Washington, D.C. 20005, (202) 962-7000</p>																								
<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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E. General Civil (Other) OR **F. Pro Se General Civil**

<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p>	<p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p>	<p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>
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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 15 U.S.C. § 78m(b)(2)(A)-(B), Violations of Books and Records and Internal Accounting Controls Provisions of FCPA

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F R C P 23 <input type="checkbox"/>	DEMAND \$ _____ JURY DEMAND: _____	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 9/28/15	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ David Johnson</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

-----	:	
SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	
v.	:	
	:	
HITACHI, LTD.,	:	
	:	
Defendant.	:	

CONSENT OF DEFENDANT HITACHI, LTD.

1. Defendant Hitachi, Ltd. (“Defendant” or “Hitachi”) waives service of a summons and the complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as provided herein in Paragraph 11 and except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the “Final Judgment”) and incorporated by reference herein, which, among other things:

- (a) permanently restrains and enjoins Defendant from violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)]; and
- (b) orders Defendant to pay a civil penalty in the amount of \$19,000,000 under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

3. Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

4. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

5. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

6. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

7. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

8. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

9. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

10. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that it shall not be permitted to contest the factual allegations of the complaint in this action.

11. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant

or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings,” and “a refusal to admit the allegations is equivalent to a denial, unless the defendant or respondent states that he neither admits nor denies the allegations.” As part of Defendant’s agreement to comply with the terms of Section 202.5(e), Defendant: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations, without also stating that Defendant does not deny the allegations; and (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant’s: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

12. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney’s fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

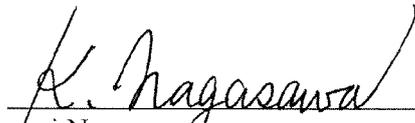
13. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Defendant (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Defendant's undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Defendant in any United States District Court for purposes of enforcing any such subpoena.

14. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: September 25, 2015

Hitachi, Ltd.

By: 
Katsumi Nagasawa
Vice President and Executive Officer
President & CEO, Power Systems Company
1-18-13 Soto Kanda
Chiyoda-ku
Tokyo, Japan

On _____, 2015, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent with full authority to do so on behalf of Hitachi, Ltd. as it _____.

Notary Public
Commission expires:

Approved as to form:

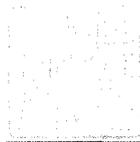


Linda Chalmers Thomsen, Esq.
Davis Polk & Wardwell LLP
901 15th Street, N.W.
Washington, D.C. 20005
Attorney for Defendant

NOTARIAL CERTIFICATE

This is to certify that Hidemi Matsuyama an agent of Katsumi Nagasawa who is authorized to sign to the attached document on behalf of Hitachi, Ltd., has stated in my presence that said Katsumi Nagasawa acknowledged to have signed the said document.

Dated this 25th day of September, 2015.



Kei Hirabayashi

Keiichi Hirabayashi

NOTARY

3-1, Marunouchi 3-chome,

Chiyoda-ku, Tokyo

Tokyo Legal Affairs Bureau



認 証

添付書面における作成名義人株式会社日立製作所執行役常務電カシステム社社長長澤克己の代理人松山秀美は、当職の面前において本人が作成名義人の署名を自認していると陳述した。以下余白。

よって、これを認証する。

平成27年 9 月 25 日、本公証人役場において
東京都千代田区丸の内三丁目3番1号
東京法務局所属

公 証 人
Notary

平 塚 慶 一

KEIICHI HIRABAYASHI

証 明

上記署名は、東京法務局所属公証人の署名に相違ないものであり、かつ、その押印は、真実のものであることを証明する。

平成27年 9 月 25 日

東京法務局長

加藤 朋寛

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

- 1. Country: JAPAN
This public document
- 2. has been signed by KEIICHI HIRABAYASHI
- 3. acting in the capacity of Notary of the Tokyo Legal Affairs Bureau
- 4. bears the seal/stamp of KEIICHI HIRABAYASHI, Notary
Certified
- 5. at Tokyo
- 6. SEP.25.2015
- 7. by the Ministry of Foreign Affairs
- 8. 15-N^o 010772
- 9. Seal/stamp:
- 10. Signature

A. Ogawa

Ayako OGAWA

For the Minister for Foreign Affairs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	Civil Action No.
Plaintiff,	:	
	:	
v.	:	
	:	
HITACHI, LTD.,	:	
	:	
Defendant.	:	

FINAL JUDGMENT AS TO DEFENDANT HITACHI, LTD.

The Securities and Exchange Commission having filed a Complaint and Defendant Hitachi, Ltd. (“Defendant” or “Hitachi”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Sections 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)] by:

- (a) failing to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; or

(b) failing to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (1) transactions are recorded in accordance with management's general or specific authorization; (2) transactions are recorded as necessary (a) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (b) to maintain accountability for assets; (3) access to assets is permitted only in accordance with management's general or specific authorization; and (4) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in clause (a) of this sentence.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for a civil penalty in the amount of \$19,000,000 pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall make this payment within 30 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Securities and Exchange Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank

cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center
Accounts Receivable Branch
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of this Court; Hitachi, Ltd. as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

Dated: _____, 2015

UNITED STATES DISTRICT JUDGE