



REDACTED FOR
PUBLIC DISCLOSURE

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

CR 10 1463 PHX PGR DKO

United States of America,

Plaintiff,

v.

Floyd D. Stilwell,
(Counts 1 - 2)

Marsh Aviation Company,
(Counts 1 - 2)

Defendants.

INDICTMENT

VIO: 18 U.S.C. § 371
(Conspiracy to Violate Arms
Export Control Act)
Count 1

22 U.S.C. §§ 2778(b)(2) and (c),
22 C.F.R. §§ 121.1, 123.1 and
127.1
(Violation of the Arms Export
Control Act)
Count 2

18 U.S.C. § 2
(Aid and Abet)
Count 2

21 U.S.C. § 853(p),
18 U.S.C. § 982(a)(1) and
28 U.S.C. § 2461(c)
(Forfeiture Allegations)

THE GRAND JURY CHARGES:

COUNT 1

(Conspiracy to violate AECA)

INTRODUCTION

At all times material to this Indictment:

1 interests of the United States or would otherwise affect world peace.

2 8. The defense articles which are subject to such licensing requirements are
3 designated on the United States Munitions List ("USML"). Those designations are made by the
4 State Department with concurrence of the United States Department of Defense. (Title 22,
5 United States Code, Section 2778(a)(1), and 22 C.F.R. Section 120.2).

6 9. It is the policy of the United States to deny licenses with respect to the export of
7 defense articles whenever an export would not be in furtherance of world peace and the security
8 and foreign policy of the United States (22 C.F.R. § 126.1).

9 10. Category VIII(b) of the USML includes military aircraft engines (22 C.F.R.
10 §121.1). At all time relevant to this Indictment, the T-76 military aircraft engine for the OV-10
11 Bronco aircraft is a "defense article" on Category VIII(b) of the Munitions List.

12 **Defense Services**

13 11. Under the ITAR, Section 120.9, a defense service is defined in part as:

14 (a) Defense service means:

- 15 (1) The furnishing of assistance (including training) to foreign persons,
16 whether in the United States or abroad in the design, development,
17 engineering, manufacture, production, assembly, testing, repair,
18 maintenance, modification, operation, demilitarization, destruction,
19 processing or use of defense articles;

20 12. Only "United States' Persons" are eligible to provide defense services under the
21 ITAR. The term "United States Person" is defined in 22 C.F.R. § 120.14 and 120.15, and
22 includes U.S. citizens and U.S. corporations.

23 13. A United States person seeking to provide defense services is required to submit
24 for approval by the DDTC, United States Department of State a proposed agreement with the
25 foreign person to receive the services, known as a Technical Assistance Agreement. All
26 Technical Assistance Agreement submissions must specifically describe the defense services
27 being provided.

1 Department of State a license or written authorization for such export, in
2 violation of Title 22, United States Code, Sections 2778(b)(2) and (c), and
3 Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1;

- 4 b. to willfully furnish defense services to foreign persons from Venezuela,
5 whether in the United States or abroad, by furnishing assistance, including
6 training, in the assembly, testing, repair, maintenance, modification,
7 operation, and use of defense articles without first having obtained from
8 the Department of State a license or written authorization for assistance, in
9 violation of Title 22, United States Code, Section 2778 and Title 22, Code
10 of Federal Regulations, Section 126.1.

11 **OBJECTS OF THE CONSPIRACY**

12 19. The objects of the conspiracy were:

- 13 a.. to illegally enrich the co-conspirators by unlawfully exporting T-76
14 military aircraft engines for the OV-10 Bronco aircraft from the United
15 States to Venezuela;
- 16 b. to evade the prohibitions and licensing requirements of the AECA and the
17 ITAR,
- 18 c. to conceal the prohibited activities and transactions from detection by the
19 United States government so as to avoid penalties and disruption of the
20 illegal activity;
- 21 d. to cause T-76 military aircraft engines for the OV-10 Bronco aircraft to be
22 exported from the United States to individuals and entities in Venezuela;
23 and,
- 24 e. to cause materially false, misleading, and incomplete information to be
25 placed on shipping documents;
- 26 f. to provide defense services to Venezuela by providing training to members
27 of the Venezuelan Air Force on the T-76 military aircraft engines for the
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1 OV-10 Bronco aircraft and furnishing assistance to Venezuela in the
2 assembly, testing, repairing, maintaining, modifying and operating the T-76
3 military aircraft engines.

4 **METHOD AND MEANS OF THE CONSPIRACY**

5 20. The method and means by which the defendant and others known and unknown
6 to the grand jury sought to accomplish the objects of the conspiracy included, among others, the
7 following:

8 a. Defendant, FLOYD D. STILWELL, acting on behalf of MARSH
9 AVIATION COMPANY, caused the property and personnel of MARSH AVIATION
10 COMPANY to be used to provide defense services by upgrading and providing training on T-76
11 military aircraft engines for the OV-10 Bronco aircraft for the Venezuelan Air Force.

12 b. Defendant, FLOYD D. STILWELL, acting on behalf of MARSH
13 AVIATION COMPANY, and others known and unknown to the grand jury used email accounts
14 and other forms of communication to communicate with each other and with other individuals
15 located in the United States and Venezuela.

16 c. Others known and unknown to the grand jury traveled within the United
17 States and internationally to communicate with each other and facilitate the export of T-76
18 military aircraft engines for the OV-10 Bronco aircraft from the United States and Venezuela.

19 d. Defendant, FLOYD D. STILWELL, acting on behalf of MARSH
20 AVIATION COMPANY, caused the property of MARSH AVIATION COMPANY to be used
21 to facilitate the export of T-76 military aircraft engines for the OV-10 Bronco aircraft from the
22 United States to Venezuela.

23 e. Defendant, FLOYD D. STILWELL, acting on behalf of MARSH
24 AVIATION COMPANY, and others known and unknown to the grand jury caused T-76 military
25 aircraft engines for the OV-10 Bronco aircraft to be disassembled in order to conceal the export
26 of the engines from the United States to Venezuela.

27 f. Others known and unknown to the grand jury caused materially false,
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1 misleading, and incomplete information to be placed on shipping documents and export control
2 documents, to conceal the export of T-76 military aircraft engines for the OV-10 Bronco aircraft
3 from the United States to Venezuela.

4 g. Defendant, FLOYD D. STILWELL, acting on behalf of MARSH
5 AVIATION COMPANY, and others known and unknown to the grand jury, caused T-76
6 military aircraft engines for the OV-10 Bronco aircraft to be exported from the United States to
7 individuals and entities in Venezuela.

8 OVERT ACTS

9 21. In furtherance of the conspiracy and to effect the objects thereof, the following overt
10 acts, among others, were committed within the District of Arizona, and elsewhere:

11 a. FLOYD D. STILWELL, acting on behalf of MARSH AVIATION
12 COMPANY, agreed to overhaul and upgraded T-76 military aircraft engines for the OV-10
13 Bronco for the Venezuelan Air Force.

14 b. FLOYD D. STILWELL, acting on behalf of MARSH AVIATION
15 COMPANY, agreed to provide training to members of the Venezuelan Air Force on the T-76
16 military aircraft engines.

17 c. FLOYD D. STILWELL, acting on behalf of MARSH AVIATION
18 COMPANY, agreed to change the original contract, with the Venezuelan Air Force, to overhaul
19 and upgrade T-76 military aircraft engines for the OV-10 Bronco aircraft, to reflect that the
20 engines were civilian TPE 331 aircraft engines.

21 d. On or about March 5, 2007, FLOYD D. STILWELL, acting on behalf of
22 MARSH AVIATION COMPANY, received an e-mail from a former officer with the
23 Venezuelan Air Force who offered to represent FLOYD D. STILWELL and MARSH
24 AVIATION COMPANY with the Venezuelan Air Force regarding the T-76 military aircraft
25 engines for the OV-10 Bronco aircraft. Within the e-mail communication, this individual
26 acknowledged the military embargo with Venezuela and stated there were ways to avoid the
27 embargo.

1 e. On or about March 8, 2007, FLOYD D. STILWELL received 1.8 million
2 dollars into his personal bank account in furtherance of T-76 contract.

3 f. On or about May 11, 2007, FLOYD D. STILWELL, acting on behalf of
4 MARSH AVIATION COMPANY, drafted and sent a letter to the former officer with the
5 Venezuelan Air Force appointing this individual as his exclusive agent for Venezuela for all civil
6 and military programs.

7 g. On or about May 2007, FLOYD D. STILWELL, acting on behalf of
8 MARSH AVIATION COMPANY, received correspondence from the former officer with the
9 Venezuelan Air Force discussing the completion of the contract for the overhaul and upgrade
10 of T-76 military aircraft engines for the Venezuelan Air Force including the shipment of six
11 aircraft engines to Venezuela where they would be reassembled.

12 h. On or between October 2007 and November 2007, two members of the
13 Venezuelan Air Force disassembled four T-76 military aircraft engines for the OV-10 Bronco
14 aircraft.

15 i. On or about October 2007, FLOYD D. STILWELL, acting on behalf of
16 MARSH AVIATION COMPANY, allowed MARSH AVIATION COMPANY packaging
17 materials to be used to package four T-76 military aircraft engines for the OV-10 Bronco aircraft
18 for export to Venezuela.

19 j. On or about October 2007, FLOYD D. STILWELL, acting on behalf of
20 MARSH AVIATION COMPANY, recruited an employee of MARSH AVIATION COMPANY
21 to travel to Venezuela to reassemble T-76 military aircraft engines for the OV-10 Bronco
22 aircraft.

23 k. On and between October 2007 and November 2007, two members of the
24 Venezuelan Air Force and the former officer with the Venezuelan Air Force caused four T-76
25 military aircraft engines for the OV-10 Bronco aircraft to be shipped to Miami, Florida for
26 export to Venezuela.

27 l. During and after November 2007, two members of the Venezuelan Air
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1 Force and the former officer with the Venezuelan Air Force caused four T-76 military aircraft
2 engines for the OV-10 Bronco aircraft to be exported to Venezuela.

3 All in violation of Title 18, United States Code, Section 371.

4 **COUNT 2**

5 1. Paragraphs 1 through 21 of Count 1 are re-alleged, and incorporated herein, by
6 reference.

7 2. Between on or about August 2006 and continuing up to and including February
8 5, 2008, within the District of Arizona and elsewhere, defendants, FLOYD D. STILWELL,
9 MARSH AVIATION COMPANY, and others known and unknown to the grand jury, did
10 knowingly and willfully export from the United States to the country of Venezuela four T-76
11 military aircraft engines for the OV-10 Bronco aircraft, which items were designated as defense
12 articles in Category VIII(b) of the United States Munitions List, without having first obtained
13 from the United States Department of State, Directorate of Defense Trade Controls, a license for
14 such export or written authorization for such export.

15 All in violation of Title 22, United States Code, Section 2778(b)(2) and (c), Title 22,
16 Code of Federal Regulations, Sections 121.1, 123.1, 127.1, and Title 18, United States Code,
17 Section 2.

18 **FORFEITURE ALLEGATION**

19 1. The allegations contained in Counts 1 and 2 of this Indictment are hereby re-
20 alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title
21 18, United States Code, Section 982(a)(1).

22 2. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of
23 an offense in violation of Title 18, United States Code, Section 371 and Title 22, United States
24 Code, Section 2778(b)(2), as alleged in Count One and Two of the Indictment, defendants,
25 FLOYDD. STILWELL and MARSH AVIATION COMPANY, shall forfeit to the United States
26 of America any property, real or personal, involved in such offense, and any property traceable
27 to such property. The property to be forfeited includes, but is not limited to, the following:

- a. 1.8 Million Dollars;
- b. Two T-76 military aircraft engines for the OV-10 Bronco aircraft; and
- c. Aircraft parts for twelve T-76 military aircraft engines for the OV-10 Bronco aircraft.

3. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(a)(1) and Title 28, United States Code, Section 2461(c).

All Pursuant to 21 U.S.C. § 853(p), 18 U.S.C. § 982(a)(1) and 28 U.S.C. § 2461(c).

A TRUE BILL

/s/

FOREPERSON OF THE GRAND JURY
Date: October 12, 2010

DENNIS K. BURKE
United States Attorney
District of Arizona

/s/

DAVID A. PIMSNER
Assistant U.S. Attorney